



Bail Reform Efforts in Orange County and Pandemic Responses in the Criminal Justice System

FOR IMMEDIATE RELEASE

ORANGE COUNTY, NC (November 12, 2020) – On Oct. 1, 2020, Senior Resident Superior Court Judge Allen Baddour issued an Administrative Order adopting significant bail reform tools to be piloted in Orange County. These bail reforms resulted from recommendations of a Pretrial Reform Work Group that began meeting in 2019 to determine what additional steps the county could take to further pretrial justice. This group of senior court and law enforcement stakeholders and community members engaged Professor Jessica Smith from the UNC School of Government to facilitate the effort.

“While Orange County has long been a leader in evidence-based pretrial practices that include a county-funded Pretrial Services program and two pre-arrest diversion programs, our stakeholders, with support from the community, knew we needed to do more to ensure fairness, consistency and equity in our pretrial practices,” said Caitlin Fenhagen, Criminal Justice Resource Director for Orange County.

The Pretrial Work Group’s focus was eliminating the negative consequences that arise from the unnecessary pretrial detention of individuals who do not present any significant risk to the community but who are unable to afford money bonds set in their cases. State law requires imposing a written promise to appear unless specific conditions exist. This mandate has long been incorporated into Judicial District 15B’s Pretrial Policies, but local data has shown that conditions for release were not being consistently set in accordance with this statutory requirement.

“Although North Carolina law requires a preference for conditions other than money bail, stakeholders were concerned by data showing that Orange County was imposing money bonds in the majority of cases,” said Professor Smith. “That and other factors prompted local stakeholders to engage in a collaborative process to better understand and improve their local system.”

The Administrative Order issued by Judge Baddour incorporates both reforms recommended by the Working Group: (1) a structured decision-making tool for use by magistrates at the initial appearance immediately after an arrest; and (2) new policy considerations for addressing first-time failures to appear in court for individuals charged with misdemeanor offenses.

Both reforms are designed to reduce unnecessary wealth-based detentions. In addition, the Magistrate’s Tool includes significantly revised maximum bond guidelines for all offenses, including probation violation cases. The Magistrate’s Tool went into effect Oct. 1 and the Non-Appearance policies will be implemented once training and documentation procedures have been finalized.

"Orange County criminal justice stakeholders have a long history of collaborating on innovative reforms for our local court system," said Orange and Chatham County District Attorney Jim Woodall. "Although the Pretrial Reform Work Group began its work well before the COVID pandemic, the onset of the pandemic created a heightened need for meaningful reform and a reduction in the local jail population. Many lessons learned during the pandemic will be carried forward into the future. All Orange County law enforcement agencies have embraced the reforms and done their part in successfully implementing them."

Due in part to these significant bail reforms and the urgency brought on by the COVID-19 pandemic, Orange County's pretrial population at the Detention Center has dropped more than 55 percent since January. Pretrial bookings have decreased by almost 70 percent from the similar time period in 2019.

Senior court and law enforcement stakeholders have enacted practices such as having judges on call 24/7 for magistrates to consult when addressing release conditions, enhanced use of citations in lieu of arrest by law enforcement, initiating pretrial release supervision directly from the magistrate, immediate virtual or in-person hearings for bond motions and pleas for individuals in custody, low-level case dismissals by the District Attorney's office, increased deflection by law enforcement, and a careful review of cases from other jurisdictions.

"Bond is intended to ensure one's appearance in court, nothing more," said Orange County Sheriff Charles Blackwood. "Punishment is intended to begin at conviction, not at arrest. Under our system of justice, a person receives the presumption of innocence until proven guilty in a court of law. As Sheriff, I have to enforce the law as it is written, not as others would prefer it to be. We work very hard to ensure people who don't need to be in jail aren't held there unnecessarily. This reduces the strain on our Detention Center staff, the taxpayers of Orange County, and most importantly, the families who would otherwise be affected by having their loved ones incarcerated when such incarceration is not required."

Orange County is committed to continuing pretrial reform efforts, safely reducing unnecessary detention and increasing equitable outcomes. This effort will not end when the pandemic subsides. Rather, Judge Baddour and Judge Cabe will work with stakeholders to finalize a new comprehensive Pretrial Policy for the District in early 2021, and Professor Smith will evaluate the impact of these and other reforms. Finally, the District Bar's Racial Justice Task Force and Orange County's Justice Advisory Council, in addition to other important state and local entities, will continue to discuss and work on justice system reforms that reduce disparities and enhance equity.

"Effective pretrial reform efforts require constant attention and a lasting commitment to best practices," said Baddour. "What we thought was the best approach a decade ago, or even a year ago, may not in fact be the best approach. We remain committed to evaluating our work, reviewing the results, and evolving as we learn."

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