

Update on the Pretrial Systems Report - Feb. 2019
Criminal Justice Interest Group
League of Women Voters of Cook County

It has been 3 years since we issued our original Pretrial Systems Report. In that report we made 11 recommendations to help ensure that pretrial operations are fairly and equitably administered within the criminal justice system of Cook County. These recommendations were put forth in order to ensure that pretrial systems efficiently and effectively serve the accused and the citizenry of Cook County. The purpose of this updated report is to summarize the progress made on each of these recommendations and to assess what further steps our criminal justice interest group needs to take in order to further each goal.

Since the publication of our report in 2015 our group has interviewed 15 public officials and active employees in the criminal justice system. We have made 13 visits to bond courts throughout Cook County including Central Bond Court and all 5 of the suburban branches. We visited Mental Health Court twice, Drug Court 3 times, Problem Solving Court twice, and Restorative Justice Court once. We made one visit to Winnebago County in order to compare their problem solving court to that of Cook County. We toured the Roseland Community Triage Center and the Pretrial Services Department (in both the Courthouse at 26th and California and the Jail). We attended the Cook County Board of Commissioners' Hearing on bail where our Co-Chair gave testimony in favor of eliminating monetary bail. We participated in the monthly meetings of the Criminal Justice Advisory Committee organized by the Appleseed lawyers of the Chicago Council of Lawyers. Our Co-Chair also met with the Chicago Civic Federation to discuss the problems of data collection. These activities shaped this update of our 11 original recommendations:

1. Discontinue the Use of Cash Bail.

Developments. There has been great progress on this recommendation. In September of 2017 Chief Judge Evans issued his order to ensure that no defendant was held in jail pretrial solely because of his inability to afford bail. The order required that defendants must be questioned about this ability in bond court. A report issued in Feb. of 2018 by the Coalition to End Money Bail studied central bond court practices approximately 6 weeks before and 6 weeks after this order. They found that 80% were asked about their ability to pay versus 7% before the order. In addition, State's Attorney Kim Foxx issued a directive to her prosecutors not to ask for monetary bail if the defendant had no prior convictions and was charged with a low level offense. Cook County Public Defender Amy Campanelli has directed her attorneys go into jail to do a review of detainees who may still be held after 7 days due solely to their inability to pay.

Numbers tell part of the story. The population of Cook County Jail has declined at least 25% since our criminal justice interest group was established (from 10,000 to 6,000 detainees). It is not easy to determine how many are there solely due to inability to pay. The Coalition to End Money Bond's report puts the number at little over 3,000 only 2 months after the Judge's order was issued. ("Monitoring Cook County's Central Bond Court" report by the Coalition to End Money Bond Feb. 2018. p. 29). Others (such as those who attend the Criminal Justice Advisory Committee meetings) put the number closer to 2,500. Cara Smith, Policy Director for the Jail, said such numbers are difficult to count because so many factors go into a bond court decision. FOIA requests are required in order to receive this data.

Next Steps. The difficulty in obtaining reliable data has been a huge obstacle in assessing the use of cash bail. This concern is shared by the Chicago Civic Federation in a parallel report. We will be working with other groups to obtain this data.

2. Make Thoughtful Use of Personal Recognizance I- Bonds and Electronic Monitoring.

Developments. There are far more detainees receiving I-Bonds and Electronic Monitoring than before the Judge's order. According to Brad Curry of the Sheriff's office there are about 2600 detainees on EM. The Coalition's report stated that the number receiving I-Bonds had doubled.

There continue to be some troubling aspects to the EM program. Most of the detainees are under the jurisdiction of the Sheriff's Dept. (about 2000) and the rest are under the Chief Judge's office. The former often has more restrictive conditions, such as curfews for both 24/7 and 7PM to 7AM. The latter program has detainees on GPS monitoring. The bond court judge sets the type of EM and under whose jurisdiction the detainee will remain. The specific conditions are also set by the judge, according to Bond Court Judge David Navarro.

We are concerned about the lack of consistency concerning the conditions of EM. Mr. Curry stated that he was aware of this issue and that he and the Sheriff were working on it. Amy Campanelli, the Cook County Public Defender, stated that these inconsistencies and inequities would be lessened if all of the EM detainees were placed under the Judge's jurisdiction.

Next steps. We did not foresee these problems when we advocated for more Electronic Monitoring in our original report. We are pleased that there are fewer defendants in jail. However, we will continue to advocate for the elimination of inequities in all EM programs.

3. Improve Collaborations Among the Stakeholders to Expand the Availability of Alternatives to Jail.

Developments. According to the Administrative Office of Illinois Courts (AOIC) the stakeholders meet regularly to discuss reforms in the criminal justice system. Either the elected officials or their top staff are present at each meeting. Bond court judges are all aware of the various diversion programs and specialty courts because they are made aware by the State's Attorney's Office. Detainees who enter these programs are usually recommended by a prosecutor from this office.

In our original report we advocated Crisis Intervention Team (CIT) training. It has been proven effective in de-escalating situations for police officers who have the full 40 hour training. The collaboration of the stakeholders did not originally include police officers at their meetings. However after meeting with Lt. Antoinette Ursitti, the Chicago Police Department's then head of CIT training, she assured us that she met regularly with court officials and many outside agencies that deal with mental illness. She also assured us that 20% of CPD's officers have had this training, and at least one trained officer is available for every shift at every precinct. The new Consent Decree for the CPD has CIT training as a requirement (details of this decree are still being worked out).

Officers who have had this training are concerned that there are too few places to take detainees once a situation is de-escalated. We visited the Roseland Center Triage for this purpose and were surprised to see that it was not very well utilized (it had just opened). Our follow up one year later revealed no increased usage there. We have also visited mental health courts around the county. These seem to be helping those defendants who were sent there, but each time we saw only a dozen or so people.

Next steps. We will continue to monitor stakeholder collaboration. Police officers must be involved in this process. The Cook County Criminal Justice system has a variety of specialized

courts which offer alternatives to jail. Better coordination within the system could bring equal justice and less recidivism.

4. Improve Communication Among Bond Court Judges.

Developments. In September 2017, Chief Judge Evans replaced all of the original bond court judges at Central Bond Court with 6 new judges. The new ones had been serving in other courtrooms. The new judges meet regularly, have bias training and are well versed in using the Public Safety Assessment Tool (see number 7). According to observations from the Coalition to End Money Bail and the Criminal Justice Advisory Committee, 2 of the 6 new judges regularly set higher amounts of cash bail than the other 4. State statute requires bond court judges to consider 36 factors when deciding what type of bail to set. Like most judges, all 6 do not have the same interpretation of the law and have differing opinions in evaluating flight risk and reoffending risk.

Next steps. We will continue to communicate with Judge Evans' staff in order to monitor this collaboration.

5. Complete the Integrated Information System.

Developments. This relatively new technology system (BUS) seeks to automate the exchange of data between key criminal justice agencies (Clerk of the Circuit Court, the Chief Judge, Sheriff's Office, Police Departments, State's Attorney, Illinois Department of Corrections). All of these agencies are using the BUS technology to some extent. (Some information needs to stay within a single department due to security reasons.) To do this quickly and effectively, four phases of this technology are being implemented with the completion date set for August of 2019. According to the 2018 Quarter 2 report, the following are completed: Automated Court Reminders for all defendants via phone messages and text, Electronic Mittimus between the Sheriff and the Clerk of the Court in order to minimize unlawful or delayed releases from Cook County Jail and to report timely releases, eDefender case management system (KRIMS for felony and misdemeanor criminal cases and TRIMS for traffic cases). With a completion goal of March 2019, the processing of new inmates between the Sheriff's Office and the Illinois Department of Corrections should prove safer and more accurate. The Bond Court exchanges will modernize the document sharing process by doing away with carbon and paper documents. This part should be completed by Aug. 2019.

Better use of technology should lead to better case management and a more efficient court process from arrest to disposition of the case. Every part of each case from subpoenas to the use of expert witnesses should be electronically available to all participants.

Next steps. We will be following up with the Technology Committee of the Cook County Board of Commissioners as these dates get closer.

6. Evaluate the Results of Diversion Programs.

Developments. We define these programs as those offered to defendants while they are still in the pretrial stage. There are special programs for defendants after they have been sentenced, but we focused on pretrial. The goal is to divert the defendant from trial and/or incarceration. These programs can be called successful if the defendant completes all of the requirements of the program (graduates) and stays out of the criminal justice system for the next 3 years.

TASC (Treatment Alternatives for Safe Communities) is a prominent organization in Illinois that works with the State's Attorney's office to divert defendants during pretrial and post-trial. Their own data cited over 3000 detainees who were diverted in 2017 from traditional prosecution in Cook County. These are people who completed programs mainly for substance abuse. They also cite a reduction in those who were arrested for future drug offenses for those who graduated from these programs compared to those who never attended, after a 2 year post incarceration period. That figure is for all of Illinois, not just in Cook County.

The State's Attorney's Office has had a deferred prosecution program for many years. A study ("Evaluation of the Cook County State's Attorney's Office's Deferred Prosecution Program" pp.6-8) completed in 2015 by the ICJIA (Illinois Criminal Justice Information Authority) cited 35 people per month diverted to this program. 69% graduated and the recidivism rate for those graduates was 31% after 18 months. Unfortunately the control group's recidivism rate was statistically similar (34%).

The State's Attorney's current website does not include data on this program, only on arrests, prosecutions, and disposition of cases in the traditional sense.

The JAC (Justice Advisory Council) under President Preckwinkle's office is another group that advocates diversion programs. After meeting with the JAC's Delrice Adams and Rebecca Janowitz we learned a lot about the grant process and the various programs that exist for addiction problems, but we did not receive much data related to completion and recidivism. Interestingly this council advocated CIT training as one of the best ways to divert people from the criminal justice system. (see number 3).

These diversion programs help too few defendants. The data from such a small sample is limited.

Next Steps. The Chicago Civic Federation is focused on getting data from Cook County's criminal justice system. We will continue to work with them and with our connections at TASC and the State's Attorney's office to request better data collection and analysis. The Pew-MacArthur Results First Initiative is also working on ways to collect the data dealing with the effectiveness of some of these programs. They will be working with the staff from the Justice Advisory Council to identify which of these programs should continue to receive funding. We will be reviewing better data collection and analysis.

7. Confirm the Validity of the Pre-trial Public Safety Assessment.

Developments. The Public Safety Assessment (PSA) is an integral part of the new bond court process. This particular tool has been an objective way for judges to determine the flight risk and reoffending probability for each defendant. The judge receives a numerical score for predicting each of these 2 factors along with a report written by the pretrial officer.

Members of our group were given a first hand look at this process both at the jail and in the court in April of 2017. We were granted access by Juan Hinojosa of the Pretrial Services Dept. and Chris Carroll of the Chief Judge's Office. Our tour was arranged by the Chief Judge. We witnessed a new defendant being interviewed by a pretrial services officer in the jail. Then the information was checked thoroughly for accuracy by PSA workers in the court. This sometimes took all day if the defendant had an arrest record out of state. Also different states label crimes differently, so that the PSA evaluator had to figure out how the out of state charges compared

with similar crimes in Illinois. We were impressed with the amount of time taken to achieve accurate PSA scores and an accurate accompanying report.

However, the PSA and the report are merely tools that go into the judge's decision on bond. He has 36 factors to consider according to state statute and he is still free to "judge" the situation as he sees fit. The Civic Federation's report "The Impact of Cook County Bond Court on the Jail Population: a Call for Increased Public Data and Analysis" (Nov. 2017) stated "it is unclear to what extent bond court judges have used risk assessment tools or what effect the new formula has had on bail decisions." p. 47

Next steps. We understand that a bond court decision is based on many factors, But the objective use of the PSA has been an improvement over the subjective guesswork of the past. Bond Court hearings are longer for each defendant, they begin at 1:30 PM in order to get all of these reports in order. Pretrial services workers are working diligently to get the proper and accurate information to each judge, and decisions seem more objective than in the recent past. We are satisfied that things are improving. We will continue to monitor the use of the PSA and other bond court procedures.

8. Improve the System of Drug Testing to Reduce Unnecessary Incarceration.

Developments. In 2015 suspicious substances seized by police were sent to the Illinois Crime lab for testing. This resulted in unnecessary delays and jail time. A pilot program was started soon afterward in several Chicago police precincts to test these substances right there. This has cut down on the delays.

Next steps. According to the Appleseed lawyers who evaluated the pilot program, the need for field testing is somewhat moot. The CPD is making far fewer drug arrests than in the past. Bail reform has enabled people caught for possession of suspicious substances to bond out without cause, for the most part. This recommendation has become unnecessary. No follow up is needed.

9. Create More Locations for Bond Court.

Developments. When we first visited bond court around the county we were appalled at the difference in the length of time given to a defendant between suburban and central bond court hearings. At 26th and California the average time per defendant was about 90 seconds. In the suburbs it averaged 5-10 minutes. We now see longer hearings and more thoughtful deliberations at central bond court. More attention is now given to reports, the PSA, ability to pay and the overall background of each defendant.

Next steps. The 6 new central bond court judges share the main courtroom (room 100). Using other locations is probably not necessary at this point.

10. Evaluate the Value of Specialty Courts.

Developments. We visited many specialty courts including drug courts, mental health courts, veterans courts, problem solving courts, and the Restorative Justice Court. All of the detainees at these courts were assigned through the State's Attorney's Office. The Restorative Justice Court is located in North Lawndale and is new to the Cook County Court System. If this court works well, it will be replicated in other locations. The other courts are located at 26th and California (at Central Bond Court) and all suburban locations. The suburbs with the most cases are Skokie and Maywood. In all of these courts, the judges take a great deal of time with each case. Many have taken social work classes and all have special training. These courts usually meet

once a week. All of the programs at these courts have special requirements for participants such as weekly drug testing. All have completions or graduations.

Recidivism rates vary. The courts with the best rates are those that work with community groups. We saw the presence of workers from TASC (Treatment Alternatives for Safe Communities) at many of these locations. Drug court at 26th and California has a wholistic program with a very low recidivism rate (less than 20% after 3 years according to TASC statistics). This program (Alternative Drug Program) works. It offers job training, housing, counseling and a support group. It is rare to have this wholistic approach. We noted that too few defendants are offered access to these specialty courts. Each visit showed us a small group of those defendants, perhaps 15 at a time. With 30,000 felony cases per year, this is not enough.

The Restorative Justice Court in North Lawndale is too new to offer recidivism rates. It meets every Thursday and involves community organization. Present at this court were 4 attorneys (2 from each side) a police officer, the victims of the crime, and 4-5 people from social service organizations or community restorative justice groups. The judge handled defendants from various stages in the process. She patiently explained that this process could be used instead of going to jail. She explained how each defendant must take responsibility for his actions and must pledge to follow the steps outlined in his action plan called a "repair of harm" agreement.

Next steps. These programs show promise for the future, but it is too soon to see if they can succeed and be replicated elsewhere. They require a commitment of staff and resources, but the investment in reducing recidivism will result in reduced expenditures in the criminal justice system. We will be monitoring these programs and this type of court in the future.

11. Continue to Mandate Stakeholder Collaboration.

We are pleased that the various stakeholders within the criminal justice system continue to meet regularly. They are mandated to do so by the Illinois Supreme Court and are monitored by the Administrative Office of the Illinois Courts (AOIC).

AOIC will be releasing another pretrial report in 2019 with updates on all of the changes that have been taking place. The Civic Federation will be pursuing its task of finding data that is easily available to the public at all stages of the criminal justice system. The League of Women Voters of Cook County's Criminal Justice Interest Group will continue to advocate for these recommendations and report on their progress.

Members of the LWVCC CJIG:

Jan Goldberg and Karin Hribar, Co- Chairs,

Carole Cotter, Laura Davis, Diane Edmundson, Sonia Evenstad, Beverly Graham, Barbara Koger Hayes, Elizabeth Hayford, Janet Kittlaus, Mary Rose Lambke, Amy Little, Glenda Townsend, Sharon Welch

Interviews and Communications with Public Officials

1. Delrice Adams, Executive Director, and Rebecca Janowitz, Special Assistant for Legal Affairs, for the JAC, Justice Advisory Council (June 2018)
2. Justice Anne Burke, Illinois Supreme Court Justice. (June 2017)
3. Amy Campanelli, the Cook County Public Defender (Aug. 2018)
4. Chris Carroll CEO of the Community Counseling Center of Chicago (Oct. 2017)

5. Thomas Dart, Sheriff of Cook County, Dr. Jones-Tapia, former Executive Director of the Jail. Cara Smith, current Executive Director of the Jail, and Brad Curry, Chief Operating Officer for the Sheriff (Sept. 2016, Sept. 2017, and Oct. 2018)
6. Chief Judge Tim Evans, Michael Carroll of the Chief Judge's office, Pat Milhizer, Director of Communications for the Judge (Nov. 2016, April, 2017, and Oct. 2018)
7. Sharlyn Grace, attorney for the Chicago Bond Fund, previously for Appleseed.
8. Katie Hill, Director of Policy for the State's Attorney's Office (July, 2017)
9. Juan Hinojosa, Asst. Chief Probation Officer for Pretrial Services (April, 2017)
10. Lilian Jimenez, Director of Policy for Cook County Commissioner Garcia's office. (throughout 2016 and 2017)
11. Marcia Meis, Director of the AOIC (Administrative Office of the Illinois Courts) Tanya Anderson, Pretrial Services Coordinator, and Rich Anderson, Asst. Director of Probation Services (Dec. 2017)
12. Judge David Navarro, Central Bond Court Judge and 26th and California (Oct. 2018)
13. Pam Rodriguez, President of TASC (Treatment Alternatives for Safe Communities)
14. Lt. Antoinette Ursitti, the head of CIT (Crisis Intervention Team) training for the Chicago Police Dept. (Nov. 2017)
15. Illinois State Rep. Mike Zalewski, 23rd District (Oct. 2018)

Special Tours:

1. Cook County Pretrial Services tour, Apr. 2017
2. Roseland Community Triage Center tour, Jan. 2017
3. Winnebago Specialty Courts Tour, Mar. 2016

Reports:

1. The Civic Federation's "The Impact of Cook County Bond Court on the Jail Population: A Call for Increased Public Data and Analysis" Nov. 2015
2. The Coalition to End Money Bond's "Monitoring Cook County's Central Bond Court" Feb. 2018
3. Illinois Criminal Justice Information Authority's "Evaluation of Cook County State's Attorney's Office's Deferred Prosecution Program" June 2015
4. TASC Newsletter, Spring 2018. (Treatment Alternatives for Safe Communities)

Meetings:

1. Monthly meetings with the Criminal Justice Advisory Committee made up of Appleseed Lawyers, various public interest lawyers, law professors, and private attorneys.
2. The Civic Federation of Chicago in early 2018.
3. The Cook County Board of Commissioner's Criminal Justice Committee in Nov. 2017.