DISCUSSION GUIDE
Table of Contents

2 About the Film

3 About Bryan Stevenson

4 About The Equal Justice Initiative

5 How To Use This Discussion Guide / Getting Started

6 The Case of Walter McMillian
   Racial bias
   Judicial override
   Monroeville
   Exonerations and the death penalty

11 The Toll of Mass Incarceration
   Voices of incarcerated people and their families
   Criminalization of poverty
   Re-entry challenges

15 Mental Illness and the Death Penalty
   Protections for people with mental illness
   Executions and the 8th amendment

17 Accountability for Prosecutors and Law Enforcement
   Prosecutorial immunity
   Illegal detention
   Apology, reconciliation and the state’s indifference to claims of innocence

21 Bryan Stevenson and the Equal Justice Initiative
   Just Mercy
   EJI’s racial justice work

23 Get Involved
About the Film

JUST MERCY is based on a real case detailed in Bryan Stevenson’s award-winning book, *Just Mercy* (2014). Bryan Stevenson was a young lawyer when he founded the Equal Justice Initiative, a nonprofit law project in Montgomery, Alabama, dedicated to defending the poor, the incarcerated, and the wrongly condemned. One of EJI’s first clients was Walter McMillian, a black man who was sentenced to death for the murder of a young white woman in Monroeville, Alabama despite the fact that Mr. McMillian was innocent. Bryan took on the case and challenged the conviction by proving that the State’s witnesses had lied on the stand and the prosecution had illegally suppressed exculpatory evidence. Mr. McMillian’s conviction was overturned by the Alabama Court of Criminal Appeals in 1993 and prosecutors ultimately acknowledged Mr. McMillian’s innocence after another investigation. Mr. McMillian was released in 1993, having spent six years on death row for a crime he did not commit. The case exemplifies the many problems with criminal justice in America — a system that treats the accused who are rich and guilty better than those who are poor and innocent.

JUST MERCY also introduces other clients represented by Bryan Stevenson, including Herbert Richardson, a Vietnam War veteran who was executed in 1989 despite strong evidence that he suffered from PTSD and mental illness, and Anthony Ray Hinton, who was exonerated in 2015 after spending 30 years on Alabama’s death row for crimes he did not commit.
About Bryan Stevenson

Bryan Stevenson is the founder and executive director of the Equal Justice Initiative. A widely acclaimed public interest lawyer who has dedicated his career to helping the poor, the incarcerated, and the condemned, he has won numerous awards, including the MacArthur Foundation “Genius” Prize and the ACLU's National Medal of Liberty. Mr. Stevenson and his staff have won reversals, relief, or release from prison for over 140 wrongly condemned prisoners on death row, and have won relief for hundreds of others wrongly convicted or unfairly sentenced. He has argued and won multiple cases at the United States Supreme Court, including a landmark 2012 ruling that banned mandatory life-imprisonment-without-parole sentences for all children in the United States who are 17 or younger and a 2019 ruling that provides new protections for prisoners suffering from dementia and neurological disease.

He is the author of the critically acclaimed New York Times bestseller, Just Mercy, which was named by Time Magazine as one of the 10 Best Books of Nonfiction for 2014 and has been awarded several honors, including the American Library Association's Carnegie Medal for best nonfiction book of 2015, the 2015 Dayton Literary Peace Prize and a 2015 NAACP Image Award.
About The Equal Justice Initiative

The Equal Justice Initiative (EJI) is a private 501(c)(3) non-profit human rights organization located in Montgomery, Alabama. EJI is committed to ending mass incarceration and excessive punishment in the United States, challenging racial and economic injustice, and protecting basic human rights for the most vulnerable people in American society. Since its founding in 1989, EJI has won relief or release for 140 people sentenced to death. In addition to providing legal services to people incarcerated on Alabama’s death row, EJI challenges excessive punishments including those imposed on children, seeks to reform unconstitutional prison conditions, and provides reentry services to people leaving prison and rejoining society.

EJI also seeks to confront our nation’s history of racial injustice through community engagement and public education efforts. In April 2018, EJI opened two cultural spaces, the Legacy Museum: From Enslavement to Mass Incarceration, a narrative museum that explores the experiences of African American people from the era of slavery to the present day, and the National Memorial for Peace and Justice, the nation’s first memorial dedicated to victims of racial terror lynching. EJI believes we cannot understand our contemporary issues, including mass incarceration, without understanding the legacies of our nation’s history of racial and economic injustice. Through this work, EJI is committed to an era of truth and justice, reconciliation, repair, and restoration. We hope you will join us.
How to Use this Discussion Guide

This discussion guide was created by the Equal Justice Initiative to help viewers understand and learn more about the criminal justice system and the issues of fairness and racial discrimination raised in JUST MERCY. The guide helps to contextualize the real people whose stories are featured in the film in order to prompt meaningful discussions about the issues that we still face as a nation today. It is our hope that through conversations about mass incarceration, the judicial system, and the history of racial inequality in our nation, this guide aims to help viewers:

• Understand the way that narratives of racial difference perpetuate bias in the criminal justice system today,

• Identify the ways that a lack of accountability has led to an error-prone system, and determine that this margin of error is unacceptable,

• Reject fear and anger as a central tenant to justifying abuse, and re-imagine the way compassion and mercy can be extended to the most vulnerable in society.

The guide is divided into five sections, each featuring the stories of real individuals, legal cases, and events featured in the film. Importantly, EJI hopes this guide can serve as a starting point for viewers to engage with these issues locally and to join in the movement to end mass incarceration, excessive punishment, and racial injustice in the United States.

Getting Started

Following a viewing of JUST MERCY, audiences may experience a wide range of emotional responses. Before delving into the more substantive questions below, we recommend bringing a few open-ended questions to the group. You may encourage participants to turn to talk to someone sitting next to them about their initial reactions and responses to these questions. Some suggestions are below:

• What did you learn about the criminal justice system that surprised you?

• What did you learn about the lives of incarcerated people by watching JUST MERCY?

• What moments or conversations struck you as particularly important to understanding the criminal justice system?
The Case of Walter McMillian

Racial Bias

When Walter McMillian first meets Bryan Stevenson, he says that black people in the South experience a world where you are “guilty from the moment you are born.” What does he mean by this? In what ways do you see a presumption of guilt assigned to people of color manifesting in your community today?

In the film, Bryan is followed and pulled over by police late one night. After an interaction with the officer in which Bryan tries to de-escalate the situation by assuring him “I’m not a threat,” the officer responds, “we’re letting you go - you should be happy.” Discuss this interaction and what the officer’s words reveal about the attitudes toward people of color. How does this sentiment shed light on what later unfolds in Mr. McMillian’s case?

During Bryan’s second meeting with Mr. McMillian, Mr. McMillian asks Bryan why he had chosen to come to Alabama and help people on death row. Bryan responds, “I know what it is like to live in the shadows.” What do you think Bryan means by this? Does this quote resonate with you? If so, how?
At the end of the film, we learn that Mr. McMillian was tried by a nearly all-white jury. In what ways did denying Mr. McMillian’s constitutional right to a jury made up of his peers threaten the reliability of his conviction? What are some reasons it is important to have juries that include people of color? Why might we want juries to accurately reflect the demographics of the community as a whole?

During an important public hearing in his case, Mr. McMillian’s family and community are initially shut out of the courtroom and when they are allowed to enter, many of his family and community members are forced to stand in the back. What do you make of this scene? What might this experience have been like for the family members, and how is this scene relevant to understanding the criminal justice system overall?

Though the US Constitution requires that defendants have a right to be tried by his or her peers, very often prospective jurors of color are discriminated against and not permitted to sit on the jury, resulting in all-white or nearly-all white juries.
Nearly 145 years after Congress passed the Civil Rights Act of 1875 to eliminate racial discrimination in jury selection, people of color continue to be excluded from jury service because of their race, especially in serious criminal trials and death penalty cases. In a 1986 ruling, *Batson v. Kentucky*, the Supreme Court sought to limit this discrimination, and reaffirmed that discrimination in jury selection violates the 14th Amendment to the U.S. Constitution, which guarantees equal protection and due process under the law. However, despite the Court’s ruling in the Batson case, African Americans are routinely prevented from sitting as jurors.

In Houston County, Alabama, 8 out of 10 African Americans qualified for jury service have been struck by prosecutors from death penalty cases. In Jefferson Parish, Louisiana, there is no effective African American representation on the jury in 80 percent of criminal trials.

Some district attorney’s offices explicitly train prosecutors to exclude racial minorities from jury service and teach them how to mask racial bias to avoid a finding that anti-discrimination laws have been violated. In some communities, the exclusion of African Americans from juries is extreme.
Judicial Override

Until 2017, Alabama judges had the power to reject a jury verdict of life and impose a death sentence in a capital case. Approximately 20% of those currently on Alabama's death row had an elected judge “override” their jury’s verdict. Studies have shown that rates of override are higher in election years.

At the beginning of the film, a local reporter explains that although the jury in Mr. McMillian’s case sentenced him to life in prison, the judge “overrode” the jury verdict and sentenced Mr. McMillian to death instead. Discuss the practice of judicial override. What does the practice of judicial override by elected judges reveal to you about the politics of fear and anger?

Monroeville

Mr. McMillian was wrongly accused and convicted in his hometown of Monroeville, AL, where Harper Lee lived and set the famous book, To Kill a Mockingbird. The story, which is the source of great pride in Monroeville, revolves around Atticus Finch, a white lawyer who stands with Tom Robinson, an African American man who is falsely accused and ultimately wrongfully convicted. What do Monroeville’s attitude towards this 1960s novel reveal about the present day perspectives of its residents? What particular moments of the film expose conflicts or contradictions between the values and lessons of To Kill a Mockingbird and the reactions to the McMillan case?

In what ways do you see communities struggle to reconcile conceptions of the past with present injustices today?
Exonerations and the Death Penalty

Since 1973, **166 people including Walter McMillian** have been released from death row after evidence of their innocence was uncovered.¹ When Mr. McMillian first meets Bryan, he asks him, “Do you know how many people they’ve freed from Alabama’s death row? None.” For every 9 people executed in the United States, one person has been exonerated. What does this error rate say to you about the reliability of the modern death penalty in America?

¹https://deathpenaltyinfo.org/policy-issues/innocence
The increase in the jail and prison population from less than 200,000 in 1972 to 2.2 million today has led to unprecedented prison overcrowding. The United States has 5 percent of the world’s population but nearly 25 percent of its prisoners.

How would you describe the relationship between Anthony Ray Hinton, Walter McMillian, and Herbert Richardson while on Alabama’s death row? Were there particular moments, conversations, or observations about their relationship that surprised you? In what ways do the three men support each other during incarceration?

When Bryan Stevenson visits Walter McMillian’s family, they explain the toll Mr. McMillian’s incarceration has taken on his community: “we feel like they put us all on death row, too.” What does this statement mean? What did you notice about these scenes and the impact these visits had on Mr. McMillian’s family? What did you observe about the ways Mr. McMillian’s incarceration affected his family and community?
Criminalization of Poverty

Anthony Ray Hinton spent 30 years on Alabama’s death row before being exonerated in 2015. The state’s case against Mr. Hinton rested entirely on the false claim that a gun recovered from his mother’s house could be matched to shell casings from the crime scene -- a fact that was later disproved. He spent more years on death row than any exoneree in Alabama’s history, and is one of the longest serving death row exonerees in the country.

In 2014, the U.S. Supreme Court ruled that Mr. Hinton was denied effective assistance of counsel at trial. Mr. Hinton could not afford to hire a lawyer, and instead received a court-appointed lawyer. His lawyer hired a ballistics “expert” who was visually impaired, had no prior firearms identification experience, and could not turn on the machine in court. Despite passing a polygraph test and having an alibi, Mr. Hinton was swiftly prosecuted, convicted, and sentenced to death. How does Mr. Hinton’s case illustrate the connections between poverty and justice in the criminal justice system?

At the end of the film, Bryan testifies before a congressional committee and tells lawmakers that: “the opposite of poverty is not wealth, the opposite of poverty is justice.” Reflect on what this quote means in the context of the cases presented in the film.

Photo credit: Ralph Farrow
LEGAL SPOTLIGHT
The 6th Amendment and the Right to Counsel

The 6th Amendment to the U.S. Constitution guarantees criminal defendants effective legal representation, in order to ensure a fair trial. However, more than 50 years after the Supreme Court, in *Gideon v. Wainwright*, declared the right to a lawyer “fundamental and essential” to fairness in the criminal courts, the failure to provide adequate counsel to defendants is still a defining feature of the criminal justice system in the United States. The crisis of counsel is especially acute in death penalty cases: whether a defendant will be sentenced to death typically depends more on the quality of his or her legal team than any other factor. While some lawyers have provided outstanding representation to capital defendants, few defendants facing capital charges can afford to hire an attorney and receive court-appointed attorneys who are frequently overworked, underpaid, and/or inexperienced in trying death penalty cases. In some cases, lawyers representing defendants in capital trials have slept through parts of trial, arrived in court intoxicated, and failed to do any work at all in preparation for the sentencing phase. In 2014 — almost 30 years after his wrongful conviction at trial — the Supreme Court ruled, in *Hinton v. Alabama*, that Anthony Ray Hinton’s trial lawyer provided “deficient” representation at his trial. This unanimous ruling from the Court set the stage for Mr. Hinton’s exoneration and release. Thousands of people who are incarcerated or facing execution were denied effective legal representation at trial.
Re-entry Challenges

More than half a million² people are released from prison every year in the United States, with virtually no support as they navigate the complexities, burdens, and challenges of re-entering society after incarceration. Some of these challenges include strict parole or probation conditions, high fines and fees, obstacles to employment, housing, benefits, and disenfranchisement. Discuss what your community might do to address these barriers for people re-entering society.

Mr. McMillian suffered from dementia in the last years of his life and experienced a variety of health issues which were deeply connected to the trauma he experienced while being on death row for six years. Both Mr. Hinton and Mr. McMillian were isolated in solitary confinement while on death row. What did you learn from the film about the psychological challenges of detention? What are some of the coping mechanisms that the men in the film used to survive incarceration?

² https://www.prisonpolicy.org/reports/pie2015.html
Mr. Richardson served in the Vietnam War where he witnessed unimaginable acts of violence. Yet Eva Ansley explains that in his initial trial, Mr. Richardson’s lawyer failed to present any evidence of his mental health challenges or the ways in which his experiences in Vietnam led him to suffer profoundly from Post Traumatic Stress Disorder.

In what ways might Mr. Richardson’s case been different if he had a competent lawyer at trial? Why might evidence about his military service and mental health have been important to a judge or jury?

By the mid-1980s, almost twenty percent of people in jails and prisons in the United States served in the military.  

Mr. Richardson served in the Vietnam War where he witnessed unimaginable acts of violence. Yet Eva Ansley explains that in his initial trial, Mr. Richardson’s lawyer failed to present any evidence of his mental health challenges or the ways in which his experiences in Vietnam led him to suffer profoundly from Post Traumatic Stress Disorder. In what ways might Mr. Richardson’s case been different if he had a competent lawyer at trial? Why might evidence about his military service and mental health have been important to a judge or jury?

Herbert Richardson, pictured on Alabama’s Death Row.

3 Just Mercy, p. 75. and https://www.bjs.gov/content/pub/pdf/vpj1112.pdf
Executions and the 8th Amendment

On the night of his execution, Mr. Richardson remarks to Bryan that “it’s been a strange day. More people have asked me how they can help me today than they ever asked me in my life.” What do you make of these acts of compassion in the hours leading up to the execution of Mr. Richardson? In what ways could compassion have been extended to other aspects of Mr. Richardson’s life prior to his execution date?

Discuss the scene where Mr. Richardson is executed. What struck you about this scene? What did you learn about the death penalty that you didn’t know before watching the film?

LEGAL SPOTLIGHT
8th Amendment and Mental Illness

The 8th Amendment to the U.S. Constitution bans “cruel and unusual punishment.” Applying the 8th Amendment, the Supreme Court has barred the execution of children, people with intellectual disabilities, and those who are insane at the time they face execution. Recently, EJI won a challenge on behalf of a client who, like Mr. Richardson, faced execution while experiencing severe disabilities and mental health challenges. In February, 2019, the Supreme Court held in Madison v. Alabama that those with dementia and other mental conditions are entitled to a reassessment before execution, covered by the Eighth Amendment’s ban against cruel and unusual punishment.
Ralph Myers was awaiting trial for a possible death sentence when he was approached by the state and coerced into falsely testifying against Mr. McMillian. Why was Ralph Myers compelled to lie about Mr. McMillian? What does Ralph Myers's story reveal about the power structures in the criminal justice system?

Following Mr. McMillian’s release from prison, Bryan and the staff at EJI filed civil rights lawsuits against state and local officials for incarcerating Mr. McMillian on death row before his trial in violation of his rights. Police, prosecutors, and judges are immune from judgments that require them to make payments to people victimized by abuse of authority. An effort to hold the sheriff accountable went all the way to the United States Supreme Court, but the Court ruled that Sheriff Tate was protected from liability based on immunity laws. Years later when the case settled, the compensation was much less than had been hoped. Why do you think the Court ruled in this way?

In a 2011 case Connick v. Thompson, the Court ruled that Louisiana prosecutors who failed to turn over evidence that might prove a person’s innocence could not be held liable for damages. John Thompson spent 14 years on death row and was nearly executed on several occasions for a crime he did not commit. Mr. Thompson had initially been awarded $14 million dollars, one million for every year he spent on death row, but the verdict was thrown out following the Supreme Court’s decision. The Court’s decision in Connick v. Thompson eliminated one of the few remaining grounds to hold prosecutors accountable. Given the Court’s rulings, what options are there for holding decision makers accountable in cases where they break the law, resulting in an innocent person going to prison or to death row?
Prison Conditions and Illegal Detention

Ralph Myers discloses to Bryan when they meet that prior to his trial he was illegally detained on death row as part of the State’s effort to coerce him to implicate Mr. McMillian in the crime. Mr. McMillian is also sent to death row before his trial, in violation of the law. Why did this happen? In what ways do you think the detention of a witness or someone awaiting trial might impact their testimony or the ultimate outcome of a trial?

Ralph Myers explains that while he was detained on death row prior to his trial, he witnessed the execution of a fellow death row inmate, Wayne Ritter. Describe the way Ralph Myers discusses this experience, and what his story tells you about the traumatic impact executions might have on those on death row, even after they are exonerated.
Apology, Reconciliation, and the State’s Indifference to Claims of Innocence

Mr. Hinton jokes in the film about feeling “left out” that he did not have Bryan as his lawyer. In 1999, years after Mr. McMillian was released, Bryan and EJI took on Mr. Hinton’s case and presented dramatic forensic evidence in court, proving that Mr. Hinton did not commit the crimes for which he had been sentenced to death. For the next decade and a half, however, every prosecutor with the power to review the evidence in Mr. Hinton’s case refused to do so, and every court in Alabama ruled against Mr. Hinton’s request for a new trial. Walter McMillian also encounters resistance when he is seeking a new trial. What accounts for this opposition? Can you imagine any changes to our culture or to the criminal justice system that might make it easier for innocent people to win release?

In one scene in the film, Bryan Stevenson arrives at Tommy Chapman’s house and says that a prosecutor’s job “isn’t to obtain a conviction, it’s to achieve justice.” Discuss Bryan’s statement in the context of the film.

Mr. Hinton, who works now as a powerful and passionate advocate against the death penalty and in support of criminal justice reform, has said that one of the most painful aspects of his ordeal is that the State of Alabama has never offered an apology for the 30 years of his life that he spent on death row and for the extraordinary injustice he suffered. Despite the state’s failure to hold itself accountable for Mr. Hinton’s wrongful conviction, Mr. Hinton has publicly forgiven everyone who was involved. He has written, “I chose to forgive...I forgive because not to forgive would only hurt me.” Why do you think an apology is important to Mr. Hinton?
After Mr. McMillian was exonerated, Mr. Hinton went on to fight for the state to recognize his innocence until his release in 2015.

Today, Mr. Hinton works as a Community Educator at EJI. He travels the world speaking powerfully about his experience on Alabama’s death row and advocates for prison reform and the end of the death penalty in America. He is the author of a best-selling memoir, *The Sun Does Shine: How I Found Life and Freedom on Death Row*.
Bryan Stevenson and the Equal Justice Initiative

Just Mercy

“We are all more than the worst thing we’ve ever done.”
-Bryan Stevenson

Bryan Stevenson and the Equal Justice Initiative believe that “we are all more than the worst thing we’ve ever done.” What does this quote mean to you after watching JUST MERCY? What would it mean to live in a world where the criminal justice system reflects this statement?

In what ways did the film expand your understanding of mercy? How might you extend mercy, especially to those who are most vulnerable in society, in your own life and everyday interactions?
Over the last ten years, The Equal Justice Initiative has engaged in narrative work to help our country confront the nation’s history of racial injustice to better understand how it has shaped our present.

Within a year and a half of its opening, over 600k people have visited the Legacy Museum: From Enslavement to Mass Incarceration and The National Memorial for Peace and Justice, located in Montgomery, AL.

In one scene, Bryan and Eva Ansley sit by the edge of the Alabama River and Bryan recalls that this river transported thousands of enslaved people to Montgomery in the domestic slave trade but “nobody wants to talk about it.” At another point in the film, Bryan drives past rows of cotton and sees several men who are incarcerated at Holman Correctional Facility working in the fields. What did you make of these scenes? In what ways do you see the legacies of American slavery in JUST MERCY?

Bryan Stevenson has often said that the great evil of American slavery was not involuntary servitude, but the narrative of racial difference -- an idea that black people are inferior to white people -- that was used used to justify and perpetuate a vast system that enslaved people based on race. What does Bryan Stevenson mean by “the narrative of racial difference,” and in what ways do you see this narrative play out in the story of Walter McMillian? In what ways do these narratives of racial difference manifest in your community today?
Get Involved

Visit EJI at the Legacy Museum: From Enslavement to Mass Incarceration and the National Memorial for Peace and Justice located in Montgomery, Alabama. EJI’s Legacy Museum uses interactive media, sculpture, videography, and exhibits to provide a one-of-a-kind opportunity to investigate America’s history of racial injustice and its legacy. The nearby memorial dedicated to more than 4400 victims of racial terror lynchings is a sacred space for truth-telling and reflection about racial terror in America and its legacy. Visitor information and tickets are available here.

Volunteer with a re-entry team or organization. Contribute your individual skills and passion to directly support the work of an organization near you by tutoring or volunteering at a local prison, supporting and providing assistance to children or family members of incarcerated people, or assisting in re-entry services.

Watch TRUE JUSTICE. TRUE JUSTICE focuses on Bryan Stevenson’s life and career – particularly his indictment of the U.S. criminal justice system for its role in codifying modern systemic racism – and tracks the intertwined histories of slavery, lynching, segregation and mass incarceration. This feature documentary is a co-production of HBO and Kunhardt Films; produced and directed by Peter Kunhardt, George Kunhardt and Teddy Kunhardt. You can access the documentary here, and a companion discussion guide and lesson plans created by the Kunhardt Foundation. These resources include suggestions for event planning, discussion questions for audience and student engagement, and supplemental content including primary sources and interviews to inform individuals and organizations about the mission and work of EJI.

Photo credit: Alan Karchmer
Get politically active. Write to your legislators and encourage their support for Prison Sentencing Reform. Urge companies, universities, institutions and your state government to divest from investments in private prison industries. Push political candidates to prioritize plans to reduce over-incarceration and eliminate excessive punishment.

Engage in critical discussions through a social justice book club. Kick off the discussion with Bryan Stevenson’s Just Mercy: A Story of Justice and Redemption or Anthony Ray Hinton’s The Sun Does Shine: How I Found Life and Freedom on Death Row. See EJI’s recommended Reading on Racial Justice for more ways to engage in discussions about the important issues of the history of racial injustice and mass incarceration.

Confront the history of racial injustice. EJI’s reports, which feature resources on a variety of historical eras and experiences, including the domestic slave trade, the era of racial terrorism, defined by more than 4,400 documented cases of racial terror lynching of African Americans and the particular targeting of African American veterans, and the era of segregation that revealed the massive resistance of many white Americans against civil liberties and rights for African Americans. The narratives of racial difference that persisted during these eras created lasting legacies of ongoing inequities and disparities that we still face today. EJI has also published detailed reports about children sentenced to die in prison in the U.S. and racial bias in jury selection in contemporary criminal cases.

EJI has also developed two specialized sites to house research related to Lynching in America and Segregation in America, both of which provide numerous resources, including interactive maps and personal testimonials from community members impacted by the history of racial injustice.

Explore our history of racial justice calendar. Learn about the history of racial inequality with EJI’s award-winning 2020 history of racial injustice calendar which can be used as a tool for learning more about people and events in American history that are critically important for confronting the nation’s history. Calendars can also be purchased at the EJI online shop here.

Visit EJI online. Visit the JUST MERCY website for more information about the film, the book, and the work of the Equal Justice Initiative. EJI’s website serves as a repository of resources dedicated to our racial justice and criminal justice reform work, and features up-to-date news articles and a searchable video archive.

Follow EJI on social media including Facebook, Twitter and Instagram to be part of our community and to receive regular updates about important issues surrounding mass incarceration, racial justice, and excessive punishment. We strongly believe that progress will be made when more people learn about these issues. Please join our efforts by sharing, retweeting, and regramming our posts!

Support the work of EJI. With your support, your contribution is critical to our efforts to challenge poverty and racial injustice, advocate for equal treatment in the criminal justice system, and create hope for marginalized communities.

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