

## **Civil Rights Litigation Clearinghouse: Oral History Project**

### **Interview with Dr. Craig Haney Conducted by Michigan Law 2L Spoorthi Krishnaraj April 2, 2025**

[Interview: [https://www.mivideo.it.umich.edu/media/t/1\\_9zl4jvsu](https://www.mivideo.it.umich.edu/media/t/1_9zl4jvsu)]

[Spoorthi Krishnaraj] Hello. My name is Spoorthi Krishnaraj. I'm a second year student at Michigan Law. Today, I will be interviewing Dr. Craig Haney as part of the Civil Rights Litigation Clearinghouse's Oral History Project. This project collects stories and experiences of legal professionals who've seen landmark developments in their professions. Today is April 2nd, 2025, and this interview is being conducted virtually. I'm in Ann Arbor, Michigan and Dr. Haney is in Santa Cruz, California. Dr. Haney has a background in both social psychology and law. A lot of his research and work sits at the intersection of these disciplines, focusing on topics such as the psychological effects of living in institutional environments, the social contextual origins of violence, and the development of alternative legal and institutional forms. Dr. Haney is currently a distinguished professor of psychology at the University of California, Santa Cruz. Throughout his career, starting with the Stanford Prison Experiment in 1971, he has worked to shed light on the devastating and often irreversible psychological effects of incarceration, and advocated for meaningful, humane reform of the criminal justice system. Among other things, we'll be talking today about his work on mental health behind bars and on humanizing people facing the death penalty during their sentencing hearings. Thank you so much, Dr. Haney, again, for joining me today.

[Craig Haney] Sure. Thanks for the invitation.

[Spoorthi Krishnaraj] Of course. So you went to graduate school before you went to law school, so I thought we would start over there, on your path to graduate school. When did you first think that you wanted to study sociology or psychology?

[Craig Haney] It was a longstanding interest. I can honestly say that I really started out as a freshman in college thinking that that was what I would major in. I wasn't exactly sure what parts of it I would major in. There was a period of time when I was an undergraduate, I flirted with going to medical school. But even then it was with the intention of becoming a psychiatrist rather than a medical doctor of any other kind. So the decision that really focused on social psychology was what evolved over time. And it's the kind of thing when you're an undergraduate, you just gravitate towards certain kinds of issues that you start to feel passionate about, and that was true for me.

[Spoorthi Krishnaraj] Absolutely. Were there specific instances that made you gravitate towards that area of psychology?

[Craig Haney] Well, yes. I'll try not to make this too long-standing, but I make this sound like it was sort of a straight line and it really wasn't. You know, you look back on your life and it's easy to connect the dots, but at the time, it's not at all clear where the dots are leading you or if they're connecting at all. But I had, as a child, a longstanding interest in institutions. I didn't realize that that's what it was, but in fact, in retrospect, it obviously was. I had a very close family member who had a serious mental illness, and this was in the days when public mental health facilities were really quite draconian. And I remember as a small child visiting her there and really being struck by what appeared to be ominous, inhumane conditions. And I remember very distinctly seeing the fear on her face and feeling, myself, fearful each time I went there. And it stuck with me. It was a memory that I retained. And I think it led me [to] regularly think about institutional settings as I got older. What were they like? How did they affect people? Why were they run the way they were run? And I think, without me quite realizing it at the time, it did have an impact on shaping what kinds of things I was interested in, as an undergraduate even. And my particular choice of graduate school was also, to a certain extent, I think, in a lot of ways influenced by that. The person I went to study with in graduate school, Phil Zimbardo, wasn't exactly studying institutional settings, but he was studying how people were changed and affected by larger environments, by situations or settings in which people were made to feel anonymous. And that felt to me a little bit like the kind of thing I wanted to study. Again, not quite being conscious that really what I was interested in were institutions. But in those days, nobody was really studying those things and certainly nobody was [00:05:00] really studying them in psychology. Some sociologists were, and as an undergraduate at the University of Pennsylvania, I had an opportunity to study one semester with a famous anthropologist, Erving Goffman, who really was one of the very few people who were studying the nature of institutional environments. Goffman had written a very famous book called "Asylums," in which he counted some fieldwork that he did inside a mental hospital. And that was interesting to me for obvious reasons. So even though I was an undergraduate, I managed to talk my way into his graduate seminar. And he recommended and other people recommended to me that I go to Stanford if I was interested in psychology, and consider studying with Phil Zimbardo, which is what I ultimately ended up doing. So those interests develop over time, but there was a kind of consistency to the pathway, even though I wasn't aware that I was being shaped by things that had happened to me earlier in my life.

[Spoorthi Krishnaraj] Absolutely. So you talked about then going to Stanford as a graduate student in social psychology. What research did you start out doing?

[Craig Haney] Yes, this is kind of an interesting story because I just told you about how excited I was to go to Stanford and Phil Zimbardo was the only person in the country doing this kind of work. And I got there and I was actually sorely disappointed because Stanford was in a lot of ways— Phil Zimbardo notwithstanding— a very traditional psychology department. It prided itself at the time [on] being the best psychology department in the country. My wife has a PhD from the University of Michigan in psychology, and we get into arguments all the time because she feels, of course, that Michigan was the number one psychology department in the country. Whichever, in any event, at Stanford they prided themselves on being an elitist psychology department, but what that meant at that time was that they were very traditional in what they were doing. And Zimbardo—although he did some non-traditional things— also in a lot of respects, was a very traditional social psychologist. Although it will probably be hard for you to imagine this, as a psychology graduate student, we spent a lot of time walking around in white lab coats, with clipboards and making observations through one-way windows. One-way windows looking into people interacting in an experimental situation or setting, as if we were hard scientists and getting the objective facts, which was, of course, what we were trying to do. But what it meant was that much of what we were studying was quite antiseptic, very abstract, and not at all what I expected I would be studying when I went to work with Phil. And he sensed that. He was a good mentor and he sensed that I was becoming disaffected. Also, to be perfectly honest, and he knew this, [I was] thinking about leaving. I was thinking maybe I should have gone to medical school. It was at least more real. It was more tangible than the kind of abstract, seemingly strange things that we were doing and studying. We were studying attitude change and whether little manipulations in the wording of a sentence or the wording of instructions changed people's attitudes and so on. Not unimportant in any sense, but just not exactly what I had thought I would be doing with him. So he sensed this and also sensed, I think, that I was getting a little bit homesick. I grew up on the East Coast. And California— although lovely in lots of respects—was a very different place. And so he said, "Hey, I've got an idea. I got a letter from a mother, someone whose son was convicted of a crime, and she's absolutely certain he didn't commit it." And he said, "You're interested in legal things, I know, and maybe you could go back there and check into this. It's near where your home is, and you're an hour away from your home and your family and stuff. See what you can find out. Go back there for a week and see what you can find out about this case." And it turned out that the man had been convicted of a capital crime. He was on death row in the Trenton State Prison in New Jersey. I had never been inside a prison, and I managed to get permission to visit him. And in the course of visiting him, the warden in the prison gave me a tour of the prison. And I did interviews with people—with his attorneys, his family members, [00:10:00] and witnesses who had been called to testify in the case, and read the transcript of the trial. And it was a transformative experience for me because I had been struggling for about a year and a half in graduate school trying to figure out how to make social psychology relevant to anything tangible, to anything that mattered in an immediate way. I mean, again, not to say that the other research that was being done didn't matter. Of course it did. But it was several steps removed from anything that I could see actually

being applied. But the more I learned about this case and the more I learned about the decision-making and the influences on the decisions that had taken place in this case, the clearer it was to me that in addition to there being legal determinants of the outcomes in the case, there were a multitude of psychological factors and influences that bore on all of the participants in the case—from the police, to the prosecutor, to the defense attorney, to the kind of evidence that was presented in the case, to what the jurors thought of the evidence and how they interpreted it, how the judge made different rulings, how the man who was accused reacted in ways that adversely affected his case—even though they didn't have anything necessarily to do with his actual guilt. And it was a revelation for me. It seems passé now in retrospect, because the discipline of psychology and law is fairly well-developed and what I've just said to you would come as a surprise to no one. But in those days, at least to me, it was a great insight. And more important than whether or not it was much of an insight, it was, for me, career-altering because I came back to graduate school with a mission. I came back to graduate school excited, went immediately to Zimbardo, telling him how excited I was, how I was not going to leave. I could see now how I could use social psychology to do something important and relevant and meaningful. And fortunately, he was open to that. Again, this was at a time when the discipline of what's now called psychology and law really didn't exist. There were maybe a couple of people in the country who were doing it and we didn't know each other. And so it was kind of a leap, if you will, that this discipline of psychology could, in fact, be made to have relevance to law. But in any event, that's what I came back vowing and committed to trying to do. Shortly after that, Zimbardo and I started talking about doing the Stanford Prison Experiment. And that, again, was very consistent with the kind of interests that I already had. And so really, into the second year of graduate school until the present time, that's really the kind of research, the only kind of research I've done. Taking psychological data and principles and trying to apply them in the criminal legal system in ways that are designed to make the system different and better.

[Spoorthi Krishnaraj] That's super interesting. I feel like you were expressing it as such an obvious thing that social psychology would be so important to understand in the criminal legal system. But we still learn about it all the time in school—how our implicit biases affect so many things in the legal system. So there's always new things that are coming to light and making it such an interesting space and obviously the work you do is still valuable after so many years. So—a very interesting start to all of that. I wanted to ask you, obviously, a few more questions about the Stanford Prison Experiment itself, possibly one of the most well-known psychological experiments of our time. What were the interests that animated the experiment?

[Craig Haney] Well, as I said at the outset, I had a longstanding interest in institutions. Some based on personal experience, and some based on academic contacts with Erving Goffman at Penn. And then continuing to read in that area, continuing to read in sociology. Sociologists were a bit ahead of psychologists in terms of trying to understand how people were affected by institutions. And indeed, in writing about prisons, there were lots of sociologists who had already

written about what I would call the "psychology of imprisonment." But they were writing about it from a somewhat different perspective than the psychological perspective that I was trained to work with. So in the spring of 1971, [00:15:00] Zimbardo and I were co-teaching. He allowed me to co-teach this with him, a course called Social Psychology in Action. This was in the spirit of the times. One of the students in the class approached me one day and said that he knew somebody who had been in prison and had just gotten out of prison, and had spent about half of his life in prison. He said this man was really articulate and he'd volunteered to come and talk to the class. I mentioned it to Zimbardo. He was excited about it. We had him come. The man's name was Carlo Prescott. He'd been in prison for 19 years, had just gotten released— paroled from San Quentin. An African American man, incredibly articulate, held the class spellbound for an hour and a half as he talked about his experiences and what he'd gone through and so on. He held Zimbardo and I spellbound as well. We began to talk to him about his experiences afterwards. And formed an ongoing relationship with him. He came and met with us a couple of times after that. When Zimbardo found out that he didn't have gainful employment, we arranged to have a course taught in the summer of 1971, where he would essentially be teaching the class, but I would be in the class with him, sort of helping from an academic perspective. Very small class, a small summer school class. And he managed to invite people who had been incarcerated with him that he knew from his experience while he was incarcerated, including a couple of correctional officers with whom he'd formed a relationship. And it was an absolutely intellectually and emotionally engaging class for the students and for me. And it kept the discussion going. Zimbardo and I kept talking about something that we had not been talking about before, which was prisons. Now, in 1971, prisons were in the news in a number of ways, particularly in California. The Bay Area was a hotbed of prison organizing and prison activity. The so-called Prisoners' Rights Movement began in the Bay Area in California. There was a prisoners' union that was attempting to unionize prisoners in California prisons. Prisons were in the news all the time in the Bay Area in California. And elsewhere in the country as well, but especially here. Zimbardo and I, and Curt Banks— a younger graduate student, a man who was a year behind me, who was also a Zimbardo student and also interested in these things— The three of us began to talk about how we could study prisons. This is spring moving into the early summer of 1971. And we came up with the idea of studying prisons in, to be perfectly honest with you, the only way that social psychologists knew how to study anything, which was to do an experiment. Again, in those days, that was what you did as a social psychologist and there was no other method. You didn't take a course in any other research method. There was no other research method really recognized as a research method. So we were racking our brains trying to figure out, "What kind of an experiment could we do in prisons?" And we decided that the only way to approach this was to create a prison, or a version of a prison, and to carefully observe the behavior of the people inside it. Which is what we had been doing in other settings—which is, frankly, what I had found so boring in those other kinds of studies. But doing it in this context, it seemed to me, was a wholly other matter. But it was obviously very challenging. Now, Zimbardo had some grant money, and we started ongoing discussions, meeting just about every day talking

about, "How would we do this? What would it look like?" We decided that the most meaningful way to do this was to pick people to participate in the study who were normal and healthy, as normal and healthy as we could find. Because we did not want whatever happened to be attributed to the characteristics of the people. It seemed to us that all too often people dispensed or dismissed what went on inside of prison in terms of their own stereotypes of who's in prison— Who gets incarcerated in the first place? They're violent people, of course they're going to be violent when they get into prison. Or who works in prison? They're sadistic people who go to prison and mistreat people, and of course, if you put them together and give them power, **[00:20:00]** they're going to mistreat people. We thought all of that was too simplistic, mostly because it ignored at least one other major variable in the equation, which was the nature of the environment itself. So we reasoned that one way to measure the power or the impact of the environment was to take people about whom those stereotypes did not apply, and put them in an environment that was as much like a prison environment as we could. And then whatever happened, we reasoned, would happen because of the environment, not because of the people. And that's what we did. We screened people in advance. We got volunteers, college students who were in Palo Alto in the summer of 1971. We did this study at the end of the summer, in August. We probably decided we were going to do it no more than a month or so before we did it. So there was a whole lot of planning that had to be done. We had to get a lot of permissions. Zimbardo had to go to the university council. You know, the study's been criticized on the basis of ethics, understandably so. We dotted every i and crossed every t and every ethics protocol that was required at the time. Now, that's a commentary, maybe, on the nature of the ethics protocols. But whatever needed to be done to clear the study, we did it, including with the university council. We realized it was right up to the line of what ordinarily was done in psychological research. So we put this together, this design together, very quickly. The last piece of it was we decided that once we had selected the people who would be in the study—and we selected them on the basis of their psychological health and normality— that we would randomly assign them, purely randomly assign them to one role or the other. With a flip of the coin, literally, they were either assigned to be a student prisoner or a student guard. We brought the guards together the day before the study began. We had an orientation session with them. We didn't instruct them what to do. We sat with them while they devised rules and how they would proceed and what they would do. They were obviously guards who had no training to be guards, and so they had to devise a set of procedures and how they would proceed in advance of the study beginning. We gave them uniforms. We had uniforms available for students who were assigned the prisoners. And then we did one other fairly dramatic thing, which was we told the students who were going to be the prisoners in the study to be at home at a particular point in time, to tell us where they would be either in the morning or the afternoon. And then I accompanied the Palo Alto police to their homes to arrest them. And that's how the study began for them. They weren't aware they were going to be arrested. We just told them, "Be there, we'll pick you up and take you to the prison and that's when the study will begin." But we got the cooperation of the Palo Alto Police Department, and we arrived at their homes. The police officer read them their rights, took them

into custody, put them in the back of the squad car, and took them to the Stanford County Prison. So we did things—Obviously, it was important to make this a serious undertaking rather than a game. We wanted everybody to take it seriously. The study has been somewhat criticized for that, I think unfairly. Obviously, we are not suggesting, we've never suggested that all you needed to do was put people in a basement, put uniforms on them, and walk away, and what would happen is what happened in the prison study. We did what we thought was minimally necessary to make it like a prison, and then to watch what the prison did to people as the environment took over. We didn't tell people what to do. We certainly didn't tell the guards how to act. At no point did we tell them to mistreat anybody. In fact, we told them the opposite— that they were to do what they could to maintain a reasonable degree of order, but that there wasn't to be any physical violence at all. A prohibition which—we learned after the study was over, we learned subsequently—they had violated. But we only learned it after the fact. So it was put together for that reason. That was the logic. [00:25:00] Zimbardo and I and Banks were astounded at how rapidly the events unfolded, how powerful the environment became almost immediately— exceeding anything that we had anticipated overnight. I mean, we spent time not only planning the study, but also talking about what we anticipated, what we thought was going to happen. What we worried about was not that it would become too severe and harmful. Frankly, it was the opposite. That nothing would happen. The students, if we didn't tell them what to do, if we didn't tell them to mistreat the prisoners, for example, what incentive would they have to do it? So we wondered, "What will we do if they decide they're not going to take it seriously?" They're going to say, "Well, we're here for two weeks and let's just go easy on each other. Let's play the guitar and sing Kumbaya." And then, what are we going to do? was the question. And we decided that what we were going to do was nothing. That's what happened, that's what happened. We did not plan—and I think we're rightly criticized for this, but it came out of naivete, if anything, but certainly not just a blatant disregard for the well-being of the students. We did not anticipate that it would be as powerful as it was. And we had no articulated protocol for what to do if things got out of control. Because we really didn't think they would get out of control. We thought there would be changes that were taking place in people. And in fact, we had data collection points set up to measure those changes. I was in charge of data collection and I thought I would be spending months after the study was over teasing apart the changes that took place in people as a result of the two weeks they spent. As you may know, the study never made it to two weeks. We ended it after six days. We probably should have ended it sooner. But, as I say, Zimbardo and Banks and I were caught up with the rapidity with which things changed and how extreme they got and how quickly they turned. And I think it took us a few days to get perspective on what was happening. Each day had a different set of challenges and a different crisis. And we got involved in what I think prison administrators get involved in— You lose perspective because you're trying to manage what's happening moment-to-moment, and you don't step back from it and think whether or not something that you're doing needs to end rather than simply be managed.

[Spoorthi Krishnaraj] Yeah, it seems like you guys definitely became a part of the study in that way as well.

[Craig Haney] Yeah, and that was a mistake. I mean, the mistake was not keeping ourselves— We all had roles in the study. We had roles in the study because we wanted to be there in order to collect data in order to really understand what was happening. But those roles compromised our ability, really, to have objectivity about what was happening, and to call an end to it when it had exceeded anything in terms of people suffering, people breaking down, and so on. As you may know, the first person broke down 36 hours into the study. I was the person who released him. I was the person on duty there that night. And then each subsequent day, someone else broke down. By the end of the study, three or four people had broken down out of ten who were student prisoners.

[Spoorthi Krishnaraj] Wow. Obviously, the experiment had a huge impact on how people think about prison and prison reform and institutional environments in general. I'm curious about—so many years since the conclusion of the Stanford Prison Experiment— what you still think about in your work today and your biggest takeaways from it.

[Craig Haney] Well, I've had a long time to think about it. I went from that experience, that experience also was in a lot of ways transformative. Because I didn't, until that study— And I was there for a lot of the study. We worked in shifts, but I was the senior graduate student on the study. Zimbardo lived in San Francisco, so he was there most of the time during the day. But at nighttime, Banks or I, mostly me, were there through the night shift. So I really got to watch in real time, a lot of the transformation that took place in people— the guards as well as the prisoners. And it underscored for me, obviously, [00:30:00] it underscored for me the sheer power of an institutional environment like prison. And even though this was the most pallid version of a prison you can imagine— It was hardly a real prison, and even so, the participants knew it was only going to last a maximum of two weeks, unlike real lengths of incarceration. It underscored for me something that has stayed with me, needless to say, the real power of that environment to change, to transform people. Every one of the participants was somebody that I interviewed before the study began. So I knew them in their civilian life and their civilian psyches, if you will. They were happy-go-lucky college kids, nothing unusual about them. That's why we picked them, because they were psychologically healthy and normal. And then to watch them put on a uniform— one or the other uniform—and become somebody else almost overnight was a really dramatic lesson. So there was that. That obviously shaped how I looked at real prisons when I began to study real prisons. And another thing that I learned was that the reactions of our college student prisoners were different in certain respects from the reactions of most people who go into jail and prison. People said, "Well these kids were weak." Or, "You should have picked other people and they would have been able to stand up to it." And, "Nobody breaks down in prison after six days or 48 hours or whatever." And I think that the difference is

that many people who go into real jail and real prison have come, how do I say this accurately, have learned already, sadly, in society that complaining about things gets them nowhere. That trying to tell somebody that you're hurting typically only leads to worse treatment, not better. And if they don't know that already, they learn it very quickly in jail and prison right away. In the case of our study, these were college kids who had never been mistreated, I don't think, probably in their lives, and also felt that they were entitled to a response if they said they were hurting. And indeed, we gave them a response. People broke down and they were released. If people break down in jail or prison, they don't get released. They often get put in a worse place. And you only have to see that lesson demonstrated for you once or twice, and you learn never to complain. It doesn't mean you're not hurting. It doesn't mean you're not being adversely affected. It means you're just not going to talk about it because there's no percentage [in] talking about it. That was a lesson that I learned too. Because I've had opportunities, needless to say, countless opportunities to talk to incarcerated people in a variety of different settings since then. And I have learned that the pains of imprisonment are real, they're widespread, they're virtually universal. But that people have learned that there is no incentive in expressing them unless they're in a safe space and were talking to somebody like me, and they know that the explicit purpose that I'm there is to try to understand what they're feeling, and ideally to try to alleviate in some way or to take steps to alleviate what they're going through. So that was another lesson. To a certain extent, the prison study demonstrated a kind of pure measure of the pain and distress as experienced by people who are willing to express it. In real prisons, if anything, it's there, but it's submerged beneath someone's need to cover it up.

[Spoorthi Krishnaraj] That is very interesting and very sad, of course. I wanted to ask you—this might be a big question— but one of the more groundbreaking things that came out of the Stanford Prison Experiment was the fact that somebody's personality isn't the cause of their behavior, necessarily, in institutional environments. The environment can be that causal locus. And you've obviously continued that sort of research [00:35:00] in your subsequent studies. I'm curious if you've seen people recognize that something can be because of an environment rather than somebody's personality. Has that been a shift in society that you've noticed?

[Craig Haney] Well, I wish I could say yes and it's been dramatic and we transformed the way people think about these things. I think there has been a shift, and I think it's been a shift in the right direction, but it's been very slow and it's been very subtle. And part of the reason is it is competing with a counter-narrative. There are two competing narratives in our society, and they're at war with one another, and from time to time one gains or seems to be gaining some dominance. The counter-narrative to the one you just described is a much more conventional one and it is a much more, I think, difficult one to dislodge. And I've written a book called "Criminality in Context," in which I talk at length about this. I've termed it, for whatever it's worth, the "crime master narrative," which is the notion that people do bad things because they're bad people. And because they're bad people, bad things need to happen to them. That's the sort of

criminal justice mantra in this society. We deconstruct it from time to time, and we seem to be making progress deconstructing it. We've just gone through the tail end of what was called the "era of mass incarceration"—from the mid-1970s to maybe 2010 or so. There was no counter to that—the crime master narrative was all that people embraced, and we had crime policies that were based on it, sentencing enhancements, and you name it, criminalizing this and that and everything and filling up the prisons and never really looking back. We started to look back around 2010, and it seemed as though there was this competing narrative— That crime is not necessarily the product of bad evil people, but sometimes it's the result of bad evil situations or settings or traumatic life histories, and people being exposed to what we've learned to call "adverse childhood experiences" and poverty and racism and the larger forces at work in this society. That people don't freely choose crime, that oftentimes they're forced into a pathway, the only one they see, not out of free choice, but out of circumstance. And there seemed to be a little bit more open discussion of that. Sentencing reform was widely discussed, the so-called progressive prosecutor movement around the country [was] talking about alternatives to incarceration and so on and so forth. But as you know, before we got too far down the line, in the last couple of years, we've begun to reverse course on that. And we've done it with the same old playbook that was in operation during the era of mass incarceration. Which is to say, "Well, there's too many bad people loose on the street and we need to put them behind bars." And we've got very short memories about how bad putting lots of people behind bars worked, or didn't work, as the case may be. It's a struggle in the United States, especially, I think, because there are powerful political forces that know how to manipulate that crime master narrative very effectively and scare people and lead people back to a mistaken belief that crime is a problem to which prison is a solution. And if there's more crime, or you can make people believe there's more crime— One of the ironies is that oftentimes the claim of increased crime rates was a fraudulent claim. But in any event, if people can be made to be fearful that crime is increasing— whether or not it is— then they're very vulnerable to this notion that we need to get tougher on people, because after all, it's people who commit these crimes and they're doing bad things, they must be bad people. It's hard to keep that social contextual perspective in mind, particularly when there are political forces that appear for whatever reason to be motivated to **[00:40:00]** harness that energy of fear and anger and take us in a different direction, which is a struggle that we're in the midst of right now. I mean, you get odd, anomalous voter behavior. In California, eight or so years ago, we passed some pretty significant sentencing reform in the name of making our criminal justice system fair, in the name of reducing the overpopulation in California prisons, which everybody agreed was a problem. And then just last year, [in] another statewide initiative, people reversed a lot of that. It's an ongoing struggle. So I think we're better off now than we were before, because I think the public is more educated about these things, oddly enough, but they're still susceptible. They're still susceptible to political manipulation. And the motive for political manipulation is still there. And as the last couple of elections have shown, it's still pretty potent.

[Spoorthi Krishnaraj] Right. Unfortunately, that bad actor narrative is very easy to believe too, even with a political backing, motivated by fear, it's just easy to subscribe to. I also wanted to ask how the results of the Stanford Prison Experiment informed your further research and other studies that you did.

[Craig Haney] Well, in a very significant way. I went from studying a prison in the basement of the psychology department at Stanford, in a few short years to really studying prisons all around the country. And this may be interesting for your law school colleagues. I was able to study prisons, in a way, because of my involvement in litigation. In a way that I would not have been able to study if I had approached the topic as a researcher, exclusively as a researcher. So at the time I began to study real prisons— This was in the beginning of what I'm calling the era of mass incarceration, but you know what I mean, from the mid-1970s on. We did the prison study in 1971, and almost right after that, the political system changed, and the Nixon administration began to use law and order rhetoric to really ramp up incarceration, followed by Reagan and Bush and so on. We never really looked back for 40 or so years. But I got involved very early on in that process, not long after I finished graduate school, in the mid and late 1970s, in litigation. There weren't a whole lot of people studying prisons, so even though I was [a] young, brand new psych assistant professor, there weren't a whole lot of other people to go to. So I found myself being asked to get involved in litigation first, actually by the United States Justice Department. That was the first prison conditions case I worked on, in the state of Washington. I think that the trial was in 1978, 1979. But we were involved in collecting evidence and so on in 1976, '77. The special litigation unit in the Department of Justice was charged with really litigating state institutional conditions cases on behalf of the federal government, even under the Nixon and Reagan administration, until they were slowly sort of shut down under Reagan. So I was involved with them for a long time and we went to a number of different prisons. We went [to] forensic mental hospitals and so on. And I went in as a designated expert, which meant that I got to see pretty much anything I asked to see. I mean, I would go in with a court order and even though they didn't particularly like it, the prison administration had to let me do what I needed to do. Which I could not ever have done if I showed up at the gate of the prison and said, "I'm interested in studying what's going on behind the walls." They would have laughed and said, "Come back next year." I mean, it would have been a frustrating experience. And I didn't plan it that way, **[00:45:00]** it just happened. But I realized that I was getting access to things that nobody else was getting access to. I was able to see things— literally see them—and interview people and develop information. Evidence, but also information, a knowledge base that was in a lot of ways unique. Subsequently, in different parts of the country, dedicated researchers have been able to make inroads into facilities and have been given permission to study things and so on. But it was enormously difficult, especially in the early years. Prisons were becoming really overcrowded. Prison administrators felt that things were out of control. The last thing in the world they wanted was a researcher there documenting the chaos that was taking place. But they couldn't deny lawyers. They couldn't deny the Justice Department. And then I worked with other

organizations— the Prison Law Office in California, the ACLU Prison Project many times. When they were parties to litigation, we had the authorization of the court to go and do what we needed to do. I had opportunities to interview hundreds of people—incarcerated persons—in facilities all over the country— Texas, Florida, New Mexico, Ohio, all over the place. And again, litigation really opened up those opportunities to me in a way that I would not have been able to arrange on my own.

[Spoorthi Krishnaraj] Was that before you went to law school?

[Craig Haney] It was after. I went to graduate school first and then I went to law school. Yeah. Just moved across campus.

[Spoorthi Krishnaraj] So tell me more about the decision to go to law school.

[Craig Haney] The real motivation was that I realized that the more I was studying prisons and, you know, I was studying other aspects of psychology and law at the same time. But in the early years, the Stanford Prison Study had kind of focused my attention on prison conditions and prison issues. And I realized that if I really wanted to understand how to use psychology to produce data that might have an impact on the legal system, I really had to understand how the legal system worked. And it was not something that was easy to learn by going into prisons. I certainly learned how prisons were working, but I also obviously understood that there was a great deal more to the process by which somebody got into prison in the first place and the process by which they might be gotten out. So I finally came to the conclusion—even though I was kind of tired of going to school at that time— that the only way to do that was to go to law school and really get a deeper understanding of the legal system. Fortunately, there was a program, and sadly, it doesn't exist anymore, but the Russell Sage Foundation had a fellowship program that was designed for people just like me, who were social scientists who wanted to study the legal system but didn't have any formal legal education. So the program would send you to law school for two years. You got the grant for a year, you could get it renewed if things were going well for a second year, but not a third year. So I did the Russell Sage Foundation fellowship for two years. And then, you know, I had been in law school for two years, and it didn't make sense to then walk away. So I figured out a way to go for a third year without my fellowship. To finish, to get a law degree. And it was also the case [that] by then I had gotten involved in things in the law school. I was deeply involved with doing work with a professor named Tony Amsterdam, and so it made sense for a lot of reasons to stay and finish, not just to get a degree, which also made sense, but also because I was involved in projects there that I didn't want to give up. So I finished law school and then became an assistant professor.

[Spoorthi Krishnaraj] Were there any activities that you were involved with in law school that you remember particularly?

[Craig Haney] Yeah. Well, there were a lot of them. So I've talked about a couple of professional life-changing events. A third one was meeting Tony Amsterdam. Now, Amsterdam is an emeritus professor at NYU, but he was at Stanford at the time. And he was probably the nation's foremost **[00:50:00]** constitutional scholar, arguing in front of the US Supreme Court. He's the person who argued and won *Furman v. Georgia*. And I met him shortly after he had won *Furman v. Georgia*. He was already—even though still a young professor—kind of a legendary figure in the anti-capital punishment movement. Was the architect, really, of a nationwide strategy, bringing executions to a halt in the United States. And also a captivating figure. I mean, he was just extraordinarily smart, but also just engaging. A really warm, caring, remarkably effective teacher, a great mentor. And once you were sort of in his ambit, you stayed in it as long as you could. I mean, he was a really extraordinary person—still is, [he's] still alive. So he taught this seminar, which was a combination of law students and psychology and psychiatry students from the medical school. The idea was that we were working together in teams and we would actually work on cases, and Amsterdam oversaw us. Small seminar, and it was a very hands-on seminar. So we would go through exercises—practice testimony, practice cross-examination, et cetera, et cetera. So it was a very hard seminar to get into. But once you got in it, it was a wonderful experience. And that's how I got to know him. And I got to know him even more closely. He came to me one day— This is 1976, I had just gotten into his seminar, we maybe were four, five weeks into the semester— and he said, "I want to talk to you about something. I have an issue. Maybe you can help me with this." I thought, "I'm not sure I can help you, Tony, but I'm happy to try." He said, "I've got a problem in Utah. Our strategy of preventing executions in the United States is holding." Even though, by then, *Gregg v. Georgia* had been decided. *Gregg v. Georgia* was decided in the spring of '76. We're now in the fall of '76, a few months later. So even though *Gregg* authorized the death penalty and basically gave the Supreme Court some primacy on existing death penalty statutes, nobody had been executed. Partly because Amsterdam had this strategy whereby they were filing challenges in every court around the country, sort of paralyzing the system very effectively. Because even though *Gregg* had given a sort of general authorization, there were still lots and lots of problems with all these cases, and Tony was a genius at figuring out which issue to plead, and how to get the courts to consider and reconsider and so on. The only thing he couldn't control was a volunteer. And he said, "there's a guy in Utah who wants to waive his appeals." And he said, "I think— but you be the judge of this— I think it might have something to do with the conditions of his confinement. It might have something to do with the way he's being treated in prison. It's my understanding that he's one of the few people on death row in Utah." Maybe the only one at that time. He said, "And I think they really— they've singled him out and they're really treating him badly. So if you're willing to do this, I'd like to send you to Utah to interview him. And come back and tell me what you think, if you think that's a reasonable challenge that we can make." The idea being, as you I'm sure can tell, that this is not a free waiver, that it's not a free unencumbered waiver, that he's being basically so adversely affected by the conditions of confinement that it's not a free choice that he's making.

And that's the issue that we'll challenge his volunteering on. So I said, "Yes, of course I'll do it." By the time I got there, Tony had already been—The man's name was Gary Gilmore, a very, very famous case— Gilmore had gotten his own attorney and [00:55:00] that attorney had filed to remove Amsterdam from the case at all. It was an unusual kind of legal configuration. Amsterdam was representing Gilmore's mother as a friend of court, I forget what the actual petition was called. But on behalf of his mother was attempting to stop her son from taking this action. And Gilmore's lawyer managed to get that dismissed. So Amsterdam had no standing in the case, and I never got to interview Gary Gilmore, and Gilmore was subsequently executed in the first execution in the post-Furman era. So, I mean, this is going to sound strange to say. I had not been especially interested in capital punishment until I met Tony. Partly because, and I had this discussion with him early on, that what I was really interested in and why I was in law school was the larger criminal legal system, particularly the prison system, where, even then, there were hundreds of thousands of people in prison. Capital punishment, it seemed to me, affected only a small number of people and even though I knew, obviously, it affected them in the most profound way possible, it was still a very small number of people. And what I quickly came to realize was that however limited the number of people who are affected by capital punishment, it has an impact on the rest of the criminal legal system, an outsized impact. As Tony said to me very early on in these discussions [when] I was still a law student, "If you have a system that can execute people, it's hard to limit whatever else it can do, right?" So he said to me, "If you're interested in limiting the other things that it does, the impact of having capital punishment is not an insignificant issue. To a certain extent, the symbolic significance of it, the legal symbolic significance of it should not be lost on you." And I understood that. And I'm not sure I was still convinced, but I was certainly convinced enough that I thought it was a consequential issue to work on. Then we went on to do some work together. There was a project that I was involved in, that Tony was peripherally involved in, that actually two University of Michigan law professors were much connected to. Sam Gross, I met Sam Gross, Professor Gross, a law professor at Michigan, he may be emeritus by now. And Phoebe Ellsworth, who I knew as a graduate student in psychology, she had gone to Yale and then she was back at Stanford. And we worked on death qualification, the whole death qualification issue. So we did some research together. I think Sam and Phoebe may have met each other—and they subsequently got married—on that project. But we did research on death qualification, and then we presented that research in a hearing that Tony oversaw, that ended up going up to the California Supreme Court. And then we also did a hearing in a federal case in Arkansas that ended up going up to the United States Supreme Court, where we presented the data from all this research that we had done on death qualification. So Tony and I worked together extensively from my second year in law school, really. And I certainly— At least as much in my later years, in my professional life, as much of the work I do in the legal system is on death penalty cases as it is on prison conditions cases.

[Spoorthi Krishnaraj] Right. And for our listeners, can you clarify what you mean by death qualification?

[Craig Haney] Yes, sorry. So death qualification is the unusual process by which jurors are selected in capital cases, in part on the basis of their attitudes towards the death penalty. So it's a process by which, at the outset of the case, the attorneys and the judge typically also **[01:00:00]** questions prospective jurors about their attitudes towards the death penalty, and dismisses from participation those jurors who have what are regarded as disqualifying attitudes. For the most part, that means attitudes in opposition to the death penalty. In fact, in the early years of death qualification, and at the time we were doing a lot of this research, that was the only thing that jurors were asked about— Did they oppose the death penalty? Some subsequent litigation and then a subsequent Supreme Court ruling meant that attorneys were technically required to question people about extreme support for the death penalty— what's sometimes called "life qualification." It is still the case that death qualification primarily involves excluding people who are opposed to the death penalty, not people who are too much in favor of it. Very few people end up getting excluded because they favor the death penalty too much. A significant number of people still get excluded from participation in capital juries because they oppose the death penalty. And these are causing challenges. So prosecutors can eliminate as many people as a judge is willing to eliminate, on the basis of their opposition to the death penalty. And in some jurisdictions, it's a significant number of people. So what our research showed, really, were two basic things. That the group of people that's left after death qualification is significantly different— more prosecution-prone and more guilt-prone, and of course, more death penalty-prone than the group of people that existed before death qualification. That's what Phoebe Ellsworth's research so brilliantly showed. The research that I did on it had a related but slightly different focus, which was that the process itself— the process of asking people whether or not they are willing to impose the death penalty in a case—actually changes them. It actually changes their attitudes towards the death penalty, makes them believe that conviction is more likely, makes them believe that the legally authorized position is to impose the death penalty, rather than that they have an equal choice between life or death. We call this the process effect. The process of actually engaging in death qualification also slants the jury in the direction of conviction, slants the jury in the direction of imposing the death penalty.

[Spoorthi Krishnaraj] Very interesting. I did actually want to ask you about the death penalty mitigation work that you do. And you also talked about decisions like Gregg v. Georgia. So what were we left with after Gregg and McCleskey v. Kemp? What was the landscape for the death penalty in the United States?

[Craig Haney] Well, the landscape was complicated, needless to say, and it still is. When I first started doing this work— When I say this work, I mean work on the death penalty. The death qualification research that we did was very much a kind of traditional research project. Phoebe

and I both did experiments, essentially. She's a social psychologist as well. She's trained very well to do very meticulous experimental research, as I was. And so the research we did on death qualification was a research project, much like any other research project you would do. The difference was it was about a real-world phenomenon. And then we were called upon to testify about it in court in legally consequential cases. But in the process of that, and, again, I was saying earlier, there weren't many people studying prisons. Also, in those years there weren't a whole lot of psychologists who were involved in working on death penalty cases. The death penalty really came back into full force only in 1976, after Gregg. The Court basically gave states with certain death penalty statutes the green light to go ahead, and most of those states were in the South. There was, in states like California, a very slow process by which the system began to ramp up and file death penalty charges. And there weren't a lot of resources, there weren't a lot of lawyers who knew how to do death penalty cases. It was all new. [01:05:00] There hadn't really been a death penalty in the United States. Tony's work really started to grind the death penalty to a halt in the late 1960s and early 1970s. And then it wasn't until 1976, [that] there was a green light to go ahead nationwide to begin to impose the death penalty. A lot of states had to change their statutes. So many states really didn't get involved in actual death penalty prosecutions until the late 1970s. So that's a long gap between the late 1960s and the late 1970s with no real training taking place, with no attorneys really getting experience on how to do these cases. When we would go to training sessions around the country, it was mostly the people from the South, the lawyers from the South, who were the first ones on the front lines in these cases, who knew how to do them. Because they had been pressed into service very early in this process. So if lawyers weren't experienced in doing this, then there weren't any experts either who were experienced in doing any of this kind of work. So I got sort of pulled into this by virtue of the research that I had done on death qualification, and also the fact that people knew that I had some experience with prisons and that by that time, I had some experience interviewing prisoners and I was comfortable around prisons. So the very first pathway into doing this kind of work was people said, "I've got a client and he's incarcerated and I need somebody to go and see him. Can you go and interview him about the case?" Drawing on me only because I appeared to be somebody who knew their way around the criminal justice system. Whether I was or not, I appeared to be. So I started to get called on a lot to work on these cases with lawyers. And also because I went to a lot of these training conferences, I also was learning about how lawyers in the South were actually trying these cases— not just the death qualification part of it, but the rest of the case as well. So I got to be good friends with a lot of these guys. Some of them are still around, people like Steve Bright and so on, who were doing these cases early on. And eventually, I was asked to help lawyers try to understand what kind of evidence they needed to present in these cases. Gregg v. Georgia had authorized the death penalty, essentially under the rubric of statutes which the American Law Institute had put together, that envisioned aggravating and mitigating circumstances being presented. That was Georgia's statute, that Gregg v. Georgia authorized. And several other states had those kinds of statutes. And the states that saw the outcome in Gregg v. Georgia and wanted to have a death penalty

passed those kinds of statutes. So the aggravating and mitigating circumstances model was what appeared to be the authorized death penalty statute. The problem was that neither Gregg nor its progeny really articulated what mitigating circumstances were. It's not exactly a household phrase, even in legal settings. It's used more often now because it's part of death penalty litigation, but in those days it was sort of, "What's mitigating?" So a lot of us had to kind of start from square one about what's mitigating—what do we mean by that? The American Law Institute wasn't particularly informative, either, about what might be mitigating. We sort of gleaned what we could from some of the verbiage in some of the Supreme Court cases, but the Court wasn't very articulate about this either. So in those days, you were really at ground zero trying to figure out what to present in a capital case. And I immediately found that work incredibly important, incredibly interesting, fascinating, really, because it was the stories of real people's real lives. It was kind of, in my own mind, what being a psychologist was really all about. Trying to sit with people and understand them, and understand them in the fullness of their life. And have an opportunity to talk not just to them, [01:10:00] but to talk to other people in their lives, to talk to their parents, to talk to teachers. And to put together what we came to call a "social history"—not a term which was even in existence then, and I forget who first started to use it. But then all of us started to talk about it, use it, and convince judges that, "We really need to put together a social history in this case, Your Honor." And then, again, it's one of these situations where if there's only a few people in the country doing it, you're the world's expert on doing it if you're doing it. And there were many more of these cases than I could possibly do. I was, for a period of time in my professional career, literally overwhelmed by the number of demands. Because California and other states were really ramping up the use of the death penalty, there weren't enough lawyers to do them, there certainly weren't enough experts to do them. In the early years, frankly, we didn't really know what we were doing. We were doing the best we could, but we didn't know how to do it. And then, over time, strategies developed, knowledge bases expanded, people got sophisticated. We have training programs now that all capital lawyers go to. We now know—and we've known for decades, I mean, I'm talking about the very very early years of this, it didn't take very long to figure all this out. But in the very beginning, it did require figuring it out. And I still do a lot of that work. There's still capital punishment in many parts of the country, and cases do go forward, and mitigation needs to be collected and presented.

[Spoorthi Krishnaraj] Right. What does that process look like, of collecting and presenting mitigation, creating that social history?

[Craig Haney] It's a somber process. I tell especially investigators, I work with a lot of investigators. And if people haven't done it before, there's the adjective—"painstaking." And there's a double sense in which it's painstaking work. It's painstaking work in the colloquial sense that it takes a lot of time. When somebody says, "Oh, that's really painstaking work," it means it's labor-intensive, and it is labor-intensive. But it's also literally painstaking, in the sense that you

are taking on pain. And you have to be able to do that because the life stories of people who are accused or convicted of capital crime are filled with pain. I've been doing this now for decades, so I've probably worked in some capacity on several hundred of these cases. And I don't want to say there's a profile, but there are elements that are common to the overwhelming majority of these cases. Obviously, it's slightly different for each human being, a unique person, who has a unique life story. But there are the same set of risk factors or adverse childhood experiences that our clients have encountered, oftentimes exacerbated or amplified by adverse institutional experiences, which they have in juvenile institutional settings, and then even amplified in many instances by adult periods of incarceration— where the trauma that they experienced when they were younger is intensified when they're in a juvenile institution and intensified or re-traumatizing when they enter an adult system. So that by the time they've committed a capital crime, their life has been filled, typically, with sadness and trauma and distress. And your job is to chronicle that, to be able to document it, and then to be able to analyze it, to try to understand what its meaning was, how it affected your client, and then be in a position to explain it, and be in a position to communicate it to a jury. So it's heavy. I think it's—from my perspective at least—what psychology was meant to be. It's why there's a discipline of psychology, to be able to do that. **[01:15:00]** It's my discipline at its best, really, and applied for the best possible purpose, to take someone's life—somebody who's probably never been heard in their life and never been understood—and to try to make them legible to other people who are starting out not open to that, not open to hearing that narrative. Also by the time you present it in a capital case, they've heard the prosecutor's narrative. That's why you're there. You're there because they've convicted the person, they've convicted them in a capital case. It's always a heinous crime, and the jury is always upset— understandably upset—about it, and they're angry at your client. And we have research on this— Most capital juries start out the penalty phase expecting to impose death. Not literally everyone, but that's the default position at the time we begin our narrative. And so it requires a tremendous amount of skill on the part of the attorneys. I have just a small part in this process, but it requires a lot of skill on the part of the attorneys to present not just an expert or experts, but also to present lay testimony. I mean, really, to tell the story. And the gratifying part is that when you do tell the story properly, ultimately, jurors hear it, and they are affected by it, and they do show mercy. If you can get the information out. Now, there is an occasional case in which, frankly, it's too much to overcome and you can't get the jury. They may hear it, they may sympathize, they may feel merciful, but the anger and the resentment and the fear is still too much for them to show mercy. And then other times, you're in cases where, frankly, the court handicaps you, puts limits on what you can say and how you can say it. But if you get an opportunity to present the entire story, it in a certain sense restores your faith in human nature. Because even a death-qualified jury, if they hear your client's life story, they almost always do— If they hear the full story, they almost always do exercise mercy. And that's gratifying in a certain sense. It would be horrible if that was not the case.

[Spoorthi Krishnaraj] Right. Wow. Yeah, that's really important work. It sounds so emotionally difficult too, but it's great that you've done so many of those cases. I'm curious because you said some of these death penalty statutes at the state level have this mitigating circumstances but also aggravating circumstances model. Do you ever feel like you're butting heads with experts who are presenting aggravating circumstances? How do those come in? It already seems like an uphill battle in convincing a juror to show mercy. And then what are you up against?

[Craig Haney] Yeah. Well, you know how this works, you're in law school. There's always another side. And the other side is also equally motivated, but for a different purpose and trying to achieve the opposite outcome. So yes, there are experts on the other side. There are people who in fact pride themselves on being able to convey what I called earlier the crime master narrative, to basically say, "Well, I don't care how many awful traumatic things happened to the Defendant, he still had a choice." That's the go-to, always the go-to. "He had a choice." And oftentimes, the other thing that experts on the other side will do is not only to say, "Well, the traumas don't matter," but also to say that **[01:20:00]** the person is, in effect, so fundamentally damaged and bad that they're irredeemable. It's a kind of odd, almost perversion of the mitigating narrative. And this takes the form sometimes of diagnostic labeling, where somebody is labeled either antisocial personality or psychopathic—having a psychopathic personality. The idea being, I mean, the experts who testify in this way are trying to suggest to the jury that this person is fundamentally evil. And whatever created that evil or profound pathology is irrelevant to the fact that that is now who they are. And yeah, there's quite a few of these folks who make a living doing this. And it's an easier narrative to present because it's one that's familiar to the jury. It's a narrative that's presented on TV shows. It's the conventional narrative, as I said earlier—"Bad things are done by bad people who deserve bad things to be done to them. And a capital crime is the worst thing you can do. So you are therefore the baddest person you could be, and you deserve the baddest outcome, which is the death penalty." Reduced to its most simplistic form, that's the prosecutor's position, and that's the position often taken by the experts who testify on their behalf.

[Spoorthi Krishnaraj] Also out of curiosity, this death penalty mitigation work is different from some of the other stuff you do in that it's focused on an individual client. I'm wondering how those clients come to you, where you end up picking up these cases.

[Craig Haney] Yeah. Well, it's the lawyers who come to me. In the very early years of doing this, there were not many people who did it. So I would actually do training. I did a lot of training, even a lot of training with lawyers, because it wasn't just experts who didn't do this work, but lawyers didn't know how to do it either. Only because they were inexperienced, not because they weren't sophisticated lawyers, but they were just inexperienced at doing this kind of work. But now there are a lot of people who do the kind of work I do, fortunately, and a lot of lawyers who are really very good at it, and a lot of training programs all around the country. There's a very

active—and it's probably, unfortunately, going to get much more active—federal capital bar. The federal death penalty is alive and well, and about to, I think, spring even more to life, if you will. So the federal death penalty lawyers are really good at providing training for people. They have periodic training every couple of months all around the country. We have a big death penalty conference in California where the California death penalty defense lawyers come. It's a big, thousand-person training program, all sorts of sessions on different aspects, most of them focused on mitigation, but not all of them. So people are really very sophisticated at it. Now, I think it's one of the reasons, it's not the only reason, but one of the reasons that there has been a decline in the use of the death penalty in the United States. Some of it is public opinion change. So public opinion has been slowly creeping towards opposition. But it's also the case that prosecutors—and hopefully this will continue to be the case— have become a little bit more discerning in terms of which cases they file as death cases. Partly, I think, because they've lost a lot of death penalty cases that they thought they were going to win. And they, I think, have a different sense of the mood of juries now, that juries are more sophisticated. You know, when I first started doing this work— this is an imprecise measure of this— mitigation was a hard sell, because jurors didn't understand the concepts. They didn't want to hear from you. **[01:25:00]** They didn't want you to tell them anything sympathetic about the Defendant, They just had a tough narrative. And we still often prevailed in those cases. But boy, I could feel—coming off of at least some members of the jury— a tremendous amount of hostility towards me, not just towards the Defendant. I had the feeling that some of them would have been happy to give me the death penalty. And that's changed over time. Jurors are—First of all, they've heard some of these concepts before. The concept of Adverse Childhood Experiences or ACEs is something that's in the newspaper, even, from time to time. People have learned— They're used to hearing about risk factors with their medical doctor. And so when you talk about it, I always, when I testify about mitigation, I talk about risk factors and ACEs. We talk to them about medical risk factors. You go to the doctor and the doctor will tell you, "Well, if you're overweight, or if you smoke, that's a risk factor." Well, there are psychological risk factors as well. It's the same idea. It's just that we're talking not about medical outcomes, but about psychological outcomes or outcomes in life. And a lot of the jurors go, "Oh, yeah, I understand." So we have a more educated public about these issues now. And so you have a different, I think, a different tenor in the courtroom. It doesn't mean—These cases are never easy, there's always the possibility that you will lose. But I think you have a sense that you can communicate a little more straightforwardly with jurors now. And they may or may not agree with you. They usually do, but whether or not they do, they're not so closed off to it in a way that they were before. I mean, I actually find, I'm talking, I find jurors leaning forward. They understand it or they nod or they'll say something. They get it. And that's different. I mean, I've watched that change over the last couple of decades. And I think that in part, that accounts for the declining number of death sentences. And also, again, to go back to the sophistication of the lawyers— I think by the time I get on the witness stand, the lawyers have prepared the jury for a lot of what I'm going to say, by presenting lay testimony about a lot of the things that I'm going to talk about. So it doesn't come

as a shock to the jury. And that's a tribute to the lawyers, that they know how to do this, that they know how to tell the story, create a narrative, build on the narrative in a more sophisticated way than they were doing even 25 years ago.

[Spoorthi Krishnaraj] I see. I want to talk next about your work studying the effects of solitary confinement, which has also been incredibly impactful and it's a big part of what you do. I know you've mentioned before that "solitary confinement" is a bit of an amorphous term. And so I want to hear what you would describe to be solitary confinement. What are the identifying factors of it?

[Craig Haney] So solitary confinement is generally defined as the amount of time somebody spends in their cell and away from the normal routines and programming and resources of the rest of the prison. It's sometimes measured in hours per day. So we're talking about upwards of 22 hours a day, and in some places it's more than that, some places it's 23 hours a day. Alone in your cell, and even when you get out of your cell, oftentimes you are denied contact with other people. So that hour or two a day that somebody might get out of their cell in solitary confinement, typically is still not a time when they'll be in the presence of another person. So they usually exercise by themselves, or if they have an opportunity to go to the law library, there are usually arrangements made where the so-called law library is a computer terminal in another cell or on a cart in the housing unit. So it's not as though they're going to the library and chatting it up with other people who are in the law library. They're still in isolation. It also involves other forms of social isolation or social deprivation. So there are typically non-contact visits. So you may have—and everybody, virtually, does have—an opportunity for visits. They're restricted in varying ways, numbers and duration. People in solitary confinement typically are **[01:30:00]** always separated from their visitor with some kind of a partition. Usually it's a glass partition or window. Oftentimes, a visit takes place with people talking over the phone to one another. They're face to face, but not physically in contact. There may be limits on the number of phone calls you can make and so on. So you're isolated from the world, really. And this is seemingly contradictory, but even if you have a cellmate, you can be in what I would call solitary confinement if you and your cellmate are confined in your cell under those circumstances. In fact, many, many incarcerated people have told me that that's even worse. That unless you can pick your cellmate—and almost no one can—being confined in a small space—And prison cells are on average about the size of a parking space. So imagine being in a cell the size of a parking space, where you're essentially living your entire life, which means that you eat there, you sleep there, you use the bathroom there. It's all in the same square. And now imagine being in there with one other person, from whom you can't escape. So it hardly ameliorates the negative effects, and in some respects, it worsens them. It's actually a dangerous situation to place people in severe conditions of solitary confinement and give them a cellmate. Maybe for obvious reasons. But it's very likely to lead to conflict, and sometimes to lethal conflict.

[Spoorthi Krishnaraj] And how would you describe what a supermax is?

[Craig Haney] So "supermax" is sort of a term of art. It's not used too much anymore, because we're not building them anymore. The original term was used to describe a prison that was built just for the purpose of solitary confinement. The classic ones are—I guess the first real, sort of modern supermax was Pelican Bay in California, where we did a lot of litigation. And then there were several others built in different parts of the country. But basically the entire physical plant is constructed in such a way where it is designed to impose solitary confinement and only solitary confinement. So it's built with a limited number of common areas, if any, and oftentimes configured with so-called recreation areas that consist of cages rather than a yard. People imagine a prison yard, a big yard where people are running around a track, maybe, or sitting out in the grass or something. Well, "going to the yard" in solitary confinement typically means being taken in shackles out to a cage that's typically about the same size as your cell, and exercising in an empty cage alone until your hour or 2 hours of rec time are up. So supermaxes, I mean, the whole concept of solitary confinement has become, fortunately, much more contentious in the last 15 or 20 years. Prison systems, I think, now would be hard-pressed to say, "We're going to build a supermax." Now, what they've done instead—and we've done this in California as well—they have dedicated units within a prison that essentially are operating as solitary confinement units or supermaxes. So the other famous supermax is the ADX facility in Florence, Colorado—the federal supermax. And that was built as a supermax. It's called "administrative maximum," but it's the BOP's term for a supermax, that's their supermax. And it's constructed for no other purpose than to hold people isolated in their cells.

[Spoorthi Krishnaraj] Yeah. And can you talk a bit about the effects that this kind of confinement has on people who are imprisoned there?

[Craig Haney] It's profoundly damaging. When I first saw people being placed in solitary confinement on a long-term basis— And this really didn't start in the United States in a major way— **[01:35:00]** Even before so-called supermaxes, we started to put people in solitary confinement on a much longer-term basis than we had done before. There's always been "the hole," there's always been a disciplinary place where you can put somebody for a disciplinary infraction for a couple of days, maybe a week or two weeks or something. But we didn't put them there for months or years. And this started—I began to notice it—I wasn't studying solitary confinement, we were doing prison litigation and the issue from most of those early prison lawsuits was overcrowding. It was the opposite of solitary confinement. People were crammed together and they were holding 150 or 200 percent of the capacity of the prison. People were sleeping on the floors or in the gymnasiums, and there were three people in a cell rather than one. And I saw people in solitary confinement units. And my first impression was that it might not be a bad thing, that it would be a respite from being in the madness and chaos of the overcrowding. But I was fairly quickly disabused of that when I began to interview people who were in those

units and found out that even though they weren't subjected to the rigors of overcrowding, there was another kind of prison trauma that they were experiencing, which was isolation. Especially when the isolation was being experienced on a long-term basis. And then I delved very deeply into it in the Pelican Bay litigation— Madrid—where I interviewed an extensive number of people about what was happening to them there. And that was a classic supermax prison, the security housing unit at Pelican Bay. Big, big prison, built just for the purpose of keeping people alone in their cells. And they were suffering deeply. Your original question was, "What does it do to people?" It does many, many and very bad things. I guess the most common reaction is depression. It instills a sense of hopelessness, a sense of despair. People become clinically depressed, they don't see any meaning in life. In extreme cases, they may decide that their life is no longer worth living. So the highest rates of suicide and self-harm in any prison system are in the solitary confinement units. The despair becomes overwhelming and people see no end to it, they see no way out in long-term solitary confinement, and may come to the point where they no longer want to live. The other thing that happens to people is they experience anxiety, uncontrollable anxiety. Some of them have panic attacks. They feel on edge all the time. They tell you they don't know why. They wake up on edge, they go to sleep on edge. In extreme cases, they become so socially anxious around people that they actually self-isolate even when they're released from solitary confinement. So part of what happens is it's not just immediate—You don't just react immediately to the deprivation in the environment, which you do react to and you do feel and people do feel despair. They feel depressed, they feel hopeless and helpless, they feel anxious, they may deteriorate cognitively. So people will report to you that they have a hard time concentrating, they can't read, they can't remember things. Sometimes they become so irritable that they become easily enraged. They may provoke confrontations with correctional staff. Or they may just become enraged with themselves, bang on the wall, bang on the doors. But what happens over time is that human beings have to figure out a way to accommodate that. And one of the ways you accommodate it is learning to live in a world without people. You become indwelling, so that your entire universe is contained within yourself, within your head. Sometimes in a very functional way. You create a world for yourself, you have fantasies, you have routines that you arbitrarily impose on yourself. [01:40:00] There's nobody there to hold you accountable, but you're holding yourself accountable. So every day, you're going to do 600 push-ups. You're going to die in the process if you have to, but you're going to do that. You set these goals for yourself. And it's all arbitrary, because there's nothingness to existence, so a survival strategy is to impose something or nothing. You do that all on your own, and you do that with no accommodation to others because there are no others. And then you get out of prison, or you get out of solitary confinement. You go to a mainline prison or you get out of prison and you go home. Now none of those things work, because there's people around you and you have to somehow figure out how to negotiate you and your world—and the way you've survived for the last 10 months, 5 years, 15 years on your own—with other people. And for some people, it's an insurmountable transition. They struggle mightily with it. And it sometimes results in them going back to prison or sometimes results in them having a disciplinary infraction if they're in a

mainline prison because they can't manage to be around other people. Or they become so socially anxious around other people that they simply self-isolate. I get, from time to time, phone calls from family members of people who have been in solitary confinement. And they get out of prison and the family is joyful— "John is home. Finally, he's home. He went through this awful ordeal. We're glad to have him back. My god, it's a dream come true." And all John wants to do is stay in his bedroom and doesn't want to talk to anybody. Or John calls me from a grocery store and he's in the grocery store and he's having a panic attack because there's people around him and there's all these things on the shelves and he doesn't know what to do, and people are asking if they can help him or does he need something and he doesn't. You realize how handicapped people have become by doing the thing they had to do in order to survive in the environment that they didn't choose, that was enforced on them. And they learned how to survive in that environment. Some people don't— I mean, in extreme cases, people lose their minds in this environment. It's usually people who have a preexisting mental health condition, and it simply exacerbates badly inside solitary confinement. But I've had cases of people who had no preexisting mental illness and went completely mad inside solitary confinement, because they simply couldn't manage it. I've had many, many, many, many incarcerated people tell me that they wake up every day and the main thing that's on their mind is not to lose their mind. And that's their discipline. And they have to figure out a way to survive without losing their mind. And so they do it, and that's the accommodation. But then they get out, and the way that they retain their sanity no longer is working for them. And it's a very painful transition.

[Spoorthi Krishnaraj] Right. How much of that is irreversible? Can you heal from adapting in that way?

[Craig Haney] So I think you can, and I've known many people who have. But I also know that sometimes people who appear to have adapted very well privately struggle. The best-known case of this is, for me, a man named Albert Woodfox, who is kind of a famous solitary confinement prisoner. He's one of the Angola Three, and came out of prison in Angola having served 44 years in solitary confinement. **[01:45:00]** I worked on his case and interviewed him and the other two in the course of the litigation. And all three of them appeared to be remarkably resilient, even while they were in solitary confinement. Albert served the longest. One of them got out after "only" serving about 30 years in solitary confinement, Robert King. Another one, Herman Wallace, was released but died a few days after his release, in the free world. But Albert came out after 44 years. And Albert really appeared to have adjusted very well. In fact, I was at a conference, I don't remember how many years ago, but not long after Albert got out. Albert and I spoke at the conference at the Michigan law school. And Albert was in remarkably good shape. He wrote an award-winning book called "Solitary." And I saw him from time to time, we would stay in contact with each other, and we were on a couple of panels together a couple of times. And I brought him out here, we had a conference in Santa Cruz. I brought him out here, and in introducing him, said to the group how remarkable it was and how extraordinary it was, how

really gratifying it was to see him doing so well, and he was getting praise for his book and so on. And he spoke, and then afterwards, he took me aside and he said, "I've been at a number of conferences with you and I really appreciate how you always talk about how well I'm doing, and how extraordinary, and you compliment me that I've somehow managed to rise above what had happened to me, and I'm proud of that myself." He said, "But I want to tell you, I'm not remotely normal." He said, "I bet you know that, don't you? I bet you know when you say that, that you're leaving some stuff out." And I said, "Well, I don't want to speak for you, Albert. I mean, I don't have to." He goes, "Well, I'm just telling you, every day, I'm barely hanging on." He said, "Every day, I'm barely hanging on." And I think that's not uncommon. And other people have said something not quite as dramatic as that. And nobody that I know has served as long as Albert had in solitary confinement. But I've heard other people say something a number of people say—A little bit different from what Albert said. One guy put it, "There's always a space now between me and other people that wasn't there before. And I don't think I'm ever going to be able to bridge that space. I feel distant, somehow, from other people, in a way I never was before. I have friends. I have a wife, whatever. And I love them and they love me. But it's not—there's some—I don't know how big the space is," he said, "but it's there, and something tells me it's never going to go away." And I think that's an articulate way of saying that, for many people, it changes them in a way that they can't reconfigure themselves. One guy told me that his social nerve endings had atrophied, and he did not know how to get them back. He was talking to me, he goes, "They're not like a muscle, are they, Doctor?" I said, "I don't think so. I don't know. Maybe they are, maybe if you just keep practicing them, exercising them, they'll come back." And we laughed, but I understood what he meant. Because there are some skills when we lose, we lose them. And other people can regain them, but it's not a simple matter of saying, "Okay, now I'm around people and I used to be really gregarious, so now I'll be gregarious again because that's who I used to be." I think sometimes you can't be that person again.

[Spoorthi Krishnaraj] Yeah, absolutely. **[01:50:00]** I want to backpedal a little bit. You mentioned the Madrid case and visiting Pelican Bay. I would love to hear more about how you got involved in that litigation, what your role was.

[Craig Haney] Yeah. So I was telling you about doing prison litigation and doing death penalty cases as though they were separate realms. And they obviously very much interact over the course of a professional life. So I was involved in a death penalty case in California, in which a man was accused of having killed a correctional officer. And he was in the adjustment center at San Quentin, which was the highest security unit in California until they built Pelican Bay. So his legal team knew that an issue in his trial was going to be, "Could California keep him safe?" Could California be safe from him, since he had been killed— He was on trial for it, and if we were going to present this testimony, he would be convicted of it. So if [a] so-called "future dangerousness" issue was going to come up. California had opened this new prison in Pelican Bay. And it was kind of a secret. It seems remarkable now in retrospect that they could have

done this, and I guess there were rumors of it. But they were building this prison, and it's in the middle of nowhere. It's remote from any population, the northernmost corner of the state, on the coast, where nobody goes. And they had built this prison. And there were rumors coming back that it was a different kind of prison. It was kind of a supermax prison. I didn't know exactly what that was. But I thought, "Well, we need to see this place. Because this is supposed to be a supermax, where they're going to put the worst of the worst. Clearly, that's where our client's going to go if he gets a life sentence, since he had committed a murder in the highest security unit in the system except for that place. Of course they're going to send him there. So I want to be able to tell the jury what it's like there." Well, except that nobody was allowed in. That's why it was just a rumor, what was going on up there. Because nobody from the outside was being permitted to go in. So, apropos of what I said earlier, if you're a researcher, you can't get in. But if you're doing something on behalf of the court, you can. So the lawyers made a motion to the judge in the death penalty trial that I and another expert, a guy named John Irwin, a sociologist, be allowed to go and tour Pelican Bay, this new place, because it was relevant to future dangerousness in this capital case. The judge granted the motion, compelled the Department of Corrections to allow us to go to Pelican Bay. And so Irwin and I flew up there. You fly into Eureka airport, and it's an hour and a half or so drive. We drove out there, stayed overnight. Up the next morning, we're going to go to look at this place. I didn't know, I figured it was probably like solitary confinement units I'd seen in other prisons. I'd been in and out of San Quentin, Folsom, Soledad— They had solitary confinement units, even, sort of, for long-term solitary confinement. I figured, "It's going to be a version of that, so what is there to see, really?" And then we went in, and it was shocking, because it was the first prison that I had ever seen that was built—explicitly built—to minimize human social contact. Even between the correctional staff and the incarcerated people. Most solitary confinement units, the old-school version of them, were just units where nobody got out of their cell, but they pretty much looked like a maximum security prison cell. And correctional officers had to go around with keys and open doors and all that stuff. And even though people weren't [01:55:00] getting out of their cells very much, they just looked like a regular prison. This place looked like a space station or something. Things were automated, so correctional officers didn't have to interact with anybody. There was a control booth and there were pods that went off of the control booth, like spokes. And there were cameras and television sets. And correctional officers pressed buttons that opened doors, so they didn't have to interact with anybody. When they were getting the guy in cell 11, it was time for him to go out to the yard, the officer would contact him over the intercom and say, "Hey, 11, you want yard today?" And the guy would say, over the intercom back, "yes" or "no." If it was yes, he'd open the door electronically. And then the man would come to the window of the control booth, strip search in front of the window without any contact— several feet [apart] but through a window— put back his clothes, go to the back of the unit. The correctional officer would press another button, the door would open, he'd go out to the exercise area, a concrete enclosed little space, and watch with a camera. When it was time for him to end, they'd communicate over an intercom again, he'd come back in, strip search again, go back to his cell. Again, all of this

without any actual contact between them. And the whole thing, I mean, it felt—Because the movement of the people inside was so carefully controlled, it didn't feel like it was a place where people lived. It felt like you were in a space station, or like inanimate objects were being stored on shelves somewhere. And it was massive. It was a big, big, big prison, and it was all designed this way. And the correctional captain who was giving us this tour was so proud of this place. He thought it was just the most amazing prison. He'd been in the Department of Corrections for a long time, this was the epitome. He couldn't help himself, he was so excited about the place. We got to the end of the tour, I'll never forget this, he said, "You guys are supposed to be experts on prison, right?" Irwin and I go, "Yeah, supposedly." He said, "Okay, I have a question for you. What's the one thing they left out? What's the one thing they didn't think about?" So John and I went, "Well, we don't know. You tell us." He says, "Food. Food delivery." I said, "What do you mean?" He said, "Well, you'd think with all the money that we spent on this place, they'd figure out a way to deliver food to these assholes automatically, so we don't even have to have any contact with them, serving them food." Because what they had to do was, correctional officers would have to bring around a food cart and stick the tray in the tray slot. And that was the only interaction that they had. But that was too much for him. He thought that was a design flaw in the design of the prison. And John and I, at the end of the tour, we thanked him and we went outside, and we had a rental car. And Irwin is a very well-known sociologist who had himself been incarcerated, wrote a very famous book called "The Felon." He's a formerly incarcerated person who went on to become a sociology professor. A really good guy. He passed away a few years ago. And John and I sat in the car for 10 minutes and neither one of us could talk. We just sat there. And we turned to each other and said, "We've seen the future. This is terrifying." It was another level of dehumanization, another level of prison cruelty that even two experienced people— one of whom had been in prison—could not envision. And to a certain extent it was, at least for a period of time, it was the wave of the future. So I went back and told a guy named Don Specter, who was the head of the Prison Law Office at the time, "Don, this place is like nothing I've ever seen. **[02:00:00]** You can't even imagine what this place is like." I tried to describe it to him. I had taken photographs of it because I was going to present them in the hearing. I showed him the photographs and I said, "But the photographs don't even do justice. It's the feeling of the place. You have to feel the place." So a year or so later, Don called me and said, "Remember this place, Pelican Bay?" I said, "Yeah, I'll never forget it." He said, "Well, we just got contacted by Judge Henderson." Who was the chief judge of not the Ninth Circuit, he was a district court judge but for whatever reason, he was in charge of something. And he had been getting letters from prisoners at Pelican Bay, and he wanted to appoint lawyers. He said, "I get letters from time to time from prisoners all over the state. But this is like the 40th letter I've gotten from Pelican Bay describing this. And I want some lawyers to look into this. So Don contacted me and he said, "I'm going to see if we can get a firm. If we sue them, we're going to need firm help." He said, "There's this firm, Wilson Sonsini in Palo Alto, that's potentially interested, and we have [to] talk to them, they're potentially interested. I want you to come with me and describe to them what you saw." And I said, "Okay." So we went over to Wilson Sonsini,

a big table, and I described what I'd seen. And I said, "I didn't interview anybody there, I don't know what the impact is, I can't tell you anything about that. I can tell you just what I saw." And then they decided they would undertake the case. So then we started to go up there regularly. And I got very familiar with it, and very familiar with what it was doing to people. And there have been other places like it, in different parts of the country as well. But it was a shock. This was 1989 or '90, and I had been in a lot of prisons. By then, I had seen quite a few places, and thought I'd seen everything. But this was a whole other level of really dehumanizing cruelty. The other part about this, when I finally started to go up and interview people, I ended up interviewing a random sample of 100 people. I just randomly picked names off of the roster. I was shocked by the number of profoundly mentally ill people they had up there. You may remember from Madrid, the order in Madrid left the prison open, but required that the mentally ill prisoners be transferred. That was Judge Henderson—I think, who felt sort of hamstrung by what he was concerned about. Maybe, I don't know what the Ninth Circuit would do if he closed the place or whatever. But he wrote a very, very, very powerful opinion. But, sadly—in my opinion, regrettably—he stopped short of closing it. I think if he had reached a different decision, if he'd been able to close it, the other states that were waiting for the outcome of this case would not have been so enthusiastic about creating their own supermaxes. But he appeared to them—and certainly the Department of Corrections characterized the opinion—as saying confinement in Pelican Bay was okay. Now, you can't really read that opinion and reach that conclusion. He was pretty eloquent about how awful it was. He just stopped short of saying that it was unconstitutional *per se*. He said it was unconstitutional for the mentally ill, and actually left open the possibility that it might be for other people if they were kept there for a long period of time. And that was the basis of the subsequent litigation in Ashker. There were guys there who'd been kept there for much longer than Judge Henderson had been led to believe people would be kept here. The Department of Corrections was saying, "Well, no, Your Honor," in Madrid, "This is just a year or two max. [02:05:00] We realize this is a hard place to live. We're not going to keep people here permanently, certainly, or a few years or something." So Henderson said, "Well, it's only been open for a few years, so I don't know. I can't say what it'll do to people if they stay for longer." So he left that issue open. And then, of course, the Department of Corrections did keep people, not just for years—for decades. And that was the issue that was being litigated in Ashker.

[Spoorthi Krishnaraj] Right. And you were an expert witness in Ashker as well, is that correct? So were you able to go back to the prison and interview more incarcerated individuals for that?

[Craig Haney] Yeah. It was an eerie experience. I had been there in the intervening period of time, I had been there for other reasons. I had a client, occasionally, a capital client or something, so I'd been. And you can see that the prison hadn't changed at all. It can't change. It's big concrete blocks, there's not much you can do. It is what it is. And it ran the same way that it always ran. So I knew the prison hadn't changed. But I didn't have any contact with any of the people who I

had originally interviewed. Until I went back and I searched the roster to see if, in the unlikely event, that there was anybody still there. And unfortunately, it wasn't unlikely. There were a number of people who were still there who I had interviewed— my original 100 people. There were not a lot, but there were ten or so, maybe, who were still there. So I interviewed them again. And it was a really eerie experience. We looked through the window at each other and I said, "Do you remember me?" And they said, "Yeah, I remember you. You remember me?" I said, "Yeah, it's been a long time. We've both aged." But I had lived my life, and they had been in this concrete tomb for 20 years, never having left. And they didn't have any expectation that they were ever going to leave. And I think, but for Ashker, they would never have left. I think the Department of Corrections' intention at that time was for them to just die there. And I think they knew that. They were mostly people who were accused of being gang members or gang associates. And once that label is applied to you, there's no way to get it unapplied. It's who you are, from the Department of Corrections' perspective. And unless you're willing to debrief, which by definition, they weren't, or they would have gotten out much earlier. And "debrief" means that you not only renounce your ties to the gang, but then you have to give information about other people, basically have to snitch on other people. They weren't going to do that. So they would have died there or very likely would have. Or that's what they thought anyway. In the report I wrote in the case, I called it social death. There was a level of despair in them which was deeper than depression. The only thing I could analogize it to was grief. There was sort of a sense of grief about them. That they knew that the person they had once been had essentially died and was never going to come back. That they could never reconnect to who they had once been. They weren't sure who they currently were. Most of them no longer had the personal social relationships that they had before they went there. And they were grieving. They were grieving for who they had been and the person they had been who had died, their own identity. And it was hard to come to terms with. I don't think it's what Judge Henderson intended to happen, I'm sure. But that's what happened.

[Spoorthi Krishnaraj] That is what happened. Yeah. So what was the outcome and aftermath of Ashker?

[Craig Haney] The Department of Corrections and the state, **[02:10:00]** I think rightly realized that if we went to trial, they were going to lose. And there was a settlement. I also should point out— One of the things that brought Ashker into being was a statewide prisoner hunger strike. So the heroes of this story are not just the lawyers who filed the case, but they're also the prisoners at Pelican Bay who initiated a hunger strike. And then it's a hunger strike that spread throughout the state and drew attention to this issue, worldwide attention, really, to it. To the fact that there were people— I mean, by the time we filed that case, there were a few hundred people who had been there for at least 10 years, and 50 or so people who had been there for 20 years or more. So that garnered public attention and outcry. And the prisoners did that. They did that. They organized that hunger strike without lawyers' involvement. And we got involved later, the

legal teams got involved later, but I think the Department of Corrections understood they were going to lose the case, so we settled the case. The settlement was going to review everybody, and they were going to transfer people to other institutions, and they were going to institute a top limit of 6 years— not especially generous, but better than what had existed before. So everybody is going to get transferred, and going forward, nobody would ever be kept for longer than 6 years. They created other solitary confinement units throughout the state. Pelican Bay was reduced to— Almost nobody's in the Pelican Bay security housing unit or isolation unit now. It's been converted to an educational unit. So the doors are always open and they have guys who are programming and so on and so forth. The people who had been there have been transferred. So that's the happy part of the outcome. The unhappy part of the outcome is there's been ongoing litigation about what "transfer to a mainline prison" means. In California, some mainline prisons are operated under almost solitary confinement-like conditions, where people don't get out of their cells. They're on lockdowns all the time. And that means you don't get out of your cell, as the term would imply. When we envisioned people going to a mainline prison, we envisioned a normal mainline prison, where you had a job, and you could go to school, and there was a real yard, and you were out of your cell a lot. And the Department of Corrections said, "Well, we can send them to any mainline prison we want. Including these mainline prisons which are essentially large solitary confinement units by another name." So there's been ongoing litigation about that. One of the things you learn when you do prison litigation is that prison systems are infinitely creative in how they minimize whatever benefits, whatever hard-won benefits come out of litigation. And you have to stay, as conscientiously as possible, on top of the actual outcomes rather than the written agreements.

[Spoorthi Krishnaraj] I'm going to open it up a little bit and ask if you'd like to share any insights or observations from any of the many other cases in this area that you've been an expert witness on.

[Craig Haney] The one thing I'll say is that these continue to be closed institutions, and I don't think the public really understands what happens to people inside. I think one of the reasons they don't care is because they don't know. Not only do they not know what the conditions are like, but they don't know what the conditions do to people. So we have a bad combination of the public sort of stereotypically thinking of people being sent to prison as bad people, not deserving of anything at all, and simultaneously not quite understanding anything about what really happens inside prison, how bad they really are. Because they're closed institutions and the **[02:15:00]** public is never given even really a glimpse inside. So there's a kind of profound ignorance and lack of real caring or concern about these issues. And one of the really widespread problems that I don't think the public quite understands is the extent to which the jail and prison system has become the default placement for the mentally ill in this society. Whatever most people's stereotype is of a criminal, I don't think they quite fully grasp the fact that 50 or so percent of the people who are incarcerated have mental illness. And whatever they're doing that

is wrong or unlawful or aggravating to the public is, in part, the product of an underlying untreated mental illness. Prisons and jails are not set up to treat mental illness at all. In fact, if anything, they are more likely to exacerbate than ameliorate these problems. A cycle has been created in this society. It's very much connected to people who are houseless, very much connected to substance abuse problems, widespread substance abuse problems, and ongoing criminality. People's mental illness doesn't get treated, they come out, they can't find a job, they self-medicate, they're on the streets, they have to survive somehow, they go back to what they know, and on and on it goes. And I don't think that most people grasp that that's what's happening, that we don't have a functioning mental health system in this society, so prisons and jails have become the place where folks are put. Not because we can treat them there. We can't. We don't. Correctional officers are not trained to deal with these issues, so it leads to a lot of brutality. Because correctional officers have no framework for understanding why somebody would throw feces or eat their feces or do the kinds of things that mentally ill people do, and so punish them—decide they're willfully acting out and they need to be punished or worse. Punish them by putting them in solitary confinement, or worse, beat them. So I think that's a massive nationwide problem. I go from prison system to prison system, and there are different issues in each one. And we do a lot of solitary confinement litigation and there are certain problems with certain systems that aren't replicated in others. But across the board, the one problem— whether we're talking about solitary confinement units or maximum security prisons— is the extent to which there's an underlying untreated mental illness in at least half the population. And I've been in some solitary confinement units where it's three quarters of the people, where you really feel like you're in a mental health unit. There's no way to make a distinction between [them]. If I said you're a psychiatric hospital, you'd say, "Yeah, that seems about right." Except nobody's getting any treatment. Or to the extent to which they're getting treatment, they're getting medicated but otherwise ignored, and living under very, very harsh circumstances, with no idea what they're going to do when they get out.

[Spoorthi Krishnaraj] Right. Have you ever been a court monitor rather than a plaintiff's expert?

[Craig Haney] No. I've worked informally, I've worked in that capacity informally. So I've worked with prison systems about how to implement court orders, and given them advice about how to solve problems before litigation, but never actually as an appointed court monitor.

[Spoorthi Krishnaraj] Officially, got you. We're going to move now into your current work as a professor at UC Santa Cruz. What led you to become a professor?

[Craig Haney] Well, I learned early on that I actually like to study things. It's funny, I went to law school and there was a moment [02:20:00] when I was in law school when, actually, I was finishing my third year of law school and I thought, "Well, maybe I should be a lawyer." And I actually interviewed for two jobs. They were really interesting. There was a really interesting

program in Washington, DC called the Mental Health Law Project. And there was a criminal defense firm in New York. While it was a private firm, they handled a lot of really interesting cases and had a really good reputation as doing private, appointed criminal defense cases, it wasn't a public defender's office. And I went to both interviews and realized when I came back that when I was talking to them, when I was talking to the Mental Health Law Project about their cases, and I was talking about the cases that this law firm in New York City was handling, I found that my mind went to studying the cases rather than actually being a lawyer in the case, you know? And I realized that I was probably best suited to being somebody who studied and analyzed these things. I mean, I very much love the contact with the legal system. You always try in your professional life to get a balance doing as much of the things you love as you can. And so for me, it's been a perfect balance. Because I think if I was—how to say this without sounding critical of my profession? If I was just a professor, it would be hard. Because I would feel distant from the real world, distant from the real issues. And yet if I was a practicing lawyer or if I was in court every day, I think I would lose an analytical framework about the issues. So this has been a balance. I get to study things, think about things, and try to analyze them. To the extent to which the analysis is useful, I get to apply it in a real-world setting. But I also love teaching. I love working with students and I'm glad for the opportunity to do that. I've been doing it for a really long time and haven't gotten tired of it or bored with it, so I'm glad I can still do it.

[Spoorthi Krishnaraj] That's fantastic. We're going to wrap up here with this last portion, just asking you for advice and final thoughts. Do you have any advice for students who are interested in working in prison reform, and what are some of the most important skills to develop for people who are interested in working in that space?

[Craig Haney] Yeah. A couple of pieces of advice, for what it's worth. One thing—especially for people who are doing prison litigation—I think you have to be able to do two things simultaneously. Which is, to be patient and understand that any kind of real change in the prison system is a long-term commitment, a very long-term commitment. I've been involved in a case called Coleman that's about mental health care in the California prison system, that we filed in 1992. It's 2025, and it's still going on. The judge just issued a contempt order last week in Coleman. I mean, that's a worst-case scenario, of course. But we're talking about years. The litigation itself lasts for years. By the time you file the case, collect the information, there are expert reports, there's depositions, there's a trial, there's a court opinion— That's three or four years, at least. And then there's implementation. What happens now that the judge says, "Fix all this"? So you have to be patient. On the other hand, very few of us can delay gratification completely for that long period of time. So you have to learn to take solace in short-term victories, little things. And I take it wherever I can find it. Helping somebody with something—  
**[02:25:00]** I'm interviewing somebody and I help them with something, or tell them something about how to survive this, or give them some advice about how important it is to contact their family, whatever little thing it is. Or just listen to them and realize that this is the first time

somebody's listened to them for maybe 8 years, and recognize that, and appreciate the fact that you have an opportunity to do that, and take that as a victory. Or get a judge to order somebody's conditions of confinement to be changed just a little bit. And not to see that as trivial, because you have to sustain yourself. Everybody wants to feel like they've accomplished something. If you have to wait for 4 or 5 or 6 years before a case wraps up, it's a rare person who can do that. So I think it's that balance. It's kind of Zen of doing two things at once. Don't lose sight of the ultimate goal, and certainly don't compromise your values in getting there. But also take the small victories when you can, and recognize them for what they are, that they actually are victories, and in whatever small way you did, you contributed to that small outcome. I think it keeps you going. The other thing I would say is— and maybe this is terribly obvious, but I think it's especially important in any kind of civil rights work, death penalty cases or prison litigation—is to put yourself as close as you can to your clients. Bryan Stevenson has this phrase he uses about proximity to pain. And he says that's how you learn, that's how you take inspiration in lawyering. That's how I take inspiration in being an expert and analyzing the things I do. We live in a society where, I think, we are encouraged to ignore the pain that our fellow citizens are going through in some of these environments or in some of the life circumstances. There's a kind of superficiality to day-to-day life. And if you don't force yourself to go into prisons, to talk to people who are accused of crime, to understand— In a capital case, go to where your client grew up, I mean, feel it. I think if you don't feel it, the passion can burn out. Because you're not encouraged to do that in this society. We're encouraged to go light and be happy and enjoy ourselves and get a work-life balance and all that. And I understand all that. But I think if doing this kind of work, it is important to always stay close to what it is you're trying to fix, what it is you're trying to help with. Because if you don't, it's easy to lose sight of it and get off the path.

[Spoorthi Krishnaraj] Absolutely. I think that's it for my questions, but do you have any final thoughts, anything you wish that I had asked about?

[Craig Haney] No, I think you were very comprehensive. The answers were probably a little too long-winded, but whatever. No, it's been great. I enjoyed talking to you and I thought you asked great questions.

[Spoorthi Krishnaraj] Thank you. That was fantastic. Thank you so much, Dr. Haney, for making time to do this and for being here today. It's been such an honor to talk to you.