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**Twelve Angry Men: A Twenty-First Century Reflection of Race, Art,
and Incarceration**

By

Mackenzie A. Gross

A Proposal Submitted to the Honors Council
For Honors in Department/Program

10/20/20

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Abstract

Twelve Angry Men: A Twenty-First Century Reflection of Race, Art and Incarceration is a Comparative and Digital Humanities Honors Thesis concentrating on Africana Studies, theatre, sociology and legal studies to demonstrate the importance of investing in incarcerated communities through theatre and education.

In Chapter I, I critique the loss of identity attached to incarceration, and introduce the foundation for Black bodies individuals being discriminated against in the prosecution system. I analyze the “Punishment vs Progress” mentality, and introduce current educational programs in place in prisons. I elaborate on the details of our production, as well as the makeup of actors. An inside student closes the chapter with remarks of his own personal experience as an actor in the production.

In Chapter II, I dissect the “cast list” of the criminal prosecution system (the prosecutor, defense attorney, and jury) and analyze the ways in which these roles coexist. I critique the “white knight, win-at-all-costs” mentality of prosecution, and offer the history of the criminal prosecution system to reinforce my sentiment that an all-white, anti-Black force of “justice” can never be just.

In Chapter III, I analyze the data of incarceration rates, Black incarceration, and the discrimination of conviction. Bail money is explained and criticized, and the costs of mass incarceration are highlighted. Solutions to mass incarceration are explained, and they include the elimination of prosecutor

“tunnel vision” and eliminating the prosecutor attitudes of the previous chapter.

The chapter concludes with experiences from an inside student.

In Chapter IV, I disclose the costs of a Broadway production and the compensation of artists. Then, the anti-Blackness of compensation and opportunity is critiqued. Black theatre, entertainment, and trauma are all analyzed, and the experience of *Hamilton's* Daniel James Belnavis is analyzed. The chapter highlights the exclusion of actors based on race, gender, and sexuality and compares *Hamilton* to *Twelve Angry Men*. The chapter concludes with noting the effects of casting and the intentional or unintentional meaning of representation on stage.

In Chapter V, I conclude that change cannot happen without definitive action. Reform prosecution in conjunction with education and theatre programs will lower recidivism rates and better society.

Prelude

I wrote this paper to draw attention to the dysfunction of the American criminal legal process through the lens of theatre. I cannot in good faith utilize the phrase “criminal justice system” because, as Supreme Court Justice Sonia Sotomayor notes, the United States system is “anything but” just.¹ Justice, as defined by Collins Dictionary, is “fairness in the way that people are treated”. Since the transition from slavery to prison, the transparent utilization of power against non-white individuals in this country has been maintained through legislation on both the federal and state level. There is not a sustained uproar from white America to free wrongfully convicted Black men, and there is intentional silence from white America to prevent the rewriting of racist legislation. There are flashes in the pan of cries for justice, demonstrated through the thousands of white individuals who marched in Summer 2020 for the Black Lives Matter movement, sometimes creating majority white crowds.² But where are the cries for action eight months later? This flash in the pan activism falls under the term “white urgency” which is the brief popularization of supporting “Black Lives Matter”: “White urgency is not actually interested in solving any problems beyond the self-centered ‘problem’ of white guilt that fuels the white

¹ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) XXX

² Washington, *Why did Black Lives Matter protests attract unprecedented white support?* (The Undefeated, 2020)

urgency around this work. And once the anxiety and guilt are alleviated... you're gone as fast as you came."³

In this thesis I will describe a foundation of discriminatory practices in both criminal prosecution and theatre casting and productions and will unite the two concepts through the case study production of *Twelve Angry Men*.⁴ From this foundation, the conclusion will demonstrate the systematic anti-Blackness of American application of the law and the arts and will pose the question "what can be done?". There are an infinite number of answers to this question, because how do we fix what has always been broken? My solution to this question, a solution to impact the immediate lives of Black individuals in this country, is an investment in incarcerated communities. Through investing, both financially and emotionally, the cultural narrative changes from "a Black man is a criminal" to "redemption is achievable." There is no denying that this will be a difficult hill to climb, in no small part to the prejudice communities hold against individuals who have been previously incarcerated.

The role of education, not just in the relearning of a society to not write-off incarcerated people as forever villains but in the prison itself, is crucial to this mission. Inmates must be given the tools to succeed in the classroom to carry that success into the real world upon release. Recidivism, which is to say the re-incarceration of individuals, will happen *unless* there has been a systematic change to prevent it. This change comes in the form of counselor support, classes

³ Melton, Monique. (@moemotivate, 2021)

⁴ Rose, Reginald. *Twelve Angry Men* (Los Angeles: Orion-Nova, 1957)

to reach a degree, and courses on trade to then apply to a career in the outside world. The concept of locking men away and then expecting them to be not only better people, but active and supportive community members is absurd. How can a person change for the better if they have no skills, no support, and no finances? Prisons must be required to implement a program of education to better the immediate community of inmates affected, as well as the greater community of town, state, and country.

I would be remiss to not acknowledge my privilege as a white woman criticizing race in the United States, and my freedom to enter SCI Coal Township and then walk out a free woman. This Honors Thesis has been a process of learning and unlearning, and the time Black educators have taken to document the research I call upon must be recognized and appreciated.

Introduction

In the fall of 2019, I directed a production of *Twelve Angry Men* which brought together inmates at SCI Coal Township Prison and Bucknell students to form a dynamic cast and crew. Professor Carl Milofsky supervised my teaching of this brand-new joint Sociology and Theatre course, and our goal was to perform this play, memorized and staged, to an audience. Throughout the course, as part of character and actor development, I led class discussions centered around race, privilege, and power. The play is centered around twelve jury men deliberating the death sentence of a young “colored” youth on trial for murder. To perform this play as primarily Black men and white women, when these lines were written for white men, generated a complicated and powerful commentary on the justice system. What does it mean to have a Black man play the white protagonist? How does race affect casting in theatre? How does race impact incarceration? With this unprecedented production serving as a case study, my thesis will investigate how being Black affects an individual's presence in the eyes of the law, and the theatre. How is there “performance” in both areas, and where does the anti-Blackness lie in this power struggle? I will reinforce the existence of this prejudice, and then prove that investing in incarcerated communities is crucial to ending mass incarceration.

The objective of this Honors Thesis will be achieved through three primary elements. The first is through the personal accounts of inmates at SCI Coal

Township; men who were involved in the case study production of *Twelve Angry Men* and who will share the honest truth of their experiences with the legal system, the judicial process, and how race has affected both their life experiences and legal realities. The second is the history of the law; diving into anti-black discrimination in the application of justice and seeing what we can translate to theatre and the *Twelve Angry Men* production. The third is the reality of the theatre; how does this art form continue to privilege white bodies and cause harm (unintentionally or otherwise) to Black performers. I will demonstrate through the combination of personal inmate testimony, the specifics of my production, and my research, that “artivism”, uniting activism to art, is a pathway to reform. Throughout this study I will use the experience of my inmate collaborators to analyze some specifics about how being Black in America affects an individual's life experiences in the eyes of the law, and touch on instances of racially motivated casting and opportunities; both historical and present day. Through telling the stories of men from our local community, I will reinforce that this is not an “other” problem, as some would claim- this is *our* problem. Mass incarceration affects the whole community, not just the Black individuals being discriminated against. When race is a driving factor in freedom, it is the job of white people to recognize their privilege and utilize their power to advocate for sustainable change.

The very premise of the show (a black youth on trial for murder, the death penalty on the table, and a jury of twelve white men) is eerily familiar. Reginald

Rose, the author of *Twelve Angry Men*, doesn't need to state that these jurors are white- it was not common practice for Black men to serve on juries till decades later and today there is still strong discrimination against Black individuals in the jury selection process, as will be demonstrated in Chapter Two.

Ultimately, the combination of these separate disciplines will highlight the benefits of investing in incarcerated theatre. *Twelve Angry Men* has educated, empowered, and incited a conversation for sustainable change in this ensemble, in the Bucknell community, and in the Lewisburg community at large. In the act of doing what has never been done, we have created a precedent for new possibility. The importance of this study is to shine light on a conversation between justice and privilege, and how Black America has suffered at the hands of white power. This piece of theatre, and our act of "artivism," will serve as the ideal case study for the objective of this thesis, which is to prove with absolute certainty that investing time and energy into incarcerated communities is a beneficial and worthwhile task. This production serves to demonstrate that the men are changed people for having been part of this experience, the Bucknell students are more aware of the racial biases of the criminal prosecution system and can now consciously stand on the side of justice, and the Lewisburg community is a greater place for having observed firsthand the art and education of this group. When narratives are preached and repeated, such as when Fox News intentionally racially discriminates against Black communities and praises

hate speech,⁵ that thought pattern is internalized by the viewing public. A society cannot progress if masses of people (specifically people in power) believe that being Black in itself is a crime. Through the act of supporting the education and creativity of incarcerated people, a sliver of progress has been achieved. The men and women who fall victim to the pandemic of mass incarceration are worthy of our financial, educational, and emotional investment and the act of investing will create sustainable change for the better. “Artivism”, this radical act of joining the arts with social justice, is an empowering and positive movement that will build bridges between cultures, and it is through this education that eventually true justice can be achieved.

This thesis demonstrates that the Bucknell students, the inmates, and the audience are all changed people for having been part of this history-making process. The success of Coal Theatre, as we have named ourselves, serves to stand as a model of what can be achieved when colleges invest in their local communities. The men were not the only group to have benefitted from our presence, the Outside students experienced a once-in-a-lifetime class and production that has instilled values of empathy, trust, and teamwork. The entire ensemble’s communication skills were strengthened, and though it cannot be measured, I believe we are better people for having had this experience. If more colleges in Pennsylvania take after our model, I can only imagine how many lives will be directly affected for the better.

⁵ Derysh, Igor. “Hate speech”: Tucker Carlson accused of echoing white supremacist “14 words” slogan on Fox News. Salon, July 8th 2020

Chapter I

Foundation: Twelve Angry Men

Rehearsal Memo: 10/2/2019

David (who is from the Lifeline Association) joined our cast today as Juror Twelve. Burt and Emma were not here because of hospitalization, and the design folks built a sink that looks fantastic. We got through all of Act I, which is scenes one through four; Rob was very excited to jump the table in blocking today. Joel and Tito are almost completely off book; Tito is truly almost entirely off book. Rob is getting there, and folks are coming out of their shell more. Rich's dog runs around more, she's getting more comfortable in the space and with all of us. Rich's confidence is growing by the second. He's one of those people you want to watch. I went to the design closet today, where all the supplies are kept, and that was interesting; it was very organized, and the textbooks were well organized. They said that they have a certain amount of money to spend, and if they don't spend it then the budget gets cut. So they have all this construction paper from five years ago that was bought and it just hasn't been touched, so they're eager for us to use their supplies. The more supplies we use, the better. There was a good talk with George about getting the community list, and sending a list out procedures which includes the memo about the time schedule, and folks will be sitting around for half an hour before the play starts. They'll have clothing instructions (universal underwire bra problem) for going

through security. So once folks go through security, they can wait in the chairs for the audience to watch the show from and it won't be a problem. Once they've cleared security, they're all good. We'll have snacks, a program with all of our actors and designers and everyone in it, we'll have a director's note, and all that good stuff. We just need to educate everyone on the process, and have folks understand procedure and expectation so they know that waiting around is part of the process. What does it mean to have Black men and white women performing a production written for white men? How does this affect power dynamics, bias, and privilege? How does this affect the meaning of Twelve Angry Men? Why this show, why now?

~

Twelve Angry Men is a behind-the-scenes courtroom drama written by Reginald Rose in 1954. It began as a television play that year, then was adapted to a stage play in 1955, and then was released in 1957 as the Henry Fonda classic movie. The plot of the film is centered around a jury trial where the twelve jurors must decide whether or not to find the defendant “guilty” or “not guilty” for the murder of the defendant’s father. The defendant, a sixteen-year-old boy of color, appears to have an overwhelming amount of evidence against him, and the jury must deliberate and decide whether he will be given the death penalty, because that is the option the prosecutor determined. The outcomes of the jury are clearly set: the defendant is “not guilty” and goes free, or he is “guilty” and sentenced to

death. Either decision must be made unanimously, so all twelve men must reach the same conclusion, or a mistrial will be declared.

At the beginning of the play, the stage is set with all twelve men in the jury room, which is where all of the action of the play takes place. Eleven of the men are prepared off the bat to vote “guilty” without any deliberation, except for Juror 8 (famously played by Henry Fonda) who votes “not guilty” to force a conversation about the case. The play is ripe with tension, drama, and emotional breakthroughs and highlights the folly of man. The assumption is made that because the defendant is a person of color, he is guilty. Juror 10 states that because the defendant is “one of them”⁶ that’s reason enough to vote guilty. The blatant prejudice against the defendant because of his race makes the eventual vote changes to “not guilty” more dramatic. Immediately (within the first few pages) eleven men were inclined to vote a boy to die without having a conversation about the trial, and through stepping away from their prejudice and observing the facts as true, undeniable pieces of evidence, there is an arc of unlearning for each man.

My first experience with *Twelve Angry Men*, like many individuals, was years ago when the play was an assigned reading in my eighth-grade English class. My father, an attorney, was asked to come in to speak to my class about how a jury works and what trials are. A fact of the play that my 13-year-old self

⁶ Rose, Reginald. *Twelve Angry Men* (Los Angeles: Orion-Nova, 1957) 64.

did not realize was that the only person of color in the script is the never-seen defendant, the boy on trial for murder. Every juror is white, and the guard is white, and that did not strike me as odd until years later, due to my own privilege and naivete. So when thinking of plays that could connect art and incarceration in the spring of my sophomore year, my first thought was *Twelve Angry Men*, because not only would there be excellent discussions about justice, privilege, and race, but the paradox of men convicted of murder performing this piece is an excellent social commentary, as well as the perfect case study on the benefits for investing in incarcerated communities. Through the lens of education, discussions between the Inside and Outside students occurred that were both emotionally important, as well as important for character growth. There is a difference between reading this play as an individual and dissecting the text with peers of different backgrounds and then performing the characters. The work ethic to bring life to a production, and the research each actor contributed to their role, was an invaluable exercise in teamwork and communication. No single person could have done this play; there are twelve parts and each actor must pull their own weight. The knowledge that someone is counting on you is a lesson in trust, as well as commitment. These are skills that benefit everyone, but especially individuals who are looking to prove that they are ready and capable of returning to society as men ready to positively impact their community. But to get to this point of reentry, we must begin with what each actor brings to the table.

A key aspect of this thesis is emphasizing the limitations our roles in life allow us. As a director, I cannot perform the lines on stage myself. As an actor, they are subject to my blocking and staging. As an inmate, these men lose their autonomy. That seems like a simple thought, but it goes beyond losing freedom. There is a complete loss of identity attached to incarceration. Names become numbers, and “community” is not people you choose, friends and neighbors who offer their support. This concept of community, of choosing your community, is necessary to understand the identity loss at play. Men who on the outside were fathers or husbands or businessmen are stripped of the daily realities of those roles. How is a husband a husband if he is not there to care for, support, “provide” (financially, emotionally, etc.) for his wife? How is that supposed to happen when there can be limited contact, and in COVID times, when that contact is limited to a 30 minute a day phone call? How can a father feel like a father when he cannot hold his child, actively nurture his child’s success, or be a role model? How can he protect his child? He cannot:

Incarceration also often forces families deeper into poverty and debt, the Casey Foundation report said. Their families are more likely to rely on public welfare programs such as food stamps and Temporary Assistance for Needy Families. And these children may be more likely to join the other 400,000 children throughout the U.S. in state foster care⁷.

⁷ Wiltz, Teresa, Having a Parent Behind Bars Costs Children States (Stateline, 2016)

The reality of mass incarceration disproportionately affects Black bodied individuals. “Children of color are much more likely to have a parent in prison. One in nine African American children had a parent behind bars in 2008, according to a Pew Charitable Trusts report. One in 28 Latino children had an incarcerated parent and one in 57 white children did.”⁸

This cycle of trauma through incarceration continues until eventually someone can break away, either through education or other resources. If the cycle cannot be broken, then released men and women from prison will remain labeled a continuous criminals. This is not to say that there is active crime, it is to say that their public label will not grow past their previous mistakes. There are two outcomes for this circumstance, either a person is released from prison, or they are not. If they are released, how does society view them? Can they be hired? Will they be able to bring money back to the family, or is the system so stacked against them that they fail? If they are not released, that is the permanent separation of another family, and the children are the victims. As of 2019, the percentage of Black households with a single parent was 64%.⁹ This is not because of the dangerous stereotypes perpetuated by radical conservatives such as Amy Wax who claim that it is “biologically impossible” for a Black man to be a father, as she declared upon her visit to Bucknell University in 2018. Due to mass incarceration, Black families are intentionally separated. Incarceration is not a

⁸ Wiltz, Teresa, *Having a Parent Behind Bars Costs Children States* (Stateline, 2016)

⁹ Kids Count Data Center, *Children in single-parent families in the United States* (2020)

victimless crime; the families will pay for the rest of their lives. So why is putting on a play in a prison so important, especially in relation to these statistics? The ability for incarcerated people to act, which is to step into another body, is a way to bring back an identity. Putting on the identity of another person is not only a way to cope with the actor's own loss of humanity, through leaving their own grievances behind for a few hours, but they are able to become a free man again.

In addition to producing a show, Steve Patterson stepped up to make a documentary about the process. The purpose of this documentary will be to demonstrate the value of incarcerated art, as well as document this history making project. Steve conducted interviews, recorded the rehearsals, and filmed the final performance. A great point of concern while creating the documentary alongside the production was how will this piece of art be shown? Can it be shown at all? Incarcerated people in America are a protected class, which means they do not hold the right to say "yes" or "no" of their own accord when it comes to the freedom to consent. This means that although the men in this production consented to being videotaped and to having this documentary made, their informed consent counts for nothing because they cannot legally give consent. The act of giving consent, of giving permission over one's body, is a basic right we are taught from a young age. Learning to say "yes" and "no" and understanding the consequences of those actions are built into a common understanding of freedom, of having the *choice* to make a choice. To be stripped of the right to consent, an act that opposes the very concept of consent, is reflective of the way incarcerated people are policed in their own bodies. Through the inability to

govern one's own body, the freedom of self is exterminated. In a system that already strips a person of their intersectional identities (cannot be both Hispanic and Black, as one Inside student expressed), to go the extra step and forbid consenting to film is rightfully aggravating. The topic of consent is difficult in prisons, because if the law around prisoners consenting changes to allow full access to consent, then the vocabulary surrounding sexual assault from other inmates or guards may place prisoners in danger. Language that promotes victim blaming would perhaps perpetuate, because "they consented". Stripping consent from the equation determines that any sexual encounter is an assault. But should the same logic apply to filmed research? Steve's documentary is meant to empower the men in the cast and show other prisons that investing the time and permitting this activity is a worthy encounter. The documentary captures not only the rehearsals and behind the scenes interactions of the cast, but private individual interviews of the entire cast where both the men and the Bucknell students express themselves and their raw feelings of the process. This information is valuable for any future Inside Out class hoping to execute a project such as ours, and a documentary detailing our process is beneficial for academics and reform advocates alike. Ultimately, a blanket definition of consent does not have to be applied with such scrutiny for matters of shared research and education, particularly when new methods such as undergraduate-in-prison-productions would benefit the greater community at large.

The act of being uprooted from family and placed in a sterile, aggressive environment is intended to reinforce “punishment.” Prison is not designed to rehabilitate, or else the community would be one that offers mandatory tangible support and an accessible path to rejoining society. To achieve this rejoining of society for prisoners who were sentenced to “life sentences”, the prisoner must apply and be approved for a Commutation of Life. The commutation process in Pennsylvania is incredibly difficult, and requires a Board of five members, including the Governor of Pennsylvania, to unanimously vote to approve this person for release. In 2020 Governor Wolfe pardoned 124 prisoners. In 2020 Governor Wolfe approved a Commutation of Life for 1 prisoner¹⁰.

Inside cast members Tito and Joel are both in the process of applying for their own commutations, and the path to get there is long and winding; it requires three different employers to vouch for employment status upon release, housing already secured, as well as letters from the community to vouch for your character. The timeline for this process is incredibly long:

It takes about one year from that time to have your application sent to the offices of the Pennsylvania Board of Pardons. Unfortunately, Covid has slowed the process some. I have received the confirmation that my application has been received by the office. From there, it takes an undetermined amount of time for your application to be "formally" filed.

¹⁰ PA BOP. Statistics by Year- 1999 to Present. (2021).

As far as we have seen, it takes about 3 or 4 months for this process to begin. Once your application is formally filed, it takes about one (1) year for the Board to conduct a "merit review hearing". Within this year the Board compiles all of your records, and other relevant information to weigh in the hearing. In this hearing, the 5-member Board is determining whether or not your process should continue. If they determine that your application is meritorious, the interviewing processes begin. These interviews begin inner institutionally (within the individual prison) with the Superintendent. If you receive a favorable vote from the institution, you are then interviewed by the Secretary of Prisons, or someone from his office. With a favorable vote from them, you are temporarily transferred to SCI Camp Hill to be interviewed by the 5-member Board themselves. As a lifer, we must receive a 3 out of 5 "yes" vote to receive a "public hearing". If any member votes no, that ends your process. You must wait two (2) years to reapply. If you are granted a public hearing, your representatives is given an opportunity to present your case, and your supporters are given the opportunity to speak on your behalf. The victims and their representatives are also given this opportunity.

This time you will need 5 out of 5 "yes" votes to be granted recommendation to the Governor for his ultimate approval. One "no" vote, or the Governor doesn't sign, your process is over- Tito.

The likelihood of being granted commutation is incredibly slim, and the process is meant to deter prisoners from applying by placing such strict requirements on the application. How can a person have a fighting chance of achieving commutation if there are no support systems to prepare them for this uphill battle? Though providing support systems and avenues for prisoners to demonstrate their growth (such as theatre), the men stand a better chance at being approved to advocate for their commutation, but at winning.

SCI Coal Township offers several programs for possible reentry to society including a Family/Relationship/Self program, a Sex Offender program, a Re-Entry program, an Alcohol and Other Drug (AOD) program, an Offense Related program, and a few Mental Health Programs.¹¹

Additional educational programs offered assist in the reentry process by either fulfilling a requirement for the terms of parole, or by bolstering the inmate's portfolio so that they can make a case for themselves to adjust their sentencing, or possibly advocate for themselves to push for commutation. These educational opportunities include Learning Support, Adult Basic Education, GED, Business Education, along with ESL. The Vocational Opportunities available include Heating, Air Conditioning and Refrigeration (HVAC), Barber, Computer-Aided Drafting/Design (CADD), Automotive, Custodial Maintenance NCCER, OSHA 10, and a Flaggers course.¹² Each of these vocational training offer industry certifications for the specialty that will be recognized outside of

¹¹ Official Pennsylvania Website. SCI Coal Township. (2021).

¹² Official Pennsylvania Website. SCI Coal Township. (2021).

prison. By investing in educational programs in prison, SCI Coal Township is setting prisoners up for success, rather than failure. People who have not learned from their wrongdoings, or who have not had access to educational opportunities to uplift themselves prior to their incarceration, deeply benefit from being taught. It is unfair to assume that spending time in prison naturally equates to having “learned a lesson”; that is not how punishment works and this is not a one-to-one comparison. Data demonstrates that prisons who possess rehabilitation programs are generally successful at reducing recidivism when it possesses three key principles.

First, the program should be “evidence based”—meaning it is modeled after a program shown to reduce recidivism and actually operates in the same manner as the proven program. Second, the program should be evaluated for cost-effectiveness. Third, the program should focus on the highest-risk and highest-need inmates, as this has the greatest potential to reduce recidivism.¹³

The problems that prisons run into are when these principles are not followed, and the programs are ineffective at teaching the necessary skills to reenter society. How can this be solved? A template for prisons to follow that possesses the key principles and that has a uniform base across the country. It is beneficial to the inmates if resources are equal, but they must be equally effective to meet the needs of the prisoners. In public schools there are general curriculums across

¹³ Legislative Analyst’s Office-The California Legislature’s Nonpartisan Fiscal and Policy Advisor. Improving In-Prison Rehabilitation Programs. (2017).

the board, and then teachers use the curriculum as a base to build upon. For an effective program that is reentry centered as opposed to punishment centered, a restructuring of education must ensue.

In the punitive America of the past and present, crime is equivalent to a write off; it is the court deciding that this person is not worth the time or energy it would take to teach them to be an active and contributing member of society. Many people believe that their tax dollars should not go to reforming prisoners. What these individuals don't realize, is that putting forth the money for reform saves them money in the long run. For an example, California's "\$7-billion prison system as a lousy investment for taxpayers, with one of the highest rates of criminals returning to prison. They blame lawmakers and voters who for the last 30 years have passed laws that locked up more people for longer terms without helping criminals change their behavior." ¹⁴ Mass incarceration is costly. How expensive exactly? "Of the \$43,287 that the state spends on each inmate each year, almost 50% is spent on security while 5% goes toward such efforts as teaching them to read or get a job." ¹⁵ But without these skills, recidivism is practically a guarantee. If a person does not have the skills to function in society, they will fail. "According to the department, nearly half of all California prisoners released last year were not assigned to any rehabilitation programs or given jobs." ¹⁶ When released convicts return to prison, it continues to cost taxpayers millions

¹⁴ Vogel, Nancy. Rehab in prison can cut costs, report says. (The Los Angeles Times. 2007).

¹⁵ Vogel, Nancy. Rehab in prison can cut costs, report says. (The Los Angeles Times. 2007).

¹⁶ Vogel, Nancy. Rehab in prison can cut costs, report says. (The Los Angeles Times. 2007).

of dollars. The wiser investment lies in reform; educate prisoners while they are incarcerated and then upon release there is greater assurance they won't return:

“The American Correctional Association has reported that in Indiana the recidivism rate for GED completers is 20 percent lower than the general prison population's rate, and the recidivism rate for college degree completers is 44 percent lower than the general populations. In other words, the higher the degree earned, the lower the recidivism rate.”¹⁷

Education matters, as do the life skills of communication, teamwork, and dependability. That is part of what this production gave; the chance to positively contribute to a team in a meaningful way and learn valuable life skills that can be applied to the outside world.

Until release, how do inmates' function in a system that is intended to oppress? Inmates must forgo their roles in society, and instead take on the character of a head-down inmate to avoid confrontation. Some men adapt to this transition better than others. It is not a comfortable or natural thing to hide oneself and pretend to be an entirely different person. To be yourself in prison is to be a target. But to be someone else? There is healing in acting, as demonstrated by the Rehabilitation Through The Arts (RTA), a New York nonprofit organization “that provides workshops and classes in a myriad of disciplines, from theater and music to creative writing, painting and dance, in

¹⁷ Prison Studies Project, Why Prison Education?

men's and women's prisons around the state"¹⁸. Their goal is "to facilitate the social, emotional and cognitive skills needed to succeed on the outside". Theatre aids in developing and strengthening these skills necessary to succeed in the outside world:

Similar art-as-therapy programs are found only in a handful of states, despite the fact that they've been proven to be effective in reducing disciplinary infractions and improving anger management. One 2012 study found a nearly three-fold increase in inmates pursuing college-level academics after participating in RTA. Inmates have also shown enhanced speaking skills and self-esteem. But perhaps most impressive: RTA boasts a nearly 5 percent recidivism rate, meaning almost 95 percent of people who go through the program don't reoffend after their release. That's a genuinely remarkable percentage, as the national recidivism rate is close to 77 percent after five years.¹⁹

Education as a means of combating incarceration is highly effective, and the utilization of programs in the arts works to eliminate recidivism. Additionally, theatre in prison ties directly into self-confidence, self-assurance, but most importantly- identity. The identity crisis I highlighted earlier in the chapter can

¹⁸ Jaafari, Darius. J. In *These Prisons, Former Offenders Find Healing in Theatre Arts*. (Nation Swell, 2017).

¹⁹ Jaafari, Darius. J. In *These Prisons, Former Offenders Find Healing in Theatre Arts*. (Nation Swell. 2017).

be worked on through theatre: “The program is not intended to remake prisoners into professional actors. It’s not designed to help them find a career in the arts after release. Rather”, says executive director Katherine Vockins, who founded RTA in 1996, “it provides inmates the opportunity to tap into emotions and develop the soft skills that can help them deal with tough situations.”²⁰ The skills theatre teaches, including empathy, teamwork, passion, commitment and communication, to name a few, are necessary to leading a successful life after release. And for the inmates sentenced for life? These are skills that lead to a more fulfilling life, whether or not the end goal is to be reintegrated to society. Theatre serves, regardless of outcome, to teach valuable lessons as well as provide a true sense of identity in a chasm of loss.

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Rehearsal Memo: 10/9

At rehearsal today we had an individual filming; we had a ten- minute discussion about “what inspires you”, that was the prompt, then we moved into a circle conversation with a double-sided poster on the board for logistics. That primarily took the whole class, we made a timeline for the day of the performance. Due to the time crunch of busing the audience from Bucknell to the

²⁰ Jaafari, Darius. J. In These Prisons, Former Offenders Find Healing in Theatre Arts. (Nation Swell. 2017).

prison, we reevaluated and decided to move the curtain back to 7 PM. With this new starting time in mind, we worked backwards from there. Everyone was throwing out ideas with the goal in mind to keep Monday as our date for performance. Then we decided the tasks that need to be done, such as assembling the stage, setting up chairs, getting into costume, making sure everyone has time to eat, which was prompted by the letter that was sent of what must be accomplished before we can invite people into the prison, so we combined those two elements to determine a timeline. That wrapped up around 3 o'clock, and then it broke into small, specific discussions: the designers talked about tailoring the suits with Tito, and people were talking about various different things, both related to the production and not. It can be really nice at the end of a class to just talk together, not as actors but just as people. The best part of the class is getting to know everyone. I was talking with Joel and it was just a very emotional conversation because he said "this is your baby" and I said "it's all of ours" and he cut me off and said "no, this is yours and I'm going to do everything in my power, and everyone in here will do everything in their power, to make this happen. This is unprecedented, this is unheard of, and this is yours and we are going to make it work for you". This brought me to tears because that was simply so kind. We went on to talk about what kind of tables we will need, what kind of chairs we will need for both on stage and in the audience, and I drew up a diagram of the room with the tables, chairs, and stage. By the time this concluded, the designers had gone around and taken sizes from everybody so that we can continue side-by-side productivity wise.

Class finished, so we went into the hallway, and as I was walking in the hallway to exit the building, Tito and I were talking, and he said, “we are very aware of who the other men in this facility are and we are here to keep you safe.” I had not ever really thought about this before, but he was saying that the reason the men don’t walk in front of us when we all go down the hall, is because “if something happens you guys aren’t going to jump into action, you won’t know what to do,” and this wasn’t in a condescending way; it was in an informative, factual manner. “We do know, and we will protect you”. This was a reflective moment for me because I then began thinking about how every time I walked down that hallway this semester, a man had walked side by side with me, all the way through until we left the facility. It was almost an escort type of situation, which was interesting to think about because we were not wandering or exploring. They were there to make sure we (the women) were safe because they didn't trust the other men in the facility which was a really crazy thing to think about. The treatment of gender in prison is much more reflective of the treatment of gender in society than I had initially realized.

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OUR PRODUCTION

The race and gender identity of the cast is crucial to note, because due to our diversity of thought and lived experience, this production was more than a play; it was a pivotal educational experience to better understand the criminal

system as well as our society. I, as well as the women in the cast, cannot understand the trauma of Blackness in criminal prosecution first-hand. While we could not offer them a first-hand understanding, we could offer a judgement-free space to reflect and critique the prejudice of prosecutors, the law, and society. It is also important to remember that the Bucknell students could leave at the end of rehearsal, go home, and go about their lives as normal. There is a privilege in not being faced with the trauma of incarceration every hour of every day.

Our cast list, a mixed race, mixed gendered production, went as follows:

FOREMAN- Jess, Outside, white

TWO- Emma, Outside, white

THREE- Rob, Inside, white

FOUR- Joel, Inside, white

FIVE- Rich, Inside, Black

SIX- Katie Jo, Outside, white

SEVEN- Lane, Outside, white

EIGHT- Tito, Inside, Black

NINE- Derek, Inside, Black

TEN- Emma, Outside, white

ELEVEN- Natalie, Outside, white

TWELVE- Tony, Inside, Black

For our first performance, we were located in the Prison Visiting Room and the audience was composed of “VIP Guests” which included family, close

friends of the cast, professors, Bucknell department chairs, Bucknell deans, and Bucknell's President John Bravman. As a rule of thumb, the audience was predominantly white, well educated, and had heard of, if not read, the play before. For our second performance, we were located in the Prison Chapel, a smaller space with carpet floors that already had a built in "stage" area that was a few feet higher than the pews. There were several rows of pews, each one packed with men from the Inside who were invited guests of our men in the production. It was a more diverse audience racially, as well as by age, and from what I understand, education experience as well. There were high school dropouts sitting next to college educated men, 30-year-olds speaking to 70-year old's, and Black men laughing next to white men.

The choice to change locations and move the set from the Visiting Room to the Chapel was a decision I made based on the price the men would have to pay to experience theatre. For an inmate to enter the Visiting Room, they must go through a full body strip search, and that was why I postponed having rehearsals in the space until dress rehearsal. Art should not feel like a punishment, and I felt incredibly guilty asking the men to undergo such an invasive procedure.

Unanimously I was told it was fine, and they did not mind, but it felt painful to willingly subject them to that experience. To invite inmates to experience theatre, the first piece of theatre they have seen in years or their lifetime, the consequence was a manual internal body cavity inspection. The requirement of a punishment to experience this sliver of normalcy was too great a consequence to inflict upon these men. We were given the opportunity to bring theatre to a prison, and there

should not be a fee of more freedoms being removed to attend. I made the decision to find an alternative location where a strip search would not be conducted, and the Chapel was the ideal location. What is the expected price to pay for entertainment in prison? Is there always a price so physically draining in exchange for goods, and why is physical invasion no longer questioned? There is an unlearning in play in moments such as these. If the price for performing at Bucknell was an invasive and dehumanizing procedure, students would disengage and remove themselves from the situation. But in prison, there is no way to question rules, and that speaks to the loss of identity inmates face. A space where to advocate for oneself could be perceived as an “assault” is not a space supportive of maintaining the core concepts of humanity. One inside student states:

The problem is that far too often, the channels established to lodge complaints against this type of corruption are governed by the same people we complain about. This opens the door for them to ignore our problems or cause us to be retaliated against. There needs to be a neutral, independent channel established for the men to seek resolution of situations, far removed from the buddy system in place now. This could drastically reduce staff assaults among other things. When the men feel they were wrongly charged with in house violations, which in many cases interfere with parole, freedom, or even liberties within the prison, and

have no method to be vindicated, or at least be heard, lashing out often becomes the method of handling problems.

From the audience's perspective, they know nothing of the trauma of these men, they only bring in the background, or prejudices, they already have formed. This individualized lived background affects their sense of humor. Possessing the background to understand a joke is what makes it funny. If a person understands a cultural reference, then a moment may have more context and therefore meaning. The most striking difference in comparing our opening night audience to our closing night audience was the laugh lines. The moments where the audiences laughed almost had no crossover. The laugh lines that I had choreographed and orchestrated into the scene landed at the audience with which I identified and shared similar lived experience. The closing night audience was a fantastic crowd: vocally supportive, entirely engaged, and I could feel the energy in the room; it was palpable. This is not to say that the opening night crowd was any less wonderful, but I could feel the difference most in the men on stage. Now they were performing for their friends and peers, the stakes were perhaps a little higher than performing for an audience of primarily people whom they don't know. SCI Coal Township is a small prison, numbering 2,300 inmates. For the most part, everybody knows, or has at least heard of, everybody. So the stakes were higher out of nerves of embarrassing oneself. The Outside students were a bit calmer because they have performed the show once before, so there's a bit

more confidence going into the next show. But the Inside students were just as nervous at the second performance as the first performance.

In *Twelve Angry Men*, as previously noted, there are no people of color in the play or in the film; there was an intentional casting choice to only cast white men. In this case study production, to only cast white men would not only be counterintuitive to the point of this “artist” production, but it would also be impossible. The Inside Out class, which is the Sociology course “Deviance and Identity” taught by Professor Carl Milofsky is the channel through which Bucknell students (Outside students) and inmates (Inside students) connect. The class is the requirement, and the same policy is followed for this production: individuals, both Inside and Outside, have to be registered in the class to participate. At Bucknell, this is a popular class that tends to fill up rather quickly. At SCI Coal Township, the desire is another level entirely. 200 men compete for 6-8 spots, and are vetted through behavior checks, progress demonstrated, meetings with counselors, and what the crime they were charged with was. This last rule only affects individuals with crimes of a sexual nature (pedophile, rapist, etc.) as individuals with those crimes were deemed unsuitable to work with Bucknell students. Jess Mount ‘21, Foreman states:

It was entirely palpable from the energy of the first class, everyone in that classroom wanted to be there. That was such a fresh feeling, in some undergrad classes there is definitely a sense that some people are there to fill a requirement, but in the Inside Out class every Bucknell person was

excited to show up, and every Inside student was so happy to start talking to people. That first day it was hard to get us to stop talking!

When planning classes, there had to be time built in for catching up, or else scenes would become distracted by just getting to know each other better. There was a strong attraction between the two groups; both groups possess unique knowledge of a culture and the other group wants to learn everything they can about that culture as fast as they can. In several of the men's circumstances, they were in prison before Apple released the first iPhone. This idea of learning from each other, and learning about the world through another lens, was a through line for the class. This exchange of ideas was an equalizer for the class, and there was no attitude of superiority amongst the ensemble. The Bucknell students joined the class for a variety of reasons, including to experience a once-in-a-lifetime opportunity to learn from prisoners. The inside students joined for these same reasons- to participate in a unique cultural exchange. When talking to the men about why they decided to join the class, what they took away from the class, and how they felt about performing, there were a variety of responses.

Opening night for me was bittersweet. We all worked hard to get to that night, but it also meant that our time was coming to an end. I speak for all of us when I say that we felt a bonding with all of the students that was unexpected. Would you have believed someone that told you a group of prisoners, five of which were in jail for life for murder, would become good

friends with a group of students? For me, once I got to know everyone, I noticed how natural our interactions were, and how relaxed we all became with one another. During one class, Emma and Nat told me they had encountered some idiots on the way into class and were wishing I would have been waiting for you all when you came in. She went on to tell me how relieved she felt when she looked through the window of the library and saw me standing in the hall waiting. Many of the students told us they felt safer amongst us than they did amongst the officers. Can you visualize how good we felt hearing these things? Anyway, I drifted a bit. So, opening night for me was spent trying to calm the nerves of a few people. My only thought was to do my best to help your vision be successful. It took a great mind to convert THAT play into what it became. A time of misogyny and racism became a performance of unity. Women, a Hispanic, and black people acting in what was originally saturated with racial views. Wow! Right before curtain, I prayed for all of us to have a wonderful performance, then it was show time. I briefly glanced into the audience and saw many proud faces of staff, former students, and others. I also saw looks of skeptics whom I imagine were nervous about being in a prison for a play. Again, look at the theme of the play, then consider the actual venue. Wow! Pure genius. As the play went on, many of the skeptics began to change their expressions and body language. They began to relax and really get into it. You then asked what this performance meant to me. I do quite a bit of mentoring with the younger guys in here. Too often, they are

afraid to depart from being a follower of the gang culture, misogynistic attitudes, or developing a sense of identity. This was a way to 'show and prove.' Your vision allowed me to help reach many of the guys I deal with, as well as many that came to me after the show. I can honestly say that thanks to you, two problematic gang bangers abandoned that mindset, and are now striving to better themselves. I also felt that as the last man on the team, I didn't want to let everyone down by messing up. The inside guys made the staff proud, as well as opened the door for future endeavors of that kind. I'm very grateful for the opportunity to have met some wonderful people, and take part in something special. I think of the team often. My only regret is that my family wasn't able to come see it. We all thought Steve was going to forward a copy to our families, but it never happened.

As Tony states, learning from Bucknell students, as well as participating in theatre, was an invaluable and pride invoking experience. The exchange of ideas across culture and experience benefits everyone in the classroom. This class served as an opportunity to prove to himself that he is capable of good, and that through being part of this ensemble, he became a better man. To extrapolate this from one man to a full prison, if there were more opportunities for outside education; Bucknell classes, volunteer groups of theatre, I theorize that Tony's experience would be widely applicable. The lessons of theatre previously iterated, such as communication, teamwork, and dedication, add value to life and life to a

deliberately lonely and empty existence. Historically, prison does not value a prisoner's fulfillment. These men have been left to survive, not to learn or thrive. Theatre and education can both contribute to a more satisfying life for the men, as well as a more successful life for them upon release.

The benefits of supporting incarcerated communities through theatre and education has the power to shape the way outside community's view inside men and women. By investing in prisoners as individuals, they can reconnect with a part of themselves that has been intentionally suppressed, which is their individuality. Throughout this honors thesis, the nationwide benefits of this investment will be explored, and the testimonies of how vastly the men in this production's lives have changed will be highlighted. Every man in *Twelve Angry Men* has expressed to me how their confidence has risen, their empathy has deepened, and they feel not only like themselves again, but like the best version of themselves they can be. When prisoners are released, who will better contribute positively to society? The man who values himself, his education, and bettering his community, or the man who does not? Theatre opens the door to community and support, and with these, a person can be changed for the better.

*Chapter II**The Cast of Justice**Rehearsal Memo: 10/16*

We blocked all of Act II today. We started with a five-minute conversation about characters and roles in the ensemble and the process, which was nice. Then we jumped into blocking; we pulled from tension today with the blocking; there was a lot of distance today which created nice tension. It was pretty seamless, the blocking seemed to line up really well, it was very smooth. When we reached this monologue from juror 10, it's this really difficult monologue, the actor became very emotional and had to pause while reading it, which I took as an opportunity to discuss "roleing" and "de-roleing" and I steered the conversation and said "we're going to take a break, we're going to talk" and I said "these characters are not you, you cannot take their words as your own, you are the body but you are not these people". I really tried to cement that point home because it's really hard when you're playing a character who is so fundamentally different from yourself and who you dislike and judge; it's very difficult to use that language. So I wanted to make the point, so we took a few moments and I monologued, and eventually she said she was okay and the men were very helpful and reminding her "we know you don't think this, this isn't you, we know that, it's okay". Then we continued with the rehearsal, we finished the Act which is finishing the show, and we had a very strong ending.

Burke was writing down stage directions in the script which was greatly helpful for us to return to and remind ourselves of what's been blocked. We concluded the play, and then I went around and asked for names for guests and some people were giving me names and then Derek said that none of the men were going to be having guests, so I'm a little bit confused as to what that is, but it doesn't hurt to get everyone their clearances, might as well in case they come, and then everyone sang me happy birthday which was very, very sweet, and it was really good. I went around and did check-ins at the end, we ended with small group discussions, forming "pods" to be a group of people you can talk to and break things down with, as a "de-roleing", and everyone ended on a very positive note. You would never know we were in a prison.

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When the actors "role" and "de-role" they are able to step into another body, and cannot be responsible for the words that their character speaks, or the actions their character does. In the criminal prosecution system, when the "characters" of justice step into their job, they cannot say the same. Who is in the cast of the legal system in the United States? Before we can



understand and criticize the aftermath of the criminal prosecution system, the key players roles must be identified. These roles, similar to the cast's roles, are characters that are stepped into to fill a responsibility. Firstly, the prosecutor. What is the intent of this position? Is it to lock up as many people as possible? The job of a prosecutor is neither that of a hero or a villain; it is to be a servant to justice. Is the prosecutor actually a servant to justice, however? "The prosecutor is in a peculiar and very definite sense the servants of the law, the two-fold aim of which is that guilt shall not escape, or innocence suffer", Supreme Court Justice George Sutherland wrote in 1935.²¹ "The citizens safety lies in the prosecutor who tempers zeal with human kindness", Justice Robert Jackson added five years later.²² But in the system of mass incarceration, where is human kindness? Where is the possibility for a second chance? The oath to protect the people while eliminating the threats within the community is a dangerous line to toe for any man or woman. People are not perfect, and we make mistakes. The difference between making a mistake of buying the wrong sized pants or sentencing a person to a lifetime in prison is a stark contrast. Who holds prosecutors responsible? Where is the power of checks and balances? "We often think of prosecutors and defense lawyers as points of a triangle on the same plane, with the judge poised above them: equal contest, level playing field, neutral arbiter,

²¹ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) XXX

²² Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) XXX

etc. That image is entirely out of date.”²³ The public has a greater say in the outcome of a trial than they realize; prosecutors bend to public opinion and when the city screams “lock him up”, the prosecutor feels compelled to comply or risk losing their reelection or reputation as a “winner.”

But there is a third option, a balance between these two ends of the spectrum. To prosecute, but not to the fullest extent of the law. The individualization of the law, which is to tailor the charge to the person and their action, is more on par with how justice should be. A “one size fits all” sentence excludes true intent, motive, DNA, etc. The public, that fly in the District Attorney’s ear, tends to feel in extremes. Often, it is the situation where there is outrage, and a cry for the person responsible for the crime to be locked away, given the death penalty, because the community is so deeply wounded from the loss of life that was taken.²⁴ Sometimes, and in recent years particularly, there is a pushback from a smaller, but just as loud community. As will be demonstrated in Chapter Two, when an unarmed Black boy is shot and killed, there is a cry for justice for the deceased. But prosecutors tend to tread lightly in these cases. The defendant claims self-defense, and the media calls for a race war. What do prosecutors do in these circumstances?²⁵ Looking at the case of Trayvon Martin—not much. George Zimmerman was charged with second-degree murder for

²³ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) XXVI

²⁴ Taylor, Clarence. *Fight the Power: African Americans and the Long History of Police Brutality in New York City* Clarence Taylor. (NYU Press. 2018)

²⁵ Taylor, Clarence. *Fight the Power: African Americans and the Long History of Police Brutality in New York City* Clarence Taylor. (NYU Press. 2018)

shooting the unarmed teenager in the back and the jury found him not guilty. Then, Zimmerman sues the Martin family for \$100 million ²⁶. Who is to blame when the defendant carries no blame? Where is humanity amidst this capitalism?

The way in which the media portrays prosecutors feeds the narrative to the public that, in order to achieve justice, there must be a guilty verdict. Shows such as *Law and Order: Special Victims Unit* reinforce the message that a dismissal of a charge means that the “good guys” lost. In recent seasons the show has introduced a “moral grey,” where the audience isn’t sure which side they’re rooting for from their couch. In morally grey scenarios of the show, the District Attorney receives the verdict in favor of the prosecution, but he knows that justice wasn’t served even though he “won.” This “progressive” attitude is a wolf in sheep's clothing, because a dismissal always, in every episode, means that there was no justice. The moment of self-doubt the attorney faces after sentencing a man to die in prison is quickly moved on from and not discussed again. The way this show works is there must always be a sentencing, but the flash of guilt or doubt comes from the length of the sentence. The doubt from the show comes from how strict the sentence is and what degree to prosecute; it comes from the charges. The prosecutors pushing for rehabilitation over time in prison, is a rare scenario. This messaging tells the public that not only do prosecutors fully know what they’re doing and shouldn’t be questioned, but that their delivery of justice is the only proper delivery of justice. By placing prosecutors on moral pedestals,

²⁶ Lewis, Sophie. George Zimmerman suing Trayvon Martin's family, attorney and others for \$100 million. (CBS News. 2019).

we strip them of their humanity and their ability to make a lasting, impactful mistake. Flashes of doubt from the prosecutor are quickly subdued from the detectives who remind the D.A. that the person was dangerous/ a threat/ the community is safer with them locked away. The absolute certainty with which cases are handled in these shows, that there is a right answer and a wrong answer, is too black and white for the justice system. Laws may be black and white but the prosecution of the individuals who break the law is grey. Both in this crime show and in present day America, race plays a major role in both prosecution, and determining sentencing of individuals. It was shocking to me to sit in a room with Black men who are serving life sentences for crimes where they did not harm any person or any property, and to know that there are Brock Turners everywhere, white rapists sentenced to six months who only serve three, because they're "good kids with bright futures." The conversations of racial profiling, police brutality, and bias prosecution on the show highlight realities of the flawed American prosecutor and system of prosecution.

Secondly, the defense attorney. The role of the defense attorney in criminal law is to represent the defendant and either settle with the prosecution and make a plea deal for their client or take the case to a trial jury:

Defense counsel should act zealously within the bounds of the law and standards on behalf of their clients, but have no duty to, and may not, execute any directive of the client which violates the law or such standards.

In representing a client, defense counsel may engage in a good faith challenge to the validity of such laws or standards if done openly.”²⁷

Defense counsel is bound by an oath that prosecutors are not bound by; to act zealously on behalf of their client. This is not remotely similar to the oath of prosecutors; in fact, it may even be opposite. Defense counsel fights for their client, but a prosecutor's oath is to fight for justice. “Justice” is so broad, so undefinable, so abstract from the humans involved in the case, that to act in the name of justice, a prosecutor could plausibly fight for the maximum sentence. This is precisely where the confusion and sometimes racism of the system stems from. When every prosecutor has a different foundation of “justice”, how can there be a standard application of the practice? If there are two prosecutors, A and B, and prosecutor A believes in prison reform and reeducation programs, and prosecutor B believes that justice is best served through locking up criminals for as long as the law allows, is it just the luck of the draw which prosecutor is assigned to a defendant's case? Currently, it is. The same judge, jury, and defense attorney mean nothing if the prosecutor is not willing to look at individual cases as individual cases, and not a “one size fits all” sentencing decision. Circling back to the prosecutor's role, the prosecutor suggests the sentencing, and until the definition of “justice” evolves past “specific crime = specific time”, justice will not be served.

²⁷ American Bar Association, CRIMINAL JUSTICE STANDARDS for the DEFENSE FUNCTION.

Thirdly, a very important character is the jury. In America, for criminal cases, there is a twelve-person jury of one's peers that is vetted by both the prosecutor and the defense in order to objectively convict or not convict the defendant. When Reginald Rose wrote *Twelve Angry Men* in 1954, it was technically legal for Black men to serve in juries and had been for decades. As part of the Civil Rights Act of 1875, race-based discrimination on jury service was illegal. Illegal in name, but still allowed in practice:

In some jurisdictions, names of black residents were included on the lists from which jury panels or 'venires' were drawn but were printed on a different color paper so they could be easily avoided during the supposedly random drawing of the venire. Theoretically valid but vague requirements for jury service – such as intelligence, experience, or good moral character – were applied in practice to mean 'no blacks allowed.' Another method subject to abuse and manipulation was the key man system, in which prominent citizens submitted lists of suitable jurors to jury commissioners.²⁸

During the 1920s and 1930s, lynchings of Black men in the South were rampant, and yet there were no Black men to serve on juries against the KKK. The prevailing and blatant abuse of justice led to an eventual strong pushback,

²⁸ Equal Justice Initiative. "Illegal Racial Discrimination in Jury Selection: A Continuing Legacy". (2010). Pages 4-13.

that took place not to correct the system, but to right an individual wrong. The Scottsboro case made national headlines, after an all-white jury wrongly convicted nine Black men of raping two white women; *Norris v. Alabama* set a new precedent of intentional inclusion of Black men in juries. The first Black man in America to serve on a jury was Dominick St. Thomas, who served on a jury in New Orleans in 1935 ²⁹. Legality, however, does not promise equity. It was not until the 1970's and 1980's that Black Americans began to be more integrated into juries, but still not in high stakes criminal cases, or cases where the defendant was Black: "Stevenson found that serious criminal cases and death penalty cases are even more prone to have discriminatory jury selection than other types of cases." ³⁰Even today, Black jurors with higher levels of education than their white counterparts are told their intelligence is not high enough, or they are dismissed for potential bias because they have a biracial child; the actual reasons for dismissal are nothing more than a smoke screen. In one study, which looked at jury trials from Alabama, Arkansas, Tennessee, Louisiana, Georgia, Florida, Mississippi and South Carolina, there were painfully obvious racially motivated dismissals, "in some counties, 80 percent of the African-Americans who had qualified for jury service were excluded... The culture has tolerated this all-white jury, white prosecutor, white judge phenomenon, because that's what people have seen for decades." ³¹

²⁹ Equal Justice Initiative. "Illegal Racial Discrimination in Jury Selection: A Continuing Legacy". (2010). Pages 4-13

³⁰ National Public Radio. Study: Blacks Routinely Excluded From Juries. 2010.

³¹ National Public Radio. Study: Blacks Routinely Excluded From Juries. 2010.

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Rehearsal Memo: 10/30

Today at rehearsal we picked up and went all the way to the end, we went a bit over class time, but they were very accommodating because we were so close. We had Steve in the room recording, and I was able to stay out for the first bit, I tried to quietly move people. It doesn't always work, sometimes I need to stop a scene and work on moments, I was moving people around to quietly adjust so as to keep the scene moving and the flow going. A couple times we did have to stop, we had to work the 3 & 8 grab and it was reassigned from 5 & 6 to 4 & 5 for holding back 3.

Carl Milofsky: I think one of the hard things in this play is the people who aren't the center of action to continue being engaged. I think if you're in the actual jury one of the things I would be auditing is the direction of all the people. So I think at the beginning the people are disengaged, so as things move along, certainly once we get into the second act, everybody is riveted. They may not all be "doing" stuff but it's important to each person in the place, the arguments are important to each person in the place, and I think that that's really hard. Right now when people don't have a scene coming up they kind of drift off.

Something I was trying to do, that I will be reminding folks is when they're looking at different individuals, and when they need to be especially engaged, when tension needs to be high. There was this beautiful moment where 3 almost stabs 8 and at first there was no reaction, so I said "let's stop and run it again" and we went back and I said "because of the mental state of juror 3, he might actually stab juror 8. There's a distinct possibility juror 8 is about to be stabbed, and what does that mean, how would you react?" So, we ran it again, and we had this beautiful crowd reaction; folks were gasping, some jumped out of their seats, it was beautiful. So, when people are engaged, they're in it- people just need to be reminded that they are paying attention, especially in Act II when their opinions aren't set in stone.

It will be a real challenge for people to project, to learn how to project, and when to project.

I made a note at the end that next week we would be working on projection, and I said to talk how Lane normally talks. She has a booming voice, and some folks do project, but not everyone yet. It's going to be difficult for some folks, especially the enunciation. That is going to be difficult. But if they don't enunciate, then we can't hear what they're saying, so we need to work on that and I will devise some exercises to practice. Oh, saying the word "devise" reminds me, when I walked into the classroom today Joel and Tito and Rob and

everyone were asking for my signature because they had the newspaper with the Unheard/Unspoken (the Bucknell mainstage production Jess and I were acting in) article on the front, and they were so proud I was in the newspaper. They had their copy of this newspaper, and in Twelve Angry Men Juror 4, who is Joel, is reading a newspaper so he said “that will be the newspaper I’m going to be reading”, which was a fun tie in and every sweet. That seems like a nice nod to the Bucknell Theatre department as well, to subtly include them in this piece of art. At the end of rehearsal Joel and Tito approached me to check in and asked if my brother had gotten approved to come in yet, and I was able to say yes! They were incredibly happy he was given permission to come, because they both know how much I love my brother and how special it would be on a personal level to have him there. Tito said to me at the end, “it goes both ways, just like you’re saying people are so excited to come meet us, we are just as excited to go meet them, because it’s not often we get to be introduced to people, let alone people’s families and loved ones”. I hadn’t realized that, and he continued to say “it really is a privilege and an honor to be able to meet your family and introduce myself to them and that’s just such a wonderful thing.” He said he was going to try to make them laugh, and I have no doubt he will, but it really is so wild to think about. People on the outside really are so excited to meet these guys, they’re celebrities, and everyone who I’ve spoken to about this production has made a point of saying “please introduce me to all the actors, I want to meet everybody, who’s Juror so and so I have to meet them,” because I’ve been talking about this show and these men and these people and how

invested I am, and through the nature of that people are now second hand invested. So I am truly excited to introduce my loved ones to this cast. There seems to be a sort of fascination with incarcerated people in TV and media; so many crime shows and yet once real people are arrested, they're invisible to "respectable society." For us to pull back the curtain and demonstrate that not only are these men brilliant and kind and generous, but they're hilarious and personable and witty. To describe them in this way is how I would describe any of my friends, but for outside people to see them for a night not as prisoners, but as artists- that will be remarkable. This fascination but also shunning of incarcerated people, perhaps it makes the return to society harder when a person is released. The stigma of prison, if people knew would they still be kind?

Trying to think back to specifics in rehearsal today, I did a reminder before Juror 10's big racist monologue because she asked something and used the word "I" so I stopped her and said "it's not you, it's Juror 10, continue" and I think it's important to remind individuals these are not their words. I did a reminder at the beginning because we did a two minute check in with your neighbor because, as I told them "we will be putting on words that aren't our own, and putting on actions and guilt and all those things that aren't our own, so let's take two minutes to be us before we get into role" and I think that this will be a helpful tool, specifically for the Outside students, the Bucknell students, to remind them that this is a role, they cannot go home carrying the burden of guilt. For these men to step into their character's body and put on that identity, it seems to be an escape. When we created character backgrounds- a common

practice in rehearsals to dive into who your character is, where they're from, why they feel the way they feel, the Inside students could reattach themselves to identities they've lost. They can be a father who comes home every night and sees his kids, they can be husbands and write stories of how their characters met their wives, they can be anything in a place that has stripped them of everything. Rob today was fully in role, the actions, the mannerisms, everything, it was Juror 3 today. And as we were walking out Derek was a little bit nervous, he has butterflies, and he said "I don't know, I'm getting kind of scared, I'm getting kind of nervous" and I told him "you know, I'd be scared if you weren't feeling that way", and he said "yeah don't want to get too cocky", so I think this is starting to feel real for folks. This is real, it's happening, and there will be an audience in front of them, and the work they put into this is going to show. The second act is harder than the first act because we run it less, but it's also half as long and twice as emotional. So they need to get off book for that, Lane needs to get off book. And she knows. At one point Joel saw me looking at her and made a face that said "whoops, you're caught" so they know I'm going to politely remind them that it's time to be off book, and I did, I reminded them.

How did you feel about having the camera around?

I feel like I am good at tuning it out. There were a couple times where I was caught up in the moment of the scene and the action that was happening and then it would end and the tension would release and I would realize there's a

camera seven inches from my face. The first time it happened I was still, I was giving opening remarks, and I laughed because he came right next to my face, so I knew it was something I would have to get used to. But it was very easy, you forget about it, and it's very easy to tune out.

You know, from my standpoint, it's kind of interesting because you really saw the performance as the performance. There was a clear thinking of constructing the video going on as you were thinking of constructing the play, and to me it was very much those two creative activities going on.

I agree, and I enjoy working with Steve; I think we have a similar artistic vision and I think that he has the best interest of the entire ensemble at heart so that makes me want to trust him. So, I'm feeling positively about that, but it was absolutely very interesting. What I'm hoping is they don't have to fuzz out the faces for privacy reasons. The men have unanimously consented to having their faces shown, I hope that is able to count for something. Steve's going to show them the cuts, so if there's anything they have a problem with they can cut that from the final product. But what he was also saying was having it uploaded to a certain place that you need a password to access, because the prison's concern is victims might be triggered by seeing the men's faces. But the victims aren't going to have the link and the password to access it, just certain groups would have it, so I think that's a good way of monitoring who has access.

Depends on what's going to happen with the video long-term. In the short term they're going to show it on the prison closed circuit TV set, after that they're not going to fuzz out faces. Then, I don't know, can we show it at Bucknell if the pictures aren't blurred, given that none of the victims are likely around Bucknell? I don't know what they'll do. And he argues that there's lots of prison documentaries.

Because there are, so I'm hoping they concede on that point.

To conclude this chapter, it is through the act of reflecting upon the intended roles of the “justice” system, and then observing the outcome, that one can see the disparities. Where is there justice in a system built to imprison Black men and women? There cannot be equality in society until the police and the application of the law cease to calculate skin color in sentencing. The prosecutor culture of “winning” is permitted through the intentional exclusion of Black individuals on the jury. The jury has the power to challenge the prosecutor, but by stacking the jury, the intended system of checks and balances is null and void. This deliberate side-step of criminal prosecution allows and encourages mass incarceration, which does not permit reform- only punishment.

When Emma experienced difficulty reciting her monologue, that role-playing had an emotional effect but ultimately, she is not that character and can walk away unscathed and guiltless about speaking words that perpetuate harm. Prosecutors do not have that ability to disassociate from their own role-play:

when they act, they inherently harm. Is it possible to have a “good” prosecutor? I believe so, because when those in power utilize their privileged position to work to undo trauma they have caused, then immediate good can be initiated and deeper harm could be prevented.

Chapter III

The Power of Race in the Law

Rehearsal Memo: 11/6- Dress Rehearsal

Today was the first time in the visiting room, and the first time running the full play in its length, and I think everyone was starting to get a little loopy by the end. It is a long show, with a lot of talking, so a first full run through can be mentally challenging. The designers were painting, and the backdrop looks absolutely beautiful, and I think it's going to be a great compliment to everything and everybody. We were not able to use the space in the visiting room that we will be using for the performance because the floors were waxed and we didn't have the tables, so we had twelve chairs for today, which affected some of the action but honestly, I think it was fine. I would argue it was a useful tool to not be covered by the tables, to be mindful of your body and physicality on stage. We had no scripts, and almost all the men are completely good. Derek needed to call for line a couple of times, but other than that we were for the most part fine. Emma and Lane do not know their lines, so I'm having meetings with them every day from now until the show so that they know their lines and their cues. There's going to be mandatory rehearsals that will be announced in an email to be sent out.

There's going to be class next Monday so people thought that might give an opportunity for some practicing and checking up on logistics. I'll tell everyone there's class.

Perfect, we can use that time well. I had the microphone on my body but I was not amplified so Steve could record everything I was saying for purposes of video sound. There were a couple funny moments where someone would say something or do something or give a look, so there's very much moments of levity amidst the chaos.

I have two things. I don't know if you've noticed, but there's very much a loud fan noise in the room.

Yes.

George thinks that comes from the vending machines, so he's going to try to have the vending machines turned off. They're refrigerated and he figures it's just two hours so stuff will be able to stay cold. But that did make it very hard to hear. And the other thing is, the men were all wearing boots today. So, I asked Derek and he said that in the visiting room they have to be properly attired according to prison regulations, which means they have to wear the boots. But the boots are extremely uncomfortable, so I noticed him walking around and you could tell his

feet hurt. And I think that's an issue, you know, if they're really uncomfortable it'll probably affect how they act.

Can we costume them in different shoes?

Now is the right time to ask, I imagine they don't want running shoes.

You might have to talk to people and see what you can get.

I'll ask about that in my email to Donadi (the Coal Township Principal), I definitely would like to push for dress shoes if we are able to.

It seems like it's a pretty firm prison rule, so you might have to go to Tom (Superintendent Thomas McGinley).

Good call, I'll email Tom requesting different shoes and explain the discomfort of the boots and how it's affecting their performance. In the email to Donadi I'm stating all the items that are being brought in, I'm asking if they can be stored, I'm asking if they can be brought in on Tuesday. Additionally, I'm talking to Drew asking for twelve personal microphones and asking how much lighting can be brought in. Then there's the whole business with the jackets, so I'm asking McGinley if we can have six jackets and six shirts. Excellent. It's a little nerve wracking, almost, to need to ask permission for every detail. I'm director, but what actual status does that hold in these circumstances?

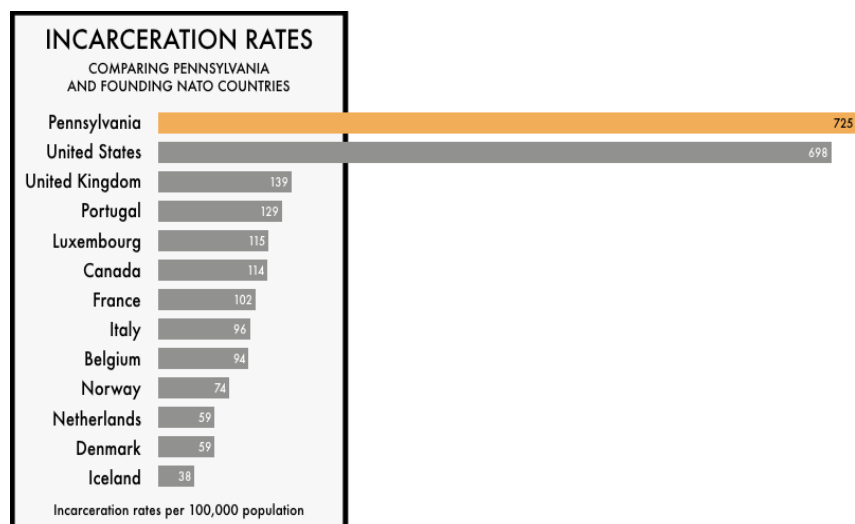
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The intent and consequence of mass incarceration is an unchecked attack on Black bodied individuals in this country. There are rules in prison, strict rules as to what is permissible and what cannot be done. The actuality of the “rules” of the criminal justice system, however, do not exist. The application of justice is at the discretion of the prosecutor. How can this be combated? How does the power of race affect the law? The American legal system has intentionally framed the courts in such a way that Black bodied individuals are kept out of the jury and remain the defendant. As the numbers currently stand:

A Bureau of Justice Statistics analysis showed that if current incarceration rates remain unchanged, 32 percent of black males and 17 percent of male Latinos born in 2001 can expect to spend time in prison during their lifetime. This compares to only 6 percent of white males who will go to prison. African-Americans make up 12 percent of the U.S. population, but today compose 40 percent of all prison inmates and 42 percent of those sentenced to death. ³²

³² Constitutional Rights Foundation. The Color of Justice. (2021)

These national trends are reflective of a broad and deeply ingrained prejudice in the United States. As it relates to Pennsylvania, the state where our production of *Twelve Angry Men* took place and thus the lens with which the inmates understand the law, there is an even greater incarceration rate for the state. These statistics directly affect Pennsylvania, and therefore the case study production. Currently 96,000 people are incarcerated in the state, and that rate has more than tripled in the last forty years. When comparing the state of Pennsylvania to NATO countries for Incarceration Rates, Pennsylvania beats every single country.



Source: <https://www.prisonpolicy.org/global/2018.html>

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To break down Pennsylvania Incarceration Rates by race, Black people are locked up at more than 8 times the rate than white individuals, even though Black individuals only make up 10.7% of the state, at 1,363,043 people. This statistic is

³³ Prison Policy Initiative, Pennsylvania Profile (2018).

even more striking because Pennsylvania is 80.53% white. It is not that Black people are the only folks committing crimes in the state; it is that Black folks are disproportionately imprisoned more than white individuals for the same crimes: “In Pennsylvania, Black people constituted roughly 11% of state residents, but 37% of people in jail and 47% of people in prison.”³⁴ The overrepresentation of Black men and women in the criminal prosecution system is clear and documented. Black men constitute about 13 percent of the male population, but about 35 percent of those incarcerated. One in five Black people born in 2001 is likely to be incarcerated in their lifetime, compared to one in 10 Latinx people and one in 29 white people. Discriminatory criminal justice policies and practices at all stages of the justice process have unjustifiably disadvantaged Black people, including through disparity in the enforcement of seemingly race-neutral laws. Studies have found that Black people are more likely to be stopped by the police, detained pretrial, charged with more serious crimes, and sentenced more harshly than white people—even when controlling for things like offense severity.”³⁵ This discrimination continues to conviction:

The RAND Corporation study found that convicted African-Americans were more likely than whites to go to prison. And their sentences were longer. This disparity suggests that probation officers, judges, and parole boards are exercising discretion in sentencing or release decisions in ways

³⁴ Vera Institute of Justice, *Incarceration Trends in Pennsylvania*

³⁵ Vera Institute of Justice, *Incarceration Trends in Pennsylvania*

that result in de facto discrimination against blacks. De facto means the discrimination exists in fact, but without legal authority. It may not be intentional.”³⁶

At SCI Coal Township, there are 2,293 inmates, and the facility is at 90.8% capacity. According to the PENNSYLVANIA DEPARTMENT OF CORRECTIONS MONTHLY POPULATION REPORT there is a 142 increase in 2021, and there was an increase last year as well³⁷. The racial statistics of prisoners at SCI Coal Township are not made public, however they do reflect the trend of Pennsylvania and the country- mostly Black men. Why does this matter? Not only does the overrepresentation of Black men in prisons contribute to the societal stigma connecting Blackness to crime, but it is a misuse of justice. The prosecution system, in theory, is not meant to be this biased against Black communities. There is strategy in this game of prosecution; it is not happenstance that Black men sit in jail waiting for their trial at a 25% higher rate than white men.³⁸ It is also not happenstance that “across the country, Black and brown defendants are at least 10-25% more likely than white defendants to be detained pretrial or to have to pay money bail” or that “young Black men are about 50% more likely to be detained pretrial than white defendants.”³⁹ It is strategy that “Black and

³⁶ Constitutional Rights Foundation. *The Color of Justice*. (2021)

³⁷ PENNSYLVANIA DEPARTMENT OF CORRECTIONS, PENNSYLVANIA DEPARTMENT OF CORRECTIONS MONTHLY POPULATION REPORT. (2021).

³⁸ Prison Policy Initiative, *How race impacts who is detained pretrial*. (2019).

³⁹ Prison Policy Initiative, *How race impacts who is detained pretrial*. (2019).

brown defendants receive bail amounts that are twice as high as bail set for white defendants – and they are less likely to be able to afford it.”⁴⁰

There is an incredibly organized, and intentional process to every aspect of courtroom proceedings, especially bail hearings. What is bail and why does it matter?

(Bail) usually determines who stays in jail and who gets out. Bail is the first domino in a series of decisions affecting guilty pleas and penalties, so it's not an exaggeration to say that whether it's affordable or not can shape the outcome of a criminal case – and even the rest of the defendant's life.⁴¹

The way bail is set is a crucial piece of the American justice system and cannot be taken lightly. It determines who is allowed to go home to await their trial, and who must stay in jail for weeks, months, perhaps years. Who sets the bail? Technically, the judge. But the prosecutor is encouraged to recommend an amount based on the severity of the crime, the defendant's criminal history, and the defendant's financial state.

The New York City Criminal Justice Agency (CJA) conducted a study on why judges often set bail higher than their department recommends. The CJA determines bail from reviewing criminal history and record of court appearances

⁴⁰ Prison Policy Initiative, How race impacts who is detained pretrial. (2019).

⁴¹ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 37

and bases their assessment of the likelihood of that person committing another offense. The “CJA sent observers to two thousand bail hearings in Brooklyn and Manhattan and found that the prosecutor’s bail request ‘was the only important factor in the amount of bail set.’”⁴² Why does the prosecutor have this power? How?

The U.S. Constitution includes the protection against ‘excessive bail’ also found in the English Bill of Rights of 1689. ‘Excessive bail shall not be required, nor excessive fines imposed,’ the first part of the Eighth Amendment reads. Interpreting the clause banning excessive bail in 1951, in a case called *Stack v. Boyle*, the Supreme Court said bail may be set only as high as ‘reasonably calculated’ to ensure the reappearance in court of the accused. But the standard was too vague to have much impact.⁴³

There is no uniform understanding of “reasonably calculated”, and so this protection to defendants is really only a protection in name.

There is a reason high-profile politicians and celebrities do not sit in jail, and it is for the same reason that Black men disproportionately fill jail cells. The money bail system was built to control who is locked up, and who is not. The anti-Blackness of a money bail system forces families who cannot afford freedom to sit

⁴² Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 39

⁴³ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 39

in jail and wait. Innocence or guilt does not matter here, all it takes is a charge to forcibly break up a family, unless they can pay. America fosters and actively supports anti-Blackness in law, as demonstrated by observing who in this country has historically held positions of power, and the bail money system is a one way that maintains this hierarchy, and keeps Black men sitting in jail waiting for justice, which is an expensive industry: “The cost of locking them up is nearly \$25 million a day. The annual total is \$9 billion.”⁴⁴ Anti-Blackness is so prevalent that \$9 billion a year is a justifiable price to pay to keep Black men off the streets, away from their communities, and out of the public eye.

These acts all allow for the system of mass incarceration to flourish:

Ending mass incarceration means narrowing the current conception of who counts as a violent felon and doing far more to ensure that the jailhouse gate isn't a revolving door. It means dismantling the barriers that regularly freeze people out of housing and employment after they are released. It means giving former felons to vote. It means treating them not like ex-cons, forever trailed by the worst thing they did, but as returning citizens, defined by who they become.⁴⁵

One solution to combating mass incarceration is to punish tunnel vision in prosecutors.

⁴⁴ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 41

⁴⁵ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) xxviii

Psychologists have identified a variety of cognitive distortions that contribute to tunnel vision. One is confirmation bias: the tendency to seek out and interpret evidence that supports a pre-existing belief or expectation. Another is hindsight bias: the tendency to see the outcome you seek as a foregone conclusion, to overestimate the degree to which you knew it (or thought you knew it) all along, and to see the judgment you made as the right one. ⁴⁶

When prosecutors only allow themselves to see facts that confirm their prejudices, dangerous and costly mistakes occur:

In 2002, an Illinois commission found that the tunnel vision of prosecutors contributed to the convictions of 13 men who were subsequently exonerated and released from death row. The governor, who had already declared a moratorium on executions, commuted more than 160 death sentences the following year. In 2004, a government report in Canada (which has a justice system that resembles the one in the United States in important ways) identified tunnel vision as a common factor in wrongful convictions. ⁴⁷

⁴⁶ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 16

⁴⁷ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 16

The acts of wrongful convictions contributed to the cultural prejudice that being Black is a crime. Prosecutors are not immune to the impacts of this cultural prejudice; in fact, the power of public opinion plays a role in the way the prosecutor chooses to do their job. “In a 2006 article for the *Wisconsin Law Review*, Findley argued that prosecutors, even more than police officers or judges, are susceptible to tunnel vision because the public sees their job narrowly. Conviction rates are the statistic many D. A.s cite in seeking re-election.”⁴⁸ If public opinion is that mass incarceration keeps our families safer, then data reflects that prosecutors will push to continue upholding the values of mass incarceration, which is reflective of a culture of anti-Blackness.

A second solution to fighting mass incarceration is prosecutors reflecting on the reality of their position, and what it means to be a successful prosecutor. What does success look like? Does success equate to the highest number of convictions? The answer in many cases is yes:

In 1975, the Constitutional law professor George Felkenes coined the phrase “conviction psychology” to describe the mindset of a prosecutor who “reasons that an innocent person would not be introduced into the system.” Recent research suggests that the culture of a district attorney's office, more than longevity in the job, shapes whether conviction psychology takes hold. In a study based on more than 250 interviews with prosecutors in eight offices across the Southeast and Southwest the law

⁴⁸ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 18

professors Ronald Wright and Kayla Levine talked to assistant district attorneys, many of whom described themselves as white knights battling evil.⁴⁹

The idea that prosecutors believe they are “white knights battling evil” places a higher stakes value on convictions. In this culture, to not convict is to lose:

... some of the prosecutors learn to think in shades of gray. Training, supervision, and reward structures geared toward restraint can instill an ethos of balance and mitigate against a rush to judgment. But in office culture that prizes aggression and trial victories can reinforce the drive to win at all costs. And rewarding guilty verdicts can narrow tunnel vision to a pinhole. ⁵⁰

The standard practices of prosecution as it currently stands embraces the culture of mass incarceration. This can be combated through bias training, and an elimination of “win at all costs” culture. A conviction does not equal a win, especially when tunnel vision has crept into play. Therefore, reform prosecution is a necessary adaptation that must be implemented immediately. “Prosecutorial reform means fundamentally altering the incentives that drive prosecutors. It

⁴⁹ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 19

⁵⁰ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 19

means supporting reform-minded prosecutors committed to reducing incarceration and prioritizing alternatives that are more effective at preventing future crime and improving community health.”⁵¹ It is the job of the public to hold prosecutors accountable for their “convict at any cost” mentality, as well as their prejudices that encourage tunnel vision and mass incarceration. This intense racial bias is not lost on the men in Coal Township. One of the inmates who acted in the play wrote about the law and society:

I can be honest and say that I know race plays a major role in the justice system. The facts are, that white people sell drugs, carry guns, shoot people, and everything else that encompasses crime. Most are from affluent communities where the focus is not cast upon them. These communities generate vast sums of money and provide a constant boost to the economy. The focus is upon the ghetto. Why? Because to the larger society, this is ground zero for the undesirables, those that rob, steal, and kill. This is where you observe a liquor store on every corner, large groups hanging out, or on the corner. This is where most people have never ventured, and if they did, it was with pure disdain. Schools in this area can't afford updated books, yet the school across town has money for the lacrosse team, manicured lawns, and the swim team. Hmm, call me crazy, but whom is it that decided where the budget money would be spent? Was

⁵¹ ACLU Smart Justice, Prosecution Reform And Why It's Needed

it the people in the " hood, " or those that want THEIR school to excel? Their schools get new equipment, while schools in the " hood" get used metal detectors.

The communities most impacted by mass incarceration are not ignorant to the heightened police presence, and the “guilty until proven innocent” mentality manifested by law enforcement:

There are countless numbers of men locked up due to lies fed to them by cops. As we both know, there is no accountability. The dirty cops, (they really exist beyond movies) get away with anything they want because most of the men in here had no knowledge of law, could not afford an attorney, and possibly weren't very literate. A guy with me now has been in for 12 years on a life sentence for a murder he had nothing to do with. This man was given life. After fighting for 12 years, the witness finally admitted to lying on the stand to erase a drug arrest they had.

I am pleased to state that this man was released in March of this year, but only after being robbed of 12 years of his life. Eyewitness testimony is not a guaranteed method of identification, people make mistakes. Where was the DNA? “But more often, simply watched prosecutors hold fast to the old conclusions, dismissing facts he brought to their attention or coming up with new

theories and straining to incorporate the new facts so that the conviction could remain intact.”⁵² The stretches that prosecutors will go to convict is immoral:

When a prosecutor refuses to drop the charges against a rape suspect after DNA testing shows that a different man is almost certainly the culprit, defense lawyers sarcastically refer to the new claim that both men committed the rape as the theory of ‘unindicted co-ejaculator’. In other words, a prosecutor has come up with a reason to keep the original defendant in prison even when there is no proof he contributed any DNA.

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This corrupt format of overlooking the absence of DNA in order to gain a conviction is directly responsible for the men sitting in prison, praying for someone to take another look at their case. There are groups to combat this misuse of power. The Innocence Project, for a prime example, utilizes Misused Forensic Evidence, False Confessions, Inadequate Defense, Eyewitness Misidentification, Jailhouse Informants and Access to Post-Conviction DNA Testing, to “exonerate(s) the wrongly convicted through DNA testing and reform(s) the criminal justice system to prevent future injustices.”⁵⁴ Through exoneration, education, and reform, the Innocence Project has already saved 232

⁵² Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 17

⁵³ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) 18

⁵⁴ The Innocence Project, Mission Statement

people. How much time was rescued? Innocence Project clients collectively spent 3,555 years wrongfully incarcerated. 192 clients were exonerated by DNA. When prosecutors cut corners or allow “winning” to matter more than human life, costly mistakes occur. Once in prison, who is there to protect or support the inmates, if not for the Innocence Project? What about the daily interactions involving safety?

The problem is that far too often, the channels established to lodge complaints against this type of corruption are governed by the same people we complain about. This opens the door for them to ignore our problems or cause us to be retaliated against. There needs to be a neutral, independent channel established for the men to seek resolution of situations, far removed from the buddy system in place now. This could drastically reduce staff assaults among other things. When the men feel they were wrongly charged with in house violations, which in many cases interfere with parole, freedom, or even liberties within the prison, and have no method to be vindicated, or at least be heard, lashing out often becomes the method of handling problems.

What happens to the men not supported by the outside? “Over the years, I can honestly say I've seen at least 300 guys whose trial transcripts clearly prove they didn't do the crime. No money, no attorney, and no knowledge of how to fight the case, and they slowly rot away and die behind these walls”, says the inmate. This

is a symptom of mass incarceration. These lives lost were preventable, these broken families were preventable, and these lonely deaths were preventable. What must change is the functioning of the prosecution and the police.

There is a great deal of power attached to race, both in the eyes of society and the law. This power is demonstrated through how prosecutors choose to execute their job. A jury trial is a staple of American justice, but what about the people who were not granted a jury trial? Inside men recalled memories of threats from prosecutors, that if they refuse to sign the plea deal, they'll never see their children again. Due to the lack of resources and education, every man signed. No man in this cast was granted a jury trial, but they performed a play as jurors. To our cast, a jury trial was a luxury they were never granted, and this sparked several conversations about the fear prosecutors incite, the importance of juries, and how different these men's lives may have been if they had gone to trial. There were multiple moments in rehearsals when I could see that the actors were no longer advocating for the character of the defendant, but they were really advocating for themselves. This play served as a therapeutic release of playing out a moment in time that each man in the cast fantasized about: a jury voting them not guilty.

Chapter IV

Blackness in Theatre: Who Makes Black Art?

Rehearsal Memo: 11/18- The Performance

So, tonight was the Monday night performance and I still feel some of the tension like it's still happening. I don't really have the words to express how I feel, so I'm just going to state instances from tonight that moved me. So, Burke and I arrived to find the stage completely built, the tables already assembled, everything was ready, the chairs were out, the men had been working so hard to make everything happen and it's just the six of them and they were working last night and they were working this morning. I went in and everyone immediately started asking "were you able to get any sleep last night", "how are you feeling", and Joel and I both knew we wouldn't be able to so we were both laughing about that. I was talking with everyone and I did check-ins (as per usual) and everyone was just so happy, and I ended up having a 45 minute conversation with Rob that just really touched my heart. He reminded me that I, just as something that his dad taught him and something that I do, put my last name first. So people, when they talk about me, whether it's guards, whether management, whether it's inside students or other inmates, they refer to me as "Ms. Gross," and the respect speaks for itself. We talked about how he got into this class and how he was so scared that I was disappointed in him at the end of last year since he didn't come to the last class, and I had said to him "are you

going to ditch me, are you going to abandon me” and he said “you are just so pure and so good, and I could never do that to you.” I don’t know what to do with that, he is just so so good. We talked about his family, how he didn’t have anyone come tonight because he doesn’t have a family unit, and everyone is dead or not around. He is going up for parole in February and his minimum is hit on June 23rd. His birthday is January 2nd, just a side note to remember. And he asked if I would write a letter for his parole, and I said absolutely, what a silly thing to ask. He kept telling me how proud he is of me and how much he respects me and how much I care and how much he cares, and it was really lovely.

One man came and joined the conversation, and I was reminded that I know more about these men than they know about each other. This man told a light, loose story, not sharing any intimate details, but talking about parenthood, because Rob said he wanted to be a father. He really, really wants to be a father, and we said he would be a great dad and said that being a father is about being emotionally present, even if you can’t be physically present. That was the worst thing, this man said, when his daughter was eleven, she was going through a difficult time and he told her “I’m here for you, I love you, I support you” and she had said “that’s nice, but you aren’t here and I don’t know you”. That broke his heart, and things happened to her later that were devastating, and he cried on the phone with her and gave the advice that it is better to cry on the phone and let her know that he cares than be physically present and to not show care at all. I think he does the best he can. Then, final

details were still being set up, and the Bucknell students arrived in costume, jackets were distributed, and everyone saw the space. We did greetings, everyone got to talk for a minute to get some nerves out. Then the actors did a line through of the entire play while I went to go change. There were some issues with the car keys and they told me I wasn't allowed to leave the visiting room, and I explained that I was granted permission to change; eventually it got sorted out and I went and changed into my dress in Burke's car and did my makeup quickly, and then returned and was ready with the printed copy of the email in hand to show any guard who tried to tell me I couldn't wear my dress, but everyone nodded as I passed and said "Ms. Gross" and I realized in that moment Rob was right. I entered the space and saw my actors finishing up and getting in the zone, so I went on stage to adjust the set around and fix minor details. I was trying to lift the makeshift curtain the design team had made from hospital curtains, and Derek immediately come over and stopped me from lifting and said, "you're all dressed up and looking cute, you stand there and give me directions and tell me what to do" and we all laughed, and I directed the adjustments. The food then began to be set out, tables covered in soups and desserts and wraps and sandwiches and all the food the men had told me were their favorites; that is what I asked to be served. I was too nervous to eat, but everything looked wonderful. It was really sweet to see the cast and designers all eating in one room together, sharing this time. Meals are such a moment of family time and family ties and this really is such a community. I had written everyone a thank you letter and had laid out a rose over their letter when I

came back in my dress. While they ate, I was doing final touches to props, adjusting the small things, filling up the water in the water pitcher, and really just fidgeting because I had so many butterflies. The audience was supposed to be arriving soon, so I brought everyone on stage and gave a little speech, and we did an energy circle, holding hands and squeezing the next hand once your hand has been squeezed. It's a theatre tradition I'm quite fond of; it helps with grounding actors to the moment and really connects as a cast before the performance begins. It's a very theatre thing to do, hold hands and pass the energy, and it felt good to share a theatre tradition with a group of new actors.

When the first bus of the audience arrived, which was very exciting, I was conducting introductions and I met Tito's family who are just a riot, and I met Joel's parents who are just such good people. I met Derek's family next, his brother and sister, and professors were arriving and then President Bravman arrived, so I was speaking with him, which was lovely. It was a lot of mingling and introducing folks to each other and getting to share in this moment with people amped up on love and support. Then it was time to start the show. Carl gets up there and goes "I forgot what I was going to say," which is so him, and then McGinley gave a very nice and complimentary speech and then I ascended the stage. I looked out into the audience of friends, family, and people who believed in me, in us, in this project, and I gave my speech. It was time to start, the lights went down, the spotlights turned on, and the curtains were pulled, and the play began. I don't think I relaxed my shoulders the entire first act. They did a great job, there were only two blips, they did a truly phenomenal job.

People were laughing, the audience was engaged, they cared, which was amazing to hear. I'm sitting front and center and from behind me would just come these waves of laughter and it was just... Wow.

During intermission I went back into the little room backstage we had taken over as a "dressing room" and I gave them a pump-up speech and said "keep up the projection, if a line gets dropped just keep going" and I reminded them how impressive and incredible they are and to finish strong. I went back out to the audience to give the actors a moment to drink water and breathe, and the audience was so complimentary and kind. I went back to the actors, they got into place for the second act, and the audience took their seats and the curtain once again opened.

Act II was strong; it was so strong. They knew it. They knew it. It was good. Emma's monologue was very nice, no lines were dropped. It was very cute, Tito started to say a line but he mixed up two words so he said "sorry" then went back into the line again. That's what he does in rehearsals, so it makes sense that would translate on stage. Rob was so funny, his physicalizations were phenomenal, he truly stepped into another body and did this role. Everyone was calling him James Dean, he was really, really good. I teared up when Tito had his final moment on stage, his last look at the chair when he's alone on stage. Then he walked through the door, shut it behind him, and the play was done.

Everyone was applauding, the cast came back out. The audience gave a standing ovation. The actors took their bow, the designers joined them onstage

and took their bow, Carl and I joined them and took our bow, I thanked everyone again and announced that the Q&A would begin in a few minutes. The actors changed, grabbed water, hugged their families, got food, and then we went into the Q&A. That was incredibly interesting, I allotted time for six questions because the prison needed us out by a certain time and I wanted the men to be able to socialize as much as they could. The actors and whole team were very complimentary to me, which was beyond heartwarming because I respect the men so greatly and to have them say such kind words about me made me think that maybe I did something right. Joel and Rob, I mean every man said something that brought me to tears; what I taught them, how I believed in them and supported them, and the power of my direction and guidance and they are just so kind. Folks had come up to me after the show ended and Anjalee made me cry, she said how proud she was. In reflection, we did not have a lot of time to do this show! It was maybe just over ten hours of true rehearsal, and they did it. You would have no idea that we had that time limit, you wouldn't know. They were a unit, they acted as a unit. It was just so good. John Bravman told me after that the reason he's in education is for students like me. He kept saying to my parents that "Mackenzie is the reason I'm an educator", and McGinley was so proud of this team, and the news reporters were so excited to be there, and the energy was just electric.

The Q&A was lovely, I was asked specifically about the casting process and I explained. And I looked at my dad and he had tears in his eyes. He was just so happy. He was so proud. It was wonderful. Once that ended we took a

group picture as a whole team on the stage, which I am so lucky to have. Everyone took pictures and shared laughs. I introduced all the men to my family and I spoke to everyone's families again and I just buzzed around thanking everyone for coming and reinforcing our appreciation for their support. I didn't eat, and I feel guilty that I didn't have any Italian Wedding soup because Joel was very excited that it was there because it's both of our favorite soups, but I was too nervous to eat all night. But I had a cupcake at the very end and a little wrap. The prison really pulled out all the stops for food in terms of quality and quantity; they were incredibly gracious. Most importantly, I'm glad our men got to eat really well for a night. A really striking moment was when Donadi was saying "okay, it's time to go, the men really need to go" and they all had their roses in their hands and they ascended the stage to cross to their door, and everyone left in the room was applauding them as they took their exits. They were turned over their shoulders smiling, walking backwards to keep waving, and the 30 or so folks left were standing and clapping as loud as possible as their encore. The joy on their faces was so real, and that's something Rob was speaking to earlier in our conversation. This was the moment getting them through the last few months, because through this they could forget about the reality of their situations, and they now had a specific purpose and others were counting on them. This was an experience they were passionate about and was something to keep forward to every day, and this has given them life for just a moment. In this blip in time, there was purpose. Rob said to me "even if no one else sees this, even if nothing comes of this, this

process has been enough". It must be a very scary thing to have the rest of your life planned to be in prison, and that is a fact that I cannot begin to comprehend or imagine how it feels. I hope Rob gets parole; I hope these men make it out. They deserve to live. I am so beyond proud of each individual man, and each of them came up to me afterwards to thank me for something specific that I had done; I had given them confidence, I had believed in them, I had told them they were worth something in this world and that alone was enough to motivate them to try. As they're telling me that I'm giving them confidence and respect and all of these things that don't seem shocking to me, I realize how much it means to those who aren't used to having a support system. That is what I have to say for now, but that was opening night.

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Our opening night was nerve-wracking, exciting, fulfilling, and bittersweet. The entire cast was emotional because not only was this the moment we had been preparing for, but it was also the beginning of the end. Opening nights, in any circumstance, brings a great deal of excitement, but a lot goes into making the night happen. For example, what is the cost of putting on a performance? Our costumes were bought at thrift stores, our props were borrowed from the Bucknell Theatre department, and our designers tailored the inside students' prison jackets to fit like proper suits. Our performance was significantly lower than the average professional production. To many, a

Broadway musical is the pinnacle of theatre, all of the glitz and glamor and singing and dancing- musical theatre provides a spectacle, as compared to straight plays which tend to be less flashy, and less known. The typical cost to produce a Broadway play is \$3,000,000- \$6,000,000. The typical price for a Broadway musical is \$8,000,000- \$12,000,000. This budget accounts for the costumes, light design, scenery, sound, music, publicity, rehearsal expenses, as well as the salaries for the artists and creative team. For a Broadway musical, the salary of the actors, stage managers, musicians (as well as the union dues) accounts for \$2,000,000. ⁵⁵

Just as important as telling the story, is who is writing the story. The writer will insert their own opinions, prejudices, and beliefs into their work to tell the story they wish to craft. But what about the writer's salary? In a recent study, accounting for data of the last four years:

It found that 79.1% of all theater produced was by white writers; with 9.6% by Black writers, 6.2% by Asian-American writers, 2.8% by MENA writers, 2.3% by Latinx writers, and none by Indigenous writers. If white writers are compensated more, then white writers will be able to build their career writing and stay in this business. Therefore, if white writers are the majority of writers in the industry, then white stories are primarily being told. Those numbers were consistent across Broadway and Off-Broadway.

⁵⁵ Rubino-Finn, Olivia. Broadway Budgets 101” Breaking Down the Production Budgets. (New Musical Theatre. 2016).

Meanwhile, 85.5% of shows were directed by white directors, while 14.4% of shows were overseen by BIPOC directors.”⁵⁶

The racial divide in who receives money and who is granted roles is shocking:

African Americans make up just 7.5 percent of membership in Actor's Equity, the labor union for live theatrical performance. A recent study showed that members of color have fewer work opportunities, just 7.5 percent of principal roles, and earn 10 percent less when they do find work. And according to TheaterMania, an industry site, in the current season, out of the 37 shows that were on stage before COVID, eight cast no artists of color. ⁵⁷

Additionally, “Caucasians are hired with higher contractual salaries both on and Off-Broadway. African-American actors reported salaries 10% lower than the average in principal in a play roles on Broadway, for example.” ⁵⁸ This gap in opportunities for creatives applies to directors as well. While I previously mentioned that the past few years represents the most racially diverse time in Broadway history, the bar for such a title is shockingly low. A report by the Asian American Performers Action Coalition in partnership with the American Theater

⁵⁶ Tran, Diep. White NYC Theater Actors Get More Jobs and More Pay According to New Study. (Backstage. 2020).

⁵⁷ Brown, Jeffrey. Davenport, Anne Azzi. On Broadway, Black artists push for racial equity. (PBS News Hour. 2020).

⁵⁸ Brown, Jeffrey. Davenport, Anne Azzi. On Broadway, Black artists push for racial equity. (PBS News Hour. 2020)

Wing, looked at one season (one year of shows) and examined New York City's 18 largest nonprofit theaters and all 41 Broadway stages. They found that “About 20 percent of shows in the 2017-18 season on Broadway and Off Broadway stages were created by people of color” and “nearly two-thirds of roles were filled by white actors on Broadway, and about 94 percent of directors were white.”⁵⁹ Since 2018, Broadway has staged *Ain't Too Proud*, *Tina*, *Hadestown*, *West Side Story*, *Slave Play* and *A Soldier's Play*, which all feature predominantly Black roles. Four musicals and two plays are not enough to combat the systemic exclusion of Black artists on Broadway. “As we strive to create a more equitable American theater, it is critical to understand where we are now, in order to chart a path to where we need to go,” Heather Hitchens, the president and chief executive of the American Theater Wing, said in a statement. “It is my hope that my colleagues will use it to guide more intentional and exponential inclusivity and equity.”⁶⁰ Where are we? Five years ago, the AAPAC report found that 87% of shows on and off Broadway had white authors.

People of color are a minority in all stage contracts on Broadway and national tours, with Caucasians making of 65 percent of principal actors in a play, 66 percent of principal actors in a musical, 57 percent of the chorus, and 77 percent of stage managers. AEA only signed six contracts for African-American stage managers on Broadway and five Off-Broadway during the two-year study.”

⁵⁹ Bahr, Sarah. White Actors and Directors Still Dominate Broadway Stages, Report Finds. (The New York Times. 2020).

⁶⁰ Bahr, Sarah. White Actors and Directors Still Dominate Broadway Stages, Report Finds. (The New York Times. 2020).

⁶¹ There is a definitive and absolute opportunity gap in theatre, and what is being done about it? Artists are speaking out. Drew Shade, along with several Black artists, have launched Black Theatre United with the hope of elevating the voices of Black artists and creatives:

And there has been an implicit bias to make the theater, the American theater, an older white type of craft, or older white type of experience, which is why I have come into the industry to sort of shake that up, to market to Black people, to market to people that would not normally think the theater was for them.

That's the whole reason why I'm here. ⁶²

What can white actors do to uplift Black creatives? In the case of *Twelve Angry Men*, the answer is to show up and be part of this re-education. In the case of outside theatre? Stay home. The responsibility of casting a racially appropriate Maria in *West Side Story* is not solely the burden of casting directors and creatives to bear. It is the responsibility of white women to refrain from auditioning for roles that were not written specifically for white women: “Complicating matters, minority actors are typically limited to roles written specifically for them, leaving them at the mercy of the playwrights and/or the

⁶¹ Clement, Olivia. *New Study Shows: Men Make More Money on Broadway Than Women, and the Majority Are White*. (Playbill. 2017).

⁶² Brown, Jeffrey. Davenport, Anne Azzi. *On Broadway, Black artists push for racial equity*. (PBS News Hour. 2020).

choices made by theater companies about what to produce.”⁶³ The opportunities in the theatre world are plentiful- calls are not put out for white actors, calls are put out for diversity because it can be held in good faith that white women will show up without that specific and intentional invitation. Is it a bad thing for white women in the industry to want to be seen? Not inherently, but it can be when done without intention. There are so few roles written specifically for bodies of color, that to take that away for the sake of playing a role is not only immoral, it is dangerous. To show up for auditions “is what you were taught to do. It is the way of the market, after all. It is capitalism.”⁶⁴ But this capitalist focus is an active agent in harming Black artists. When representation is stifled, a singular narrative is told. The folks who do not fit into that narrative are pushed aside, and this is the standard reaction. Black folks are overly represented in prison, but underly represented in theatre and this is intended to demonstrate the narrative that Black men and women are not creatives, they’re criminals. By flooding stages with white people telling sweet stories there is an unconscious social bias that is placed on the audience to trust these white people. When Black individuals are cast as villains in mostly white productions, that tells a specific story too. A new wave of audition protocol is called for, and it includes showing up for artists of color by not showing up to audition for roles without intention.

⁶³ Onuoha, Mimi & Commentary. Broadway won’t document its dramatic race problem, so a group of actors spent five years quietly gathering this data themselves. (Quartz. 2016).

⁶⁴ Everett, Stephanie. White Women: If I May Have a Word with You When It Comes to Auditions. OnStage Blog. (2020).

What harm does a white body taking a role do to the theatre? Actually, a great deal. There's an invisible fence in theatre that prevents artists of color auditioning for roles historically played by white men and women, and film is making strides at a faster pace than the stage. An example of a "white" role could be really, anything where it is not central to the plot that the character is a person of color. Roles in *Mean Girls*, *Dear Evan Hansen*, and *Waitress*, to name a few, offer white roles.

There is a way to address the scarcity of roles for people of color on Broadway, but the industry has yet to embrace it: many of the 80% of roles going to white performers can be filled by actors of color. There's a name for such a phenomenon. It's called non-traditional casting, and it's defined by Actor's Equity as "the casting of ethnic minority Actors, female Actors, senior Actors, and Actors with disabilities in roles where race, ethnicity, gender, or the presence or absence of a disability is not germane to the characters or play's development."⁶⁵ If non-traditional casting were to be implemented, the invisible fence preventing actors of color from showing up to audition for racially open characters would fall and audiences would see a more diverse Broadway. As Sarah Bellamy, an artistic director involved in the movement states:

I differentiate between black theater and plays with black people in them.

Black theater always has a social justice imperative and community uplift

⁶⁵ Onuoha, Mimi & Commentary. Broadway won't document its dramatic race problem, so a group of actors spent five years quietly gathering this data themselves. (Quartz. 2016).

embedded in it, whereas plays with black people in them might actually be injurious or do harm to the black community.⁶⁶

Right now, mainstream theatre consists of plays or musicals with Black people in them, as current Broadway caters to a white audience.

The roles that currently exist for Black actors, when written by white authors, lean into painful stereotypes. For example, Becky in *Waitress*, as well as the Nurse in *Waitress*, both sassy, loud, opinionated supporting characters. Becky, a large woman with an attitude to spare, is the best friend of the main character Jenna, a softer-spoken white woman. Inherently, there is nothing wrong with a spunky character, but Becky is not just a spunky character, she is a caricature of a Black woman. The Nurse is the same idea: outspoken, always talking, and rude, much to the amusement of the audience. These women were written to represent Black women by portraying all of the stereotypes about Black women that Black women are actively attempting to separate themselves from! By making Becky and Nurse “Black roles,” the stereotype of only seeing Black women as these types of characters continues, and that actively prevents Black women from being seen as leading lady potential. When the role of a Black woman onstage is to laugh at her size, attitude, and aggressiveness, there is an active gatekeeping of protagonist roles occurring, because keeping Black women in a box of specific roles they are allowed to play in otherwise white plays is

⁶⁶ Collins-Hughes, Laura. Paulson, Michael. Tillet, Salamishah. Four Black Artists on How Racism Corrodes the Theater World. (The New York Times. 2020).

limiting and damaging to actors, and directors alike. White women won't be cast as Becky, just as Black women most likely won't be cast as Jenna.

The roles available for Black men place these actors into boxes as well. The "brute" caricature, a dangerous Black man off to cause harm onto white women, still exists onstage today. *West Side Story*, not only included Brown face for many years rather than cast people of color, but additionally played into the brute trope with the rival gangs. The white gang (Jets) vs the gang of color (Sharks), our hero Tony comes from the white side to rescue Maria from the rival side. The sneaky, backstabbing characters of the Sharks gang are villains when compared to the dopey-boy-next-door-trying-to-be-tough kids from the Jets. This infantilization of white men is a reflection of modern society. It is reflected in the way we teach the law, and the way the law is enforced, as noted in Chapter III.

This brute caricature is reflected in every production of *Oklahoma!* I have ever seen, where the one Black man in the cast plays Jud, the rapey villain who attempts to murder the protagonist, Curly, and falls onto his own knife. This is not Broadway, it is regional and educational theatre, but it represents the power of casting and the lasting impressions racially motivated casting causes. When white directors, on any level of theatre make the choice to make the Black man the bad guy it sends a message, especially in white majority communities, that the Black men are the bad guys off the stage as well. We are currently in a race-focused culture where these implications exist. Some actors in film and on stage are publicly declaring their separation from the entertainment industry. Marsai Martin, the actor and producer who brought home two awards from the 2021

NAACP Image Awards this year, made a statement in March 2021 that she “...don’t do no Black pain. If it’s Black pain I don’t go for it because there’s so many films and projects about that, so that’s not who I am.”⁶⁷

I feel like we have got to get to a place where we feel comfortable with saying no to the things that hurt our community with the depictions of ourselves that are one dimensional. Because there is good and bad and high and low within the community, but I’ll be damned if I spend my whole life standing in the back row on 12 because as a director you haven’t found a creative way to include Black people into the world of the show and you’re trying your best to hide us and you’re trying your best to not have us steal focus. I think an easy way to make sure that we’re not stealing focus is to make sure there’s more than just one of us, because you put one Black body on a stage full of white people, guess where my eye’s going? I hate the use of Black and brown people as props. I hate the idea of colorblind casting because that’s saying that there’s no color and that’s not gonna work. There is color. So, color-inclusive is the way to go”,⁶⁸

says Mykal Kilgore, a Black Broadway alum who has been part of shows such as *Hair*, and *Motown*.

⁶⁷ Chuba, Kirsten. *NAACP Image Awards: Marsai Martin Reveals "No Black Pain" Project Rule*. (Hollywood Reporter. 2021).

⁶⁸ Fierberg, Ruthie. *Broadway’s Mykal Kilgore Calls Out Racism in the Theatre on Facebook*. (Playbill. 2020).

So if not for the sassy best friend or the villain, what is central about Black characters written by white writers? Their trauma. The acceptable narrative that Black characters are boxed into is how being Black makes life worse, how being Black is deprived of joy, and that to tell the story of any Black character is to tell the story of slavery and pain. There is no intersectionality in this narrative, no multi-dimensionality. These plays say “I am Black and nothing else about me matters”, which cuts off a great deal of a person's (or characters' life) thus making them a boring, one dimensional mouth piece to aid the protagonist in their journey of self-discovery. Our production of *Twelve Angry Men* did not play into this concept because the roles occupied by Black men were written for white bodies. This play was not meant to be cast with Black men or white women, it changes the entire meaning of the dialogue, and that is one reason it worked so well for our cast; it highlighted casual racism in the day to day when white men feel comfortable.

Additionally, Blackness is often written at the expense of Queerness. Either there is an overloading of trauma on one character (the pain of being both a Black man AND a gay man) or it's just not written. There are seldom “happy” gay stories, instead mainstream productions allow for the stories of Queer people to be limited to one single, often traumatic moment, called the Coming Out Moment. This is when the character battles with shame, confusion, and guilt and eventually decides to come out to his (not a lot of gay women) family at the risk of them disowning him. This is trauma. And it deeply hurts the Queer community, and it especially hurts the Black Queer community:

While many Black artists are generating work that are nuanced and empowering, and even dissecting of the white gaze, there are still just as many works that default towards ‘entertainment’. Coined by playwright Aurin Squire in his play *Zoohouse*, ‘entertainment’ is a trope that calls for historically oppressed people to be forced into situations where they must put their suffering and victimhood on display for the education and edification of the masses.⁶⁹

Again, our production of *Twelve Angry Men* was the intentional opposite of this scenario. But this exercise in emotional masochism has been at the forefront of many Black plays, with this trope being weaponized and commodified. Many Black characters in general are defined by their pain, and in plays that center on LGBTQ people of color, too often that pain is doubled because of their race and sexual orientation.

It is not just in the script that Black, queer individuals are ostracized. Mainstream, popular productions are no exception to the culture of racism, homophobia, and fear. In an article published in March of this year, Hamilton actor Daniel James Belnavis wrote “*The Unraveling of a Dream: My Life in the cast of Hamilton: An American Musical*”. In this 29-minute read that Belnavis trigger warned for racism, mental illness, heterosexism, sexual assault, and self-

⁶⁹ Scott, Marcus. Black, Queer, and Here. (American Theatre. 2019).

harm, he described in incredible detail his lived experience as a Black queer actor in *Hamilton*. From an audience's perspective, *Hamilton* is perhaps the most racially diverse mainstream production of the decade. The musical is primarily in a hip-hop/rap style, and was written by Lin Manuel Miranda, a white passing Puerto Rican man. The principal roles are played by actors of color, and it isn't a plot point because the show is history centered. Aaron Burr was not factually a Black man, but in the world of *Hamilton* it goes unquestioned. While the actors on stage represent diversity and equity, the same cannot be said for the rest of the *Hamilton* team:

The majority of *Hamilton*'s original team of designers and creators are white and male. All the producers? White. The casting team? White. *Hamilton*'s general management company? Run by two white men. The marketing and press company that *Hamilton* employs? Run by white people. The only Black person on the original creative team was its costume designer, Paul Tazwell.⁷⁰

For a show that made the active and conscious choice to include color conscious casting, which is not “color blind” but instead the decision to diversify the characters represented, they failed to include people of color in positions of power, or positions of expertise:

⁷⁰ Belnavis, Daniel J. *The Unraveling of a Dream: My Life in the cast of Hamilton: An American Musical*. (An Injustice Magazine. 2021).

The under-employment of Black music directors is a deeply problematic issue throughout the entire musical theatre industry but for *Hamilton*, a show that quite literally could not exist without Black culture, to not have one Black music director in any of their multiple companies is absurd.⁷¹

By maintaining the hierarchy of white men in leadership and actors of color below them, the power dynamic established will be dangerous.

The blame ultimately lies not with any cast-member of the show but with the culture facilitated and curated by *Hamilton's* creative team which was then upheld by the Angelica Company's leadership team. It was a culture of erasure and invalidation that left me feeling like Man 6 and Woman 5 were the spare set of Blacks in the periphery.⁷²

As Belnavis explains throughout the article, Man 6 and Women 5 are the smallest ensemble roles in the show and have 100% been filled by Black actors in the touring companies. When dark-skinned Black people are categorically filled into roles with no respect attached to them (as permitted and justified by the management) then these actors are treated worse than the ensemble. When leadership forces specific actors into a box, and treats those roles with no dignity

⁷¹ Belnavis, Daniel J. *The Unraveling of a Dream: My Life in the cast of Hamilton: An American Musical*. (An Injustice Magazine. 2021).

⁷² Belnavis, Daniel J. *The Unraveling of a Dream: My Life in the cast of Hamilton: An American Musical*. (An Injustice Magazine. 2021).

or respect, there cannot be surprise when that mentality manifests itself in the rest of the cast. Management is leadership, and they are meant to protect actors, and maintain the integrity and dignity of those in their ensemble. When white leadership fails their Black actors *intentionally*, then it is clear there is no mutual respect in the workplace. Belnavis was struggling with his mental health due to the failing of leadership; failure to communicate, include, and respect:

I was continually met with silence.
 Now, silence in and of itself is cold.
 When it is to an actor you have worked with
 and developed a relationship with
 for well over a year, silence is callous.
 And when that actor is a Black gay man
 who has made himself vulnerable
 by sharing his struggles with mental illness,
 silence is downright dangerous.⁷³

This dangerous silence did not appear out of nowhere; it was cultivated and crafted through the intentional exclusion of queer people of color in position of power:

⁷³ Belnavis, Daniel J. The Unraveling of a Dream: My Life in the cast of Hamilton: An American Musical. (An Injustice Magazine. 2021).

Hamilton is, without question, a Boys' Club rooted in toxic masculinity and heteronormativity which is derived from its four creators: Lin Manuel Miranda, Tommy Kail, Andy Blankenbuehler, and Alex Lacamoire — all of whom are straight cis-gendered men with either white or light-skinned privilege. In my experience, they facilitated a heterosexist work environment that made “some persons comfortable or powerful” while “providing supports, assets, approvals, and rewards to those who live and expect to live in heterosexual pairs.”⁷⁴

Male dominated spaces or white dominated spaces are not rare, it only takes a look at the federal government to see that the white, straight, male demographic has historically been in leadership positions, and they maintain to be the status quo today:

I can be grateful for an opportunity while also recognizing its inherent limitations and striving for more. And, quite frankly, I'm sick of being grateful. Black gratitude is a tiresome trope thrust upon us in order to make us think we should be happy with what we get whereas our white counterparts, when presented with the same shit, view it as oppression.⁷⁵

⁷⁴ McIntosh, Peggy. “White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women's Studies”, (1988), 8.

⁷⁵ Belnavis, Daniel J. The Unraveling of a Dream: My Life in the cast of *Hamilton: An American Musical*. (An Injustice Magazine. 2021).

This concept of Black gratitude is another form of oppressive silencing. Black gratitude is not limited to theatre; in a police traffic stop Black men are the most likely demographic to be pulled over and arrested. ⁷⁶ In speaking to incarcerated Black men, the fear of police brutality is deeply prevalent, and there is an attitude of thankfulness when one cop doesn't terrorize a person of color and abuse their situation. When there is a precedent for abuse in systems of power, there will be fear. The job of the police is not to be a domestic terrorist, it is to "protect life and property" ⁷⁷ and the expectation of harm speaks to the deep prejudice of the police against Black bodied individuals in America, as well as the prejudice of white people in power against Black-bodied individuals in America. This need for change is all around us, and the theatre community is no exception:

The only way for real change to come about in the theatre industry is through a complete dismantling of the old ways and an intentional, thoughtful building back up again. And if Black and Brown theatre professionals are not "in the room where it happens" making artistic decisions, structural racism and marginalization will prevail. ⁷⁸

How does this abuse of power translate back to *Twelve Angry Men*? One inside student wrote:

⁷⁶ New York University, Research Shows Black Drivers More Likely to Be Stopped by Police. (2020).

⁷⁷ THE UNIVERSITY of NORTH CAROLINA at CHAPEL HILL, Officer Expectations and Duties.

⁷⁸ Belnavis, Daniel J. *The Unraveling of a Dream: My Life in the cast of Hamilton: An American Musical*. (An Injustice Magazine. 2021).

The problem is that far too often, the channels established to lodge complaints against this type of corruption are governed by the same people we complain about. This opens the door for them to ignore our problems, or cause us to be retaliated against. There needs to be a neutral, independent channel established for the men to seek resolution of situations, far removed from the buddy system in place now. This could drastically reduce staff assaults among other things. When the men feel they were wrongly charged with in house violations, which in many cases interfere with parole, freedom, or even liberties within the prison, and have no method to be vindicated, or at least be heard, lashing out often becomes the method of handling problems.

In both productions, *Hamilton* and *Twelve Angry Men*, there are systems of corruption in place that make advocating for oneself a suicide mission. The power structures in place do not allow for a “check” system of any kind, and what guard will believe an inmate's testimony over a fellow guard? This also contributes to mass incarceration, because at the whim of another's feelings, the limited freedoms allotted to an inmate (phone privileges, for example) can be stripped. There is no feeling of safety or security.

In addition to race and gender, sexuality creates a deep divide in treatment in the workplace: “Straight cast members were granted the most mobility within the company. Many of the men that were transferred or promoted were straight,

or white, or had the compounded privilege of both.”⁷⁹ Straight privilege in the world of theatre, and the greater world of just living in 2021, is real. There are no religions condemning a straight person to hell or forbidding them to get married. There are no power struggles, or shame in straightness, because the society we live in is so deeply heteronormative that to be anything other than straight is to be an “other”.

Why are the needs of queer people,
 especially single queer people,
 especially Black single queer people
 automatically deemed less important than those with heterosexual
 privilege?

It is not a simple question. It plunges into the entangled reality that
 ‘heteronormativity interacts with institutionalized racism, patriarchy, and
 class exploitation...’.⁸⁰

These three facets: racism, patriarchy, and class exploitation, are perhaps why there is such a power struggle in the hierarchy of theatre, and why *Hamilton* (though seemingly better) is just more of the same:

⁷⁹ Belnavis, Daniel J. *The Unraveling of a Dream: My Life in the cast of Hamilton: An American Musical*. (An Injustice Magazine. 2021).

⁸⁰ Belnavis, Daniel J. *The Unraveling of a Dream: My Life in the cast of Hamilton: An American Musical*. (An Injustice Magazine. 2021).

Perhaps I was naive. Perhaps my standards were too high. Perhaps I should have seen through the solution that *Hamilton* purports itself to be and instead viewed it for what it is: a white corporate machine that uses the optics of diversity and an appropriation of Black culture for its own capitalistic pursuits, thus exploiting actors of color in the process. It is, in many ways, a microcosm of our world—rooted in systemic racism, tokenism, straight white male hegemony, colorism, and capitalism.⁸¹

As we see when news such as this comes to light, the appearance of diversity is not the same as equity or inclusion. It is not enough to see equity on stage; through the celebration (not just the acceptance) of queer characters and Black characters, where their purpose in the story is to be more than the “diversity”. We must experience equity in the workplace, so Blackness, queerness, and the intersectionality of these identities is not an ostracizing experience, but a celebrated one. Most stories featuring queer characters of color forefront the atrocities that inherently arise from the stigmatization of one’s sexual agency and one’s race. Rather than showcasing the beauty within the full expression of queerness—such as falling in love or (in *A Strange Loop*) standing up to your parents—too often white writers are defaulting to trauma: “We need to work

⁸¹ Belnavis, Daniel J. The Unraveling of a Dream: My Life in the cast of Hamilton: An American Musical. (An Injustice Magazine. 2021).

harder for diversity in terms of who is writing about what’s onstage” states Kenny Leon.⁸²

Part of the joy of our production came from *not* casting the show as it was meant to be cast. Black men are not intended to be part of this show! Women are not intended to be part of this show! Through casting with the intent of highlighting the injustices of the criminal prosecution system, we have reclaimed power not meant for us. Black protagonists, female leaders, and white racism being targeted were joys that came from working with a diverse cast. Since *Twelve Angry Men* was not written for Black men, there’s no entertainment or conflicts with other characters in dialogue for being Black. This allowed an almost



blank slate, so instead of playing a “Black juror” and that being a written point of contention in the play, the actors were free to be jurors and explore their characters as individuals, which is the

freedom white actors are almost always granted. The tension in the play then came from the characters' written racism. The multipage, hate-filled, racist monologue from Juror 10 mentioned in a Rehearsal Memo previously recognizes this tension and also asks the question, would it be as uncomfortable if there were no Black people in the room? This language was acceptable enough to put on

⁸² Collins-Hughes, Laura. Paulson, Michael. Tillet, Salamishah. *Four Black Artists on How Racism Corrodes the Theater World*. (The New York Times. 2020).

stage and then make a film of, and the characters turn their backs on Juror 10 literally and figuratively after that moment. If there were written Black jurors, would Juror 10 still feel so comfortable being so explicitly anti-Black? There is an assumption in that moment when Juror 10 chooses to speak, that someone else in that room will agree with him. What are the implications in our production when Juror 10 makes that speech, does he believe others will agree with him, and what in society has enabled him to think that way? The conversations following these posed questions with the cast and crew opened a space to discuss present day prejudice, ingrained anti-Blackness in America, and the ease at which racists can live because of role models in government. The timing of this show during Donald Trump's presidency was an Easter egg of a gift, because, as the men shared, the blatant and outspoken racism that has been inflicted upon them increased exponentially after leaders of America allowed anti-Blackness to thrive.

The anti-Blackness in the theatre is perpetuated from the anti-Blackness permitted in society. What audiences see on stage translates to their perceptions of people or cultures they're observing, so white audiences seeing dangerous/aggressive/loud/promiscuous Black individuals on stage has dangerous effects that lead to the support of anti-Black structures in place. Art has the power to change these perceptions, and production such as Coal Townships *Twelve Angry Men* supports this movement of changing the narrative associated to Black bodies on stage being used for trauma. In *Twelve Angry Men*, Black men are not intended to be part of this show! Women are not intended to be part of this show! Through casting with the intent of highlighting the injustices

of the criminal prosecution system, the cast reclaimed a sense of power. Black protagonists, female leaders, and targeting white racism were joys that came from working with a diverse cast. Since *Twelve Angry Men* was not written for Black men, there's no entertainment. There are no conflicts with other characters in dialogue for being Black. This allowed an almost blank slate, so instead of playing a "Black juror" or a "female Juror" and that being a written point of contention in the play or a written source of power dynamics, the characters were on an *equal hierarchical ground*. The actors were free to be jurors and explore their characters as individuals, which is the freedom white male actors are almost always granted.



Chapter V: Lasting Effects

Rehearsal Memo: 11/20- Cast After Finale

The Inside performance just happened, our show is now closed, what are everyone's thoughts?

C: I think the facial expressions among the actors were more subtle today. I think that's really important, so that you pick up on the way the tide is turning. Before, the getting up and facing away seemed like it just kind of happened, but today I thought it was much more built up, and I thought that was really across the whole cast.

I agree, I started looking for it, I started looking for when I knew their character had the emotional flip to side with Juror 8, and I really enjoyed the build ups today. Everyone had their own personal wave.

Jess: On a different note, it was really difficult having to be rushed out of there today. I understand why completely, but especially because now it's going to be two weeks till we see them and even then it won't be our typical day, it's graduation. I don't know how that goes, but that was tough. That was tough, it was this huge climactic moment when it ended and then they were immediately gone and we didn't get to have a word with any of the guys.

It's nice to have a beat after to take a breath and congratulate everyone. It's been so much, and everyone's put in so much work. (note: a "beat" is an intentional pause).

*Lane: I have no idea what I'm going to do with all my time now, quite honestly.
(soft laughs)*

Lane: But I really am grateful to have been part of this, and just like Jess was saying it was really hard to be rushed out of there. One of the guys was saying, ya know, 'where are they rushing you off to' and I was, just like Jess said too, it's hard. Everybody in the car is going home to their families for Thanksgiving, it's such a family holiday, and it's just tough to know that they'll be in there still.

Katie Jo: Yeah, I think we did such a good job so I'm really happy and a guy at the end stood up and said "that's excellent" so I think everyone just performed really well and it was really fun to do something artistic.

Lane: Creative

Katie Jo: Yeah, creative.

Natalie: Yeah, I can't believe it's over. I can't believe I don't have to speak in a German accent anymore. Really happy about it. I'm really sad about everything

else, I'm going to miss it. Hard to leave so quickly, but excited for two weeks.

Kind of a surreal feeling.

~

When we walked out of the prison that day, I knew it wasn't the end. This experience and research had to be documented, and I will close this thesis with additional thoughts I was struck by throughout this process.

Change cannot happen on a broad scale until society sees the current system as dangerous. If prosecutors and the public alike believe that reform is not necessary, then growth will be stunted, and the pushback will escalate to become a political issue. This movement for change has begun, and it is the job of white individuals to fervently use their voice and their vote to support the end of mass incarceration. When white America begins to state demands, politicians begin to listen. The inherent privilege of this act, that the outrage of Black America is not enough to push forth policies, speaks to the systematic "othering" that takes place in politics. Policies that aren't profitable or aren't in line with a re-election campaign get swept under the rug to appeal to the white masses, and that is injustice in every sense. The irony of this is that education programs and theatre programs will save millions of taxpayer dollars in the long run. Reform is not only the less expensive choice, it is also the more humanitarian option.

When one group of people in a society matter more than another, how can an equitable justice take place? It cannot. Investing in incarcerated communities,

and in reform prosecution, are the steps America must take to correct the path of immorality we are on. Through investing in incarcerated communities, we can fix the stigma of “ex-convict”, which will in turn positively affect the families of previously incarcerated people: “The Vera Institute of Justice pointed out that if they don't sufficiently recover, people who are victimized, especially when they're young, are more likely to gravitate toward peers they think can protect them and to commit retaliatory violence themselves.”⁸³ By committing to support, counsel, and uplift people who have been incarcerated, we can stop the cycle of victimization.

In conclusion, mass incarceration is a pandemic that can only properly be combated when there exists an investment from everyone in the community. Not only is it more cost effective for taxpayers, but this financial investment is the more humane choice. Not only is reform proven to reduce recidivism rates, but this educational investment is the more humane choice. Not only is there in incarcerated spaces demonstrative of instilling valuable life skills to prisoners, but this emotional investment is the more humane choice. Ultimately, it is our job as community members to make the financial, educational, and emotional investment in incarcerated communities and support educational and theatre programs in prisons, not just for the sake of the individual prisoners, but for the sake of bettering society.

⁸³ Bazelon, Emily, *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration* (Random House Publishing Group, 2020) xvi

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