

final minutes

Criminal Justice Policy Commission Meeting

9:00 a.m. • Wednesday, March 1, 2017

Senate Appropriations Room • 3rd Floor State Capitol Building

100 N. Capitol Avenue • Lansing, MI

Members Present:

Senator Bruce Caswell, Chair
Stacia Buchanan
Senator Patrick Colbeck
Representative Vanessa Guerra
D. J. Hilson
Kyle Kaminski
Sheryl Kubiak
Barbara Levine
Laura Moody
Representative Jim Runestad
Jennifer Strange
Judge Paul Stutesman
Andrew Verheek
Judge Raymond Voet

Members Excused:

Senator Bert Johnson
Sarah Lightner
Sheriff Lawrence Stelma

I. Call to Order and Roll Call

The Chair called the meeting to order at 9:00 a.m. and asked the clerk to take the roll. A quorum was present, and absent members were excused.

II. Approval of February 1, 2017 Meeting Minutes

The Chair asked members if there are any changes or additions to the proposed February 1, 2017 CJPC meeting minutes. There were none. Commissioner Hilson moved, supported by Judge Stutesman, to approve the minutes of the February 1, 2017 meeting as proposed. There was no further discussion. The minutes were approved by unanimous consent.

III. RFP for Study of County Costs to Redirect 17-Year-Olds to Juvenile Justice System Update

The Chair noted that a RFP Review Panel Summary (see attached) is included in today's meeting packet. The Chair stated that it will be the responsibility of the Legislative Council to work out any concerns with the work plan and opened the floor for discussion of the comments the review panel indicated need to be addressed. The Chair also asked if Commissioners preferred the bidder meet with the entire Commission or just the members of the Data Subcommittee, if that is necessary. There was no objection to the bidder meeting with just the Data Subcommittee. Commissioner Kubiak raised the need to hire a consultant with expertise in econometrics, health economics, or cost benefit analysis. The Chair asked CJPC Data Administrator Grady Bridges to bring that up with the bidder and noted that there is room in the budget to hire a consultant, if that is needed. Commissioner Hilson asked that costs to prosecutors are part of the analysis as well. The Chair also stressed the importance that the contractor understand that the study is looking for just financial facts and a clear cost analysis and not opinions. Commissioner Kubiak qualified that opinions about costs are not acceptable either and computing costs should be data driven, using econometric principles.

The Chair declared that the terms of Commissioners Hilson, Levine, Stelma, and Verheek expire today at 5:00 p.m. and they can vote on any motions made at today's meeting.

Commissioner Moody moved, supported by Judge Voet, to accept the submitted bid conditional upon final resolution of any concerns expressed by the Commission and a contract being negotiated by the Legislative Council. Commissioner Verheek asked if there is a mechanism for resolving any concerns that are not fully addressed. Chair Caswell assured him that any concerns will be worked out before a contract is finalized. **There was no further discussion. The motion prevailed by unanimous consent.**

Yeas—14

Chair Caswell
Commissioner Buchanan
Senator Colbeck
Representative Guerra
Commissioner Hilson
Commissioner Kaminski
Commissioner Kubiak

Commissioner Levine
Commissioner Moody
Representative Runestad
Commissioner Strange
Judge Stutesman
Commissioner Verheek
Judge Voet

Nays—0

IV. Update from Senator Colbeck

The Chair called on Senator Colbeck for an update on the criminal justice package of bills before the Legislature. Senator Colbeck reported that a substitute to Senate Bill 11 will be offered in committee today, and he anticipates that the entire package of bills will be voted out of the House committee today and move through the full House quickly.

V. Presentation on the Impact of Reducing or Eliminating the Use of Cash Bail

The Chair asked Commissioner Levine to introduce today's presenters—Barb Hankey, Oakland County Community Corrections, and Timothy Bouwhuis, Kent County Court Services. They proceeded with a presentation on the impact of reducing or eliminating the use of cash bail (see the attached slide presentation for more details). A period of question and answer followed. The Chair asked Ms. Hankey and Mr. Bouwhuis to send data on the cost of taking care of offenders when they are released versus the cost of taking care of them in jail. Judge Voet offered to send that data for his county and Commissioner Verheek will send the amount of pretrial programming money used in his county. Ms. Hankey will also send their risk assessment tool that is used by Oakland and other counties.

VI. Recommendation to the Legislature for Uniform Jail Management System

The Chair inquired if the Attorney General has issued an opinion regarding getting access to data currently collected by Appriss. He called on Commissioner Kubiak for an explanation. She shared information she received in an email from James McCurtis and Beth Adcock from Victim Services who met with the new head of the Sheriffs' Association. In that meeting, the head of the Sheriffs' Association indicated that he is very supportive of the efforts being made by the Commission and the Diversion Council and he plans to execute agreements from all the remaining counties so that the State will be more comfortable about the utilization of the Justice Xchange for data purposes. Commissioner Kubiak asked to go on record that there is something she feels the Commission should investigate as we move forward with the release of information to Appriss. Because Appriss is a proprietary company, she is worried that, if the Legislature moves to construct an integrated data system with data collected from separate databases throughout the state, Appriss will want to hold the data and not want to release their data so that it can be integrated into that system. Representative Runestad offered his assistance in figuring out how to move forward given this concern. Commissioner Moody reported that a request for an opinion on accessing information from Appriss has not yet been submitted to the AG Review Board. CJPC Data Administrator Grady Bridges also clarified the two ideas being discussed regarding how counties would interface with a uniform jail management system and what information they should report. The Chair asked CJPC Data Administrator Grady Bridges to prepare a proposed recommendation, within the next two weeks, that would require counties to move, within a specific time frame, to a uniform data management system when they go to replace their current system. The proposed language will be sent to Commission members for comment. The Chair noted that the Commission needs to continue the discussion of identifying what data counties would be required to report.

VII. Mental Health Subcommittee Update

The Chair called on Commissioner Strange for an update. She reported that revisions have been made to the memorandum that will be sent to the sheriffs and that the revised memo will be sent to CJPC Data Administrator Grady Bridges.

VIII. Data Subcommittee Update

There was no additional information to report from the data subcommittee.

IX. Commissioner Comments

The Chair asked if there were any comments from the Commissioners. Commissioner Verheek thanked the Commission for allowing him to serve in the event that he is not reappointed. The Chair announced that any news of the pending reappointments will be shared with Commission members.

X. Public Comments

The Chair asked if there were any public comments. There were no public comments.

XI. Next CJPC Meeting Date

The next CJPC meeting is scheduled for **Wednesday, April 5, 2017, at 9:00 a.m. in the Senate Appropriations Room, 3rd Floor of the State Capitol Building.**

XII. Adjournment

There was no further business. The Chair adjourned the meeting at 11:36 a.m.

CRIMINAL JUSTICE POLICY COMMISSION
RFP Review Panel Summary

The six member RFP Review Panel evaluated the submitted proposal using the scoring guide and criteria outlined and discussed during the February CJPC meeting. The figures below summarize the evaluation of the proposal and are followed by the comments from individual reviewers.

Two horizontal lines, one solid and one dashed, have been added to Figures 1, 2, and 4. The dashed horizontal line represents a proposal that received a total score of 60 points (i.e., 3 out of 5 for each criterion, *Criteria appear to be minimally met, but limited information is provided about approach and strategies or lacks focus and detail.*) The solid horizontal line represents a proposal that received a total score of 80 points (i.e., 4 out of 5 for each criterion, *Satisfactory response with sufficient detail. Adequate discussion of how the criteria are met, but some areas are not fully explained and/or questions remain. Some minor inconsistencies and/or weaknesses.*)

Figure 1: Total Scores by Evaluator

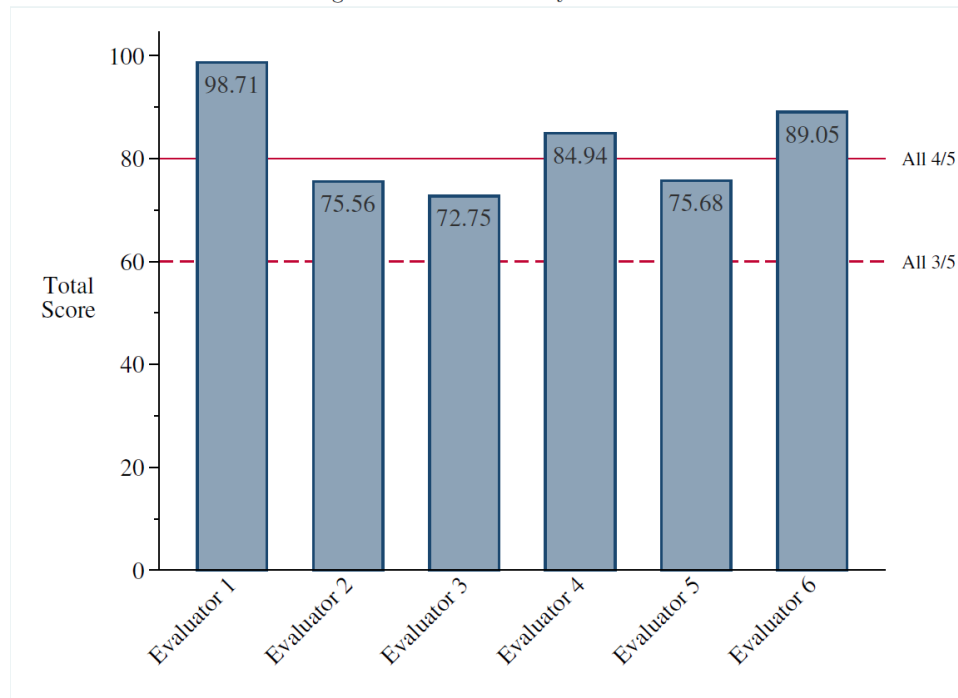


Figure 1 displays the total scores from the evaluators with their exact value labeled inside each bar (e.g., Evaluator 5 gave the proposal a score of 75.68 points out of a possible 100.) Again the dashed line represents a proposal that, on average, minimally met the criteria but lacked some detail and the solid line represents a proposal that, on average, provided satisfactory responses with sufficient detail.

Figure 2: Section Scores

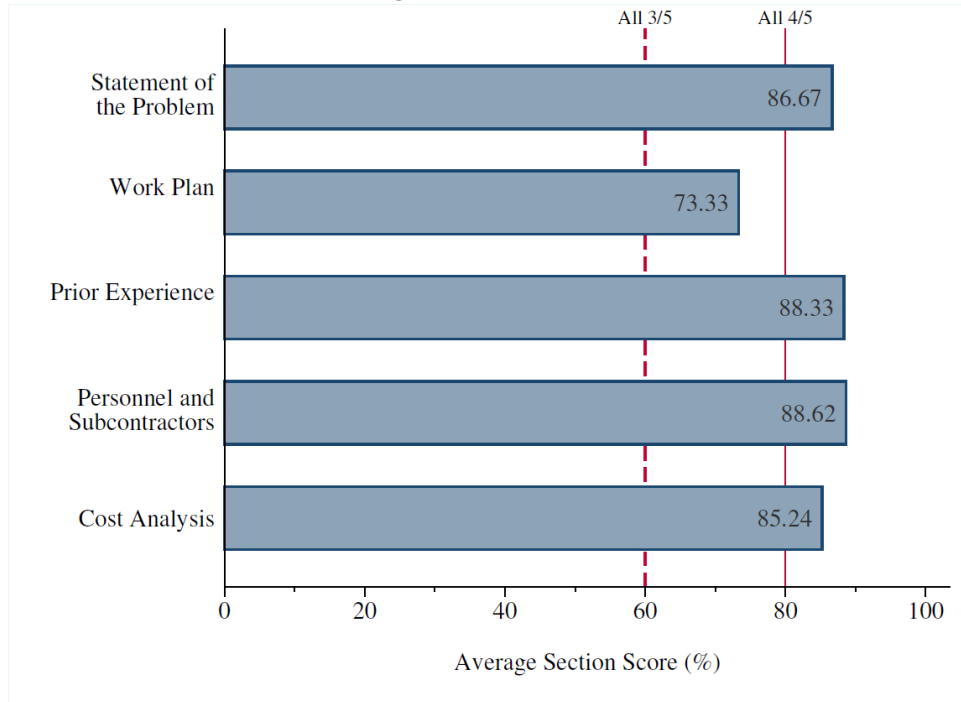


Figure 2 displays the average score, as a percentage of points possible, for each section of the RFP evaluation (e.g., the average score among evaluators for the Prior Experience section was 88.33%.)

Figure 3: Section Scores by Evaluator

	<i>Statement of the Problem</i>	<i>Work Plan</i>	<i>Prior Experience</i>	<i>Personnel & Subcontractors</i>	<i>Cost Analysis</i>
Evaluator 1	100.0	100.0	100.0	91.4	100.0
Evaluator 2	60.0	64.0	90.0	85.7	80.0
Evaluator 3	60.0	72.0	65.0	76.0	80.0
Evaluator 4	100.0	68.0	85.0	90.0	94.3
Evaluator 5	100.0	60.0	95.0	97.1	62.9
Evaluator 6	100.0	76.0	95.0	91.4	94.3
Average	86.67	73.33	88.33	88.62	85.24

Figure 3 breaks down the section averages presented in Figure 2 to show the scores from each evaluator (e.g., Evaluator 3 gave the Work Plan section a score of 72%, while the average score for the Work Plan section was 73.33%). The bolded values in the "Average" row correspond to the labeled values in Figure 2.

Figure 4: Section Scores by Evaluator

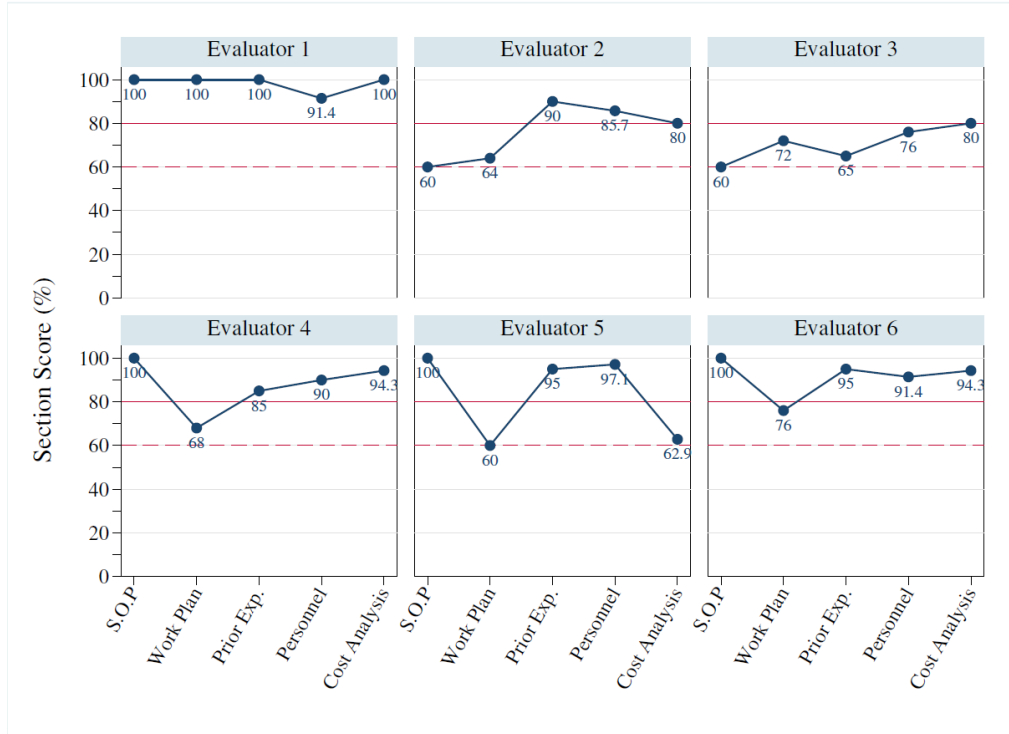


Figure 4 graphically represents the rows from Figure 3. Each plot shows the section scores from an evaluator along with the two reference lines (e.g., the lower left plot corresponds to the Evaluator 4 row in Figure 3).

COMMENTS FROM REVIEW PANEL

I. Statement of the Problem

A. BIDDERS MUST STATE IN SUCCINCT TERMS YOUR UNDERSTANDING OF THE PROBLEM PRESENTED AND THE SERVICES REQUIRED BY THE RFP.

Comment: I am concerned that they are coming into this study without an objective eye. This is evidenced by their reference to studies aimed at proving that the juvenile age should be raised. Further, they are the group that put together the study out of Connecticut. I am also concerned with the line in this part where they claim that the "state bears 100 percent of the cost when juveniles are processed in the adult system." This is not entirely true. Any misdemeanor conviction and any jail would be a county cost. Further services that are used could also be a county expense.

II. Work Plan

Comment: I will be the first to admit that this is not my specialty; however, I am concerned about using probabilities to determine how a 17 year old might be treated in the juvenile system. I understand the limitations of data, but I struggle with guessing at what might happen and using it as a model to make a financial determination of this move. There are so many factors that go into a prosecution decision when it comes to charging, whether diversion will be used, and waiver to adult court that modeling how a 17 year old would be treated based on data on how 15 to 16 year olds are treated is a big leap. The use of other state data to fill in the gaps for Michigan data is problematic, unless they use states that are comparable to Michigan. They mention using New York, which I think would be a mistake. The other interesting factor is their willingness to have the Commission and other stakeholders engage in the process of how the work plan can best be used. In some respects I like the idea because it will allow the Commission and stakeholders to form the best model that will give us the answers we need, however, it does put a lot of hands in the pot, which did complicate the work that CSG did a few years ago and suggests that this organization is not experienced to handle this project.

A. BIDDERS MUST SUBMIT A DETAILED WORK PLAN WITH TASKS AND A TIME LINE.

Comment: Time line is there but is very broad without a lot of specifics. They have anticipated end dates but no established start dates or something that defines that this part of the study will start by this date.

B. BIDDER MUST SUBMIT A DETAILED EXPLANATION OF HOW THE BIDDER WOULD:

B.i design the evaluation,

Comment: I appreciate that the design and the product went above and beyond; providing additional information than we requested; but at times it seems 'empty' promise as there is no discussion of sampling within counties for the survey or how they would incentivize participation.

Comment: Broad description with few specifics. Thought that the proposal could have been more specific on how the agency would incorporate the qualitative data they planned to collect.

B.ii conduct the analyses (including the type of analyses used)

Comment: Some of the analytic strategies are not well designed.

Comment: Agency only mentions the use of logistic regression as the type of analysis they would use. Application does not discuss how they would incorporate the qualitative materials that would be gathered in the course of the study.

B.iii issue the final report in the time afforded.

Comment: Ambitious planning.

C. COMPUTATIONS OF COSTS SHOULD BE SPECIFICALLY DEFINED AND SIMILARLY COMPUTED ACROSS COUNTIES.

Comment: They offer a rationale against defining costs similarly; seems reasonable, but definitely an area that would need to be discussed.

Comment: Did not see where the cost per county was included or described in the proposal.

III. Prior Experience

Comment: The Connecticut study appears to have been focused on what programs would be needed to service the 16-17 year old population if they were moved from the adult to juvenile court. Certainly there were discussions of the costs, however the focus of the study was programmatic not financial. This gives them some experience in this area, but not much.

Comment: The team is well grounded in policy/practice and has conducted similar studies in the past. I would like to review the CT study before we commit.

Comment: Extensive history and background evaluating and studying juvenile justice systems and issues

- A. SUBMIT A BRIEF LIST OF PROJECTS THAT THE BIDDER HAS OR IS LEADING THAT ILLUSTRATE THE BIDDER'S ABILITY TO SUCCESSFULLY CONDUCT THIS STUDY.
- B. BRIEFLY DESCRIBE EACH PROJECT AND ANY COLLABORATING PARTNERS.
- C. PROJECTS PROVIDED SHOULD DEMONSTRATE THE BIDDER'S EXPERIENCE IN WORKING WITH DATA FROM MULTIPLE DATABASES AS WELL AS CONDUCTING COST-BENEFIT ANALYSIS.

Comment: There is no discussion about cleaning, merging data and seemingly no time afforded to it. Also, the expertise on econometrics or health economics is missing. It would be greatly strengthened by adding a consultant with that expertise.

Comment: Thought this could have been brought out in more detail where and when they had experience in merging databases from various agencies and organizations at the various sites they worked.

- D. RELEVANT STUDIES OR PROJECTS REFERRED TO SHOULD BE IDENTIFIED WITH THE NAME OF THE CUSTOMER SHOWN, INCLUDING THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE RESPONSIBLE OFFICIAL WHO MAY BE CONTACTED.

IV. Personnel and Subcontractors

- A. INCLUDE THE NUMBER OF EXECUTIVE AND PROFESSIONAL PERSONNEL BY SKILL AND QUALIFICATION THAT WILL BE EMPLOYED IN THE WORK.**

Comment: Executives and associates all have extensive knowledge and experience in the evaluation/study area.

- B. SHOW WHERE PERSONNEL WILL BE PHYSICALLY LOCATED DURING THE TIME THEY ARE ENGAGED IN THE WORK.**

Comment: Proposal shows where staff and management will be located; however, proposal does not present any information which indicates all staff are housed outside of Michigan and how this will not present any issues.

- C. INDICATE WHICH OF THESE INDIVIDUALS YOU CONSIDER KEY TO THE SUCCESSFUL COMPLETION OF THE STUDY.**

- D. IDENTIFY KEY INDIVIDUALS BY NAME AND TITLE.**

- E. INDICATE THE AMOUNT OF DEDICATED MANAGEMENT TIME FOR THE BIDDERS' PROJECT MANAGER AND OTHER KEY INDIVIDUALS.**

- F. LIST HERE ALL SUBCONTRACTORS; INCLUDE FIRM NAME AND ADDRESS, CONTACT PERSON, COMPLETE DESCRIPTION OF WORK TO BE SUBCONTRACTED.**

- G. INCLUDE DESCRIPTIVE INFORMATION CONCERNING SUBCONTRACTOR'S ORGANIZATION AND ABILITIES.**

Comment: While experienced with a relatively strong team, it seems that two of the data analysts have MA in anthro (and a third is working on her MA in analytics). A bit of concern about the expertise here.

V. Cost Analysis

Comment: Overall this section was lacking for more detail. While they provide the basics, it is lacking in what those basics entail. For example, there is no detail given on how travel costs were determined, who would be traveling, etc.

A. DIRECT LABOR COSTS - ITEMIZE SO AS TO SHOW THE FOLLOWING FOR EACH CATEGORY OF PERSONNEL WITH A DIFFERENT RATE PER HOUR:

A.i Category (e.g., partner, project manager, analyst, senior auditor, research associate)

Comment: No detail provided on what each employee's responsibilities would be in terms of their job titles/descriptions.

A.ii Estimated hours

Comment: Seems under resourced for survey; visits; report writing

Comment: No detail provided on how these hours would break down in terms of work performed, what responsibilities are for each employee to justify these hours, and so forth.

A.iii Rate per hour

Comment: Seems reasonable

Comment: Rate per hour is given but no detail on how these rates were determined in terms of whether the rates are industry standards, what these rates include, etc.

A.iv Total cost for each category and for all direct labor costs

Comment: Well under our cap

B. OTHER DIRECT COSTS - ITEMIZE

Comment: These were itemized but not detailed.

C. OVERHEAD AND INDIRECT COSTS - ITEMIZE

Comment: At 12 % reasonable

Comment: No detail provided on what these would include.

D. TOTAL COST

Comment: Under what I would expect

Reforming Pretrial Justice in Michigan

CRIMINAL JUSTICE POLICY COMMISSION
MARCH 1, 2017


Barbara Hankey, Manager
Oakland County Community Corrections

Tim Bouwhuis, Director
Kent County Court Services

The Problem

Over 6 in 10 jail inmates across America are being held pretrial

Most (5 out of 6) are held not because they are dangerous but because they can't afford to pay their bail



The Bail Decision

- Too often Judicial officers have little to no information about the person standing in front of them
- Bail decision is often influenced by charge
 - Many jurisdictions rely on Bail Schedules
- Court Rule 6.106 lists factors that Judges should take into consideration but gives no guidance as to which, if any, are more predictive than others
 - The Court Rule allows for Money Bail if "the defendant's appearance or the protection of the public cannot otherwise be assured"

Neither the Constitution nor our rules of criminal procedure permit a judge to base a pretrial release decision solely on the severity of the charged offense. Bail is not pretrial punishment and is not to be set solely on the basis of an accusation of a serious crime. As the United States Supreme Court has emphasized, "[t]o infer from the fact of indictment alone a need for bail in an unusually high amount is an arbitrary act." *Stack v. Boyle*, 342 U.S. at 6. (Rule 5-401) requires the judge to make an informed, individualized decision about each defendant and does not permit the judge to put a price tag on a person's pretrial liberty based solely on the charged offense.

**State of New Mexico v. Brown No. 34,531.
Decided: November 6, 2014**

The Truth about Money Bail

- Money bail does not protect the public safety
- When money bail is used the decision to release or detain is no longer controlled by the criminal justice system
- Several studies all concluded that the system of money bail in the United States discriminates against indigent defendants who lack the financial resources to post bail

What's being done

- An agency out of Harvard Law - *Equal Justice Under the Law* has been filing federal suits against several jurisdictions around the country
- The reason: the use of bail schedules and financial bail
- At least nine suits in seven states including Alabama, Missouri, Louisiana, Mississippi, and California have already been filed.

Alec Karakatsanis

- [Trial Lawyer of the Year](#)

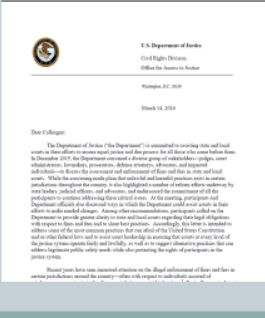
Department Of Justice

- February 2015, filed a Statement of Interest in *Varden v. Clayton*
- August 2015, filed an Amicus Brief in *Walker v. City of Calhoun*

“The two central issues concerning money bail are: (1) its tendency to cause unnecessary incarceration of defendants who cannot afford to pay secured financial conditions either immediately or even after some period of time; and (2) its tendency to allow for, and sometimes foster, the release of high-risk defendants, who should more appropriately be detained without bail.”

Department Of Justice

- March 2016, Dear Colleague Letter
 - “Courts must not employ bail or bond practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release”



Basis for Settlement

“No person may, consistent with the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, be held in custody after an arrest because the person is too poor to post a monetary bond. If the government generally offers prompt release from custody after arrest upon posting a bond pursuant to a schedule, it cannot deny prompt release from custody to a person because the person is financially incapable of posting such a bond.”

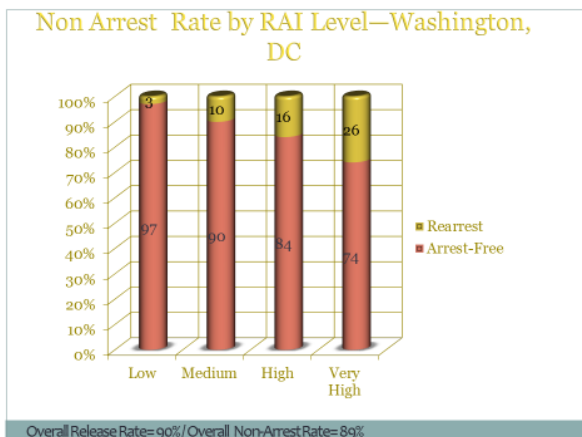
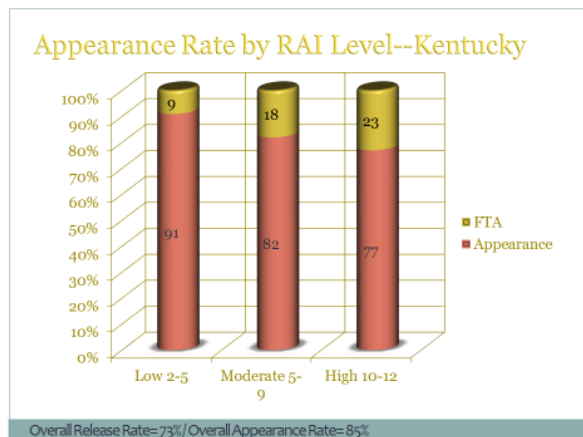
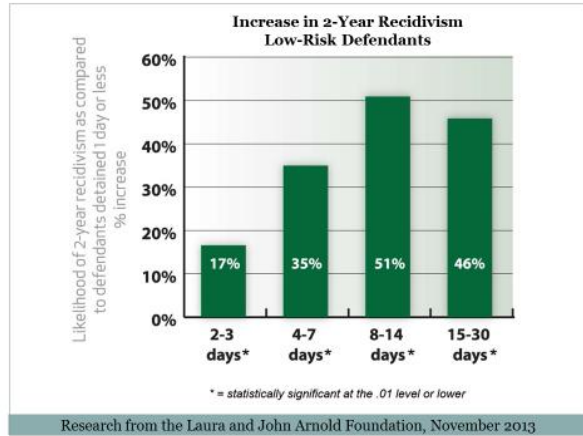
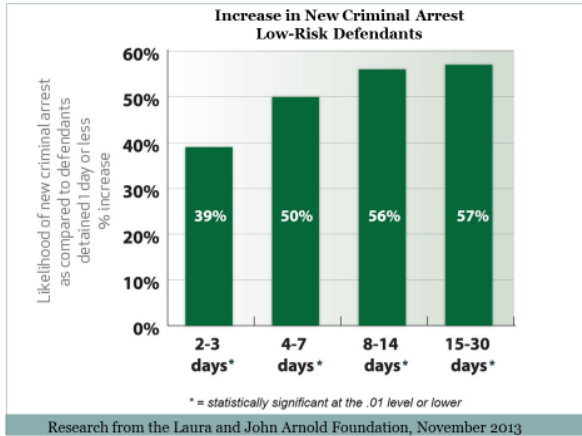
From a Declaratory Judgment issued on November 6, 2015 by the U.S. District Court for the Southern District of Mississippi

The Costs of Pretrial Detention

- Every defendant that is detained because of an inability to post a financial bond becomes the responsibility of the county.
- The average cost of a jail bed nationally is about \$60.00, it varies across the state of Michigan
- Pretrial incarceration affects employment, family, education...making it more difficult to succeed when released

The Hidden Costs of Pretrial Detention

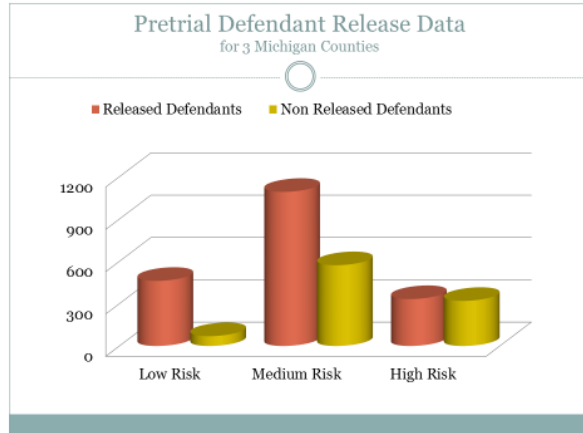
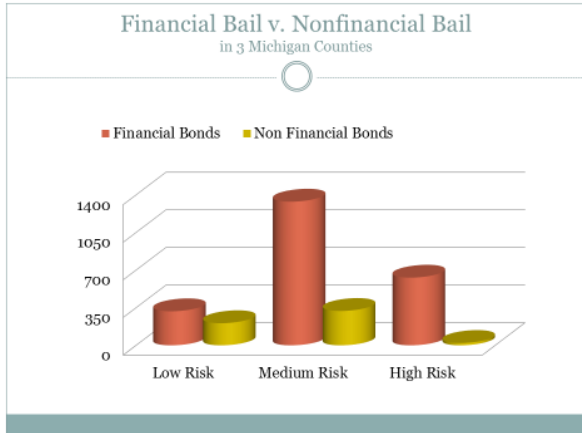
- Pretrial defendants held the entire pretrial period are:
 - **3X** more likely to receive a jail sentence
 - **4X** more likely to receive a prison sentence
- Sentences for these individuals also tend to harsher. Pretrial detainees receive:
 - Jail sentences that are **3X** longer
 - Prison sentences that are **2X** longer



Pretrial Reform is Needed Statewide

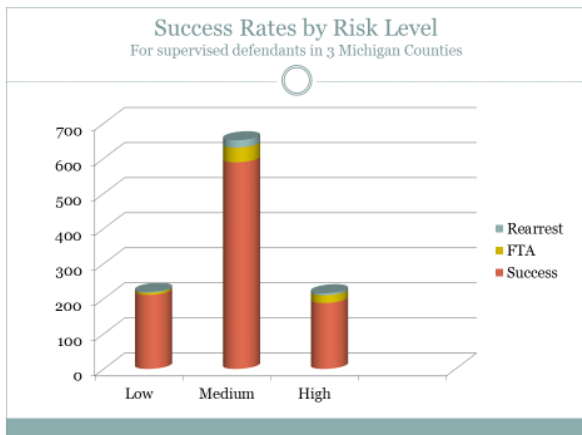
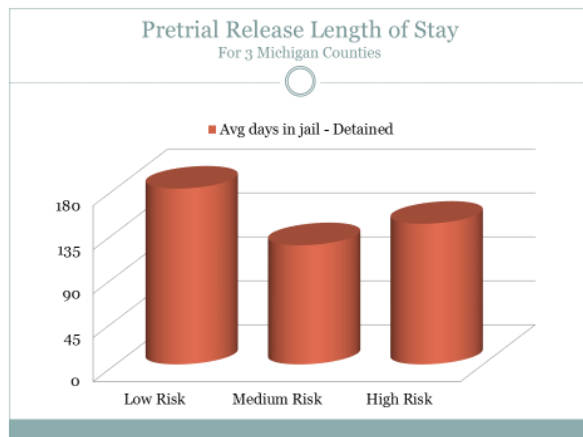
- In his 2015 Public Safety message, Governor Rick Snyder called for pretrial reform stating...

“I encourage all Michigan counties to consider the benefits of devoting resources to engaging in smart pretrial reform using proven risk assessment tools.”



"...defendants who are high-risk and/or violent are often released... nearly half of the highest-risk defendants were released pending trial."

-Developing a National Model for Pretrial Risk Assessment, Laura & John Arnold Foundation



The solution

- **Legislation that includes:**
 - A presumption of release
 - Restrictions or prohibition on the use of secured financial conditions of release
 - The required use of a pretrial risk assessment tool
 - Preventative detention for a limited and clearly defined type of defendant



Resources

- <http://www.ncsl.org/research/civil-and-criminal-justice/pretrial-release.aspx>
- Kristin Bechtel et al., Pretrial Justice Institute *Dispelling the Myths: What Policy Makers Need to Know About Pretrial Research* 1-2 (Nov. 2012).
- Timothy R. Schnacke, United States Department of Justice, National Institute of Corrections, *Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform* (2014), available at <http://www.pretrial.org/download/research/Fundamentals%20of%20Bail%20-%20NIC%202014.pdf>
- *Pretrial Criminal Justice Research*, Laura and John Arnold Foundation, 2013. Available at http://www.arnoldfoundation.org/wp-content/uploads/2014/02/LJAF-Pretrial-CJ-Research-brief_FNL.pdf

Questions?

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