

## The Ohio State University Moritz College of Law

### 2018 David H. Bodiker Lecture on Criminal Justice<sup>†</sup>

#### Dr. James Forman Jr.

**Alan C. Michaels:** Thank you all for joining us this afternoon for our annual David H. Bodiker Lecture on Criminal Justice. In what I think is a first, we have more lunches left than seats in the auditorium—people came for the lecture and I'm so excited about that because this is such a great event and today is going to be another great day in tradition.

For those of you who may be unfamiliar with David Bodiker, for whom this lecture is named, David graduated from the College of Law in 1963 and had a long and successful career in private practice before moving to the role of Ohio Public Defender. David served as Ohio Public Defender for the last 13 years of his career until his retirement in 2007. David was a relentless advocate for the rights of death-row inmates. While it has now been a decade since we lost David, the passion that he exuded in his work and his life continues to inspire, and I'm very pleased, as always, to see members of his family and his many friends here with us today. This is a very special lecture for the college made possible by the friends of David Bodiker, known affectionately as the “Bod-Squad,” who have banded together to create this endowed lecture.

This year marks the ninth Bodiker Lecture on Criminal Justice. In that time, we have heard from national figures and experts in their field from Bryan Stevenson and Barry Scheck, to our first Bodiker lecturer, Michael Tigar, who I introduced as the greatest living American defense attorney, to [Jonathan] Rapping, last year's speaker. These leading voices have all come to Ohio State to share their expertise and experiences with our students and our community, and a version of the lecture has regularly been published in the *Ohio State Journal of Criminal Law*. The purpose of the David H. Bodiker Lecture is to promote, improve, and advance the highest level of academic and professional interest in protecting the constitutional rights of the defendant in the criminal justice system. That purpose, protecting the constitutional rights of the defendant in the criminal justice system, is an obligation on prosecutors as well as defense attorneys and the citizenry as a whole. While most, not all, of our lecturers have had experience on the defense side, we've also tried to balance that out to some degree with lecturers with experience on the prosecution side, because it really takes both sides, as well as the judiciary, to ensure that noble and crucial purpose.

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<sup>†</sup> The pages that follow are a lightly edited version of the 9<sup>th</sup> Annual David Bodiker lecture given on March 19, 2018 by James Forman, Jr. at The Ohio State University Moritz College of Law.

This year, we're very proud to continue the important tradition while honoring David's memory with our guest speaker, Professor James Forman Jr. James Forman is a professor of law at Yale Law School, his alma mater, and a best-selling author of the critically acclaimed book, *Locking Up Our Own: Crime and Punishment in Black America*. His book explores how decisions made by black leaders, often with the best of intentions, contributed in part to disproportionately incarcerating people of color. It is a *Washington Post* Bestseller. *Locking Up Our Own* was long listed for the National Book Award and has been named Best Book of the Year by numerous publications, including: *The New York Times*, *The Marshall Project*, *Publisher's Weekly*, *GQ*, and Dean Michaels' own list of best reads of 2017. I read this book, recommended to me actually by my colleague Professor Amna Akbar, and immediately knew this was the man we needed for next year's Bodiker Lecture. The Bod-Squad and I get together every year and we have sort of a running list of candidates and suggestions, and lead people for us to invite. We had just met, I think maybe a couple of weeks before I read this book, and I called them up and said, "That's next year's list now, we're going for Professor Forman." Copies of the book, with Professor Forman to sign, will be available in the lobby after the lecture.

At Yale Law School, Professor Forman teaches Constitutional Law, and I believe, a seminar called Race, Class, and Punishment. Prior to joining Yale's faculty in 2001, he clerked at the United State Supreme Court for Justice Sandra Day O'Connor. After clerking, he joined the Public Defender's Service in Washington, D.C. For those of you not familiar with it, the Public Defender's Service in Washington, D.C. is viewed as the top public defender service in the country, Ohio excluded. I see our Ohio Public Defender, Tim Young, here in the front row and I know Tim is thinking he wishes he had the resources of the Public Defender's Service in Washington, but it is relatively well resourced compared to other defender's offices and is able to provide the first-class representation that folks deserve. In reading Professor Forman's book, you get a strong sense of the passion that he brought to that work, notwithstanding the frustrations the system brings. He spent six years there representing juveniles and adults in felony and misdemeanor cases before starting his academic career. His devotion to the pursuit of justice embodies the spirit of the Bodiker Lecture and I know that David would be very proud if he were with us today. Please join me in giving a warm welcome to this year's David H. Bodiker Lecturer, James Forman Jr.

**James Forman Jr.:** Well, now that I've made it onto Dean Michaels' top 10 list for the year, my work is done. I'm going to forward that to the publisher to make sure that's part of my bio going forward. I've known about this lecture for a number of years because I've watched various friends, such as Jon Rapping last year, give it. As public defenders, too rarely do we have the opportunity to speak for a lecture series that is founded, supported, and funded by a former public defender and defense attorney, and so it's the highest honor to be standing here before you. I want to thank the Bodiker family, who I now know as the Bod-Squad, and the community that makes up that Bod-Squad. Also, Ohio State is a law school that has been at the cutting edge of criminal justice issues and criminal law issues, with a law review

that is dedicated to these topics, and some of the faculty that you have here. So I feel like I should just stop now and watch somebody else give the lecture because I'm just so happy to be here. But since you all asked me to come, I'll say a few words.

I thought I would talk first about what motivated me to want to work on this project, to want to write this book, *Locking Up Our Own*. The first motivation had nothing to do with the criminal legal system whatsoever. I'm the kind of person who has always been frustrated when I watch a movie, or a television show, or read a book in which the African-American perspective on issues is either totally absent or, just as bad really, where there's this single monolithic view; when there's one character that's supposed to stand in for all black people. I know that's not the truth. I knew I wanted to write a book that showed the African-American community in a range and diversity of perspectives. I wanted to show black intellectuals and African-American politicians and citizens arguing with one another and disagreeing with one another. I wanted to lift up those debates which have been happening for 40 or 50 years, but which haven't been documented in a historical and scholarly way.

The other motivation for this book very much does come out of my work as a public defender. There are a lot of stories in this book. There's history and argument too, but it is surrounded by a set of stories. One of those stories is of a young man that I represented by the name of Brandon. Brandon was a teenage client, 15 years old. He had been charged with and pled guilty to possession of a gun and possession of a small amount, \$15-20 worth, of marijuana. He was facing sentencing and I was his court-appointed public defender. I had taken the job of public defender because I viewed it as the civil rights work of my generation. My parents met in the original civil rights movement in SNCC, the Student Nonviolent Coordinating Committee, one of the major organizations of the 1960s. My dad was the executive secretary and my mom was a member of the organization. They were an interracial couple—my dad is black, my mom is white—at a time when those marriages were shunned upon and illegal in many states in this country. Their generation profoundly and forever changed this nation. Theirs was the generation that stared down Bull Connor's dogs, that marched across the Edmund Pettus Bridge, that went to D.C. 250,000 strong for the March on Washington for Jobs and Freedom.

They made it possible for somebody like me to have opportunities unimaginable to somebody of my father's generation. Yet still I could see when I was graduating from law school that the civil rights movement had a lot of unfinished business, and a place where that unfinished business was manifesting itself was our criminal legal system. Though we didn't have the term “mass incarceration” in the 1990s, we already knew by the mid-1990s that one in three young black men were under criminal justice supervision. We already knew from the Sentencing Project that we had 5 percent of the world's population and 25 percent of the world's prisoners. We already knew that the United States had passed Russia and South Africa to earn the dishonor of being the world's largest jailer.

I had seen some of those changes in my own lifetime growing up in Atlanta. I grew up in a mostly black, working class, border-line middle class neighborhood.

Two blocks from my house as a child were two huge institutions—mammoth, hulking structures—the federal penitentiary and a GM plant. I saw them every day when I walked to school. That was when I was a child. Now fast-forward to 20 years ago, I'm graduating from law school. One of those buildings has shut down and the other has built an addition. I don't think I need to tell anybody in the audience which was which. So that reality, that desire to fight, that struggle, brought me to be a public defender—to be standing next to Brandon and to be asking for him to be put on probation. It was his first arrest. I had a letter from a teacher and a counselor at his school attesting to his character. His mother and grandmother were there in court, just right in the front row and had been there for every court hearing. They wanted him to come home. The prosecutor in the case was asking for him to go to Oak Hill. Now Oak Hill sounds kind of nice, an oak tree on a hill. It wasn't nice. It was a juvenile prison for youth in D.C. And like too many juvenile prisons around this country, it was a place of violence, it was a place of abuse, it was a place where there were no programs—some on paper, but none in reality. It was a place where you left worse off than when you went in. It was not a place any of us would want to see our child sent. The judge who had to make the decision in the case, Judge Curtis Walker—I changed the names of my clients and of all the judges and prosecutors, and anyone involved in any cases to protect the privacy of my clients—was an African-American judge. That was not unusual—about 40 percent of the judges in D.C. Superior Court were black. Judge Walker looks out on the courtroom and what does he see? A young black man facing sentencing, an African-American defense attorney, and a black prosecutor. He looks at Brandon and he says, “Son, Mr. Forman has been telling me that you've had a tough life, that you deserve a second chance. Well son, let me tell you about tough, let me tell you about Jim Crow segregation.” The judge had been a child in those years and he proceeded to lecture Brandon on what that was like. Then he said, “So here's the thing son, people fought, people marched, people died for your freedom. Dr. King died for you and he didn't die for you to be running and gunning and thugging and carrying on, embarrassing your family, embarrassing your community, carrying that gun. So, I hope Mr. Forman is right, I hope one day you turn it around. But today, in this courtroom, actions have consequences. Your consequence is Oak Hill.”

I was so angry that day. I was so furious with the judge. As I began to reflect on it, and process to overcome that anger, I began to think about that fact that the judge wasn't alone. The city council that passed the gun and drug laws that Brandon was being sentenced under was a majority black city council. The police force in D.C. was majority black, the police chief was black, the mayor was black, the chief prosecutor in the city was none other than Eric Holder. And yet, with all of that representation, we had the same racial disparities as the rest of the country did. I told you one in three black men were under criminal justice supervision, and in D.C., it was one in two.

So I began to think and ask the question, what was going on in this country over the last 40 or 50 years that even in a community like this one we had this thing we would soon come to call mass incarceration? What were the impulses, the

institutions, the ideologies, and the structures? How did it happen, even in a black community? That's the question this book asks.

I knew that in answering that question, I needed to keep three things at the forefront of my mind. The first is that as mad as I was at the judge that day, I couldn't write from a stance of anger. I had to write from research and write from a position of compassion, a position of empathy. This doesn't mean you lose your critical distance, but it does mean that you actually try to walk in somebody else's shoes and try to figure out where they were coming from and what were their motivations. The second thing I knew that I had to do, even though I was writing a book centered in African-American communities, I could never let the reader lose sight of, not for one chapter, for one paragraph, for one sentence, the larger structures of racism, institutionalized racism, white supremacy—the larger structures that were constraining the options that were available to the people that I was writing about. So, I had to tell a story that was both a story about choices that people made, but also about their limited ability to choose. The third thing I knew that I had to do was, even though I was setting the narrative in majority black communities, to look for, whenever I could, themes and storylines that had a broader national perspective, that applied outside of those majority African-American communities.

The first thing we have to understand if we're going to have to figure out the last 50 years through the lens of black leadership and black communities, is rising crime, violence, addiction, and the fear and anger that they generated in African-American communities. So, over this 50-year period, especially in the 1980s and early 90s, (the crack years), but before then in the 1960s, (the heroin years), we see rising levels of crime and violence.

In the 1960s the crime rate in this country doubled, in D.C. it tripled, in New York it more than doubled. And it's not just homicide. I mentioned heroin a few minutes ago. Well, they tested everyone entering the D.C. jail for substances, and in 1963 they concluded that 4 percent of the people were heroin addicts. By 1969 the 4 percent had become 45 percent. That's an epidemic.

But it's not just the numbers though. It's the community response that these crises generated.

To write the book I looked at archives of retired elected officials. What was most meaningful for me in the archives were the letters they received from community members, which they kept in their file. So you see in the 1970s, D.C. was 70 percent black and called the "Chocolate City." So these were mostly black citizens writing to mostly African-American elected officials. The first D.C. city council, 11 out of 13 members were African-Americans. And these letters reveal an incredible level of pain and anguish. People say, "We just fought the civil rights movement and I can't take my kid to school. I'm afraid to have them walk down to the corner because they're selling drugs on the corner, and I can't leave them at the park after school because they're shooting in the park. I feel like a prisoner in my own home, I feel like a stranger on my own streets." And over and over again people end these letters with some version of: "do something, do something, you have to do something now."

Okay, so who is receiving these letters? That's the second big argument in the book. The generation of elected officials that are receiving these letters are the first generation of African-American elected officials to be elected in any number in this country since Reconstruction. So in the 1970s and 1980s there is an 800 percent increase in black elected officials in this country, mainly because of the Voting Rights Act of 1965 and the decline of formal Jim Crow. This is a generation of people, many of them from the South, some of them were in the civil rights movement, all of them remember the long history of under-enforcement and under-protection of the law in black communities.

They remember. My dad used to tell me about this and I never really understood it really until I started doing the research to see how widespread it was. He used to talk about how in the 40s and the 50s where he grew up in Mississippi and the South side of Chicago, he's like, "We didn't call the police in a black neighborhood. The police weren't going to come, and if they did the only thing you could be sure of was they were going to make matters worse." They remember. This generation remembers southern sheriffs in cahoots with the Klan. And not just in the South, because the southern mentality exists in lots of parts of this country. They remember southern sheriffs in cahoots with Klan saying, when asked about homicide in a black community, "That's not a homicide, that's another dead black person." And they did not use the words "black person." So they know this history, they grew up in this history. Now they have some amount of local elected power and they're bound and determined, in whatever capacity they can, to provide protection to those communities that historically have been denied it. Those letter writers who wouldn't have even bothered to write a letter 20 years earlier because they knew they wouldn't have gotten a response from the Jim Crow government, and now they have black elected officials in office and they're writing and they're demanding results.

Okay, people are scared, crime and violence are rising, and there's this generation of public officials that wants to respond. But why police and prosecutors and prisons? Why is that the response? And here's the third big argument in the book, which is a story of constraints. I want to talk about a few of those constraints on the ability of those local elected officials to respond in any way other than more law enforcement. The first constraint is historic. This is a generation of elected officials that has been elected to represent neighborhoods and communities that have suffered from a history of racism. A history of Jim Crow, of segregation, of red lining, of wealth discrimination, of the inability to get loans in black neighborhoods, of decisions by the federal government to put highways through black neighborhoods, destroying those communities. If you've ever driven through Atlanta you've driven on I-75, I-85. You won't know it, but you are driving through what was once the black Wall Street; Auburn Avenue—a thriving black middle class destroyed by an interstate highway—still trying to recover to this day.

The other constraint is political. This book is about local government and a big argument of this book is that local government politics matter more than we give it

credit for in understanding mass incarceration, where it came from, and how we're going to dismantle it. But there are limits to local government and you see that in the book. Because what you see for the last 40 or 50 years is generations of black elected officials saying basically that we have an all-of-the-above strategy to fight crime and violence. We want more police and more prosecutors, yes, but we also want more money for drug programs, more money for schools, more money for job training, more money for mental health, more money for after school programs. We want national gun control laws to be a companion to the local gun control laws we're passing. We want a Marshall plan for urban America. We want the United States to do for black communities what it did for Europe after World War II: to rebuild, to reinvest, to revitalize. For 50 years, black elected officials have been going to a Congress with this all-of-the-above request, and for 50 years, they've been coming back with money for one of the above—law enforcement and law enforcement only.

A third constraint that I want to mention is one that we're still suffering from to this day: this generation was constrained by its imagination. There are a lot of examples, but one that I'll point to involves a man named David Clark. David Clark is one of the two white members on the original home rule D.C. City Council elected in 1975. He had a very unusual biography. He went to Howard Law School, worked for Martin Luther King after graduating from law school, became a lawyer for poor people, and then got elected to the city council. For our purposes, the thing you need to know about David Clark is that he is not a drug warrior. The first thing he does when he gets into office is he fights for marijuana decriminalization in 1975. He loses, but he wages a good fight. Now, it's a few years later and heroin, which had kind of stepped back a little bit in the 70s, is back in force, and those letters I told you about are increasing in number. So David Clark is the chair of the city council now and is being deluged with letters from people saying, "There are addicts gathering in front of my house, in the alley behind my house, on the corner, and they're leaving dirty syringes everywhere." Over and over again, these letters conclude with some version of, "Do something, do something."

Now, David Clark takes these letters and he forwards them to the head of the relevant government agency. He then gets a letter back saying, "Councilmember Clark, we've received your citizen complaint; we're on the case." And Clark then takes the packet of letters and sends it back to the citizen, so the citizen can see that they got a response from local government. As somebody who writes my elected officials and never gets anything other than an auto email reply, I liked this level of constituent services. But, here's the problem. Remember, the citizen complaint is about drug addicts in public spaces. So where does this non-drug warrior, marijuana decriminalizer choose to forward the letters? The Department of Public Health? Department of Mental Health? Addiction Services? No! He sends them to the police. Because he's constrained by his imagination like so many Americans. He doesn't have a way of thinking about the problem of an addict in public space as something other than a law enforcement problem, as something other than a problem that requires us to send somebody with handcuffs. He doesn't have the imagination to think of this as a mental health problem, as an addiction problem.

The argument of my book is that when we think about mass incarceration, it's tempting to focus on statements from the Oval Office or national legislation. But I argue that actually the way the system was built was across 50 states, 3,000 counties, and over 50 years. It was built by hundreds of thousands of tiny decisions like the decision about which agency to call upon for assistance when you receive a complaint about addicts. Those tiny decisions are the bricks that built the prison nation that we live in today.

So when I was in law school, I used to hate going to lectures and people would come and talk about the issue that they cared the most about and they would always talk about it in a way that was dire and dispiriting. And then when they were done, they'd be like, "Thank you." And they would never talk about what we can do about it. I'm determined not to do that, so I'm going to say a few things about ways in which we can think of individually and collectively responding to this human rights crisis.

The first thing I want to say is that it is tempting—especially at this moment, with the president getting so much attention with tweets and outlandish statements—it is tempting to focus on Washington, D.C. and President Trump and Attorney General Sessions. But understand that this is a problem that was created overwhelmingly at the state, county, and local level, and that's where we're going to have to respond. 88 percent of prisoners in this country are in state, county, and local prisons, not federal ones. 85 percent of law enforcement in this country is state, county, and local, not federal. So the fight is going to have to take place at the local level, and it's going to have to be something that all of us decide to make some contribution to. None of us can do it all, but all of us can do something.

So, what are some things that we can do? I can't come to the David Bodiker Lecture and not talk about public defenders. This book is in a lot of ways a tribute to public defenders. What this means for law students is, consider working as a public defender. That's my message to you. And what it means for all of us as citizens is it means looking at the opportunities where we can influence public defense. Look for opportunities when you can support what public defenders are asking for, by way of increased budget. Go to candidate forums for people running for state or local office and ask them, "Our public defender's office needs increased funding. What are you going to do about it?" For 40 or 50 years, the only things that people have been asked at these forums is, "There's crime, what are you going to do about it?" And as long as that's the political reality for folks, that's going to be what they respond to.

Let's also talk about prosecutors. An amazing thing has happened in this country in the last two years: the emergence of a group of people running for local prosecutor on real reform agendas. For 50 years the only way you got elected prosecutor was to say, "I'm going to lock up more people than my opponent, for longer, and in harsher conditions. Vote for me." That's the way you did it.

Here's some good news from the November 2016 election. Hold tight. A whole bunch of people around the country ran on campaigns that said the war on drugs is a failure; mass incarceration is a problem; cash bail is a human rights



violation; low level drug offenses shouldn't be prosecuted at all; some felonies should be reclassified as misdemeanors; I'm not going to seek the death penalty. You got laughed off the ballot saying that 10 years ago. But people did win on those campaigns in Florida, Alabama, Georgia, and Texas. A guy in Texas, a career defense attorney with the words "Not Guilty" tattooed on his chest, ran for prosecutor and won. In Philadelphia, a guy whose career had been suing police for police misconduct ran for local prosecutor, and won! So, public defenders out there: think about this as possibly our terrain as well. We don't have to cede this territory to the most law-and-order person that a community can imagine.

One last idea that I want to put out on the table involves breaking down some of the boundaries that exist between those of us on the outside and people on the inside. One of the things that sustains our punitive criminal justice system is a sense of fear and isolation and otherness. We make it impossible to reach people, we put them behind incredibly high barriers, we make contact with the outside world as hard as possible. That does two things: it dehumanizes and stigmatizes and makes life miserable for the people who are inside. But it also helps all of us to reinforce any tough-on-crime attitudes that we had. Because the crime we've become aware of is real, but the people in the criminal justice system remain these foreign objects. And it's easy for us to act out our worst and our most vindictive impulses on them.

So, let's figure out ways to get inside prisons. Go inside juvenile facilities, go inside halfway houses, go inside adult criminal facilities. I thought about my obligation to do this myself a couple of years ago. I got trained by a program called Inside-Out, which I know exists here in Ohio. It's a program that trains professors to teach the classes that we normally teach, but instead of your university, you teach them in prison. I teach a class called Race, Class, and Punishment. Dean Michaels mentioned it. I decided a couple of years ago, what if I taught that class inside a prison with 10 students who were incarcerated and 10 law students studying together? I went to the Department of Corrections and they liked it. I always tell my colleagues, "Don't do this, don't teach a class like this for self-interest," although it's true that the best evaluations that I get are the ones from this class. And the most meaningful ones are from the students who are incarcerated. One of them wrote at the end of semesters, "I liked this class. I liked the law and policy that we learned, but most of all, I liked that that for two hours a week, I come to this seminar setting and I'm treated like I'm smart, I'm treated like I have something to say. I feel like and I'm treated like an intellectual."

The last thing I want to say to you—and this is especially to the students—the last message I have is not a particular program, it's not about an initiative, it's not a job, it's not a career, it's not an action that you can take. Instead, it is a mindset. And it comes from a conversation I had with my dad before he passed. We were watching a movie about the civil rights movement. When it was over I asked him what he thought about it—you were there, what's your take? He said he liked it. He liked it because they showed all this history on film. He said, "You know a lot more people watch movies than read books." But then he said, "The only thing I didn't like about it was that they made it seem like everybody was in the movement." He

said, “It wasn’t like that at all. We were a minority. It was lonely. It felt like nobody wanted to pick up this cause and fight with us.” He said, “You know 250,000 people at the March on Washington is a lot of people, but later like, 10 million people will tell you that they were there.” He was saying that when you’re fighting an injustice that is incredibly powerful, people will tell you that change is impossible. But if you ignore them and you fight on, when you win, those same people that told you it was impossible, will be like, “Oh yeah, that was inevitable, and I was there too.” And then will they make a movie about it.

I don’t know what idea will come out of this room. I don’t know what’s going to be the initiative, the theory of litigation, the advocacy project, the social justice community organizing, the coalition, that’s going to come out of this room. It will be an idea far beyond anything that I’ve put on the table. It will be an idea for how we can take down mass incarceration and replace it with something that actually provides safety and justice and humanity. But somebody in this room is going to do it—or some group of you—and when you do, they’re going to make a movie about you. And I’m going to be there with Dean Michaels and the Bod-Squad, and we’ll be in the front row with popcorn cheering you on. Thank you.

**Dean Michaels:** We have time for a few questions, if there are questions from the audience for our speaker.

**Audience member:** I was wondering what more can be done as we see that the opioid crisis has created this new reality about drug offenses? I’m all on board with those changes, but there are still a number of people who are languishing in the system based upon a different paradigm. Do you think that legislation is doing enough to consider how restorative justice might be able to reach back and correct some of the wrongs that were done?

**James Forman Jr.:** That’s a great question. One of the things that question brings up is how do we bring a measure of equity and fairness if we are moving to a moment where we’re willing to be somewhat more restorative, somewhat more rehabilitative in our approach? How do we bring some of that and apply it looking backward to people who were treated and sanctioned under a different regime? I guess there are two things I want to say about that. One, our rhetoric has changed a lot, but if you look closely at some of the policies that are underneath the rhetoric, there hasn’t been as much change as is commonly thought. So if you go into a criminal court, you’ll see lots of people being prosecuted, including for the opioid offenses, that are getting some compassion at the rhetorical level. They’re still felonies, they’re still being prosecuted as such, and people are still getting locked up. Even if they’re not being locked up, they’re still getting all the disabilities that come with a conviction—the inability to get a job, the inability to get public housing, the inability to get student loans—and they’re also not getting treatment in any meaningful way. Just look at what happened with President Trump. He campaigned in places like Ohio, West Virginia, western Pennsylvania, upstate New York, and talked about what he was going to do for the opioid crisis. But then the first thing that the Republican Party did after his election was to try to gut the Affordable Care Act, which provides funding for much of the treatment that is currently being

provided.

**Dean Michaels:** I think we have time for one more question. Well, I've got one. The story about Brandon, now 20 years ago, and still when you tell it now, the anger bubbles up. When I read your book, it made me profoundly sad. Rather than yelling, I wanted to cry, even though I knew a lot of what you were writing about. My question, especially for our students, is do you have any advice about handling emotionally the work of the hero that you're describing, and injecting yourself into this fight that is so challenging on the emotional level? You've given great practical steps, but do you have any advice on that?

**James Forman Jr.:** Thank you for that great question. For me, the only way I was able to survive and thrive—because I want to be clear, I did thrive. I loved my six years of being a public defender, and also, to be clear, whenever I mention being a public defender for six years, I wasn't burned out when I left. It wasn't that kind of a situation. It was a boring, pedestrian, kind of internal office disagreement. But there's no larger lesson to be learned from that. I don't want anyone to think, "Oh, he's got all this passion and he only made it for six years." A lot of people that entered the office with me are still there and are still doing amazing work. For me, what made it thrilling was two things. One, people talk about the work of being a public defender as hard, and it is hard. It's the hardest job that I've ever done because of the stakes, of how much is on your shoulders. At the same time, I found it a very uplifting job. Think about this, think about Brandon's story, or almost any pretrial detention, or sentencing, which is a lot of the work. In those cases, you typically have a client who has made some mistakes and sometimes caused some harm, but who can also see a future for themselves. Your client wants to follow a particular path; they are hopeful that if they're given this opportunity, they'll succeed. As a public defender, it's your job to believe in human nature. It's your job to believe that this time, even if your client has failed out of three drug treatment programs before, this time, this program because of its particulars, or because of something that has changed in your client's life, this moment is the moment to believe that if she gets a second chance, she will succeed. And I love having the institutional role of believing that somebody else will succeed if we would just give them a chance. It's thrilling.

The other thing I always say, or advice I would have, is that you have to surround yourself with a community of likeminded folks who support you, who believe in what you're doing, who share your values and your sense of mission. You've got to be with your people. And you have to love each other, and you have to create space for one another, and you have to embrace one another.

And find those people while you're in law school as well. Because without those people, I wouldn't have made it through law school. I'll tell you a story that really shows how old I am. I was in law school when the Simi Valley jury acquitted the officers that beat Rodney King. I almost dropped out. See, my dad had been beaten up by the L.A. police in the 1950s and my whole life was about telling my dad that things are different now. And then the police did it to Rodney King and they got acquitted. I thought, "What's the point of studying these rules—these

laws—if at the exact moment they’re supposed to protect you, it turns out they’re all a sham?” If I didn’t have classmates and other people who were willing to hold me, and hug me, and cry with me, and love me, and support me, if we weren’t able to do that for one another, I can guarantee I’d be standing somewhere today, but I wouldn’t be here on this stage. Thank you.