

ACJC Workgroup on Pre- and Post- Trial Laws and Processes
Staff Notes and Member Assignments
January 5, 2015 meeting, 3 – 4:30 PM,
Denali Commission, 510 L Street, 4th Floor

Commissioners Present: Alex Bryner, Stephanie Rhoades, Ron Taylor, Trevor Stephens (tel.)
Staff: Mary Geddes, Teri Carns
Participating: Nancy Meade, Natasha Pineda, Bob Linton
Presenters: Kevin McCoy, Matt Jedrosko

Next Meeting: January 27, 2015 2:00 – 4:00 p.m.
ANCHORAGE location to be announced

The meeting commenced at 3:00 PM.

INFORMATION

Presentation: Federal bail law and practice

The meeting opened with U.S. Magistrate Judge Magistrate Kevin McCoy describing federal bail law and practices. He said that the presumption is that defendants will be released, although the judge may impose a variety of restrictions. No financial condition that prevents release can be imposed. Bail hearings are held under a variety of circumstances, at the request of the defendant or the government. Judges can detain defendants without bail for a limited number of reasons, which must be documented in a written order.

Ms. Geddes asked Judge McCoy to describe the principal differences between the state and federal bail systems. Judge McCoy said that the state system does not appear to have as strong a preference for release. While the federal courts rarely require any sort of monetary bond, although they might ask for a property bond, state judges seem to require more frequently require monetary bail.

Mr. Jedrosko said that federal probation officers work for the court, not the Executive Branch. The office segregates the PO's with the Supervision function from those with the Investigation function, and Pretrial PO's are instructed to view pretrial defendants very differently from convicted persons subject to supervision. Pretrial officers invest a significant amount of time in handling pretrial bail matters. They research prior criminal histories, interview defendants, inspect homes and compile written reports and recommendations prior to the court's bail decisions; after a defendant's release, they provide supervision of defendants who are on bail. When defendants are interviewed in advance of a bail decision, the PO's specifically tell them not to mention their offense, and refer them to their attorney for such discussions. The probation officers do use a risk assessment tool, for internal use only; the judges aren't aware of any scoring, They complete the form based on information from outside sources, not from a defendant interview.

Judge McCoy said that defendants are usually indicted before their first appearance in federal court. About 10% arrive in court based on a summons or complaint. Justice Bryner noted that this is very different from the state system where most people appear because of an arrest or summons.

Draft bail survey

Mary Geddes distributed a proposed draft survey of practitioners to determine bail practices and problems throughout the state. Judge Rhoades said that she could call the judges to invite them to complete a survey, and Mr. Linton offered to contact the heads of each district attorney office. Ms. Geddes said the draft survey should be offered to the PD as well, because it had been expanded from the initial and more informal survey conducted by Jay Hochberg.

Judge Stephens agreed. He said that, after hearing from Jay Hochberg, the Assistant Public Defender at the prior meeting, he contacted judges in his district and found that they had very different perceptions of some of the cases discussed. He said that he would prefer to have written answers from all sides, to be sure that every member of the committee was seeing the same thing.

Members agreed that Judge Rhoades, Quinlan Steiner, and Bob Linton should work together as a subcommittee to draft a survey. Justice Bryner suggested that a shorter survey was likely to get a better response. Ms. Geddes said that she would schedule a meeting for the group, and that they could plan to have a draft survey completed before the Presiding Judges' meeting on February 4.

Pretrial risk assessment instruments

Ms. Geddes said that she has been adding pretrial assessment information to the ACJC web "Resources" page, including a document from the Pretrial Justice Institute that outlines the most current evidence-based work. A result from Hawaii's Justice Reinvestment Initiative was a statutory change requiring mandatory use of a pretrial assessment tool for defendants who remain jailed after three days. One purpose of their project was to expedite the pretrial process. She said that the Arnold Foundation was working to validate an instrument that could be used by any jurisdiction within the United States, rather than each jurisdiction having to validate and norm the tool for each local population. The PSA tool requires no defendant interview, and supposedly no additional staff and expense. The Arnold Foundation hopes to make their non-proprietary instrument available in 2016. Several Commissioners expressed doubt as to the availability of future funding for any new function, e.g. a required pretrial assessment tool or agency function.

Ms. Geddes said that we could focus on pretrial tools not requiring substantial investments, such as automated telephone calls regarding scheduled court dates, which have proven effective in obtaining compliance with pretrial release conditions. Justice Bryner emphasized that need to be sure that any new programs were faithful to the model that had been shown to be successful.

Court disposition times

Ms. Meade discussed the data presented in her table of disposition times in superior and district courts for different types of dispositions.

QUESTIONS:

Judge Rhoades asked if it were possible to learn/link the types of cases being disposed of in district court to the disposition times.

ASSIGNMENTS:

Judge Rhoades, Mr. Linton and Quinlan Steiner (the 3 members of the 'bail survey subcommittee') are going to (1) finalize the questions for the bail survey and then (2) recommend to the larger Workgroup who should receive it. There was a specific concern expressed that the survey reach actual bail practitioners, not just their bosses. If any other member of the Workgroup wishes to weigh in on the survey, contact staff or Judge Rhoades by the end of this week.

FUTURE MEETING DATES (LOCATIONS TO BE ANNOUNCED)

- January 27, 2 - 4 p.m.
- February 20, 2 - 4 p.m.
- March 16, 2 - 4 p.m.
- April 28, 1:30 - 3:30 p.m.

THE MEETING ADJOURNED AT 4:40 pm.

Notes by Teri Carns (MG ed.)