- Your usual host. Tonight is special though because it's not live. We're actually taping this on Wednesday, December 8 and trying to take advantage of the fact that Marc Maurer is here to give a talk tonight. Marc is from Washington, and what I have in mind today is to welcome you to a conversation between Marc Maurer and Ray Hill. Let me start by asking Marc to introduce himself and give you a little overview of the problem as he sees it. Marc.

- Sure. Well, thanks for having me here. I work in Washington with an organization called The Sentencing Project, which advocates for alternatives to incarceration and does research on criminal justice policy. And I've just written a book called *Race to Incarcerate,* which tracks the rise of the prison system over the last quarter century in the United States and tries to ask some questions about what implications this has for our society, both in terms of crime control and what it means for a democratic society.

It seems to me that during the last 25 years, we've been engaged in what I think can only be called an experiment in the use of mass incarceration as a means of crime control. It's really unlike anything we've seen before in history.

- Now Marc, we actually have that slide, you want to show it?

- Sure. What we can see, I think, is if we look at the history of incarceration in this country over the last 75 years, beginning about 1925, we had a period for about 50 years where there was relatively little change in the number of people in prison, hovering around 200,000. It went up a little during the Depression, down a little during World War II, but no significant changes.

Beginning in 1972 though, as you can see, we had a dramatic rise going from about 200,000 people in prison adding a fully one million extra inmates. So now we have six times as many people locked up as we did just 25 years ago. If you add in the people in local jails, we're approaching the point where we'll have two million Americans behind bars by the end of the year 2000.

Now in order to put some perspective on this, we can look at a comparison of how the United States stands in terms of international rates of incarceration. What we see here, I find rather disturbing, that the United States is second only to Russia in terms of its rate of incarceration, the proportion of our population behind bars. If we compare ourselves to other industrialized nations like Canada or Western Europe, we lock people up at about five or eight times the rate of all those other nations.

- How did you learn about these figures?

- These go back to 1997 actually and we've seen some more recent ones and no significant changes since then either. And the ironic part is that the Russian parliament has actually just approved an amnesty and they're expecting to release as many as 90,000 prisoners over the next year. And if that takes place, then it's quite certain the United States will actually leap into position of the world's leading incarcerate over Russia.

The other main theme I talk in my book,*Race to Incarcerate,* has to do with the racial disparities of our prison system. I think it's no surprise to anyone that prisoners are disproportionately from low income backgrounds, disproportionate minorities. And to such a great extent, that research from the Justice Department shows us is here. The chances that a Black male born today will end up in prison are 29%.

So essentially, three of every 10 Black males can expect to do time in prison at some point in his lifetime if current trends continue. For Hispanic males it's 16% and for White males it's 4%. So whenever we hear political leaders and others talking about how incarceration works or prison works or anything like that, this is part of the price of that so-called success that we're paying.

I'm not convinced it's much of a success to begin with. But even if one thinks it's been helpful, it's taken a great toll certainly in terms of the disparities that we see in the system the cost to society in so many different kinds of ways.

- Marc, before I introduce Ray, let me ask you to tell us a little bit about how did you get involved in this question that's the prison problem?

- Sure. I've been involved in this issue for about 25 years now or so. I was been an activist in the anti-war movement and civil rights movements in the 1960s. Then went to graduate school, University of Michigan, in the early 1970s and had to do a field placement as part of my social work program there. And there was a local Quaker office there of the American Friends Service Committee and I'd known about them through the anti-war movement and had been very impressed with their work.

I went by to see what they were doing and they were involved in a bail reform project. At the time, bail bondsman pretty much to rule the system of pretrial release and you couldn't get out of jail unless you paid your money to a bondsman who was profiting off of your incarceration essentially. And this was very difficult, people didn't have much money and they often charge pretty high rates.

And so we had started a community bail fund. We raised some money from churches and other people to post bail for people who couldn't raise the funds themselves and trying to demonstrate that you shouldn't determine questions of liberty and freedom based on ability to pay. And it's very much contrary to what our system of Justice should be all about. Fortunately, I think over the last 20 years or so, we've seen some significant changes in the whole bail and pretrial release system.

Now we have, in many cities, pretrial release programs that make recommendations of the judge that supervise people and release. We still have bail bondsman in many places, but their influence over the system is very much removed. After doing that, I got involved and started visiting in the prisons and talking to inmates and learning a lot about what goes on in prison, learning a lot about their lives and how they ended up in prison.

And it's always seemed to me that going in prisons is probably the best education any of us could do in terms of trying to break down some of those stereotypes about the images people have of who these criminals are as we're known to think of them. It turns out that they're people with problems and people have made mistakes, but the humanity comes through very clearly and the issues that we need to confront as a society very much so.

- Absolutely. I've been doing a little bit of that myself and I know exactly what you mean. Well, I want to introduce now Ray Hill. Now, everybody in Harris County who has a serious interest in the prison problem will know Ray Hill, but he's never been on our program. And maybe some of the people who are interested in the drug problem don't know him. So Ray, let me ask you just to introduce yourself.

- Well, I'm just an ex-convict who got out of prison some 25 years ago. I celebrate my 25th anniversary of my release next March actually. And just could not walk away from it. I'm a compulsive sociologist. And so if they had given me enough legal pads, I could have stayed there forever and studied the ebb and flow of the pecking order.

But the institutional environment was so shocking to me and so seductive to me. But four years and four months after I went in, when it was time for me to get out, I was more afraid to get out than I had been to go in. And I thought this is a serious anomaly and I need to study that. So when I got the opportunity to do *The Prison Show,* and I've been doing it now for 20 years, my idea was to educate the public.

And that didn't work out very well, so now I talk to convicts because they can change the world that maybe the rest of us can't. My question to your good guest is-- is there a ceiling? How far can this go?

- Well, some of us thought some time ago, I guess, that maybe the cost argument would be conclusive that you look at the $100,000 cost of building a prison cell and $20,000 to keep an inmate in there that this would have some influence over policymakers. And I think here and there it's been somewhat of a factor, not nearly what some of us thought it might be 15 or 20 years ago.

I think the only signs of hope recently are particularly given the enormous increase of drug offenders in prison, it seems to me more and more people are understanding the injustice of mandatory sentencing laws, putting low level offenders in for mandatory five-year prison terms. We hear some more conservative voices, some people-- The Heritage Foundation and other places now questioning whether we should have elderly inmates in prison for as long as they are questioning some of the mandatory sentencing laws.

So I think there's some glimmers of hope that there might be a rethinking. Of course, it's a real political question, I would think, right? Who's going to be the first candidate who's going to get out there and say we need to reverse the war on drugs and rethink our sentencing policies?

- Well, the war on drugs is a big part of the problem. I mean, do you have a theory as to why no one is noticing that is not winning war, it is always losing war?

- It seems to me a lot of it has to do with race and class, right? I mean, I think a lot of the war on drugs is a war on low income drug use. By and large, suburban people who abuse drugs have different methods of dealing with the problem, right? It's called treatment and it's called dealing with your friends or having the money to buy drugs and having to steal to get it.

And as long as it's people perceived as other people who get locked up, I think it makes it more difficult to have any mass movement to change that. Ironically, it seems to me the mandatory sentences, in some ways, have done our job for us because more and more you get some college students and other otherwise upstanding middle class people get caught up under these mandatory sentences and some of they, they and their families are outraged about it and get politically organized and have access to people with power. So see a little bit of change there.

- That kind of happens in federal courts, but when you get down to the nitty gritty in places like Texas, there's always the fix. And so while it would be outright bribery sometimes, political connections, lost files, it's very rarely does anyone over the lower middle class ever make it to a Texas prison.

- Well, I think most of them, they don't even come in the system in the first place. And when they do, then they've got all the-- I don't think it needs to require a bribe, usually it's just the normal resources that person with some means can bring to the system-- better attorneys that know how to negotiate, and in the eyes of the prosecutor, you don't look like the sort of person who's supposed to be in prison and making decisions based on factors like that. So we have two very different paths.

- What does it cost to keep someone in prison these days?

- Well, it's minimally about $20,000 a year to keep them locked up. And you think of some of the federal mandatory prison sentences, we spend $100,000 for possessing 5 grams of cocaine, crack cocaine, the weight of two pennies. So if you thought in terms of either if you wanted to do something about drug treatment or you want to do something about prevention, I can think of an awful lot of things one could do with $100,000 to try to have an impact on that.

- More or less $20,000 a year-- you could send these folks to the University of Texas and give them a dorm room, and a food allowance, and maybe buy them a beat up old car.

- You might be able to do that exactly. Right. Right.

- Certainly, a good bicycle.

- Right. Right. Right.

- And nobody in your experience-- I mean, you get to travel the whole country, we're pretty much encapsulated here under Johnny Holmes section of the universe. You haven't run across a large number of people that are figuring any of this out?

- Well, I think there are quite a few who are actually. I think even many of the people who work in the prison system understand this-- the prison wardens, the corrections officials, they just see the prisons filling up with lower level drug offenders. And I don't hear many of them saying we should open the prison gates tomorrow and let everybody out, but I do hear them say if we had adequate supervision treatment programs that we could send people to instead, they don't need to be in a locked prison cell for years on end to deal with what's basically a substance abuse problem, we have other things we could do.

We've also seen this explosion of drug courts in recent years. And I think it's too early to know all the research, but essentially these drug courts mean that a judge sends you to go to treatment rather than spending six months in the County Jail. And not everybody does it successfully, but of those who do, they're going to be less likely to be using drugs, getting involved in crime.

And so I think this is a very practical approach, and by and large, we're getting a very good response. The question it seems is we've got the political rhetoric around the war on drugs and here you got some practical solutions being tried-- how do you deal with the politics of a deal with the mandatory sentencing? We've got a presidential campaign coming up, how do you inject some rational discussion into that whole process? I think, right?

- Well, actually, the people who know about prisons are not permitted to set the policy. I mean, the directors of prisons, the wardens, the people who live in that environment. And it's been my experience that you're not talking about two societies-- one society, the keeper, and another society, the captor. You don't know one society which keepers and captor over there to the side and the rest of us just soon forget they exist.

Those people understand that they've got too many people locked up. And those people understand that a lot of these rationale for locking people up is just ridiculous. But they don't let them set policy because policy is set by politicians-- people who create public fear and then solve the problems they've created the illusion of in the hopes of suckering voters into voting for them.

And so policy is entirely separated from need.

- Exactly.

- Policy is skewed. And I suppose you've noticed that wherever you're going?

- You see that all along. What's striking to me is working in Washington, look at the national level-- we've had a series of administrations, Republicans and Democrats alike, that have often just ignored research done by their own Justice Department that showed that massive incarceration was not going to have any impact on crime. We've seen it most recently in the Clinton administration, in the early years, early months of the administration, here was Janet Reno appointed to office as Attorney General.

And she was an unusual choice and came into office. In her early months, was talking about the need for prevention, prenatal care, and things like that. And also very critical about mandatory sentencing or at least questioning about it. Then she said she wanted to study it and she thought there were some problems with it. Well, she commissioned a study in the Justice Department of the number of lower level drug offenders in the federal prison system.

The study was completed in August of 1993, but its release was held up until February of 1994. And following its release, former Deputy Attorney General Phil Heymann said that the whole reason for a delay was because they couldn't determine the proper spin to put on the results of the study. Well, the study showed that more than a third of the federal drug offenders were low level offenders by anybody's definition.

And the reason this delay was so critical was that, that was the same time that the Congress was adopting what ultimately became a $30 billion crime bill loaded with new mandatory sentences. This would have been very important part of that discussion and yet it was completely left out of the process and purely for reasons of political spin basically. So we see the local level, we see at the national level.

- Didn't that sound awfully familiar, that bad [INAUDIBLE] incident from our youth.

[LAUGHTER]

- Before we had all this gray area--

- Parole, there is no more federal parole, right? I mean, it's gone. There is no more California parole. And in the Texas legislature, which is really a world class rednecking contest-- you ought to come down and watch the spectacle. Molly Ivins' column really tries, and almost does it justice. But they're trying to eliminate parole here in Texas, which has traditionally given the largest sentences of any state on the planet.

Just your straight sentence number is like five times what it is in other Southern states. And then, to eliminate parole, then that means that we're going to have an incarceration problem here that goes into the new the new millennium, and unless somebody is going to live long enough to get into the next millennium, they may not get out of prison. And conditions. What kind of conditions do you find?

- As I'm sure you well know, in some ways conditions have improved in the last 25 years or so, and it's almost entirely due to litigation brought by the ACLU and others basically forcing the courts to intervene. And as a reaction to that, Congress passed the Prison Litigation Reform Act several years ago, basically designed to cut down on any impact that prison litigation may have. And so the ability of the correction systems to enter into consent decrees or what might be included there for the attorneys to get fees in these cases-- all of this has been severely curtailed now.

And it's going to bring us back to the days when you had to depend on the good faith of the prison administration, or more importantly, of the legislature to fund the prisons adequately. But all the abuses, the horror stories of 30 and 40 years ago, we can very much see a return to that. Not that the prisons are wonderful places now, certainly. Abuses take place every day. The conditions are horrendous in some prisons. But I think most states, the basic level of meeting constitutional standards or humane sorts of conditions of confinement, has at least been improved somewhat over 20 years-- I don't know what your experience has been in Texas.

- I mean, is that, prisons being such a nice places, is that why people keep coming back?

- It doesn't seem like it. It seems to me we have this whole argument about deterrence, right? And some people say, well, we've got to make these prisons mean, places and all that so people won't want to come and all that. It's sort of striking to me, because most of us, I don't think, live our lives based on deterrence.

When I wake up in the morning, I could decide to go in the corner and sell crack cocaine, or I could go downtown to my office and work my job well. It doesn't usually occur to me to go out and sell crack cocaine, and the reason is not because I'm thinking about doing five years in prison when I do it, but I have better things to do. I have a job to go to, I like my job, I get paid for it, and so it never even enters into it.

This deterrent effect is a pretty bizarre thing, and I think we're talking about people who don't see themselves as having very good options in life and get involved in things, and most of them are not thinking too much about the consequences. We know that half of all violent crimes are committed by somebody under the influence of alcohol or drugs at the time. So this whole image that policymakers often have-- well we will set up this rational system of deterrence and that will deter the future criminals and then we'll have a safer society-- I think it's missing the boat in a lot of ways.

- Well, specifically for the audience that Al has generated here, folks interested in drug policy, why is it that every time one of these drug czars and-- I mean the Mayor of Houston is a former drug-- we got drug czar and former drug czars falling out trees around here-- why is it that every time they get an opportunity to stand before a camera, they talk about addiction problem, when in reality, for most drug offenders in prison, you're talking about an economic problem, aren't you really?

- Absolutely right. We're talking about different categories of people who use drugs and what options they may have, and access-- how you get drugs, and how you pay for it, and what you have to do to get, and things like that.

- Let me step in here and just ask you guys a question though. You guys were talking about how, basically, over the last 25 years, prisons have improved, if anything, the basic conditions. But, Ray, I think you'll agree with me that in some respects, and at least one important respect from the standpoint of drug addiction, we've gone in the wrong direction. Because, am I not right in thinking that Ann Richards and--

- Bob Bullock.

- Bob Bullock--

- And several others. It was real important period in Texas history when Ann Richards came into office and she had all these convicts, and they weren't doing anything except picking cotton and working in the fields. Incidentally, Texas does not pay their inmates, like Maine. You can't make anything here. Only two states in the country have absolutely no chance of payment at all, and Texas is one of them.

And so, Ann had dealt substantive with her addictive problems, and Bob Bullock, and they weren't closeted about that. So they initiated a lot of recovery programs. Two things happened. Number one, there were some constructive things for inmates to do to deal with their addictive problems by programs that are essentially inmate initiated and inmate conducted. They hire somebody to keep them from running, off but they're inside the compound anyway, so there's not much chance of that, but keep them on focus.

But those programs are essentially inmate run. And it also opened up prison so that people like me, who are critical of the system, could come in and go out and get direct feedback from the inmates-- a very valuable operation. It did not, however, change the philosophy behind the policies because we have a very executive branch run thing here. We have a great deal more prisons in Texas than we ever had before.

And I think one of the problems is that politicians figured out that if they would stop convicts from building prisons-- 25, 30 years ago when I was in prison, convicts built prisons, which I thought was a wonderful metaphor on life. You build the cages that keep you in. And that was my job. And so I really enjoyed-- I enjoyed working in construction and watching bricks stack up. If I had grandchildren, I'd track 'em down, I'd say, look, granddaddy built this and that-- and some kind of--

- [? New ?] memory.

- Yeah, right. Some kind of a permanent-- but they discovered that contractors, unlike convicts, could make political contributions. And so we went through this period of time where they said, well convicts can't build them fast enough. Wait a minute, convicts can build them as fast as you tell them to build them. They're convicts. But we changed from convicts to contractors, and the first thing that happened is that they were a new source of political contributions to the campaigns of politicians. Plus the fact, we've caught more than one prison official taking money under the table for the process. Is that common?

- You hear that more in Texas than some other places. I don't know that it doesn't go on in other places but the range of economic interests involved in prisons now is very substantial-- food service, and health service, and construction. I don't know if you've ever been to one of the conferences of the American Correctional Association. It's a major gathering-- all the people in corrections, and they hold it a major Convention Center in whatever state they're in. They have a football field sized vendor display there, and you just walk up and down the aisles and it's all sorts of bars, and steels, and restraint devices, and drug testing devices, and it's just--

- Billy clubs.

- Billy clubs. And it's state of the art technology, and all them selling their wares to the corrections officials. Now it's getting very high tech-- these satellite monitoring ways of keeping track of people who are out in the community or things like that. And soon, they're going to have us all programmed and follow us wherever we go, I guess.

- And all of those are contractors?

- Yeah, all contractors and all that. And the other part of it-- prisons have always been built in rural areas, or at least disproportionately so. It seems to me there was time 20, 25 years ago, if the Corrections Director went to a small town and said, I want to build a prison here. More often than not, they would be run out of town-- saying we don't want these convicts in our town. Now they're begging the Corrections Department to build us a prison here. We need a source of economic livelihood, and the prison is going to sit there for 50 years.

- Jobs.

- You've got that lobbying force built into it now as well.

- And employment. That's the big thing here. In Texas, prisons used to be plantations. They were just like-- actually the same land that some of these Black inmates' great grandfathers worked as slaves. And I just never could convince the white convicts that this was a deeply, culturally offensive thing to their Black brothers down the hall, because I lived in a segregated prison system.

- Now has that changed over the years in Texas?

- It is. We finally integrated, but racial tension is a matter of policy in prisons. First place, the institution is inherently racist. I mean, just its structure and all that. And second place, it's a control factor. You don't want those white convicts, and those Brown convicts, and those white convicts getting together and comparing notes.

There's actually a certain amount of encouragement for racial tension in prison, and everything is blamed on racial tension. I speak to racially mixed audience, the responses I get from people that I speak to are the same, the camaraderie among them. And hopefully, whenever I leave that room, they were a little better aware of the environmental racism in the society in which they live. And not much is being done to address the problems of racism in institutions.

The other thing is health care. We've got a real problem here. Half of the people in this society with hepatitis C are in jail, prison, on probation or parole. And the public health officials are saying, we're looking at an epidemic in 20 years that's going to make AIDS seem like a walk in the park. There are already more people infected with hepatitis C than have ever been infected with AIDS. And they're just warehousing them. Texas has 50,000 of them in their prison system, they're treating 10. Not 10,000, 10 out of 50,000. The accumulative figure of the last several years has been 100. Nobody is paying any--

- Do they say it's a resource question?

- It's expenses. They say it's expense, they say it's the expense. However, in my old ACT UP days when I think somebody needs to take down the CEOs of pharmaceutical companies and get that price down, you can embarrass those folks to do something like that. But none of that's being done in the States. The politicians are getting political contributions from the people that are inflating the prices of the drugs. But that is a public health problem. But it's not the only public problem that comes out of prison. I actually think that if we figure it out some way where people could volunteer to go back, we would lower the crime rate.

- Go back in what sense?

- Go back to prison. They get out, and they get scared, and they get frustrated, and life is-- and they go commit another crime. I think some of that crime is intentional, with the intent to get back to an environment--

- That they know and--

- --that they know. I don't know if you've ever worn your sociology cap over there, but--

- Yeah, but you could just see. I think the longer guys stay in there-- I don't know what your experience has been. It seems to me, I've known a number of people who thought that prison actually did them some good because they were running with the wrong crowd. Things were not going well for them, and the first six to 12 months they were inside, they sort of had a chance to get away from that. It wasn't a good environment, but it was a different environment. They thought about it. But then, it seems to me, they make some changes in their thinking. But then you tack on another 2, 4, 6 years the term, and that's when the bitterness and the boredom starts to set in and all that. Any of the changes they make, it's difficult to act on them, and then it's more difficult to come out after that too.

- Oh you will adapt to that society or you will not survive. I mean, it's that simple. It's not real real complex at all. And when you are adapted to that society, you are specifically ill-equipped for this one. When I got out in 1975, I needed another institution to shelter me, so I went back to college because at least that put that schedule kind of rigidity in my life, that structure. And I readapted in that way. But after 25 years out of prison, I yearned to go back and carry some kind of message.

But what can you say? The system screwed over you because of an irrational drug war you're doing-- I mean, when you sit and look into the eyes of a 19-year-old Black man with a 45 year sentence or 20-year-old white man with a 45 year sentence, and you know that in the current political environment the chances of them making parole in fewer years than they have lived at that point is pretty remote.

- Well let me play devil's advocate. Some people would say, well, I don't care what your background, your circumstances are, you've got some responsibility for your actions. It doesn't matter if you were poor, grew up in a family, didn't have advantages and all that. Did you harm other individuals in your community, and aren't you responsible for that, and shouldn't there be consequences for breaking the law and harming other people like that?

- Well I mean the deal is that if we're going to get back to that, and we're going to analyze public harm, then isn't the real issue the public safety? And if the public safety is the real issue, then why don't we consider the public safety? We're sending mad dogs to prison, we're going to get rattlesnakes back. Because there's nothing going on there except warehousing, typecasting, a daily struggle for existence which takes vulnerable people and makes them hard. Now they're going to get out and come live in your neighborhood, if it may take 20 years for them to do that, but don't you treasure the safety of your grandchildren?

Are you just limiting this public safety concern to the victims of all this? And I'm beginning to see victims rights groups as hate groups.

- Some of them are.

- I mean, they just live for revenge. Absolute revenge. Texas prisoners do not have access to the internet. However, some of them make, like, leather goods and products. And their families are introducing them for sale to get resources on the internet. And now the Houston victims rights group, hate group, had a news conference and say, we've got to stop this from happening.

- It's really too bad, because some of the victims groups nationally, at least, have been embracing restorative justice and talking about some sort of reconciliation and how you bring together victims and offenders. And we hear some of that going on--

- Not the big one in Harris County.

- But there is some wonderful work going on in that regard. Some wonderful work where the survivors and victims are doing that I get to run into them at anti-capital punishment conferences, and other things that are doing restorative things and reaching out. Because from my perspective, that mother of an inmate is no less grieving than the mother of the victim, even in a homicide situation. I mean here are a couple of mothers going through an enormous amount of pain. One of them accepts the legitimacy of the other, but one of them does not accept the legitimacy of her peer.

- And also, of course, a lot of criminal cases where the role of victim and offender could easily be reversed just depending on who pulled the trigger first or something like that. And so I think the simple division between, we have victims here, and we have offenders here, it's much more complex than that.

- Do you think anything can be done about the public fear? I think a lot of this is predicated on the illusion that it's a lot more dangerous out there than it really is.

- Yeah, no, I think you're right. And I think a lot of this fed by media images and things like that. I think most people-- you look at surveys-- most people feel reasonably safe in their neighborhoods. Not all, but most people feel reasonably safe, but then they have this impression that crime is completely out of control in general. It's interesting, in the last several years crime has been going down, and yet most polls show that people think it's either about the same, or they don't feel any more comfortable in their neighborhoods-- things like that. And I think it's this, sort of, assault of media images every night on the 11:00 news. 10, 12 minutes of crime to lead off the news all the time. No context for this crime-- is a crime going up, or down, or what causes it, or anything like that.

- And then there's cops and then there's all these other-- it just goes on, and on, and on from one call after another. And so people get to thinking that what officers experience-- and we noticed that makes officers pretty hardened.

- Yeah, right, and what's the impression-- what's the role model that-- the image that's out there, and how they supposed to respond to some of that too? We used to-- I don't watch much anymore, but NYPD Blue, it's a good drama show and all that, right. Good stories and all that, but what you realize after a while-- they would show cops resorting to some pretty abusive techniques, at times, to get a confession or something like that. But you don't ever see the cops being abusive to somebody who is completely innocent. It's always, here's the bad guy, and so it almost becomes--

[INTERPOSING VOICES]

- Saw him do it so--

- Whatever you need to do to protect public safety. Well, there's a downside to that sometimes-- some trade offs, and we don't see that very often.

- What do you think about the Supreme Court reconsidering Miranda? Well I think it's odd, because it doesn't come from the police particularly. They adjusted to Miranda quite well. They still get plenty confessions by observing Miranda. It's, I think, basically some right wing funded groups trying to make a political point for the most part.

- --a rednecking contest.

- Who knows what Supreme Court will do on it, but they start to chip away at that, we could see a real return to the bad old days.

- What is the most hopeful thing you've seen? I mean you get knocked around the country and talk to all these different kinds of people--

- Well I think, maybe I'm too naive. I think the image about the war on drugs is starting to crack in some ways. I think more people recognize that there's way too many drug offenders in prison, and way too many of them lower level people, treatment prevention makes more sense. And some unusual voices too. You get some police chiefs speaking out about this and prison wardens. So I think there's more discussion about that in recent years, and how we crack open the political consensus on that. Can we have an impact on the presidential campaigns and discussion there?

- Do you think the referendum on medical marijuana is in any kind of-- what do you think, Alan, do you think that these refere-- medical marijuana is doing rather well at the polls in diverse sections of the country.

- It's an absolutely fascinating phenomenon, Ray. As you well know, everywhere it's been on the ballot, and that's seven states now and the District of Columbia, it wins overwhelmingly. Now, you think that our politicians would get the message? And the problem could be solved at the federal level, literally, by the stroke of a pen. As you both probably know, Judge Young, back in 1988, ordered the DEA to get marijuana out of schedule one. That would solve the problem. Instead of that we have to go through state by state, all this trouble and cr-- that's actually a very good question that probably is not your exact area of specialization, but how do you explain that?

- It is my area of specialization, because I go into prison and I see guys trafficking, delivery controlled substance. Are we're talking about little green leaves here. We're not talking about killer stuff. And the prisons are full of people like that. And in Texas you can get a pretty good sized number, because it's treated as a controlled substance just like any other controlled substance.

- Well I'm sure you know one of the medical marijuana industries in the District of Columbia, the vote was held that day, and Congress was so concerned about the vote that they refused to allow the district to spend any money to count the votes on that particular initiative. And it was held up for about a year until finally the ACLU sued--

- The resolution came from a Texas congressman.

- We know that all too well, actually. That's a real close to home.

- They knew and we knew that 70% of the people had supported it anyway, but just unbelievable. Now if they had voted on increasing the penalties for possessing marijuana, I'm sure they would have been quite pleased to let them count the votes on that. But it's quite remarkable in a democracy if you think about that.

- What if somebody threw a party and nobody came? Threw a war and nobody came? Actually, I think the public is probably more sophisticated than the politicians are giving them credit for. And the emperor has no clothes on the war on drugs. I mean, it's about time somebody noticed that we're really naked out there with all of that rhetoric.

- Among those referenda, the one in Arizona, I think was quite intriguing, because, not only was it talking about medical marijuana, but also sentencing policy for lower level drug offenders. Basically it says, the preferred sentence should be probation with treatment, and they put more money into treatment programs. Now that's the solution that they want to go with, and the Arizona Supreme Court published a very positive report on the first year of implementation. And they decided to make a very substantial change. Arizona is not known as a particularly liberal state, but when confronted with a practical solution that made sense, everybody went along with it.

- I don't think that the Drug Policy-- and I know we're off the topic of your subject-- or our prisons, for that matter. I don't think this is a liberal conservative issue. Because you've got the liberal side of the issue, and then you've got the libertarian side of the issue, and it looks to me like the conservative power structure of the country is out there fishing in open territory for a place to dock their boat. Whereas the other two groups, the libertarian conservatives and the liberals, have pretty much figured out this whole thing is fraud.

- Yeah, I think we're seeing much more of that.

- I wasn't quite sure of what you were getting at with that answer, Ray, of why Congress, for example, still overwhelmingly votes to keep marijuana illegal.

- They believe their own propaganda, Al. I mean they're putting it out, you're in absolute danger, one sniff of marijuana-- I mean back at Reefer Madness level. One sniff of marijuana and you're hooked for life and all this crap that it just does. And they believe it.

- Maybe so.

- They're trying to convince us, but it's not working with a large, and increasingly large, number of us.

- Half the time, I think they believe it. The other half of the time, I think they've painted themselves into a corner politically. The get tough movement, the war on drugs rhetoric has gotten so severe that I think they're all just scared to death about having to go and campaign and saying we need a more rational drug policy. I mean, I think the evidence is pretty clear, they've been presented with it, but I think they're sometimes-- should I be the first one to stick my neck out? And I would like to think that somebody stuck his neck out, and as you say, said the emperor has no clothes, they get a pretty good response to that.

- Well actually I think that there's probably a coalition of people that can make a difference, and that is the people who know about prisons-- the people that work there, the wardens, the prison administrators. Because as I go around interviewing these people, I found that these people's ideas are not that much different from my own.

They're addicted to their paychecks, just like the dope dealer is addicted to the money that comes through his hands. He can't quit because he needs the money. He's got car notes to pay. And the executives in prison system are afraid to confront their bosses, but it is getting to be ridiculous.

And the people that are actually showing the most courage are the people right across the Neches River over here, the people in Louisiana. Because you cannot find a warden in a Louisiana prison that will not be willing to sit down and beg you to tell the world that three strikes you are out does not work, that life without parole does not work. They've got too many convicts and they would just-- and they're right up front about it.

Of course, in Louisiana you can get away with being right up front because they're even honest about the corruption over there. So it's just a different environment. But they have the higher-- the only state with a higher incarceration than Texas. And the people in the prison business agree with us about, the prisons are too full, too many people locked out for too little reasons.

- I think so.

- And convicts are not entirely powerless.

- Well I think one of the things goes untapped in a lot of ways, you've got this almost 2 million people locked up, they've got family members and friends on the outside. And people talk about this, but there's potentially a significant lobbying force. People may not like them, but these people on the outside can vote and get themselves organized. And the more you've got affected by the system, it's a bigger force out there.

- I've been working on that a few years. Your book will help. Thank you very much. And before we get away, I don't know how much time I've got left here, before we get away I want to thank you for the work you did with the Quakers about bond reform. Because we felt that here. And we didn't have an activist, or the Quaker Organization down here was not doing that. But we created county pretrial services right here as a result of what you folks were doing up there.

- A lot of people were doing it around the country. The ideas all came together--

- And that had to have a beginning and a spark. And from your introduction, I found out that you were part of that. That's a very important step. There's some slippage now. We have judges that think that they can win the rednecking contest and make a few political contributions by denying pretrial services and all sorts of things.

- Yeah that's an ongoing battle around the country, I think.

- Bail bondsmen don't want to go out of business, so they use whatever tactics they can sometimes.

- Well, Mark, Ray and I have occasionally chatted about that, because it seemed to us too that this is a wonderful big population. If you take all the families, the mothers, the fathers, the sons, the daughters, the direct relatives of all the people in Texas prisons, that's quite a measurable group of people. Do you have any thoughts about, how can we do a better job of organizing those people? I suppose we are interested, primarily, in the nonviolent drug offenders, if you will. But that's a substantial fraction of the total.

- And by the time you take those whose crimes are related to drugs and alcohol, a lot of that is because of the attempt to criminalize that behavior. I mean, we might not be dealing with these folks with criminal mind over here if you didn't have to go over there and slip around because of irrational laws to get access to things that you may be addicted to or that you may see as a way out of your economic situation.

- Well Texas certainly is home to the most significant grassroots prison reform group CURE, which started in Texas, now gone national, and puts on a very inspiring group of people that they bring together with state chapters and national conferences. And it's primarily families of prisoners that they're organizing. A lot of it is around day to day issues-- the exorbitant cost of making phone calls from prison when you have to call collect, and the fees involved, and visiting policies, and just communication with your loved one, and all that sort of thing.

The next step is, how do you organize that group, also, into a lobbying force? And it's not an easy job. Many of the families are quite beleaguered just trying to survive and trying to keep up with their loved ones in prison. But it's a symbiotic relationship. They need a candidate who speaks out on their issues, and they need to put some pressure on people to pay attention to that, too. But we have the beginnings of them--

- The other problem is the perception of powerlessness, because even if you are not the person that wound up in prison, you're just a member of that family, you see what happens when you try to assert just your humanity. The system is really crushing. And I see us headed the wrong direction. I think that the new conserv-- it's not a political party thing, although there's only one judge left in Harris County Courthouse that's a Democrat. The rest of them are Republican. In order to survive the political environment of that party's primary, you've got to oversell your conservativism because that's the power base there. And it is really-- I can be tougher-- I mean you've got civil judges, civil law judges, running on, I'm tougher on crime than you are. I mean which doesn't make sense. They don't have anything--

- --go white, he's killing everybody and everything.

- --on the way over here. Whether it's smarter to elect your judges, or whether it's smarter to appoint them. And you were saying that in your--