

**PRE-TRIAL SYSTEMS: REPORT OF THE CRIMINAL JUSTICE INTEREST GROUP,
LEAGUE OF WOMEN VOTERS OF COOK COUNTY
DECEMBER 16, 2015**

Between May 2014 and October 2015, the Criminal Justice Interest Group of the League of Women Voters of Cook County undertook a study to evaluate the effectiveness and fairness of the pre-trial operations of the County's criminal justice system. The Interest Group proceeded under the following mission statement:

"The purpose of the LWVCC Criminal Justice Interest Group is to evaluate the Cook County pre-trial operations of the Criminal Justice System to ensure that they are fairly and equitably administered. We also want to ensure that the system both efficiently and effectively serves the accused and the wider citizenry of Cook County."

The Interest Group's study coincided with nationwide public pressure to reduce the number of individuals in jail and in prison and to investigate alternatives to incarceration. Locally, the treatment of pre-trial detainees (who make up more than 90% of those in the Cook County Jail) became a matter of particular public concern once the Administrative Office of the Illinois Courts (AOIC) issued its March 2014 "Pretrial Operational Review" of the Circuit Court of Cook County. The AOIC report included 40 recommendations for improvement of the Cook County pre-trial system, whose implementation became the focus of the Interest Group's study. A summary of the current system can be found in the AOIC report, www.illinoiscourts.gov/supremecourt/reports/pretrial/pretrial_operational_review_report.pdf, at pages 15-19 and 22-26.

Members of the Interest Group are listed on Exhibit A. One or more group members participated in 20 interviews of public officials, lawyers, and professors of law and criminal justice, or visited and observed procedures in the Cook County Jail, Central Bond Court, and four suburban bond courts. Those interviewed are listed on Exhibit B.

The Criminal Justice Interest Group and its interviewees are all interested in ways to reduce the jail population without diminishing public safety. A number of specific recommendations were made repeatedly in the interviews and several significant modifications in procedure have been adopted during the 18-month period of the study.

FINDINGS

The interviews revealed consensus on a wide range of issues affecting the operation of the Cook County Circuit Court's pre-trial system. Areas of agreement are highlighted below, broken out by stages of the process.

Bond Court:

1. Bond hearings for defendants are 90-120 seconds in the city as opposed to 10-15 minutes in the suburbs. This disparity is unfair to the arrestees at Central Bond Court.

2. To ensure defendants' appearance at trial and minimize the likelihood of their re-offending during the pre-trial period, Cook County Bond Court judges frequently impose cash bail. Because this produces unequal treatment of rich and poor defendants, jurisdictions around the country have moved toward eliminating bail. Washington, D. C., uses it in fewer than 15% of cases and has experienced no significant problems, while New York City has eliminated it for most nonviolent offenses.

3. The courts are currently using a grant to staff more assessment personnel. If this level of assessment staffing is to be maintained, new money will need to be found and allocated.

4. In early 2015, Chief Judge Evans changed the traditional morning bond court hearings to the afternoon to allow additional time for pre-trial managers to evaluate the defendant's risk. This change is favored by the judges and pretrial managers. Public Defender Amy Campanelli also supports the change and suggested possibly staggering the times (1:30 and 3:00) to allow time for both the pretrial managers and the public defenders to assess clients fully.

5. To ensure consistency across the Circuit Court of Cook County, judges would benefit from a "bench book" enumerating all possible alternatives to incarcerating low risk pre-trial detainees. Per Judge Evans there is a reference resource available for those who go through the pretrial assessment tool training, but judges are not required to attend the training.

Pre-Trial Assessment Tool:

1. The Circuit Court of Cook County is engaging in a pilot project testing the pre-trial Public Safety Assessment, developed under a grant from the Arnold Foundation. The model provides a numerical score reflecting flight and safety risk as well as the risk of re-offending. The Cook County experience will be used to further validate the model.

2. Prior to its full implementation, some judges, the Public Defender and the Sheriff expressed skepticism about the value of this or any assessment tool to determine risk of re-offending. There was, however, strong consensus that a personal interview by a trained pretrial manager would greatly increase trust in the pretrial tool. In addition, there was a strong recommendation that the Public Defender interview the client before the pretrial assessment to be alerted to mental health issues and possible diversion programs.

Diversion Programs (typically for mental health and/or addiction issues):

1. Judges need to know what diversion programs exist, who runs them, and how well they operate. This points to the need for regular collaboration among the Bond Court judges and for coordinated and on-going information sharing among the judges, public defenders, assistant state's attorneys, and the diversion program providers.

2. More data (and more independent data) is needed to determine which programs actually work to lower recidivism. Treatment Alternatives for Safer Communities (TASC), the organization designated by state statute to assess program results, claims 84% of the graduates of the State's Attorney's Drug Abuse Programs had no drug-related arrests after 3 years, but that is just one of many diversion programs available.

3. The State's Attorney's Office also has a Deferred Prosecution program. Detainees who complete diversion programs before they are sent to trial can have their felony charges dropped. The detainees must be charged with non-violent offenses to participate.

4. Detainees are entitled on request to an evaluation by a group such as TASC to see if they are suited to a community-based program. Relatively few detainees know about this option, nor is it necessarily in their best interests to participate. Some Public Defenders object to having detainees assigned to rehabilitative programs when they haven't been convicted of anything.

Mental Illness:

1. The Sheriff reports that he runs the "largest state mental health facility in the nation," estimating that between one-fourth and one-third of the detainees suffer from mental illness. It is universally recognized that jails have too often replaced the now defunct public mental health facilities since these individuals often have no place to turn for free or affordable services and medication.

2. The new Executive Director of the jail most recently served as its main staff psychologist. This appears to reflect the Sheriff's emphasis on the importance of providing appropriate mental health services to detainees.

3. The Cook County jail now offers a Mental Health Transition Program, a new approach involving a three-step process to change thinking, solve problems, and learn social skills.

4. The Affordable Care Act will pay for mental health treatment, and those brought to the Cook County Jail are immediately signed up for health insurance coverage which carries over once the detainee leaves the jail system. However, detainees often need a case manager or other follow-up measures to ensure that they stay on their medication.

5. University of Chicago Professor Mark Heyrman said that the biggest problem in dealing with the mentally ill who end up in the criminal justice system is insufficient training of police, judges, and pre-trial managers. Until recently, the County had a training grant available for Chicago police personnel.

6. Two specialized Mental Health Courts bring together police, prosecutors, defense attorneys, and treatment experts from TASC to adjudicate cases. TASC is a strong advocate for signing up detainees for both in-patient and out-patient treatment services through organizations such as Gateway, Pillars and Thresholds.

Collaborations Among the Stakeholders:

1. Two Supreme Court-appointed retired judges hold regular meetings among Chief Judge Evans, President Preckwinkle, Sheriff Dart, State's Attorney Alvarez, Public Defender Campanelli, and Michael Tardy, Director of the Administrative Office of the Illinois Courts (AOIC). The stakeholders attend themselves; they are not permitted to send surrogates.

2. Between scheduled stakeholder meetings, the Chief Judge meets with AOIC Director Tardy to discuss the court's progress on the 40 recommendations contained in the AOIC report. The Chief Judge reported in September 2015 that he had acted on 33 of them.

3. Other counties in Illinois use more extensive collaboration. In Aurora, for example, the Assistant State's Attorneys and Public Defenders meet every morning to discuss the disposition of cases on the docket for that day.

4. Better information-sharing is essential. The court is working on creating a technology "bus" through which stakeholders could share information, but the process is slowed by the parties' concerns about confidentiality and other boundary issues.

5. Virtually all of the interviewed stakeholders and experts agreed that better collaboration is essential to reducing the jail population. Not only is there an economic but also a societal incentive. Too many detainees lose their jobs and have their family lives seriously disrupted only to have their case dismissed at trial. Further, there is growing evidence that even two days in jail can set the stage for a future of crime and recidivism for those most vulnerable.

RECOMMENDATIONS

Despite encouraging progress, substantial changes remain to be made to ensure that the pre-trial system in Cook County incarcerates as few people as possible for as short a time as possible while ensuring that those released will appear for their trials and pose no threat to the community. To promote these outcomes, the League of Women Voters of Cook County **recommends:**

1. DISCONTINUE THE USE OF CASH BAIL

Requiring defendants to put up cash to avoid jail while awaiting trial punishes the poor more than others. If defendants are adjudged not a threat to any person or the community and are found likely to return to court, they should be released on their own recognizance (I-Bond) or on appropriately restrictive electronic monitoring. Additional conditions of release may accompany either of these options. If defendants are a risk to the community or a flight risk, they should be kept in jail. Cook County judges are already using I-Bonds and electronic monitoring in approximately half the cases and should be encouraged to expand this practice.

Other jurisdictions including Washington, D.C., have dramatically reduced the use of money bail without significant increases in defendants' absconding or committing additional crimes. While actual abolition of money bail in Cook County would require a state statutory change, even the current statute says bail should be a last resort, and Bond Court judges should take this into account when exercising their discretion.

2. MAKE THOUGHTFUL USE OF PERSONAL RECOGNIZANCE I-BONDS AND ELECTRONIC MONITORING

Electronic monitoring may be more appropriate than I-Bonds for higher-risk defendants. The courts should track and report on the effectiveness of electronic monitoring vs. I-Bonds in assuring good behavior and timely return for trial. The goal of either form of release is to enable the accused to work and care for his/her family while awaiting trial.

As recommended by the AOIC, institute a system of court-date reminder calls for defendants. This has been used effectively in Washington, D.C., and other states and counties.

3. IMPROVE COLLABORATION AMONG STAKEHOLDERS TO EXPAND THE AVAILABILITY OF ALTERNATIVES TO JAIL

Each office appears to have its own program designed to reduce the jail population or improve outcomes for pre-trial detainees: the Sheriff, the State's Attorney, the Chief Judge. Doubtless some of these programs overlap. The Sheriff, the State's Attorney, the Chief Judge, and perhaps a representative from the Judicial Advisory Council need to assign experienced personnel to a joint Task Force to identify best practices and services currently available, and develop recommendations for joint implementation and support.

Police should be integrated into this collaboration with the goal that some prosecutions be stopped before they begin. Specifically, funding should be restored for the Crisis Intervention Training (CIT) program for police officers. CIT has a proven track record in enabling officers to de-escalate situations, particularly those involving persons with mental illness. Police trained in crisis intervention may be able to take a mentally ill person for respite or treatment to a triage center or other location instead of a police station. Several stakeholders and experts strongly support increasing the number of triage centers. Finding grants or adding money to budgets is the largest impediment.

In any case, judges must be made more aware of the range of available alternatives so they can use them when appropriate. This will enable more people accused of crime to remain in their communities, working and supporting their families, while they receive help for their problems.

4. IMPROVE COMMUNICATION AMONG BOND COURT JUDGES

Judges have broad discretion in setting bonds and conditions of release. However, this discretion does not override the imperative that justice be equitably administered. Thus, we recommend that Bond Court judges meet regularly to compare notes and strive for a more uniform application of decision-making across the county, possibly leading to the development of a "bench book" of guidance for Bond Court judges. The expanded use of the Public Safety Assessment tool should make this easier to accomplish.

5. COMPLETE THE INTEGRATED INFORMATION SYSTEM

This will minimize the flow of paperwork and assure that all participants in the process have all the necessary background on the accused. While certain aspects of a defendant's record must be kept confidential, many others can be shared. All parties should come to the table now, explain frankly what they will and won't share, and empower their information technology subordinates to incorporate the shareable items into a system usable by all. The more information shared, the easier it will be for stakeholders to trust each other and the less resistance there will be to additional sharing or to reaching agreement on what must remain confidential.

6. EVALUATE THE RESULTS OF ALL DIVERSION PROGRAMS

To determine which interventions and programs actually work, and for which types of defendants, these evaluations should be conducted by neutral and expert monitors and not rely exclusively on self-reporting. Guidelines and measures for programs and accurate statistical data should be used.

7. CONFIRM THE VALIDITY OF THE PRE-TRIAL PUBLIC SAFETY ASSESSMENT

Verify the information arrestees provide at intake. Monitor outcomes (non-appearance for trial or re-arrest while awaiting trial) to ascertain the predictive value of the pre-trial Public Safety Assessment. The more reliable the assessment is shown to be, the more Bond Court judges will be willing to use it in determining release or detention.

8. IMPROVE THE SYSTEM OF DRUG TESTING TO REDUCE UNNECESSARY INCARCERATION

Currently the practice is to detain drug arrestees while their suspicious substances are sent to the state crime lab, which takes three weeks to process them. If the drugs prove to be below criminal potency, the charges are dropped but the arrestee has already served three weeks in jail, which is correlated with recidivism. The routine for drug arrests should be designed to keep people out of jail: either release them pending test results or institute field testing of drugs.

9. CREATE MORE LOCATIONS FOR BOND COURT

The five courtrooms attached to police districts in Chicago should be used for suburban Bond Court at night and on weekends, when the suburban courts are closed. In addition, more associate judges should be assigned to Central Bond Court, reducing the current disparity between the amount of time spent on defendants in the city and the amount of time suburban defendants receive.

10. EVALUATE THE VALUE OF SPECIALTY COURTS

It should be determined if specialty courts such as Veterans Court, Drug Court or the Alternatives for Community Treatment Court are the best use of judicial resources. If they produce more positive outcomes for the target populations than broad-spectrum courts at similar cost, they should be expanded.

11. CONTINUE TO MANDATE STAKEHOLDER COLLABORATION

Several interviewees were skeptical that continued collaborative progress would occur without external support. This is not a reflection on the stakeholders, but rather a recognition of the difficulty and energy it takes to move an entrenched system to a new and better place, or even to agree that it is a new and better place. Therefore, the League of Women Voters of Cook County recommends that the Illinois Supreme Court through its appointed judicial liaisons and the AOIC continue to schedule collaborative meetings, urge the establishment of achievable goals, and provide reports to the public.

**Exhibit A: Members of the Criminal Justice Interest Group,
League of Women Voters of Cook County**

Jan Goldberg and Karin Hribar, co-chairs

Jill Althage

Kathy Balk

Carol Clancey

Jaclin Davis

Laura Davis

Diane Edmundson

Sonia Evenstad

Beverly Graham

Betty Hayford

Karen Hunt

Janet Kittlaus

Kelly Kleiman

Amy Little

Cynthia Schilsky

Lali Watt

Exhibit B: Interviewees

1. Ali Abid and Elizabeth Monkus, lawyer-investigators, Chicago Appleseed Fund, research arm of the Chicago Council of Lawyers
2. Anne Burke, Justice, Illinois Supreme Court; chair, Cook County Justice Advisory Council Board of Directors (2 meetings)
3. Amy Campanelli, Public Defender, Cook County
4. Tom Dart, Sheriff, Cook County
5. Timothy G. Evans, Chief Judge, Circuit Court of Cook County (2 meetings)
6. John Fritchey, Commissioner, Cook County; chair, Technology Committee, Cook County Board of Commissioners
7. Mark Heyrman, professor, University of Chicago Law School; mental health expert
8. Daniel Kirk, Philip Roy, and Joe Magats, Assistant State's Attorneys, Cook County
9. David Olson, professor, Loyola University Department of Criminal Justice; crime statistics expert
10. Patrick Reardon, First Assistant Public Defender (retired)
11. Pam Rodriguez, Executive Director, Treatment Alternatives for Safer Communities (TASC)
12. Julianna Stratton, Executive Director, Justice Advisory Council (retired)
13. Larry Suffredin, Commissioner, Cook County; Michelle Jordan, counsel
14. Michael Tardy, Director, Administrative Office of the Illinois Courts (AOIC) (2 meetings)
15. Lanetta Haynes Turner, Executive Director, Justice Advisory Council
16. Amy Watson, professor, Jane Addams School of Social Work, University of Illinois at Chicago; mental health expert
17. Mike Zalewski, Representative, Illinois General Assembly; chair, General Assembly's Joint Commission on Criminal Justice