

TRANSCRIPT

marketplace  of ideas



featuring

SHERIFF MICHAEL HENNESSEY

On the power of restorative justice

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**DRUM
MAJOR**
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POLICY

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THE DRUM MAJOR INSTITUTE FOR PUBLIC POLICY MARKETPLACE OF IDEAS SERIES

SPEAKERS:

REV. DR. JAMES A. FORBES, JR.

Senior Minister, The Riverside Church

MICHAEL HENNESSEY

Sheriff, City of San Francisco

MARTIN F. HORN

Commissioner, New York City Department of Correction

CHARLES J. HYNES

District Attorney, Kings County, New York

HON. H. CARL MCCALL

Principal, Convent Capital, LLC

ANDREA BATISTA SCHLESINGER

Executive Director, Drum Major Institute for Public Policy

ABOUT DMI'S "MARKETPLACE OF IDEAS" SERIES:

Never content just to argue theory, the Drum Major Institute provides a platform for policymakers who have successfully worked for social and economic fairness in our public institutions. For far too long the conservative right has defined the limits of what is "possible" in society and politics. The "Marketplace of Ideas" shows that we can transcend these artificial boundaries: it is possible to be progressive, practical, and effective. Since its inception we've heard from Andy Stern, President of the Service International Employees International union; Howard Dean, former Governor of Vermont; Eliot Spitzer, Attorney General of New York State; and Steven Binger, former advisory to the United States Secretary of Education.

PANELISTS AND SPEAKERS

MICHAEL HENNESSEY

Michael Hennessey has served as Sheriff of San Francisco for 25 years, and was elected to his seventh term in November 2003. As Sheriff, he has won widespread recognition for the outstanding success of his innovative in-custody treatment programs. He is one of the nation's pioneers in establishing direct supervision jails that have proved to be safer and more cost effective than traditional linear jails. He has also been nationally recognized for his recruitment program for women and minorities, including gay men and lesbians. His staff is among the most diverse in the nation and reflects the diversity of San Francisco's population. Sheriff Hennessey was instrumental in implementing another innovative in-custody treatment program, Resolve to Stop the Violence (RSVP), which was started in 1997 and is a result of collaboration between organizations that advocate for victim's rights and provide services for survivors and the San Francisco Sheriff's Department. RSVP offers treatment for male offenders with violent histories, services to victims of violence and restitution to the community for the harm caused by violence. The program was most recently honored to receive the 2004 Innovations in Government from the Ash Institute for Democratic Governance and Innovation at Harvard University and the Council for Excellence in Government. A native of Iowa, Sheriff Hennessey graduated from St. John's University, Minnesota, with a bachelor's degree in history, and received his J.D. from University of San Francisco in 1973. He is the longest serving Sheriff in California and the only one who is a lawyer.

REV. DR. JAMES A. FORBES, JR.

On June 1, 1989, The Rev. Dr. James Alexander Forbes, Jr. was installed as the fifth Senior Minister of The Riverside Church, an interdenominational, interracial, and international church built by John D. Rockefeller Jr. in 1927. The 2,400-member church is affiliated with the American Baptist Churches and the United Church of Christ. Before being called to Riverside's pulpit, Dr. Forbes served from 1976-1985 as the Brown and Sockman Associate Professor of Preaching at Union Theological Seminary in New York City. Dr. Forbes is known as the preacher's preacher. In their March 4, 1996 issue, *Newsweek* recognized Forbes as one of the 12 "most effective preachers" in the English-speaking world. Dr. Forbes, a pastor, educator, administrator, community activist and interfaith leader, was designated as one of America's greatest Black preachers by *Ebony* in 1984 and 1993. He won the Alumni Charter Day Award of Howard University for Distinguished Post Graduate Achievement In Ministry. In 1995 he emerged in the Baylor University Survey as one of twelve remarkable and most effective preachers in the English-speaking world. Dr. Forbes has earned three degrees and has been awarded 13 honorary degrees. Among his numerous accolades, Dr. Forbes was asked to speak on behalf of the progressive faith community at the Democratic National Convention in 2004.

MARTIN F. HORN

Martin F. Horn was appointed by Mayor Michael Bloomberg to serve as Commissioner of the New York City Department of Probation, effective Jan. 1, 2002. On January 1, 2003 Mayor Bloomberg appointed him to simultaneously serve as Commissioner of the New York City Department of Correction, the nation's largest jail system. Horn has extensive experience improving government operations and has held numerous executive posts, primarily in the criminal justice field. Since becoming Probation Commissioner Horn has reengineered the Department by focusing on high-risk offenders, improving the delivery of treatment for addiction to alcohol and other drugs, employment of offenders, improving the Department's IT capacity, and streamlining the probation violation process. As Correction Commissioner Horn has rebuilt morale, accountability and integrity following a series of highly publicized scandals. He has brought merit promotion to the Warden's ranks, reduced overtime, reduced suicides and continued the reduction in jail violence begun by his predecessors. Horn earned a bachelor's degree in government from Franklin and Marshall College in Lancaster, Pennsylvania in 1969, and a master's degree in criminal justice from John Jay College, City University of New York, in 1974.

CHARLES J. HYNES

In 1989, Charles J. Hynes was elected the 27th District Attorney of Kings County (Brooklyn), New York. He is now serving his fourth term as the County's chief law enforcement officer. The District Attorney began his career in public service in 1963 as an associate attorney for the Legal Aid Society. In 1969, he joined the Kings County District Attorney's Office as an Assistant District Attorney. As District Attorney, Mr. Hynes has pioneered many innovative criminal justice strategies. He started one of the first specialized domestic violence bureaus in the country and then worked with court administrators to establish one of the first domestic violence court parts in New York State. He started one of the first Drug Treatment Alternative-to-Prison (DTAP) programs for chronic drug offenders in the country, which has rehabilitated hundreds of nonviolent drug addicts and become a model for the nation. In 1999, Mr. Hynes created the ComALERT public safety program which supports individuals on probation or parole as they re-enter their Brooklyn communities. He was motivated to implement ComALERT by his philosophy that education, intervention and rehabilitation are as important as traditional law enforcement techniques. This program refers participants to community-based organizations that provide them with job training, job placement, education, housing, mental health and substance abuse counseling.

HON. H. CARL MCCALL

H. Carl McCall served as Comptroller of the State of New York from 1993 until November 2002, when he became the Democratic nominee for Governor of the State of New York. Prior to his position as Comptroller, Mr. McCall was a Vice President of Citicorp for eight years. He has also served as President of the New York City Board of Education, a U.S. ambassador to the United Nations, Commissioner of the Port Authority of New York and New Jersey, Commissioner of the New York State Division of Human Rights and was elected to three terms as New York State Senator. Mr. McCall received a Bachelor's degree from Dartmouth College and a Master's of divinity degree from Andover-Newton Theological School. Mr. McCall serves as a director of New Plan, a real estate investment corporation and Standard Commercial Corporation, one of the world's largest leaf tobacco dealers. Mr. McCall has served as a principal of Convent Capital, LLC, a financial advisory firm, since April 2004.

ANDREA BATISTA SCHLESINGER

Since 2002, Andrea Batista Schlesinger has led the effort to turn the Drum Major Institute, originally founded by an advisor to Rev. Dr. Martin Luther King, Jr. during the civil rights movement, into a progressive policy institute with national impact. Under Andrea's leadership as Executive Director, DMI has released several important policy papers to national audiences including: "Middle Class 2004: How Congress Voted," "People and Politics in America's Big Cities," and "From Governance to Accountability: Building Relationships that Make Schools Work." Andrea studied public policy at the University of Chicago. Andrea has worked in various capacities to promote educational equity and youth empowerment. She directed a national campaign to engage college students in the discussion on the future of Social Security for the Pew Charitable Trusts, and served as Director of Public Relations of Teach For America before working as the education advisor to Bronx Borough President and mayoral candidate Fernando Ferrer. Andrea has been profiled in the *New York Times*, *New Yorker* magazine, and in "Hear us Now," an award-winning documentary about her tenure as the student member of the New York City Board of Education. She has been published in *Alternet.org*, *New York Newsday*, *New York Sun*, and *City Limits* magazine.

TRANSCRIPT

The transcript from this event has been edited for length and readability.

HON. H. CARL McCALL: Good morning. My name is Carl McCall and I am pleased to welcome you on behalf of the Drum Major Institute for Public Policy (DMI).

I'm a member of DMI's advisory board, and I'm honored to be here with you this morning in our Marketplace of Ideas. DMI calls this series the "Marketplace of Ideas" for a reason: it's a marketplace out there and our goal is to take winning ideas and give them a larger platform.

This isn't about artificial boundaries or political party affiliation; it's about highlighting those policymakers demonstrating that it is possible to be progressive, practical, and effective.

Sheriff Michael Hennessey is one such policymaker, taking on one of the hardest issues facing our country: the reintegration of people leaving prison and coming into society.

We live in a time in which our criminal justice system is a revolving door. People go in, they leave, and they wind up back in prison again.

Regardless of where you stand on a host of public policy debates, we can all agree that our communities will be safer and stronger when people who leave prison are equipped to reenter society as functioning citizens and don't wind up back in prison.

Sheriff Michael Hennessey's Resolve to Stop the Violence Project (RSVP) is a comprehensive jail-based program that aims to change the culture of jail and the thought process of violent criminals in order to prevent them from getting involved back in the criminal justice system.

The program was most recently honored to receive a government Oscar, the 2004 Innovations in Government award from the Ash Institute at Harvard University and the Council for Excellence in Government.

Michael Hennessey has spent a lifetime dedicated to these issues. He has served as Sheriff for San Francisco for twenty-five years and was elected to his seventh term in November of 2003. As Sheriff he has won widespread recognition for the outstanding success of his innovations in custody treatment programs.

So, today, we're very pleased here at the DMI—a place where we try to bring together people like you, activists, people who have good ideas and want to be involved with others in promoting those ideas in the marketplace. We welcome you this morning and we welcome you, Sheriff, to be here with us from San Francisco. Ladies and gentlemen, please welcome Sheriff Michael Hennessey.

PRESENTATION

SHERIFF MICHAEL HENNESSEY: Well, good morning. Thank you. I'm very happy to be here and I appreciate the invitation.

With just a brief minute of history: In 1980, fidel Castro allowed an exodus of Cubans to flee to America. The event became known as the Mariel Boat Lift, named after the small Cuban port from which most of the boats set sail. Among the one thousand refugees who came to our shores were criminals and mental patients that Castro had included with the refugees. The American reaction was one of outrage. The citizens, the politicians of florida, were incensed. Congressmen called for hearings. President Carter issued an executive order. The audacity of Castro in sending his criminals to our shores was cause for a national call to action.

Maybe some of you here today remember the safety concerns that the Mariel Boat Lift spawned. But do you recall how many refugees with criminal records actually came to Florida? About 350. Heck, the state of California sends that many convicted criminals into our neighborhoods every day of the year. I believe it takes the state of New York about two days. Where's the outrage here? Where's today's call to action? Well, maybe it's in this room this morning.

Prisons and jails are a big business. Today, there are over two million Americans behind bars. And, with rare exception, they all have one thing in common: they all get out.

Maybe the good news is that the business of jails and prisons employs almost one million Americans. A couple of years ago, the governor of Washington observed that with his state's incarceration growth rate, by the year 2025, everyone in the state would either be living in a prison or working for one.

People are making money in this business. I have a friend who used to run a jail food service company. He's retired now. He spends a lot of time on a nice, luxurious boat that he has named Crime Pays.

Theoretically, prisons should serve four goals: punishment, isolation, deterrence, and rehabilitation. In reality, most do a pretty good job at the first two, and fail miserably at deterrence and rehabilitation. In fact, many systems have abandoned the goal of rehabilitation altogether. This is a woefully myopic view of our criminal justice system. After all, even the most average of prison rehabilitation programs has a better track record than does the typical prison or jail.

How can I say this? Is it because I'm a 'softheaded' San Francisco liberal who drinks only white wine? No, I actually prefer red wine. One needs only look at the programs that exist and studies that have evaluated them.

A most interesting report was commissioned in Congress in 1996 entitled “Preventing Crime: What Works, What Doesn’t, and What’s Promising.” This was one of those rare efforts by Congress to find out if they were getting any results from the crime programs that they fund. This report was done by the University of Maryland and analyzes the over 500 crime prevention programs funded by Congress. The programs included crime programs in schools, in the workplace, in policing, and in jails and prisons.

With regard to jails and prisons, another study of hundreds of jail-based programs demonstrated that therapeutic community drug treatment programs in jails and prisons significantly reduce recidivism. It also found that jail-based programs, when combined with post-release counseling and urine testing, were even more effective. The study also identifies programs that have not proven effective. For example, boot camp programs, however popular, have no greater effectiveness than regular, old incarceration.

San Francisco has attempted to develop an improvement on jail programs for the past forty years. We have looked for every opportunity to initiate new approaches in the name of public safety.

In 1993, we received a grant from the department of Health and Human Services to experiment with the therapeutic community techniques used by halfway houses to create a women’s drug treatment program inside the jail. That grant is long gone, but the program continues on.

A men’s therapeutic community drug treatment program followed a few years later, and that program is still now part of the Sheriff’s Department budget. Since about 50% of the people in our jails are facing drug charges, these programs address a significant proportion of our population.

In 1996, my program staff came to me and asked if they could put sixty violent men in a dormitory with no jail cells to run an antiviolence counseling program. At the time, I thought they were crazy. Housing inmates with violent histories in an open dorm setting goes against what I would call ‘common sense’ for jails. But my staff convinced me of their vision. The success of our drug treatment programs inspired them to look at a more complicated, and frankly, more risky population: violent criminals. This is one segment of prisoners that jails and prisons do very little for. And it’s the very type of prisoner that the public fears most. So, their logic ran, why not take the therapeutic community model that has been so successful with drug offenders, and apply the same approach to violent offenders? They reminded me of that old rallying cry “If not us, who? If not now, when?”

I agreed that we should see if we could create such a program. Over the course of fifteen months we convened meetings with community stakeholders seeking ideas for what should be in a program like this. We met with victim rights advocates, ex-offenders, religious leaders, law enforcement officials, and professional counselors

in an effort to create a program based on the principles of restorative justice. In getting started, we were fortunate to receive a startup grant from the Open Society Institute.

Restorative justice, in its simplest definition, refers to all approaches to crime that attempt to do justice by repairing the harm that crime causes. If you think about it, this is a significantly different approach from our current system, which primarily exists to punish offenders.

Restorative justice recognizes that crime hurts victims, communities, and offenders. And that the victim perspective is central to deciding how to repair the harm caused by crime. That accountability for the offender means accepting responsibility and taking steps to make reparations. And that crimes are acts against individuals and communities, not merely against the state.

Our study resulted in the creation of a program we call Resolve to Stop the Violence Project, or RSVP. The program is designed to immerse an offender in an intense, peer-based self-evaluation of what causes a man to use violence as a form of control and communication. We emphasize three main components: offender accountability, victim restoration, and community involvement.

With the prisoners, this is accomplished by emphasizing five basic concepts: by raising awareness of social, cultural, and personal belief systems that promote violence, by teaching that one has a choice as an alternative to violence, by improving communication skills, by creating empathy for victims and their families, and by emphasizing the need to make positive contributions to the community upon release.

The curriculum is based on a violence prevention program called Man Alive, but also includes the opportunity to earn a high school degree in what I believe is the nation's only in-jail charter high school. And to participate in substance abuse treatment, since so many violent acts are exacerbated by drugs or alcohol.

By the way, all of our group treatment programs contain voluntary acupuncture, a component added after studying the acupuncture drug treatment program here in New York's Lincoln Hospital.

We recognize that we may only have a person in the program for as little as a month or two, so we have developed a curriculum that teaches the essential elements in the first thirty days. Most of the prisoners in our program are pre-trial detainees. While they have not yet resolved their most current case, they all have criminal histories.

Because of the relative short time we have to work with them in custody, we have also set up a post-release resource center for ex-offenders. This center also serves as a post-release high school continuation program.

Survivors of violent crime play a key role in the program too. They were part of the planning counsel that created the curriculum, they participate in frank dialogue with offenders every week in a session we call Victim Impact, and we have established a community resource center dedicated to providing direct assistance and counseling to the victims of the offenders in our program. Prisoners are in peer-based counseling for 8–10 hours a day, five days a week.

Interestingly, the program is not voluntary. We assign men to this program based on our review of their current charges, or their criminal histories. I know there is some controversy about whether rehabilitation programs must be voluntary to work, but the advice I received from ex-prisoners was that we are seeking exactly the type of prisoner who was least likely to volunteer for this type of program, but that they were the prisoners who needed it most.

Yes, we have some who move out after several days of nonparticipation, but 98 % of the men elect to stay and participate after sitting in the room for a day and seeing that the other men are just as tough, or tougher than they are.

Another factor that encourages honest prisoner participation is that most of the counselors are ex-offenders and survivors of violent crimes. Several counselors are former members of our own program, who were released and went through a year of out-of-custody training on how to become a facilitator. In my experience, you can't beat the credibility of an ex-offender when trying to show offenders how their lives can be different. They can look a prisoner in the eye and say, "I have been in your shoes. There is as a way out and a path for a brighter future."

Of the program participants, all the men have two things in common: they're all violent men, and... they're all getting out. But this is a county jail, right? How dangerous could these guys be? During the past year, 26 % of the men had current charges of domestic violence; 18 % were charged with robbery or burglary; 11 % had charges involving firearms or assault with a deadly weapon; and 20 % had current drug charges with criminal histories of violence. Not surprisingly, nobody was in jail for singing too loud in church.

As an ironic and unanticipated benefit, the RSVP housing unit has become the safest, most conflict-free dorm in the entire two-thousand-person jail system. During the program's first year, there was one fight between participants, and no assaults on staff—compared to the rest of the system, where during the same period, there were 300 prisoner-on-prisoner assaults and 68 assaults on staff.

I fully understand the skepticism about rehabilitation programs and prisoner programs in spite of the evidence that programs of this nature can be successful; I knew early on that an objective evaluation would be important to see if we were having the desired impact.

To study our program, we hired Dr. James Gilligan, then of the Harvard's Center on the Study of Violence, and now the head of the Center for the Study and Prevention of Violence at the University of Pennsylvania. We contacted Dr. Gilligan because we were impressed with his book *Violence: Reflections on a National Epidemic*. Dr. Gilligan has studied our program now for the past seven years, and the results are more amazing than we could have predicted. For a violent offender who participates in the program for four months, there is an 80% less likelihood he will get re-arrested for a violent act when compared to a control group of similar offenders. For a violent offender who spends three months in the program, he is 51% less likely to be rearrested for a violent act. And for an offender who spends only 60 days in the program, the likelihood of re-arrest for a violent crime still drops by 42%.

It is Dr. Gilligan's belief that violence is learned through socialization and reinforcement: a male role model honor code that requires men to inflict violent injuries on others of both sexes because of the experience of being shamed, humiliated, disrespected, and ridiculed.

It is a personalized analysis of this phenomenon that is a key to the Man Alive curriculum. Our program's model is a simple one: violence is learned; it can be unlearned. Equally as powerful as this unlearning process is offender acceptance of accountability and developing empathy for the victims of violent crime and their families. One of the most emotional days of the week is Victim Impact Day. Rather than try to explain the power of this component, I have a three-minute video that was produced for the Innovations in Government Award, which will do a much better job than I ever could. [*Video begins*]

[*Video ends*] Well, you can see the impact that the Victim Impact Day has on us I guess, but also on the people who participate in the program. We're trying to get people an understanding that the acts that they do effect people whether its murder or not—effect people for many, many years.

Our RSVP program has led to community partnerships, coming together to educate the public about the impact of violence as well. Each year for the past six seasons, the San Francisco Giants have sponsored a Strike Out Violence Day at the ballpark. During breaks in the game, the Giants play messages about domestic violence and community resources on the park's video screen. They also have a pre-game ceremony honoring groups working in this field, and bestowing over one hundred thousand dollars in grants to support their activities.

Our partners in this education include the Family Violence Prevention Fund and Blue Shield of California. We have also created a video link program, where offenders in the jail can speak through a video system to family members or victims of crime who are located at a community center. This gives the offender an opportunity to express remorse directly to his family or to victims, and

provides the victim a safe forum to see if further reconciliation is something they are interested in.

We have also taken the unusual step, annually, of using the side of our downtown jail to display enormous banners with messages about community violence. It's not exactly Christo wrapping Central Park with saffron, but this year the multistory banner was supported by Yoko Ono, who allowed us to use an image of her and John Lennon with the message "John Lennon today—imagine that. Violence hurts us all, resolve to stop it." Since this jail is located at the approach to the Bay Bridge, over two million commuters per week were exposed to this thought-provoking message. Efforts like this and other public information campaigns that we've undertaken are in keeping with our belief that violence can be unlearned. It's hard to gauge the success of a public education campaign, but I guess if they didn't work we wouldn't need Madison Avenue.

At a time when prisons are seen primarily as a place for punishment and retribution, the RSVP approach takes a longer view and shows that government can do better than blindly releasing thousands of violent men back into society, knowing that new victims await their return. And as we have been reminded only recently, when a government imprisons, a government cannot abdicate its responsibility to run safe and humane prisons. And it can, in fact, do so much more.

In closing, I thank you for inviting me to this forum, and I hope that we can move forward in the direction of preventing crime and violence, rather than making our primary focus responding to crimes already committed. This is the essence of restorative justice. It is my belief that jails and prisons can contribute to this effort. Thank you.

PANEL DISCUSSION

ANDREA BATISTA SCHLESINGER: Thank you everybody for coming, my name is Andrea Batista Schlesinger. I have the honor of running the Drum Major Institute and facilitating this excellent panel, which really embodies the purpose of the Marketplace of Ideas series.

I am going to introduce each panelist in turn and ask a question, and then we will begin the dialogue.

We're honored today to have Reverend James Forbes with us. On June 1, 1989, Dr. Forbes was installed as the fifth senior minister of the Riverside Church, an interdenominational, interracial and international church built by John Rockefeller in 1927.

Forbes is the first African-American to serve as senior minister of one of the largest multicultural congregations in the nation. And he is an ordained minister in the American Baptist Church, and the Original United Holy Church of America.

Dr. Forbes, one of the things I was struck by looking at the public opinion polling on the issue of restorative justice, is that public will is moving in the direction of favoring alternative sentencing and rehabilitation. But this is a very recent development. At a time in which moral values have really taken the spotlight, how do you reconcile the lack of overwhelming public support for rehabilitation with the notion of redemption?

REVEREND JAMES FORBES: You asked me almost a religion question. The issue is, I think, what our concept of God is. A lot of people have the concept of God as a kick-butt God. That means that when there has been a violation, the answer is maximum restraint as well as maximum punishment for... with permanent insistence that there is evil there, and God can't stand evil.

There is another concept of God that speaks of God as one who, when even Cain was revealed to be a murderer, put a mark on Cain—I always thought the mark of Cain was “yeah, make sure everyone knows there he is a criminal,” but it was really basically, he's a person, and it's a person mark.

My sense is that we are in a time when religious values are playing around with which style of response to human frailty is the reflection of God. And I believe the answer to your question is, we are really beginning to be mixed. Some folks say, a tough God, other folks say, a merciful god. And I guess if we're talking criminal justice, we've got to have a God who's not ruthless, but we've got to have a God who's not toothless either... trying to find a way to be firm and to protect and to provide security, but at the same time recognizing that those persons who are incarcerated are basically people.

I think the whole society is trying to decide—in the age of terror, of tyranny, of increasing diversity—if we could make a decision that we are all people, and hopefully all people can be changed to be better parts of the community. If that's where we're going, I think maybe we can sustain this new movement that's underway.

ANDREA BATISTA SCHLESINGER: Thank you. Martin Horn is Commissioner of the New York City Department of Correction. He was appointed by Mayor Bloomberg to serve as Commissioner of the Department of Probation on January 1, 2002. A year later, Mayor Bloomberg, who apparently did not think he was busy enough, appointed him to simultaneously serve as Commissioner of the New York City Department of Correction, the nation's largest jail system.

Commissioner Horn, can RSVP take place in New York? Is it taking place in New York? What are the obstacles?

COMMISSIONER MARTIN HORN: Well, first of all, I think Sheriff Hennessey is to be commended. It's an extraordinary program and it's the right thing to do. There are a couple of things I keyed in on during his presentation. The first of these is that violence is learned behavior and it can be unlearned, and that those programs that work best are cognitive programs that teach people how to behave differently. I also think—and picking up on what Reverend Forbes said—that the community must own the solution.

Sheriff Hennessey has these people in his custody and his control for a brief period of time. In New York, I think we hold individuals for even more brief periods of time, so the solution has to be in the community. They do all return to communities. These are the children of our communities, ultimately—these are the brothers and the sisters, the mothers and the fathers, the children and the grandchildren. And unless communities take ownership of the manner in which they return to their communities, we can't do it by ourselves.

I'd like to say that the name of our department is the New York City Department of Correction; picking up what on Sheriff Hennessey said, we've got to be about something more than custody.

I think we are trying to have the same effect in a slightly different way than Sheriff Hennessey is in New York, and our biggest challenge in New York, of course, is one of scale. We move 110,000 people through our system; we return about 80,000 people a year to the community. Our average length of stay is less than 40 days. Sixty-five percent of the people who enter the system leave our system within 14 days. Twenty-five percent, that's 25,000 admissions, leave within 3 days. And so I think RSVP requires a lot of attention to get it off the ground and then to grow it to scale. So that would be our greatest challenge.

What we're trying to do in New York is to address what we believe are the three critical ingredients to success upon release and those are: sobriety, employment, and housing.

Along with the Department of Homeless Services, we've been working with a group of upwards of forty community-based organizations, and last year we provided discharge plans to about 6,000 inmates. We've provided—with an investment of about five million dollars from the city's economic development corporation—same-day-of-release employment to probably close to 3,000 individuals, and we're hoping to grow that program.

Our feeling is that upon release an offender first of all has to remain sober. Of course Mike's program is focused on violence and there's certainly a relationship. But for us, the underlying problem for the vast majority of the people who we release is addiction, and we have to deal with their addiction. If we don't deal with that, everything else will fail.

We have to provide a means for people to work, and increasingly in New York, we are facing difficulty in helping people find affordable housing. So we're working to accomplish those things through what we call the Riker's Island Discharge Enhancement Program, which as I say has a similar purpose to RSVP. It's what we think works best given the nature of the extraordinarily transient nature of our population and the huge numbers that we're dealing with, and relies upon a network of community-based providers.

ANDREA BATISTA SCHLESINGER: Thank you. District Attorney Charles Hynes was elected the 27th district attorney of Kings County in 1989. He's now serving his fourth term as the county's chief law enforcement officer. In 1999 Mr. Hynes created the ComAlert Safety program, which supports individuals on probation or parole as they reenter their Brooklyn communities. He was motivated to implement ComAlert by his philosophy that education, intervention, and rehabilitation are as important as traditional law enforcement.

In asking this question, I want to pick up on something that Commissioner Horn just mentioned, which is the challenge to housing. ComAlert is an innovative attempt to link those leaving prison with job, housing, mental services. Yet in this larger context, and even in a domain which some say isn't even the responsibility of a district attorney, there are these other policies, like for example the New York City Housing Authority excluding ex-felons from public housing, that are in operation. How do you pioneer innovative programs as a district attorney in this larger policy context that seems to be working against, to some degree, successful reintegration?

CHARLES HYNES: Well, first of all, the Housing Authority ought to change its rules. It doesn't make any sense. Once someone leaves an institution, he's with us.

I thought I had it all right in 1990 when I started the first of many prevention programs—the drug treatment alternative to prison—which has been favorably validated by the Center on Addiction and Substance Abuse up at Columbia, Joe Califano's think-tank, and faith-based institutions. I had alternative sentencing... I really thought I had it all done. Except there was a vacuum I created because I used the tooth part of the criminal justice system, as the Reverend mentioned; I would throw the key away on violent criminals, and I still do that. But someday they're going to come back and the vacuum that was created was that we had no interaction with them, so more than 3,000 people come back to Brooklyn from upstate prisons at some point.

It was Pat Gatlin, chair of the Human Rights Commission, who was then my first assistant, who suggested there's a better way to connect with these volunteer agencies and to provide a range of services to stabilize these returning ex-offenders through housing, through job training, and job placement, to see if we can reduce the recidivism rate. But we're up against a couple of problems.

The Housing Authority certainly has a valid basis for its policy, but I think they ought to rethink it the same way that I had to rethink the fact that people are coming back to Brooklyn and you have to have some program to interact with them. Also there should be something done about denying people fundamental rights after they get out of prison, like the right to vote.

To me it's insane to put someone back, who has paid their price for their crime and still treat them like the underclass. The anger and frustration that will be created by that... they'll commit other crimes.

The answer to the final question, 'how does a prosecutor get involved in that?' Well, that was a question asked to me four or five years ago by people at the National District Attorney's Association. I represent all 62 district attorneys on the board. One very progressive guy from Alabama—very progressive, good prosecutor—said to me "you know you've got too many touchy feely programs." And I said, "well, we have a place called Attica in New York State. You can send letters to a hundred of the people I put up there and ask them if I'm touchy feely."

How could you not have a program that interacts with ex-offenders? If you don't, you put your citizens in harm's way, and you put your law enforcement officers in harm's way. That prosecutor has now adopted the ComAlert program, as has the National District Attorney's Association, which I think is an extraordinary breakthrough that the National District Attorney's Association now has as a policy statement that reentry is a goal of the nation's prosecutors.

REVEREND JAMES FORBES: You know, I have several people here who are from the prison ministry. The most successful program in my whole church, I think, is the prison ministry. Why? Because these people decided it was not enough to wait until people got out, they had to establish the relationship to people while they were still incarcerated. Having established that relationship, when they get out, we're able to help hook up the services that are necessary. I happen to believe then that what we must do now is to provide a different tone.

One of my friends, years ago, was invited to go to a university where they were having trouble with affirmative action, and they asked him to be the vice president, and he said "well, vice president of what?" And he said, "Well, the president says 'vice president of tone.'" The tone has got to change in our communities. And I think one of the major areas is economics. That is to say, as long as it appears that incarceration and providing prison opportunities and jobs is there, somebody has got to demonstrate that it is more profitable to restore and to rehabilitate and to reorient people in a positive way... and I don't know whether the Harvard professors who are doing the research could make a case that... a town that's depending on the largess from the prison industry could invest in people and that it could become equally as profitable?

Now if it happens with respect to the prison population, maybe it happens in regard to the whole nation that promoting people in community is more profitable than even

militarization. So it all mixes together. But let's start it on this level. Is there any evidence that communities that have started to rely on prison as a way to recover their economies can shift their tone and still find it economically viable? Is there such evidence?

SHERIFF MICHAEL HENNESSEY: I haven't seen any study of that. I know that most of the communities that have sought out prison locations in California specifically, still have the prison locations, so there hasn't been a transformation. I know that California's toughest prison called Pelican Bay in northern California did see one phenomenon, and that was that crime increased in their town, but it wasn't because of prisoners being released, it was because they had a larger population with more young people in their town, the sons and daughters of the people who were working in the jails and prisons.

ANDREA BATISTA SCHLESINGER: I wanted to go back to something that DA Hynes said about a fellow district attorney saying "you've got too much touchy feely stuff going on." In reading about RSVP, so much time is spent with those in prison examining gender constructs and their notion of what a real man is supposed to be and how that influenced their violent behavior. Do you think, and this is just a question for the panel—I'm trying to phrase it as neutrally as I can—do you think that gender constructs play any role in criminal justice policy making? Is there an irony that prisoners are talking about gender constructs, and there is a larger debate in which somebody is saying that DA Hynes is too "touchy feely"?

CHARLES HYNES: Not in Brooklyn. We're being overwhelmed by the other—by your gender. My chief assistant, my counsel, nearly 60% of the assistant prosecutors are women—that's an incredible change. When I became an assistant DA back in the late sixties, there were virtually no people of color and no women. So it's been a great change, and I think most agency heads recognize the incredible benefits of diversity.

COMMISSIONER MARTIN HORN: If I can add to that Andrea, I think that Mike gets it right when he talks about the perception that the inmates have about their own masculinity and manliness.

I've been around prisons and prisoners now for 35 years, and there's no question, and Gilligan shows it in his research.

Fox Butterfield wrote a wonderful book called "All God's Children" that anyone who's interested in the intergenerational nature and the learned nature of violence should read.

But we see it among our inmates on Riker's Island everyday. And this notion of respect, this notion of aggressiveness as a man, is certainly something that works at cross-purposes to what we are trying to achieve with respect to promoting law-abiding behavior.

The other thing that I think it affects is the job thing. The men that come out of prison don't want to work in menial jobs. And unfortunately we live in a world where the gap between rich and poor has grown, where we are living in a post-industrial society and where the kinds of jobs that are available for poorly educated minority men are not the kind of jobs that comport with their self image. So, helping people to overcome that and to start their journey upward with entry level jobs is a very daunting one, and a very important one that has to be taken on. I think to that extent, if Mike's program is breaking through that self identification, it's an important accomplishment.

ANDREA BATISTA SCHLESINGER: I guess what I was also trying to get at in that question was the notion of gender constructs on the part of those who make criminal justice policy. So, for example, I was looking at the Governor's most recent state of the state speech, in which he says, recidivism is down. Three reasons: we're getting more people off the streets, we're locking them up for longer, and we reinstated the death penalty. Now, none of those three things actually have to do with rehabilitation. But that's get-tough language. How do all of you do the work that you do facilitating prisoners questioning gender constructs when there is also this get-tough language of policymakers?

CHARLES HYNES: The governor's suggestion is going the way of the dodo bird as more and more people... in criminal justice understand the folly of that. You cannot prison-build your way into public safety.

We had a governor who was very progressive, who was adamantly against the death penalty, who said that his tombstone will read: "Mario Cuomo: I put more people in jail than anyone in this state." The accurate quote should have been "I put more people in jail than all of the governors in the state's history." I think he came to learn that that was not working.

The work that Mike does, the work that Marty Horn does, the work that I've been involved in, is no longer aberration; it's beginning to be seen as the ultimate way of achieving public safety through recidivism reduction. And that's the glory of ComAlert.

In the five years since we've had ComAlert... we've had a 22% recidivism rate. That's extraordinary. And we just partnered with the Eastern District of Catholic Service of New York, which is ironically run by Mailer Rockefeller, the granddaughter of Nelson Rockefeller. We're now also increasing our numbers from 200 a year to now 1200 a year, so more than one-third of our returning population will be treated to this program.

If our recidivism rate holds, it is going to be an example of a crime wave reduction, and that's the key to it.

ANDREA BATISTA SCHLESINGER: Sheriff Hennessey, what about the context of policymaking in California and how it facilitates your work?

SHERIFF MICHAEL HENNESSEY: Well, I hate to pander to the women in the audience but I do think men have role models. We've obviously talked a lot about that in our anti-violence program. But I think men in general have role models, and are combative by nature, and women are a little less combative in terms of winning the battle versus winning the war. So, I think having women policymakers has made a difference in San Francisco in terms of members of our board of supervisors being willing to support progressive things that in the past were viewed as softheaded or too liberal.

We now have a woman district attorney who I think has taken a different approach—she's still a tough DA, she's still sending people to prison, but she's also very interested in reentry programs, because I think women maybe take a more... family-like view of the world than men do. Men sort of see [the world as] "who's gonna win this boxing match?"

ANDREA BATISTA SCHLESINGER: Speaking of the role of policymakers, Commissioner Horn, I was just reading one of your predecessor's, Michael Jacobson's new book, and he talks about how there's been this trend of researchers and practitioners like yourself playing less of a role in criminal justice policy making and the role of legislators and policymakers increasing. Do you think criminal justice policy needs to be insulated from politics?

Commissioner Horn laughs.

ANDREA BATISTA SCHLESINGER: What? I put a question mark at the end... I'm trying.

COMMISSIONER MARTIN HORN: Yeah.

ANDREA BATISTA SCHLESINGER: Non-combatative.

COMMISSIONER MARTIN HORN: Yeah, there's your answer. I don't know how you'd ever do that, but yes. I don't know what else to say. ...I lived through the Cuomo years when we were building prisons at the rate of one every three or four months and clearly the legislature and the media were driving that train. I'm not sure that I agree with Michael.

I think that the situation has changed somewhat. If you just look in the last year, the number of books that have been published about these issues—everything from Jacobson's book to Jeremy Travis's book, other books that have come out, Joan Peticilia—people are effecting policy and people are paying attention to those policies.

I think in some respect, it's the cost. You've got a prison population of what? Over a 150,000, probably 160,000 inmates. Even if nothing was to change, just inflation alone, as Mike said about the governor in Washington, sooner or later

everyone's going to be working for the prison system. It's going to suck up your whole budget. So it forces legislators to get smarter.

I think we can't underestimate and ignore the power of the press. And I want to say two things about the press. One is, especially in New York City we know that the tabloids drive public policy and the tabloids love blood and gore, and they don't write stories about recidivism being down. They don't write stories about people getting their lives together and moving on. They write stories about the ex-offender, the person who Joe's office dismissed charges on or agreed to go into DTAP, who then got out and did something heinous. They focus on the very, very small minority of people who do outrageous things. And the answer to your question has to be that unless policymakers are insulated from the political fallout from that kind of risk taking that change is very, very difficult to achieve.

The other thing is the way in which our approach to crime and our approach to criminals is depicted in the press. I mean Law and Order is ubiquitous. You can't turn on the TV and not see "Law and Order." And the avenging DA is the model, not Joe Hynes, right?

That's supposed to be in Manhattan, right?

The other thing is that the depiction of prisons and jails in the media feeds a public appetite. I find my personal number one offender is the television program that was on HBO for a while, Oz, which I think was an awful depiction of life inside a prison or jail. But you can't watch an episode of Law and Order in which they talk about someone going to Riker's Island without it being described as an awful place... in which something terrible doesn't happen to this poor person who went to jail. And I think that the media drives the train and that our elected officials our state senators, our state assemblymen, are very fearful of how they will be cast in the press.

A judge who releases a person is going to be referred to as "Let 'em Stroll Somebody." The people in this room should be the editorial boards of the Post and the News and Newsday but they're not.

REVEREND JAMES FORBES: I would like to add to this notion about politics and the criminal justice system. It is difficult for a politician to run and show sensitivity to the causes of violence such that anyone who appears to be looking at the root causes is thought to be soft on crime.

People are not inclined to hear a politician say "well, lets look at the social causes of the criminality." Forget that! The public wants someone who's going to rescue them from the immediate perception of threat. Well, that's always the case, but since 9/11, at a time when we're in war and in a time when everyone feels under assault from one direction or another. The rich are being talked about for having

more than their share. The middle class can't tell if the enemy is the rich or the poor, and the poor people, they're being shafted on every side. So all of a sudden it is: If you're going to give us security—and security is often thought of as who can protect us against the terrorists, and when we forget about the terrorists, who can protect us against these criminals?

I was just given this note by Eddie Ellis, who is at my church and keeps me informed. He says one of the first initiatives is to respond to the negative public perception about our population as expressed in language and the concepts used to describe us. When we are not called mad dog, animals, predators, offenders, and other derogatory terms, we are referred to as inmates, convicts, prisoners, and felons. They would all like for folks to start talking about them as people... people who have been either formally incarcerated, or people on parole or people recently released from prison.

The notion that if you look at a person who is in the system, that that's a bad person, and you give him some names that make it stick, you're in trouble. So, what I would like to see is what the criminal justice community can do to alter this notion that sensitivity to causation is evidence of being wimpish.

Personally, when I go to my doctor, I'm really excited because the doctor has these machines that can really look at a whole lot of things that are going on in my body, and that the remedies are related to understanding causation. That is considered a progressive understanding. The safest approach is, forget the cause, just put in the cure. And what is the cure? Incarceration? That kind of thinking we've got to change.

CHARLES HYNES: I'm one of the two politicians here, Mike and I, and we confronted it. I confronted that early on. You know, Brooklyn had become the fifth most violent municipality per capita in the country by 1990 and I sure as hell was not going to run a traditional office. If you watch *Law and Order*, and Marty's right, it's everywhere, and I happen to be a *Law and Order* crazy and my wife is threatening to divorce me after 42 years, because I come home late at night and I flip on channel 3. I love the trial room scenes. Anyway, the law and order that's depicted there has nothing to do with the way I run my office, or many people run their offices...

In the beginning of my first term, I sought out the most conservative areas of Brooklyn—Brooklyn is very eclectic, we have a very, very broad philosophy—and I started in places like Bay Ridge, and talked about the drug treatment program I was about to put in place. When I was confronted, I would say, “the next time a politician”—and I'm one, because I run for office— “tells you that there's a law enforcement solution to the crimes happening in Bay Ridge or other parts of Brooklyn, you stop listening to them, because they're treating you like a child.”

I don't talk about psychological stuff like bedwetting or violence, I grew up in that environment, which is the reason I'm so committed to doing everything I can about domestic violence. I talk about the pragmatic reality that we've got to do something to reduce recidivism... to reduce the factors that cause recidivism.

I just want to make one point before I'm off this. Did you see the race of the people in that room [in Sheriff Hennessey short film]? All African-American. And that's the thing that we are confronting. One out of every four young African-American males are incarcerated, on parole, or on probation. And that's one of the reasons I put ComAlert in effect. And recently I brought some member of the press to see our ComAlert site with the Eastern District of New York and he was an African-American. He was shocked to walk into a room with 28 men: one Latino and the rest African-American. We have an obligation as a society to make sure that that obscenity comes to an end.

SHERIFF MICHAEL HENNESSEY: Well, my wife and I are about to be divorced but that's because she watches it all the time. She watches "Law and Order"—you know, it's on like four different channels out there.

ANDREA BATISTA SCHLESINGER: I didn't know this event was going to turn into such product placement... I should have called NBC.

SHERIFF MICHAEL HENNESSEY: I think the reason our district attorney likes to watch it is because all these people confess on the stand. You know I've never seen that happen.

In terms of politics and criminal justice policy, I don't think I see how they can be split. The policies of the criminal justice system essentially are laws, and laws are passed by legislators, and legislators pass laws that essentially reflect their own morality. I think the key is to elect public officials, lawmakers, who are going to have some progressive bones in their body and not just handcuff the people who are trying to implement policy at the criminal justice level.

If they have mandatory sentencing, there's nothing you can do about it except give the person the mandatory sentence. If they have minimum sentences, there's nothing you can do about it except give the person the minimum sentence. So I have a hard time separating out politics. I just think we should elect better politicians.

Then, lastly, about the problem of recidivism. One of the problems is that there aren't a lot of good role models for the effectiveness of the programs. People go through prison and get out and get their lives in order... they don't want people to know that they were a former offender. I know there are former offenders in the room here who are of a different mind, but the majority of people want to go on with their lives and not broadcast this.

I have my deputy sheriffs come to me and they say “Sheriff, these programs don’t work, we see the same people come back here time and time again.” And I say “that’s right, and you don’t see the people who don’t come back.” Those are the people who were successful or we were successful with. There just aren’t enough. There’s not enough recognition that many people go through the criminal justice system and never come back because of one form of assistance or another. It may be their family, maybe a social service program, or it may be some community program. But we don’t hear enough or know enough about people who don’t re-offend.

COMMISSIONER MARTIN HORN: Yeah, I’d like to follow-up on a point that Reverend Forbes made so well, as well as Eddie’s point that we define the people who were in jail, the formerly incarcerated people, as the “Other.”

I want to challenge each of you in the room and suggest to you that you are part of the conspiracy that does that. Every person in New York City is part of it as well. In New York City, on any given day, we house about 14,000 men and women in our jails. Where do we house them? Twelve thousand of them are housed on Riker’s Island.

Once upon a time we housed a certain number of them in Queens—the Queens House of Detention is closed. Once upon a time we housed people in the Brooklyn House of Detention on Atlantic Avenue, that’s closed and the community wants that site for god knows what kind of economic development. We had a jail in the Bronx, that’s closed.

I said earlier that the community has to own the solution, that the men and women in prison, the men and women in our jails, are our children. They belong to each community. New York City, in the next several years, has a decision to make. It has to replace about 5,000 jail beds. And it has a choice: do we replace those jail beds on Riker’s Island, do we consign these men and women to the outskirts of the city, to a landfill next to a sewage treatment plant and proximate to LaGuardia, or do we keep them in their communities? Do we say that Brooklyn has to own its own jail? Do we say that the Bronx has to own its own jail? Will the New York City Council take that position? Because if it can’t address that question, then the answer to your original question, Andrea, is that politics will always prevail.

This is about politics. These individuals are not the “Other,” they are our children, they are our siblings and our cousins, and we work best when we bring them closer to ourselves than when we put them further away. Putting them on Riker’s Island is no different than sending them to Attica.

ANDREA BATISTA SCHLESINGER: Do you think that that is the key, for there to be transparency? In talking to many advocates, they have really praised your administration for taking transparency to a new level. The Fortune Society has an office at Riker’s.

COMMISSIONER MARTIN HORN: Yes.

ANDREA BATISTA SCHLESINGER: But, public will isn't going to be built until people can actually see.

COMMISSIONER MARTIN HORN: And people can visit, and lawyers can visit, and advocacy groups can visit, and oversight agencies can visit, and people in the community can take ownership of their own siblings and children who have broken the rules, and take responsibility for the repair, and that's a lot easier when they're a subway ride away and not a two-hour ride by subway and bus.

ANDREA BATISTA SCHLESINGER: I want to ask one more question and then open it up to a couple of members of the audience for questions. You know there's a theory that some might say is conspiratorial but I wouldn't. It's a way of talking about public programs called "starve the beast" and it goes something like this: there are people in polls who think that the criminal justice system should rehabilitate but that it's not doing a good job of it. We know that it's not doing a good job of it because of limited resources, but because people don't think it's doing a good job so, they don't vote for more resources to be directed to it and so the cycle goes on and on and on. Do you think this cycle plays out in New York? If so, how do we break it? If not, why aren't there millions at your door, Commissioner Horn, to do even more rehabilitation programs?

COMMISSIONER MARTIN HORN: Well, you know, I think New York is a curious place because there are a large number of people in organizations who want to do work and there is a strong willingness on the part of the City Council to support smart programming and that's why they've supported our discharge planning efforts. That's why they put up ten million dollars last year for the program that's being administered by the United Way of New York. I think they call it Work New York City, or New York City Work, something like that, but they just put out an request for proposal for services, and one of the priority populations is ex-offenders. But as a jail administrator, as a prison administrator, I always have to advocate for the position that, as long as I have these individuals in my custody, I have to be adequately funded. I have to be able to feed them, I have to be able to house them adequately, I have to be able to attend to their medical care, I have to be able to secure the public from them, and I have to be able to keep them adequately occupied.

I think the answer to the funding question is to reduce the number of people. America is addicted to imprisonment. Imprisonment is our most expensive criminal justice resource. On a day-to-day, offender-by-offender basis, it costs a lot more than policing, and we overuse it. When 25 % of the admissions to New York City's jails are for three days or less, one has to question the public policy that drives that. When 65 % of the people that go to New York City's jails are in and out in 14 days, one has to say, what was accomplished during that 14-day stay? Could there have been another purpose served? One of the points that Michael Jacobson makes in his book that

you referred to about California is that something like 90 % of people released on parole in California return, and I forget what the number was, but upwards of 50 % of all the admissions to the prisons in California were parole violators. We have to ask, why are they being returned? In large measure they're being returned for violating technical rules that only exist in order to have a parole system. And so I think we have to look at those underlying public policies and break our addiction to imprisonment. I think that's the answer.

CHARLES HYNES: You have to understand that many of these programs—particularly community based policing, community based prosecution, which is a partnership between the community and the cops in the prosecutor's office—these are relatively new programs. The things that Mike is doing, the things that Marty is doing with his office, these are relatively new issues.

The public has been fed for decades and decades and decades this nonsense that what you've got to do is throw everyone in jail, that's the way to solve the problem. What the public is beginning to understand... is that the cost of residential drug treatment is one half the cost of incarceration. It is our responsibility, people in this room, all of us, to continue to tell the public, don't be distracted by this foolish notion that building prisons is the way to public safety. What clearly should be understood is that it's cost effective and it also brings crime down to have these programs.

REVEREND JAMES FORBES: I'd like to respond to what you said about the color of incarceration. My brother in Raleigh, North Carolina was shocked to discover the percentage of the people in prison that are our young black males and Latinos. We are starting to speak of it as a kind of subtle genocide. And the effect of the large numbers of our youthful population incarcerated in family stability issues, in regards to employment possibilities, etc, is devastating.

Now, what I think we need to be aware of, is that since the census came out—and this was amazing to me—when the census came out they had all of these articles that said in the next few decades there will no longer be a minority in the United States. And I kept looking at those articles, and what it led to was that—let me be plain about it—I think there is a subtle sense that the incarceration of black youths is one way in which—and I'm speaking as it's been analyzed by some of the fellows down in my hometown in Raleigh—to keep the black community itself from, as it were, sustaining its numbers so as to be able to relativize the threat to the diminishing power of the other community.

Now this is a conspiratorial theory, what it says is, at the heart of it, whenever we do criminal justice analysis, we do have to be really bold in analyzing the tribal—or sometimes we say racism factor—in what's going on.

My barber, on 125th Street, who cuts my hair, was telling me of ten years ago, he says “Jim, you see those apartments up there? Black folks been run out of these

things by economic situation.” And we talked about it, until he finally came up and said “well, where are they gonna go? Black folks been run out of these places, they can’t afford that apartment, public housing right across the street.” What’s going to happen? They’re going to send them out to Far Rockaway, or up to Far Lockaway. Did you get that—Rockaway or Lockaway?

While we’re analyzing it, we’ve got to look at the philosophy; make them unhappy, make prisons so miserable that that’ll change it—no! Take away the TV, take away the baseball, don’t let the religious groups come in—that spirit is largely changing, I acknowledge, but let’s look at to what extent are the anxieties about racial dynamics at the heart of some of the problems that seem to be resisting reform in criminal justice.

CHARLES HYNES: It’s taken an hour; we finally got a contrarian’s view. I don’t blame Dr. Forbes for feeling the way he does, but I certainly don’t think that you can point to any segment of our society, political leadership included, that really intentionally wants to banish people of color. I think that the reality has been, because of economic factors and others, that that’s the huge population that we’re dealing with and that’s why I think it’s so important for us to work hard on this issue of reversing that obscenity. I can tell you that Comptroller McCall, you and I did some foolish things in our lives. You were successful statewide, I wasn’t. I visited the upstate prisons, up in Clinton County, you couldn’t find an African-American in that population, it was all about economics. But we have an obligation to address the economic foundation of crime, the reasons for it, in addition to the psychological factors by providing jobs that help people sustain themselves, and that’s why I’m so proud of this success of ComAlert.

ANDREA BATISTA SCHLESINGER: That’s ironic that Reverend Forbes mentioned his barber, since there was certainly a lot of press around the idea that people coming out of prison who were convicted of felonies, couldn’t get a barber’s license, even if they had trained to be barbers.

REVEREND JAMES FORBES: And that’s true too at my church. One of the things we’ve got is my barber has opened up a barber training program to give young guys a chance to be apprentices in respect to barbering, because jobs are there. But let me say back to you, Mr. Hynes, it is not a political philosophy of containing these folks. It is the result of the subtle combination of race and class that allows the economics to continue to disproportionately incarcerate our youth.

So, apart from a conversion, in other words, you almost have to have a strong philosophy that says we will not allow race and class to continue to disproportionately incarcerate these folks. You almost have to have a strong effort because the inertia, or the momentum in that direction is so strong, that if you don’t decide well it looks like we are intending it and the only way to avoid the appearance of intending it is to vigorously decide that race will not continue to have the appearance of being an intentional aspect that informs the disproportion of the criminality.

CHARLES HYNES: That's why you have to diversify your organizations. That's why I'm so proud that fully 40% of my assistant district attorneys are people of color. You've got to send a very strong message that it should no longer be breakthrough that someone like Pat Gatlin, who became the first assistant in the history of the Brooklyn District Attorney's office was an African-American woman who is now the chair of the Human Rights Commission. That shouldn't be something that is a headline. It should just be part of the way you run a business.

SHERIFF MICHAEL HENNESSEY: But I would say there also is a significant economic aspect which racial discrimination does play a role in. I'm not sure about the population mix in New York's county jails, but in San Francisco about two-thirds to 75% of the people in custody are pretrial and they have bail set. They cannot post bail. They do not have the economic resources to post bail, that's why they're sitting in jail. Whereas people with economic resources post their bail, they get out, and then there's an inertia aspect to it—and the DA may disagree with me but my observation—that if you're out of custody at the time that you end up entering a plea or end up convicted of the crime, you've had a chance to show that you can continue to live a law-abiding life, and there's inertia to keep you out of custody. If you're in custody at the time you enter your plea, and you've not had that opportunity the inertia tendency is to give you further jail time. So I think there is an economic impact that leads to discrimination on a county jail level, where most of the people are there because they can't post bail.

CHARLES HYNES: I just want to respond for a moment. Our disposition is a factor in it, and whether someone's out or not. Clearly, I'm a recovering defense lawyer, so you have a much better chance of grabbing a plea when your client is in than if your client is out, because they begin to take on this fantasy that you know, maybe I'm not guilty. You say "hey dummy, we have a picture of you robbing the bank, so if you want someone else to represent you, great, but you're not innocent."

ANDREA BATISTA SCHLESINGER: I'd like to turn this over to some audience questions.

COMMISSIONER MARTIN HORN: I'd like to just make one point. I would be loathe to jump into this debate between Reverend Forbes and the DA but let me throw one other thing in, and that is the impact of the deinstitutionalization of mental hospitals. I don't know what Sheriff Hennessey's experience has been. But as a society, we have perpetrated a very cruel joke on the mentally ill, on their families, and on their communities.

Twenty five percent of the men and women in New York City's jails are diagnosable as being mentally ill. Riker's Island is the largest provider of acute mental health care services in the city of New York, bigger than Bellevue by an order of magnitude. I think that these are individuals who are in jail in part because their illegal behavior is a manifestation of their mental illness. These are individuals who once in jail are made worse by their incarceration, and I don't think that just as it is difficult to talk about America's addiction to incarceration and not talk about race it is

equally impossible to talk about America's addiction to incarceration without talking about the mentally ill.

As a society and as communities, there are better ways to deal with mental illness than putting people in jail.

ANDREA BATISTA SCHLESINGER: Actually there's been a lot of talk of him, so I thought we would hear from him. Eddie Ellis is a veteran activist, organizer, champion of issues facing those newly liberated from the prison system. Mr. Ellis served 25 years in prison for a crime he did not commit. While in prison he acquired a bachelor's degree from Marist College and a master's degree from New York Theological Seminary. Mr. Ellis, do you have a question for the panel?

EDDIE ELLIS: Yeah, I actually have two questions; I have a statement and a question.

I think that the point that Reverend Forbes raises with regard to the racial expansion of criminal justice is certainly an issue that plagues us to the degree that we have withdrawn from it and are seemingly afraid to deal with it. It's like a white elephant in the middle of the room. We're walking all around it and we are tip toeing in front of it, but we have yet to really come to terms with it in terms of confronting it head-on and in beginning to devise some ways in which we can reduce the racially disproportionate number of people in the criminal justice system. I don't see how we could ever have a criminal justice discussion that is not grounded in the question of race.

Additionally, picking up on the question that you asked, there is both from the DA's point of view and from the Sheriff's point of view, an emphasis on programs and services that are taking place in the jails and in the prisons. While the services certainly are necessary and worthwhile, I don't think that they're sufficient in as much as they maintain the status quo. And they maintain the status quo in the face of an overwhelming series of legal and legislative and regulatory barriers for successful reentry for people who are coming out of incarceration.

You mentioned a few of the prohibitions against people who have felony convictions in public housing, and education, and employment, their inability to acquire licensing for barbers and electricians, and so on and so forth. So my question is: in the face of these institutionalized barriers that mitigate against success and perhaps account for why recidivism is so high, how do we—or how do you—in your positions with regard to programs and services, translate the lessons that you've learned about those programs and services into some meaningful reform and change at the public policy level?

CHARLES HYNES: I'm not optimistic in the short run. In 2003, Joe Califano's group said that the drug treatment alternative to prison was the most successful modality in the country. I thought that we would have had an avalanche of support from the legislators. It didn't happen. We just reformed the Rockefeller Drug Laws, pounded our chest and said we won.

Well, sure, you did away with life imprisonment but you didn't do away with jail sentences up to 25, 30 years. And you didn't put a dime into rehabilitation. So the drug treatment alternative to prison remains a stagnant number of three hundred people at any one time. How long it will take the Legislature to realize that ComAlert is working, so you support expansion of the resources for ComAlert? I can't even guess.

But I'm a Pollyanna. I believe—as a kid who came from the violence at the home—that there is nothing you can't achieve if you put your mind to it. Maybe the good people in this room can do something about changing attitudes. But unless we expand resources for ComAlert or for drug treatment we will maintain the kind of status quo I think we're all angry about.

SHERIFF MICHAEL HENNESSEY: I'd respond to the gentleman by saying that he's right, that the programs that do exist in jails and prisons are helpful, but they have a limited ability to help people change because they don't generally extend beyond the walls after the person is released. I was very encouraged to talk to Commissioner Horn about their discharge planning program here which is really an excellent program.

In San Francisco, our new DA and I are working on an ex-offender reentry program. We have set up a resource center, we have a continuation high school for ex-offenders, but it's really in an infancy stage. It's really small at this point.

I think it's necessary for people who understand the jail and prison system to exert their influence beyond the walls of the jails and prisons because that's where people need the resources as well. They can get started on something in prison, but once they're out, they have to be able to survive, they have to be able to live and thrive, and oftentimes people need support and they're not going to get it merely from their probation or their parole officer.

ANDREA BATISTA SCHLESINGER: Another question from the audience?

AUDIENCE MEMBER: Joe, what you're doing is just remarkable and you should be governor or mayor for what you're doing...

CHARLES HYNES: God forbid!

AUDIENCE MEMBER: I don't want to belabor it, but there's an article that was in the May 8th edition of the *Star Ledger* by Jonathon Tilove, who hit on this very subject. He pointed out that in East Orange, New Jersey among young people under the age of 18, black boys outnumbered black girls. However, when they went to adulthood, there were 37% more women than men, which means that in a very short period of time, there's something very insidious going on. He then extrapolates that data to say that there are nearly 2 million more black adult women than black adult men in America, and that when you factor in the criminal justice system and the

military, there are approximately 2.3 million black women alive than men and that is about a 30% differential. When you get to whites, it's just 8%.

Now I don't feel that it's worthwhile to debate whether it's economics or race. The impact is outrageous, I would call it genocide, and I would say continue the programs you're doing, Joe, but emphasize more the things that you do in these schools that people don't know.

Recidivism is a factor of education. Special Education, if you look at disaggregate data and you look at who's coming back and back, those are the kids that dropped out of school, and were assigned to Special Ed. For me that's where the emphasis needs to be put.

So I would respectfully suggest that the programs that Joe does in the schools, sending the district attorneys out and so forth, that's where we have to go, and it can't be a medical like approach where we're treating symptoms; we have to go to the cause.

COMMISSIONER MARTIN HORN: Andrea, if I may, I think this gentleman makes an important point. And if I can put on my other hat, that other job that I have as the city probation commissioner, and talk for a minute about the kids.

One of the responsibilities that we have is for family court probation. In New York City we deal with all of the young people who are arrested but are under the age of 16 and who are charged as juvenile delinquents. We can find out in the family court—if you've ever been to the courts in the city and you really want to be depressed, go to the Family court in Brooklyn, go to the Family Court here in Manhattan, the family court in the Bronx, they're awful, depressing places.

But, here's the reality. Each year, the city of New York sends about 13 to 14 hundred kids a year to state placement. That's the State Office of Children and Family Services. It used to be Division for Youth, it used to be Department of Social Services. Now it's Berkshire Farms, and the Lincoln Halls. At a cost of, in some cases, \$150,000 per year per kid.

Eighty one percent of those kids are rearrested within 3 years. fifty percent of the boys are rearrested within 6 months of release. We're spending an awful lot of money to make kids awfully worse. And I have a personal goal which we've set for ourselves at the NYC Department of Probation. We call it Project Zero. And it is simply this: that not a single juvenile delinquent in the city of New York be sent upstate. That we keep our own children here in the community. And the goal that we set for ourselves this year in the Mayor's budget is to reduce the number of kids that go to state placement from 1300 by 300 kids, to reduce it to 1000, and with each succeeding year to bring it down as close to zero as we can get it. I think that is the best way to break this cycle.

ANDREA BATISTA SCHLESINGER: Now some of these questions relate to framing of the issue: how do we humanize? And how do we put more people in office? How do we make issues around restorative justice a litmus test issue for how people vote? Because part of the message here of practitioners is that until it resonates in the public and until people are willing to vote on it, that you're still going to have to do the programs that you do in a larger context of a policymaking arena dictated by political agendas. How do we make this a litmus test issue that's as important as the ones that dominate the political conversation today. I mean, it certainly is for some of the people who came here on a Monday at 8 in the morning, but in general?

CHARLES HYNES: The public has to understand what Commissioner Horn just said: \$150,000 per kid. It's insanity not to have prevention programs. And yeah, Assemblyman, Senator, Assemblywoman, you tell me what your position is on incarceration as compared to prevention. Because if you don't tell me that you want to do prevention, I'm not going to give you my vote. That's should be the litmus test of all the litmus tests. The public has to be informed and has to understand what dire straits we're in.

REVEREND JAMES FORBES: If only we could get you cloned to say that around this state, because that's what we are not hearing.

ANDREA BATISTA SCHLESINGER: Another question from the audience?

AUDIENCE MEMBER: Hi, I'm Susan Tyler from the After-Prison Initiative at the Open Society Institute. I think this was a terrific panel. I think one of the more interesting and strong discussions I've heard in a long time, and I particularly appreciated your question about the construct of masculinity in terms of its relationship to crime and justice policy.

I think my comment is both macro and micro. I think the RSVP program is terrific, which we've had the pleasure of helping to support for a while, in talking about the relationship of shame and humiliation to violence with respect to the individual. I know that the program also talks about the culture—and I guess that means both the culture of prison, as well as the culture of society which contributes to these situations. So I think the macro part has to do with not only the construction of masculinity but the construct of race and the construct of poverty. The criminalization, really, of race and poverty, which has resulted in the excessive incarceration of so many poor people and people of color.

Increasingly I've been thinking that incarceration itself is both a cause and an effect of economic and political disenfranchisement. We could talk endlessly about the disenfranchisement of people with criminal convictions and how that effects the disenfranchisement of communities of color.

One of the things I wanted to ask Sheriff Hennessey about was... on the one hand there's the work with individuals in RSVP, the incarcerated people. What

does the program do about the culture of the prison itself? And the culture of, for example, the corrections officers and the other people who are working with the prisoners who bring into the prison with them the outside culture that has caused this massive disenfranchisement?

That's one question.

On the other hand, one of the things that is noteworthy about RSVP is that it works with a hundred people who live together 24 hours a day for as long as they're there, and that really made me think a lot about the whole small schools movement. So, one of the questions that I have for you and for Marty Horn is, wouldn't it be possible to take some of our huge prisons and jails and in a way deconstruct them the way we have with schools so that we could have small prisons within the larger buildings, if we couldn't get rid of them? So we really could focus on what people need while they're inside so that they could come out and make it. So that we could focus on what they're interested in, what they're dreams and aspirations are that might make it more possible for communities on the outside to keep people from going in and out of prisons. So it's really two specific questions that I would love for you to address.

SHERIFF MICHAEL HENNESSEY: Okay, I'll try to. The RSVP program is in a jail that holds 300 people and we constructed this jail specifically to be what we call a Program Jail. Everyone in that jail would be in a program of some sort. So in one sense we did take a larger institution and because we needed expansion at the time we created a smaller institution with a dedicated goal right from the start.

We also have done something which some of my friends think is a little too touchy feely, but when a person comes to live in that particular facility, they sign a social contract. The social contract says, while I am living here, I will not disrespect myself or others, I will not glorify gangs, I will not glorify violence, I will not participate in misbehavior and that type of thing. They actually read it, go over it, and sign it. We've got this sort of set of expectations... so we took that concept and put it into a set of cultural guidelines for how people would react and operate and communicate within the jail itself, and it's been very effective. Very few people violate the social contract... so I think you can do that and change essentially the culture of the jail itself.

In terms of culture and race, it is definitely part of the discussion of what causes people to use violence as a form of communication, and the anger, the resentment, the frustration that people face in the larger world, even inside the jail as well, over racial issues. It's a major issue of discussion.

One of the techniques used in the RSVP program is putting people in scenarios that they are going to face when they get out and then giving them tools on how they can react. You know, they are going to face discrimination; they are going to face jerks when they're out in the free world, and they have to be able to respond

to that nonviolently, whereas maybe in the past they would have poked them in the nose. And so we do discuss the issue of the larger culture outside the jail as well.

COMMISSIONER MARTIN HORN: Susan, that was a great question, and I think that clearly it is all about culture, on so many levels, within the community, within the criminal justice system, and certainly within the jails.

What we have found is that by opening up—Andrea referred to it as transparency—by inviting community-based partners in, by redefining our mission to be a Department of Correction, we are slowly and subtly changing the culture.

If you visit, for example, the sentence facility, the Eric M. Taylor Center, or the women's center, Rose M. Singer Center, you begin to feel a very palpable difference in the way staff approach their tasks. Of course, in New York we have a unique advantage, which is that our staff looks like our inmates, by and large, and our staff is overwhelmingly African-American and Latino.

But I would like to speak to your point about deconstructing the jails. And my short answer is this: not as long as they're all on Riker's Island.

The other answer is an economic one, and that is that larger jails are cheaper to run because of scale than smaller jails. And so the tendency is to group things together so you only have one controlled place, instead of one controlled place at six facilities. So there is an economy and scale that unfortunately tends to draw prisons and jails toward larger sizes.

ANDREA BATISTA SCHLESINGER: Since we are running a little late, can I ask that you ask only one question, and please ask it briefly. Thank you.

AUDIENCE MEMBER: Good morning, my name is Fred Johnson from the Harm Reduction Coalition. I want to first of all thank you, the distinguished panel, for offering solutions. My concern is race keeps coming up, and... as a black man, and a formerly incarcerated person, it's almost like I'm afraid sometimes to address that issue...

I think that the social construct of this country was built on white privilege. I mean that's the bottom line. So it's not a mystery of why things look as they do. And to me, when I see powerful white men with white male privilege, sharing that privilege, because you have legitimate access to the governmental institutions that dictate how our societies look: I don't want four liquor stores on one block in my community, and that's not my decision. So the model is there, when I see the good Reverend and folks and white males together on the same page, it's having legitimate access and sharing that power.

The question is, that model that you have right here, how do we continue to not just model that, but to make it so that it becomes part of what we do. Like this is

not a top-down, but an underground solution. How do we have this underground, not just in the prisons, but how do we follow-up with persons like myself who were formerly incarcerated, how do we help?

ANDREA BATISTA SCHLESINGER: And let me ask, put an addendum on that, how do you get the political cover that you need to do the work that you're doing, following the model that the gentleman describes?

CHARLES HYNES: I hate to sound cynical, but there's not a lot of interest. You know there really isn't. ComAlert, as far as I'm concerned, is the most incredible, groundbreaking initiative that has been discovered in the criminal justice system, and it's very difficult to get the kind of coverage that translates into public support. So what I do, and what I've been doing in the five years since we've had ComAlert, is to go out to the churches, most of the churches where the predominant congregation is African-American, and talk about it. I tell the people, if you have relatives or friends coming back to Brooklyn, listen up. That hasn't leaked in to the media, but one of these days it will, I'm optimistic.

SHERIFF MICHAEL HENNESSEY: And I would say that politicians, particularly people who have to face election, get covered, as you say, for this by being able to demonstrate that these programs are beneficial. There are studies and if you don't have a study on your program here in New York, there's a similar program that has been studied in Chicago, or in San Francisco, or in Los Angeles or something like that, and you can translate those same statistics, because people will support programs if they think they work. It's just that they want to have a little proof, they don't want to just have some politician say so, and that's one of the ways you get cover.

The other thing I wanted to say before we go off this is that if the concept of restorative justice is to expand, there has to be greater education about what restorative justice is. At every political forum, someone should stand up and ask the politician who's running for city council or who's running for DA, or who's running for sheriff, "what's your position on restorative justice?" Because everyone knows what prison is, but not everyone knows what restorative justice is, and if we're going to expand it, that phrase has to get out there so that it is viewed as, if not an alternative to incarceration, a partnership to incarceration.

REVEREND JAMES FORBES: And I would like to say on behalf of faith communities, I work with Protestants, Catholics, Jews and Muslims, one of our traditions has restoration as a part of what we are supposed to be dreaming and doing. And so in the Christian tradition, there should not be a church anywhere that does not have a prison reform or criminal justice subcommittee. In the mosques, the same. Listen, Malcolm gave evidence that it was a community within the community. Within Judaism actually escape of Egypt as well as Babylonian captivity. You can't be a full-range religious organization without

having restorative justice as a part of your platform and we need to just keep beating the drums about this matter.

ANDREA BATISTA SCHLESINGER: Also excellent product placement. And the last question is from Carolina Cordero Dyer, the deputy executive director of the Osborne Association.

CAROLINA CORDERO DYER: Thank you very much for a very interesting panel. Most of you seem to be on the same page. Sheriff Hennessey, I'm very interested in the victim impact work that you're doing. And I don't see a lot of that going on here. It seems to me that there's an opportunity to work with victim advocates, because what I'm hearing here is not what you hear from victim advocate groups.

When the New York Times talks about the first man being executed in the Northeast, their approach is that it provided closure to every single victim's family. That's a different message than what I'm hearing here, so I'm wondering, is there an opportunity to work with victim advocate groups?

SHERIFF MICHAEL HENNESSEY: There's absolutely an opportunity and what I've seen of victim advocate groups is that there's a wide range of them. There are victim groups who are very angry and punishment oriented who want to see the death penalty imposed, want to see life in prison imposed, because of the hurt that has happened to their families. There are other victim's rights groups who see that incarceration is not the answer, and who are interested in reconciliation programs, who are interested in counseling programs. If you go on the web under "victim rights," you'll find a huge variety, including groups like Families of Murder Victims Against the Death Penalty, I mean there's an organization with that name. So I think it's good to get input, and those that want to directly work with you, are there to work with you. We have set up a victim services center, and we actively contact the victims of the men in our programs, and say this is what we're doing, are there any services you'd like to know about, can we help you in any way? Maybe 50% of them say, "No, all I really want to do is talk to the DA and get this thing over with." The other 50% which is enough work for us, come in and say, "Gee, yes, I think I'd better move, I want to know when this guy's going to get out." Other people say "You know my life is shattered, I really need counseling," and so there's a lot of work that can be done and the victims rights' organizations that are geared towards providing support for other victims are very helpful.

CHARLES HYNES: We've had a very good connection with the advocates of domestic violence. And we have not made the leap yet to the victims, but the more I study these programs I think that's really the next step.

ANDREA BATISTA SCHLESINGER: And that's the idea behind the Marketplace of Ideas Series, so thank you. I just want to ask the panelists to close, and I do

appreciate your patience, and I do appreciate everyone coming here today. Maybe a minute of closing statements. Thank you very much, Sheriff, for bringing your heart from San Francisco to talk about this program.

SHERIFF MICHAEL HENNESSEY: Well, I'll be less than a minute and say thank you all for inviting me here, it's been a wonderful experience, and I'm glad to see that many things that are going on here in New York. If anyone's interested in the RSVP program, they can call or write my department and we'll give you all the information we can.

REVEREND JAMES FORBES: And I'll be brief to say that I'm in the business of telling people that they can be better than they would naturally incline to be, and where it happens is in community. I guess I take from this panel that I must do more at my church to encourage people to accept the vocation of being centers of restoration. And I'm going to try and do that and thanks for the encouragement. I'm glad to see folks like these in positions as they are. It gives me a lot of hope.

CHARLES HYNES: I covered the issues I wanted to talk about and I just am very grateful to the Drum Major Institute for inviting me.

COMMISSIONER MARTIN HORN: I just want to thank you, and I want to thank you for bringing Sheriff Hennessey here so I could learn from him, so it was a privilege.

ANDREA BATISTA SCHLESINGER: And just to let you know we will be releasing the transcript of this event, and so if that can serve a purpose in all of your work, please visit our website, www.drummajorinstitute.org. We'll also be mailing it to you as well. Just again, thank you to our panelists. Thank you.

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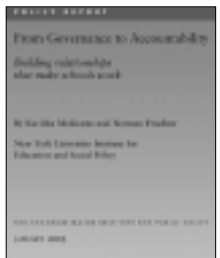
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