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Freedom Should Be Free: An Interview With The Bail Project

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FREEDOM SHOULD BE FREE: AN INTERVIEW WITH THE BAIL PROJECT

Footnote Forum Podcast, a CUNY Law Review Production

Rachel Goldman: This is Footnote Forum, a production of the Law Review at the City University of New York School of Law. I'm Rachel Goldman, your editor and host. This year, on our podcast, we will be focusing on highlighting the work of bail fund organizers throughout the pandemic, and the Movement for Black Lives. My staff and I are here with our special guests, Asia Johnson and Megan Diebboll from The Bail Project. So, Asia and Megan, could you both introduce yourselves and tell us a little bit about your organization and your roles within it?

Megan Diebboll¹: Yeah! I can start first. So, Megan, I am a Bail Disruptor in Detroit, Michigan. My role is—well, first I'll start with what we do: The Bail Project is a nonprofit that pays for people's bail, \$5,000 or less.² We really believe that freedom should be free. And we operate under the community release model,³ so once we post someone's bail, we're not just done working with folks after that.⁴ We provide them services they might need—court reminders and transportation.⁵ And yeah, so that is really what I do here in Detroit—is I work alongside social workers, public defenders, community members, finding those people inside the jail that we can pay for their bail and have as our client.

Asia Johnson⁶: I'm Asia, I've been working for The Bail Project for a little over two years now. I started off as a Bail Disruptor in Detroit, like Megan, and was on the ground posting bail for people who were in poverty. And now, I have transitioned to the communications team where I am the Communications Associate, and I am responsible for

¹ Megan Diebboll is a Bail Disruptor at The Bail Project in Detroit, Michigan. Growing up in a family impacted by the justice system, she believes in the power of community care and joy to transform our justice system.

² *The Bail Project*, DETROIT JUST. CTR., <https://perma.cc/8S8A-MNNM> (last visited Apr. 18, 2021).

³ *What is The Bail Project™ Community Release with Support Model?*, FAQ, BAIL PROJECT, <https://perma.cc/V55K-NN2W> (last visited Apr. 18, 2021).

⁴ *Id.*

⁵ *Id.*

⁶ Asia Johnson is the Communications Associate for The Bail Project.

amplifying the voices of our clients, where I interview clients, talk to them, see what their experience was like within the criminal justice system, and then we write those stories, and we do different things with their stories. If it speaks to a larger theme, we try to pitch it to news networks and try to just bring light to this injustice that happens every day. Or, also we use our social media platforms to amplify our clients' voices—just getting the folks educated on the cash bail system and the horrors and the trauma that it causes people every day.⁷ And The Bail Project, like making sense of national nonprofit, with 24 sites across the country,⁸ we've posted \$30 million in bail since we started—that's for over 15,000 people.⁹ And we have over 500,000 individual people who have donated to us.¹⁰

Natasha Bynum: So, I will jump in with the second question, which is: What is the role of community awareness about these issues in your work? And do you have partners in the Detroit community, and to what extent does the community guide the project's vision, decision-making, and work?

Megan: I think community awareness is so important and vital to the work that we do. Like I said, we operate under the community release model support, so working alongside communities and seeing where, as a team, we can knock down barriers that our clients face once they're home. I mean, we see so many issues: access to housing,¹¹ ac-

⁷ Deveaux notes a secondhand account of the difficulties of the prison experience: Indeed, the prison experience is unlike any other. Sociologist Donald Clemmer noted in his classic book, *The Prison Community*, that the prison experience is neither normal nor natural, and constitutes one of the more degrading experiences a person might endure Several researchers found that people in prison may be diagnosed with posttraumatic stress disorders, as well as other psychiatric disorders, such as panic attacks, depression, and paranoia

See Mika'il DeVeaux, *The Trauma of the Incarceration Experience*, 48 HARV. C.R.-C.L. L. REV. 257, 259 (2013) (citations omitted).

⁸ *Where We Work*, BAIL PROJECT, <https://perma.cc/CJ2P-J7ZK> (last visited Apr. 18, 2021).

⁹ See THE BAIL PROJECT, ANNUAL REPORT 2020, at 43 (2020), <https://perma.cc/4CMU-VJXD>.

¹⁰ *Id.* at 37.

¹¹ See Kimberly Burrowes, *Can Housing Interventions Reduce Incarceration and Recidivism?*, HOUS. MATTERS (Feb. 27, 2019), <https://perma.cc/3TJW-MULD> (“Because housing problems are often a key underlying factor for people’s involvement with the criminal justice system, there are ways housing interventions can help lessen criminal justice involvement.”).

cess to employment,¹² access to mental health services,¹³ and I think that's why it's so important that the community be aware of these issues. That way we can really come at this from a holistic approach. And I also think that it's great that we have a communications department that gives us the tools and skills to work and kind of provide the educational piece. And then our partners in Detroit, we work a lot with Neighborhood Defender Services, which is in Detroit and also Harlem.¹⁴ What I really like about working with them is that on the team, when we're working with clients, we have public defenders, social workers, and then us.¹⁵ And so our clients really feel supported and have that wraparound service, with three people believing in them as they're going through their cases. And that is also where we get a lot of our referrals, from public defenders' offices here in Detroit. And then for the next part, about the extent to which the community guides [the project's vision, decision-making, and work]—I think a lot about this summer, when there were tons of protests and uprisings.¹⁶ We worked a lot with other nonprofits in Detroit to offer jail support—like Michigan Liberation,¹⁷ Detroit Will Breathe¹⁸—to really make sure they're supported as they're fighting for these important social justice issues.

Anthony Hawkins: What are common misconceptions that people hold about the cash bail system and/or other pretrial detention mechanisms?

¹² See Taryn A. Merkl, *New York's Latest Bail Law Changes Explained*, BRENNAN CTR. FOR JUST. (Apr. 16, 2020), <https://perma.cc/D9V9-2VMC> (“[E]ven a few days in jail can cause people to lose their jobs . . .”).

¹³ See Michael B. Friedman & Camille Alleyne, *Will Criminal Justice Reform Help Those with Mental Illness?*, MEDPAGE TODAY (June 10, 2019), <https://perma.cc/TU24-DQHK> (“Once incarcerated, many individuals do not receive the treatment and support services they need. This leads to mental health conditions worsening and often to longer time in jails and prisons than counterparts without a mental illness.”).

¹⁴ *About*, NEIGHBORHOOD DEF. SERV., <https://perma.cc/YB6A-EQB6> (last visited Apr. 12, 2021).

¹⁵ *Id.*; see also Angie Jackson, *How Nonprofits Are Getting People out of Metro Detroit Jails During Covid-19 Pandemic*, DETROIT FREE PRESS (June 16, 2020, 5:04 PM), <https://perma.cc/8HRE-B4AX>.

¹⁶ Larry Buchanan et al., *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020), <https://perma.cc/6UJ5-MGNU> (“Four recent polls . . . suggest that about 15 million to 26 million people in the United States have participated in demonstrations over the death of George Floyd and others in recent weeks.”).

¹⁷ See MICH. LIBERATION, <https://perma.cc/AN5Z-CM8J> (last visited Apr. 12, 2021).

¹⁸ See DETROIT WILL BREATHE, <https://perma.cc/2RUX-LCX9> (last visited Apr. 12, 2021).

Asia: I think some of the biggest misconceptions about the cash bail system—one is that cash bail is affordable.¹⁹ It was historically designed to be affordable, and that money will bring people back to court.²⁰ If they have skin in the game, they will come back to court. That is a misconception. Today, cash bail is not affordable,²¹ and the myth is that money brings people back to court.²² With our work, we realize it is not money. It is support. It is transportation.²³ Childcare.²⁴ Access to mental health services.²⁵ Access to physical health services.²⁶ These are the things that bring people back to court—it’s not money. We find that in our work, clients are missing court not because they want to, not because they don’t care, but because they don’t have access to the things that they need. And so that is one of the misconceptions. Another misconception is that in order to get rid of cash bail, we need to replace it with algorithmic risk assessments or ankle monitors.²⁷ We don’t believe in those. Those are just extensions of incarceration. And if we want to

¹⁹ See Daniele Selby, *Bail Reform: 6 Myths and Misconceptions About Cash Bail, Bust-ed*, GLOB. CITIZEN (Sept. 9, 2019), <https://perma.cc/DX4B-6TUL> (“The median bail set for felony charges is \$10,000, despite the fact that 4 in 10 Americans would not be able to come up \$400 in an emergency, according to the Federal Reserve.”).

²⁰ *How Courts Work*, AM. B. ASS’N (Sept. 9, 2019), <https://perma.cc/DT7B-A5YM> (“The purpose of bail is simply to ensure that defendants will appear for trial and all pretrial hearings for which they must be present.”); John-Michael Seibler & Jason Snead, *The History of Cash Bail*, HERITAGE FOUND. (Aug. 25, 2017), <https://perma.cc/T2P2-2KHN> (“The Framers’ primary concern in drafting the Eighth Amendment’s Bail Clause was to ensure that bail not be set unreasonably high . . .”).

²¹ Insha Rahman, *Undoing the Bail Myth: Pretrial Reforms to End Mass Incarceration*, 46 *FORDHAM URB. L.J.* 845, 847-48 (2019).

²² AM. B. ASS’N, *supra* note 20.

²³ See, e.g., *The Bail Project - St. Louis Receives Promotional Codes Thanks to Lyft and #cut50*, BAIL PROJECT (Dec. 23, 2019) [hereinafter *The Bail Project - St. Louis*], <https://perma.cc/EQ97-5C8U> (“Thanks to a partnership between Lyft and #cut50, The Bail Project’s team in St. Louis has received dozens of promotional codes from the rideshare company. Our clients are using them to attend court hearings and access critical social services.”).

²⁴ THE BAIL PROJECT, *AFTER CASH BAIL: A FRAMEWORK FOR REIMAGINING PRETRIAL JUSTICE 20* (2020) (citation omitted), <https://perma.cc/3L9P-4XU4> (“In reality, most instances of nonappearance result from common obstacles that include work schedules, childcare responsibilities, lack of access to adequate transportation, and difficulty navigating confusing court systems.”).

²⁵ Ethan Corey & Puck Lo, *The ‘Failure to Appear’ Fallacy*, APPEAL (Jan. 9, 2019), <https://perma.cc/6RAP-WA6B> (explaining that the failure to appear for a court date is likely due to circumstances such as mental illness, not a desire to run from the law).

²⁶ See, e.g., *id.* (discussing the case of an individual who did not appear for a court date because he was hospitalized with a heart condition).

²⁷ THE BAIL PROJECT, *supra* note 24, at 24 (“By defining people as ‘risks’ based on past data from the criminal legal system, pretrial algorithms reinforce racial disparities while doubling down on a logic of criminalization and dehumanization.”).

get rid of the cash bail system, we have to replace it and use our model or the community. As Megan said in the last question, the community has to be there to support people who are coming home from jail. And without the community, everyone is set up to fail. And so those are some of the misconceptions. I also think that people usually think that people who get out on bail are only going to create more harm to their communities. It's only a very, very small percentage of people who are out on bail who commit additional crimes.²⁸ The majority of folks, they do not commit more crimes, and they actually end up resolving their cases.²⁹ Either their charges get decreased or they get dismissed altogether,³⁰ and so we see that a lot. And just imagine you're in jail during COVID and you, [*inaudible*] court dates keep being pushed back and pushed back, so you can sit in jail for six months, maybe even a year, and then only to find that your charges get dismissed; so you sat in jail losing your livelihood, your job, maybe custody of your children, your home, and all because you didn't have the money to buy your freedom, which is a huge injustice.³¹ And these are all myths that I think that people should definitely be aware of.

Rachel: So how has your work changed your perception of the criminal justice system?

Asia: So as a person who's been personally impacted by the system—before working for The Bail Project, I was incarcerated myself, and I remember sitting in jail, and one of my cellmates was this beautiful young girl. She was in the midst of an addiction, and she had—I can't remember what her charges were, but she sat in jail for four

²⁸ See Jamiles Lartey, *New York Rolled Back Bail Reform. What Will the Rest of the Country Do?*, MARSHALL PROJECT (Apr. 23, 2020, 6:00 AM), <https://perma.cc/TJR9-Q72C> (indicating that statistics released by police departments on crimes committed by individuals on bail are inaccurate).

²⁹ Selby, *supra* note 19 (“In order to avoid spending long periods in jail—unable to go to school or earn income—many people plead guilty. And while they may get out of jail faster, they also go home with a criminal record.”).

³⁰ Wendy Sawyer & Pete Wagner, *Mass Incarceration: The Whole Pie 2020*, PRISON POL'Y INITIATIVE (Mar. 24, 2020), <https://perma.cc/C9UR-Y9R7> (“[76 percent] of people held by jails are not convicted of any crime . . .”) (citation omitted).

³¹ Digard & Swavola discuss the impact of pretrial detention:

Studies on pretrial detention have found that even a small number of days in custody awaiting trial can have many negative effects, increasing the likelihood that people will be found guilty, harming their housing stability and employment status and, ultimately, increasing the chances that they will be convicted on new charges in the future.

Léon Digard & Elizabeth Swavola, *Justice Denied: The Harmful and Lasting Effects of Pre-trial Detention*, VERA INST. OF JUST. 4 (2019), <https://perma.cc/SA24-V45Y>.

months on a \$500 bond. So she needed \$500 to walk free. She didn't have it, her family didn't have it. I would hear her on the phone constantly begging her family, like, "Have you gotten the money together? Could you please, could you please work something out for me?" And her charges were eventually dismissed. She went home, and shortly after, she actually died—she overdosed. And I—her story haunts me because we got so close during those four months, and I knew how badly she wanted to get clean, and the jail is not set up to support you.³² It's not set up to get your needs met, if you have an addiction—you may have a meeting or two, but what you really need, that support; jails don't offer that.³³ And so, you know, that was one of the turning points for me—seeing the injustice of cash bail.

And then later on, reading about Kalief Browder,³⁴ and that story has stuck with me also, and it wasn't personal, but it also just was the cherry on top of what I needed—what I knew I needed to do to change this system.

And so when I came home in 2018, I knew I had to make a difference, and I had to get back to a community, and I had to make changes for people who are caught up in this system. And I finally got this job with The Bail Project, and I knew I had made a home—that I had found a home—in my work but also in my personal life, because professionally I wanted to make a difference but personally, I wanted to help people. And so, one of the stories that sticks in my mind, too, is a young girl that we're helping right now, and she's 18 years old and she was held on

³² Maddy Troilo, *We Know How to Prevent Opioid Overdose Deaths for People Leaving Prison. So Why Are Prisons Doing Nothing?*, PRISON POL'Y INITIATIVE (Dec. 7, 2018) (emphasis added), <https://perma.cc/X5AM-S8JR> ("Shockingly, in 2015, opioids accounted for almost 50% of all deaths among formerly incarcerated people. This is especially horrifying given that proven treatment methods for opioid use disorders exist—they just aren't accessible to people in and recently released from prison.").

³³ Beth Schwartzapfel, *A Better Way to Treat Addiction in Jail*, MARSHALL PROJECT (Mar. 1, 2017, 10:00 PM), <https://perma.cc/USC6-X99U> ("Studies are unequivocal that treatment with medications like methadone or Suboxone reduces drug use, overdose, death, crime, and risky behavior . . . Yet of the 3,200 jails around the country, just 23 provide methadone or Suboxone maintenance therapy to inmates . . . Of the 50 state prison systems, four do so.").

³⁴ Maule & Liu describe the story of Kalief Browder:

On June 6, 2015, Kalief Browder took his own life following a brutal wrongful incarceration in New York's Rikers Island . . . For two out of the three years he was incarcerated . . . Browder was subjected to solitary confinement and beat by prison guards multiples [sic] times. Eventually the charges against him were dropped and he was released, but . . . [he] was never able to fully recover.

See Alicia Maule & Yili Liu, *Remembering Kalief Browder a Year After His Suicide and Why Rikers Island Should Be Shut Down*, INNOCENCE PROJECT (July 1, 2016), <https://perma.cc/M3DW-529X>.

cash bail on a bond that exceeded our means. But with advocating for her—and I know Megan mentioned the \$5,000 ceiling³⁵—but sometimes we have to work extra hard if people have a bond that exceeds that, and, you know, if we're able to support people that have a bond over \$5,000, sometimes we are able to help. And we helped this young girl and now she's in her senior year of high school, she's finishing with all A's, and she has a job interview tomorrow. And it's stories like that that remind me of why I—why we do this work in the first place.

Megan: Yeah, and going off of what Asia expressed or shared about her client, it makes me also think about my perception—just like how deeply rooted this issue is and how much it impacts more than just our clients, too.³⁶ And that is also as a family that has also been impacted by the justice system. I think it's just growing and growing the more I see that. And I had a client last year, I remember when we did the intake. I asked, “What can we do to help you get to, return to court? What do you need from us?” And he expressed that he didn't need anything but that he takes care of his grandma, and he is a caregiver. And that he needs help taking care of his grandma and getting resources for her. And I think that just kind of made me take a step back, too, and realize how much we can do with the resources and power when we're just helping one person. It kind of has a trickle-down effect.

Asia: And then I was gonna say, also, how my perception changed before I was incarcerated myself—I was a college student at U[niversity] of M[ichigan],³⁷ and I never ever thought about people who are incarcerated because that didn't touch me, that didn't affect me. And I just think about how naive and selfish—not even selfish, because it wasn't that I didn't want to think about those things—but naively, I thought everybody that is behind those gates has done something.³⁸

³⁵ DETROIT JUST. CTR., *supra* note 2.

³⁶ Sawyer states that the number of children harmed by pretrial detention has grown: *[M]ore children than adults were impacted by unaffordable money bail*. Because of the significant changes in the jail population since 2002, we won't attempt to extrapolate what the number of impacted children might be today. But as pretrial detention has grown, the number of children harmed by parental incarceration because of the money bail system has almost certainly grown, too. See, e.g., Wendy Sawyer, *How Does Unaffordable Money Bail Affect Families?*, PRISON POL'Y INITIATIVE (Aug. 15, 2018) (emphasis added), <https://perma.cc/K5JN-FXSY>.

³⁷ *Asia Johnson*, BAIL PROJECT, <https://perma.cc/H9BK-L2AA> (last visited Apr. 6, 2021).

³⁸ Wing explains on the bail system's disparate impact on the economically poor: Our investigation also speaks to the issues jails face in caring for the people in their custody, many of whom stay incarcerated thanks in large part to a bail system

They have harmed their community, they have harmed someone and that is where you go. And my perception has changed so drastically because now I know that no human being deserves to be in a cage. And I wholeheartedly believe that, instead of prisons and jails, we should have healing spaces. For both the person who did the harm but also for the people that were harmed, so that they can come together and truly heal from whatever trauma has occurred. And it's just bizarre that it took me working for The Bail Project and my own incarceration to actually come to this realization that cages aren't meant for human beings. We don't even—I don't even like putting my dog in a cage. So just think about putting individuals [in them]. But also, like Megan said, then you are incarcerating an entire family when you incarcerate one person who is so important to that system.³⁹

Jacqueline Bonilla: And how do you see your work fitting in the larger movement to end pretrial detention? And what are some of the connections between your organization's work and this larger movement work?

Asia: So, we know that bail funds are an immediate but temporary solution to a humanitarian and constitutional crisis that is happening in our jails.⁴⁰ And the cash bail system is the biggest driver of mass incarceration;⁴¹ and so what we're doing, we're alleviating immediate pain for the individual. We are also advocating for real systemic change.⁴²

that requires the accused to pay to get out of jail while they await their day in court. Most of the incidents we uncovered involved defendants who had not been found guilty of a crime, and were therefore legally innocent. They were only in jail because they couldn't post bail.

See Nick Wing, *Our Bail System Is Leaving Innocent People to Die in Jail Because They're Poor*, HUFFPOST (July 14, 2016, 5:14 PM), <https://perma.cc/2SMS-EQ92>.

³⁹ Sawyer, *supra* note 36.

⁴⁰ The ACLU explains how criminal justice policy is punitive in nature:

A culture of punishment, combined with race- and class-based animus, has led the United States to rely on incarceration more heavily than any other country in the world does. The politicization of criminal justice policy and a lack of evidence-based assessment result in a one-way ratchet in which law and policy grow ever more punitive. The human and financial costs of mass incarceration are staggering, and the burden falls disproportionately on the poor and people of color.

See e.g., *Prisoners' Rights*, ACLU, <https://perma.cc/ZB9S-9V5G> (last visited May 7, 2021).

⁴¹ Jared Keller, *How the Money Bail System Perpetuates America's Mass Incarceration Problem*, PAC. STANDARD (June 16, 2017), <https://perma.cc/7DVW-S6WV>.

⁴² See, e.g., Kaylyn Hlavaty, *Statewide Poll Shows 67% of Ohioans Believe in Reforming Bail System That Considers Individual's Circumstances, Not Someone's Wallet*, ABC NEWS 5 CLEVELAND (Mar. 24, 2021, 12:33 PM), <https://perma.cc/PW8K-4GF9>.

And so we have an entire policy team now that is working towards making those changes in communities that we work within.

So, for example, in Washtenaw County, Eli Savit has just ended cash bail,⁴³ and Twyla Carter, who is the National Director of Policy,⁴⁴ and myself worked in that working group that kind of affected Eli's decision-making in ending cash bail.⁴⁵ And he ran on that premise⁴⁶ and actually talked to The Bail Project while he was still campaigning to get educated on this issue. And so, we see that happening in Washtenaw County. We see [George] Gascón in LA ending cash bail.⁴⁷ And The Bail Project is supporting these efforts and amplifying the data that we collect.⁴⁸ Also, we made suggestions to the Biden-Harris campaign about how to end cash bail, how to give states incentives to do so, and what our model looks like in releasing people without cash bail and actually supporting them. And so, I mean, essentially, we are working ourselves out of a job, and that is what we all want to do. We come into this job knowing that we want to end this system; and hopefully we will not have jobs in a couple of years because we will end this horrific system that is incarcerating people because of poverty. And I just feel like—I mean people think, “Why would you want to work a job that you are not going to have long term?” But we think about the people that are coming through the system every single day, and they cycle in and out because they don't have that community support.⁴⁹ And so my plan is, once I do work myself out of a job, that I can be part of that community, still, that is supporting people who are coming home.

Shezza Dallal: I don't know if Megan wants to add anything or if you want to move on to the next question.

⁴³ Meredith Bruckner, *Washtenaw County Prosecutor Eli Savit Scraps Cash Bail*, A4 ALL ABOUT ANN ARBOR (Jan. 4, 2021, 6:11 PM), <https://perma.cc/P2V8-K7W9>.

⁴⁴ Twyla Carter, BAIL PROJECT, <https://perma.cc/SB5S-GTJP> (last visited Apr. 12, 2021).

⁴⁵ See Press Release, The Bail Project, The Bail Project and the Washtenaw County Public Defender Partner to Expand Pretrial Support Under 'No Cash Bail' Model (Jan. 4, 2021), <https://perma.cc/9LUN-CEYY>.

⁴⁶ *Eli Savit: On the Issues*, FRIENDS OF ELI SAVIT, <https://perma.cc/8TVA-QWNM> (last visited Apr. 12, 2021).

⁴⁷ See Press Release, L.A. Cnty. Dist. Attorney's Office, District Attorney George Gascón Issues Statement on Money Bail (Jan. 5, 2021), <https://perma.cc/97PK-K68E>.

⁴⁸ See THE BAIL PROJECT, *supra* note 9, at 11.

⁴⁹ See Hall et al., *Postincarceration Policies and Prisoner Reentry: Implications for Policies and Programs Aimed at Reducing Recidivism and Poverty*, 20 J. POVERTY 56, 60 (2016) (citation omitted) (“Community-level risk factors for recidivism include poverty, inequality, socioeconomic disadvantage, and limited neighborhood institutional resources.”).

Megan: I think Asia did a great job of explaining that and right now in Washtenaw County, since that is in Michigan, Asia was doing the front end of that work, and now we are kind of stepping in as the community release support model; so where we might not be posting bail in that community, we are kind of acting as a bridge for resources. You know, there's resources in Washtenaw—they've been doing this work—but I often see our clients get overwhelmed on how to access resources. And when you have that person that can just listen, help you, guide you, I think that's just so important. And I see that's where our role is moving in that county, and I think it is going to be really exciting to see that and also how that can kind of start to trickle down into other counties in Michigan, like Wayne County, Macomb County, Oakland County. So you know, we'll just see what happens.

Shezza: So, Asia you spoke beautifully about how, in an ideal future, The Bail Project is kind of out of business, so to speak. I am wondering if both of you could speak a little about what your vision of the future of this system looks like. Are you looking at a future in which pretrial detention is abolished fully or where cash bail specifically is replaced with some other form of mechanism? What does the future look like?

Asia: The only thing we want to replace cash bail with is community release with support. It doesn't include ankle monitors or electronic monitoring.⁵⁰ It doesn't include algorithmic risk assessments.⁵¹ It solely includes releasing people with a community that can give them access to the things that they need. So, like Megan said, even when we don't post bail, we're still giving them transportation to and from court.⁵² And that includes if they have a job interview—maybe they don't have transportation. If we can get them there and back, we do that. Giving them reminders, because sometimes people just forget, life happens.⁵³ And so they need a phone call, or just somebody to listen like Megan said. It's easy to get overwhelmed. And I think for me what I envision is . . . what the Constitution originally said was we are all presumed innocent until proven guilty.⁵⁴ And unless you are a threat to the community—a vio-

⁵⁰ See THE BAIL PROJECT, *supra* note 24, at 14-16.

⁵¹ See *id.* at 24-26.

⁵² *The Bail Project - St. Louis*, *supra* note 23.

⁵³ See BAIL PROJECT, *supra* note 3, <https://perma.cc/J6QD-GK68> (last visited Apr. 16, 2021).

⁵⁴ Although the Constitution does not expressly prescribe a presumption of innocence, the Supreme Court has interpreted such. See, e.g., *Coffin v. United States*, 156 U.S. 432, 453 (1895) (“The principle that there is a presumption of innocence in favor of the accused is the

lent threat to someone or to your community at large, or to yourself—then maybe we put you in a space where you aren't a threat to anyone, or if you are going to flee, and we know that you are going to flee. But, for the criminalization of addiction,⁵⁵ we have to abolish that. We cannot hold people in jail simply because they have an illness. Mental health treatment—all of these things, when you're in jail you don't have access to.⁵⁶ So what I'd like to see is a world where nobody is held, pretrial. I mean, honestly, I'd like to see a world where nobody is held at all in a jail or prison. But for right now, for purposes of the cash bail system—it shouldn't be used. You should not be sitting in jail because you don't have money to buy your freedom. Freedom should be free. And if we are operating under what the Constitution says, that means that no one should be held at all, unless you are a threat, like I said.⁵⁷ A threat means you are going to hurt someone. A threat means that you are going to leave and we will never see you again. And for most people, neither of those things are true.⁵⁸ People do want to come to court, people do want

undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law.”).

⁵⁵ Regina LaBelle, *Criminalizing Addiction Isn't Working. Prevention and Treatment Deserve a Chance.*, CATO UNBOUND (Aug. 23, 2019), <https://perma.cc/8EGU-PJ8X> (“substance use disorders have long been considered moral failings requiring a criminal justice response . . .”); see also *Defining and Implementing a Public Health Response to Drug Use and Misuse*, AM. PUB. HEALTH ASS'N (Nov. 5, 2013), <https://perma.cc/G6TY-F7T3>; Tess Borden, *Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States*, HUM. RTS. WATCH (Oct. 12, 2016), <https://perma.cc/ZG3H-R54N>.

⁵⁶ Ted Roelofs, *Sheriff's Plea on Mentally Ill Prisoner Reveals Gap in Michigan Treatment*, BRIDGE MICH. (Feb. 12, 2020), <https://perma.cc/2MH5-NQVJ> (“Michigan . . . is plagued by a shortage of treatment options and professionals, leaving county jails and state prisons stacked with inmates with serious mental illness.”); see also *The Bail Project - St. Louis*, *supra* note 23.

⁵⁷ See Coffin, 156 U.S. at 453.

⁵⁸ Those lucky enough to receive bail funds are able to maintain employment, keep their families together, and lower their chances of a longer sentence. Lartey describes how being able to pay bail had a positive impact for Flo:

If Flo hadn't gotten that bail, he wouldn't have been able to help his wife move when the couple were kicked out of their home; he would have been forced to make court appearances in an orange jumpsuit and shackles rather than a suit and tie. He kept working odd jobs in warehouses and construction, rather than staying in jail and costing taxpayers money If Flo had remained in jail awaiting trial, the data suggests he might also have received a longer sentence

See Jamiles Lartey, *New York Tried to Get Rid of Bail. Then the Backlash Came.*, POLITICO (Apr. 23, 2020, 5:08 AM), <https://perma.cc/6RZD-4VWZ>. For jurisdictions that have already eliminated cash bail, research has shown that the overwhelming majority of those released pretrial appear at their court dates. Hunter states the positive impact of Washington D.C.'s pretrial reform of cash bail:

Washington, D.C., was an early pioneer in pretrial reform, taking steps to eliminate the use of cash bail as early as the 1960s. The results have been extraordinary:

to resolve their issues and put this behind them. Also, I believe in a world where second chances are given. Second, third, fourth chances! People should not be defined by their worst mistake, or any mistake. I mean, just imagine as a college student—that one time that you accidentally forgot to cite your source. Now it looks like you plagiarized, and now for the rest of your life people are, like, “Yeah, well, we can’t hire you because of that one time when you plagiarized.” Or every interaction that you have with a suitor, with an employer, with your parents, with your friends. All the time, that one thing that you did is brought up. I just want to work within a world that is looking at people’s best sides and believing in people achieving success and being their best selves.

Megan: I agree with everything Asia is saying, too. And I think this makes me think of Detroit, where electronic monitoring is so frequently used with our clients.⁵⁹ I know that’s other places, not just Detroit;⁶⁰ but some people think that’s freedom, but it’s really not, right? You still have to report to a parole probation officer, and what it looks like for us when clients have electronic monitoring is we have to make sure that they have two working phone numbers for friends or family that can be confirmed by the tether unit and an address to live.⁶¹ And that often again is another barrier for our clients, right? They might not have hous-

94 percent of defendants are released pretrial, and 91 percent of them appear in court for their trial. New Jersey passed a suite of criminal justice reforms in 2016 that essentially eliminated cash bail and created a new pretrial services program. Since implementing these reforms in 2017, New Jersey saw a 20 percent reduction in its jail population. In 2017, 95 percent of defendants were released pretrial and 89 percent of them appeared at their trial date.

See Lea Hunter, *What You Need to Know About Ending Cash Bail*, CTR. FOR AM. PROGRESS (Mar. 16, 2020, 9:05 AM) (citations omitted), <https://perma.cc/SLH5-FNNT>.

⁵⁹ During the COVID-19 pandemic, Wayne County, Michigan, increased the use of electronic monitoring devices to monitor people released, pretrial. See James David Dickson, *Wayne County Jail Population Down Hundreds During Virus; Tether Population Grows*, DETROIT NEWS (Apr. 10, 2020, 12:43 PM), <https://perma.cc/2JWF-SC9S> (“While the physical jail population is dropping, the number of people monitored by tether has continued to rise, from more than 500 about a month ago to 766 . . .”).

⁶⁰ Cantú elaborates on how GPS monitoring is used to reduce jail populations:

Major cities are increasingly using GPS monitoring as a way to reduce jail populations. In Cleveland, 838 people were referred to a private contractor to be outfitted with GPS monitors in the first year it rolled out pretrial services in conjunction with reduced use of cash bail, and similar policies are being adopted in Detroit and New York City.

See Aaron Cantú, *When Innocent Until Proven Guilty Costs \$400 a Month—and Your Freedom*, VICE (May 28, 2020, 1:09 PM) (citations omitted), <https://perma.cc/77AZ-NXB7>.

⁶¹ WAYNE COUNTY, MICH., CODE OF ORDINANCES tit. VIII, ch. 187, § 187-3 (2020), <https://perma.cc/7VKD-P4UR>.

ing,⁶² and then with rent [*inaudible*] it's even harder to find housing. And even just two people with two phone numbers can often be a huge obstacle we face here in Detroit,⁶³ and I'm sure other cities, [with] The Bail Project. And right now, I'm thinking, too, what is the vision and the future for the system, and I'm really looking now at Atlanta—how they just used money to build a new community center downtown instead of a jail.⁶⁴ And I just feel like so many cities can use that model, too, having that center where there's just resources, and not where you go to get locked up. I think that's what's guiding me right now in answering this question.

Hannah Kohn: What types of changes have you seen now that the public interest world has shown more interest and more financial support towards bail reform?

Asia: So we've seen, like I said before, some jurisdictions abolishing the usage of cash bail and a lot of this was sparked last summer with the murder of George Floyd and the protests that were happening.⁶⁵ And

⁶² See Hannah Riley, *The Injustice of Cash Bail*, HUFFPOST (Dec. 1, 2017, 2:40 PM), <https://perma.cc/X2K3-PY9U> (“Some judges have a blanket policy of refusing signature bonds—a bond you sign and promise to pay only if you don’t show up to your court date—to people who are homeless.”); see also Testimony from Lauren Rosales, The Bail Project, Testimony in Opposition to SB 21, at 2 (Mar. 18, 2021), <https://perma.cc/LRB9-LBJ2> (“People who have been jailed because they are poor are ten times more likely to be homeless and suffer higher rates of unemployment and lower wages.”) (citing LUCIUS COULOUTE, PRISON POL’Y INITIATIVE, NOWHERE TO GO: HOMELESSNESS AMONG FORMERLY INCARCERATED PEOPLE (2018)), <https://perma.cc/566E-YZRT>; Jonathan Ben-Menachem, *The Public Health Risks of Jailing People for Poverty*, APPEAL (May 4, 2020), <https://perma.cc/Y4XG-9TXW> (“Half of the 164 people released from county jails were homeless or living in a homeless shelter, and those who had arrest records typically were accused of offenses like trespassing or drug possession.”).

⁶³ See generally Angie Jackson, *How Nonprofits Are Getting People out of Metro Detroit Jails During COVID-19 Pandemic*, DETROIT FREE PRESS (June 16, 2020, 5:04 PM) <https://perma.cc/W3QQ-LGVB> (“Cash bail is particularly cruel to people who are poor, and right now when so many people are losing their jobs or are out of work, family members might not have any resources to put toward a loved one’s bail . . .”).

⁶⁴ Peters discusses Atlanta’s new community center:

In downtown Atlanta, the city built a massive, 11-story city jail to house 1,300 inmates for low-level crimes like shoplifting. But the city now plans to turn it into a new center for equity. The project, which is going through a process of community discussion, may include mental health services, reentry programs, and a credit union, along with room for urban farming, housing, classrooms where students can work on getting a GED, and other community spaces.

Adele Peters, *This Atlanta Jail Will Transform into a Center for Justice and Equity*, FAST COMPANY (June 15, 2020), <https://perma.cc/R9LE-9GZB>.

⁶⁵ Woodward & Hendrickson discuss the racial aspects of the bail system:

we saw last summer, Megan and I were busy posting bail for protesters in Detroit, and The Bail Project and a lot of other bail funds across the country got an influx of donations because of what was happening.⁶⁶ And so sometimes it takes something as tragic as that or public awareness of an issue to get people to think to themselves, “Hmm, I didn’t even know about that. But now that I know about that, I’m going to act. I’m going to donate my money, my time, maybe intern. I’m gonna [going to] pay more attention to elections.” That’s one of the things that I think is most important, and I think Megan’s going to touch on it, too, is paying attention to who we vote for. And not just our president, but local-level elections are important. And it’s sad that it takes money—we live in a capitalist world where money makes the world go round, and money is what it takes to get people their freedom right now. So, like I said, we’re providing a temporary solution to a problem that is so much bigger, and we’ve posted so much money in bail for people. And a lot of those protesters last summer in Detroit—their charges are being dismissed, and we’re getting that money back.⁶⁷ And so we work on a national revolving bail fund.⁶⁸ So say you donate \$100—let’s say \$500. You donate \$500, and we post bail for one person, and that person’s case comes to a close because they’ve attended every single court date. No matter what happens at the end of their case, whether they’re found guilty, innocent, charges are dismissed, we get that money back, and then we’re able to help the next person and the next person, so that money never stops working. And even when we aren’t able to end cash

Many community organizers expressed confusion as to how Chauvin, who the Minneapolis Police Department fired on May 26, could afford to cover his \$1 million bail. Black Lives Matter Minnesota’s lead organizer and lifetime resident of St. Paul Trahern Crews described Chauvin as a ‘flight risk’ who should not have been able to post bail . . . Many organizers said the bail system does not favor Black people the way it helped Chauvin and other officers.

See, e.g., Samantha Woodward & Samantha Hendrickson, *Protesters Push Bail Bond Reform Following Bail Release of Former Officer Charged with Murder of George Floyd*, MINN. DAILY (Oct. 10, 2020), <https://perma.cc/Q2R2-ZRR6>.

⁶⁶ See Kelly Taylor Hayes, *As Donations Surge, Nonprofits Bail out George Floyd Protesters Across America*, FOX KTVU (June 2, 2020), <https://perma.cc/K6J5-KAX2>; see also Aila Slisco, *Online Donations for Protesters Bail Surge As Millions Continue Demonstrating Against George Floyd’s Death*, NEWSWEEK (June 3, 2020, 12:30 AM), <https://perma.cc/5HSB-2CFM>.

⁶⁷ See *How Does The Bail Project™ National Revolving Bail Fund Work?*, FAQ, BAIL PROJECT, <https://perma.cc/8HRH-GT7E> (last visited Apr. 10, 2021) (“As their cases close, bail is repaid back into our fund and recycled to help additional clients. As a result, the same donation can be used over and over, creating a massive force multiplier.”); see also BAIL PROJECT, *supra* note 8 (“Because bail is returned at the end of a case, donations to The Bail Project™ National Revolving Bail Fund can be recycled and reused to pay bail two to three times per year, maximizing the impact of every dollar.”).

⁶⁸ BAIL PROJECT, *supra* note 8.

bail, all of the money that we've accumulated is going to go back into those communities that we've done work in so that those resources can be amplified by more money which, unfortunately, more money means more help.

Megan: Yeah, I agree with everything Asia's saying. I think also there's just more and more conversations about cash bail. I think often-times people just didn't even realize what it was or what was so bad about it; and I think with these conversations, we're just furthering that reach of educational awareness, so some people that may not think they had a role in it at all are starting to pay attention. And I think just with numbers is where you begin to build that power and pressure on these systems.

Asia: And there's a lot more information about the world we imagine after cash bail, or the world that we will make happen at aftercash-bail.org.⁶⁹ It's a plethora of information about what's going to replace cash bail and what we believe should replace cash bail, and, again, it isn't an extension of incarceration.⁷⁰

Phoebe Lytle: Awesome, thank you all so much for these responses. Could you all speak a little bit about how COVID-19 has impacted your work this past year?

Megan: Yeah, COVID has impacted our work so much, and it's crazy to think that it will be a year soon, when we were sent home. I think it was March 13th. But before COVID we were able to go into jails and courts. We were going into the jails to do the intakes with folks in person and then going to the courts to sit with clients during their hearings and stuff like that. Now that's all completely moved to Zoom, at least in Detroit.⁷¹ So we're doing Zoom intakes with clients that are only 15 minutes, so it's a little bit harder to establish rapport. Also, just the timing of 15 minutes and just not being able to be there in person doing the intake. Zoom hearings are definitely—in the beginning it was really hard for clients to access and get that technology.⁷² Court dates were

⁶⁹ THE BAIL PROJECT, *supra* note 24.

⁷⁰ *Id.*

⁷¹ See *Third Circuit Court State of Emergency*, THIRD JUD. CIR. MICH. (Mar. 25, 2020), <https://perma.cc/9T43-LMWC>.

⁷² Tashea describes challenges posed by online court proceedings:

In Michigan, the courts clocked more than 100,000 hours of hearings between April 1 and May 18. This move online has come with serious challenges that threaten the integrity of court proceedings Disconcertingly, those that argue

being pushed farther and farther back,⁷³ again putting holds on their life. Something we don't necessarily see in Detroit, but we've seen in other cities with The Bail Project: as Bail Disruptors are moving to pay bail online, there's fees and fines that go into paying the bail online.⁷⁴ Which, just again, increases how much you're having to put as bail, and that is just mainly thinking of people posting their own bail, you know. So much more money is being added to that. And again, I think Asia talked about this, too, but jails are just not a place where social distancing can happen⁷⁵—it's not designed for that. There's more and more urgency for this work. I mean there was always urgency, but just really increasing that. Also, I think what we're going to start to see, too, is making sure that people inside are getting vaccines⁷⁶—there are so many

virtual hearings will make a more equitable justice system don't acknowledge the digital divide in our country.

See Jason Tashea, *The Legal and Technical Danger in Moving Criminal Courts Online*, BROOKINGS (Aug. 6, 2020), <https://perma.cc/4EX2-NRAL> (citations omitted).

⁷³ *Metro Detroit Courts Prepare to Resume In-Person Trials with Massive Backlog of Cases*, WXYZ DETROIT (Mar. 11, 2021, 5:26 AM), <https://perma.cc/F2TK-J5UR>.

⁷⁴ See, e.g., *Bail*, NYC311, <https://perma.cc/N3LN-S2ZG> (last visited Apr. 13, 2021); see also *Pay Online*, UNIFIED JUD. SYS. PA. WEB PORTAL, <https://perma.cc/KEY6-CPWQ> (last visited Apr. 13, 2021).

⁷⁵ See, e.g., Noel King, *At a New York Prison, Social Distancing 'Is Impossible,' Inmate Says*, NPR (Apr. 9, 2020, 5:02 AM) <https://perma.cc/ENP7-X4GQ> ("State officials say measures like social distancing seem to be slowing the spread of COVID-19. But in prison, where social distancing is largely impossible, people are getting sick."); Melissa Segura, *How Do You Social Distance in Prison? You Don't. You Get COVID.*, BUZZFEED NEWS (Jan. 21, 2021, 6:29 PM) <https://perma.cc/5LGC-G5WH> ("In crowded prisons, with little access to healthcare or the ability to socially distance, COVID-19 cases have exploded, with at least 1 in 5 inmates infected."); Aleks Kajstura & Jenny Landon, *Since You Asked: Is Social Distancing Possible Behind Bars?*, PRISON POL'Y INITIATIVE (Apr. 3 2020), <https://perma.cc/8RCJ-44YM> ("Is social distancing (as recommended by the CDC and other public health agencies) even possible behind bars? Can incarcerated people maintain 6 feet from each other, and from correctional officers and other staff? *In short, the answer is no.*"); The Brennan Center for Justice explains the overcrowding issue in prisons and jails which exacerbates prisoners' vulnerability to pandemic conditions:

Prisons and jails frequently suffer from overcrowding. Even in the best of times they are, by definition, facilities where people are placed in close contact with each other on a near-constant basis. Factor in the unique health challenges faced by incarcerated people and the limited availability of quality healthcare, and it's no surprise that correctional facilities are uniquely vulnerable to diseases such as Covid-19.

Reducing Jail and Prison Populations During the COVID-19 Pandemic, BRENNAN CTR. FOR JUST. (citations omitted), <https://perma.cc/6HLD-PM3G>.

⁷⁶ Ashna Mehra, *Activists, Students Criticize the Exclusion of Michigan Prisoners from Phase 1 COVID-19 Vaccination*, MICH. DAILY (Jan. 29, 2021), <https://perma.cc/Z7PL-72DC> ("While prison health care staff and facility employees fall under Phase 1 of the vaccine distribution plan, most prisoners are classified under Phase 2 . . . Phase 2 is a mass vaccination campaign for all residents 16 and older and may not begin for a number of months.").

people who go in and out of the jail daily.⁷⁷ It's just such tight spaces inside of jails that, I mean, we saw last year how many outbreaks were happening in jails.⁷⁸ And now I think this year, it's just going to be focusing on, "Okay, how do we get those vaccines in?" and making sure we can decrease those numbers inside.⁷⁹ So that's really how it's impacted our work—quite a bit, actually.

Asia: From a comms [communications] standpoint—you know, I really like to sit with my client, sit with our clients and talk to them and build that trust. And you know, if you're going to sit down and talk about this trauma, you want to know that you can trust this person. And it's hard to gain that trust over the phone or through Zoom. And you know, even as a Bail Disruptor, when you sit with a client in the jail, there's something about that bond that happens. There's a tie—like a transference of energy—that's trust-based. And it's hard, it's difficult, because of COVID, to actually build that relationship in a really authentic way. And recently, with COVID, I traveled through the South to collect client stories, and we had to get COVID tested prior to leaving, midway through our trip, and then at the end of the trip. And we had to stay six feet away from our client and wear masks and it's really—not being able to hug someone that you've helped and that wants to hug you, or express their appreciation for their freedom because you were able to put money up. And so COVID has really put a strain on the trust-building between client and advocate. From a comms [communications] standpoint, it just makes my job a lot harder. I'm asking people to share their worst moments or a moment where they felt like there was no hope. And how do you get somebody to do that over the phone?

Uruj Sheikh: So our next question is, you know, we understand that bail reform is a legislative strategy where you're working to change the law around bail. So we're wondering what other strategies we could use to supplement that? What are other changes that we can help to make? And then how can we as law students and lawyers that might be listening to this podcast—how can we work to change public policy?

⁷⁷ Tracy Samilton, *Vaccinating Prison Staff Against COVID-19 Is Uphill Battle with Low Supply, Many Saying No Thanks*, MICH. RADIO (Jan. 19, 2021) <https://perma.cc/234N-M83T> (discussing corrections staff who are unwilling to receive the COVID vaccine).

⁷⁸ *A State-by-State Look at Coronavirus in Prisons*, MARSHALL PROJECT, <https://perma.cc/5PYA-CE3Y> (last updated May 21, 2021, 5:00 PM) (ranking Michigan third nationally in a state-by-state comparison of COVID-19 infections in prisons).

⁷⁹ See Mehra, *supra* note 76.

Megan: I think we—Asia kind of mentioned this—but I think we saw so much last year how much voting on a local level can really impact change. I mean, we see [*inaudible*] prosecutor. You know, we vote for judges and prosecutors, and that really is where we can start to create that change.⁸⁰ And I think tools and skills is just really working in the communities and working alongside groups. I think there's so much, like I said, so much power that comes when it's a team effort. And I think that's important, especially when working in public policy, to have that lens of micro and macro work. So listening to people on the ground but also knowing that you have the skills to write that policy, to collect those stories, that data, that's being told and just sharing that in policy. I think that storytelling, when you're working on that policy level, can be so powerful because it's really speaking to the hearts of people and honoring the people that have gone through these issues.

Asia: I think, too, as law students and future lawyers—being bold. I think about Amanda Alexander at the Detroit Justice Center.⁸¹ I think about Robin Steinberg who was, like, “This is wrong, and I am going to do something about it. I am going to start this nonprofit, and I'm going to hire people who've been impacted by the system.”⁸² Just having that boldness to actually use your voice [and] say what you imagine. Because there are so many people who live in fear, like, “oh, if I say I am an abolitionist, what does that mean?” Or, “if I say I want to abolish the cash bail system, what does that mean?” Just by sticking to your values, amplifying your values, and then [taking] action behind things that you say. As lawyers you have so much power, so much power, and putting so much positivity [*inaudible*] in power and sharing that power and making it so that your clients are being helped. They are being helped from every—like, how we talk about in [Neighborhood Defender Service] [*inaudible*]⁸³—how they provide you with a social worker, and a bail advocate, and your public defender, and also sometimes you have to even work within families⁸³—like Megan said, her client whose grandmother needed help. You have to be the kind of lawyers, like, “All

⁸⁰ Daniel A Medina, *The Progressive Prosecutors Blazing a New Path for the US Justice System*, GUARDIAN (July 23, 2019, 2:00 PM), <https://perma.cc/98Q8-9A9R>; but cf. Note, *The Paradox of “Progressive Prosecution,”* 132 HARV. L. REV. 748 (2019) (discussing challenges to “progressive prosecution” in a criminal legal system upholding racist laws).

⁸¹ Amanda Alexander, *Founding Executive Director*, DETROIT JUST. CTR., <https://perma.cc/A7RK-G2ES> (last visited Apr. 18, 2021).

⁸² Robin Steinberg, BAIL PROJECT, <https://perma.cc/FP7M-PTS9> (last visited Apr. 18, 2021).

⁸³ Rick Jones, *The Power of Public Defense*, NEIGHBORHOOD DEF. SERV. (July 26, 2018) <https://perma.cc/XPQ8-6HD9>.

hands on deck.” And you have to recognize the responsibility that one has to your client. And not just to your client but to yourself and to the world. Then, everything Megan said about policy.

Megan: That made me think, too, about when talking to clients, how much they just appreciate public defenders that communicate and do simple check-ins and ask how you are. And I know that might seem so simple, but that can just mean the world to someone when they are going through these cases. We see public defenders that get overworked and have so many cases that make a world of difference to [the clients]. I mean, that’s what we hear from our clients all the time.

Pete Esser: Alright, just to round out our discussion, was there anything else that either of you would like the lawyers or the law students listening to this podcast to know?

Megan: That’s a really good question. I think we said this a lot. But really, lawyers and law students, just knowing to operate in a holistic approach—I’ve just seen how much that has started to create change. Knowing, too, that as lawyers you’re giving—to give the power to the client.⁸⁴ I think oftentimes the power goes into the case, the systems—I mean it’s good to go there, too—but just trying to create more humane practices. And the language, as well.

Asia: Yes, Megan, I agree with everything you just said.

⁸⁴ Freeman provides an account of Gerald Lopez’s perspective on rebellious lawyering: [The] concept of lawyers working toward systemic social change with marginalized groups perhaps first developed an “official name” in Gerald Lopez’s seminal piece about rebellious lawyering Lopez describes rebellious lawyering as “lawyering against subordination,” working with, not on behalf of, disenfranchised groups. A hallmark of rebellious lawyers is their openness to learning from those they work with, particularly the marginalized. In his seminal book, Lopez writes of this type of lawyering: [L]awyers must know how to collaborate with other professional and lay allies rather than ignoring the help that these other problem-solvers may provide in a given situation. They must understand how to educate those with whom they work, particularly about law and professional lawyering, and, at the same time, they must open themselves up to being educated by all those with whom they come in contact, particularly about the traditions and experiences of life on the bottom and at the margins.

Alexi Freeman, *Teaching for Change: How the Legal Academy Can Prepare the Next Generation of Social Justice Movement Lawyers*, 59 *How. L.J.* 99, 107-08 n.22 (2015) (quoting GERALD P. LÓPEZ, *REBELLIOUS LAWYERING: ONE CHICANO’S VISION OF PROGRESSIVE LAW PRACTICE* 37 (1992)).

Rachel: Megan and Asia, it is always a pleasure. Thank you so much for being here and chatting with us and answering these questions so beautifully and sharing your experiences. We all really appreciate it. My staffers—thank you so much for writing these brilliant questions. You guys rock. All of you. And thank you guys so much.

Asia: Thank you for having us!

Megan: Thank you! Bye!

Rachel: Bye!