

**CRIMINAL JUSTICE REFORM FOR CHAMPAIGN COUNTY
STATEMENT FOR THE CHAMPAIGN COUNTY BOARD ON 11/21/20**

Good evening members of the Champaign County Board. Thank you to Chairman Rosales and County Executive Darlene Kloeppel for creating this opportunity for me to share my experience and legislative agenda with you all as you contemplate the next steps for the Champaign County jail.

As a former county board member, having served for approximately 5 ½ years, I sat on this board during the past examination of the condition of the county jail. During that time, I served on the Community Justice Taskforce in 2013. I also participated in the selection of the Institute for Law and Policy Planning (ILPP) which produced the Champaign County Criminal Justice System Assessment Final Report dated September 24, 2013.

I have been working to advance pretrial justice for over ten years—a few decades shy of what many have put in. However, even people who are relatively new to this work know that we are at a special moment. Half a century after the Manhattan Bail Project first showed that money bail is unnecessary to assure court appearance, there is unprecedented, growing demand for change; far-reaching litigation is compelling jurisdictions to abruptly alter their practices; and local, state and national lawmakers are honing in on plans for comprehensive reform.

The Illinois Supreme Court Commission on Pretrial Services was created in 2017 and is composed of members of all three branches of Illinois government and criminal justice stakeholders. I was appointed to this commission as a member of the legislative body. It is charged with conducting a comprehensive review of the state's pretrial detention system and making recommendations for amendments to state laws, Illinois Supreme Court Rules and policies, as necessary, to ensure pretrial practices in all jurisdictions in Illinois are consistent, in form and substance, with the court's policy statement on pretrial services.

The commission is guided by the National Institute of Corrections' Essential Elements of a High Functioning Pretrial System and Agency, which has provided critical support and training to the commission's efforts in improving Illinois bail practices. I have been a member of the commission from the beginning of its commission and represent the House Democratic Caucus.

The purpose of my visit this evening is in relation to the impact of criminal justice reform on the court and jail systems in Illinois and Champaign County. The Supreme Court Commission received communication from the United States Human Rights Watch

**CRIMINAL JUSTICE REFORM FOR CHAMPAIGN COUNTY
STATEMENT FOR THE CHAMPAIGN COUNTY BOARD ON 11/21/20**

commission. The important part of that communication was dealing with pretrial practices, and specifically dealing with the impact of criminal justice reform on the detaining of people pretrial.

“Unnecessary use of pretrial incarceration betrays the presumption of innocence, the fundamental guiding principle of the US legal system, by keeping people in jail who have not been convicted of a crime. Our California report documented that between 2011-2015, close to half-a-million people, were subject to felony arrests and held in pretrial detention, but never found to be guilty of any crime, an unjust punishment that costs taxpayers millions of dollars. Poor people jailed pretrial, with bail set, face the miserable options of taking on heavy debt to pay bail, remaining in custody until their cases resolve, or pleading guilty to gain freedom sooner, regardless of actual guilt.

“Human Rights Watch documented families losing homes, selling cars, and foregoing basic living necessities to afford bail. People who stay in jail lose jobs, cannot care for their children or disabled relatives, miss needed healthcare, [all] while suffering boredom, violence, disease, and physical and mental anguish. In California, according to Human Rights Watch’s analysis of data from six counties, the vast majority of people released from jail as ‘sentenced’ on low-level felonies and misdemeanors were released before the earliest possible date they could have gone to trial. In other words, to assert their innocence at trial, they would have had to stay in jail longer than they did by pleading guilty. Practitioners throughout the country, including Illinois, have told us that similar pressure to plead guilty exists in their jurisdictions that use money bail. Given the coercion inherent in this choice, the convictions of innocent people are inevitable. The large-scale use of pretrial detention, resulting in pressured guilty pleas, damages the credibility of our criminal legal system.

“These harms are more profound because they apply only to those too poor to pay bail, while the wealthy have the benefit of a system that honors the presumption of innocence. Given the well-documented inequities of the money bail system, Human Rights Watch commends the many stakeholders in the Illinois courts and government who are taking serious steps to reform the way courts impose pretrial incarceration.”

I urge the Champaign County Board to consider their discussion of jail within the Presumption of Innocence framework: a bail reform model created by John Ralpling from Human Rights Watch and Pete White of Los Angeles Community Action Network. This framework is as follows:

- a. Presumption of Innocence framework: A bail reform model created by John Ralpling from Human Rights Watch and Pete White of Los Angeles Community Action Network. This framework includes:

**CRIMINAL JUSTICE REFORM FOR CHAMPAIGN COUNTY
STATEMENT FOR THE CHAMPAIGN COUNTY BOARD ON 11/21/20**

- b. Mandatory Cite and Release
- c. Restricts detention only to those who are accused of violent felonies
- d. Requires courts to conduct rigorous hearings with strict due process protections before ordering detention, bail or restrictive release conditions.
- e. Forbids the use of profile-based or algorithm-based risk assessment tools
- f. If the court orders some restrictive conditions of release, the county will bear all costs of those conditions.
- g. Re-invests money saved from reduced incarceration into community development and community-based services that will improve safety without law enforcement.

Before the board spends taxpayer dollars on a new jail, I encourage them to revisit the ILPP report that Champaign County paid for in 2013. In the section on pretrial justice findings and recommendations states that “Pretrial justice in Champaign County is woefully underdeveloped, leading to a system of inefficiencies, unnecessary taxpayer costs, and possible inherent inequities in the initial handling of criminal cases. This results in unintended discrimination along racial lines and against minorities of all kinds. Change in this area is greatly needed for the furthering of Champaign County’s criminal justice system and its stakeholders. It will save a significant amount of resources, lightening the demand for jail beds, and reduce workloads throughout the system. Furthermore, it will free up resources and help Champaign focus more clearly on public safety priorities.”

This 247-page report contains a number of recommendations based on in-depth analysis. For the sake of time, I will not be referencing all of them. That is why, once again, I would encourage you to read the report prior to making any additional decisions on making any structural changes to the county jail.

I’d like to share a few thoughts on the presumption of innocence. As a legislature, we have no less than fifteen bills on the docket in the spring that will impact the criminal justice system, the courts, and the jail system. Many of those are based on the presumption of innocence model I referred to earlier. This model has been instituted in Washington D.C. for about 25 years. In that institution, Washington D.C. only holds violent felonies in their county jail. This means that only about 10% of those arrested spend time in the county jail. We’ve also seen that trend in New Jersey where the overall jail population has dropped by about 55% over a span of six years.

The purpose of the Presumption of Innocence model is to comply with the constitution. If we arrest and detain people without a warrant, without being a substantial risk to

**CRIMINAL JUSTICE REFORM FOR CHAMPAIGN COUNTY
STATEMENT FOR THE CHAMPAIGN COUNTY BOARD ON 11/21/20**

themselves or the public, we're actually violating their right to the presumption of innocence. All people arrested for misdemeanors and low-level felonies, and for higher-level felonies that do not allege are going to be recommended released until they must show up for court. This means that if we -- by way of criminal justice reform -- either legislatively or administratively, we will again impact the number of people being held in Champaign County. We have already seen a near 32% reduction since 2017. We hope to see the projected 25% additional declines in pretrial detainees with the implementation of the Presumption of Innocence model. All people arrested should have the presumption of innocence prior to appearing in court.

It is important that Champaign County considers putting in place a separate pretrial services organization as it was recommended in the ILPP report. It is certainly more cost-effective than expanding the county jail. The new report will be available when the supreme court releases it in April 2020. It will contain several provisions that will impact the entire state of Illinois, not just Champaign County. In our report, we intend to include the language of the Presumption of Innocence model. This will include the restricting of cash bail as a condition or release. That does not mean it will be prohibited by the supreme court, but it may be prohibited by legislative measures. We do know that it will be superfluous in its use while determining people's release.

I had a chance to meet with our state's attorney and our sheriff on the matter. During our conversation, it became clear to me that more work needed to be done to understand how pretrial works, and how it will impact the county jail. I do believe that you as legislative members of this local body should take the opportunity to review the research that has already been done. It is imperative that you have full knowledge of the expectation your public will be when we switch from the reliance of cash bail to the Presumption of Innocence model.

Laws drafted and passed in states across the country have many things in common, but one important thing; they flip the system on its head. Instead of operating in a way where cash bail is the default, these new laws trending across the country place the burden of proof on the prosecutors, not the civilians.

Processes have been put in place so that a prosecutor must file a motion to request pretrial detention, and in hearings, they must prove that the individual to be detained is a physical danger to others.

In closing, as we continue to study the trends in pretrial reform across the country, I hope that we are able to flip our perspective; realizing that our actions have consequences, and cause chain reactions. If we insert Champaign County into this

**CRIMINAL JUSTICE REFORM FOR CHAMPAIGN COUNTY
STATEMENT FOR THE CHAMPAIGN COUNTY BOARD ON 11/21/20**

thought exercise, what would happen? Let's say we build a jail for \$47 million, and trends continue to show that pretrial reform under the Presumption of Innocence framework results in less jail time for fewer and fewer people. We would have spent \$47 million on a jail that we can't fill, or pay for. And there's a flaw with this thought process: it's about money, profit, revenue, and not necessarily people. Now let's flip the tables: we choose not to build a jail, and instead, we implement a Presumption of Innocence law that allows us to manage our criminal justice system humanely. We save \$47 million and we save individuals their money by banning cash bail. We build homeless shelters and soup kitchens instead, for the members of our community who don't have access to basic resources. We return dignity to our citizens and our community.

This should be about people and what we do with those tax dollars.