



Podcast Transcript

32nd Annual Legislative Seminar Series: Senator Cory Booker, D-N.J.

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Lee: For three decades, BakerHostetler has hosted its Legislative Seminar among the premiere annual public policy showcases on Capitol Hill. Though COVID-19 forced a hiatus in 2020, we are back finding new ways for you to hear firsthand from Democrats and Republicans in the House and Senate on the latest legislative developments on tax, infrastructure, healthcare, trade, energy policy, and more. I'm Leeann Lee and you're listening to BakerHosts.

Our guest today is Democratic Senator, Cory Booker of New Jersey. Now in his second full term in the Senate, he serves on the Judiciary Committee where he plays a leading role in criminal justice reform. He is also a member of the Foreign Relations Committee, the Environment and Public Works Committee, and the Small Business Committee. Let's listen in.

Ferguson: This is former Congressman Mike Ferguson. I lead the Federal Policy team at BakerHostetler. Thanks for joining us for the final version of our 32nd Annual

Legislative Seminar. We have a very special guest batting cleanup today. He was a football player, but he can bat cleanup too. I'm joined as always by my friend and colleague, former Congressman Heath Shuler. Heath, great to be with you today for this final session.

Shuler: Yes, thanks Mike. It's going to be a great day. Cory, we're so excited to have you on and what a great timing to have you on, so many different ways. So, thanks for participating today again.

Ferguson: So before we get started, I want to give a special thank you to Lindsay Sonich from our BakerHostetler team. She has been coordinating behind the scenes all of our webinars this year. It has not been an easy task with congressional schedules and votes and everything else. We've had some changes and we've had to be able to work on the fly here sometimes, and Lindsay's done an amazing job. So Lindsay, thanks so much for all of your work, and I'm very, very pleased now to introduce our special guest.

Senator Cory Booker has been a guest on this program before. He really made a name for himself as the mayor of the biggest city in the greatest state in the union, the state of New Jersey. He was a visionary and innovative leader of the city of Newark, and he has now been in the U.S. Senate for several years. He made a further name for himself when he ran for president recently, and I know Cory, you said that that experience helped makes you a better Senator too, so interested in hearing more about that. But without any further ado, welcome to the program, Senator Cory Booker from New Jersey.

Booker: Listen Congressmen, I'm grateful to be with you all again. I'm grateful for the expertise at your firm. So many people from your team have been helpful and supportive to me to be a better lawmaker, a better leader, and I'm just grateful for the friendships that we have, and happy to be grilled by two men who are so brilliant and experienced. I'm ready for it. I've been working out every day this week just getting prepared for this time in the ring with you two.

Ferguson: I don't know that I'm much of a challenge, but Heath is a pretty big fellow. So...

Shuler: Yeah, quarterbacks are soft. You know that, Cory.

Booker: Yeah, that's true. That's very true. Not the guys, the real blue-collar working guy like us tight ends.

Shuler: That's right.

Ferguson: Well, I remember very well our conversation about a year ago when I was sort of going along with the conversation as a football fan, and I was letting you two star athletes chat about all sorts of interesting things. Which was great stuff but, and we'll get to some of that because there's some interesting sports-related policy issues that we're going to talk about today. Heath is much better one to chat about those than me. But Cory, let me start off with what's going on, some of the hot issues right now. Your leadership is trying to cobble together this coalition on

this infrastructure package. There's been kind of some fits and starts with whether that's going to be coupled with a budget resolution and a reconciliation bill. What's the latest, and how do you think this plays out?

Booker: Well, look. I think that we all as Americans should just step back and recognize what has happened in really the span of the three of our lifetimes. We were a nation that believed, like businesses have to, that you invest in the things that give you the best returns. America led the planet Earth in investing in the things that businesses have to invest in, the quality of your employees, the, your physical plant, staying ahead of the competition. That's, staying ahead of the competition is research, quality of your employees is education, and your physical plant is your infrastructure. So we were ranked the top in the globe for doing that, and it is one of the reasons why we ushered in at that time, obviously India and China are passing us, but the biggest expansion of the middle class that the planet Earth has ever seen.

So we inherited in terms of physical plant, the best house on the block, on the global block, from our grandparents. And now what we've done with that is we've trashed it, and we right now have about a trillion to \$2 trillion of just infrastructure deficit for that 20th century infrastructure. Just to get that 20th century infrastructure going. For example, you go from Boston to D.C., that's the northeast corridor and the busiest rail line in all of North America. It goes half an hour slower than it did in the 1960s. I just was with Secretary Buttigieg in an open car so you could see, going through these bridges that were built more than a century ago that are inadequate and crumbling, literally corroding as we speak.

And so, this is the question as us Americans, is what are we going to do about it? Now I have very strong feelings that we do like every generation of Americans did. The whole Erie Canal, building canal systems, was a bold, visionary, national project. The aeronautics, the airplanes, building airports, all around it's a big national vision. A great Republican President, Eisenhower, said that we're going to do a trillion dollars in today's money in building out national highways. My mom was just telling me what it used to be like to have to drive to California without a national highway system. So, what is our generation going to be known for? Just repairing what our grandparents gave us, or are we going to be known for creating globally the best 21st century infrastructure?

And so this bipartisan bill, I commend it. I haven't looked at all the details. I obviously want to study down but that's great. But it really is not about doing what I think we need to do, which is to catch up, regain our top spot globally to have the best infrastructure on which businesses build on that platform and more. So I think we're going to see this bipartisan bill move forward. But count me in the camp of saying I want this president to go down just like Eisenhower. Visionary, bold, massive investments in the kind of things that businesses know create a great return on investment.

Ferguson: So you have this, the bipartisan bill, right? The plan, the Senate plan that is I think very politically popular. It doesn't raise taxes. It's something that doesn't happen anymore, which is a bipartisan cooperative effort that some of the

progressives and some of the Democratic leadership have been talking about coupling, basically holding hostage—my term—that very popular bill for a much bigger human infrastructure, whatever additional plan with a lot more spending, higher taxes. Is that politically smart to not do something that's super popular that probably the broad middle of America says hey, they're actually getting something done in a bipartisan way, building infrastructure, roads, bridges. Is it smart to not do that eventually if it means it's coupled with a bigger package which frankly, the margins are so thin it might be hard to do?

Booker: Again, I, I'm telling you right now the question that history is going to look upon, China built 18,000 miles of high-speed rail very recently, and we are still debating whether we want rail in the south or to connect northern California to southern California. The question really is to me, and again, leadership is not always about popularity. It's about doing what's right for your nation for the next generation, planting trees often under whose shade you may not even sit. And so the question is, is who are we going to be? This plan, which is smaller than Eisenhower's, is that enough? Or do we do something that's going to take some sacrifice?

Now, I'm stunned at the profligate spending of government over the last 30 years. I mean, we've spent alone in the Middle East, \$5 trillion to conduct these wars. It's not like America didn't find that money. We came up with trillions of dollars in the Middle East in wars I frankly am against, in engagements, and what have we done and seen here?

So what is the politically popular thing? I'm not sure, and there's going to be a lot of discussions. I'm part of Schumer's leadership team so I hear some of them, but I'm just saying right now in the United States of America, I don't know if you heard this, but I ran for president, and I was stunned that when I was travelling from Iowa to South Carolina, going places with no access to broadband. This is the United States of America. Our competitors from South Korea and Germany have near universal penetration and we still have places where folks don't even have access to broadband.

And so I'm sorry, when I was mayor, you talked about me being a great mayor, I was willing to do things that were not popular. I was willing to do things that weren't popular in my party. Heck, we got 40% of our kids in high-performing charter schools that outperformed the suburbs. You know this, Mike. Is that popular in my party? But you know what? Black children, this is the number one city in America for what's called beat the odds schools, kids who are low income kids going on to college. You're a black kid in Newark, which is the majority of our kids, your chances of going to college went up 400% since I became mayor.

And so I'm sorry, this is not a time to ask what's popular. This is time to ask what's right, and we are the United States of America. Most Americans like me who have passports, travel around, are almost like you go to other cities, nations. You see their airports. You see their high-speed rail. You come back here and you're wondering what happened in the last 50 years?

Ferguson: A quick follow up on that. I know Heath wants to get in here, but if a tax package passes, a reconciliation package with tax code changes, do you think the SALT deduction will be changed? I'm asking you as a fellow New Jerseyan, right? I know Gottheimer is and others are working so hard on this in the House. What do you think? Does that change...

Booker: I have no problem seeing the highest marginal rate go up a little bit, but dear God give us the state and local deduction back. To me it is abjectly unconscionable that that got taken away. So, I stand on the Gottheimer side of the Democratic party. By the way, his ego is that he will love that we're calling it the Gottheimer side. Somebody's got to clip this part and send it to him. But count me in that camp that wants to see state and local tax deduction return.

And by the way, there are some people in my party, the progressive wing, that might say that's a gift for the rich. I am sitting here right now talking to you, I'm the only senator that lives in a black and brown community below the poverty line. Median income here in my neighborhood is about \$14,000 according to the ten years ago census. I know it's risen since then. I pay, you know there's a \$10,000 in state and local taxes, for my home here, my three family home, I'm paying well over that \$10,000 sort of deduction, a \$10,000 allowance. So it's crazy. This is not about the wealthy. It's about working-class New Jersey families who are struggling to make ends meet when childcare is going up, prescription drugs are going up, college education is growing and all of that. So yeah, I stand with Josh.

Shuler: Cory, on the recent decision that the Supreme Court just made regarding student athletes...

Booker: We played at the wrong time. We played ball at the wrong time.

Shuler: Completely wrong time. Can you tell us, it's kind of a two-part question.

Booker: Yeah.

Shuler: So the first question is, tell us a little about your legislation that you have, and what that would entail for the student athletes. And I think the most important thing is, is there anything in that legislation or will be there be something to protect those smaller schools? Because, kind of in my network and the people that I communicate with, I've spoken to all the Power Five schools, and they really believe that there's going to be this huge division that's going to ultimately happen between the larger schools, those schools that are in large media markets and then the smaller schools.

So I mean, my son's a student athlete now at Appalachian State. They do extremely well in football and other sports, but relatively speaking they're not in the Power Five conference. So what's going to happen to those type schools moving forward, because they can't afford a lot of their programs now. Even through COVID, so many smaller schools dropped some of their sports, and how does that impact Title 9 and so forth?

Booker: Right. So I appreciate the way you asked that question, but can you allow me, just give me some latitude to give a little bit of a pullback before I answer that specificity?

Shuler: Absolutely.

Booker: I have had a bone to pick with the NCAA since I started seeing the ridiculousness when I played ball, and I went to a very reputable school that didn't abide by the floor of the NCAA. They set their own standards at Stanford, so I don't want to lump all schools into this. I had a great conversation with the leadership at Notre Dame recently where it's like, please let's address these things, we find them morally offensive as well. So there are a lot of schools out there that agree with what I'm about to say, but the NCAA is \$15 to \$20 billion business, and you literally have kids who are struggling to make it. Remember Shabazz Napier said, I can't afford to eat on some nights. So I came from a middle-class family. Out to Stanford my parents could afford to fly out and see me, supplement when the scholarship fell short.

But what I saw in my NCAA days is that there are universities are making millions of dollars off of their athletes. No guarantee of an education, no guarantee of even the time necessary to study to get an education. If you put some people in seats for the first two years but blow out your knee, you'll lose your scholarship. You might be two to three years out but having to take money out of your own pocket to cover your medical expenses for a spinal injury or traumatic brain injury or more. I could go on with the things that just like people who watch sports like I do, love college ball, don't realize that these universities and the NCAA are making millions of dollars. And so many young students, and I've talked to so many of these athletes and student groups, find themselves with a raw deal and not an education, going in their own pocket to pay for medical expenses, trying to get those last credits through their own pocket, and like they were sold a bill of goods.

And so what I have said simply for years now because the NCAA would give me lip service. They would tell me, Senator, seven years ago, hey, what you're saying is right. We should have lifelong scholarships. We should have more fair healthcare, but they have done nothing about it. And so what I'm simply saying is there should be a simple basic bill of rights for kids, especially because the NCAA has been able to escape even enforceable protocols on things from concussion protocols that protect their athletes' safety to even sexual assault protocols.

Get this. You're now a coach whose financial incentive and job is incentivized by winning this big game. Your key player just gets a serious hit. You pull him over to the sideline. Hey, can you go back in? When that kid should be probably sent to the hospital because he got such a big hit. All the wrong incentives right now are in this profit-making business, not protecting the well-being, the safety, the education, and the health of athletes. And so I propose an athletes' bill of rights that really is just about protecting those basic standards.

And there is enough money, not just the Power Five, in the revenue-generating sports, there is enough money there to create for college athletes writ large, basic insurance for your health and for the kind of scholarships that I believe students should get, and a few other basic things. To say there's not enough money when the highest paid person in most states, the government employees, a coach or basketball coach, to say there's not enough money when the NCAA tournament alone makes hundreds and hundreds of millions of dollars for the NCAA, not to mention the BCS Bowl and more.

And so I'm just a big person that says enough is enough. There's too many stories, too many kids dying literally, from heat exhaustion and more, being pushed to create profits for some. But I do have some latitude to differentiate. Now I'm getting to your question. Between the Power Five and a Division II or Division III school, and that's why I think that we should create a more sharing of the lot of the revenue to make sure that even those kids who are playing sports have some kind of floor to them. And it's interesting to me, in the conversations that I've been getting with athletic directors and others who feel like they're in this terrible trap and there's got to be an off-ramp soon, because it's just an arms race right now. You know this.

These schools, as opposed to pouring the money into programs that help athletes writ large, they're pouring monies into facilities now that some professional teams don't have as nice. They're competing against each other for coaches with the salaries going higher and higher and higher. There is a better way to make what we call student athletes the center again of college sports and not the peripheral afterthought with all the money that's going on. Let's invest that money in making sure the athlete's experience is about their safety and their education and not about just continuing to drive profits of which they share none of.

Shuler: That's very good, and I think so much that you have touched on, how do you see this policy going forward? Do you think that there has been enough attention that the NCAA is going to make this decision? Or is it going to have to be legislated through Congress?

Booker: So I don't trust the NCAA to make this, I've had the same with conversation with them for years now, and so this is what I see this all playing out. We have leverage in Congress right now. We do. They need all these different states passing their name image and likeness rules. They need to come to the Congress for, as you all know, federal preemption, in other words let's create a single standard. I'm like, okay. I can see that happening, but in exchange for that, you are going to protect the health, safety, wellbeing, and educational prospects of athletes, period. Because in a 50/50 Senate, every Senator has a lot of power, and there's no way I'm going to let anything happen that gives the federal preemption without basic protections for athletes.

The great thing about it is, on the Commerce Committee, with Senators Moran and on the Republican side, Cantwell, others have been incredibly open to negotiating something that protects athletes as well as deals with federal

preemption. So I think there's a pathway in the Senate to get something done. The NCAA I have to say has a difficult job. It's not even herding cats, they're trying to, like Noah, trying to get all these different animals on the same boat. So I'm very sympathetic to the head of the NCAA.

But we have the forcing mechanism, and just like people all know the story of college football. It was Roosevelt who, when college players were dying time and time again, called the sort of the leaders of college football up to the White House, and basically said let's create some health and safety standards. Force it upon you guys, and it really that saved college football and was a precursor to the forming of the NCAA. We need to get back to the federal government being concerned about the safety and wellbeing of college athletes. I think we have an opportunity here. I'm hoping we can join arms in a bipartisan way, there's a sign of that happening, and get that done. If that happens, my washed-up athlete cred will go a lot higher.

Shuler: Well, I think you're right. Something has to happen because, I'm very fortunate. I volunteer coach and right at the high school that I coach, in the last the two years we've sent 12 kids to play Division I football.

And so they've done extremely well, and there's an entire group behind them. But I'm starting to hear from parents, well which schools are going to be, or which states are going to be the best for my child?

Booker: Yes.

Shuler: Based upon income and based upon them having opportunities to make money outside of the classroom.

Booker: Yeah, because...

Shuler: So, I think I that's going to, because the states are starting to play that now. And I still follow so many of those kids, and they're promoting themselves today. They're promoting themselves on social media today, saying if you're interested in my name or my likeness or advertising let me know. So it's going to change the dynamics of college football altogether.

Booker: Considerably. Considerably.

Shuler: I'm going to turn it back over to maybe some other policy stuff that, I could talk about this all day so...

Booker: You and I both.

Shuler: Anytime you want to talk I'm always here for you.

Booker: No, I love it. I just wish you and I were playing now and not back, first of all I probably wouldn't be able to compete now, seeing as some of these other...

Shuler: Me either.

Booker: Yeah. But this the chance to monetize your social media accounts, it's just like a lot of great opportunity out there that I'm excited that these athletes are going to get a chance to partake in.

Ferguson: Cory, let me ask you about another issue you've been a real leader on. It's criminal justice reform, police reform in particular more recently. I know you and Tim Scott have been working on pulling a package together trying to find a bipartisan solution there. There had been deadlines, and deadlines have floated away. I have to say I think these were some of your best moments in some of the presidential debates. I for one thought you had the best of Joe Biden on some of these issues, but he's the president now, and he's your partner, right, in some of this stuff. So what's the latest on police reform, for instance, and is there an opportunity to find a bipartisan solution there?

Booker: Yeah, my most ignominious moment now that he's president is at some point in the debates we were talking about marijuana. It's ridiculous that we have a nation that there are more marijuana arrests in recent years than there were all violent crime arrests combined. That means there's people who have criminal convictions for doing things that two of the last four presidents admitted doing. And so Biden came and said, I'm against legalization, and I made the mistake of saying to Joe Biden, Mr. Vice President, I think you must be smoking pot. You must be high right now to say something like that, and my mom was not happy that I accused a Vice President of being under the influence of marijuana. So I've apologized for that, by the way.

So look, Tim is a friend of mine, this is the only time in American history that three black guys have served at the same time in the United States Senate, three big bald black guys, no less, because all of us are follicly challenged. But Tim is a guy who gave a very moving speech on the Senate floor years ago about how many times he's been stopped by the Capitol Police, and he and I both share the indignities and the fearful moments in our lives of being stopped by police, or having being accused of stealing things and really feeling like you're a hair trigger—as I've had guns drawn on me before—from losing your life in situations like that.

So we both have this sense that things have got to change, and we also both share this sense of understanding the law enforcement more than many Senators do, because I ran a police department in a city that the number one demand from my voters in every election I ran was for more public safety. To do something about the violent crime in our city. And so we have a very balanced perspective on this, and we're working in good faith trying to come to some agreement. He and I were texting today about this. I was able to do something I never imagined; get groups like the FOP to agree with me on a bill. But Tim and I are still working, because the FOP besides the largest of all the police unions isn't the only one out there.

So we are at a point in America where we have policing that doesn't have its standards of transparency. I believe we should and frankly a lot of police groups believe me as well, but there are practices that are used today that should be

banned like carotid holds. That there are measures that we should have. As we all know who run things, if you can't measure it, you can't manage it. And so there's a lot of data we should be collecting nationally that we're not collecting. So there's a lot of things that we have general agreement on. But I'm going to tell you right now I think you're right. Time is running out; this Congress is moving very quickly. There's a crowded agenda on the Senate floor, and if we don't do something soon we will lose a historic moment where we really should rise to that moment and make the reforms necessary.

And again, as Tim and I have talked, if the FOP want to, I told a great guy named Jim Pasco, I viewed him as like an ogre before I got there, because these guys are tough union and have not shown, in my opinion, the level of desire for reform. But Jim and I, along with another law enforcement agency, had three weeks of negotiation where I came to have a lot of respect for him. I've always had respect for his membership. We came to some accord, and if we can, a Democrat from New Jersey and the administrative head of the FOP, can come to a lot of agreements, I'm sure hoping that Tim and I could work the final details out and get a bill done.

Ferguson: I would think the politics of that would be good too though, right? I've heard from a number of my Democratic friends and lamented how, the defund the police probably hurt in the elections last year. I mean you're a guy like you say, you ran a police department, you know. Your constituents were asking for better security, better law enforcement. I would think coming together on a bill with a solution, a bipartisan effort, would be good politics for both sides, right?

Booker: Yeah. Look who won, look who at least is winning in the New York City race, a former cop who knows that often the communities that are most underserved by policies that help for public safety are minority communities. Now at the end of the day, you talk to anybody in my neighborhood and they are very sophisticated to know that what the things that often lower crime are not necessarily more police in the streets but more economic opportunity, more investment in education, and more.

So there's a sophistication in our communities about what creates safety but you're right. I think this is a not just a political win for America, but one of the reasons why a lot of the law enforcement groups I've been negotiating with have leaned in is because they just know. We are losing ground because of the erosion of trust amongst communities in law enforcement. And I'll give you an example of that for a fellow New Jerseyan. We have had a 90% drop this year versus previous years, 90% drop in applications to be a New Jersey state trooper. 90% drop, that the esteem of these agencies is going down and that's actually not good for the public to have a less of a pool to select excellent officers from.

So we are in crisis in America, and this is a moment when all of us, from people who are concerned about civil rights, about just and equitable policing, as well as those people who are concerned about law enforcement. This is a time to act and if we don't, and I think there's a 50/50 chance whether we get something

done or not, if we don't act this is another shameful moment for Congress. And I know I'm at the center of that, and that's why I've been bending and contorting myself in every way to try to make a bill that can attract people on both sides of the aisle.

Ferguson: Well, we certainly wish you well in that endeavor. It's so important for the country. It's important for our culture, our kids, that we have both a fair criminal justice and policing in our communities and we have trust in those folks that are protecting us. You're a leader on a lot of different things. You're involved in a lot of different things, and we know your time is so precious. So Heath, I know you and I both talk about how we love talking to Cory Booker.

Shuler: Absolutely.

Ferguson: Cory, you're a great guest.

Booker: Yeah, but, no I have to get something off my chest man. Mike, I mean, just like look at Heath's background. Do you see this? Like it's this wood panel, I mean there's a whole forest represented there. It's so sophisticated. You and I just, like a wall, we just pulled out a little hammer. He's got like, he's got this grandeur and esteem about him. You and I are just two Jersey guys trying to keep up.

Ferguson: You know mine's drywall, I think. No respect there but...

Shuler: I have my Raiders helmet, my Saints, the Washington football team. I have my football stuff, but I just think half of my colleagues that I've served with, right here, so.

Booker: You have a presidential background; we've got junior senator from New Jersey backgrounds.

Ferguson: I think I have a baseball somewhere that I caught at a minor league game in Trenton once. I don't know.

Booker: Yes.

Ferguson: Cory, thank you for your time.

Booker: You guys, I really enjoy this, and I appreciate the perspective that you two have and for our country, and frankly you are both patriots. I hope we can have more conversations in the future.

Shuler: Absolutely.

Ferguson: We look forward to it.

Shuler: Thank you, Cory.

Booker: Thank you.

Ferguson: Heath, we're closing out our 32nd Annual Legislative Seminar. We thank our guests for being with us today and for this whole seminar series and keep us in mind next year. We are going to be back in person, we hope, next year, and Heath and I will be back interviewing guests and we hope we'll all be together in person in Washington next year. Heath, thanks so much, you're a great partner in these endeavors.

Shuler: Thank you Mike, it's been a great session we've had.

Lee: Thank you Senator Booker, Mike and Heath. If you have any questions for Mike and Heath, their contact information is in the show notes. As always, thanks for listening to BakerHosts.

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