Panel Discussion: So You Want to Publish a Book?

Moderator
Suzanne Kim

Panelists
Steven W. Bender
Susan Carle
Angela J. Davis
Clara Platter
Katheryn Russell-Brown

Introduction by Suzanne Kim, Professor of Law at Rutgers Law School

Reaching wide and varied audiences for our academic work through book publishing served as the focus on this pipeline program panel. Through a dynamic conversation among leaders in book publishing from the academic and editorial sectors, we discussed the nuts and bolts of book publishing.

We are indebted, for this important dialogue, to American University Washington College of Law, NPOC, and all the conference's co-sponsoring schools. We particularly want to thank Vice Dean Susan Carle of American University Washington College of Law, whose idea it was to host this panel. We were joined by the following expert book authors for this discussion.

Professor Steven W. Bender is Associate Dean and Professor of Law at Seattle University School of Law. He is an expert on immigration law and policy, drug policy, Latinx issues, and real estate transactions.

Professor Susan Carle is Vice Dean at American University Washington College of Law. She is an expert on civil rights, legal history, employment discrimination, labor and employment law, legal ethics, and the history and sociology of the legal profession.

Professor Angela J. Davis is Professor of Law at American University Washington College of Law. She is an expert in criminal law and procedure with a specific focus on prosecutorial power and racism in the criminal justice system.

Professor Katheryn Russell-Brown is the Levin, Mabie & Levin Professor of Law, Director of the Race and Crime Center for Justice at the University of

Florida Levin College of Law. She is an expert on issues of race and crime and the sociology of law.

Clara Platter is an Acquiring Editor of History and Law at NYU Press. Previously, she worked for the trade publisher Public Affairs, for Princeton University Press, and for University of Georgia Press.

In this dialogue, each author discussed books they have published and their pathways in the writing and publishing process. The conversation also included the perspective of an editor who had worked both in academic and trade publishing. The audience included book authors, who were also able to share their experiences and advice.

Book publishing raises the following types of questions. How does one decide to write a book and when is publishing in book form the best format for one's work? When is the "right" stage in one's career to write a book? What differences are there in audiences for books as compared to that for law review articles or other forms of publication? How can we compare academic and non-academic publishers, and what advantages or disadvantages exist in working with each? Should one seek an agent or approach publishers on one's own? How does one prepare a book proposal or query letter? What are some benefits or drawbacks of submitting to publishers for exclusive consideration? What tips do authors have for negotiating book contracts and royalties and for manuscript completion? Authors also reflected on challenges and rewards in book writing.

Suzanne Kim: My name is Suzanne Kim, I'm from Rutgers Law School, and this morning's panel is one of the Pipeline programs at the conference. It's called "So You Want to Publish a Book."

So, without further ado, I wanted to turn it to our panelists and really try to facilitate a conversation amongst us, amongst the panelists as well as with the audience, about the myriad aspects of book publishing and their own experiences. I wanted to hear from the panelists about how you decided to write your book or books, and briefly describe what those books are as well. And we might start with Professor Davis.

Angela Davis: Good morning everyone. So I guess I'll talk about my books and why I wrote them. So in the textbook/ academic area, I co-authored an undergraduate criminal law textbook, with my friend Katheryn Russell-Brown that was published by SAGE Publications. I also am the co-author of *Basic Criminal Procedure*, which is one of the Black Letter Series of West Academic, with Dan Capra and Steve Saltzburg. I also, co-authored *Trial Stories*, which is one of the Stories Series with Foundation Press, with Michael Tigar. My own books are *Arbitrary Justice: The Power of the American Prosecutor* with Oxford University Press, and my most recent book is an anthology called *Policing the Black Man: Arrest, Prosecution, and Imprisonment* with Pantheon, which is a part of Penguin Random House.

I guess the question was what motivated me. I know this is an issue we may talk about later, but I didn't even think about doing a book until after I was tenured. I know that everyone didn't make that choice, but I made that choice. I was motivated to write my first book because of my passion for criminal justice reform concerns about prosecutorial power, which is the issue I've been writing about as a scholar in law review articles for years. I wanted to expand and write to a larger audience than the academy, and so I wanted to get beyond law review articles and reach a bigger audience because my goal was to try to inspire criminal justice reform. I thought that writing a book would be the best way of doing that. So that's kind of what motivated me to write my first book and was my motivation for my latest book as well.

Kim: Thank you, I'd like to circle back to talk about these important issues that you raised. Thank you.

Katheryn Russell-Brown: Okay, so I'll start the other way, and that is how I got into writing books. And I had written an article titled *White Crime*, and I sent it out to a couple of different journals, and not only was it rejected, but the reviewers, these were peer reviewers, were angry about what I'd written and it was about white criminality. And I was kind of flailing about trying to figure out what to do. I thought I might be onto something, and the only person who I'd come across who had written anything with the words "white" and "crime" following sequentially together was Richard Delgado. So, I sent Richard my article and said, "Help." Do you have any recommendations on where I could publish this? Would you read this? I'm trying to get this published. And he sent back a flyer to me for a new series that NYU Press was doing that he and Jean Stefancic were editing, and at the bottom of the flyer he had written, "Would you like to write a book for this book series?" And so, that led me to my first book, *The Color of Crime*, and I'm thrilled to say that I am about to begin working on the third edition of that book. I've also written a book called *Underground Codes: Race, Crime and African Americans* with NYU Press, and another book is *Protecting Our Own*, which looks at how the black community responds to allegations of criminality or moral failure by high-profile African Americans, a timely topic. And as well, as Angela mentioned, we co-authored a criminal law undergraduate textbook. And then most recently, I have started writing children's books, and my first one, *Little Melba and Her Big Trombone*, came out in 2014.

Davis: And was nominated for an NAACP Image Award.

Russell-Brown: I have two more children's books coming out in 2021, one on Shirley Chisholm, and the other on Aretha Franklin.

Susan Carle: It's hard to go after that. Well, my story is in some ways similar to yours, because the first book that I produced, called *Lawyers' Ethics and the Pursuit of Social Justice*, was also with NYU University Press. It's part of the Critical America series and is a collection from multiple contributors. The way I ended up doing that was that Richard Delgado solicited the volume from me. I think this goes to the importance of mentoring in the book publishing

business. I feel he was a mentor in that he noticed something that I was working on that deserved more attention, and I so appreciated his doing that.

The second book that I wrote, which is a monograph, is called *Defining the Struggle: National Organizing for Racial Justice 1880-1915*, with Oxford University Press. It's sort of an accident that it was published. The pre-history of the so-called "civil rights" movement was something I was interested in, and working on, but I knew it was kind of a long story, complicated story, and one that I didn't think I was ever going to get published in a law review. The process of research was almost like a hobby for the first five years. I would work a little bit on it over the summers and that kind of thing. And then I had a sabbatical and I decided, I either have to pull the trigger here and actually get this thing out the door or I never will. And so, I spent my sabbatical working very, very hard on it, and got it out and I'm glad I did. We'll talk more about all of that in a minute. But that's how I came to publish two books.

Steven Bender: So I'm going to play a similar trombone. I followed a bit of a non-traditional path, but it all seemed to work out right thanks to Richard Delgado. Normally, what you would want to do is to be steeped in publishing a series of law reviews that vet the ideas that you're going to turn into the book. That's the traditional path. Well, I didn't do that because I had written on a wide variety of areas without developing a singular focus of theme, theory, context, or idea. LatCrit (Latina and Latino Critical Legal Theory Inc.) came along in the early 1990s, and I started writing before I got tenure at the University of Oregon on a variety of Latina/o and other issues. If you're interested in writing a book, I learned you should suggest your ideas to colleagues, particularly those who publish books, and particularly those who have a book series like Richard Delgado did with his then-fledgling Critical America series. Those book editors are out scouting for talent as well, as sort of a representative of the publisher. In my case, a random conversation around a swimming pool at Berta Hernández's house in Florida during a LatCrit conference reception led to Richard hearing one of my ideas and suggesting, "Well, send me something more developed." And so I had to think hard and immediately shift gears–I actually need now to develop what's only been an idea in my head, and I did it. It turned into a book proposal, which with Richard's support and mentoring led to my first book with NYU Press in the Critical America series. I later published three more books with NYU Press and then eight books with other publishers, including a casebook in multiple editions. So Delgado seems to be a theme of the panel, and the Critical America series, and NYU Press.

I have a forthcoming project [since published in 2021] that's a textbook-coursebook-casebook, co-authored with Frank Valdes at Miami and Jennifer Hill, who's a former Skadden Fellow, and it's called *Critical Justice: Systemic Advocacy in Law and Society*, with all of the proceeds for that publication going to the praxis and community-fostering organization of scholars, LatCrit, which is a bit unusual in the casebook publishing world. But the aim of that book is really what drew me into writing book-length scholarship, which was to try

and find an audience beyond law reviews and into undergraduate and other graduate discipline courses, where some of my books ultimately were taught. Marc-Tizoc González is here, he used one of my books years ago in a class in Berkeley. And then, sort of the zenith in terms of outreach beyond the scholarly law reviews was, once in the early 2000s, when I was searching MySpace, which at the time had a profile listing of what books were influential for you, I found this kid who listed my first book, *Greasers and Gringos: Latinos, Law, and the American Imagination*, as one of the books that influenced her. And I was like, oh my God, maybe this person would be interested in going to law school, and would become, eventually, the systemic advocate that Frank, Jennifer, and I are trying to infuse with anti-subordination values in the forthcoming textbook. The exact cycle that inspires me to keep thinking and writing.

Kim: Yes. A number of you have touched upon this in different kinds of ways, but some have embarked on the book writing prior to tenure, others after. I think there's probably useful thinking that should inform how people consider when the right time is for book writing. So, if you might each talk a little bit about what you think is the right stage in one's career to write a book or what felt like the right stage for you.

Davis: So I think I mentioned earlier, for me, I couldn't think about doing a book until after tenure. I know people have different experiences, but what I say to people is "know your own institution." I think there are some rules in the legal academy, but there is no rule that fits every institution, and so I think you have to know your own institution. Know what the expectations are at your own institution with regard to publishing and promotion and what's expected of you. Find out and do what they tell you to do to get tenure, that's what I tell people. I mean, you may be encouraged, at your institution to write a book, but books take a while. It takes a while to write a book. It can take years to write a book. So knowing what your timetable is for promotion and tenure and knowing the publication expectations is key. It didn't make sense for me to try to write a book pre-tenure, and so I'm glad I made that decision. In fact, my very first sabbatical was when I was able to really make headway on my very first book, and I think, for me, that was a good choice. But again, as I said, "know your own institution."

Russell-Brown: I think Angela's advice is key. I think finding out how it will weigh for tenure and promotion. At the time I wrote my first book, I was teaching at the University of Maryland in the criminology and criminal justice department program. I went to my Dept. Chair, I was so excited about this opportunity to write a book and he informed me, "Well, it'll count as an article." And I might not do it the same way today, but at the time I thought, "oh, that's just ridiculous, right?" And I went ahead with the book. I got some additional advice from people outside of my department, and they said, well, they may count it only as an article at the department level, but when it goes up the additional levels (college-level, university-level, and provost), scholars outside my department will count it as a book.

Davis: So wait, that was when you were working on your PhD?

Russell-Brown: I was done with it. I was a tenure-track professor. So know your institution.

Carle: Absolutely. What I would say is that writing a book involves a certain amount of risk. It could take a while, like for me it took me twelve years, really, to figure out how to nail it. I had all this manuscript stuff and trying to figure out how it was all going to come together took me quite a while. At the same time I felt pressure to produce something every year. I'm not sure if that was my personality or my institution, probably a lot of both, but that's why I did a book on the side and I kept producing something else for publication every year.

So I think it may take a while to do a book, and I personally would not stake my tenure on it, especially because we don't have to do that in law, whereas in other fields you do. You could be working towards a book, in the sense that your articles on a related theme can come together to be a book. So I share the sentiment that it's probably better to wait until after tenure, but of course what works best will vary with every situation and individual.

Bender: It sounds like some themes are know your school and that the book, early on, is like a side hustle. Knowing your school is important because, among other things, casebooks really don't count at some schools. They're like an extra, always good to have extras when you go up for tenure, but it's just an extra—an appetizer, it's not the main course. I pretty much wrote my first book while I was visiting at UC Law San Francisco (formerly UC Hastings), teaching two first-year courses. But I was relieved from extensive administrative duties that I had at that stage of post-tenure, and so, I could teach my classes and still be ahead of the time-game.

But timing is important, because it's often four years from idea to print, at least, and particularly, you've got to time it in your promotion process. I say that because I had an experience at my former school where a prolific colleague of mine had put a book in as an extra in an earlier promotion package that was pretty much at the idea stage. And then, when that book was actually published, far different from the vision that had been submitted in the earlier process, and he attempted to submit it for a later promotion, he was told, "you've already submitted that, so now you can't submit this again." And in my case, I submitted a manuscript for an NYU Press book that was finished, and it had been submitted to NYU, it was in the publication process, and I was told, "well, that's actually too soon." It's not too late, in my case it's too soon, because it hasn't actually been published yet, and so it doesn't count as a full publication, it's sort of an extra, but like an extra with an asterisk. I felt like Goldilocks eating porridge—is it too hot or too cold? When is the book just right for tenure and promotion purposes? So you really have to think about the timing of your book. Some of you are doing it as most of us are saying you should, post-tenure, although the idea might (and should) germinate and generate pre-tenure. You've got to be really sensitive to that long process of writing and publication and when is it actually going to be in print, so the timing is not askew for your institutional purposes.

Clara Platter: On the publisher's side, probably not a week goes by when there isn't some issue with some person who needs help with a committee. So I'm very used to writing letters in support of a promotion. But if you're late, it can come down to the wire in ways that are very, very stressful for people. The other thing I'm looking for in deciding to publish a book, of course you want the idea, but also, who is the person? Are you known for this work? Have you published articles in such a way that people see your name and think, oh, that's the authority in this particular area, even if it's a narrow one? I'm really looking for someone who's established themselves with other kinds of scholarly publications.

Kim: Thank you. And it's great to hear, Clara, that you're able, when somebody has that kind of situation or questions arising from within their institution, to be able to create that kind of backup for them. That's really useful.

Speakers have somewhat touched upon this in different ways, but there may be different audiences for books, as compared to law review articles or other forms of publication. I wonder if you might all reflect a little bit on what those differences are and how that has factored into your experience.

And I hope you address a related issue, which has to do with how the question of audience factors in if you have a PhD, for instance, and the expectations about what one does. Especially if you're trying to reach audiences outside of law, maybe a book is more the expected norm. So, can you each reflect a little bit on differences you see in audiences between books versus law review articles or other forms of publication.

Davis: So for me, that was definitely a big issue. I'm always shocked when someone tells me they read my law review article. Like "Wow! really? Thank you so much!" Even if it's someone in the Academy, but certainly if it's someone outside of the Academy, I'm always shocked. But I think it does depend on your field and your style of writing, and everyone is not trying to reach the same audience. As a scholar, I've always put myself in the category of scholar/activist, because, for me, it's always been about criminal justice reform and getting black and brown people out of prison. I mean, that's just my priority. Well, my family is my priority, but after my family, it's getting black and brown folk out of the criminal justice system. So my audience has always been policymakers and folk in the community. I mean, yes, I do want to talk to other legal scholars, of course, but I also have always wanted to speak to that larger audience. When I was just writing law review articles, I didn't feel that I was reaching that audience. So for me, writing books was a way for me to try to speak to the audience I wanted to reach. It can be challenging, because with both *Arbitrary Justice* and *Policing the Black Man*, I was trying to reach a mixed audience, which is tricky, and I'm not sure I was successful. So in other words, I did want to reach folks in the legal academy and the academy in general. I hoped that people would use my books in their classes, and I hoped that other scholars would read the books and engage with them, but I absolutely also wanted to, and quite frankly primarily wanted to reach the broader audience–

policymakers, legislators, prosecutors, defense attorneys, community people, everybody. Trying to write in a way that will attract both audiences is hard, and again, I don't know that I was successful in doing that in either book, but I tried to do that with both books. That goal also influenced which publisher I chose, which I know is a question we'll get to later. Do you choose an academic press or a non-academic press? So that was also an issue that influenced my decisions around choosing publishers as well.

Russell-Brown: So I think another consideration in the mix is what your goal is, and this is what Angela was getting at as well, what is your goal for writing a book? Is it that you want to be on Trevor Noah's show? Are you doing it because you have some particular idea you think needs to get more attention in the academy? Are you doing it to make money? So what are the goals that are prompting the idea for a book? And I think that, in turn, ties in with looking for publishers, right, but also taking account of writing style, because there can be a mismatch between the audience you're seeking and your writing style. So they need to go together, because writing a book for the general audience is not writing a law review article, it's not writing a book review, you know, they're all different. So I think that has to be part of the assessment as well. And also, I don't know if we'll get to this too, but are you writing the book on your own? Are you writing with a co-author? Is it an edited volume? Those are other considerations as well, in terms of thinking about putting the work out there.

Carle: I'll just be very brief, just to reiterate Angela's point that audience is really important to define, and it's also very, very tricky. I know when I was putting out my book on the early history of the racial justice struggle, I thought I was writing a popular book. I wanted an intelligent audience of lay people to want to read it. But my editor said, "What are you talking about? This is not a popular book, this is a scholarly book." Sort of like, "what are you thinking, you know, you're nuts!"

So I do think that having a clear and realistic sense of your audience is important. I do think the reason for writing a book is to get out of just the law review readership crowd. But then trying to figure out how to write, and also to acknowledge the important thing about what are your natural tendencies as a writer, is really important. If you're trying to reach an audience that's different from the audience you've been writing for in law reviews, you need to really think hard about that. Read your stuff out loud, make sure it's not overly complex. I gave my book to a friend involved in the struggle who basically said, "There's just too many commas, I'm not going to read it." So I do think the audience is a key piece to figuring out what you are trying to do in a book.

Bender: I agree with everything that's said. I have a few pros and cons comparing books to law reviews, things we may not have thought of. One of them is, and this is why writing a book takes so much time, is in a law review, you can assume your readership has basic knowledge of concepts and things you mention, or you can punt to a later book or article in which you will develop the point, or you can invite the scholarly community to pick up

where you left off and finish things. But when you write a book, oftentimes if you're trying to reach that broader audience, you realize that things that I thought I knew, everything from the Cold War to neoliberalism, might have to be addressed then and there and beyond a footnote citation. Do I need to define it, do I understand it enough to talk about it in a succinct way in the main text and not some footnote relying on others? And I find myself going into rabbit holes of all of these concepts and realities to try and figure them out. Despite this time-consuming process, that seeming drawback turns into a benefit, because I actually learn things I didn't know about the minutiae of subjects or difficult things where I could just punt in a law review.

One of the things that you dread, or at least I dread, about legal scholarship and the law reviews is the level of citation that the students always require. And you'll write things like, "we're neither colorblind nor a post-racial society as a nation of laws or as an adherent to the so-called rule of law," and then the student editors will respond, "cite authority." Really? So I actually learned that I could game the system in a really unique way. If I had a book that's forthcoming, which I usually do, I will write that statement into the book, cite the book in the law review as forthcoming, and it passes muster as adequate authority, it makes it through. Voila! But at the same time, I try and infuse the books I write with a lot of citation, because I don't want somebody to think this is just me talking off the top of my head. I like to have the book serve as a time capsule of both the existing theory as well as the lived reality of what I'm saying, so I want it to be rich with citations. But at least I have far more control over the citation process. I've rarely had a book publisher say, "this, this, this, and this on this page," and we haven't even gotten to page two yet, "need authority," because I have a little more control over that process, which is fabulous.

Another thing is media. There's more opportunity to be creative using media with books, such as photographs and other media. But you can sometimes do that in law reviews too, because in the LatCrit VII Symposium that I curated in the Oregon Law Review, we included a painting by Jo Carrillo, who's also a professor at UC Law San Francisco. Her painting illustrated a peer comment she got in the tenure process, which described her article as "somewhat suspended in a doubly decontextualized space." And so in her painting she depicted her vulnerable self in that space and wrote about it as a brief and creative introduction to our symposium.[1] And then in another law review, I used scribbles of drawings Keith Aoki did of me and our borderlands policy idea while he was bored in a faculty meeting. After he died, I turned that into a lived monument to him, a memento to his thinking, and included some of those drawings.[2] So you can be creative too, in law reviews, but particularly in books, with pictures and other media.

1 Jo Carrillo, *A Few Thoughts About Using Visual Images in LatCrit*, 81 Or. L. Rev. 587 (2002).

2 Steven W. Bender, *Gringo Alley*, 45 U.C. Davis L. Rev. 1925 (2012).

Platter: I could just add one thing. Say a person's at a point where they really are ready to write a book, and they've published however many law review articles. For a first book, I need to review some material other than a proposal. What I'll often do is use the scholar's most relevant law review articles and when I approach a peer reviewer, say "I have this proposal for an exciting book. Are you willing to read it for me? I can also provide four law review articles that show the deep research that this scholar has done, which will eventually be adapted into chapters." They themselves are not book chapters, clearly they're law review articles, but that helps a book come through a review process more easily because the reviewer can say, all right, this person has so much to draw from. And then you get feedback from the reviewers, and from myself as well, about how to revise those articles into something that will become part of a book.

Beyond peer review there are things that your publisher will do for you. If there is any sense that a book could reach a broader audience, we would want to help you do that while preserving its scholarly integrity and what it needs to do for its core field. But we always want books to reach more people, scholars in adjacent or contiguous fields, or a general audience if possible. So there is a delicate process of, how do you coax a book into that broader audience while preserving its seriousness? I personally have a lot of faith in the general public, that a book doesn't need to be completely basic in order to be read by smart, interested readers, but it depends on the topic and, often with law titles, it depends on what's going on in the news. One strategy is that if I feel a book can reach a broader audience instead of calling it legal studies or something like that, I call it current events. So we just pitch it differently and that changes where it's placed in bookstores and things like that. So we have ways of helping signal this is something you need to read.

Kim: Yes. That is so helpful. Thank you. Actually Clara, I wanted to start off with asking you the next question, because as people consider how they want to publish, the options are usually the academic presses as compared to the non-academic ones. And might you talk a little bit about the differences between them, and how people might think about what paths to pursue? And then we'd love to hear from others as well on this.

Platter: Yes, well, my answer will be slightly colored because I'm at a university press right now, which you should all publish with! But there are many trade publishers who do an excellent job with these kinds of books too. We published many law professors when I was at PublicAffairs, which is a division of Perseus Books Group. They're a very fast publisher, so they'll work sometimes on a four-month schedule, often they're really trying to tie books to the news, which is great. From a trade publisher you can get often get some really fantastic publicity. The problem is, then they're on to the next book very quickly. I hand-sell my books at conferences for years. I develop deep relationships with my authors. At a place like NYU Press, even if you're publishing a more general interest book, you're going to get more of a boutique

experience, more attention, and more of a relationship than you would at a trade publisher that just has less interest in the scholarly community.

At NYU we publish books for college level to be used in courses, books that are truly just for a scholarly audience and libraries. We publish something in between, which we call Academic Trade, which is scholarly with some general potential. And then Trade books for a general audience. We price those very low, we make galleys to send to reviewers, we do all kinds of things just like a trade publisher would. Getting this category right is very important so you have to be more clear-eyed about what a book really is and who it is for. Ultimately that's good. A book could have a very small audience and still be really important and essential to the field. If you choose a model for publishing where that's understood, it works.

Kim: Yes. Thank you. So the other panelists, as well, have worked with academic as well as trade publishers in the past. So for those of you who have, might you reflect a little bit on advantages and disadvantages of working with each of those kinds of publishers?

Davis: That was a really big issue that I struggled with in my first book, *Arbitrary Justice*. I was getting a lot of different advice from different people, and so some people were saying that with academic presses, they wouldn't have the same ability to market the book as a non-academic press. That's what they were saying. I know that varies depending on the size of the academic press and so on. But that was the general advice I was given. The two publishers that I was considering were Oxford University Press and the New Press, which is a small independent press. I was going back and forth between the two, and again, this was a book that I was trying to market to a larger audience. At first, I considered the New Press, but I was told that they probably would not be able to do the kind of marketing of the book that a larger non-academic press would be able to do. So I went back and forth, and I ended up choosing Oxford. I actually made the decision because of the editor. The editor at Oxford got my idea, believed in my idea, and really loved it. She even helped me with the book proposal for Oxford. The person I was dealing with at the New Press just didn't seem as interested, so that's what ended up making the decision for me. Oxford is a huge academic press and I knew I would be a little fish in a big sea, but that was fine. I wasn't that well-known, so I didn't expect much, but it ended up being a great decision for me. They ended up publishing my book in Chinese later on, because it's an international press, and so now there's a Chinese version of *Arbitrary Justice*, which of course I've never read because I can't read Chinese! I was a little suspicious when I got the Chinese version of the book because it was a lot thinner, and I was like, "Did they publish my whole book?!"

With my latest book, *Policing the Black Man*, it was a really interesting experience, and actually, Katheryn is one of the contributing authors. It's an anthology and I am the editor as well as a contributing author. The way I ended up getting the book deal is all about the generosity of mentors. The book was actually not my idea; it was the publisher's idea. The publisher is

Pantheon, which is a subsidiary of Penguin Random House. They publish all of Randy Kennedy's books, so they went to Randy Kennedy and said, "Look, there have been all of these killings of unarmed black men, and we really think it would be great to do an anthology on policing the black man." And he so very generously said to them, "You know, actually, I'm not the person for this. You should ask Angela Davis to do it," which I thought was an incredibly generous thing for him to do. So they came to me and said, "Randy Kennedy said you might be able to do this." So of course I jumped on it and will always be so grateful to Randy. In terms of tying books to the news, the publisher kept talking about how all of these black men were being killed, and they were really pushing for it be published by a certain date, because it was "hot in the news" at that time. I said, "I'm sorry to tell you that the killing of black men is not going to stop, so you can slow down with your little schedule." It ended up being an issue, as Katheryn knows, with the contributing authors. As we were writing, sadly it seemed like every day there was another killing of a black man. We kept having to update our chapters.

Working with Pantheon was a different world for me, because with Oxford there was no book tour. With the first book, I would get invitations to talk about my book. But with *Policing the Black Man*, they gave me a publicist who set up a book tour, sent me to book festivals, and arranged for lots of media coverage. It was an entirely different world, and I had to laugh at myself because when my publicist was sending me emails, I often had to go to the dictionary to figure out what she was talking about. One of them was book subscription boxes. When people subscribe, they get a box of books every month. I remember her sending me an email about me signing a bunch of the books that would be in one of the book subscription boxes. I learned a lot about how books are marketed with larger non-academic publishers. My book definitely reached a much larger audience than with the academic press. You should think about publishers in terms of the audience you're trying to reach and the topic you're writing about.

Kim: Thank you.

Russell-Brown: What she said.

Carle: Can I add something, just because I want to make sure I say this at some point. It's sort of jumping the gun a little bit, but if you do go with a university press, and both of my books are with university presses, you may learn a lot by your mistakes in marketing. One of the things that I learned was that university presses don't have a big marketing budget, I mean they will market, they do, they have stuff they do, and it is very helpful. But when you get your final manuscript in, that's the time for you to start thinking about calling friends to ask them to review the book, setting up events at local bookstores, that kind of thing, possibly asking your university media people to get you on public radio shows or whatever. I had been sort of thinking, okay, once the book comes out, then I'm going to take the book around, and I'm going to do this kind of stuff, but it's really almost too late then. And then I did get favorable reviews, but they were late. They were a year after the

book came out. So just an idea to keep in mind, if you're publishing with a university press, some of the marketing responsibility falls on you. You should be as creative and as energetic as you want to be on that, and you should start early.

[Audience Member]: Can I just ask, how early is early?

Carle: Well in my experience, the other thing is that writing a book is a really long slog. It's physically exhausting, in my experience, especially writing a fairly long monograph. All of my book writing effort was focused on getting the manuscript as good as it could be, and then finishing up the index and proofing, and once the manuscript really left my hands for good, I thought I had a break. Then later I realized what I should have done, right at that point of handing in a completely final manuscript, was to sit down, and think about next steps, and talk to the publisher, talk to the acquisitions editor to say "hey, I want to talk to your marketing people now," and literally develop a marketing plan while you're waiting for the book to come back. Also, figure out where you want to present the book and make those plans. So like six months to eight months before the publication date, I would say that's when you start doing your marketing.

Bender: You can learn from other people on social media too, how to do it right, from someone who is really adept at using various social media. You can see, oh yeah, that's how you actually promote. There are all sorts of venues where somebody will do the self-promotion, which is particularly accepted and even expected on a social media platform like Facebook and Twitter, but just the way and the timing that they do it is instructive as a model.

Davis: With *Arbitrary Justice*, I didn't do any of that, because I didn't even know it was supposed to be done. With *Policing the Black Man*, I didn't have to do any of that, because the publicist already had all the connections, knew all the book people at all the book festivals, set everything up, and arranged all of the media, which I would never have been able to do. I wouldn't have known how to do it, didn't want to do it, and didn't really want to do the media because I don't like media. But it's important, as you said.

Carle: And that's why the panel's a good idea. It's so important to get involved in talking to other people about what you should do. Book publishing seems like such a mystical, strange thing but it's really not. You have to ask people, there are practical little steps, how do you do this thing?

Bender: Just like getting tenure.

Carle: Exactly, but more fun.

Kim: Clara?

Platter: Our process at NYU is we send our authors a questionnaire with forty questions of who you know, what do you do, etc. And we start with that document, because who you are and who you know is obviously key to what we can get for you publicity wise. And then once a book is in production, we form that into a marketing plan, and send it back to our authors and say,

this is what we're thinking. But we do really depend on our authors to help us because we're oftentimes doing a lot of marketing work for books that are fairly scholarly, so, in that case it's really a question of getting the audience right and you know that best.

[Audience Member]: So would any of you speak to writer's block in the midst of a project? I'm just interested in how you get over that. If you're going full-steam, and then suddenly, just kids, work, life, family, and how you handle that.

Russell-Brown: So in terms of just kind of getting the work done, like with anything else, I think with writing a book is going with your outline. Detailed outline for each of your chapters. Not in advance, like not outlining all of the book at the front end, but with each chapter you know where you're going, and of course it may change as you're writing it, and sometimes you just have to stop. Sometimes the words just aren't flowing, but you just have to keep at it. So if you have to take a week off, or you know, it's finals, or whatever, it's the beginning of the semester, you know, you put your work aside, but I think the thing is just to know you're going to get back to it. I heard someone say this, and I don't always do this, but they said, "Only stop when you know what you're going to do next." So don't stop when you're having a writing problem. Stop when it's going well, because it's harder to come back to, like, oh, I have to figure this out again, or whatever, how are you going to frame something, or what you're going to look to, so yeah. But I think an outline.

Bender: It's often been said that the only way to sit down and write a book is to sit down and write a book. And there's a couple of ways of doing it. Frank Valdes would always tell me that a page a day is a book a year. But the way that I've tended to do it is, rather than trying to find time each day, I set up writing retreats sometimes a year in advance, which is just sort of like a glorified session on my couch or at my home desk, always away from the office, and always for an extended period of days. Because you don't want to be in a situation where you have just two hours and you need to work on your book. Because if ideas start flowing, you want to stay up all night and go into the next day. So I tell people that I'm out of town those days. And I protect those times, and I'm really not out of town, but I'm kind of out-of-mind, and out of time for those other things that can monopolize your time. And you protect those retreats, and you make them fun. You buy your favorite foods and snacks, and you just set the calendar out far in advance, to give yourself those protected times before the inevitable other things crowd out your time. And then you find yourself naturally filling in around those defined retreat times, but those extended writing times are the only way to do it. In the best of worlds even your dean says, "Well, you're got a writing retreat that day, so I understand your absence."

Davis: I know there's a lot of questions, but I just have to say one more thing. We should do a panel on this issue of how to get writing done. I agree with all that's been said, but also, you have to know yourself, because I actually do the opposite. They say, sit down and write. I've found that sometimes I have to

walk and talk. So instead of sitting down and reading or writing, I go walking and talking in the park. Talking out ideas, and I mean, maybe people in the park might think I'm crazy, but there's a lot of people talking to themselves. Or sometimes I'll do it in my house when nobody is in my house. You also have to find the right space.

Some people do well at their office. I can't do anything at the Washington College of Law because I'm always talking to everybody. I have to be in my house in a space where I'm totally alone. And sometimes I'm talking and walking around and talking out the ideas while I'm moving. So I'll talk, and then I'll go back, and I'll write. Also, just get that first bad draft written. Sometimes you'll be writing and thinking, "This is terrible!" but just getting the words on the paper is helpful because then you have something to go back to and work from. We should actually do a panel on this topic the next time.

Carle: Yeah, just two thoughts for you. I think the key to avoiding writer's block is to turn off judgment, right? Because at the start, you're writing. If you're critiquing at the same time you will short circuit your brain. Of course there is a big place for judgment and critique, but for me it works best if it's after the first mess is on the page. And so if you're stuck, one idea might be to just say to yourself, "Okay, I'm just going to brainstorm for a while. I'm going to sit here, I'm going to let my ideas flow, I'm not going to judge what they are, I'm going to write them down and when I look at them on the page and they're going to be awful and I'm okay with that." And sometimes when I've done and then gone back to read what I wrote I've looked at something and thought, well, this was actually kind of good. I save my early junk drafts too and have even had the experience of reviewing them and realizing that they were in some places better than what I wrote later when I thought I was writing a closer to final draft and had over edited something. So I think getting the writing process going for me is most about not judging myself in the early stages of a new project.

[Audience Member]: This has been very helpful. I have a question that kind of relates to where your book falls between the academic and trade spectrum. Most of my thinking has been emerging from my engagement in social movements, and I've published one book at Temple University Press. It was called *Black Baltimore and the Theory of Community*. Coming out of the civil rights movement, I had lots of experiences that got my mind working. I'd done a lot of research, things like that. And I had this six hundred-page theoretical manuscript, you know, Marcuse, all this stuff, and Temple Press was actually interested in it, and I met Temple Press at some book fairs. I was talking with somebody, she says, "Oh, that sounds interesting." So I had like this six hundred-page manuscript, and I was doing a seminar at Cornell just about what I was doing, and one of my friends up here said, "Harold, you know, this is great stuff, but you and I are the only ones who are going to be able to understand what you're talking about." So he said, "Why don't you find a community where the stories of the people kind of resonate with what you're talking about?" I was teaching at a Catholic University at the time. I

had a research assistant from Baltimore. I wound up going to Baltimore and spending four years walking around their neighborhoods that later became the subject of *The Wire*. And I sent Temple Press a couple of interviews that I did. They said, "We love the theoretical stuff, but could we have some more of the interviews?" And it turned out the interviews kind of ate up the whole book. So it's like eight or nine chapters. The first and last chapters are theoretical. Everything else is me sitting on a stoop, talking to someone who's got a fifth-grade education, who has a mind like a steel trap, you know, that kind of stuff. And I said after, I spent four years doing this, I'm not going to write anymore, that's fine, I've done it. Now I find my adult children have brought me books that have stimulated my mind, and now I'm ready to write again. I've blocked a two hundred-page theoretical manuscript, and right now I'm trying to figure out, where can I go to exist with people who are doing and thinking these kinds of things? And what comes out at the end of an experiment like this is that you come out with language that people understand. I gave two copies of the *Black Baltimore* book to people in Upton and Sandtown, in the neighborhood Freddie Gray came from, and one of the women read the whole book, she said, "Harold, what you wrote was on the dime." She completely understood. It was like this enormous theoretical stuff kind of collapsed down into the normal conversations with everyday people. So that's where I'm heading.

Kim: Thank you so much for this. I hope our speakers will reflect on this and remaining issues pertaining to the nuts and bolts of book writing and publishing.

Russell-Brown: Yeah, I wanted to talk a little bit about that, about the negotiation, and to say a few things. One is a book can be deemed successful, particularly a university press book, by selling just a couple of thousand books. The presses determine the rate of royalties. What I typically have seen has been anywhere between 5% and 15%. I've heard about people getting 25%, but I don't actually know these people. But what you're paying for is all the stuff that Angela in particular has mentioned in terms of getting the word out about the book, putting the book together, actually getting the book sewn, all of the different things that have to happen to make a book ready for sale. So the royalty rates can go up based upon the number of books sold. So if for instance, it may be a 5,000 sales mark. And so after that, so if you start off at 5%, maybe that will then go to 7.5% at that, and then if you sell 10,000 it may go up to 10%. So with the university presses, they often are pretty, you know, they have a set rate. And with the other trade publications, you may have some wiggle room, but it's not a lot. It's one of the things I raised earlier, what's the goal in actually writing the book? And I think in terms of what that goal is, that can partly determine whether you want to go with the university press or with a trade press. Also, with negotiating a book contract, some universities presses can offer you money in the form of grants. So you might be able to get an extra $500 or $1,000 to help you pay for a research assistant. My experience is they don't necessarily tell you that. You can ask for it, ask about it. Also, of course, an advance against royalties, which you don't have to pay back if the

book doesn't sell that, and if the book does sell that many, you will have to pay back. So that's something to think about as well.

But I think closer to home for many of us, with regard to books, is that you want to have some input on the cover image and the title of the book. And that's always been kind of the sticking point, because it's a big deal. It determines whether someone's going to actually pick your book up or look a second time at the image online, or wherever it is they're coming across it. And I had a real row with one publisher who I will name, Rowman & Littlefield, about my book cover for *Protecting Our Own*. They agreed on it, it's an amazing cover of a woman holding up a sign that says "Justice," so we were all set with that, but I was really fortunate, I felt. And I had reached out to Derrick Bell, and I asked if he could write a foreword for the book, and he graciously agreed. And I wanted that on the cover, introduction by Derrick Bell. And they just wouldn't do it. We went back and forth, and it just didn't happen. So you do want to have some conversation about, in terms of the contract itself, some language about consultation. A publisher's not going to just let you have the full say as to what the title will be, or the cover image, but you want to have some input.

Kim: Did others have thoughts on the issues of the contract or the royalties or the agent?

Carle: I didn't use an agent. By the time I was ready to shop my book around, and I had found somebody here, my wonderful colleague Robert Tsai, who was really helpful in helping me figure out that I was ready to find a publisher. By that point my sabbatical was almost over, I really need to get going and get closure. I did not want a whole other stage of process, and the advice I was getting was that for my kind of book an agent would not be that helpful, so I did not use an agent. My friends who have used agents have had mixed experiences with them. It sort of depends, and since I don't have personal experience, I don't have a lot to say about that.

On the royalties, I ended up trading a bit on my royalties in order to get the price of my book down, because I actually cared a lot more about that. I knew I was not going to get rich on the book, and if I had made money on the book I would have donated it, because it was telling a story that wasn't a story that I felt I in any way had the right to financially benefit from telling. So I didn't care at all about royalties and that helped as a negotiating point, because there is a budget for any book, and I could change around the line items in it. So I would recommend that if you're willing to give a bit on one side, you may be able to get things that are more important to you in terms of getting your book ideas out. Also a word on book contracts. I've had a couple of bad experiences with contracts. One was, so for my book called *Defining the Struggle*, I had all kinds of wonderful old photographs that were beautiful, and I turned them all over, and the publishers decided that a particular picture of African American club women from the turn of the century should be on the top of the cover image, and then a picture of the Niagara Movement men should be on the bottom. I showed it to some people, I think I even showed it to Angela, and

people were like, "I don't think that's a good idea." And I went back to the publisher, and I said, "We have to redo the design somehow," and they were like, "No, read your contract, we have final control. You have input, but you don't have control." And so it got published that way. And sure enough, at the first conference I went to after the book was published, and I get grief from certain quarters about the cover of the book. And so next time I will ask for more than consultation, but I will also ask for veto power for reasonable cause. I don't think many publishers are going to let us decide on the cover art, but I do think it's important, and in my next book, I will be really careful to say, if I really find the cover art problematic, I have the right to veto it, and at least we have to go back to the drawing board for a redone design.

The other thing that I wasn't paying much attention to in my first book contract was there was a right of first refusal for my next book in there. Who knew? I didn't pay attention to that. And my wonderful acquisitions editor at NYU Press, who's now actually a friend I have coffee with when I see her at conferences, at one point suggested that they thought I owed them right of first refusal under this provision. It is probably illegal and unenforceable, who knows? In order to resolve this dispute, it so happened that she had asked me to review a manuscript, and I said, "I will only review this manuscript if you agree not to enforce the right of first refusal in my first book contract," which she readily agreed to so the problem was solved. But anyway, be a bit careful and read and think about your contracts quite carefully.

Platter: Can I just say something about that? We would never want to force anyone to publish with us. The right of first refusal says, we ask you to show us your next project, ideally before another publisher, and give us a chance to make you an offer. You don't have to accept it. The idea is we're investing in you as a scholar and we'd like to continue to work with you. So it isn't a cruelty, and if people ask us to strike it, we strike it.

Carle: It's just an example of why you need to read the contract carefully.

Davis: Or if you're like me, and you know nothing about numbers, royalties, and contracts, find a friend who is a contracts person. Because I will tell you, Tony Varona, God bless him, the chair of the committee for this conference, he helped me so much. I said, "Tony, would you take a look at this contract? It's for my latest book." He went through that contract, and he tore it apart! He got a much better deal for me. I took the revised contract back to them, and they didn't give me any problems. Peter Jaszi helped as well. So if you're not good at contracts, give it to a friend who's good at it, and let them review it.

Bender: I never use an agent, but a colleague of mine did, and he got an $80,000 advance. But knowing that, generally, you're not going to get rich. You're going to get a check now and then for a very nice dinner, but don't expect to be rich. And know your school as well, because there's a few schools that actually, and this was floated at one of the schools I was at, require you to give them all your royalties because, as they see it, "we're paying for your time." This is like you had an idea working for General Electric, and they

would say, "We own that idea, and we own the royalties for it! You don't own the intellectual property, we do, because you're our employee." Related to that, we also had something come up at the University of Oregon where somebody was sued for defamation for something said in a law review article. And then the University took the position, in refusing to defend that lawsuit, that "Oh, actually that wasn't in the course of your employment. For your scholarly writing, that's on you to defend as some personal thing outside your University obligations." How could that be? SALT (Society of American Law Teachers) took that issue up, and the University reversed its position. But also keep that in mind in your writing, to know who you're calling out, and know how litigious they are.

Kim: We have other questions from the audience. Yes?

[Male Audience Member] Yeah, so I just wanted to see if I could get some more information on the determination of the audience. In particular, are there particular factors that you use to determine how likely a book is going to be adopted? Or how likely it's going to be seen as a trade book as opposed to an academic book? I'm sure it goes beyond citations, because like you were saying, citations, sometimes you have a lot of citations in books that then go on to be very popular. I guess there's not an example vice versa. I can think of, academic books that don't have citations. But I was just wondering if there were other particular factors that you use to make the determination, and as you're writing the book, you're thinking about the audience, are you thinking about, say, law students, even moving outside the scholarly environment, are you thinking about law students per se, are you thinking about the general public? Like, how do you guys envision your writing? So I guess there are two questions I tried to slip in there.

Platter: Well, one of the things I ask every author for is a proposal. So you write, basically, an abstract of your book's main argument with an annotated table of contents. Then a section on audience and competition. Listing competing books can be a way of helping you answer the audience question. I need to have a good sense of what your books aims to do. Is it a book that's going to correct an error that we've made in the field and say no, no, this is actually like this? Is it a book that will take up where another book left off, and expand or develop an argument that's out there? What is the context this book will be entering into? Answering that helps you to clarify the audience.

Russell-Brown: Can I just say to your question, in terms of raising what's in a prospectus, I also want to suggest that, if you are interested in writing one, and you're already talking to an editor, to ask for a sample prospectus. There's nothing like actually seeing what it looks like; the information about the author, a breakdown by the chapters, the competition, the number of words, approximately how many words will be in the book as well. So I think that's really helpful because it's a sales document. The editor's going to take it to the acquisitions committee and make the case for your book. So I think it's helpful to see what actually a successful one looks like.

Bender: And in terms of trying to find the equilibrium of your audience, in that *Critical Justice* textbook that I'm working on with Frank Valdes and Jennifer Hill, we're really blending critical schools of legal thought, which are theoretical, with rebellious lawyering and other approaches that activists and advocates are actually out there doing for client-groups. And so we're thinking, "what's the audience for this?" And we hit on the classroom and on students as the equilibrium. Whether it's undergraduate, law students, or graduate students in other disciplines—the advocates of tomorrow were our target. And so there is some active thought needed as to who is your target, and where the book is going to be used.

Kim: We have a question in the back, yes?

[Female Audience Member]: Yeah, I just wanted to go back to the discussion of contract. I have a book that's in publication now, and probably the longest thing I had to do near the end was fighting about the contract. I have a book that started out, at least in my mind, as something that was very scholarly. I found out a couple things. One, my press, and I went through two presses, did not want to publish all those notes, so it ended up being a lot fewer notes, and so I would call it now academic trade, number one. Number two, everyone told me, "oh, be prepared to give up your copyright," and I just was not going to be happy with that. I was like, "No wait, we're lawyers!" And so, just for anybody who is looking at negotiating a contract, you can do licenses the way you do with law reviews. I mean, I got a five-year exclusive license, after that, non-exclusive, and a major cut, even during the license, of potential film rights, because I have a book that I think would make a great film, people told me that. And so I just wanted to sort of call that out to people, because like I said, people were like, "you can't do that!" And I was surprised at how easily my press said sure, because again, they seem to be success-forward in press. They seem to be saying, if this is successful, good for us, good for you, and if it's not, it hardly matters. And so I think you can probably have a lot more room to ask than we think sometimes.

Platter: You definitely do, but for a case like film rights where we have a dedicated subsidiary rights person who sells all the rights to all our books, why wouldn't you want us to try and sell it for you?

[Female Audience Member]: Right, I mean sure, if my press can do it, awesome. But I'm just thinking if they don't, I didn't want to be in a situation where I could do nothing because they are not doing anything.

Carle: Can I add two things? This is very mundane, but I think important. Another thing I learned the hard way in my first book contract was, when a publisher gives you a page limit or word limit, they really mean it. It can look like you have plenty of space when you're starting. And then at the end, you could really get jammed by having agreed to too few pages or words in your book. So one of the things I was sure to do in my second book contract was to have flexibility, to insist that if I needed a longer page limit, I could have it. And Oxford was absolutely fine with giving me that. So that's just another

really mundane thing that caused me some grief the first time around, because I had to cut out an entire section of the proposed book and the authors for that section were understandably not happy about that.

Another thing on the subsidiary rights, I think it's great that publishers will often try to sell your subsidiary rights for you. But I really want my book to come out in an audible form for a lot of reasons, and Oxford declined to sell it for Audible listeners. And so I wanted to sell it myself, but my contract says I can't. I tried hard to get my audible edition rights back but that turned into a bit of a mess because it involved someone high up in the organization in England who wasn't responsive, and I ended up abandoning that effort. Anyway, just another lesson learned through experience that I share for whatever it's worth.

[Female Audience Member]: Specifically, it says you can't?

Carle: Yes, my contract says the publisher owns all of the subsidiary publication rights. There are just so many of these little things that you may not think worth paying attention to.

Platter: That's very surprising to me that they wouldn't. They had an offer and they refused it?

Carle: No, no, they didn't have an offer. I don't think they ever had an offer. Eventually I got an email from my terrific acquisitions editor that seemed to suggest I could go ahead, but it did not also give me back the publication rights, so it was still not clear whether, if I spent my own money to get the book produced for audible listeners, I would owe any royalties to the publisher. At that point I decided to abandon the idea. Anyway, my point is just to give to just another example of something that, if you could care about it in the future, you might want to pay attention to in the contract.

Kim: So I've been asked to make sure we end on time, because we have panelists who are involved in the lunch program, so thank you all for joining us, and thanks to our panelists.