



Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

## Ad Hoc Committee on Bail & Pretrial Services

April 28, 2016

### Meeting Notes

Attendees:	Lara Baker-Morrish	Judge Cynthia Rice
	Michele Mumford	Debra Weinberg
	Julie Doepke	Mike Kochera
	Penny Underwood	John Leutz
	Susan Sweeney	Chrystal Alexander
	Kari Bloom	Jim Lawrence
	Dan Peterca	Judge Fritz Hany
	Marta Mudri	Judge Beth Root
	Josh Williams	Diana Feitl
	Judge Nadine Allen	Lori Eville
	Tim Schnacke	Sara Andrews
	Jo Ellen Cline	Cyara Hotopp

**1. Introductions:** Sara Andrews welcomed everyone and introductions were made.

### **2. Presentation by Tim Schnacke**

Tim Schnacke with the National Institute of Corrections presented the legal and evidence based practices in pretrial release and detention. After his presentation the committee engaged in robust discussion. A point was made that judges are fearful of media backlash that can come from a decision to release followed by another crime being committed by the defendant. It was suggested that there be a focus on talking to and educating judicial leaders on the issue. The point was made that judges need to understand that using excessive money bail can potentially lead to civil liability.

The committee also discussed due process issues with judges setting high bonds. Some suggestion that judges are not currently utilizing detention was made and that, in the alternative a high bond is set because there is no appeal from the bond decision. If a judge orders detention there is an expedited appeal and a fear of reversal.

The committee discussed Rule 46 of the Criminal Rules of Procedure as providing the skeleton for changes. It was explained that in Ohio, the Modern Courts Amendment allows the Supreme Court to adopt rules of practice and procedure that are subject only to disapproval by the General Assembly.



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Money was another major topic of conversation for the committee. It was suggested that it is generally cheaper to hire people in pretrial services than it is to jail people and hold them. Summit County was discussed as a jurisdiction that has a more robust pretrial services systems, but many counties say that they don't have the resources to devote to this issue.

### **3. Ohio – Current Status**

Ms. Cline and Ms. Hotopp gave a brief overview of a survey that was distributed on behalf of the committee to judges, jail administrators, and sheriffs. Discussion continued regarding victim issues, particularly in intimate partner crimes. It was stated that Ohio is often not holding DV offenders after conviction, but hold them pretrial which seemed illogical to some committee members. Mr. Schnacke noted that if a crime doesn't carry possibility of jail/incarceration then a jurisdiction probably shouldn't be holding the offender pretrial and that Kentucky has this concept in statute. The committee questioned where the floor for a risk assessment would be for the risk based system? For example, most places are not doing assessment on traffic violations, so where is the floor? The committee also wondered what discussion other states have had regarding the arrest decision when discussing bail reform.

The committee also engaged in discussions about a myriad of risk assessment tools already being utilized in Ohio, including in Lucas and Summit counties. The committee would like to follow up and see these instruments and how they were developed.

### **4. Presentation by Lori Eville – Essential Elements of a Pretrial Justice System**

After a presentation by Ms. Eville the committee engaged in further discussion and identified priority issues including:

- Evaluation of statutes, rules, the U.S. Constitution, the Ohio Constitution and the ABA standards
- Development of a definition of bail and other related terms
- Data, including utilization of pretrial services entities, surveying counties on whether they have a dedicated pretrial services program if they use universal screening and a validated assessment instrument, what prosecutorial diversion exists, are there other release options, the response(s) to pretrial violations, and how many people in local jails on felonies v. misdemeanors.
- Evaluation of the process of release, including clerk of court processes and a money map
- Bondsmen
- Representation for the offender at pretrial and funding for the public defender



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- Training and education for all the criminal justice system stakeholders, including judges, prosecutors, and defense counsel (access to justice issues), the public and the media.

## 5. Next Steps

The committee decided to take up the identified issues in a methodical method over the next several months and possibly convene work groups to discuss smaller bits of the overall issue.