

Panel on Jail Reform – NALEO Annual Conference

On June 22, 2018, Tomás Rivera Policy Institute launched [Safety and Justice: Latinos and Immigrants](#), an online report and resource hub, at the National Association for Latino Elected and Appointed Officials (NALEO) 35th Annual Conference in Phoenix, Arizona. A major presentation featured experts and public officials discussing best-practices that provide alternatives to arrest and reduce pretrial detention. The panel was moderated by Franklin Cruz, Chief Operating Officer & Program Director at The Justice Management Institute, and the following panelists:

- ❖ Carlos Martinez, elected Public Defender for Miami-Dade County, Florida
- ❖ Chief Judge Maxine Aldridge White, Chief Judge of Wisconsin's First Judicial District (Milwaukee County)
- ❖ Sheriff Ed Gonzalez, Sheriff of Harris County, Texas (Houston)
- ❖ Assemblymember Wendy Carrillo, California Assemblymember, District 51 (Los Angeles)

Abridged Panel Transcript

Franklin Cruz:

As you've heard many, many times before, the United States has the highest incarceration rate of any country by far in the world. It has a higher incarceration rate by far than all of the Middle East, all of the Middle Eastern countries, than Afghanistan, than any European country, than any Latin American country.

Often when you think about incarceration much of what we thought about were prisons, but the reality is that in this country the vast majority of those individuals behind bars are in jail. We have 12 million people who come in and out of jail every year, and we have overrepresented in many of our counties and municipalities, African Americans and Latinos. Now still because the majority of the population in this country white Caucasian, those are folks who are still the majority of the folks entering those jails, but in terms of proportion of population, African Americans and Latinos are still very, very much overrepresented nationally and even more disproportionate in many of our local counties and cities.

Even though crime has been on a decline over the past several years, our jail populations have continued to grow at really an alarming rate. Between 1983 and 2013, violent and property crime in this country fell by half, and yet annual admissions to jails doubled in that period. 75% of those in jails are behind bars for nonviolent traffic, property, drug, or public order offenses that include things like carrying an open container of alcohol, trespassing, disorderly conduct, and so forth. Yet the burden of that jail population or that growth in jails has fallen again disproportionately on African Americans and Latinos.

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The MacArthur Foundation a few years ago started the Safety and Justice Challenge to bring in jurisdictions to address the increase in their jail populations and the disproportionality of African Americans and Latinos, and Native Americans. MacArthur started off with 20 jurisdictions, and today there are 40 to 50 jurisdictions who participate in the Safety and Justice Challenge. The idea behind the Challenge is to introduce evidence-based interventions, particularly risk and needs assessment. That is, who are the individuals who are, according to objective, scientifically developed tools, at highest risk of committing new crimes and at highest risk of not showing up to court.

A majority of the folks in jail in many jurisdictions are actually in pretrial detention. This means that they have not made bail or bond and are awaiting trial. These individuals have not been found guilty of any crime, and they can be held in jail anywhere from a few days to years, depending on how long it takes in that particular jurisdiction to process a case. These are overwhelmingly low-level offenses. Our criminal justice system, despite what you may hear in the news, is overwhelmingly misdemeanor or lower level crimes, nonviolent crimes.

The Safety and Justice Challenge also focuses a great deal on collaborative decision making. That is bringing systems together to come up with solutions to this problem. We think a lot about police. We think a lot of sheriffs, or whoever runs the jails, as the nexus of where these problems are and therefore where the solutions are. The reality is that these are system wide problems that involve everyone. I think Chief Judge White in particular has a good deal to say about how Milwaukee has brought together their system for many years, predating the Safety and Justice Challenge, to address a host of criminal justice issues including this one.

Some of the issues that are specific to Latinos are bail and bond, and fines and fees. Latinos in this country are overwhelmingly poor and congregated in poor neighborhoods that are over policed. Of course poverty comes with a host of collateral consequences, so Latinos in this country are particularly subject to those difficulties. We've seen these financial aspects of the criminal justice system, again bail and fines and fees, particularly hurting our poor communities and particularly hurting Latinos.

I've worked in a variety of counties across the country on fines and fees. Everybody in the courtroom when those fines and fees are set —judge, public defender, prosecutor, court clerks, bailors—knows that the person in front of them cannot pay. They know it, they will all say it, but they set it because they have a schedule of fines, they have a schedule of bail or whatever it may be, and they set it anyway. When that person doesn't pay because they do not have the money, that person is then brought back, is held in contempt and is arrested and jailed for not being able to pay those fines and fees. And then guess what? A penalty, an additional amount of money, is added on top of those fines and fees. We have Latinos in this country, and others, who are involved in the criminal justice system because they don't have enough money to pay themselves out.

And, of course as we know, immigration has increasingly become an issue. The intersection between criminal justice and immigration has only grown. It started with ICE coming in at the point of arrest and identifying folks who are in this country illegally, but it has grown so that ICE is able to intercept at any point in the system.

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Let me start with you, Sheriff (Ed) Gonzalez (Harris County, Texas), because I know that there's been a great deal of work happening in Houston. I think notably there was actually a great turnover in elected officials in Houston not too long ago, and the work has continued uninterrupted, which is a real testament to the commitment that Harris County has to criminal justice reform. Your jail has, like many jails, become a warehouse for folks who are facing severe substance use disorder and mental health issues, because there is nowhere else to send them. In response to that you introduced a number of diversion programs, pretrial services, sobering center and so forth. I'd love for you to talk a little bit about what happened over the past several years.

Sheriff Gonzalez: Thanks for teeing it up, great job, and good morning to all of you. I was elected to be the Harris County sheriff back in 2016. I took office in January 2017, so I've been in office now about a year and a half. I ran on a platform that we needed to reform our criminal justice system, that it could be both effective and fair to everyone. In my opinion, we can't incarcerate our way out of problems. In this country we spend about \$80 billion on incarceration costs alone. It doesn't include all the other fringe costs, and we still have crime.

To me, we needed to rethink our jails. To give you context, we're the third largest jail in the country behind LA County and Cook County in Chicago, so we're big. The average daily jail population of 9,000 to 10,000 people. About 60% of those, are pretrial detainees as you mentioned. They're sitting in jail yet to be convicted of anything. Is that really fair?

What we were seeing in Harris County was that a very small percentage, single digits, were getting personal recognizance bonds, where they can leave on their own. A lawsuit was filed back in 2016. There was an effort to remove the sheriff from that lawsuit, but as I was coming into office I made the controversial decision to ask to remain in that lawsuit. I thought it was important for me to have a voice in the discussion. I think it's been helpful because the current court ruling, that is still pending, has led to reform efforts being somewhat approved.

To date, since the summer of 2017, I've released over 10,000 people on the authority that was given to me by the judge—people that would have otherwise been in jail. These are misdemeanors. The basic premise of bail is we have a cash bail system that disproportionately punishes poor people, and many times we just keep people in jail because we're afraid of them.

I'll give you an example. Let's say that right here in front of all of us, one of you commits an assault on another. In my county, that would be a Class A Assault if there's injury or anything like that. We take two people to jail and we say, "Oh well, this person assaulted somebody, they're a threat to the community, whatever." If you're poor, guess what? You're gonna be one of the 60% that stays in jail because you can't afford it. The criteria wasn't in place to make a fair decision, so they stay in jail. The other person, if they got the money, guess what happens? They get out. You could murder somebody, and if you could afford that bail, then you get out. It really wasn't about safety, it was just about in essence keeping poor people, and the courts recently have been ruling in our county that that's unconstitutional, and that's gonna have ripple effects across the country.

I think that law enforcement is being tasked with tackling several issues that frankly we should not be on the front lines. Addiction, mental illness, and poverty. Those are issues that need to be

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addressed in the community with different sectors, not incarceration. Back to us rethinking jails. We need to be smarter.

To me, this is not just about the compassion and all of that. Sometimes we get attacked by saying, "Oh, well, you're soft on crime." On the contrary, I'm trying to be tough on crime. I want the people that really belong in jail, the violent criminals, to be there, but because I'm tending to all these other issues, I can't go after the violent criminals that we're all concerned about. Instead, 25% of my jail population are at least on one type of psychotropic medication, which is very costly for me to operate a jail. We're siphoning monies that could be going to education and other things, because we have to tend to these people, not in the best environment, inside a jail system which is much costlier, and it's taking money from my budget so I can't go and operate elsewhere.

Franklin Cruz: I'm sorry to interrupt you, because I do want to continue to talk about that. We often talk about law enforcement not having the tools in the tool box to do this. If all I have is arrest and not arrest, I'm just gonna keep doing arrest, right? But you mentioned under your authority as sheriff, you released 10,000 people. There may be some of you who are scratching your head about this because your sheriffs do not have the authority to do that on their own. Only judges have that authority, so I'd like you to talk about that particularly, because that is actually very unique authority that not every sheriff has.

Sheriff Gonzalez: It is unique, and typically I wouldn't have it, but the federal court order empowered me to be able to do it. I think they crafted a very brilliant order. It was a 90 page order, typically they're not that long. I would encourage you to read it. It's Judge Rosenthal. It's still pending, but we're really moving it along the track of reform. I do wanna say that Harris County was making substantial advancements over the years. It's not like it started all of a sudden.

I just felt we needed to do it sooner and faster. There's no time while people are rotting away in jail because there's impacts to their families, there's impacts to them. We need to think about those impacts, and this is why I applaud you all from different sectors for being here today, because for corporate people, this is a workforce issue. Because we're putting a stigma that makes it harder to hire people. So when you talk to employers about hiring practices, see how we can give people second chances. It's about the impacts on children, and I see my role as being beyond just the proverbial four walls of a county jail cell. We're also working proactively on how we can address the children in our schools to the educators, because we wanna break that prison pipeline. I know if a child has a parent incarcerated, there's a 60% to 75% chance that they too will be incarcerated at some point just because of the stigma and everything that comes with it. How can we break that tie?

"I think that law enforcement is being tasked with tackling several issues that frankly we should not be on the front lines. Addiction, mental illness, and poverty."

-Sheriff Ed Gonzalez

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We're working with programs that address that. We also are dealing with reentry programs. While they're in their temporary home, which is the Harris County jail, how can we make sure that they get the skills needed so that they could reintegrate back into the community? Sometimes I don't like the word reentry, because there's this premise that they were integrated to begin with, right? In many communities, we know that's not the case. They needed assistance when they were out, except then they tell me, "Sheriff, I get more resources in your jail than I do out in the free world."

I also wanna break the largest mental state hospital. I shouldn't be doing that. I'm not a mental state hospital. I'm not a homeless shelter. All that again siphons money that to me should be going out into the community, working on education and stuff like that, so we can keep them in schools, so we're working with the medical community to do studies on the impacts of incarcerated parents to children. Once they go to the prison system and they are convicted, and they come out, about 70% are gonna reoffend within 36 months, so that's a safety issue to the community.

Even if we had no other interest, just as an American, we wanna keep our community safe, and we're not providing the tools to adequately do that. Working with our PA, we did launch a diversion program on marijuana for example, so now we don't automatically incarcerate you for four ounces or less. That has a big impact on financial aid and other things. These are the obstacles that sometimes we place in society have unintended consequences, so that's been successful. In my previous work-

Franklin Cruz: I'm sorry. Those marijuana offenses don't even make it to your jail?

Sheriff Gonzalez: They don't make it. People are given an opportunity to divert it to a defensive driving type program that deals with cognitive decision making. They take that course, the arrest never happened, it goes off their record. If they don't, we can still go back and file. There's still that option.

I also work on creating a sobering center in my previous work before being sheriff where we divert about 15,000 people that would have otherwise been arrested for public intoxication and been incarcerated. We've diverted them to where we can connect them to a recovery coach and deal with the core issue, which is the alcoholism. We need to be dealing with alcoholism and drugs, addiction as a public health issue, not as a criminal justice issue.

Franklin Cruz: Let me go back to this authority that you have as sheriff, because again, it really is a unique one. In some counties, not many, but in some counties sheriffs have the ability. Police come, they bring somebody, they book the person into the jail. The sheriff has the authority to decide, you know what? This person doesn't belong here. Right then in booking, within 24 hours, that sheriff has the authority independent of a magistrate or a judge or other judicial officer to say, "We're gonna release you." Right after the booking.

What are the intersection points where you're able to make those decisions?

Sherif Gonzalez: What the judge did was empowered me, because I think that it was a check and balance. Because they could put conditions of release, and that was always my thing. It doesn't always have to be jail. You could use ankle monitors and other things to release people, to get them to stay with their families, and then you could have them work to make sure they show up for their court. If we have a more robust system, then we could try other things. Just one size doesn't fit all automatically,

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because again it disproportionately hurts poor people because that stigma of arrest, the impacts on the family, and then they can't really prepare to go to trial.

What the judge said is within 24 hours, if somebody is indigent and fills out a financial form that says, "I don't have the means to pay this." How many people are carrying \$500 in their wallets or in their bags or whatever? Many are homeless individuals that we arrest for nuisance issues, like trespassing. We had an 83 year old man in jail that we figured out, we kept seeing him, kept coming back. Arrested for trespassing, a misdemeanor, nonviolent. We figured out that he has dementia. 83 years old, and he kept being brought into the system because we didn't know what else to do with him. He would have just otherwise stayed in jail, and so we're trying to work out how to get him a place.

Beyond that, within 24 hours, if the judge hasn't put any conditions for release, I'm authorized to release automatically. I must release, and so it empowered me to be able to do that. It's either on the judges or me. Now the judges are a little bit upset because it is an authority that they should have, and I get that. That needs to be worked out in the courtrooms, and I hope that we can come to some agreement. In the meantime they said, "Sheriff, if none of those conditions are placed and nothing gets done, don't let them sit in jail. You're authorized to release them."

Audience: Wow. That's great.

Franklin Cruz: For those of you taking notes on what can I do when I go back to my jurisdiction, this is one of those things that you really can do. Now of course as Ed mentioned, he's under a lawsuit. You don't have to wait to get sued, but in all fairness, Harris County really has been doing a lot of great work on the criminal justice reform for decades.

You need to bring together your judiciary, because this is a classically judicial decision. Particularly in those places where you as an elected official are representing the executive branch, you have elective sheriffs, and you have elected judges. Even where you don't have all of those, this is a suggestion that you can bring to the table to really deflect those folks out of the jail very, very early on.

If you think about, what kind of authority can we provide right then and there at the point of booking, at the point that you get to the sheriff? But we don't need to wait until they get to booking. There are lots of things that can happen at the point of an arrest decision, folks can be diverted, and particularly around those issues of mental health and substance use disorder. Particularly folks who are homeless, these are our folks who are trespassing. They have to trespass, they have nowhere else to be. These are folks who are also alcoholics or out in the street, and in many of our counties you have these unfortunately named "drunk tanks," sobering centers, where literally you can send somebody for 24 hours until they get sober. You can release or send them to a different program. These are really options that you can think about.

Sheriff Gonzalez: We got together with our DA and we did the numbers. It was important to make the case because the community at large needed to know how much money was wasted. The whole cost of incarcerating people caught with marijuana, four ounces or less, was costing us over \$13 million per year in jail costs alone with all the embedded costs. For what? Four ounces of marijuana or less. It's not like once we book them we have any treatment or anything, and nobody's overdosing from

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marijuana, regardless of how I feel about it. There are other ways to deal with this. \$13 million for us, and \$26 million total costs if you look at the courts, the prosecution, etc. That was very important to make the case for the diversion program.

Franklin Cruz: Carlos, you in Miami-Dade has a citations policy that has been touted a great deal nationally. Can you talk about some of the options that you have in Miami-Dade?

Carlos Martinez: Sure. I'm so happy to meet you, because a lot of times in Miami, we're kind of in a bubble. In Miami we have great law enforcement, state attorney prosecutor and the courts, and we all work together to try to solve some of these issues and divert people from the system. The civil citation program is available for people accused of seven different charges. This came about as a result of a news media report about what was happening in a Miami neighborhood, where almost exclusively black folks were getting arrested for marijuana possession even though the police unit had been set up to get serious crime. Like 85% of their arrests were marijuana possession.

It was a big embarrassment, but also a beautiful opportunity for the police chief and other folks in the county commission to do something different regarding arrests for marijuana possession. They created a civil citation, which means when a police officer stops somebody who has marijuana, instead of arresting them they get a ticket, pay 100 bucks, and done. There's no official arrest. They do an incident affidavit just in case the person doesn't pay or do the community service hours. In that instance, they're brought to court.

The impact of this was that we focused on the big problem that we had. There were so many of these low level arrests impacting poor people and very specifically African Americans because that was the neighborhood that they were targeting. The big difference that happened when we did the civil citation is that it changed the conversation. Now we're looking at the poverty issue.

One of the biggest problems that we had in Miami was that prosecutor had started a civil citation program at the private university. Like three years before. If you were arrested with marijuana on campus, you were able to get a civil citation, but if you happened to be one of the poor kids going to Miami-Dade College or going to one of the other places, guess what? You did not have a civil citation. The benefit is that the playing field has been evened.

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What's even better is now police have actually stopped even giving out civil citations. They'll see them, and they'll do what cops used to do in the '70's, which was, "Give me the marijuana." They go, they destroy the marijuana, "Go on your way, don't do it again." A lot of the cops are doing that in Miami-Dade County. All of a sudden you're having the police officer on the road instead of transporting that person to the jail in Miami with our traffic, in Houston you have that traffic. It's an hour, an hour and a half that that officer is not on the beat. It allows the police to actually be policing for serious crime rather than spending their time on a lot of these things.

Another important thing is crisis intervention teams. In Miami-Dade County they have already trained 4,500 officers that are specially trained to deal with people with mental illness. Before we would arrest them, take them to the jail, the public defender would get the charges list the next morning, and then the person would be back out on the street. Nothing about mental health being taken care of.

Crisis intervention teams are police based, they're specially trained, and they're called out on the scene when we have one of these situations. If the person is a threat to themselves or to others, then they take them to a crisis center, and they deal with them with the crisis center rather than through the jail.

The other things that are really important is the benefit of having an elected public defender is that, when we're at the table, we're an equal partner. Nebraska, Tennessee, Florida, and the state of San Francisco have elected public defenders.

The public defender can help keep the jail numbers under control. At first appearance, I have attorneys there and their entire work is trying to get that client released on non-limited conditions.

A lot of times a lot of people go, "Oh, you're just defending all these criminals," when in fact we're also helping keep taxpayer costs down. That way you can focus on where to use that money appropriately.

Franklin Cruz: Carlos, on crisis intervention teams, CIT for those of us who speak acronyms. There's a program much narrower coming out of Seattle, LEAD. For those of you again who are taking notes on what you learn about these things.

We talked about the notion of soft on crime, right? Of course we have an overwhelming number of elected officials here who are concerned about their constituents, and what their constituents think about your platforms, and crime. Can anyone on the panel about the implications of that? How many elected officials have been hung in effigy because they've been soft on crime, on marijuana and some of these things?

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-Carlos Martinez

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Carlos Martinez: With the marijuana issue, the only two people who testified in favor that were not community members were the chief of police and the public defenders. Everybody else was running away from it, everybody was scared. However, what's been interesting is, we have 34 municipalities in Miami-Dade County, and in a lot of communities people have been asking their elected officials, "Why don't we have civil citation in our area? Why are we punishing people who live in this town?" "Why are we wasting money on these things and why are we not spending more money on mental health?"

What I found in Miami is that if your focus is on mental health, substance abuse, trauma, and violence, you will get everyone to listen, including very conservative folks. They will listen because that has to do with family, and those issues affect us all. No matter what family you came from, there's always someone that you know with a mental health issue or somebody with a substance abuse. To me, the challenge is making sure we bring everyone to the table, no matter what party affiliation, around the issues of family when it comes to mental health, substance abuse, and trauma.

Franklin Cruz: Other comments from panelists on this issue?

Wendy Carrillo: California is slightly different than other states in that the voters have legalized cannabis, and so now we have a different issue on our hands. If we are going to legalize an industry in which people are going to make millions of dollars, then we have to look into how we have incarcerated folks who did the same business. Now the voters have voted on it, and it's our responsibility as a legislature to ensure that those that continue to be incarcerated have a pathway to go back home, and be back with their families.

Franklin Cruz: Of course California, despite the independent state of San Francisco to use the terminology of Carlos, is politically still a very diverse state.

Wendy Carrillo: It's a very diverse state, but we have the majority of Democrats in the Assembly and the Senate. We have a democratic governor. The question that we have is, do the democrats in California have the moral compass to do the right thing, despite the challenges from the chiefs of police, the sheriffs, and all the various special interests that attend all the committee hearings that we sit on?

I sit on public safety, and every time we have a hearing, we have the sheriffs or police come in and express concern for legality. We make decisions that impact the future of our state, and have California continue to be a leader across the country.

Franklin Cruz: Chief Judge White, in your introduction I talked about how one of the principles of these initiatives that are happening nationally bringing together leaders from across the criminal justice system. Milwaukee has really been a leader in this, so could you speak about what it is that Milwaukee has been doing.

Judge White: Yes. As the sheriff said, many good things are born out of lawsuits. Gives ordinary folks more power. In 2007 we had a lawsuit, and at the bottom of the issue and the top of the issue was the use of the jails in Milwaukee County. We're a county of 11 million people, the majority population is Caucasian, and the minorities occupy the jails. We had such a situation that it was a federal lawsuit that gave us certain directives.

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In 2007 to work with a lot of very good people, who came in to advise us on how we could reorganize and reorder the use of jails and the treatment of people there. Out of that was born the Milwaukee Community Justice Council. We named it community council rather than criminal justice council because our issues were broader than just the criminal justice system.

We're one of the most segregated cities in the nation, we have so many human and health community issues that we thought that this would be an opportunity to address them. Since 2007, we've had a council, and it has grown stronger over the decade. When the MacArthur Foundation approached us, the council applied to be one of the 11 who received a \$2 million plus grant.

Remember now that the council consists of all of many elected and appointed officials. Our courts are state courts of general jurisdiction. We have three level courts in Wisconsin, and in Milwaukee County the circuit courts are actually the state trial courts.

As the Chief Judge, I'm like a CEO of a very large corporation of trial judges, judicial officers, the municipalities, and the municipal courts. If you can bring all of the elected and appointed officials together to agree around an issue, we can not only use our collective talents but we can also give cover to each other over those very, very stressful and challenging issues that can take one down. If the tree and all of the branches are pulling against the forces, we have been able to sustain a lot of bad wind, even in the midst of substantial crisis, like deaths in the jail, like riots in the streets burning down things.

As the Chief Judge for example, we are nonpartisan, the judicial branch. Instead of putting a partisan person in charge of the council, the public defender and the Chief Judge are generally the cochairs. We meet in the Chief Judge's conference room every month.

We met on the 20th of June around a very pressing issue. The legislature voted and the governor signed to close our juvenile correction prison system, and to give us \$80 million to do a do over. In Milwaukee County, we have come up with initiatives that are unheard of, and we had to tell the foundations who wanted us to move faster, "You don't know what we've had to do."

One project for example, if someone is booked into jail, the sheriff, the public defender, the DA, the judge, the Housing Authority, everyone has to be engaged in getting that person out and to the right place. We have almost developed a smaller little government entity. We hired a DA, a public defender, three housing people, three jail runners to get people to behavioral health treatment.

We have all the alphabet soup that grew out of the council. The crisis mobile team, we have behavioral health people who run around with the police squad. And we have a resource center where they can take the people.

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We found in our assessment of facts in Milwaukee that 44% of calls in a year were from families asking for help with a seriously mentally ill adult, and they couldn't handle them. What we learned was that if we could do something about that large percentage of people coming through our jails, we were paying over \$15 million for like 110 people. They were the same folks coming through all of the systems in Milwaukee with serious mental illness.

Once we figured out a way to help them manage their problems, we had money and time to do a lot of other things. The council is a very respected, honorable entity. Operating alone is more difficult than dealing with the whole group, because I am not in my silo, and I'm not shouting, "You're in my lane," which is the way we used to operate. With the council, you have to back down, align together, and give each other a chance to explain the challenge within their area of expertise.

Franklin Cruz: Two quick questions. How long has it been around?

Judge White: Since 2007.

Franklin Cruz: Okay, and your council, an independent entity with staff? Quickly, how does that work?

Judge White: We find money from foundations and friends, and we have an executive director who sort of is the glue. Somebody has to be the convener and the collaborator.

The public defender, the DA, the mayor, or the county exec, or the county board supervisor are members of the team, they may have to give more at certain times on different projects. The police have to give more on their crisis mobile team, intervention team, and response team. The courts have to stand silent when something bad happens, and it will. Someone who never had a criminal history before will be arrested on a civil citation, and if that person goes back out and hurts somebody, they're gonna say, "The cops shoulda locked them up, the courts shoulda given them 100 years for a marijuana cigarette, and then this person would not have lost their life if the justice system just would have done its job."

The council sits in a way that allows us to try these deferred prosecution agreements. We have courts especially for therapeutic justice, and we have very tough courts for violent crimes.

Franklin Cruz: I also wanna mention Harris County has a coordinated council for many, many years. Independent entity, own staff. Harris and Milwaukee counties are great places to look at.

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-Chief Judge Aldridge
Maxine White

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I wanna shift of course to Assembly member Carrillo. Can you talk a little bit about the work around bail reform, reducing racial ethnic disparities, and so forth?

Wendy Carrillo: I'd like to paint a picture of the state of California. Latinos became the highest population for the state about two years or so ago. Since the late 1970's, the Latino population has grown and investment in education has gone down. I don't think that's a coincidence.

In the last couple decades, we've built more than 20 prisons in the state. When you build prisons, you have to fill them. I don't think that's a coincidence. The state of California spends about \$78,000 in incarceration a year. That's more than the annual tuition for Harvard, and about \$13,000 in per people spending.

We know that before we even talk about the school the prison pipeline, bail reform, prisons, we start with education, and access to good schools and opportunity. In addition to that, we disproportionately incarcerate people of color. Bail reform is a priority for our speaker, the Assembly, and the state Senate. There's a bill right now by Senator Hertzberg, it's SB10 that will be coming over to our house, as well as SB898 on the bail insurance system.

I want to share some quick stats on where we are as a state. According to the board of state community corrections, approximately two thirds of California average daily jail population, approximately 48,000 individuals, are non-sentenced. They are eligible for release, but they don't have the money to make bail. We are incarcerating people for simply being poor.

For defendants arrested for property crimes, the odds of detention for black and Hispanic defendants is 50% and 61% higher respectively than those of the white community. When it comes to drug offenses, for blacks and Hispanics it is 96% and 150% higher respectively than that of the white community.

Bail bond amounts for black men are 35% higher than the amounts for bond for white men, and 19% higher for those of Latino descent. Black and Hispanic defendants are more than twice as likely as white defendants to be detained pretrial. Additionally, in LA County from May of 2016 to 2017, approximately 1.73 billion in surety bonds were posted to the superior court, with defendant typically posting 10% of the fee or starting to do a payment plan for their bond. That accounts to approximately \$173 million of nonrefundable dollars paid for by defendants to bail agents.

This is money that can be invested in community, or in the American dream of trying to buy a home. But instead it's spent on simply getting out of jail before trial. What happens if they're part of the 48,000 individuals who don't have someone that can help them? What happens to their children, their jobs, their livelihood?

There's a large discrepancy among bail for the same crimes in different counties. For example, the bail amount for a violation of possession of methamphetamines goes from \$5,000 to \$120,000 in the state of California, based on the county. The median bail amount is \$50,000 in the state of California. This is five times higher than the median amount for the rest of the nation. A study found that people who are detained pretrial are 25% more likely to plead guilty to a crime.

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I hope that that paints a picture that the incarceration of Latinos and people of color is real. I am a coauthor on a bill to stop incarcerating 12 year olds in juvenile detention facilities. If a 12 year old is committing a crime, the first question that we should be asking is, what's happening in this child's home? What kind of services can we be providing?

We are clearly introducing a school to prison pipeline. I'll share a quick story. I have a friend who's a principal at a high school in Sacramento with low income kids from communities of color with perhaps one parent or a parent in jail. The school didn't have resources to have a child psychologist on campus, and there was a group of boys that constantly kept getting into fights.

She tried to break up a fight, she was hit, some other teachers were hit as well, so they called police several times. Finally, on the third time, the police came to the campus. They took these boys and put them in a detention facility. All the while, she had been asking, these kids need help. We need to provide them with some kind of counseling, mental health services, what's going on in their home that they're acting out on campus? Instead, the answer was to take them out of school, put them in a juvenile detention facility, and then figure out what happens next. That is literally what the school to prison pipeline looks like. These kids are 16. By the time they're 18, what are the chances that they're gonna commit a crime of bigger gravity and end up in prison or dead for all we know? We have to do something different.

Franklin Cruz: I'm just gonna pause there, we do wanna move on to some Q&A. I will just mention, Los Angeles is also a Safety and Justice Challenge site funded by the MacArthur Foundation.

Sheriff Gonzalez: I would like to add something about schools and policing, because we've taken away the classroom discipline and there are now situations where juveniles are getting citations parents can't pay. By the time they're 17 they become wards and enter the criminal justice system before they ever graduate.

Franklin Cruz: Okay, great. Questions please.

Speaker 8: This is for the sheriff of Harris County. For your diversion programs and when your providing services, what do you do with undocumented? Are they eligible for it?

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Sheriff Gonzalez: The diversion we do, because it's at the point of contact, if somebody qualifies, we get them go through the program. In a way it also helps divert Latinos from the system. Once they get in, it's complex to get out of the criminal justice system so we have to eliminate points of entry. Right now, we're creating a diversion program that's pre-booking, especially for those with mental illness, to divert them to a separate facility. Similar to the sobering center.

The facts are diversion works. If you can create more programs that are evidence based, then you do help remove a lot of people from that system regardless of their status because they're not being arrested. Once they get arrested, it's a whole different process, and so that's why diversion really works.

Armando Adeno: Armando Adeno, Drug Policy Alliance from Los Angeles. If I can, I actually have an example of what we did to address that issue. In California, we were notorious for what was called deferred individual judgment, which for petty drug crimes, you have to plead guilty first in order to receive some sort of services. Once you completed it and the state says you were good to go, but you're referred to federal deportation proceedings. We actually authored a bill that put in place pretrial diversion, allowing you to do diversion first.

We found out since 2008, over a quarter million noncitizens were being deported or had been deported. A lot of these deportees were predominately green card holders who were being deported for something petty. In California we had one case where a person had a single Xanax pill, and after 25 years of being in the country, couldn't show a prescription, was deported.

That said, my question to the panel is, as we expand our work in the criminal justice reform among Latinos, how do we ensure that we keep this issue of immigration in mind? In California we've passed over a dozen significant criminal justice reform bills and initiatives over the last 8-10 years. However, they didn't address the immigration issues.

Our landmark legislation Prop 47 didn't address immigration. The only thing that did were some more specific bills, and Prop 64, which legalized marijuana, was a huge effort to prevent deportation.

Franklin Cruz: Carlos, you have a good view.

Carlos Martinez: Yeah. There are two points on this. One of them is the policy point, the other one is the messaging point. In terms of policy, you really need to know what is happening in your area, because deferred prosecution in many locations requires the person to admit guilt. That admission is going to impact your immigration status without question.

“The facts are diversion works. If you can create more programs that are evidence based, then you do help remove a lot of people from that system regardless of their [immigration] status because they're not being arrested. Once they get arrested, it's a whole different process, and so that's why diversion really works.”

-Sheriff Ed Gonzalez

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In Florida we have something that's called the promise to appear, where the officer on the scene gives a promise to appear in court instead of taking the person to the jail. They may not book you, but it's still an arrest, which impacts your immigration status. That was the policy issue.

The other issue, messaging. I have got into major fights with immigration advocates in Miami, which I love, because when they went to testify about civil citation. I had to tell them, "Would you please not mention undocumented immigrants? Because Miami is part of Florida, our legislature is 65% republican that don't like immigrants. If you're going to make a change in criminal justice, and it is gonna have a good impact on immigrants, shut up. Don't talk about it." That's why I mention policy and messaging.

Franklin Cruz: Let me just say quickly on this point, this morning I was watching CNN, and the republican Mayor of El Paso spoke about the community there and about immigration reform. He talked about immigration policy in a way that you might think a democrat or progressive would speak.

I just wanna make clear, because I know we might think about democrats being more on the correct side and then republicans, but we have republicans who are doing very, very good things on this.

Jose L. Machado: My name is Jose Luis Machado, I'm the city attorney for the city of Nogales, Arizona, it's a border state. There are a significant number of Latino veterans that are coming back from Afghanistan or previous wars, and quite a few are legal permanent residents who unfortunately get in the system because of PTSD issues or other issues. I'm interested to know from the panel on how they're dealing with our veterans.

Judge White: Veterans treatment initiative is what we call ours, we don't call it court, and we never mention immigration. We have a judge assigned who has been running really hard to bring in resources. We have a partnership with the Veterans Affairs Office, funders, the medical college, and inside of our adult drug treatment court, they have a separate initiative for veterans. They get more highly specialized connection and treatment than other users. They are the most popular group because they are honorable.

My judge in the drug court has no problem getting other anchors for the veterans that come through. The problem is that we need mediators and coordinators in the community that urge them to come work with the judge, get out from under the minor thing, and then get themselves a better situation. Most of them have PTSD, substance addiction, some of them are homeless. We make it a special court so they can feel more comfortable without mixing in with other folks. The only thing that defines them as a unit is their status as veteran.

Wendy Carrillo: I would say that our base of veterans is twofold. One is job creation, the second is access to mental health that they need. The state of California recently did an audit on the funding that goes to all the counties for mental health. It found that counties were sitting on money that they were not using. LA County has \$900 million in mental health that they are sitting on, 300 million of which needs to be used in the next two years before they lose it. That is criminal.

I would suggest going to the Arizona Department of Health and Human Services and figure out where the funding's going.

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Secondly, I authored a legislation that would allow a few counties—LA County, the Bay area, and several small counties where we know there's a lot of veterans—to increase bidding access for veterans for public works contracts, so we create jobs while the veterans work with trade associations. That will create a pipeline for training, as we need to build housing, roads, and bridges.

We need to think about veterans affairs outside the current box, and start really thinking about solutions and implementation.

David Serelene: My name is David Serelene, I'm a community college trustee from Hardale Salinas, California. I wanted to make some comments about public defenders. They have so many people to represent and defend, that you're really not getting a defense. I think that it's important that we look at creating a system that provides a better legal defense.

Franklin Cruz: Well, let me pick, because I don't think there was a question in there. The plea bargain system, the bail system, fines and fees system, that's not a public defender specific issue. That's a system wide issue that pressures folks into pleading guilty in order to get out of jail more quickly and so forth. I don't think anybody on this panel is going to disagree that there are systemic pressures.

Judge White: Underpaid and overworked.

Megan: Hi, my name is Megan, I'm a community college educator here in Maricopa County in Phoenix. My family and I are Latino, and my brother was convicted of a DUI charge. Wasn't driving at the time of the arrest, his car had become disabled, the police officer pulled over to help out and ended up arresting him. He was sentenced to four years in prison.

Their logic was that the four years would heal his addiction to alcohol, he was an alcoholic. His only child graduated from high school while he was in there. He's developed a passion for the criminal justice system, and he will be released on Tuesday. Our family wants to support him and provide an outlet for positive energy. What are some ways that the formerly incarcerated can help contribute to criminal justice reform?

Judge White: I think he should engage in trauma informed care, especially if it's his first time in jail and gets four years. He may think he has the energy, but it's like those movies when you come back, everything is changed. The technology technicalities of life, he's a different person, and he's at a different age. I would recommend highly that they engage in personal transformational kind of therapy.

Wendy Carrillo: If there are justice organizations in your county, you should look to those and see if there's a way you can testify and advocate for legislative change through sharing your own story. That's why California has been able to do so much, we have the anti-recidivism coalition and Californians for Safety and Justice. I don't know if he's interested in coming to California, but the jobs are starting to go for that work.

Olivia Alper: My name's Olivia Alper, Hillsborough City Councilor. I am starting a new job in charge of a private alternative school. These kids are referred to us for behavior problems from two high schools and are falling through the cracks. They were the first high school in our state to walk out over issues about the board that were becoming heated.

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I see these kids and our purpose is to try and keep them in school and help them graduate, but there's so much counting on their failure. I see these kids as getting ready on track from high school to prison. How can we try to divert that?

Sheriff Gonzalez: It means convening different sectors, like our school system. On average, about 60% of my jail population is illiterate, so that's a clue right there. There's predictors that people are going to end up in jail. Have they ever had a parent incarcerated? Are the schools helping to mentor those kids a little bit more?

They're in your population right now. In fact, the state of Texas, they figure out future jail population investments based on the literacy rates of the third grade, and it's a shame that that's how they plan. And guess who it is? The Latino and African American kids. Literacy is a predictor, poverty, so I'm trying to develop a stronger continuum of care so we're connecting people to services and employment opportunities as they're released, so they don't cycle back. It has to be system wide.

"In the state of Texas, they figure out future jail population investments based on the literacy rates of the third grade, and it's a shame that that's how they plan."

-Sheriff Ed Gonzalez

Judge White: The one thing that I try to push with people is that you cannot leave their families out. They love the children, even if they're not very well behaved, but if we don't wanna deal with a single parent or someone else, we're missing an opportunity. In our family and juvenile court that has a treatment component, the entire family can show up in front of the judge and talk under restrictive memorandum of understanding. If mom has an addiction problem that's causing the kids at school not to be fed, they can turn mom in and say, "I'm having a bad day, my life is going down the tubes, because my mother is not following the program."

Essentially, I would suggest that any model has to embrace just more than someone who's made it talking to someone who's struggling. We have to incorporate and learn to deal with the entirety of what's affecting that child.

Franklin Cruz: Unfortunately, we need to wrap up. Assembly member, can we start with you, just a quick closing comment?

Wendy Carrillo: One thing that I didn't mention was the Humphrey case. If you're not familiar, this happened in San Francisco. There was a gentleman named Kenneth Humphrey who was in prison for more than 250 days on \$350,000 bail for stealing \$5 and a bottle of cologne. After a state appeal, it was ordered that a defendant may not be imprisoned solely due to poverty. This is what we're talking about here. How do we ensure that poor have justice in a system that's unfairly against them?

Judge White: I will give the staff the PowerPoint on our community justice council. I didn't do it justice, I did not tell you there are 26 community agencies that participate, and every other month we meet with the community. All of the top dogs in the county, all of the elected and appointed officials go

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out. Our community can come and talk to us about anything they want to and get on the agenda. I'll send that tool to you for them to share with you.

Carlos Martinez: Number one, go to our website, it's www.PDMiami.com. On that website what I want you to look at is on the top right hand side. You will see that we have a manual, even though it applies to Florida only. It shows you the consequences of arrest. It's important to be educated about that.

Number two is something that you can do this summer, which is the number one predictor by private prisons when they have their prospectus to try to get investors is third grade reading level. If you can help children in your community read at third grade level, and then in the summer keep up with the reading, you will reduce how many people I get as clients.

Sheriff Gonzalez: We could be tough on crime, but at the same time we can be compassionate. We need your help. Become informed and educated about what's going on in your local jurisdiction. Are you reform minded or are you still old school and with keeping the status quo? Because we could do better. We could have smart on crime policies that are effective and serve everybody, save money, to help divert to other critical areas in our communities.

Franklin Cruz: Safety and Justice Challenge, also Tomas Rivera Policy Institute, take a look at those for some great information about Latinos and criminal justice. There is a dearth of information about Latinos out there. I will also just mention, we didn't talk about it during this panel, ask whether or not you collect data on who is Latino in your jails. Many places have no Latino category at all. Other places inconsistent data.

Lastly, let's please give a round of applause to the panel.