

OHIO TASK FORCE TO EXAMINE THE OHIO BAIL SYSTEM

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February 27, 2019

BULLET POINTS FOR *TEN MINUTE* PRESENTATION OHIO SUPREME COURT

ISSUE (1): PREVENTATIVE DETENTION AND CREATING THE RIGHT TO AN AFFORDABLE BAIL

- To expand or not expand preventative detention, that is the question for going to the so-called no-money bail system. Can you preventatively detain M cases? Example, Harris County, TX. Probably not.
- Should there be a right to affordable bail, i.e., if a bail remains unposted the state must still release that person under some alternative. How would that work in a system with no preventative detention.
- Costs of preventative detention are high—mini-trial prior to anything but temporary detention
- Liberty trade-offs non-monetary versus monetary, non-monetary versus detention.

ISSUE (2): LACK OF DATA TO INFORM CHANGE IN OHIO

- The Sentencing Commission went through the same exercise, and they did a credible job, but there is no statewide data set.
- I am prepared to offer my suggestions as to what data should be collected.
- National data shows that of those released in felonies over a 15 year period, only 48% were required to post a financial bail. 52% were released on their own recognizance. When we talk about a money-based bail system, we should put things in perspective. We need to see where Ohio falls in all of this.
- There is no comparative data for type of bond posted and outcomes. There should be.
- Without the building of a statewide data set, a file review project could be done by using sampling techniques to at least get some snapshot of the current system.

ISSUE (3): RISK ASSESSMENT TOOLS

- Should they be used? 110 National civil rights groups say they should not.

- Legislation introduced in Idaho to require testing for racial bias and to force transparency.
- Which branch of the government should oversee or authorize their use? Currently, executive branch.
- Should they be standardized statewide—today they are—ORAS.
- Should they be allowed to be black-box?
- Should trade-secrets protections apply?
- Who will calibrate them, and should that be done in secret?

DOCUMENTS SUBMITTED

- I have submitted various other documents for the committee’s consideration, including previously an article from the UCLA Criminal Law Journal and a document “The Fourth Generation of Bail Reform in America.”
- We think a comprehensive data collection project should proceed, perhaps using an outside vendor, in order to get better information upon which to make decisions.
- Our *Fourth Generation of Bail Reform* offers solutions to problems that may exist in Ohio’s bail system.

LIST OF OTHER DOCUMENTS TO CONSIDER IN YOUR WORK:

All of the documents contained in the risk assessment tab,
<http://ambailcoalition.org/download-center/#24-risk-assessments>

Harris County, Texas new bail procedures in misdemeanor cases: <https://pbtx.com/wp-content/uploads/2019/01/NewBailProceduresforHarrisCounty-1.pdf>

Life, Liberty and Trade Secrets: <https://www.stanfordlawreview.org/print/article/life-liberty-and-trade-secrets/>

Idaho House Bill 118 (2019): <https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2019/legislation/H0118.pdf>

Bailing on Bail Reform: <https://www.city-journal.org/bail-reform>