



Power of Attorney
A Rutgers Law School Podcast
Host: David Lopez, Co-Dean, Rutgers Law School

Interview with Professor David Troutt

David Lopez: Greetings! My name is David Lopez. I am the Co-Dean at Rutgers Law in the Newark Campus. As the initial podcast, I wanted to do what we're calling "David to the Second Power". I wanted to invite a very good friend of mine, a professor here at Rutgers Law School. Someone who is almost exactly my same age. We might get into some conversation about our favorite bands from back in the day. But I'm here with David Troutt. David Troutt is a distinguished professor of law here at Rutgers. He's also the Director for the Center for Law, Inequality & Metropolitan Equity. Greetings.

Professor David Troutt: Thank you! Good to be here with you.

DL: Did I get your credentials right?

PDT: Yes. Yes, other than the acronyms. That mouthful of words that constitute the name of the center. It can be easily condensed to CLIME.

DL: That's what we'll call it from here on out. We'll call it CLIME as we talk about the center. And one of the reasons I wanted to have you here David, is I wanted you to talk about the center, the work that the center is doing in Newark, issues of housing, nationally the work of Rutgers Law School – Newark as an anchor institution, and just your career.

But let me help the audience get to know you a little better. How long have you been a professor here?

PDT: This is actually the start of my 24th year!

DL: Congratulations.

PDT: Which I figure makes me now ... which means I started teaching when many of my first year students were just born, if not, which really makes me feel old.

DL: Kind of blows your mind. Do you ever find yourself making pop culture references that students completely miss?

PDT: Almost daily.

DL: Right. Yeah. And we have to keep up with it. So how have you enjoyed your time at Rutgers Law School? You've been here for 24 years so that must say something good about the school.

PDT: Yeah. I've been, you know, it's interesting. It was a place that I didn't know a lot about before I applied here, and I was told that it was really "me", and that I should investigate it because there was such an affinity between the school's identity and my professional life. And this from a person who I didn't even know terribly well. And she was right all those years ago. So yes I think that's

contributed to my staying power here; that there is such a commonality of principles and interests between me and the school.

DL: Can you talk about that in terms of what it means for Rutgers Law School to be “you”? Because I remember when I interviewed here and I spoke to the faculty, someone came up to me afterwards and said “That was a real ‘Rutgers story.’” And I didn’t appreciate what that meant until I started working here. So why don’t you talk about what drew you to the school and what values you felt you shared with the school.

PDT: Sure. Well, you know, I’m a New York City kid. I’m a Harlem kid. And I’ve always had very strong interests in social justice, in civil rights, in writing. I’ve always been a writer of all sorts of different kinds of things. I’ve been an urbanist with a real interest in cities and my neighborhood. Growing up I had a lot of jobs that were sort of related to man-power, community development work in Harlem. And that’s kind of how I cut my teeth and got my early sense of professional identity and an interest in advocacy. So eventually, years later, you know I wind up in law school assuming that I’ll become a civil rights attorney. I don’t become a civil rights attorney right away in part because, as you know since we were in law school around the same time, so many of the NAACP legal defense funds, most important civil right precedent was crushed in the summer of 18, uh 19 -

DL: (*chuckling*) That’s really dating us.

PDT: - 1989. And that really was important for me. I was an intern there that summer and watching grown men and women cry quietly in their offices seeing 20-30 years of work go down the drain in an instant was really kind of a wake-up call about the fragility of this sort of work, and perhaps the necessity of trying to figure out other ways to advance these same goals of economic justice, of equality – of racial equality. I think there was a greater interest in integration at that time, but that comes and goes. And so, coming out of law school, I really wasn’t sure what I was going to do. And I was spending – I spent a little time in public interest, and then I had to go and work-off some loans in a firm. And it was in a firm that I was sort of acquainted with the notion that if you teach a few things can happen. You can, through your scholarship, take on those questions of how do we really refashion our advocacy of human and civil rights when it appears that so many of the approaches of the past may not be working for one institutional reason, or political reason or another. And the other is that they will pay you to write. And it was really those two things that really captivated me while still in private practice. And it was from there that I began thinking about where to go. But then there was that fit, you know? I didn’t really imagine myself at a place like Harvard Law School where I had gone to law school. There was just something about the tenor of the place that didn’t attract me to it as a teaching institution. Both of my parents had taught. My older sister is a historian and she was already an academic by that time. So it wasn’t a foreign idea, but I had to think about a place where I could see myself. And so being in Newark, having the tradition of social justice, the notion of critical inquiry among scholars is very important. And a very unique trait, believe it or not. I mean, there are so many people in academia who profess an interest in social justice but are new to it. They’re experimenting with it sort of for the first time. It wasn’t in their early experiences. Their instincts may not be as well developed. They’ve been raised in a more conservative intellectual tradition where they’re fearful about raising certain kinds of points, bring up certain kinds of points of view for fear

of career suicide, and sometimes that fear is well founded, or because they cannot find a community – an intellectual community - that will take those ideas seriously. And so here was this institution in Newark where folks explained, “Look. We’re not afraid of any of those things. In fact, we were built on those things. We cherish those things. Those things are central to our sense of identity. And our identity is as linked to excellence as anything else. Come and think about being a part of this community where we will pay you to write and we won’t critique the nature of your writing as being either too radical or too critical.” Remember this is also the period sort of the peak of the rise of critical race theory. There were a lot of institutions that pretended to have an interest in it but frankly were you know either intentionally or unintentionally blackballing a lot critical race theorists. My earliest work was closely identified with that. So it wound up being a welcoming place with folks who were brilliant and interesting and fun and committed and not afraid to be any of those things.

DL: That’s wonderful. Now for our listeners who may not be familiar with critical race theory, you want to tell them sort of like the – give a synopsis of what critical race theory is?

PDT: Well, critical race theory you know has many different parts to it. And I’m sure that people would describe it differently, but at its essence is the recognition of the centrality of race to the law. And the recognition that, um, that legal institutions and legal thought – for the most part – is based upon racial hierarchy. And that racial hierarchy can be seen to reproduce itself through conventions that often time pretend to be racially neutral. And so it has intellectual roots in post-modernism, in structuralism. You know the - the the CLS folks, the critical legal studies folks who sort of pre-date the race crits but were colleagues with many of them at Harvard Law School, where much of it started, you know, were known for deconstruction. So that is really the sort of analytic tool of looking at a thing and assuming that it is *not* what it appears and that we have to get to its intellectual roots, it’s ideological commitments, and that so much of it is ideologically committed often times through the reproduction of racial hierarchy. That it is, therefore, instrumental and these things need to be carefully exposed through an analysis that, first and foremost, does not take things as they appear. And you know, that’s a wildly radical approach if you think about how traditional law tends to be. Even the notion of stare decisis, one of the central tenants of legal analysis, assumes sort of intellectual purity and privacy of the founders’ earliest pronouncements. And so even in federalist theory, or especially in federalist theory, you know the notion of originalism again relies upon this notion that what was written 200 years ago – more than 200 years ago – is pure and objective and racially neutral and must be adhered to if we are to have a system with any sort of integrity and consistency. And so the race crits and other crits really have said, ‘Well, you know, all of that is probably true at some level but the point is it’s not accidental that it continues to reproduce racial, economic, gender inequality.’ Because in many respects, that is part of the intellectual program behind so many of those cherished institutional ideals and so in order to make those ideals real we really do have to fearlessly deconstruct them, figure out where they go awry, and then it becomes an open question debated among race crits, you know, ‘Can the system be saved?’ I happen to think it probably can. And that, I’m not sure puts me in the majority or minority.

DL: One thing that I found really fascinating about the history of Rutgers Law School is that in 1970, a group of student – a group of students with the Association of Black Law Students raised critiques about legal education that really, I think in many ways, foreshadowed some of the critical theory that

came years later. These were 25-year-old kids, and they're basically saying you know, 'Look the legal education is not really connecting to everybody in the community. The law school is not including everybody in the community. The public institution needs to do better.' And I thought that was really fascinating about the history in sort of the platform of the school.

What do you teach?

PDT: So I teach, um, a little bit less than I used to since taking on the center, which is a lot of my time. But I teach torts in the first year and I teach a class that in many respects was the intellectual grandfather of the center itself. That's a class that has been renamed many times since I started it 24 years ago but it is now Race, Class, and Metropolitan Equity. Any beyond that I also, I love Intellectual Property and I love Business Torts and I haven't had a chance to teach those subjects in a few years. But I love that stuff too and I've written on those subjects as well.

DL: Now do the students believe you're a kind teacher or do the students stay in the hallway ...

PDT: They you know they mostly bow down. And there's a lot of kissing and hugging.

(Both laugh)

PDT: And I say, "Come on. Come on. We can't do that." Um. No. You know it's interesting. I mean I, the way that students perceive me has changed over the years and then changes over the years. By that I mean, I think when I first came in I was known for being pretty tough. I'd been in a large law firm. I learned a lot in a large law firm surprisingly. I learned not to fear money, and I learned some very good professional norms, and I learned how difficult lawyers can be. And so it was especially that last piece that helped me sort of recognize what my students needed from me. They didn't need coddling. They didn't need me to you know sort of excuse their mistakes. They needed me to challenge them. And they needed me to create a safe space in which to do that so that they would become practiced in being challenged; in thinking at that level in a setting that might be uncomfortable so that when they finally left school they would be comfortable doing it. And in a way it was, you know I think all of us teach in a way to avenge the failures of our own experience in the classroom. And so I was trying to make good on that. And I think it was, you know it's always been received a little bit differently. I'm sure I've softened up quite a bit but, um, you know I think two things have happened. One, one is that I do sense that my approach, for at least this generation of students, seems to be better received. Maybe I am, you know, maybe I am softening up or maybe I'm just getting better. I hope I'm getting better. The other thing is, especially since moving to New Jersey from Brooklyn a few years back, I bump into former students all the time. Sometimes, you know, like in the produce aisle in the supermarket. And I can't tell you how many of them actually come to me and say, you know, "Professor Troutt, thank you. Thank you for being the way you were with me. I used to hate you. You know I used to really think you had it in for me. And I just thought you were this, that, and the other thing..." and they say this right there while I'm like holding lemons. And then they say, "But you know really, I say this only because you were right. I did need that. I was young and I had no idea what this was about. And I didn't realize what a difficult profession this is. And you know that you were really loving us through that approach, 'cause it wouldn't have done

me any favors for you to be soft on us.” So, that’s my sense. It may be a little self-serving but you know that’s my assessment so far.

DL: Well I did have a group of students tell me last year that if there was any professor they wanted to get to know better it was Professor Troutt.

PDT: Oh wow.

DL: So I thought that was a little bit interesting too. That there is a little bit of mystique out there.

PDT: That’s cool.

DL: Um, do you want to talk about your scholarship?

PDT: Sure.

DL: I know it’s, you know, you’ve been a scholar for 25 years so I know it’s gone in many different directions, but why don’t you talk about some of the areas that you’re particularly passionate about.

PDT: Yeah. Well, you know the scholarship has always been very important to me. I didn’t realize how much I would love writing scholarship. I write a lot of non-fiction that’s not scholarship. I write fiction.

DL: We’ll get to that in a second.

PDT: You know I write op-eds, and you know some sort of editorial journalism. You know but scholarship was actually not something I did a ton of before I started teaching which is a little unusual, at least nowadays. And I really came to embrace it and have a lot of fun with it because it was a way to explore those questions that, as I mentioned earlier, were just not clear. I mean how do we pursue – do we pursue a rights agenda? Do we pursue, you know, economic justice? Do we pursue things in isolation? Do we think about poverty by itself as so many scholars seem to do or do we do it through a comparative lens? You know, um, how theoretical can we be? How important is it to be empirical? You know, what is the relationship between, um, between legal scholarship and other kinds of scholarship? And so I had found, over the years, that I’ve really had to experiment and do a little trial and error. I tend to be asking the same questions, which are always you know so ‘how do we get from here to there?’ We have this set of ideals. We recognize that marginalization is too prominent a feature of the lives of particular people in this country. That certain kinds of hardship and injustices, while they fall on all of us, fall disproportionately on certain communities you know with a horrifying consistency in the pattern. And we have to break that. So if the law is as powerful as I hope it is, there’s got to be something in our thinking that can help to both name the problem and offer real solutions that have impact. And so moving toward impact has been – you know earlier in my career, I was much more interested in naming the problem. Now I’m much more interested in trying to figure out how to have impact. But one other thing I’ll just say about scholarship generally that I really love is the more inter-disciplinary scholarship I read, the more proud I am to be a legal

scholar. And I say that with utmost respect to people in other fields, and I rely on their work tremendously. It's indispensable. We really can't, as lawyers, do the work that we intend to do within the vacuum of the law. So everything we do, if we're good lawyers, I think is inter-disciplinary. But there is a set of norms in most other scholarship, particularly very empirical scholarship, that um is fearful of drawing conclusions and suggesting remedies. And so, other areas of law tend to shy from prescription. They're much better at description and analysis but not "and now what should we do?"

DL: Right.

PDT: And lawyers don't get paid unless they say what we should do. And thank God for that because imagine we would just never be able to move the ball if it wasn't in our instinct to begin every act of scholarship by thinking through a problem to some possible solution. And that solution, recognizing that solution is probably one among many. And that we may ultimately be trying – it's almost like pleading in the alternative. The notion that we even do that. You know that we try to reach the same objective through three or four different theories of recovery – you know – and then we can be as creative in you know intellectually litigating an issue on the question of remedy because there may be multiple ways – short term, long term, sideways, front ways – to get to some sense of progress. So I very much appreciate that and I take that approach to lawyering as a central tenant of my scholarship.

DL: That's wonderful. Do you want to talk about CLIME?

PDT: Sure.

DL: And if you don't mind, can you place it in the context of some of the other centers that are going on in Newark – in Rutgers Newark – and really this whole idea of community engaged scholarship and Rutgers Newark as an anchor institution?

PDT: Sure! Yeah. So the Center on Law, Inequality & Metropolitan Equity is a law school-based multidisciplinary center that is committed to the study of structural inequality and to impact-based remedies. And so let me unpack that a little bit.

So, we're all alarmed by inequality. We recognize that inequality can be benign inequality like the differences in height, or it can be malign inequality like that produced by racial prejudice or something like that. And so, the first thing we're trying to understand about inequality is what kind it is and therefore, why it's insidious. What produces it? And then we're also interested in whether or not inequality is kind of the short-term situation or whether it has legs. So when we think about inequality in structural terms, we are making an assumption that inequality will be consistently sustained. It will be reproduced through structures. And, "What does that mean?"

Well, for most people, that tends to mean racism, economic exploitation, you know gender discrimination, etcetera etcetera, the big "isms" of our time and the last generations. I prefer to think of structural inequality as combining all of those things. I am as much interested in racial discrimination and economic discrimination as the next person, but I don't frame it in that way. I

frame it as structural inequality – I frame structural inequality as being primarily place-based. And so what “place” has done is it’s become the repository for racial and economic disadvantage. So all the things that we know about racial disadvantage and economic disadvantage – not all of the things but about 90% of what we know about those things wind up being reproduced where we live. And so the notion of place-based discrimination is critically important because, well first of all, it’s not obvious and discrimination flourishes where it is not obvious. It also reminds us that when we’re thinking about a structure, we’re thinking about two things. We’re thinking about the location in which our lives are lived and our advantages or disadvantages are actually beaten out. They’re brokered in place. And they’re also brokered – the second part of this is they are brokered through our interactions with institutions. Right? So, so what I’m trying to teach my students, my fellows you know who work for CLIME and in framing the research to questions that we take on is we are sort of going back to why a phrase like “location, location, location” always means so much for people. It means so much for people because it is a real estate phrase used to – as a shorthand for the “good life”. Where do good opportunities lie? Well, when one is purchasing a home, which is the primary asset that any wealth-acquiring American will ever have in their life and which will enable them to continue to build wealth that can be passed on to generations which is central to the notion of a middle class ideal, they want to be in the best possible neighborhood. Well why do they want to be in the best possible neighborhood? Because they want their property values to increase. They want this asset to grow in value. Well, how does it grow in value? Well, it’s proximity to other nice people, and to good institutions. Like what? Like schools. Like transportation. Life economic development options. Like whether or not it’s a food desert. Like the relationship to law enforcement. Like the relationship to recreation. Whether or not there’s good health care nearby. Whether or not it’s got proximity to employment, on and on and on. So you see how location then becomes the centerpiece to our connection to all the institutions that are deemed to confer opportunity on each of us. So if we want the “good life” we need to be in the “good place” because the “good place” has the “good institutions”.

Ok. A lot of those institutions exist in not such good places. The same institutions are producing totally different outcomes for human being who, through the accident of birth and other things, wind up in one place or the other. Why is that? That’s the central inquiry. Right? So, from a lawyer’s standpoint what we want to understand is what is different about institutional rules, laws, norms, and practices in each of these places. How come, if I grow up in the Irvington School District I stand statistically a much lower probability of attending a four-year college as if I grow up in the Millburn School District, you know, five miles away? What is so radically different about these two places? It’s the quality and the resources available to those crucial institutions. And so that basic idea, that framework, helps to dictate how CLIME looks at things.

So we look at, for instance, how child welfare might operate very differently in Newark versus in Chatham. You know, how the very same rules are interpreted differently, are practiced differently, are subject to different norms of interpretation such that poor families subject to the child welfare system in Newark will, by statistical probability, experience much more draconian outcomes than the same family experiencing those kinds of things – of course a much smaller percentage of them – in a much wealthier place like Chatham. And you can do that institution by institution by institution. The sum total of it are what we call life chances. Why is that important to us? Because ultimately CLIME is

about increasing, in an equitable way, the life chances of every single person and increasing their dignity. That's a central principle of law. It's a central principle of the work.

Now how does the work, sort of, fit more broadly? So, the Law School did not really have a tradition of law school centers. We've been encouraged a few times to think about it. But CLIME is actually the first. There was one a few years before I started CLIME and I think it lasted about two or three years and then it was gone. And so it was a little bit of a struggle to broach this idea here where there wasn't an institutional history of doing what plenty of other schools by that time had done. These law school centers even interdisciplinary centers across university departments were proliferating across the country and, frankly, we were a little slow to it. So, you know, we had some growing pains figuring out how it was going to work and what the relationship was going to be like to the communities that we wanted to focus on. Because the notion of being – of doing anchor work, meaning being an institution that has strong ties to a community and sees itself in relation to those communities that we are equals, that we have an obligation to be engaged, that their welfare is our welfare and vice versa; this notion that I sometimes write about as a sense of institutional mutuality, um, you know was something that had to be developed outside of the clinical context. So law schools will do that primarily as their clinical work and ours – our clinics are among the best in the country so there was kind of the sense that “Why should Rutgers Law School, which has pioneered so many terrific clinics, is out in the community all the time, who recognizes engagement to lots of folks in need, why do we need to do it in this way?” Well because this way is much more rooted in scholarship. And scholarship, for reasons I discussed earlier, allows you to explore problems in a different way. It may be lawyer-like in ways. It may be not so lawyer-like in ways. And so this notion had to be forged. Fortunately, this notion of anchor engagement coincided with the hiring of our Chancellor, Nancy Cantor, who is really one of the national leaders on what it means to create anchor institution or publically – public scholarship, or civically engaged institutional connections up and down universities across departments. Um, I mean, so I really got educated about the possibilities when she came on. And she was fortunate, I think, to find an ally at the Law School in me just as she found allies across the university in different departments. And so, um, that synergy really fed its growth. And once we were able to grow here, I think more and more people thought “Well, wow. We can do that too. We've got interests that lend themselves to the development of centers.” Um, so a few more centers came on, and then Nancy said, “Well this is going great. This is part of the strategic plan” and “Let's actually try to hire for that purpose.” And so we actually brought on a couple of faculty members, most recently as laterals, who are very experienced in their fields, and who are sort of center ready. So now, that's sort of been the path for development for centers at the law school.

DL: So, I know through CLIME you're very involved with the city of Newark and I want to talk about that. Rutgers Law School has always been a national and international institution but Rutgers Law School in Newark has always been very – at least since 1968 – engaged in the community of Newark. I've learned, as someone who came from Arizona through Washington D.C., that Newark is an incredibly interesting, incredibly dynamic community. I know our former mayor Cory Booker always talks about Newark as being “American's greatest comeback story”. I think the truth is probably very complex because it remains a very dynamic city and right now the city is going through to what many people on the outside view as a(n) economic renaissance in the downtown

area. But you've been involved in some of the issues that have related to that renaissance do you want to talk about the community and the work that you're doing in Newark?

PDT: Yeah sure. So let me say, first of all, about Newark – wow! What a fantastic place this is. Now I knew that because I've been here a long time, but I haven't had the sort of intimate knowledge of how the city works on multiple levels and at different parts until the last few years when I've worked much more directly with this mayoral administration, the Mayoral Administration of Ras Baraka, which followed Cory Booker's Administration. So this is a working class city in a state that doesn't care for its cities. And among its cities that it holds in contempt it probably has the greatest amount of contempt, if not out and out hatred, for the city of Newark. And the irony in that is that it sits in Essex County with the greatest amount of inequality, the highest highs and lowest lows in the state, and so many New Jerseyans have come through Newark. So they have that sort of love/hate relationship of somebody who actually has historical roots here. They have grandparents who grew up in Newark, who fled. They have a visceral relationship to, you know, those who call it "riots" you know versus those who call it an "uprising" in 1967. And so, you know, Newark is fascinating. I mean, it has a fascinating history way before that but it has a fascinating history as sort of a fulcrum of urban America and the development of Urbanism, the problems of Urbanism, the promise of Urbanism, and the various groups that have participated in the making of urban life as well as suburban life. Right? So Newark also has to be seen in the context of the communities that are immediately around it. And it has been hurt by those communities. So much of the poverty, the lack of resources, the weak institutional capacity, so much that is Newark and has been Newark City Government on behalf of a population that is poor to working class and overwhelmingly of color has a lot to do with the location of the city vis a vis much wealthier jurisdictions, suburban jurisdictions, around it and the particular dynamics of localism in New Jersey. I write a lot about localism. I won't get all into localism right now, except to say that localism has been the sort of non-racial jurisprudential successor to Jim Crow Segregation. And segregation is one of those processes, racial and economic, that is behind the structure of inequality. Nothing helps to sustain inequality like segregation. And so the fact that Newark has been so poor and has struggled so much to provide affordable housing for its very low income residents is directly relevant to the amount of largesse and abundance in the immediately surrounding suburbs that want no part of it. And so it has been the repository for the region's you know, unwanted.

Now with that background, you can imagine the regional hostility to Newark on economic grounds, and you can imagine the struggle that any mayor of Newark and any city counsel of Newark is going to have over the years fighting for resources to provide for what is an overwhelmingly needy population that cannot go anywhere else. This is a story of American cities but it is particularly a story of New Jersey's cities. And so finally, we're seeing global capital come to these cities, not just the legacy cities of New York, and San Francisco, and D.C., and Boston, but to cities that are considered more satellite. Newark is and has been always perfectly poised for a renaissance and it's been promised every year for the last 40 years. Right? We've got a port. We've got an airport. We've got Amtrack. We've got New Jersey Transit directly into New York City. We couldn't be closer. Why hasn't it come? Beats me. Right? So everybody scratches their head. Cory Booker suggests – you know his rise as mayor suggests that it's coming. And it still doesn't come. And only now are we

really beginning to see the kind of economic investment in downtown Newark that so many people predicted would happen.

And the question is, “What does it mean for Newarkers?” Does it mean that the city will gentrify? That we will see the latest form of segregation come to urban places where the same outcome - greater resources to Whites and Asians, fewer resources to Blacks and Latinos - will just reproduce itself on an urban landscape just as it has through the suburbs, or the suburbs versus the cities for the last 50 years? Or will it mean something else? And so we were asked to help the city think about something that we call ‘equitable growth’. How do you grow in a way that ensures that the current residents of Newark, not the future residents that it wants, but the current residents of Newark are able to enjoy the benefits of increased economic growth? And what are the obligations of city government as a steward of those future outcomes? And that is the work that we are doing in terms of housing, in terms of right to counsel, in terms of for indigent tenants, in terms of rent control reform, in terms of neighborhood development planning, and in terms of participation on something new called the Equitable Growth Advisory Commission. So what we’re trying to do essentially is to build multiple institutions or increase the capacity of existing institutions within city government, in order to have a multi-pronged approach to doing something that very few cities have done, and that is to grow in an equitable fashion that does not forget the marginalized residents who have been there for generations.

DL: And I think that’s really interesting because you said very few cities have done it, and I know that there are some pretty well-known cautionary tales about cities that have not done it at all where the gentrification displaced the community. Are there any model cities that you’re looking at or is Newark really on the cusp of being the leader in terms of issues of equitable growth?

PDT: It is on the cusp of being a leader here. That’s part of what’s so exciting about it. No, there are very few models. No city in the United States that I can think of has gotten all of this or most of this right. And, most of them, that when presented with the chance to gobble up new resources in particularly global capital but even significant investment domestically, you know, behind some sort of economic transformation toward tech or toward some other industry, have gobbled it up and only looked back later, in hind sight, and thought “Oh, I wish we had done more to make sure that we didn’t increase the risk of displacement for so many people; to make sure that our development strategy was more inclusive of the people that are actually here; to take advantage of these new resources in ways that finally help us to overcome the tremendous tax-based disadvantages that we’re faced with because the rest of the region didn’t want these people and we were the only place affordable to them.” So, no. There are places that have done a bit of this or a bit of that.

Um, you know Stockton is experimenting with a universal basic income. New York City was the first to come up with the right to counsel. San Francisco has since passed an ordinance. Philadelphia’s toying with the idea. What’s interesting is even those cities I just named, with the exclusion of Stockton – Stockton’s got help in other ways, but those cities I just named you know folks will come into those relatively flush cities – San Francisco, New York, and Philadelphia – and they will lend, you know, a couple hundred thousand dollars of free consulting services to show them how they can create a right to counsel that makes sense. We have to do that for the city of Newark. I mean, we also

do it pro bono. But the point being that those – even that sense of institutional capacity, that expertise that exists in national organizations will not come to a Newark. They're only now, for the first time, coming to Newark. They suddenly rush in in the same way that they did with education when Mark Zuckerberg put \$100 million dollars up and suddenly every foundation wanted to be part of Newark education. But for the most part, big cities will attract resources they don't need and poor cities, like Newark, will not. And part of the central commitment as an anchor institution that Rutgers makes to the city of Newark is "We are you. You are us, and we will lend our expertise."

DL: You know, as Dean, I you know I care about the experience of the students. I also love Newark very much and what I've noticed is that our students are becoming increasingly engaged in the city of Newark and aggressively, I think, working to dislodge, I think, pernicious narratives about this city, in the work in the city. And I think that is a sign of progress for both the university and the city if we do it right.

PDT: Yeah. Yeah it's a beautiful thing and we're really just beginning. You know, we have a long way to go. There's so much to be a part of, so much to learn about and I think that it's natural for young people to gravitate toward cities now. I think it hasn't always been the case but you hear much for talk of it now. It makes sense. And Newark is becoming more vital and attractive to younger people.

But my whole bit is back to the beginning of this conversation, that you're right. That people don't just come here because of the possibility of new bars down town, you know, and places to be seen and possibly employed. But also because of their wish to be part of an organic community that is truly inclusive and that is, as a friend of mine puts it, "struggling well". This has always been a city of struggle, of tremendous character, of strong, interesting, fascinating people, of all the contradictions of American society running through it. And it is a city of so many proud people who went through so much for the most part. And it is very important for folks to come to it and learn how to join that, rather than to transform that.

DL: Right. And that's, I think, the challenge of us as educators of this law school.

Now I think that our listeners probably think that, you know, because we've definitely got into some pretty deep topics. And so I want to make sure that the listeners don't think that we're like these completely intense geeky guys. We're also fun. And so, I want you to talk – you write fiction. Do you want to talk a little bit about your fiction?

PDT: Sure.

DL: Other hobbies you might have?

PDT: Yeah. Yeah. Yes! So let's see so...

DL: The other David Troutt.

(both laugh)

PDT: The other David Troutt. Well, David Troutt is a drummer. I've been playing drums since I was a little tiny guy, and uh, you know drums and percussion. I still love that very much. In fact, there's talk now of creating a Law School Faculty band, and so we'll see. We're about to begin that and for want of a bass player that effort fell off in the Spring but we promised to start it back up again.

DL: And of course U.S. News and World Report won't credit that either.

PDT: No. Right! (*both laugh*). I mean what *do* they credit? You know, we'd have to write our own. And yes, I write a lot of fiction, in an age when it's increasingly difficult to write fiction. You know, fiction for me has probably been my first love and maybe the hardest thing that I do. But interestingly enough, I've been able to incorporate my love of fiction with my work. So, you know. I have one published novel, and one set of ...

DL: What's the name of the novel?

PDT: The novel is *The Importance of Being Dangerous*.

DL: *The Importance of Being Dangerous*.

PDT: Yes. It's a romantic thriller but it's got some very strong political themes in it. My first book is called *The Monkey Suit*. Short fiction on African Americans injustice. And actually, those short stories are all based upon legal controversies but my idea there was that, you know, we don't really know who any of these people really were. We understand *Mapp v. Ohio* and the precedent setting circumstances there and how it changed search and seizure law, but we don't understand privacy from the standpoint of the people who actually lived those horrific experiences, and what if we did. You know, what might that have looked like historically if we had – you know just thinking about those lives? And so, it was important for me to try through fiction to recreate those lives. I mean, it's still fiction in the sense that it is still designed to take you away as a reader; to be good and interesting in terms of plot, and character development, and story. But it was also, in sort of, in a subversive way, it was also designed to open up a world that you might not otherwise have thought about for the purposes of thinking a little bit differently about these ideas; These legal principals.

And then the most recent novel, which I just finished and haven't found a publishing home for – you know – is very much a book about family and about fathering. And I am a father of two daughters who are terrific and challenging and wonderful. And you know I have an amazing partner in my wife and you know and I, in middle age, find that there is so much to either learn or re-learn. And there's so much that we were once confident about that we reevaluate. And so it's a constant experience of discovery and self-discovery. And so I tried to project some of that into the book. But the book is also from the perspective of the protagonist who is a grieving father. He is a father who has lost his father. You know, he winds up in an environment, you know he's a high school principal, in which most of his students are grieving in some way.

And so the work that CLIME has done on psychological trauma has really gotten under my skin. I write about it in scholarship, and I see it as the symptomatology of structural inequality and I can talk all day about that stuff. But at the end of the day, you know, the experience of psychological trauma says so much about human beings. You know and it can be explored in so many important ways because at the root of all that pain is the organisms attempt – neuro-biologically, psychologically – to adapt to difficult circumstances, which is, you know, what life is about. And it makes for, I hope, really good story telling. So that's what that book is about. But it really did, oddly enough, flow out of the work that I do in the classroom, in scholarship, and through CLIME.

And so I guess the bottom line with all of this is, you know, if those kids want to have lunch with me and learn what an old man is really thinking, you know I'm happy to do it because I'm constantly learning about how to integrate the work that we do, the pleasures that we have off to the side, the families that we sustain, and the identities that we are constantly working to improve.

DL: David Troutt. Distinguished Professor of Law. Thank you. I think we are the perfect inaugural guest for this podcast.

PDT: Oh thank you for having me. It's really my pleasure David.

Transcription written by Kate Bianco, Advancement Coordinator, Rutgers Law School