



TESTIMONY ON PRETRIAL AND BAIL PROCEDURE REFORM
PRESENTED TO THE HOUSE DEMOCRATIC POLICY COMMITTEE

BY

MAUREEN BARDEN

CONSULTANT, CCAP PRETRIAL PILOT PROJECT

APRIL 12, 2017

Good afternoon, members of the House Democratic Policy Committee. I am Maureen Barden, consultant to the pretrial pilot project of the County Commissioners Association of Pennsylvania (CCAP). Thank you for the opportunity to present testimony regarding the important issue of pretrial justice reform in Pennsylvania. As Berks County Commissioner Kevin Barnhardt stated, this is an area of focus and concern for CCAP, particularly as it affects individuals whose behavioral health issues bring them into contact with the criminal justice system. As a consultant to CCAP, I have worked for the past two and a half years to help counties establish pretrial services programs, and offer the following thoughts based on that experience.

First, there is widespread interest among commissioners and other county stakeholders in pretrial reform. In many county jails, more than half the prisoners are in pretrial status and in some it is 60 to 70 percent. County officials are aware that having people sit in jail because they cannot raise small amounts of bail creates disadvantages for defendants, costs counties money, and fails to increase public safety. In August, 2016, CCAP released the report of its Comprehensive Behavioral Health Task Force, outlining ways for counties to increase diversion in appropriate cases. The report was received enthusiastically by commissioners throughout the Commonwealth, and follow-up webinars as well as conference break-out sessions on these topics continue to draw large audiences. A number of counties have also enrolled in nationwide pretrial reform efforts, including the Stepping Up Initiative, which focuses on diversion of individuals with behavioral health issues, and the 3 Days Count initiative, which advocates for pretrial reform more generally. Clearly, counties are looking for alternatives to pretrial detention.

Second, commissioners and judges must work together to improve pretrial justice. Commissioners administer the county jails in which pretrial detainees are held. The courts set bail and supervise local probation departments, where most new pretrial services programs are located. Reform can only occur if these departments work together. Bucks County provides a good example. In 2014, the Bucks County Commissioners and the President Judge agreed to fund a pilot pretrial services program in the Adult Probation and Parole Department in an effort to avoid expanding a community corrections center. The county and the court each paid for one pretrial services officer, and the Probation Department contributed an experienced supervisor's time. To date, 409 people have been placed on pretrial release, more than 70 percent have successfully completed their pretrial supervision, and a substantial number have been sentenced to terms below the recommended sentencing guideline range. Defendants are benefitting from the program in significant ways, including receiving behavioral health treatment while in pretrial status rather than sitting in jail. As a result, the county has not had to fund a costly expansion of its community corrections capacity; in 2016, it made the pilot a permanent program.

Third, new programs need technical assistance and financial support in order to succeed. There is a great deal of research on best practices in pretrial services programs. In order to put these principles into practice, counties need specific, ongoing advice tailored to their individual circumstances. Counties also need funding for support services. It makes no more sense to have people sit in jail because they cannot afford mental health treatment than it does to have them there because they cannot afford bail. The services that are being paid for by CCAP with funds

provided by the Pennsylvania Commission on Crime and Delinquency include behavioral health assessment and treatment, housing vouchers, electronic monitoring, bus tokens, and similar supports. The funds make the difference between detention and release for a significant number of people. As counties realize savings from reduced incarceration, they can absorb these costs themselves.

Finally, small counties as well as large are interested in pretrial services. For example, rural Potter County, population 17,500, recently established a pretrial program which follows best practices and collaborates with other county programs and services. Small counties account for the largest growth in the jail population since the 1970s nationwide (28 percent of the total in 1978 versus 44 percent of the total in 2014 - Vera Institute of Justice, December 2015). This trend is reflected in Pennsylvania jails.

Representative McClinton's House Bill 1092 is a significant step toward pretrial reform in Pennsylvania. The issues it raises are critical to county jails and courts, to defendants, and to Pennsylvania communities. As the legislative process moves forward, there is a need for further investigation of best practices in pretrial justice and continuing discussion with county representatives about how best to achieve pretrial reform throughout the Commonwealth.