

CONVERSATIONS WITH THE COALITION THAT  
PASSED THE RACIAL JUSTICE ACT:  
CHARMAINE FULLER COOPER INTERVIEW\*

SPEAKERS: CHARMAINE FULLER COOPER\*\* & GENE NICHOL\*\*\*

*Charmaine Fuller Cooper played an essential role in advancing the Racial Justice Act through her work at the Carolina Justice Policy Center. Her tenacity and ability to understand the opposition allowed her to be an effective advocate for people on death row and forced sterilization victims. In fact, after pushing for the Racial Justice Act to be enacted, she became the executive director of the North Carolina Justice for Sterilization Victims Foundation, which worked to compensate victims of the North Carolina eugenics program. Charmaine Fuller Cooper now works in South Carolina, where she continues to hone her skills in campaign strategy and management and social advocacy.*

**Gene Nichol**

I'm very grateful you would do this, and we're excited to hear what you have to say. I think it'll be marvelous.

**Charmaine Fuller Cooper**

No, thank you for having me.

**Gene Nichol**

I've mentioned most of this to you, but the *Law Review* is doing this brief oral history project concerning the Racial Justice Act.<sup>1</sup> There are a bunch of reasons to do that—you know all of them, I think—but one of which is some of the folks who were much involved with the project are no longer with us, as we talked about before. But for me, it just happens that I've been doing some

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\*\* All views and opinions expressed in this interview are solely my own and do not express the views or opinions of any organization.

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1. North Carolina Racial Justice Act, ch. 464, 2009 N.C. Sess. Laws 1213 (codified at N.C. GEN. STAT. §§ 15A-2010 to -2012), *repealed by* Act of June 13, 2013, ch. 154, sec. 5.(a), §§ 15A-2010 to -2012, 2013 N.C. Sess. Laws 368, 372.

background work, some research work, these past few months on two statutes—one is the 1964 Civil Rights Act,<sup>2</sup> that earth shattering statute, and the second is this Racial Justice Act. They are both, by my lights, historic measures, both of which are extremely ambitious and reflected broad coalitions coming together. I think I mentioned this to you, probably in a way that our students these days cannot even contemplate. No one expects much of anything, at least [nothing] ambitious and societal defining, coming out of legislatures, certainly not the Congress. We certainly don't expect that out of the legislature in North Carolina now. So, these are kind of singular provisions.

And as I was thinking about it, reading about it, there's been a whole lot of work done on the history of the 1964 Civil Rights Act, as you would think that there would be. But obviously not nearly as much about this other really singular provision, the Racial Justice Act. And here we don't know exactly what's going to happen with it. As you know, it's been attacked and repealed and litigated, and it's back before the Supreme Court [of North Carolina],<sup>3</sup> so the future there is surely uncertain. So, we thought it would be great to just look hard at how it came to pass and offer some background that people wouldn't get to have otherwise. And so, we're grateful you'd play a big part in that.

I've talked with a bunch of folks, and then we've done formal interviews with Ken Rose<sup>4</sup> and with Floyd McKissick.<sup>5</sup> Ken [Rose] particularly emphasized

2. Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C. §§ 2000a-2000h).

3. See S.B. 461, 149th Gen. Assemb., Reg. Sess. (N.C. 2009) (introducing the bill that became the Racial Justice Act); North Carolina Racial Justice Act, ch. 464, 2009 N.C. Sess. Laws 1213 (codified as amended at N.C. GEN. STAT. §§ 15A-2010 to -2012) (the Racial Justice Act as codified); S.B. 9, 150th Gen. Assemb., Reg. Sess. (N.C. 2011) (attempting to repeal the act); Letter from Beverly Eaves Perdue, Governor of N.C., to the N.C. Senate (Dec. 14, 2011), <https://static.votesmart.org/static/vetotext/37588.pdf> [<https://perma.cc/2EKB-UFP3>] (vetoing Senate Bill 9); Act of June 13, 2013, ch. 154, sec. 5.(a), §§ 15A-2010 to -2012, 2013 N.C. Sess. Laws 368, 372 (codified at N.C. GEN. STAT. §§ 15A-2010 to -2012) (repealing large portions of the Racial Justice Act and purporting to apply that repeal retroactively); State v. Ramseur, 374 N.C. 658, 660, 843 S.E.2d 106, 107 (2020) (declaring the retroactive repeal violative of the constitutional ban on *ex post facto* laws); State v. Bacote, \_\_\_ N.C. \_\_\_, \_\_\_ , 900 S.E.2d 665, 665 (2024) (mem.) (showing continued litigation over the Racial Justice Act).

4. Ken Rose was instrumental in getting the Racial Justice Act enacted, and he was also "a key player in North Carolina's lethal injection litigation, which has kept executions on hold here for more than a decade." *"Fearless & Relentless"—Ken Rose Retires After 35 Years on Death Penalty's Front Lines*, N.C. COAL. FOR ALTS. TO DEATH PENALTY (Jan. 11, 2017), <https://nccadp.org/ken-rose-retires-cdpl/> [<https://perma.cc/3N3V-3ECL>]. Ken Rose had a long career as an attorney defending death row inmates, who were often "damaged by poverty, racism, mental illness, intellectual disabilities, or abuse." *Id.*; see also Ken Rose & Gene Nichol, *Conversations with the Coalition that Passed the Racial Justice Act: Ken Rose Interview*, 103 N.C. L. REV. F. 200, 200 (2025).

5. Floyd B. McKissick, Jr. is a former member of the North Carolina Senate and has been practicing law since 1984. *Commissioners*, N.C. UTILS. COMM'N, <https://www.ncuc.gov/Overview/commissioners.html> [<https://perma.cc/XZZ3-X3A2>]. He is currently serving on the North Carolina

how big a role your efforts played in getting the Racial Justice Act to enactment. I also noticed, as I mentioned to you, that the governor invited you to come to the signing ceremony and called you out particularly for your strong role in the discussions. And so—we’re going to talk to maybe four people—we thought it would be great if you would be one of them.

Alright, so, thinking about your own career, I know you went to [North Carolina] Central [University (“NCCU”)], and then you did graduate work at [North Carolina] State [University (“NC SU”)]. You’ve done a lot of organizing and lobbying work in both North Carolina and South Carolina, particularly organizing in eastern North Carolina, which we’re always challenged by and fascinated in. I just wanted to start by asking you how you got on this path that you’re on, and why you did it—what it has meant to you.

### Charmaine Fuller Cooper

First, thank you, Gene. I never planned to do any of the stuff that I’ve done. I remember when I was in elementary school reading a book called *Roll of Thunder, Hear My Cry*,<sup>6</sup> and it’s interesting that you’re researching and comparing the Civil Rights Act of 1964 to the Racial Justice Act, because that book was really my entryway into everything that I’ve done. It spoke about the turn of the century. It spoke about the hardships that people were facing when they were sharecropping. It spoke about them trying to turn out and get their rights to vote, especially in the South during that time. It spoke about the prevalence of lynchings throughout the United States around that time, and just people organizing and everything that they had to go through just to live.

And then when I was at [NCCU], I was a senior and I had no clue what I wanted to do next. My plan was to go to law school, but I didn’t have a lot of money, and I knew I needed to get a job. So, I was trying to figure out, “What do I need to do?” And I was active in student government. I was president pro tem, not the president, but president pro tem for student government. And I was in the student government office when a fax came through from the Center

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Utilities Commission and became the chair of the Durham Committee on the Affairs of Black People in January 2025. *Id.*; Mary Helen Moore, *Influential NC Political Group Gets New Leaders. You May Know Some of Their Names*, NEWS & OBSERVER (Dec. 25, 2024, 7:00 AM), <https://www.newsobserver.com/news/politics-government/article297306779.html> [<https://perma.cc/M4HW-ZXDE> (staff-uploaded, dark archive)]; see also Floyd B. McKissick, Jr. & Gene Nichol, *Conversations with the Coalition that Passed the Racial Justice Act: Floyd B. McKissick, Jr. Interview*, 103 N.C. L. REV. F. 239, 239 (2025).

6. See generally MILDRED D. TAYLOR, *ROLL OF THUNDER, HEAR MY CRY* (1976) (exploring the struggles of African Americans during the era of Jim Crow segregation in Mississippi through the perspective of a young girl).

for Death Penalty Litigation [(“CDPL”)]<sup>7</sup> about the execution [of] Robert Bacon that was coming up.<sup>8</sup>

I looked at all the facts that came through over the fax. I called the [CDPL], which I never even knew existed. I spoke with one of the attorneys to find out the facts of the case, and I organized a forum for people to come out—especially for students to come out. And I asked the attorney at that time if she would come to the forum. And after the forum, we had a letter writing campaign. So, I put together form letters asking to stop the execution, because, based on the facts of the case, it seemed that this person had been sentenced to death—not because of the facts in the case—but because people didn’t see *him*. All they saw was this person’s race; that he was dating a white female in the South; that he had committed a crime in 1987. He never said that he had not committed the crime, but he was sentenced by an all-white jury in a county where twenty percent of the county was Black. And because of that, I immediately saw there were a lot of issues with this case. I had the student body come out and write letters asking for the governor at that time, Mike Easley,<sup>9</sup> to stop the execution because I felt that, even if you supported the death penalty, that it always needed to be administered fairly. If that was something that the government was going to support, it needed to be administered fairly, and based on the facts of that case, it obviously wasn’t fair.

So, we collected over 700 handwritten letters. Most of the students stayed, and they got other people to come and write letters. They looked at the form letter, they didn’t even copy the form letter. They started writing their own personal stories. And I remember driving those letters to the governor’s office that afternoon of the execution. And I get choked up talking about it because

7. The Center for Death Penalty Litigation (“CDPL”) is “a non-profit law firm that represents people on North Carolina’s death row and serves as a clearinghouse for accurate and timely information about the North Carolina death penalty.” *About*, CTR. FOR DEATH PENALTY LITIG., <https://www.cdpl.org/about/> [https://perma.cc/9RWL-MXFT].

8. Robert Bacon, a Black man, was tried and sentenced to death in 1987 for the murder of his white girlfriend’s husband by an all-white jury. *Robert Bacon*, N.C. COAL. FOR ALTS. TO DEATH PENALTY, <https://nccadp.org/stories/robert-bacon/> [https://perma.cc/5RC4-U2GH]. A juror later “swore in an affidavit that other jurors made openly racist jokes, and that they held it against [Bacon] that he was dating a white woman.” *Id.* Bacon was eventually granted clemency and received a life sentence without parole. *Id.*

9. Michael Francis “Mike” Easley “served as the 72nd governor of North Carolina, from 2001 to 2009. Prior to serving as governor, Easley served eight years as attorney general and 14 years as a local prosecutor, eight as the elected District Attorney.” *Meet Governor Mike Easley*, GOVERNOR MIKE F. EASLEY, <https://www.mikeeasleync.com/> [https://perma.cc/EFQ2-9AB5]. While he came into office “with solid law-and-order credentials and unwavering support for capital punishment,” he commuted two death sentences within his first year as governor, including Robert Bacon’s. Eric Dyer, *Easley Shocks Death Penalty Foes\ During His First Year in Office, the Governor Has Commuted Two Death Sentences and Allowed Five Executions*, NEWS & REC., [https://greensboro.com/easley-shocks-death-penalty-foes-during-his-first-year-in-office-the-governor-has-commuted/article\\_dfba6bf0-2ecc-5579-bdd9-bc3f1f118c5b.html](https://greensboro.com/easley-shocks-death-penalty-foes-during-his-first-year-in-office-the-governor-has-commuted/article_dfba6bf0-2ecc-5579-bdd9-bc3f1f118c5b.html) [https://perma.cc/LKK8-9BKJ] (dark archive)] (last updated Jan. 24, 2015).

that was just something that me and my friends got together [to do]. I always had this group of friends who were like, “oh, what justice tip is Charmaine working on this week,” and they would go along with me.

### Gene Nichol

Seven hundred students, though, that’s remarkable.

### Charmaine Fuller Cooper

Seven hundred handwritten letters. And I remember the letters were falling in my car as I was driving to Raleigh. I didn’t really know how to get to Raleigh. I had a mentor from [NCCU] who had taken me to the legislature, and it was my second time going to the legislature. I remember he introduced me to Speaker [Dan] Blue, at that time—now, Senator Dan Blue.<sup>10</sup> And my first time going to the legislature was to see the legislature in action, probably when I was in elementary or middle school. And, at that time, one of our Black physicians was in the legislature. So, you know, going to Raleigh was not something that I frequented, and that was my first entrance into really working on this work.

So fast forward, I actually started working at the Carolina Justice Policy Center [(“CJPC”)]<sup>11</sup> in 2003 as an intern—January 2003. I started graduate school at NCCU before I ended up transferring over to [NCSU] that semester, but a young lady in my class said, “My boss wants to meet you.” I had no clue

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10. Daniel Blue, Jr. is “a Democratic member of the North Carolina Senate,” and has been representing the 14th District in that role since 2009. *Dan Blue, North Carolina State Senator, Senate Democratic Leader*, CONGRESS.GOV, <https://www.congress.gov/116/meeting/house/109315/witnesses/HHRG-116-HA08-Bio-BlueD-20190418.pdf> [<https://perma.cc/6MB3-NSQU>]. Dan Blue “was first elected to the North Carolina House of Representative in 1980,” and was later elected as Speaker of the House in 1991. *Id.* He ran for United States Senate in 2002 but returned to the North Carolina House of Representatives in 2006. *Id.*

11. The Carolina Justice Policy Center (“CJPC”) “has been fighting for criminal justice reform in North Carolina since the 1970s,” moving “most of [its] activities to the Emancipate NC project” in 2019. CAROLINA JUST. POL’Y CTR., <https://www.cjpcenter.org/> [<https://perma.cc/6QXH-ZY99>]. Emancipate NC works to “subvert structural racism, especially as it relates to the criminal legal system,” specifically focusing on ending youth confinement and reliance on incarceration, building authentic community safety, and defending families. *What We Do*, EMANCIPATE NC, <https://emancipatenc.org/what-we-do/> [<https://perma.cc/Z4TX-2JTM>].

who her boss was. Her boss was Lao Rubert, and Lao [Rubert] at that time was director of the CJPC.<sup>12</sup> And [my classmate] said to me,

You know, Lao remembers all of this work that you did with the Robert Bacon case, and she's been talking about you, and she wants to meet you. And I'm about to graduate, and she told me I had to find my replacement. And so, she's been talking about you, you need to go meet with Lao.

And I was thinking, "Well, who's this?" And it just so happened that the CJPC's office was in the criminal justice building at NCCU, so it was right downstairs from where I was studying public administration for grad school. And I walked down there, and I met with Lao, and the first thing she immediately did was she pulled out an old brown clipboard and just pulled some copy paper, and she started asking me, "Who do you know? Where are you from? Who else does this person know? Where'd you go to church?" And she's asking me all these things, and I later told her, I was like, "Lao, you know, sometimes people think you're being nosy, if you just all of a sudden start asking questions."

#### Gene Nichol

She wanted to know who your people were.

#### Charmaine Fuller Cooper

Yeah, she was like, "Who your people?," as your great aunt would say. In essence, Lao taught me the art of power mapping, that you're always connected to somebody, and even if you're not connected, that you can find someone else. So, I worked with Lao as an intern for about a month, and then I got an internship with Senator Jeanne Lucas,<sup>13</sup> who was the state senator from Durham and a NCCU alum. I ended up staying and working in that role and as Senator

12. Lao Rubert is a former director of the CJPC. See Kate Collins, *The Carolina Justice Policy Center*, DUKE UNIV. LIBRS. BLOG: DEVIL'S TALE (June 9, 2023), <https://blogs.library.duke.edu/rubenstein/2023/06/09/the-carolina-justice-policy-center/> [<https://perma.cc/VMH8-ARFN>]. She spent her career "raising her voice in support of prison reform, economic justice, gun control and abolition of the death penalty." Lao Rubert, *Fearsome Power*, INDY WK. (Nov. 7, 2001), <https://indyweek.com/news/archives-news/fearsome-power/> [<https://perma.cc/XZ3P-MB47>].

13. Jeanne Lucas, a former foreign-language teacher at a public high school, was the first Black woman to serve in the North Carolina Senate. *Senator Jeanne Hopkins Lucas Obituary*, ELLIS D. JONES FUNERAL & CREMATION SERV., <https://www.ellisdjones.com/obituaries/Senator-Jeanne-Hopkins-Lucas?obId=12019661> [<https://perma.cc/54EW-F53W>]. She represented Durham County and "rose through the ranks of the Senate's Democrats to serve as the chamber's majority whip in the 2003–04 and 2005–06 sessions of the General Assembly." *Id.*

[Jeanne] Lucas's research assistant for a year. And this is when the effort to really start conceptualizing the moratorium on executions was just beginning. This was when there was an effort to organize and raise funds starting up.

So, Steve Dear<sup>14</sup> from People of Faith Against the Death Penalty<sup>15</sup> out of Carrboro; Lao [Rubert]; Gerda Stein<sup>16</sup> from the [CDPL]; Gretchen Engel,<sup>17</sup> who's now the Director for the [CDPL]; Ken Rose—all of them were already looking at how [to] do a campaign because they knew they couldn't deal with any more executions. There needed to be a moratorium on executions to address the flaws in the system. And so, Lao asked me, "If we're able to get this campaign funding, would you consider coming back and working at the CJPC?" And I said, "Sure."

So fast forward, it took a year, so in April of 2004, I came back to the CJPC as the assistant director, and my focus was to work on community outreach at that time. And Lao gave me a list of target counties. It was ten target counties that were essentially the [ones with] conservative Democrat [representatives]. And these conservative Democrats were [serving] counties that had a significant Black population that could potentially be shifted. Their mindsets could potentially shift if they had some education. And I was assigned to go to those counties.

### Gene Nichol

Were they all in [eastern North Carolina] or were they all over?

14. Steve Dear was a "fixture in the restless circle of social justice work in the Triangle" joining the People of Faith Against the Death Penalty in 1997 and stepping down as the executive director in 2015. Bob Geary, *Bidding Adieu to Anti-Death Penalty Activist Steve Dear*, INDY WK. (July 29, 2015), <https://indyweek.com/news/bidding-adieu-anti-death-penalty-activist-steve-dear/> [<https://perma.cc/RBZ3-T5QA>].

15. People of Faith Against the Death Penalty was "[f]ounded in 1994 in North Carolina" with a mission "to educate and mobilise faith communities to act to abolish the death penalty in the United States," particularly in the South. *People of Faith Against the Death Penalty*, WORLD COAL. AGAINST DEATH PENALTY (2022), <https://worldcoalition.org/membre/people-of-faith-against-the-death-penalty/> [<https://perma.cc/5CT6-ELUQ>].

16. Gerda Stein is described as "one of North Carolina's most dedicated advocates," who worked as the director of public information at the CDPL for many years. Gretchen M. Engel, *A Tribute to Gerda Stein: With Empathy and Commitment, She Worked for Justice*, N.C. COAL. FOR ALTS. TO DEATH PENALTY (Jan. 21, 2022), <https://nccadp.org/a-tribute-to-gerda-stein-with-empathy-and-commitment-she-worked-for-justice/> [<https://perma.cc/WY4S-XZP4>]. Her "kindness has touched many people who faced execution." *Id.*

17. Gretchen M. Engel is presently the "executive director of the Center for Death Penalty Litigation and has represented death row prisoners for more than 30 years." *Gretchen Engel*, N.C. COAL. FOR ALTS. TO DEATH PENALTY, <https://nccadp.org/stories/gretchen-engel/> [<https://perma.cc/427U-PJU9>]. She has described the death penalty as "perpetuat[ing] a cycle of violence and trauma that continues to play out in many lives." *Id.*

**Charmaine Fuller Cooper**

They were all over. So, I had Rockingham County north of Greensboro. We had Columbus County down in Whiteville, down in eastern North Carolina. We had Cumberland County. We were a little bit all over the place. We had, of course, Edgecombe County and those areas, but we were all over the place.

And so, I, along with two summer interns, went to those counties building out a footprint, and all it took was just starting with finding one person who was willing to connect with us, who would then take us to the next person. We started out by going to those conservative counties and trying to get into churches because we knew if we could get into faith centers, because there wasn't a lot in some of these rural areas, that we could begin a conversation. And a lot of that work had doors shut in our face [by] people and members of the clergy saying, "We don't discuss politics in our church. We don't deal with these issues in our churches."

**Gene Nichol**

You were going to white churches too, or just Black churches?

**Charmaine Fuller Cooper**

White and Black churches. Imagine, I'm going in at twenty-three years old, to a lot of different churches in places I've never seen before. I remember going to Rockingham County, and you have to take back roads. And I was driving past an ostrich farm that had a big sign up saying, "Get your Ostrich Eggs." I'd never seen an ostrich before, and I was trying to figure out who has ostriches and who wants these eggs! And then we go to these churches, and different people are saying, "No, honey, we don't discuss this here but come in to eat. We're having dinner today." I would like to say that fifty of my pounds came from working on the moratorium on executions because just sitting down and getting to know people and having a conversation was really that first step. And then we continued to go back to those churches, and we continued to have conversations.

And I will tell you, the person I was dating at that time, who ended up becoming my husband, his mother was very much for the death penalty. Very much for the death penalty. To the point that I would think, "Oh my goodness, I can't marry this man." She was that much for the death penalty. But, you know, the more and more I talked to her, it was just like speaking to some of the pastors in these communities and saying, "I understand your view. I'm not trying to change your view. But what about some of these cases? What about

some of these flaws?” And that was really my first entrance into working on this work—the moratorium on executions that was coming along. The first vote actually was held when I was working for Senator [Jeanne] Lucas’s office a little bit before that, and so Lao [Rubert] would come to my office every day and just keep me abreast of what was going on, and I would share with her some of the inside track as to what I was seeing and things that they needed to consider.

**Gene Nichol**

[It] all starts with the facts over Robert Bacon’s execution?

**Charmaine Fuller Cooper**

It all started with Robert Bacon.

**Gene Nichol**

I will say you reacted more powerfully to that than most students I know. So that was telling, I suppose.

**Charmaine Fuller Cooper**

And I dated myself because I said that the fax came through. That was 2001, so we had only been about three or four years into education systems really using email, so everybody was still sending faxes at that time.

**Gene Nichol**

Unlike me, Charmaine, you’re still very young, okay.

So, you get this huge victory in the Racial Justice Act in 2009. So that’s, what, fifteen years ago? And you were involved in, not only doing the organizing, but working very closely with senators and members of the House to try and get this done. Seeing the legislative process at its best and probably at its worst. Then, you got the governor pointing you out and talking about how much you’ve done.

That had to be pretty heady for someone as young as you were at the time of the enactment of the Racial Justice Act, right? Did you just think that was normal? I certainly wasn’t getting any kind of nothing under my belt [that] was like that at that age.

### Charmaine Fuller Cooper

You know, I don't think I thought about it as much at the time. I've never been arrogant. I've always been confident, but never arrogant. And I actually lost the first time. I shouldn't say "I," because it was a lot of us working on it. It was over 100 people who were really involved if you really were to count everybody who worked on this effort. But the first time, we lost on trying to get the Racial Justice Act through.<sup>18</sup>

And I remembered I cried. I cried, yeah, I cried like a baby in a funeral in Representative Larry Womble's office.<sup>19</sup> And I remember Representative Jean Farmer-Butterfield<sup>20</sup> and Representative Earline Parmon<sup>21</sup> being in the room, and I said, "No, you don't understand, there's people who are going to die if we don't get this bill passed." I saw it more about the people on death row and making sure that [we got the bill passed for] those who, regardless of their crimes, were seen only through a lens of race.

But, also, I didn't see it as a win when we finally got the Racial Justice Act passed because my whole intent was really to turn the entire criminal justice system upside down to make sure that we could get the Racial Justice Act passed at all levels of the system.

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18. The initial effort to pass the Racial Justice Act failed when the bill died in committee after the House version of the bill was referred to the Judiciary II committee in the North Carolina Senate on May 29, 2007, but was not further referred. H.B. 1291, 148th Gen. Assemb., Reg. Sess. (N.C. 2007); *House Bill 1291*, N.C. GEN. ASSEMBLY, <https://www.ncleg.gov/BillLookup/2007/h1291> [<https://perma.cc/PGU2-9XSS>].

19. Larry Womble was a representative in the North Carolina House of Representatives who represented District 71 from 1995 to 2013. *Larry Womble*, BALLOTPEdia, [https://ballotpedia.org/Larry\\_Womble](https://ballotpedia.org/Larry_Womble) [<https://perma.cc/XV44-LTXG>]. He was a "public-school teacher and administrator, community organizer, alderman, and state representative." *WSSU Remembers Alumnus and Former N.C. State Rep. Larry Womble*, WINSTON-SALEM STATE UNIV. (May 19, 2020), <https://www.wssu.edu/about/news/articles/2020/05/wssu-remembers-alumnus-and-former-n.c.-state-rep.-larry-womble.html> [<https://perma.cc/U2UN-4BFH>]. He is most known for his work advocating for the victims of North Carolina's forced sterilization program and for the role he played in supporting the Racial Justice Act. *Id.*

20. Jean Farmer-Butterfield was a member of the North Carolina House of Representatives from 2003 to 2020, and she represented District 24. *Jean Farmer-Butterfield*, BALLOTPEdia, [https://ballotpedia.org/Jean\\_Farmer-Butterfield](https://ballotpedia.org/Jean_Farmer-Butterfield) [<https://perma.cc/9ADQ-HSPJ>].

21. Earline Parmon represented District 72 in the North Carolina House of Representatives from 2003 to 2013, and then as a senator in the North Carolina Senate she represented District 32 from 2013 to 2015. *Earline Parmon*, BALLOTPEdia, [https://ballotpedia.org/Earline\\_Parmon](https://ballotpedia.org/Earline_Parmon) [<https://perma.cc/7YNT-V37C>]. She was the first African American woman in Forsyth County elected to serve on the North Carolina Senate and, prior to that, she was a school principal. Todd Luck, *Earline Parmon, Winston-Salem Public Servant, Dies at Age 72*, CHRONICLE (Mar. 17, 2016, 12:00 AM), <https://wschronicle.com/winston-salem-public-servant-dies-age-72/> [<https://perma.cc/3FCW-FAAM>]. She was known for her commitment to fighting for justice and for her community. *Id.*

**Gene Nichol**

If you didn't consider the Racial Justice Act a win, then you [have] pretty high marks to meet. But I understand what you're saying.

Would you, for people who don't know, describe a little bit the work of the CJPC and—I know it's been around for decades—how it got started and how this focus on the death penalty and racial justice came to be a big part of it?

**Charmaine Fuller Cooper**

So, the CJPC was started in the mid-1970s. Lao Rubert—I consider her a founder, even though she wasn't there in the initial two years of its founding—she came a little while later.

**Gene Nichol**

Oh, I thought she was a founder. I didn't know that.

**Charmaine Fuller Cooper**

No, she wasn't. She was there about thirty years, though. And her focus during those times with [the] CJPC, were really alternatives to incarceration: How do we keep people out of the jail and prison systems? How do we make sure that those initial needs that people have are met, and if they haven't been met, what do we need to do to fix those? So, a lot of those early years, it was really a direct service organization, focusing on trying to build out drug treatment courts, running those types of programs, running mental health support programs.

And then the more the organization got engaged with advocacy—because obviously your employees get tired of fighting the same battle and you start to realize [you] need some more solutions, which means you have to go to the legislature—the direct services were spun off to other organizations and the CJPC focused more on the state-level advocacy side. A lot of it was those early files from the death penalty cases. And, I want to say, the North Carolina Coalition for Alternatives to the Death Penalty<sup>22</sup> was some of the work that was done under the CJPC at that time as well.

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22. The North Carolina Coalition for Alternatives to the Death Penalty (“NCCADP”) is a “statewide coalition of member organizations and individuals committed to ending the death penalty and creating a new vision of justice.” *Mission & History*, N.C. COAL. FOR ALTS. TO DEATH PENALTY (Feb. 17, 2022), <https://nccadp.org/mission-history/> [<https://perma.cc/5KK8-QTGH>]. The NCCADP works to educate the public and lawmakers “about the racist, unjust and ineffectual death penalty system.” *Id.*

**Gene Nichol**

So, was that coalition formed by the CJPC?

**Charmaine Fuller Cooper**

No, it was quite a few groups, but [the CJPC] was very instrumental in working during that time, and that predates me. Then with the overall death penalty coalition that we had in the early 2000s, that again, was [the] CJPC, People of Faith Against the Death Penalty—[and] some of the attorneys from the [CDPL] were also very much involved. With the [CDPL] also [having] to be mindful of what their role was as a nonprofit to have joined the legal side.

**Gene Nichol**

Actually, Ken Rose sort of described the groups coming together on the moratorium, and then on the Racial Justice Act, as being of a piece, just taking on a separate or second approach to it.

**Charmaine Fuller Cooper**

Yeah, and actually, I remember, the second time that we lost on the moratorium on executions, we were in—at that time, we called it the Academy of Trial Lawyers—the North Carolina Advocates for Justice<sup>23</sup> building in Raleigh where we typically met. And at that time, everybody was angry. People were upset. Emotions were high. If you wanted to see a good all-out fight and emotional meeting, those moratorium meetings were good meetings to be at.

But emotions were high that second time that we lost the moratorium, and I remember saying, “Hey, those of us who’ve done outreach, you’ve sent us out here to educate people on all the flaws in the death penalty system. What if we ran a bill on each flaw?” And that really was the turning point of having Ken

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23. The North Carolina Academy of Trial Lawyers, known today as the North Carolina Advocates for Justice, was founded in 1962 by “[a] small group of solo and small-firm trial attorneys—Eugene Phillips, William Thorp, Allen Bailey, Charles Blanchard, and James Clontz to name a few—who shared a passion for representing individuals against the big firms.” *History*, N.C. ADVOC. FOR JUST., <https://www.ncaj.com/about/history> [<https://perma.cc/8MMB-V59N>]. After expanding its membership to include criminal defense attorneys in the 1970s, it went on to support many advocacy efforts including outlawing the death penalty for the intellectually disabled and passing the Racial Justice Act. *Id.* Today, the North Carolina Advocates for Justice is “a nonpartisan association of legal professionals dedicated to empowering a strong community of trial lawyers by protecting people, preventing injustice and promoting fairness.” *About*, N.C. ADVOC. FOR JUST., <https://www.ncaj.com/about> [<https://perma.cc/QT8X-KJYE>].

Rose and Jay Ferguson<sup>24</sup> and Gretchen [Engel] and those around the table—who, all of us were feeling defeated, but then them being some of the most brilliant attorneys in the state—coming together and saying, “What would it look like to have a bill on each of the flaws?”

And I remember we went to different legislators’ offices—and I can’t remember the exact number of bills it was, but it was close to ten. I remember having all these bills in a folder and doing what you shouldn’t do. Now that I’ve been a lobbyist [for] a while, you typically don’t go in with ten bills to a legislator. But I went into these conservative legislators’ offices that we had been working on when I was organizing, and I said, “These are the bills. I named each one of them. This is what they do.” [Giving] a quick little synopsis because you don’t have much time and asking, “Which ones could you support?” And I remember one legislator, Representative Dewey Hill,<sup>25</sup> who I think was from very rural Columbus County, saying, “Oh, I can support this one. I might be able to support this one, but that one right there, there’s no way I can support it.” And that one right there, of course, you knew was the Racial Justice Act.

### Gene Nichol

As I mentioned, we’ve heard a great deal about the coalition that came together, and I know you’ve been introducing that already, but would you mind talking just a bit about that—the coalition that came together, at least formally, for the Racial Justice Act? I guess that it had its roots in the moratorium work and the earlier CJPC work. But we’ve heard from all kinds of folks that without that coalition, which is, I suppose, an obvious point, the Racial Justice Act just doesn’t happen. So, I’d be really interested to hear you describing that birthing and coming together.

### Charmaine Fuller Cooper

Well, first, the bill sponsors. Our bill sponsors for the Racial Justice Act were Larry Womble and Earline Parmon and a few others.<sup>26</sup> And if you want

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24. Jay Ferguson has been practicing law in North Carolina since 1990, “has been a staunch advocate for people in need of help,” and is “actively engaged in efforts to abolish the death penalty.” *Jay H. Ferguson*, THOMAS FERGUSON & BESKIND, L.L.P., <https://tflawyers.com/jay-ferguson/> [<https://perma.cc/4KJS-ECUJ>].

25. Dewey Hill is a former Democratic member of the North Carolina House of Representatives, who represented District 20. *Dewey Hill*, BALLOTPEDIA, [https://ballotpedia.org/Dewey\\_Hill](https://ballotpedia.org/Dewey_Hill) [<https://perma.cc/7TKF-QRGH>].

26. In addition to Larry Womble and Earline Parmon, Paul Luebke and Pricey Harrison were also listed as primary sponsors of the House bill. H.R. 472, 149th Gen. Assemb., Reg. Sess. (N.C. 2009); see also *House Bill 472*, N.C. GEN. ASSEMBLY, <https://www.ncleg.gov/BillLookUp/2009/H472> [<https://perma.cc/GB6S-4J7C>].

some people who are hell raisers, who are not going to let an issue go, then it was Larry [Womble] and Earline [Parmon] and their community of Winston-Salem. Because that's where Darryl Hunt,<sup>27</sup> the prisoner-exoneree, was also from. And the community knew what happens when you have an injustice. So, we naturally had the community of Winston-Salem. We had them, and they were there with us. But we also had to get other folks.

People assume that the [National Association for the Advancement of Colored People ("NAACP")] was initially with us the entire time, [but] we had to build up the case for the NAACP. So, at that time, Skip Alston<sup>28</sup> was the president of the executive conference of branches for North Carolina's NAACP and Mary Perry<sup>29</sup> was the longest serving branch president in the country, at that time. She was also the sergeant at arms at the state legislature. Mary Perry was instrumental, along with Ronald White<sup>30</sup> and Curmilus Dancy<sup>31</sup> who were active in the NAACP, in really helping to getting the NAACP's initial support for the moratorium and later for the Racial Justice Act.

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27. Darryl Hunt was "arrested, charged, and convicted of a 1984 North Carolina murder he didn't commit. Although DNA results proved his innocence in 1994, it took another 10 years of legal appeals to exonerate him." *Darryl Hunt*, INNOCENCE PROJECT, <https://innocenceproject.org/cases/darryl-hunt/> [https://perma.cc/M27R-WG93].

28. Skip Alston serves on the Guilford County Board of Commissioners in North Carolina, representing District 8. *Skip Alston*, BALLOTEDIA, [https://ballotpedia.org/Skip\\_Alston](https://ballotpedia.org/Skip_Alston) [https://perma.cc/PF7Q-E2JT]. He has also served as the president of the North Carolina National Association for the Advancement of Colored People ("NAACP") organization and is hailed as "the most powerful person in Guilford County government." Scott D. Yost, *Skip Alston's Influence Reaches Outside of the County's Borders*, RHINO TIMES (June 8, 2023), <https://www.rhinotimes.com/news/skip-alstons-influence-reaches-outside-of-the-countys-borders/> [https://perma.cc/TM7Q-9MPZ].

29. Mary Perry served as President of the Wendell-Wake County Branch of the NAACP for several decades and is celebrated for her "resolve to fight injustice—from the early days of the civil rights movement to the present fight for voting rights and equity in education, health care, and housing." 116 CONG. REC. E1224 (Sept. 27, 2019) (statement of Rep. David E. Price), <https://www.govinfo.gov/content/pkg/CREC-2019-09-27/pdf/CREC-2019-09-27-pt1-PgE1224.pdf> [https://perma.cc/QR5U-WKMQ]. She was also "the first African American to chair the Wake County Democratic Party." *Id.*

30. Ronald White was the Vice President of the North Carolina NAACP. *See* Angela Mack, *NAACP Says Battles Still to be Won*, STAR NEWS ONLINE, <https://www.starnewsonline.com/story/news/2006/05/01/naacp-says-battles-still-to-be-won/30265294007/> [https://perma.cc/4URR-Y3TW] (last updated Apr. 30, 2006, 11:03 PM) (covering a speech that Ronald White gave at Zion Hill Missionary Baptist Church in Brunswick County, North Carolina).

31. Curmilus Dancy, II was the Vice President of the NAACP's Edgecombe County Branch. *Bio*, DANCY COMM'NS NETWORK, <https://curmilus.wordpress.com/bio/> [https://perma.cc/53E6-3LKU]. In 2002, he received the District 11 North Carolina NAACP Humanitarian Award "for his commitment, dedication and [for] not being afraid to speak out on issues." *Id.*

## Gene Nichol

Did the NAACP come on before Reverend Barber<sup>32</sup> became the head?

## Charmaine Fuller Cooper

They did. So, they came on before Reverend Barber became the head. [But Reverend Barber] was someone that Lao Rubert knew very early on as being someone that we had to meet with. And he was also a person who was always engaged on the ground. So, when Reverend Barber came on board, it helped the cause even more.

What Reverend Barber would always say to me is, “Everybody has a role.” He knew how to play a role well. For some people, you need to keep them on the straight [and] narrow. And then sometimes you need someone, or somebody, to play the role of agitator. And Reverend Barber coming on board the NAACP [and] the Racial Justice Act really elevated the role of what the NAACP in North Carolina was doing. Then, from that and the pushback that we were getting, that helped to elevate all the other breakdowns in the system: What happens when you don’t have education and that system breaks down? What happens when you don’t have mental health support? The death penalty [is] really the culmination of all of the parts of the system that [are] broken. And [Reverend Barber also] started to have the Moral Mondays.<sup>33</sup> That really helped with a lot of the work, too.

But we also struggled as well [with] how do you not make this so much of a race issue that, then, you alienate some people in power that you still need to support you? And so that was always a constant struggle. But that coalition coming together was really a lot of early NAACP chapter presidents from

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32. Dr. Rev. William J. Barber, II is:

President and Senior Lecturer of Repairers of the Breach; a Professor in the Practice of Public Theology and Public Policy and Founding Director of the Center for Public Theology and Public Policy at Yale Divinity School; Co-Chair of the Poor People’s Campaign: A National Call For Moral Revival and Bishop with The Fellowship of Affirming Ministries. . . . Bishop Barber served as senior pastor of Greenleaf Christian Church, Disciples of Christ for thirty years and as president of the North Carolina NAACP from 2006–2017, and on the National NAACP Board of Directors from 2008–2020.

*Our Founder*, REPAIRERS BREACH, <https://breachrepairers.org/about-us/about-the-founder/> [<https://perma.cc/2Z39-N87E>].

33. Moral Mondays are protests that originated in 2013 when Dr. Rev. William J. Barber, II led a peaceful protest against the Republican-dominated North Carolina General Assembly for acts such as blocking Medicaid expansion. Jasmine Gallup, *Rev. William Barber Reflects on 10th Anniversary of Moral Movement*, INDY WK. (Apr. 26, 2023), <https://indyweek.com/news/northcarolina/moral-mondays-anniversary-barber-reflects/> [<https://perma.cc/Q5KF-9NTP>]. In the last decade, the Moral Mondays movement has spread across North Carolina and nationwide. *Id.*

Elizabeth City, from Rocky Mount, [such as] Melvin Muhammad.<sup>34</sup> We had different people of faith coming together. I remember Steve Dear and the People of Faith Against the Death Penalty going to just about every church and every mosque and synagogue in North Carolina, trying to get people to support the issue. So, it was a lot of people coming together.

But I'll tell you, one thing that was really helpful with the coalition were the people who weren't formally involved. I mentioned that Mary Perry was a sergeant at arms at the legislature. That meant that they were outside the door anytime the Democratic Caucus and the Republican Caucus met. That meant that they were typically around any time there were extra meetings coming up. But also, the janitors at the legislature [played an important role]. They were the ones who knew that legislators were in the building at three in the morning. And one of the things that really helped me is that I spoke to everybody. I never believed in a caste system or levels, and so I always spoke to everyone and wanted to really know how they were doing. And so sometimes I would get those phone calls on my little flip phone at that time as to, "Hey, there's a meeting going on over here" on Saturday night, or "The legislators are still here" and it's two o'clock in the morning, or "We have some people here" and it's already six in the morning, because that janitorial staff was always at the legislature. Even those folks who weren't formally part of the coalition, they were instrumental to getting the bill passed.

#### Gene Nichol

Good lord, that's a wonderful story and wonderful thought. You didn't go over there and bust up the meeting at three o'clock in the morning, did you?

#### Charmaine Fuller Cooper

No, but, you know, I learned really quickly that Representative Larry Womble liked to meet early, and I got used to getting those six o'clock phone calls because other people knew that he liked to meet early. And they would meet with him before the committee hearing started at 8:30 AM so I knew I had to get over to Raleigh quickly from Durham in the morning for some of those quick meetings.

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34. Melvin Muhammad is the Director of Security for the African American Day Parade, a nonprofit organization focused on celebrating Black American heritage and accomplishments. *Leadership: AADP Board of Directors*, AFR. AM. DAY PARADE, <https://africanamericandayparade.org/leadership> [https://perma.cc/788F-2C7T].

**Gene Nichol**

You know, one of the sadnesses is [that] we can't talk to Larry Womble. Can you talk just a minute about what his commitment was to this set of issues?

**Charmaine Fuller Cooper**

Representative [Larry] Womble was committed from day one. To tell the story correctly, the coalition had decided that we were going to get Earline Parmon to be [the] primary sponsor of the bill. And I called Earline [Parmon], who was a representative at that time. She later became a state senator. I called her, and I want to say she was in California or Washington State—she was definitely on the west coast at a conference. And I said, Representative Parmon, “We need you to file this bill.” And she said, “No problem. Go get Larry [Womble] to file that bill.” And so, we went and got him to file the bill, and he filed her as number two because you had to be there when you put a bill through. And she always reminded us, “I was supposed to be number one on the bill, but y'all got Larry [Womble] because of me.” But no, they were best friends. They were key partners, and so they did everything together. And sometimes she reminded him, “Larry [Womble], you're on this bill because of me.”

They were very committed, and Representative [Larry] Womble and I would go and meet with Laura DeVivo<sup>35</sup> and Speaker of the House Joe Hackney<sup>36</sup> at least twice a week, sometimes every day during that week. And we were sharing the bill count because we had the list of every legislator who said they were voting for the bill, those who were opposed to the bill, and people we were still trying to move. It got to a point that in order for us to have the bill vote, we needed to have at least sixty-eight members who were willing to vote yes for the bill because it was going to be a controversial bill in the state House. We needed to show [Joe Hackney] that we definitely had those numbers, as he was also having Laura DeVivo, his assistant, do those counts as well. There was a time with some people [that] we just needed some help because they were never going to commit and stake themselves out unless the bill actually came up on the state House floor.

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35. Laura DeVivo was the “[c]hief advisor to the Speaker of the House [Joe Hackney] on the state budget, policy, legislation, legislative strategy and political strategy” from 2007 to 2011. Laura DeVivo, *Experience*, LINKEDIN, <https://www.linkedin.com/in/lauradevivo/details/experience/> [https://perma.cc/WKM7-PJNU (staff-uploaded archive)].

36. Joe Hackney “served 32 years in the North Carolina House of Representatives.” *Joe Hackney*, EPTING & HACKNEY ATT'YS L., <https://eptingandhackney.com/hackney.shtml> [https://perma.cc/7A4A-LZBY]. He was Speaker of the House for several years and “also served as Majority Leader, Speaker Pro Tem, and Minority Leader before retiring from the House in 2012.” *Id.*

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Gene Nichol

There was an earlier version of the Racial Justice Act that, I think, didn't go very far, right?

Charmaine Fuller Cooper

There was actually a bill that predated me that [Milton] "Toby" Fitch<sup>37</sup> and Dan Blue ran in the earlier years that Lao [Rubert] always spoke about from the time I met her, which is how we actually ended up with the coalition coming full circle and running the Racial Justice Act again. That bill was probably ten years, maybe fifteen, before that initial run.

And then in 2009, we had run the bill the session before, immediately before as well, and we were defeated. Well, we actually couldn't get it to move.

Gene Nichol

I get the impression from Senator [Floyd] McKissick that it wasn't as sweeping as the eventual Racial Justice Act was.

Charmaine Fuller Cooper

And he may be speaking about the Kentucky Racial Justice Act.<sup>38</sup>

Gene Nichol

Well, I was going to ask you about that too.

Charmaine Fuller Cooper

The [Racial Justice Act] was modeled off of [the Kentucky bill], which wasn't as sweeping. I tell you, when Ken Rose and the other lawyers drafted the

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37. Toby Fitch served as a member of the North Carolina Senate representing District 4 from 2018 until 2023. *Milton F. Fitch, Jr.*, *BALLOTPEdia*, [https://ballotpedia.org/Milton\\_F.\\_Fitch,\\_Jr.](https://ballotpedia.org/Milton_F._Fitch,_Jr.) [<https://perma.cc/M8X4-YEC4>]. Prior to that, he was a superior court judge for the 7th Superior Court District for sixteen years, and he also served in the North Carolina House of Representatives for nine terms. *Fitch Tapped to Fill Bryani's Senate Seat*, *THE WARREN REC.*, [https://www.warrenrecord.com/news/article\\_124b8418-328a-11e8-97ed-8b64bc992a82.html](https://www.warrenrecord.com/news/article_124b8418-328a-11e8-97ed-8b64bc992a82.html) [<https://perma.cc/M6J6-TGTB>] (last updated Mar. 28, 2018). Additionally, Toby Fitch was elected as the first African American House majority leader. *Id.*

38. KY. REV. STAT. ANN. § 532.300 (2024); *see also* Justin R. Arnold, Note, *Race and the Death Penalty After McCleskey: A Case Study of Kentucky's Racial Justice Act*, 12 WASH. & LEE J. CIV. RTS. & SOC. JUST. 93, 102–07 (2005) (outlining the passage of the Kentucky Racial Justice Act and how it paved the way for other bills to follow).

Racial Justice Act that we have [in North Carolina], they really focused on housing statistics and how those were utilized. One person who was part of our coalition that people didn't realize was Stella Adams,<sup>39</sup> who had run [the] North Carolina State Housing Coalition.<sup>40</sup> Stella and Ken were very, very close, and Stella was, you know, also very instrumental to moving the legislation forward.

### Gene Nichol

I'm a constitutional lawyer but not a criminal procedure lawyer, so all the ins and outs of the criminal procedure stuff sometimes are a mystery to me. But I'm a constitutional lawyer on the civil side, which means I've looked a whole lot at the 1964 Civil Rights Act<sup>41</sup> and, of course, the Fair Housing Act of 1968<sup>42</sup> and the Voting Rights Act.<sup>43</sup> And for an old, old constitutional lawyer, it's pretty easy to tell the linkage between the methodology used in the 1964 Civil Rights Act and the Housing Act and the eventual Racial Justice Act. In other words, like you said, Stella Adams being able to point out disparities with data [and] the 1964 Civil Rights Act letting you prove discrimination based on racial disparity instead of just individualized determinations of intent. So, an old constitutional lawyer looks at it and thinks, "Well, I can see the kind of relationship between the two." But it sounds to me like that was overt in a way, that was meant to be the case. Is that your understanding of it too?

### Charmaine Fuller Cooper

Yes, yeah, that was meant to be the case. And now, when you fast forward and you read the book *The Color of Law*<sup>44</sup> that really talks about the patterns of

39. Stella Adams was the Executive Director of the North Carolina Fair Housing Center from 1995 until 2007, where "she worked towards the elimination of unlawful housing and lending discrimination, as well as the creation of equal housing opportunities at the state and federal level." *Stella Adams*, AM. PREDATORY LENDING & GLOB. FIN. CRISIS, <https://predatorylending.duke.edu/histories/stella-adams/> [<https://perma.cc/YKD8-9M39>].

40. The North Carolina Low Income Housing Coalition was formed in 1988 when "a group of advocates seeking to bring together those interested in best practices and improving public policy-making" came together. *History*, N.C. HOUS. COAL., <https://nchousing.org/history/> [<https://perma.cc/QN9E-BAC3>]. The group was eventually renamed the North Carolina Housing Coalition, and it has worked to bring affordable housing options to North Carolina residents for several decades. *Id.*

41. Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C. §§ 2000a–2000h).

42. Fair Housing Act, Pub. L. No. 90-284, §§ 801–19, 82 Stat. 73, 81–89 (1968) (codified at 42 U.S.C. §§ 3601–19).

43. Voting Rights Act of 1965, Pub. L. No. 89-110, § 2, 79 Stat. 437, 437 (codified as amended at 52 U.S.C. § 10301).

44. *See generally* RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017) (providing insight into how segregation

housing discrimination and some of the intentional efforts that went into those patterns as well.<sup>45</sup> It was very intentional for us to really think about, “How do you apply these statistics in criminal cases at the appellate level, and how do we do it in a way that’s actually going to stick?”

### Gene Nichol

On the civil rights side, we’ve recognized that if you’ve got a prison system like we have in North Carolina with these massive racial disparities—disparities between the prison population and the population in general—then, that can at least present a presumption that the system is being run in a way that is discriminatory.<sup>46</sup> Maybe it could be overcome. Maybe the state could prove that that wasn’t the case.

But we never allowed that, until the Racial Justice Act, in the criminal justice system. The only thing you could do in the criminal justice system was find some notes or something and prove [that] some prosecutors in your individual case [were] keeping Black folks off the jury and [they were] stupid enough to leave around proof of it. That use of data, of statistics, is a real important part of civil rights law, and it’s been a great failure of the criminal justice side. It seems to me, it’s a huge part of why we can have these massive disparities, and yet you can’t go into court and say, “Look what’s happening here, your honor.” It’s like we knew that lesson, and we intentionally refused to apply it to criminal justice.

The United States Supreme Court had said in the *McCleskey* case<sup>47</sup> [that they could not] decide [whether] to let you introduce statistics and data in order to prove racial discrimination in death penalty [cases], but legislators could do that if they wanted to.<sup>48</sup> Now, I’m sure the Supreme Court was just trying to

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in the United States was manufactured and encouraged by government policies at the local, state, and federal levels).

45. *See id.* at 216–17. “In the twentieth century, federal, state, and local officials did not resist majority opinion with regard to race. Instead, they endorsed and reinforced it, actively and aggressively.” *Id.* at 216. Some examples of government patterns of racial discrimination include state-sponsored construction of racially separate public housing; federal government encouragement of the adoption of exclusionary zoning; FHA mortgages contingent on race; and the construction of interstates through predominantly black neighborhoods. *See id.* at 216–17.

46. *See North Carolina Profile*, PRISON POL’Y INITIATIVE, <https://www.prisonpolicy.org/profiles/NC.html> [<https://perma.cc/TUK8-8FJY>].

47. In *McCleskey v. Kemp*, 481 U.S. 279 (1987), the United States Supreme Court upheld the death penalty for a Black man who was convicted of killing a police officer. *Id.* at 279–81. The Court rejected McCleskey’s argument that Georgia’s death penalty system was racially discriminatory based on a study that showed Black defendants were more likely to be sentenced to death than white defendants. *Id.*

48. *See id.* at 319 (“McCleskey’s arguments are best presented to the legislative bodies. It is not the responsibility—or indeed even the right—of this Court to determine the appropriate punishment for particular crimes.”).

avoid having to address the issue themselves, but I've heard from some folks that they sort of saw that as a challenge or an open door. Were y'all aware of that interplay?

#### Charmaine Fuller Cooper

Ken Rose mentioned *McCleskey* quite a bit. And my constitutional law professor from undergrad would be so proud of me and that "B" I earned because that was a hard-fought "B." I needed you back then, Gene, to help me get through that class. But you know, I think the Supreme Court has a way of giving us tips of doors that we need to open, and sometimes we're not listening as deeply as we need to.

#### Gene Nichol

This brings up an issue that I was going to ask about a little bit later too. This broad coalition—I'm thinking about Steve Dear as you're talking, thinking about Stella [Adams], thinking about Representative [Larry] Womble, and certainly [of] the CDPL folks. These are all people like you guys who are strongly opposed to the death penalty period, even apart from racial discrimination in the death penalty. And I've always heard that a big part of the spiel of the opponents of the Racial Justice Act was, "This is just opposition to the death penalty in a different form. They're only really interested in killing the death penalty. This doesn't have to do with racial discrimination." Did you face that a lot, and how did you address it?

#### Charmaine Fuller Cooper

We faced it a lot, and how we pushed back was to say, "If we're going to have a death penalty system, it needs to be fair, and so how do you propose making it fair?" That was really the deep pushback, and we had to pull back a lot on our work with the moratorium coalition. We had to pull back a lot on the messaging of being the coalition against the death penalty and really focus on the inherent flaws of the death penalty that had to be corrected. That was the only way we pushed it through. And the more we told the stories, the better we got.

But, publicity was a terrible thing too because the first time we were trying to run the Racial Justice Act was when the little girl, Shaniya Davis in

Fayetteville, was murdered.<sup>49</sup> And it was horrific, and it was worldwide. We knew, then, that the case—I don't know if everyone knew, but I knew right then—had killed all chances of passing the Racial Justice Act that first go at it. Because, you know, we were talking about a case related to race, and then you were seeing another case—just an awful case with everything that happened to her—and that court of public opinion, it would have killed the bill, right then.

### Gene Nichol

When we talked with Ken [Rose] and with Floyd [McKissick] and with a bunch of others that I've talked to beyond this, this can get to be like a lawyer's discussion of, "We've got these rights in jury selection. And these peremptory challenges—this works, and this doesn't. The requirement of proven individual intention and the like." Looking at the history of the death penalty in North Carolina, there's this dramatic marriage of race and death. None of these tools that we were using were being effective at divorcing that marriage, solving it. And so, this kind of much broader message [in the Racial Justice Act], which included—I was surprised to learn this at first—that you could not only use statistics, but that you could prove discrimination on a statewide basis, or in the district in question, or by the prosecutor in question. That all is very powerful and modestly legalistic.

It occurred to me that that couldn't be the way you were talking about it within your own organizations, with your engagement out in the broader world, and with a lot of legislators because I know you were talking to lawyers and non-lawyers and Democrats and non-Democrats in the state House. So, I wanted to hear a little bit how you described the necessity and the effectiveness and the operation of this Racial Justice Act: What it's going to do, why it needs to be done, and how it's going to operate?

### Charmaine Fuller Cooper

You know, we were working in the criminal justice system and the legal system [which are] full of emotion—even for lawyers who say they're not being emotional [and that] they're speaking to the facts—and full of self-advancement, arrogance, and labels. So, we had to pull those labels off because

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49. In November 2009, five-year-old Shaniya Davis from Fayetteville, North Carolina, was murdered and her body found "among deer carcasses near a rural North Carolina highway." *The Shaniya Davis Tragedy*, OPRAH.COM (Nov. 20, 2009), <https://www.oprah.com/oprahshow/shaniya-davis-murder/all> [<https://perma.cc/M84J-MN3W>]. It was determined that she "died of asphyxiation and that injuries she suffered were consistent with a sexual assault." *Shaniya Davis: "Angel" Found Dead*, CBS NEWS (Nov. 16, 2009, 11:17 AM), <https://www.cbsnews.com/pictures/shaniya-davis-angel-found-dead/> [<https://perma.cc/6ADU-DSF7>]. The man who was seen with Shaniya Davis on a hotel security camera shortly after her disappearance was sentenced to death in 2013. *Id.*

prosecutors use these death penalty cases to get ahead. If they wanted to be attorney general next, then they wanted a big death penalty case. If they wanted to be able to be a judge next, they wanted a big death penalty case because it came with publicity.

But what they didn't want? None of them wanted to be labeled as a racist. None of them want to be labeled as biased. And so, we had to do a good job of saying, "We're not calling anybody a racist. We're not saying that anybody is inherently biased. What we're saying is, let's look at the numbers because there may be a trend here that people don't even realize and if we reveal the trend, then what do we do about it? We need your help. Help us have this conversation. What do we do about it?"

We had to pull that label off because we were dealing primarily with white males and you're going in to talk about the Racial Justice Act. Nobody wants to have that label of being labeled as a racist. That's the quickest way to shut that door and not be able to have a conversation. So, we had to have the messaging relate to, "Help us figure this out. Help us see if there is a trend. We're starting to see some trends, but maybe you know better. Help us know this."

It was important because you're talking about close knit communities of people who[se] grandfather may have been the prosecutor from years prior. [And] you're pulling down these statistics to show that [their] grandfather, or mentor, or cousin, or neighbor, were part of these trends that actually impacted people in a way that [meant] they [did not get] a lesser sentence.

#### Gene Nichol

But by pointing to the numbers, to the disparities, to the long and brutal history, you could reach some folks that maybe you couldn't reach otherwise?

#### Charmaine Fuller Cooper

You could, but you had to take that human element out. You had to take the fact that it was the church member who was actually over the case at the time out of that whole equation.

#### Gene Nichol

And you did that mainly by saying, "We're not remaking the past. We just got to do better in the future?"

**Charmaine Fuller Cooper**

You say it better than I said. Because I wouldn't say that I did everything right. [There were times] I had to hit the brakes a little bit and really think about, "How do I pull myself back a little bit so I can still keep maneuvering and be able to get this bill passed?"

**Gene Nichol**

Let's talk then about the opposition. We've heard a lot about Skip Stam,<sup>50</sup> I've probably talked to him about it myself. The prosecutors were a challenge. Would you talk about the opponents and opposition and sort of what it was like to deal with that?

**Charmaine Fuller Cooper**

So, I will say, Skip Stam is brilliant. He is absolutely brilliant. And when he has an idea, he's absolutely committed to it. I would have never said it. But as I've grown and matured and had the chance to work with him in some other ways, you know, he is absolutely brilliant. He was just not on the side that we wanted him to be on. If he was on our side of the bill at that time, we would have loved him and thought there's no one else better than him. But he was very much dug in and entrenched.

I regret—and this was part of me being younger as a lobbyist—not going over and meeting with what was deemed to be, at that time, the enemy. Of having a conversation to find out, "What do you think? What do you see as the problems? How do you think we can address this? How do we come together as a solution?" And that was because we saw him really dug in at that time. And of course, his efforts, even after the bill passed, watered the bill down, but it still kept the bill.

**Gene Nichol**

But you weren't surprised when he came back and played a role in repealing it, I take it?<sup>51</sup>

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50. Paul "Skip" Stam was first elected to serve as a member of the North Carolina House of Representatives in 1989 and again in 2003, serving his eighth and last term in 2015–16. *Welcome to My Policy Website*, PAUL STAM, <https://paulstam.info/> [<https://perma.cc/25NF-RTDS>]. During that time, he "served as the House Republican Leader (2007-2010), the House Majority Leader (2011-2012), and the Speaker Pro Tem (2013-2016)." *Id.*

51. See *North Carolina Repeals Racial Justice Law*, PRISON LEGAL NEWS (July 10, 2014), <https://www.prisonlegalnews.org/news/2014/jul/10/north-carolina-repeals-racial-justice-law/>

### Charmaine Fuller Cooper

No, I wasn't. So immediately after working on the Racial Justice Act, I had the opportunity to go and build out the state's Justice for Sterilization Victims Foundation,<sup>52</sup> to draft out the compensation plan to compensate people who had been forcibly sterilized in the state for many years. [Skip Stam] was one of the key allies to all of that, and Representative [Larry] Womble, in drafting out that legislation. I remember working with him and working with the staff for Speaker Thom Tillis<sup>53</sup> and working with them to draft the legislation, knowing that [in] their next meeting, they were going to gut and repeal the Racial Justice Act. It was difficult because, in those moments, I was dealing in both life and death, in very literal terms, using an ink pen. Easily, I could say or do the wrong thing to jeopardize either bill.

### Gene Nichol

I imagine the prosecutors were a different and even more significant force in a way—having a lot of local clout and, I'm assuming, being very adamant in their opposition to the Racial Justice Act.<sup>54</sup> How did you end up dealing with them?

### Charmaine Fuller Cooper

You know, I didn't deal with the prosecutors. If I was to do our grassroots strategic mapping again, we would have definitely needed to put more focus on

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[<https://perma.cc/NDC5-MYDY>] (referring to Paul "Skip" Stam as the author of the legislation that repealed North Carolina's Racial Justice Act).

52. The Justice for Sterilization Victims Foundation was established in 2010 "to compensate victims who were forcibly sterilized by the State of North Carolina's Eugenics Board program." *Welcome to the Office of Justice for Sterilization Victims*, N.C. DEP'T ADMIN., <https://www.doa.nc.gov/about/special-programs/office-justice-sterilization-victims> [<https://perma.cc/3EPE-JJQA>]. The North Carolina Eugenics Board program authorized the sterilization of an estimated 7,600 people between 1929 and 1974. *About the Office of Justice for Sterilization Victims*, N.C. DEP'T ADMIN., <https://www.doa.nc.gov/about/special-programs/office-justice-sterilization-victims/about> [<https://perma.cc/NG73-BVRF>].

53. Thom Tillis was elected to serve on the board of commissioners for Cornelius, North Carolina, in 2003, and after he completed that term, he was elected as a Republican to the North Carolina House of Representatives. Gregory Lewis McNamee, *Thom Tillis*, BRITANNICA (Feb. 22, 2025), <https://www.britannica.com/biography/Thom-Tillis> [<https://perma.cc/4FAZ-Y4S3>]. He served as North Carolina Speaker of the House from 2011 until 2014 and has represented North Carolina in the United States Senate since 2014. *Id.*

54. *North Carolina Repeals Racial Justice Act*, EQUAL JUST. INITIATIVE (July 5, 2013), <https://ejf.org/news/north-carolina-repeals-racial-justice-act/> [<https://perma.cc/58XW-WFH9>] (discussing how prosecutors "vigorously opposed" the Racial Justice Act).

opposition and how to get through to the opposition. But the opposition had their heels dug in so deeply that we had to work around them, and the less information we gave them, the better because if they thought the bill wasn't going anywhere, they felt like they had won, and for a long time they did feel like the bill hadn't gone anywhere.

One of the things that people didn't realize was, at that time, I was very much engaged with the state Democratic Party. I was chair of [the] Young Democrats [of] Durham County. I was on the executive committee for the Democratic Party. And the bill wasn't going anywhere, but we thought it was. We had been in a meeting with Senator Tony Rand<sup>55</sup> in his office in the legislative office building—Reverend Barber was there, Representative [Larry] Womble, several others, Carnell Robinson.<sup>56</sup> Senator [Tony] Rand told us [that] he was definitely going to move the bill. And we were trying to figure out when, because we wanted the bill to stay alive. And then I found out from some good resources—some good intel from the Democratic Party—that the state party had done polling. Every state party polls on different issues to find out if a member votes for these bills, is it going to cost [them] more at election time because [they would] have to, one, fix the media and the public perception or, [two], raise more money to help get somebody elected? And they saw the Racial Justice Act as being a bill that, if there was a vote on it, would cost more money for them to raise more money. And so, they had told Senator [Tony] Rand, essentially, not to run the bill. And he had said he wasn't running the bill, but he had told us that he was running the bill.

You know, Charmaine on Saturdays looked a lot different from Charmaine at the state legislature. I was pretty unassuming, and people really [did] not know [the] different rooms I was walking in and out of. So, I was able to call Representative [Larry] Womble [and] Reverend Barber and some others to say, "They're not running this bill. They told us they're running the bill, but I've been told on good authority, they're not running the bill." And I remember going back and we were meeting with Senator [Tony] Rand, and he says to us—you know, he was caught in a lie—"We can't run that bill. If we run that bill, we're going to lose the state legislature." And he was very adamant, and he was very upset about it. And I remember saying, "If the state legislature hasn't done

55. Tony Rand, "a Democrat, served in the state Senate from 1981 to 1988 and again from 1995 to 2009. For much of his tenure, he was the Senate majority party leader, chairman of the Senate Rules Committee and a right-hand man for Senate President Pro Tem Marc Basnight." Paul Woolverton, "We've Lost a Giant"—Former State Sen. Tony Rand Dies at 80, *FAYETTEVILLE OBSERVER* (May 1, 2020, 11:13 AM), <https://www.fayobserver.com/story/news/state/2020/05/01/lsquowersquove-lost-giantrsquo-mdash-former-state-sen-tony-rand-dies-at-80/41756059/> [<https://perma.cc/PG8M-8T7Q>].

56. Carnell Robinson was the chairman of the North Carolina Black Leadership Caucus. Chantelle Janelle, *Black Caucus Asks Clemency for Condemned NC Prisoner*, *WIS NEWS* 10, <https://www.wistv.com/story/5620999/black-caucus-asks-clemency-for-condemned-nc-prisoner/> [<https://perma.cc/F223-MTBF>] (last updated Nov. 6, 2006, 12:57 PM).

anything for Black people and for Democrats in the last 100 years, then you need to move. You need to lose the legislature.”

And damn if we didn’t lose the legislature the following year—we actually lost it the following year! So maybe I shouldn’t have said that, but, you know, it was one of those things [that] was such an uphill battle. It was always this conservative bloc of Democrats that you couldn’t get anything through.

### Gene Nichol

Do you want to describe in any more detail, some of those meetings with, particularly in the Senate, with the Democrats? I’ve heard some of the stories about the discussions with Senator [Tony] Rand. And then Senator [Floyd] McKissick was talking to us a bit about what came to be a very hard line that he drew in the sand. It’s at least fair to say, I would take it, that if anyone assumed there was a broad and unanimous support in the North Carolina Democratic Party, that that wasn’t the case, right?

### Charmaine Fuller Cooper

No, it wasn’t the case. It wasn’t the case at all. And I will tell you on the Senate side, Senator [Floyd] McKissick was an absolute champion. I’m from a small town. I’m from Henderson, so I grew up knowing the legacy of Senator [Floyd] McKissick’s father.<sup>57</sup> My elementary school was about two miles up the street from Soul City and that economic development.<sup>58</sup> So I knew that legacy.

And you know, Senator [Floyd] McKissick was pushing for the Racial Justice Act, and he was trying to be very methodical, and he was trying to be very professional. Until there was a time that all of those ways of working had to be thrown out and tossed out the door because Senator [Tony] Rand was just very adamant [that] he was not going to run that bill. And I recall there being a very, very hot session of the Senate [Democrats], where, when they came out

57. Floyd B. McKissick Sr. was a renowned civil rights activist during the Civil Rights Movement of the 1960s. *Honoring the Life of Floyd B. McKissick Sr.*, NAACP (2009), <https://naacp.org/resources/honoring-life-floyd-b-mckissick-sr> [<https://perma.cc/NV3M-NG3U>]. He was also the first Black student to be admitted to the University of North Carolina School of Law. *Id.* He was a leader in the Congress of Racial Equality (“CORE”) movement, served as legal counsel for North Carolina’s NAACP, and founded a law practice in Durham, North Carolina aimed at helping desegregation efforts. *Id.*; *Galleries: Floyd B. McKissick, Lawyer and Nationally Recognized Civil Rights Activist*, AND JUSTICE FOR ALL, [http://andjusticeforall.dconc.gov/gallery\\_images/floyd-b-mckissick-lawyer-and-nationally-recognized-civil-rights-activist/](http://andjusticeforall.dconc.gov/gallery_images/floyd-b-mckissick-lawyer-and-nationally-recognized-civil-rights-activist/) [<https://perma.cc/EF7H-GSHD>].

58. Soul City was an economic development founded in 1972 by Floyd McKissick, Sr. in rural North Carolina that was open to all but intended primarily to benefit Black people. *See generally* THOMAS HEALY, *SOUL CITY: RACE, EQUALITY, AND THE LOST DREAM OF AN AMERICAN UTOPIA* (2021) (examining Floyd McKissick Sr.’s efforts to create Soul City, North Carolina).

of that room, I was told we were going to run the bill. Senator [Tony] Rand was not happy.

I had some others share with me what they saw had happened—how several of the older Democrats who had been around for some time, who really didn't stake themselves out—they kind of went along to be along—got in motion and said they were going to back Senator [Floyd] McKissick in supporting and calling for the bill.

#### Gene Nichol

Can you say, in general terms, what it was that made it break that way?

#### Charmaine Fuller Cooper

Yeah, did [Senator Floyd McKissick] go into detail about what happened that day?

#### Gene Nichol

Well, he did some. I mean, he echoed something that you said that, "Maybe it's about time you all did something for Black people after 100 years." But he also said he wasn't going to budge on this, and he was going to go to war on it if that's what they demanded. He wasn't going to be a good soldier and say that Democrats had done their best. He said, "You haven't done your best, and you can threaten me, or you can talk about what it means to be a good Democrat. But I'm not changing, and I'm not moving, and I don't know, maybe I come from a tradition of folks who don't move." It seemed to me that that had an impact.

#### Charmaine Fuller Cooper

I will say, you know, we had some strong allies, Senator Larry Shaw<sup>59</sup> was always very supportive of us in the state Senate, quite a few people [were] very supportive. I was told on good authority that what happened in the room that day was [that], as Senator [Tony] Rand was very upset and saying all the reasons why, if they ran this bill, it was going to ruin their chances of keeping the Democratic Party controlling the legislature, he did a motion that was seen as him putting his hand into Senator [Floyd] McKissick's face. And that, at that

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59. Larry Shaw was a member of the North Carolina House of Representatives from 1994 to 1997. *Larry Shaw*, BALLOTPEDIA, [https://ballotpedia.org/Larry\\_Shaw](https://ballotpedia.org/Larry_Shaw) [<https://perma.cc/U8E9-7K3F>]. He then served in the North Carolina Senate from 1997 to 2011 and represented District 21. *Id.*

moment, Senator Charlie Dannelly<sup>60</sup>—very well-known African American legislator from Charlotte—essentially reflected back to growing up and the power players and the optics of having a very powerful white legislator motioning and putting his hands in the face of Senator [Floyd] McKissick. And that he said, “No, we’re going to run the bill and we’re going to run it today.” That was told [to] me on good authority, and I would be interested to hear from Senator [Floyd] McKissick what really went down. Sounds like we should have had a movie camera in the room.

#### Gene Nichol

Yeah, he didn’t get into that much detail. He did say it had come to something of an impasse, and I think Floyd [McKissick] thought that they were surprised that he wasn’t going to move. I think he thought they were used to people who said they would move and he wasn’t going to do it. So that’s powerful.

We’ll back up just a little bit. Who did you work with the most in the House and then in the Senate?

#### Charmaine Fuller Cooper

Definitely Representative [Larry] Womble and Representative [Earline] Parmon in the state House, were who I worked with the most, along with Joe Hackney. If we didn’t have Speaker [Joe] Hackney, we could not have moved that bill. Any other speaker would have said, “This vote is too close, and I’m not going to move it.” Had we not had him, we wouldn’t have been able to move it.

Also, too, Representative David Lewis.<sup>61</sup> David Lewis was a Republican. He later became majority leader for the state House, but he was from Dunn, down in Harnett County, and he was friends with one of our coalition members, Carnell Robinson. And I remember we were at a beer and wine lobbyist party [where] they had taken a recess so everybody could go over to that party one evening. I was having a conversation with Representative [David] Lewis, and Carnell [Robinson] was introducing me to him, and I explained the bill to him, and Carnell [Robinson] said, “You know, we really need your support, David,

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60. Charlie Dannelly represented District 38 as a member of the North Carolina Senate from 1995 to 2013, and in 2003 he served as the Deputy President Pro Tempore. *Charlie Smith Dannelly*, BALLOTPEdia, [https://ballotpedia.org/Charlie\\_Smith\\_Dannelly](https://ballotpedia.org/Charlie_Smith_Dannelly) [<https://perma.cc/T44B-ZFFA>].

61. David Lewis, a Republican, represented District 53 as a member of the North Carolina House of Representatives. Dianne Gallagher & Giovanna Van Leeuwen, *North Carolina State Rep. David Lewis Resigns After Pleading Guilty to Two Federal Charges*, CNN POL. (Aug. 20, 2020, 11:34 PM), <https://www.cnn.com/2020/08/20/politics/north-carolina-david-lewis-federal-charges-resign/index.html> [<https://perma.cc/P7WR-PPXW> (dark archive)].

on this bill,” and he promised his support. And when the bill came up, he voted for it on second reading, and he stayed with the bill on third reading, when we lost a lot of other Republicans. But you know, had he not stayed with us, we wouldn’t have been able to pass the bill.

**Gene Nichol**

Is that the guy who did all the redistricting?

**Charmaine Fuller Cooper**

You know, I’m trying to remember if he was part of all the redistricting efforts or not. I’m pretty sure he was part of it, yeah.

**Gene Nichol**

If it’s true, it’s astonishing to me. I mean, he’s like the Archangel of Republican redistricting.<sup>62</sup>

**Charmaine Fuller Cooper**

But, I tell you, that goes to show the power of having people from all parts of the state in the coalition. Because when you have that home-grown, community contact that you make a promise to, you’re going to stay with that promise. And that’s one of the things that we see that works against us in the criminal justice system, that sometimes people in the court system know that there’s some things that are inherently wrong, but they’ve made a promise to their friend. They’ve made a promise to somebody they’ve grown up with. And so how do we shake that down, and how do we make it right?

**Gene Nichol**

I made a note [that] Joe Hackney—who, like a lot of others I have come to know very well—said when this passed that he had been in North Carolina

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62. David Lewis was described as a “Republican who played a prominent role in drawing North Carolina districts that were declared gerrymanders by courts” and as a “chief legislative author of Republican redistricting plans.” Gary D. Robertson, *Republican Who Drew Lines Called Gerrymanders Faces Charges*, ASSOC. PRESS (Aug. 20, 2020, 6:56 PM), <https://apnews.com/article/8457cc56139442e03cc92aedff482432> [<https://perma.cc/UB4C-BWMT>]; see also *Court Case Tracker: Common Cause v. Lewis*, BRENNAN CTR. FOR JUST., <https://www.brennancenter.org/our-work/court-cases/common-cause-v-lewis> [<https://perma.cc/9PUV-KRMU>] (last updated Apr. 16, 2020) (naming Representative David Lewis as a defendant in a “lawsuit challenging North Carolina’s state legislative maps on partisan gerrymandering grounds”).

courtrooms his whole life, and he'd seen the subtle influence of race, day in and day out, year after year, and the one thing he was proud about was this was trying to break that link.<sup>63</sup> Can you describe a little more [about] Joe Hackney's role in this?

#### Charmaine Fuller Cooper

You know, Joe Hackney had a silent power. Of course, we knew he was powerful because he was Speaker of the House, but he was the one who was responsible for if a bill got voted on and came to the floor or if a bill went to the Rules Committee and died. It all came down to the Speaker. He knew that Representative [Larry] Womble was very much committed to the issue—Representative [Larry] Womble was not going to back down off the issue—and Earline Parmon was not going to back down off the issue. And so, you know, he knew he had to push it, but he didn't necessarily have to. It helped that he came from a district that's more liberal. It definitely helped. Had he come from a different district, it would have been a different conversation.

#### Gene Nichol

I mean, he wasn't a big kind of blowhard getting out on every issue, so I'd have the sense that when he spoke, it would make a difference with folks. Not just because he was speaker, but because of who he was.

#### Charmaine Fuller Cooper

Yeah. We had a lot of conversations in that back hallway. And when things would come up and Representative [Larry] Womble and other legislators needed to make a quick comment on the floor, I remember I would text Ken Rose and Jay Ferguson and ask, "What do they need to say?" And then I'm typing out entire comments and paragraphs and pages on the BlackBerry to Representative [Larry] Womble or whomever else was speaking.

Pricey Harrison<sup>64</sup> was huge in supporting the effort on the House side. There were so many people who were really helpful. I could probably give you

63. *NC Gov Signs Law on Race Bias Rest in Death Cases*, WCNC CHARLOTTE, <https://www.wcnc.com/article/news/local/nc-gov-signs-law-on-race-bias-test-in-death-cases/275-374753148> [<https://perma.cc/H9CU-LDY6>] (last updated Nov. 1, 2009, 3:07 PM) (quoting Joe Hackney: "I've spent most of my life in courtrooms across North Carolina and I have seen the subtle impact of race in our courtrooms. . . . [The Racial Justice Act] opens the courtroom door for those who believe that they can show that it had an impact on their case.").

64. Pricey Harrison, as of 2025, represents District 61 as a member of the North Carolina House of Representatives. *Representative Pricey Harrison (Dem)*, N.C. GEN. ASSEMBLY,

a list of a lot of people who weren't helpful—that people would think these folks were helpful and [think] they're fighting for me in my district when they went back home, but when they were at the state legislature, they weren't standing up. And you know, we had a lot of people who would say, "I would love to support you, but if I vote for this, I'm not going to be able to win again in my district." I had one person in particular that I said, "If you're not going to get anything done in the two years that you're here, then you may as well go home to your district." That wasn't necessarily received well. I would never say that now.

Some of our early supporters, too—I thank the heavens for people like Lavonia Allison<sup>65</sup> in Durham, who has been a civil rights leader and a hell raiser from day one—being unapologetic in fighting for justice and having those types of role models to really, you know, encourage me to speak up more. And the Durham Committee on the Affairs of Black People<sup>66</sup> was extremely helpful at making sure that this legislation was pushed because they actually held accountability checks. When they brought you in for their check interviews, they would ask you, point blank, "What did you do on this issue?"

### Gene Nichol

If you're down in eastern North Carolina on the stump, talking with folks, or you're talking to some of those Republican lawmakers—I know you said if

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<https://www.ncleg.gov/Members/Biography/H/504> [<https://perma.cc/SJE3-XHSJ>]. She is known as a "leader on environmental, clean energy, green jobs, and social justice issues in North Carolina." Pricey Harrison, CTR. FOR CLIMATE INTEGRITY, <https://climateintegrity.org/projects/leaders-network/prycey-harrison> [<https://perma.cc/GT2P-P756>]. In fact, she has received awards from the Southern Environmental Law Center, the North Carolina League of Conservation Voters, and the North Carolina Sustainable Energy Association. *The Honorable Pricey Harrison*, NAT'L CAUCUS ENV'T LEGISLATORS, <https://www.ncelenviro.org/personnel/the-honorable-prycey-harrison/> [<https://perma.cc/U5UA-LD2>]; see also Pricey Harrison & Gene Nichol, *Conversations with the Coalition that Passed the Racial Justice Act: Pricey Harrison Interview*, 103 N.C. L. REV. F. 318, 318 (2025).

65. Lavonia Allison served as the chair of the Durham Committee on the Affairs of Black People for many years and is "credited for successes such as raising black voter participation and the number of black elected officials, and bringing federal attention to racial inequities in Durham schools." Jennifer Strom, *The Conflicting Agendas of Lavonia Allison*, INDY WK. (Nov. 21, 2001), <https://indyweek.com/news/conflicting-agendas-lavonia-allison/> [<https://perma.cc/RDE5-6WPU>]. She has an "undeniable track record of fighting for the Black community for well over 50 years." Cash Michaels, *Dr. E. Lavonia Allison—Steeped in the Struggle for Justice—GDN Exclusive, Vol. 2 Part II*, GREATER DIVERSITY NEWS (Jan. 9, 2019), <https://greaterdiversity.com/dr-e-lavonia-allison-steeped-struggle-justice-gdn-exclusive-vol-2-part-2/> [<https://perma.cc/XCV6-FPH6>].

66. The Durham Committee on the Affairs of Black People was founded by a group of African American men "with the goal of improving the lives of African-American citizens in Durham." *Who We Are*, DURHAM COMM. ON AFFS. BLACK PEOPLE, <https://www.dcabp.org/who-we-are> [<https://perma.cc/M3E5-EC9B>]. Today, the Durham Committee on the Affairs of Black People seeks to "promote the welfare of Black people in civic, cultural, economic, educational, health, housing, political, youth, and religious and human affairs." *Id.*

we're going to have a death penalty, it needs to be fair and it needs to not be race-based—did you get into the questions like, this bill uses statistics from outside the district, it puts a different kind of burden of proof on subsequent collateral attacks? If you were up at the Kiwanis Club,<sup>67</sup> whether you wanted to be or not, what would you say?

### Charmaine Fuller Cooper

You know, I let Steve Dear handle the Grange<sup>68</sup> and the Kiwanis Club and some of those rotaries. Because I had to keep it really simple: Have you seen things that have happened in the death penalty system that didn't seem fair? Have you seen people who've ever been arrested that it didn't seem fair? And the more local I kept it, you know, it made sense.

The barbecue restaurants across eastern North Carolina [were] really where—back in the day, [because now] a lot of them are closed—the laws got made in North Carolina. That's where you had to have your really serious conversations about, “Hey, we all know there's some flaws in the system. This might be a way to work on it, and to take that label of being a racist off of it.”

People assumed that minorities, and I don't want to lump everybody together, but people assumed that Black people in North Carolina were naturally against the death penalty, which was not the case. We even saw that on the marriage 1 amendment<sup>69</sup>—that you can't look at one group and think

67. Kiwanis clubs and members “conduct service projects” and raise nearly \$390 million every year for “children, families and communities around the world.” *Our Impact*, KIWANIS, <https://www.kiwanis.org/what-we-do/our-impact/> [<https://perma.cc/M6GA-HFC8>]. The projects they take on include building playgrounds, providing school supplies, restocking libraries, purchasing medical equipment, and more. *Id.* The Kiwanis clubs are “dedicated to improving the world one child and one community at a time.” *Mission and Values*, KIWANIS, <https://www.kiwanis.org/who-we-are/mission-and-values/> [<https://perma.cc/AN9Z-NT28>].

68. The North Carolina Grange is a grassroots organization “dedicate[ed] to the future of agriculture” in North Carolina. *Our Story*, N.C. GRANGE, <https://www.ncgrange.com/our-story> [<https://perma.cc/88C5-HHNB>]. The Grange grew in popularity after World War I when North Carolina's “isolated farm families needed a place to come together.” *Id.* The Grange develops legislative policy that “focuses on a wide range of issues ranging from agriculture to education to taxation and more.” *Legislation*, N.C. GRANGE, <https://www.ncgrange.com/legislation> [<https://perma.cc/5GET-ZTFM>].

69. Amendment 1 was an approved amendment to the North Carolina Constitution that defined marriage “solely as a union between one man and one woman.” Karen McVeigh, *North Carolina Passes Amendment 1 Banning Same-Sex Unions*, GUARDIAN (May 9, 2012, 12:34 AM), <https://www.theguardian.com/world/2012/may/09/north-carolina-passes-amendment-1> [<https://perma.cc/3ELA-9GCG>]. In 2012, sixty-one percent of North Carolina voters were in favor of passing this amendment, making North Carolina the “30th state in the union to enshrine a ban on same-sex marriage in its state constitution.” *Id.*; see also Michael Foust, *N.C. Becomes 30th State With Marriage Amend.*, BAPTIST PRESS, <https://www.baptistpress.com/resource-library/news/n-c-becomes-30th-state-with-marriage-amend/> [<https://perma.cc/Q7RN-D9P2>] (last updated May 10, 2012, 11:10

they're monolithic. But what we've also seen in voting is that the Black population in North Carolina can be one of the most conservative populations in the state. So, we couldn't just assume that everybody was for or against a key issue. We had to talk to everybody. Getting out to the mountains was really key, too.

And I will tell you, I was very much aware of—I'm not cocky enough to assume that I know everything and [that] I can go into every room, because it took a lot of us moving this issue—but I knew which rooms I could go into and which rooms I needed to get somebody else to go in. And that's really, really key—who's the messenger. There [were] a lot of things that, I think, a lot of people throughout the coalition, individually, could have taken credit for, but many of us weren't self-serving. We were about the issue and making sure that we could get the Racial Justice Act passed.

And for law students [reading] this, the lawyers who worked on this are not wealthy attorneys. They should have been making millions, but many of them were just getting by and putting every dollar they could into this. And I know I told you, Gene, the story of how our budget for the CJPC was a five-figure budget. It was not a big budget. I remember my first-year salary: I made \$26,000 for three years in a row. I had a small salary, and I'm thankful my parents paid for my car that entire time. Had it not been for Ken Rose and other funders really digging deep when they may not have had it themselves, I wouldn't have been able to keep doing this either.

You know, I was never doing it for the money, and they weren't doing it for the money. We were all doing it because we knew it was a solution that needed to be driven.

#### Gene Nichol

Didn't you tell me that Ken Rose even gave you sort of a backstop on the financial side?

#### Charmaine Fuller Cooper

Yeah, I saw a contribution come in that he had cashed out some stock to help [the] CJPC when we wouldn't have had the money. So, I'm forever grateful to Ken [Rose] because I can only imagine that conversation at home because, you know, he had young kids.

The interesting thing too is the Stein family. Gerda Stein had been at the [CDPL] and [had a] background in social work and [was] the communications

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PM) (discussing how the coalition Vote for Marriage NC was formed to promote Amendment 1 and "didn't shy away from religion in urging voters to support it").

director for everything we were doing at the center and also with the coalition—there wasn't a better person to tell the story because we were trying to be data storytellers. That's what we were essentially telling the courts, is that we want to be able to tell a story about race and living and the criminal justice system using data. But then we had to put that in the media for people who were Judge Judy [style] armrest judges at home—remote control judges. How do you tell that story and put that message out there? She did a great job of really highlighting different cases.

But then her family too, like Adam Stein.<sup>70</sup> He's a legal scholar. It was interesting how much he put of himself into criminal justice efforts. And then fast forward, when I started working on the eugenics compensation language for the bill draft, and I was researching the issues, and I was going to state archives, and I was pulling up everything, one of our most publicly known victims [was] Elaine Reddick.<sup>71</sup> I looked and I [saw] Adam Stein had sat second chair on her case in the 1960s, and he was the first phone call I made of, "Tell me more. How do we get to this place? What are we doing?" When you think of people who've promoted justice for decades, he's one of those people too. It was his support and, his wife, Jane [Stein's]<sup>72</sup> support too, that allowed for us to be able to do what we were doing at the [CJPC].

### Gene Nichol

The both of them, but Jane [Stein] is one of the most remarkable humans I've ever met in a long life, and how they can just keep generously working to try and do good no matter what comes down the pipe, it's remarkable.

70. Adam Stein, as a lawyer, "helped define and strengthen civil rights jurisprudence in North Carolina and across the country starting in the late 1960s," and he also "played a critical role in developing North Carolina's criminal indigent defense system." *Adam Stein Joins Tin Fulton Walker & Owen in its Chapel Hill Office*, TIN FULTON WALKER & OWEN ATTY., <https://www.tinfulton.com/about/firm-news/adam-stein-joins-tin-fulton-walker-owen-in-its-chapel-hill-office/> [<https://perma.cc/JDL4-GZ6Y>]. Adam Stein was also a founding member of the Board of the CDPL. *Id.*

71. Elaine Reddick was forcibly sterilized as she gave birth via c-section after becoming pregnant at age thirteen as a result of rape. Charlie Camosy, 'Unimaginable Cruelty and Trauma'—A Survivor of Forced Sterilization Speaks Out, PILLAR (Aug. 19, 2022, 12:00 PM), <https://www.pillaratholic.com/p/unimaginable-cruelty-and-trauma-the> [<https://perma.cc/N6Z8-8DZP>]. North Carolina's Eugenics Board had labeled her as "feeble-minded" and doomed to "promiscuity" and recommended sterilization. David Zucchini, *Sterilized by North Carolina, She Felt Raped Once More*, L.A. TIMES (Jan. 25, 2012, 12:00 AM), <https://www.latimes.com/archives/la-xpm-2012-jan-25-la-na-forced-sterilization-20120126-story.html> [<https://perma.cc/D9RL-XXXH> (dark archive)]. She filed a lawsuit in 1974 and "became one of the state's first sterilization victims to go public." *Id.*

72. Jane Stein is a partner and business manager at the Chapel Hill Institute for Cultural and Language Education and a lecturer and adjunct faculty member in the department of maternal and child health within the school of public health at the University of North Carolina at Chapel Hill. *Curriculum Vitae: Jane Stoneman Stein*, UNC GILLINGS SCH. GLOB. PUB. HEALTH, [https://sph.unc.edu/wp-content/uploads/sites/112/2016/04/703692337\\_cv1.pdf](https://sph.unc.edu/wp-content/uploads/sites/112/2016/04/703692337_cv1.pdf) [<https://perma.cc/XM8J-MB48>].

Would you mention, besides Floyd [McKissick] in the Senate, who else would you say that you worked with most repeatedly or most effectively in the Senate?

#### Charmaine Fuller Cooper

You know, Larry Shaw. He was one of the people. He's never going to ask for credit, but he's a brilliant man, [a] very thoughtful person. He's very methodical in his approach. He's very connected. I probably went to his office almost every other day [to give] him a report on, "This is what's happening with the Racial Justice Act." And [he took on the role of] really mentoring me through the process, and also redirecting me when some of my steps and approaches were wrong, too. He was very instrumental with that as well. It was quite a few people in the state Senate who were helpful to us as well. Some of them, unfortunately, are gone now.

Oh, yeah, another person—Dan Clodfelter.<sup>73</sup> Dan [Clodfelter] was equally brilliant. I put him up there with Skip Stam in the state House. Just a person who knows his material, he reads, he goes through it, but really going to him and having conversations [was helpful].

Switching back to the state House, Angela Bryant,<sup>74</sup> who was an attorney and a [University of North Carolina ("UNC")] alum. The thing that impressed me with her was she read everything. Most of the legislators don't read, but she read every single thing. And, I know they commonly say in law school, the devil is in the details. She made sure she knew the details, which was really, really helpful as well.

#### Gene Nichol

Yeah, she's amazing as well. I'm looking at these comments that people made when the bill was passed, and I mentioned one by Joe Hackney, and then I see one here from Phil Berger,<sup>75</sup> who said, "[T]his law has [little] to do with

73. Dan Clodfelter was a senator in the North Carolina Senate from 1999 until 2014, when he was named mayor of Charlotte, North Carolina. *Dan Clodfelter*, BALLOTPEDIA, [https://ballotpedia.org/Dan\\_Clodfelter](https://ballotpedia.org/Dan_Clodfelter) [https://perma.cc/6C2M-ZD9K]. He represented District 37, a district that, at the time, encompassed part of Mecklenburg County. *Id.*

74. Angela Bryant was a Democratic member of the North Carolina Senate for District 4. *Angela Bryant*, BALLOTPEDIA, [https://ballotpedia.org/Angela\\_Bryant](https://ballotpedia.org/Angela_Bryant) [https://perma.cc/5R5K-9ZRX]. In 2018, she was appointed to the North Carolina Post-Release Supervision & Parole Commission. *Id.* She is also an attorney and earned her law degree from the UNC School of Law. *Id.*

75. Phil Berger "was first elected to the State Senate in 2000. His colleagues elected him minority leader in 2004, and President Pro Tempore in 2010 after Republicans won a Senate majority for the first time since the 19th Century." *About Senator Phil Berger*, PHIL BERGER N.C. SENATE, [https://www.philberger.org/about\\_phil\\_berger](https://www.philberger.org/about_phil_berger) [https://perma.cc/LZ8K-PE8U (staff-uploaded archive)].

justice and nothing to do with guilt or innocence.”<sup>76</sup> What was his opposition like?

#### Charmaine Fuller Cooper

So, Phil [Berger] wasn’t in leadership at the time, but he was the minority leader for the Senate. Remember I interned initially for Senator Jeanne Lucas in 2003, and I remember when he was growing into his position, and he sat on the back row with Senator Virginia Foxx<sup>77</sup> and Senator Hugh Webster.<sup>78</sup> They all sat on the back row, and Phil Berger was the one who always brought very unreasoned conversation back to closure and made some sense of it. You know, I don’t know him as well, and I would love to sit down and have a conversation with him about what he thinks of the Racial Justice Act now because he is very much entrenched in the criminal justice system. I’ll leave it there.

#### Gene Nichol

You are a full, mature pro by now—“I’m gonna leave it there.”

#### Charmaine Fuller Cooper

He grew up around Eden in Rockingham County, which is why we had that as one of our counties. But his county was one that could have certainly benefited from making some adjustments. And one thing I asked people who have been in the court system for a very long time is, “Have you ever worked in a court system that didn’t have problems?”

76. *NC Gov Signs Law on Race Bias Rest in Death Cases*, *supra* note 63 (quoting Phil Berger: “Make no mistake, this law has little to do with justice and nothing to do with guilt or innocence. For the first time in North Carolina, the statistical composition of the inmates on death row will outweigh the facts of a particular case in the determination of punishment.”).

77. Virginia Foxx is a Republican member of the United States House of Representatives, and she represents North Carolina’s 5th District. *Meet Virginia*, CONGRESSWOMAN VIRGINIA FOXX, <https://foxx.house.gov/about/default.aspx> [<https://perma.cc/RT9P-BNJW>]. Prior to this role, she spent ten years in the North Carolina Senate. *Id.* Virginia Foxx describes herself as “a champion of conservative values and has helped lead the national movement to reduce federal government spending and increase government oversight and accountability.” *Id.*

78. Hugh Webster, a Republican, “represented Alamance and Caswell counties in the [North Carolina] Senate from 1995 until 2006.” *Hugh Webster, Former State Senator and Register of Deeds, Dies at 78*, ALAMANCE NEWS (Mar. 9, 2022), <https://alamancenews.com/hugh-webster-former-state-senator-and-register-of-deeds-dies-at-78/> [<https://perma.cc/T3W8-AKF7> (dark archive)]. In 2010, he was appointed as Alamance County’s Register of Deeds, a role he held until 2020 when he retired. *Id.* He was also a farmer and a certified public accountant. *Id.*

**Gene Nichol**

Just a couple more things that I just wanted to hear your opinion on. Were you surprised by the subsequent moves in the [North Carolina] General Assembly to repeal it and how things have gone since you're no longer doing your work in North Carolina?

**Charmaine Fuller Cooper**

No, I wasn't surprised. I think we always knew they were going to try to repeal it.<sup>79</sup> I don't think any of us realized that they would repeal it as quickly as they did, and much of that came because of the legislature flipping from one party to the next. So that was my surprise. The only relief point has been that I think all of us knew that anyone who was on death row at that time had to have their day in court. So even though they were repealing the bill, those individuals still had to have their day in court.

Unfortunately, for people who come behind them, they won't be able to get that day in court, but the precedent has been set, which is a key thing. The precedent was set, and it wasn't just set in North Carolina. It actually had a flashlight shining on it from all these other states, too—they can see something that they [can] hopefully put into their systems. The other thing that it did was it put prosecutors on notice that people are watching, especially in the digital age. People are watching and are very mindful of things that they're doing. If you have sense, you want to make sure that you're being extra careful about how you're administering justice in the state.

**Gene Nichol**

Do you want to say a word about the difference between working on racial justice in North Carolina and South Carolina?

**Charmaine Fuller Cooper**

You know, it's interesting. So, South Carolina [and North Carolina], they are two totally different states. I don't work on, so to speak, direct criminal justice efforts in South Carolina, but it is totally different.

South Carolina is one of the few states that doesn't have hate crimes legislation. I've been asked for my thoughts on that a number of times, and I've said, "I'm not working on the issue right now. I need to know more from the

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79. North Carolina Racial Justice Act, ch. 464, 2009 N.C. Sess. Laws 1213 (codified at N.C. GEN. STAT. §§ 15A-2010 to -2012), *repealed by* Act of June 19, 2013, ch. 154, § 5.(a), 2013 N.C. Sess. Laws 368, 372.

key people who are working on the language.” But I think one of the things I have said is, “In any bill that we’re running, we have to be careful of the unintended consequences. We always have to ask ourselves, what’s the unintended consequence?” Because while we’re trying to do the best for the most people, sometimes we can actually do wrong by people we’re trying to help if we don’t look at those details.

So, there’s a lot of work that needs to be done in both states, and all of our states, to make sure that people are really getting what they need to get, and there needs to be more attention paid to some of the other efforts. You know, especially education. When I went to [NCCU], one of the big reasons was because Julius Chambers<sup>80</sup> was the chancellor [there], and he was a powerhouse in the civil rights movement.

### Gene Nichol

*The powerhouse in the civil rights movement.*

### Charmaine Fuller Cooper

Yes, I remember we had to go to his house to discuss *The Bell Curve*<sup>81</sup> and I was in the honors program. And we get to his house and we’re having dinner, and none of us have read the book because we’re working on everything. And of course, he grilled us. So, of course, I went back to my room, and I made sure that I read the book, even though I had missed my chance to really have that conversation with him. But, you know, in having the conversation and looking at *The Bell Curve* and everything that needs to be done, everything has come full circle, and we still have that bell curve and the fact that he fought on

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80. Julius Chambers was a prominent civil rights activist, lawyer, and educator in North Carolina. See generally RICHARD A. ROSEN & JOSEPH MOSNIER, JULIUS CHAMBERS: A LIFE IN THE LEGAL STRUGGLE FOR CIVIL RIGHTS (2016) (examining Julius Chamber’s early life, education, and legal career); Duke University School of Law, *Lives in the Law | Julius Chambers, A Struggle for Equal Justice Through the Courts*, YOUTUBE, at 1:05:34 (June 10, 2013), <https://www.youtube.com/watch?v=4u4zSIRZxQE> [<https://perma.cc/GJ2Q-G4Q5>] (on file with the North Carolina Law Review) (speech by Julius Chambers for Duke University School of Law’s “Great Lives in the Law Lecture Series”) (“I suggest[] that you pick up where you are with what you have, and do the best that you can with it. And if your ideas are worth anything, folk[s] will listen. And if they’re not, they won’t.”). He was also the first Black editor-in-chief of the *North Carolina Law Review*, making him the first Black editor-in-chief of any law review at an integrated law school in the South. *Biography of Julius L. Chambers*, HARV. BUS. SCH. CLUB CHARLOTTE, <https://www.hbscharlotte.com/s/1738/cc/21/page.aspx?sid=1738&gid=64&calcid=16104&calpgid=15&pgid=252&ecid=90959&crd=0&cid=752> [<https://perma.cc/U4PA-MGPE> (staff-uploaded archive)]; North Carolina Law Review (@NCLRev), X (Oct. 6, 2022, 8:01 AM), <https://x.com/NCLRev/status/1577992514484715522> [<https://perma.cc/CX6P-WB2N>].

81. RICHARD J. HERRNSTEIN & CHARLES MURRAY, *THE BELL CURVE* (1994).

segregation issues in schools for so long, and now we're back to those same segregation issues.

I am first generation integration. Both of my parents went to segregated school systems. I didn't realize that when I was in kindergarten in 1985, that it [had been] less than two decades since Martin Luther King Jr. had been assassinated. I remember growing up and the school bus goes to the country club, and then it comes out [of] the country club, and it's picking everybody up. So, we had very integrated classes.

And now I look at my son's classes, that integration is not there. In order to get diversity, you have to send your children to a private school or a charter school, and still, that diversity is not there. We're in this situation [where] people want to lump anybody who's not white into a category of being people of color. But there are a lot of issues also that are happening between different segments of the population based on race and class, and we need to have those conversations.

And to have those conversations is not going to be politically correct. And I remember, growing up, we used to have that conversation. I think there was a book about it—the kids who don't sit beside you in the cafeteria, and it was always the Black children that no one wanted to sit beside in the cafeteria.<sup>82</sup> Now, it's even more pronounced. And how do we deal with those issues when, to be politically correct, most of us don't want to have the conversations about race, we don't want to have a conversation about gender, we don't want to have the conversations about sexuality. So how do we have those conversations?

And what I can say to bring us back to the differences between North Carolina and South Carolina is [that] South Carolina is not trying to be politically correct. That's the difference. It's very matter of fact: "This is how I feel, and this is how I view this," and the state is not trying to be politically correct. And while people may view that differently, [there's] something to be said about at least being honest about where you are, and, hopefully, at least being honest and honest enough to know that you need to be willing to grow.

### Gene Nichol

You know, I've always believed or hoped or thought that there was a big difference between North Carolina and South Carolina. But I [have to] say this, you know, with the horrifying murders down there and South Carolina

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82. See generally BEVERLY DANIEL TATUM, WHY ARE ALL THE BLACK KIDS SITTING TOGETHER IN THE CAFETERIA? (1997) (exploring the psychology of racism and how best to communicate across racial and ethnic divides).

changing the flag,<sup>83</sup> I wondered if we would do that with this legislature in North Carolina, if all that had happened here. I can't say that I've got great confidence in that. I'm a little shaken on North Carolina, I gotta admit.

### Charmaine Fuller Cooper

That might be a good book to write right there, Gene. It makes me think of, in the Senate, Senator Douglas Berger,<sup>84</sup> [a] Democrat, [who was a] huge help on this bill. He did not support us initially, and I remember Mary Perry, sergeant at arms, going to him and asking him, "Why don't you support this bill? How can you do all the things that you do for the party and you don't support this bill?"

And he was very upset with me. So—when we think about labels—he was very upset with me because he thought I sent her to his office, and he felt very much labeled because of that. I had to say, "No. I just told her when she asked for the bill count." And [when] we gave our reports to our coalition members and they asked who's for us and who's against us, I was called out, and they said, "You have this name wrong. You meant Phil Berger. You don't mean Doug Berger." And I had to say, with the vote count, "No, Doug Berger doesn't support this bill. He's been a prosecutor before. This is how he feels."

That was a learning lesson because he was very much opposed. We kept going back to him and we kept educating him. And he went and met with the prosecutors because he said, "I can talk to them. Let's go and talk to them. Nobody's talking to them. We can't not talk to them." He went and spoke with them, and, based on what he brought back, he started to realize he needed to support the legislation.

But when you spoke about the Confederate flag—I've had a lot of conversations with [Doug Berger] on other things years past, but one of the

83. In response to the racially motivated murder of nine church attendees at Charleston's African Methodist Episcopal Church, on July 9, 2015, the South Carolina legislature passed a bill that required the Confederate flag be removed from the prominent grounds of the state's capitol. Bill Chappell, *'A New Day': S.C. to Remove Confederate Flag from Capitol Grounds*, NPR (July 9, 2015, 6:47 AM), <https://www.npr.org/sections/thetwo-way/2015/07/09/421388516/a-new-day-s-c-to-remove-confederate-flag-from-capitol-grounds> [<https://perma.cc/5HE4-Y8GB>] [hereinafter Chappell, *A New Day*]; Bill Chappell, *South Carolina Gov. Nikki Haley Signs Confederate Flag Bill into Law*, NPR (July 9, 2015, 4:12 PM), <https://www.npr.org/sections/thetwo-way/2015/07/09/421531368/south-carolina-gov-nikki-haley-to-sign-confederate-flag-bill-into-law> [<https://perma.cc/R9B2-99SX>] [hereinafter Chappell, *Gov. Signs*]. Later that day, South Carolina Governor Nikki Haley signed the bill into law, meaning the Confederate flag had to be removed from the state capitol within twenty-four hours. Chappell, *A New Day*, *supra*; Chappell, *Gov. Signs*, *supra*.

84. Douglas Berger represented District 7 as a Democratic member of the North Carolina Senate from 2005 to 2013. *Douglas Berger*, BALLOTPEDIA, [https://ballotpedia.org/Doug\\_Berger](https://ballotpedia.org/Doug_Berger) [<https://perma.cc/77G4-P55S>]. He helped write some of North Carolina's worker's compensation laws. *Attorney Douglas E. Berger (Partner)*, JAMES SCOTT FARRIN, <https://www.farrin.com/attorney/douglas-berger/> [<https://perma.cc/TD3W-RC44>].

things I remember him saying about somebody he supported was that sometimes you have to be able to talk to people who carry the [Confederate] flag, people who have been born under the flag, and people who oppose the flag. He knew we couldn't just not talk to people. I think that's where we really are, just in America, in general, and throughout the world—we have to figure out how to talk to people. We have to figure out how to listen to people.

#### Gene Nichol

Now I mentioned to you that Pricey [Harrison] has really downplayed her role on this—knowing Pricey [Harrison], I bet she's undersold it. Would you characterize that as accurate? She played a significant role in the House, right?

#### Charmaine Fuller Cooper

She did. She did because Pricey [Harrison] wears her heart on her sleeve, and she makes sure that people know where [they] need to be fighting. I met Pricey [Harrison] before she became a legislator. She was lobbying, and I met her because Senator [Jeanne] Lucas said to me, when [Pricey Harrison] walked away, "She's not a lobbyist. She says she is a lobbyist, but she's not a lobbyist." But [Senator Lucas] said, "She's doing this because she wants to do it, and she believes in it." And what Senator [Jeanne] Lucas was saying to me is, "You could do a whole lot of things for money, but if you don't believe in it, you're not gonna make a difference." And Pricey [Harrison] was really helpful because she could speak to the issue from a different way as to what was needed. Pricey [Harrison] too, I remember, when—and, you know, I'm not as "legalese" as I would like to be—Ken Rose was having some post appellate motions in Greensboro, Pricey [Harrison] would show up. She would ride her bike over. She would come to the hearings. She wasn't just in this for the legislature, she actually came to the court hearings in the early years, too.

#### Gene Nichol

I know how powerfully committed she is.

#### Charmaine Fuller Cooper

Her assistant too, you know. I would go in her office and sit and talk to her assistant just as much as I would talk to her.

**Gene Nichol**

I was thinking a little bit when you were describing going to Julius Chambers's house as a student and him calling on you. During that same period, I was Dean of the [UNC] Law School, and it was Julius's last three years as the chancellor at [NCCU], and he gave me permission to come over. I came over like every three months for three years and begged him to start the Civil Rights Center here.<sup>85</sup> I had to have, I think, eleven conversations with him over the course of the three-year period. And of course, I was used to dealing with folks, but he just intimidated me. Just with that soft voice, just even sitting and talking about it.

And then I remember about the ninth trip, he didn't say no—he didn't say yes, but he didn't say no. So, I gradually got three years' worth of advocacy in, and then he told me, "You know, if we do this, the university and the legislature is going to close it down because they're not going to stand the thought of good lawyers representing Black and Brown people; that just ain't going to happen at Carolina." He said, "You got some kind of death wish?"

**Charmaine Fuller Cooper**

And sure enough, it eventually got shut down.<sup>86</sup>

**Gene Nichol**

That's right, it did.

**Charmaine Fuller Cooper**

[Julius Chambers] was absolutely brilliant. His law firm was the first integrated law firm in the nation, wasn't it?

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85. The UNC Center for Civil Rights was founded by then Dean Gene Nichol, Julius Chambers, and John Charles Boger in 2001 "with the goal of challenging inequalities that inhibit the potential of minorities and low-income people and communities." *Center for Civil Rights*, UNIV. N.C. SCH. LAW, <https://law.unc.edu/academics/centers-and-programs/center-for-civil-rights/> [https://perma.cc/6NGP-KF3W]. The UNC Center for Civil Rights provided legal representation to clients up until 2017. *Id.* Today, the Center "works to dismantle structural racism by researching, identifying and challenging discriminatory policies and practices that have led to the exclusion of low-wealth, non-white families and the underdevelopment of the neighborhoods in which they live." *Id.*

86. In 2017, the UNC Board of Governors "approved a ban on litigation that . . . prevent[s] the UNC Center for Civil Rights from doing legal work for low-income and minority groups." Jane Stancill, *UNC Board Bans Legal Action at Civil Rights Center*, NEWS & OBSERVER (last updated Sept. 10, 2017, 4:22 AM), <https://www.newsobserver.com/news/local/education/article171979707.html> [https://perma.cc/VMH9-UE4E (staff-uploaded, dark archive)]. This "effectively shut down the center" and forced it to engage in other work. *Id.*

**Gene Nichol**

Right, right.<sup>87</sup> I used to go around when I first became Dean and did a whole lot of programs with Julius [Chambers] for the university across the state and across the country, and I only knew of his reputation of being the greatest civil rights lawyer in the United States. I didn't know him yet, so I was a little taken aback—you will understand this—and surprised by how quietly he spoke. Almost at a whisper, which is just not what you expect from some powerful trial lawyer.

And so, we talked to these alumni groups, or we'd try to raise money for the Civil Rights Center. I would go in there and try to give a big speech, and Julius would talk, and there might be 200 people there, [and] he's just sort of whispering. And then I realized after a few minutes, everybody is kind of scooching up and they're just listening to him like it's Moses. I sort of holler my head off and everything, and no one pays any attention to me. So, I have a great sense of what that interaction was like.

**Charmaine Fuller Cooper**

And interestingly, Ken Rose is a lot like that.

**Gene Nichol**

Yeah, he is.

**Charmaine Fuller Cooper**

You know, Ken [Rose] is not arrogant. I don't know if Ken [Rose] knows how brilliant he really is.

**Gene Nichol**

He's never going to admit it anyway. He might know it, but he wouldn't admit it.

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87. In 1964, upon returning to North Carolina after serving as the Director-Counsel of the NAACP Legal Defense Fund in New York, Julius Chambers founded his law practice in Charlotte, North Carolina, which would go on to become the first integrated law practice in the country, including attorney Adam Stein. ROSEN & MOSNIER, *supra* note 80, at 63–82 (documenting the founding of Julius Chamber's law practice); *id.* at 142–59 (documenting the expansion of Julius Chamber's law practice).

**Charmaine Fuller Cooper**

Yeah, he wouldn't admit it. He's very approachable, and that really helped me because I was able to talk to Ken [Rose] and to Jay Ferguson and the other lawyers and to say, "Okay, explain this to me." You asked me the question of how I message very, you know, technical language to lay people, and I had to have conversations with them over and over again and say, "Okay, really explain this to me." And then I would repeat it back to them but repeat it back in plain language. Because it was, "Okay, nobody's gonna say this at home if you're sitting on your couch. So how do I make somebody understand this?"

**Gene Nichol**

That's what I was trying to get at, because I bet that those conversations with you were good for them too in figuring out how to talk in a way where you don't sound like a law professor or something like that.

**Charmaine Fuller Cooper**

I hope so. But, yeah, it was difficult though, because, you know, even though there [were] a lot of legislators who [were] lawyers, there are a lot more who weren't. You know, we had farmers, we had a little bit of everybody who was at the state legislature. We had Senator Marc Basnight,<sup>88</sup> one of the greatest leaders in this state ever, who didn't have a formal high school diploma.

**Gene Nichol**

He didn't go to college, right?

**Charmaine Fuller Cooper**

No, and [he] was one of the most poetic people you could ever hear speak and who valued education. Just a very prolific person with their story.

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88. Marc Basnight "entered politics in 1977 as a member of the state transportation board and a fundraiser for Democratic Gov. Jim Hunt, and in 1984, he was elected to the state Senate." Rob Christensen & Danielle Battaglia, *Marc Basnight, One of NC's Most Powerful Senate Leaders, Has Died*, NEWS & OBSERVER, <https://www.newsobserver.com/news/politics-government/article248136430.html> [<https://perma.cc/4YAY-CFW7> (staff-uploaded, dark archive)] (last updated Dec. 31, 2020, 10:36 AM). He went on to "serve[]" in the Senate for 26 years, the last 18 as president pro tempore." *Id.* During that time, he was "widely considered the most powerful man in North Carolina." Catherine Kozak, *A Coastal Reporter Remembers the Late Sen. Marc Basnight*, COASTAL REV. (Aug. 19, 2022), <https://coastalreview.org/2022/08/a-coastal-reporter-remembers-the-late-sen-marc-basnight/> [<https://perma.cc/S3DP-5X5P>].

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**Gene Nichol**

It helped that he was dealing with that accent from over in the east.

**Charmaine Fuller Cooper**

Yeah, that accent, yeah.

**Gene Nichol**

Made him even more powerful, I think.

**Charmaine Fuller Cooper**

Yes, he was magical that man. But, you know, trying to figure out, how do you break this down so that you don't ever want to go in and speak to somebody and make them feel like, "Oh, I'm such an intellectual," and that you're talking over them. That's the quickest way to just lose an audience.

**Gene Nichol**

Charmaine, let me let you go.

**Charmaine Fuller Cooper**

If y'all need anything, let me know.

**Gene Nichol**

Thank you very, very much, this has been wonderful.