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Review of Literature and Synthesis of Research Findings on
**Public Opinion on Bail and Criminal Justice Reform,
Pre-trial Release, Indigent Defense and
Non-violent Offenders**

COMM738 – Research for Strategic Communication

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Response to NAACP Request for Proposal

Recently, the National Association for the Advancement of Colored People has submitted a Request for Proposal that seeks information on bail reform, criminal justice reform and indigent defense to help develop a strategic communication plan for their new initiative, Abolish the Bail: Right to Counsel. Criminal justice and law reform have been a major pillar of advocacy for their organization. In the past, they have researched incarceration trends and drug sentencing but seeks to focus on public opinion. The request comes in response to California abolishing the cash bail system and introducing the Ensuring Quality Access to Legal Defense (EQUAL Defense) Act of 2019. It also comes in response to Donald Trump signing into law the First Step Act earlier this year. The First Step Act promises to place prisoners close to families, expand inmate employment, prohibit restraints on pregnant prisoners, curb mandatory minimums and reduce crack sentences amongst many other things. However, the abolishment of cash bail systems has not been included nor addressed. The organization believes the cash bail system is at the core of the rise in the prison population and shouldn't act as a punishment or function as a way to influence people to plead guilty. Furthermore, the NAACP believes that if a person is held in pre-trial detention (haven't yet been convicted of a crime) and cannot afford to post bail, consequently, that same person cannot pay the fees required to hire a defense lawyer.

NAACP's Abolish the Bail, Right to Counsel initiative will be a large-scale campaign to inform and educate the public about the cash bail system, the turmoil of indigent defense and lobby congress to increase funding on prison reform and eradicate bail. The RFP posed the following research questions:

- What is the public opinion on the commercial bail industry?
- Does the public know the history of bail?

- Does the public know the role of a bail bondsman?
- Does the public know how many people make up the population of pretrial detention who cannot afford bail?
- Does the public know who is affected by the lack of counsel?
- Have the public or anyone in their family ever been arrested?
- Which social media platforms would be effective to inform the public about the said issue?
- Which social media platform would be effective to persuade voters?
- What communication strategy would be beneficial to reaching congress?
- Would establishing a website be beneficial for our efforts?
- Which strategies would be most beneficial for NAACP to educate the public on these issues?
- Examination of which message styles would be most effective in reaching the general public

Lack of Knowledge Regarding Jargon

The Pretrial Justice Institute conducted a survey in partnership with the Charles Koch Institute and Lake Research Partners to get American's opinions on pretrial reform and money bail. The survey was conducted by phone interviews and had a sample of 1,400 registered voters and a margin of error of +/- 3.1% taking place May 2-17, 2018. The sample size also included 200 African American registered voters and 200 Latinx registered voters; the two minority groups who are affected the most by the cash bail system.

The study finds that Americans want a more equal justice system. They want the focus to be on public safety rather than incarceration. The 2018 report shows that 78 percent of the participants, "think the current system favors the wealthy," ("NEW SURVEY: With Increased Understanding," 2018). Most importantly, more than half of the respondents favor dissolving the "practice" of incarcerating citizens who can't afford to post bail before trial ("NEW SURVEY: With Increased Understanding," 2018). Another significant finding of this poll is the support for alternatives for pretrial detention. The research shows that more than half of the respondents

support “unsecured bonds,” (“NEW SURVEY: With Increased Understanding,” 2018).

According to the Pretrial Justice Institute 2018 report, unsecured bonds is, “a person’s promise to pay a fine if they do not show up for trial instead of requiring people to pay money upfront,” (“NEW SURVEY: With Increased Understanding,” 2018). The report also found that Americans would like to see a decline of arrests for nonviolent offenders by enforcing “fines and tickets as a punishment rather than jail time,” (“NEW SURVEY: With Increased Understanding,” 2018).

The study shows that the participants within the study wants to move away from a system of punishment, to a “system of support” by enforcing community support programs including more “education and counseling,” providing defendants who are waiting for their trial with reminders and supervision and also providing transportation services to defendants who don’t have the money or means to make it to for their court appearance (“NEW SURVEY: With Increased Understanding,” 2018). The audience surveyed would also like to see more support programs for people with “specific” needs including people with mental health issues, ones suffering from drug and alcohol addiction and victims of domestic violence (“NEW SURVEY: With Increased Understanding,” 2018).

A strength of this report is that it also questions the knowledge of the respondents regarding the legal jargon used in the questionnaire. The report stated that about half of the surveyed audience had never heard of the term’s *pretrial preventive detention* and *pretrial justice* (“NEW SURVEY: With Increased Understanding,” 2018). Another strength of this report is that it focuses on the opinion of nonviolent offenders and also gaining opinion on the alternatives. It is very easy to gain research on the opinions of the topic but even better to gain knowledge on the alternatives that the participants deem appropriate. The study is also aware of the demographic that is affected most by bail and classified many of the research findings within

those categories. The researchers provided results that were specific to minority groups who may fall victim to the criminal justice system as well. The study also gathered different poll results based on states that have a high rate of incarceration and pretrial detention including; Ohio, Florida, Georgia, Texas and North Carolina.

Latinx Respondents

A majority of Latinx respondents are very dissatisfied with the criminal justice system and roughly 61 percent of the Latinx participants support abolishing cash bail completely and enforcing more community-based services (“NEW SURVEY: With Increased Understanding,” 2018). The report also states that 90 percent of the Latinx voters who participated in this survey, “believe that the wealthy enjoy substantially better criminal justice outcomes,” (“NEW SURVEY: With Increased Understanding,” 2018).

African American Respondents

Within the African American respondents, the poll shows that a majority of the sample, “strongly favor reducing arrest” for nonviolent offenders and would use citations and fines instead of holding them in jail before their trial date (“NEW SURVEY: With Increased Understanding,” 2018). The results show that the black respondents are not happy with the current criminal justice system, believing that too many people are being arrested and held in pretrial detention and that white and wealthy people have, “better outcomes than poor and working-class people... [and people of color,]” (“NEW SURVEY: With Increased Understanding,” 2018).

Respondents Prefer Alternatives for Prison Reform

A 2018 PEW Study conducted by Benenson Strategy Group and GS Strategy group also sought out public opinion regarding the pretrial release and the money bail system. The results found that their sample supported a limited use of jail. The survey was conducted by telephone and had a sample size of 1,215 people. The group was 18-years-old and over and a strong majority, 85 percent, were registered voters. Overall, 31 percent identified as politically conservative and politically moderate and 30 percent identified as liberal (“Americans Favor Expanded Pretrial,” 2018). This is important because it shows that citizens who self-identify with either party support limited use of jail.

The study explained that, “Pretrial detention can last days, months, or even years.” (“Americans Favor Expanded Pretrial,” 2018). The survey reports that overall a majority Americans favor utilizing citations for nonviolent offenders to appear in court instead of holding them in pretrial and would prefer for those with nonviolent offenses to “remain in the communities while awaiting trial,” (“Americans Favor Expanded Pretrial,” 2018). The study also found that the majority supported pretrial detention for offenders of violent crimes and would also favor, “Capping pretrial wait times at as little as one week from the beginning of detention,” (“Americans Favor Expanded Pretrial,” 2018). The overall majority would also prefer to spend more tax dollars on creating “treatment program and victim services,” and less for offenders held in pretrial detention who is not deemed a threat to public safety (“Americans Favor Expanded Pretrial,” 2018). However, the majority expressed a “serious” concern of people fleeing and committing more violent crimes while released during pretrial (“Americans Favor Expanded Pretrial,” 2018).

A strength of this report is that it also looks into the personal experiences of the justice system and found that many of the participants had experience with the justice system. The study reported that almost half of the respondents surveyed have been a victim of a crime or has a family that has been a victim (“Americans Favor Expanded Pretrial,” 2018). Forty-five percent of the respondents stated that, “Me, someone else in my immediate family or both,” have been detained for a crime and 84 percent declared that, they are not active in law enforcement (“Americans Favor Expanded Pretrial,” 2018). Another strength from this is that it looks into the effects of money bail and the safety of their communities. When asked, more than half, roughly around 59 percent, agreed that, “Money bail does not keep our communities safe because with bail money, whether someone stays in jail depends on how much money they have, not whether they pose a danger to the public,” (“Americans Favor Expanded Pretrial,” 2018). This survey is impactful for the NAACP Campaign because it shows the effect of the practice of pretrial detention not only on its detainees but on the families of the ones facing charges. It also shows that Americans support pretrial release, bail reform and that they are open to enforcing more alternatives to pretrial detention (“Americans Favor Expanded Pretrial,” 2018). It also shows that this particular demographic has some knowledge of the issue (“Americans Favor Expanded Pretrial,” 2018).

Support of Reform and Reduced Prison Populations

In October 2017, the American Civil Liberties Union Campaign for Smart Justice released a poll conducted by Benenson Strategy Group that shows the support for criminal justice reform (“91 Percent of Americans Support,” 2017). The research method involved telephone interviews and had a sample size of 1,003 participants across the United States. The margin of error was +/- 3 percent. The political demographics were reflected in the findings

showing that 23 percent of participants identified as moderate, 31 percent identified as liberal and 41 percent of the respondents identified as conservative (“91 Percent of Americans Support,” 2017). Their findings show that no matter the political stance, the level of agreement is immense.

While conducting their survey, ACLU found that more than half, approximately 71 percent expressed the importance of reducing the population incarcerated and showed their likelihood of voting for an official who, “supported reducing the prison population,” (“91 Percent of Americans Support,” 2017). The 2017 study also discovered that Americans feel that incarceration is ineffective regarding public safety (“91 Percent of Americans Support,”). ACLU found that many of their participants believed that, “sending someone to prison for a long sentence increases the chances that he or she will commit another crime when they get out because prison doesn’t do a good job of rehabilitating problems,” (“91 Percent of Americans Support,” 2017). Parallel to these findings, 61 percent of the respondents believed that offenders that “commit serious crimes” who are also addicted to illegal substances should not be sentenced to jail time and should be placed in rehabilitation program – the same goes for people who have mental health problems and commit violent crimes (“91 Percent of Americans Support,” 2017).

The findings in this article have their strengths. It shows that Americans feel that criminal justice reform should happen, and they are ready for that change. It also shows that given the opportunity; the respondents will support a candidate who will generate new policies regarding criminal justice reform. It also shows that respondents are well informed on the issue and do not agree on the current administration "tough-on-crime" approach. The only weakness of this report that doesn't necessarily apply to the NAACP research question is its focus on the opinion of violent offenders and drug addiction and mental. Although those factors play a huge part in the ongoing cycle of incarceration, it's not a focus for the campaign – although beneficial to know

regarding crafting the campaign for the pending initiative. One weakness of this survey is that it does not clarify if all of the respondents are registered voters – which is very vital to NAACP impending campaign.

Sentencing Reform

PEW released a study in 2016 conducted by Public Opinion Strategies and the Mellman Group shows American support for criminal justice reform, specifically sentencing reform regarding nonviolent crimes. The survey had a sample of 1,200 registered voters and was conducted via telephone with a margin of error of +/- 2.8%.

The poll found that many people believe that prison should be for offenders who have committed violent crimes (“Voters Want Big Changes,” 2016). It confirmed that 61 percent of the sample surveyed believe that prisons hold too many drug offenders (“Voters Want Big Changes,” 2016). Regarding sentencing, more than a majority would like to end federal mandatory minimum sentencing and would prefer for the judge to utilize his discretion (“Voters Want Big Changes,” 2016). The survey also found that a majority of the respondents strongly support initiatives that reduce prison time for nonviolent offenders (“Voters Want Big Changes,” 2016). A strength of the survey is that it shows American support for reducing sentencing and utilizing alternative programs to keep people out of jail to reduce the population within prison walls and the rate of recidivism. Initially, that is the main purpose of bail reform, to induce a decline in the prison population. However, the only concern for the results regarding NAACP’s initiative is that it mainly focuses on reducing the population of nonviolent drug offenders in prison. The goal of the NAACP campaign is to inform voters about pretrial release and bail reform for ALL nonviolent offenders.

Respondents Support Reform For Economic Gain

However, in 2012 Public Opinion Strategies and the Mellman Group conducted another survey released by the PEW Center regarding the same topic, sentencing reform. Similar to the survey conducted in 2016, the 2012 study was conducted over the phone with a sample size of 1,200 "likely voters" with a margin of error of +/- 2.8%. A strength about this survey is that, "43 percent identified as a non-violent crime victim... 17 percent identified as a violent crime victim household... and 12 percent identified as a law enforcement household." ("Public Opinion on Sentencing," 2012). The survey had very similar results to the one following a few years later. Comparing the two four years later the opinion has not changed that Americans feel that there are too many people in prison, they want to reduce prison time for nonviolent offenders and that they still support alternatives to pretrial detention for nonviolent offenders. The difference between the 2012 study and the 2016 study is that the poll conducted in 2012 gained more knowledge on the public's opinion regarding the prison population and economics. When asked what statement was closer to their beliefs, more than half of the respondents chose, "One out of every 100 American adults is in prison. That's too many, and it costs too much. There are more effective, less expensive alternatives to prison for non-violent offenders and expanding those alternatives is the best way to reduce the crime rate," ("Public Opinion on Sentencing," 2012). The poll also found that, "Voters are more willing to raise taxes on the wealthy or reduce funding for state prisons than they are to consider other types of funding reductions," ("Public Opinion on Sentencing," 2012). The economic view is a strength and would be very beneficial toward NAACP's new initiative. This a beneficial source for the new initiative considering that it represents the public attitude toward the prison population and more policy solutions.

Victim's Support Reform

The Alliance for Safety and Justice along with David Binder Research conducted a public opinion survey in April 2016 via telephone and online. The survey found that, “one in four people have been a victim of a crime within the past 10 years,” (“Crime Survivors Speak,” 2016). Their findings explained that young people, people of color and people living within low-income impoverished communities experience the most crime and the same can be said for people affected the cycle of criminal justice, pretrial detention and the ability to post bail (“Crime Survivors Speak,” 2016). There is no doubt that crime influences the feeling of safety within a community. The report shows that crime can be very traumatic for the victims effected and give people feelings of anxiety and trauma when witnessing other crimes (“Crime Survivors Speak,” 2016). But it also proves that the system doesn't anything to help the victims as well (“Crime Survivors Speak,” 2016). According to the 2016 survey, “Two out of three victims surveyed received no help following the incident,” and the respondents who did receive help did not get it from the criminal justice system (“Crime Survivors Speak”).

However, the most surprising results appeared when the respondents were asked about their views on the criminal justice system and public safety policies and the role of a prosecutor. Regarding the criminal justice system, the majority of the victims believe, "criminal justice system relies too heavily on incarceration, and strongly prefer investments in prevention and treatment to more spending on prisons and jails,” (“Crime Survivors Speak,” 2016). The 2016 study stated that in a margin of 3 to 1, “victims believe that prison is more likely to make people commit crimes than to rehabilitate them,” (“Crime Survivors Speak”). The report shows that

victims prefer a "Justice system that focuses more on rehabilitation than punishment... shorter prison sentences and more spending on prevention... investment in job creation, crime prevention and treatment... and alternatives to incarcerations and options beyond prison," ("Crime Survivors Speak," 2016).

Although it is intriguing to present findings from the victim's perspective, the challenge was actually getting their target sample to respond. The researchers had difficulties identifying respondents who were reluctant to "discuss their victimization," and report it as well ("Crime Survivors Speak," 2016). Just like many crimes are not reported to law officials, they are not reported to researchers as well.

Conclusion:

There's a decent amount of public opinion research conducted regarding the support of the pretrial release, bail reform and criminal justice reform, which is synthesized in the preceding pages. There is a total of 12 questions proposed by the National Association for the Advancement of Colored People and two were answered. There is no public opinion research out there regarding indigent defense. Depending on the time frame, a public opinion survey should be generated to gather findings surrounding that issue. A simple baseline survey should also be generated to gather public knowledge regarding the history of the cash bail system and the role of the bail bondsman. Qualitative methods and possible focus groups should be utilized to determine what social media and internet platforms would be beneficial in targeting the primary audience and what strategy would be beneficial to educate the chosen public. It would help to not focus on message styles for the general public because that is not the target audience. I would also propose establishing another research question that was not listed, "What are the public opinions of victims effected by crime on pretrial release and criminal justice reform?" An

interesting study was found, and it would help to shape the overall message of the campaign by finding more research about the said question as well.

Citation Page:

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