

PRESENTATION TO THE HOUSE SELECT COMMITTEE ON
COMMUNITY RELATIONS, LAW ENFORCEMENT, AND JUSTICE

OCTOBER 13, 2020

CHIEF DISTRICT COURT JUDGE BRADLEY REID ALLEN, SR.
ALAMANCE COUNTY 15A

BAIL/BOND REFORM

- Alamance County has been sued in Federal Court for the bond policy that had been put in place since 1995. A new bail/bond and pretrial release policy has been implemented. It would be beneficial for each district to review their bail/bond policies and update them.
- In some judicial districts there are public defender offices that represent defendants at first appearances.
- In judicial districts that have court appointed attorneys most defendants are not represented at first appearances.
- One suggestion would be that the Legislature could mandate that in the non-public defender districts that a local defense attorney could represent the defendant at their first appearance, whether in district or superior court.
- Implement Legislation that requires a defendant's financial conditions be considered along with other current Legislative conditions when ordering secured bonds by a judicial official.
- Statewide funded electronic monitoring of defendants for pretrial release to be monitored by the Department of Public Safety or other state agency. Implemented by each local Judicial District/County to ensure alignment with community characteristics, resources and needs.
- Statewide Pretrial Release Program should be implemented by Legislation.
- Processes should be put in place to prevent defendants from pleading guilty just to get out of jail (because they cannot afford the bond that has been set).

- Orders for arrest and secured bonds for defendants failing to appear should remain under judicial discretion. Bail and orders for arrest as well as judicial discretion are critical tools of justice but should not be used punitively .
- Statewide Mental Health/Substance Abuse diversion centers would decrease citizens being incarcerated. State funding would be helpful for rural counties but should be implemented by each local judicial partnership.
- Statewide Mobile Crisis Teams and Intervention Specialists assisting on 911 calls.
- Training for law enforcement officers to recognize mental health and substance abuse issues and implement appropriate intervention.

SYSTEMIC RACISM/SOCIAL INJUSTICE

- Judges are aware of systemic racism and social injustice within the criminal justice system.
- Last week at our Judge's Conference numerous judges discussed their personal and professional experiences with social injustice and we received statistics on the disparity of stops, arrests and warrantless searches.
- Implicit and Explicit Bias training at all levels of the criminal justice system. The criminal justice system needs a variety of training due to the complex issues. Because of the variety of roles within the criminal justice system (law enforcement, magistrates, judges, clerks, district attorneys, defense attorneys, etc.) tailoring the training to each of these roles is vital.
- There is a disproportionate number of African Americans and economically challenged defendants **and** alleged victims of crime.
- Legislative mandates for citations as opposed to arrests for nonviolent misdemeanors depending on the circumstances would assist in the problem.

MAGISTRATES

- The role of the magistrate is a complex and lengthy topic. What needs to be addressed is their rules of professional conduct and supervision. Currently there is no disciplinary process other than petitioning to superior court for their removal. Legislature needs to formalize the rules of professional conduct regarding magistrates and their disciplinary process.
- The magistrate appointment process and supervision should be modified by the general assembly. Most Chief District Court Judges in the state do not agree with the current process of nomination, appointment and supervision of magistrates.
- The Chief Justice has a Rules of Professional Conduct for Magistrates committee that presented a draft of recommendations to the Chief District Court Judges regarding their rules of professional conduct and disciplinary consequences.

48 HOUR HOLDS

- Studies need to be completed to determine appropriate length of hold and conditions.
- Some judges think that it should be reduced to 36/24 hours based on the perceived threat of violence. Studies need to be completed.
- Some judges believe magistrates should be able to set/enter conditions of release prior to 48 hours in appropriate circumstances.
- Some judges believe the 48-hour hold is appropriate and should not be modified.
- When a domestic violence protection order is entered constructive and implied knowledge of the order should be reviewed by the Legislature to ensure victims are safe.

PROBLEMS

- The Raise the Age Legislation gives the Court authority over parents of juveniles 18 and older. This can create problems with juveniles in the Department of Social Services system, parents with rights terminated and parents for adults that are still in the juvenile system.

OTHER RECOMMENDATIONS

- Mental Health and Substance Abuse awareness training at all levels of the criminal justice system (law enforcement, magistrates, judges, clerks, district attorneys, defense attorneys, etc.)
- S.L. 2020-77(S 488) Limited Driving Privilege for Persons with Revoked License is a good start in issues that many citizens have to correct the problems of not being able to drive legally. This is important so they can become productive citizens.