



March 7, 2013

Stuart Drown  
Executive Director, Little Hoover Commission  
925 L Street, Suite 805  
Sacramento, CA 95814

Dear Mr. Drown,

Thank you for inviting us to testify at the Little Hoover Commission's public hearing on March 21, 2013. We appreciate your interested and willingness to hear a victims' perspective regarding issues pertaining to public safety, specifically management of pre-trial jail populations. You have asked us to comment on bail schedules and the role of validated risk and needs assessments to manage pre-trial jail populations at the county level. Below are our thoughts.

In every discussion we have on systems change to the bail system, we must take into account the ability to ensure the public's safety, increase and ensure court attendance and ensure the safety of the victim. A very legitimate fear for victims is running into their perpetrator while awaiting trial. Realignment has created some consequences, intended or not, that we would argue place the public's safety at risk. Even small changes to the criminal justice system that seem straight forward, like statutorily changing California's bail system, can have a negative impact on public safety. That is why, as with any change to the criminal justice system we advocate for, we believe it is best that the proposed change be part of a well thought out process that is fully vetted through all stakeholders and implemented in a way that allows for testing and adjustments.

Bail is not meant to be a punishment but rather an incentive for a defendant to return to court to attend subsequent court appearances in return for being released from custody. In a Bureau of Justice Statistics report *Felony Defendants in Large Urban Counties (2006)*, the study concluded that "about a third of released defendants were either rearrested for a new offense, failed to appear in court as scheduled, or committed some other violation that resulted in the revocation of their pretrial release". So we know that defendants released on bail commit additional crimes, fail to appear in court and commit other violations that end in the revocation of their bail.

Since every county is different and has their unique needs, CVAA believes that bail should continue to be a subject that is decided at a local level. We support the current law that allows superior court judges in each county the discretion to set their own bail schedules based on the

unique needs of each county. In a post AB 109 environment, we believe that there is room for improvement and change in the bail system without further jeopardizing public safety.

#### *Equity in the bail system*

It has been argued that it is not fair to subject an individual to a bail amount that they are unable to pay. Even though an individual's economic situation may be bleak, bail should reflect the needs of the community and not be based on a defendant's ability to pay. Not only would it be costly to hold motion on bail hearings for every defendant to determine their ability to pay, but also it simply goes against the nature of bail.

#### *The role of commercial bail*

Bail can be an effective tool in managing pre-trial populations. Commercial bail can help with case management and improve public safety by incorporating active GPS monitoring systems into their bail program. By using GPS, the bail company has an active account of where the defendant is and the defendant may be less likely to commit additional crimes while awaiting trial. If the defendant does commit a new crime, an active GPS system would be able to help in the investigation by providing information about the defendant's whereabouts at the time of the crime. If the defendant removes the GPS device, the bail company would be able to contact the courts immediately to let them know that the defendant had absconded, a bench warrant could be issued right away and law enforcement may have a better chance of locating the defendant as they would not have to wait for a defendant to miss a court appearance before realizing that a defendant has absconded.

#### *Alternatives*

Consider alternative custody programs for pre-trial population such as work camps and fire camps.

#### *Transparency*

The current bail system is transparent. Bail is set at court hearings and a schedule is posted on court websites

#### *Community Corrections Partnerships role in bail schedules*

Currently the DA, Sheriff, Probation and the Public Defender all have input with the court when setting bail. There are many disciplines on the Community Corrections Partnerships that do not need to be involved in setting bail. Though stakeholders have input in the bail process, the decision should ultimately remain with the court.

#### *Criteria in setting bail*

Criteria should be determined at the local level.

#### *Consistency in setting bail*

Consistency takes a back to seat to local concerns. Each county has individual needs unique of each other. Bail is not something that can or should be developed at the state level.

*Realignment money for pre-trial programs*

Currently there is not enough funding provided to counties to fund all the services that that have been shifted to the counties under the provisions of AB 109. It is therefore unrealistic to assume that there is additional funding available to fund new pre-trial services and programs.

*The role of validated risk and needs assessments in deciding whether to keep defendants in county jail or release them.*

Reality is that criminals, parole and probation violators and those awaiting trial are being released from jail every day due to overcrowding. This practice has increased the risk to public safety. Risk assessments are not 100% accurate, and in some instances CVAA would argue seriously flawed. Given their limitations, they may be better than nothing in an attempt to help reduce the risk to the public associated with early release from jail. Though CVAA does not want a change to the bail system, we are cognizant of the reality that counties won't be building additional jail beds anytime soon. Therefore, we have to look at these new challenges and consider tools like risk assessments to help correctional administrators determine who should be released on alternative placement holds.

Each county in California has unique issues that it must address in regard to crime. Therefore, CVAA believes that it is important that each county be allowed to determine their own bail amounts appropriate for that county's needs and that judges ultimately retain the discretion to determine bail in the criminal cases they oversee.

Sincerely,



Christine Ward  
Executive Director