



WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

STUDY COMMITTEE ON BAIL AND CONDITIONS OF PRETRIAL RELEASE

Legislative Council Large Conference Room
One East Main St., Ste. 401
Madison, WI

September 17, 2018
10:00 a.m. – 3:00 p.m.

Call to Order and Roll Call

Chair Wanggaard called the meeting to order. The roll was called, and a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Van Wanggaard, Chair; Sen. Fred Risser, Vice-Chair; Reps. Cindi Duchow and Evan Goyke; and Public Members Jennifer Dorow, Adam Gerol, Scott Horne, Gary King, Jane Klekamp, Joseph McCleer, Kelli Thompson, Paul Susienka, and Maxine White.

COMMITTEE MEMBER EXCUSED: Rep. Ron Tusler.

COUNCIL STAFF PRESENT: Katie Bender-Olson and David Moore, Senior Staff Attorneys.

APPEARANCES: Carlo Esqueda, Dane County Clerk of Circuit Court; Julie Beyler, Lead Social Worker, Bail Monitoring Program, Dane County Clerk of Court; Michele LaVigne, Distinguished Clinical Professor of Law, University of Wisconsin Law School; Daniela Imig, Wisconsin Community Services Administrator; and Nick Sayner, Co-Founder, JusticePoint, Inc.

Approval of the Minutes of the August 16, 2018 Meeting

Co-Chair Risser moved, seconded by Representative Goyke, to approve the minutes of the August 16, 2018 meeting. The motion was approved by unanimous consent.

Presentations by Invited Speakers

Carlo Esqueda, Dane County Clerk of Circuit Court; Julie Beyler, Lead Social Worker, Bail Monitoring Program, Dane County Clerk of Court

Mr. Esqueda provided the committee with background on Dane County's Alternatives to Incarceration program. Mr. Esqueda explained that the program was founded in 1989, specifically to address a gap in post-conviction options, but that the sole function of this program now is to administer the bail monitoring program. Mr. Esqueda also told the committee that in 2016, Dane County received a grant from the Arnold Foundation to implement the use of the Pretrial Safety Assessment (PSA) tool developed by that foundation. He said that Dane County is also partnering with researchers from Harvard University to conduct a two-year random control trial of the PSA. The study will measure two dimensions of risk: (1) failure to appear; and (2) commission of a new crime while released prior to trial.

Ms. Beyler provided the committee with an overview of Dane County's bail monitoring program. She explained that a judge or court commissioner may order a defendant into the bail monitoring program either as an alternative to cash bail or as a condition of posting cash bail. Through the bail monitoring program, defendants receive supervision of release conditions and referrals to community resources. For example, defendants may be provided with transportation vouchers for court and bail monitoring appointments. The program will also assist participants with Foodshare referrals; she reported that participants who receive Foodshare are less likely to reoffend.

Mr. Esqueda and Ms. Beyler responded to a variety of questions from the committee, including questions about who is allowed into the bail monitoring program, how and when violations of bail conditions are reported to the court, and the degree of flexibility there is in the program to increase or decrease supervision conditions.

Michele LaVigne, Distinguished Clinical Professor of Law, University of Wisconsin Law School

Professor LaVigne told the committee that she is working on a project, funded by the National Association of Criminal Defense Lawyers and the U.S. Bureau of Justice Assistance, to study Wisconsin's bail practices. She said she was initially chosen to create a "Wisconsin Bail Book" because there was a misconception that there is a standard system for imposing bail and conditions of pretrial release in Wisconsin. Professor LaVigne told the committee that, as a result, she has been traveling the state observing bail hearings in each county. She told the committee that bail practices vary enormously from county to county and confirmed that there is not uniform data on pretrial procedures statewide. Among other areas of variation, Professor LaVigne told the committee that there is significant variation statewide with respect to when cash bond is imposed, the amount it is set at when imposed, and the reasons for imposing cash bond. She also said that there is substantial variation statewide about what other release

conditions are imposed and the financial consequences to defendants to comply with these conditions.

Daniela Imig, Wisconsin Community Services Administrator; and Nick Sayner, Co-Founder, JusticePoint, Inc.

Ms. Imig and Mr. Sayner provided a general overview of the pretrial services their organizations provide. Among other services, Mr. Sayner explained that JusticePoint's pretrial services entail both screening individuals booked into the Milwaukee County Jail to conduct risk assessments of arrestees and running a pretrial supervision program to provide supervision and case management services to defendants ordered to supervision as a condition of release. Ms. Imig told the committee Wisconsin Community Services provides similar pretrial services in Waukesha County. Ms. Imig and Mr. Sayner told the committee that both JusticePoint and Wisconsin Community Services provide services to individuals who have been referred to programs to address alcohol and other drug abuse.

Mr. Sayner and Ms. Imig then described what they consider to be necessary elements for a high-functioning pretrial services agency. According to Mr. Sayner and Ms. Imig, these elements are: (1) a dedicated pretrial program with an operationalized mission; (2) universal screening for all release-eligible defendants; (3) assessments instruments that are validated and normed on pretrial populations; (4) sequential bail review; (5) risk-based supervision; and (6) performance measurement and feedback.

Mr. Sayner and Ms. Imig responded to questions from committee members and engaged in discussion with committee members. Public Member Gary King asked Mr. Sayner to provide specific suggestions as to how current law could be changed. Mr. Sayner responded that he would suggest focusing on: (1) encouraging the use of risk assessment tools; (2) looking at the pretrial detention statute; and (3) figuring out a way to collect good data.

Discussion of Committee Assignment, Suggestions for Future Agenda Items, and Information Requests

Chair Wanggaard invited committee members to suggest speakers for the committee's next meeting and to share thoughts on information members might like committee staff to prepare. Public Member Jane Klekamp said it might be beneficial to hear from someone who was recently involved in pretrial reform efforts in another state. Committee members also expressed interest in hearing more about data, especially with respect to what types of data would be useful to collect and what the difficulties of collecting it are. Members also requested committee staff contact specific national experts on pretrial justice, including Tim Schnacke from the Center for Legal and Evidence-Based Practices and Spurgeon Kennedy from The Justice Management Institute.

Plans for Future Meetings

Chair Wanggaard noted the committee's future meeting dates:

- October 16, 2018.
- November 13, 2018.
- December 11, 2018.

Other Business

There was no other business brought before the committee.

Adjournment

The committee adjourned at 3:00p.m.

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[The preceding is a summary of the September 17, 2018 meeting of the Study Committee on Bail and Conditions of Pretrial Release, which was recorded by WisconsinEye. The video recording is available in the WisconsinEye archives at <http://www.wiseye.org/Video-Archive.>]