



Congressman Pedro R. Pierluisi
Remarks to the National Symposium on Pretrial Justice
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Thank you, Tim, for that warm introduction and for the work that you and your colleagues do every day at the Pretrial Justice Institute. As I was preparing for the Symposium, I was told that, before you joined the Institute, you were instrumental in establishing the nation's first drug court in Miami. And I should say that, when I served as Attorney General of Puerto Rico in the 1990s, I helped to set up the Island's drug court system, which, of course, is modeled largely on the court you established in Miami. Tim, I am grateful for your vision twenty years ago and for your long-standing work in this area.

Today's Symposium comes at an important time in the ongoing debate over how best to approach criminal justice issues in the United States. In my brief remarks, I want to sketch out how I see the "lay of the land" in Congress for pretrial programs.

Over the past few years, there has been an increasing recognition among policy makers that our approach for dealing with criminal offenders is in need of reform. As you are all aware, last summer, Congress significantly reduced the disparity in crack and powder cocaine sentencing levels. This reform effort — which was over twenty years in the making — picked up momentum as Members of Congress from both sides of the political aisle realized that something had to be done to address this unprincipled disparity.

Of course, the philosophy of the current Congress is not identical to that of the last Congress, particularly in the House. Nonetheless, I think that progress can be made to reform our criminal justice system, including its pretrial practices.

The issue that I believe can motivate legislators from across the political spectrum to re-examine our pretrial practices is the budget. From the state to the national level, governments across our nation are facing budget shortfalls. Legislators of all stripes are looking for places to cut spending without harming worthy programs.

The amount of money that governments spend on detaining offenders is breathtaking. It costs nearly \$24,000 per year to house an inmate in a state jail. The cost of incarcerating an individual in the federal system is even higher—nearly \$26,000 per year. As budgets are scrutinized for cost savings, all of us should push our elected officials to make the connection between reforming pretrial practices, on the one hand, and saving taxpayers' money, on the other.

At the federal level, reform is needed to expand the options judges have for sentencing low-level, nonviolent offenders. Under current law, judges have limited discretion — if a person

is found guilty, the judge must impose a judgment and a sentence, which results in a conviction being placed on the offender's record.

In 1987, Congress created a small carve-out to this general rule by granting federal judges the discretion to place first-time drug offenders found guilty of simple possession on probation without entering a judgment of conviction. If, at the end of the probation term, the offender has not violated a condition of his probation, the court may dismiss the proceedings, and the offender, if under 21, may apply to have his record expunged.

The problem with this provision is that it is hardly used by judges because there are very few simple possession cases in the federal system. In the last Congress, I sought to expand this provision to cover other low-level, nonviolent offenders by introducing the Federal First Offender Improvement Act. The success of drug courts and other programs that provide an alternative to incarceration demonstrate that certain low-level

drug offenders would benefit more from probation than jail time — while at the same time saving the government the significant cost of imprisonment. Moreover, allowing these offenders to exit the criminal justice system without a criminal conviction on their record will help them to obtain jobs and be productive members of society.

In the coming years, I hope our laws will continue to do away with a “one-size-fits-all” approach to criminal offenses. All of you will play an important role in that effort by providing the data on what works and what does not work — on who can safely be released on bail or probation.

I hope you have a productive Symposium, and I look forward to continuing this conversation.