

Pretrial Release Committee
Meeting Minutes
February 3, 2023
Location: Via Zoom

1. Call to Order

Committee Chair, Judge Mark Spitzer called the meeting to order and welcomed members and guests. Persons in attendance were as follows:

Committee Members:

Shelby Bear, Judge Vicki Carmichael, Bernice Corley, Courtney Curtis, Magistrate Jason Custer, Judge Mary Ellen Diekhoff, Troy Hatfield, Christine Kerl, Judge Dan Moore, and Judge Mark Spitzer

Additional Attendees and Guests:

Melanie Golumbeck

Staff: Jamie Bergacs, Chris Biehn, Traci Collyard, Michelle Goodman, Diane Mains, Lora Moeller, Kevin Riley, Reilly Sommers, Lisa Thompson and Nicole Wesling

2. Approval of December 2, 2022, Meeting Minutes

The December 2, 2022, meeting minutes were passed with one committee member abstaining from the vote due to being absent from that meeting.

3. Preventative Detention

Judge Spitzer lead the Committee in a discussion regarding the constitutional amendment language and process. The amendment, if passed, would not go into effect until 2026. The House version of the amendment has been provided to the Preventative Detention Subcommittee and shared with the Committee. The Committee expressed concern with the language and discussed various avenues in which to engage in conversations with sponsors and present information to legislators.

Judge Mark Smith has been serving as the Preventative Detention Subcommittee chair and has stepped down from the Pretrial Committee. As a result, Judge Spitzer will fill the role of subcommittee chair.

4. Legislative Update

Diane Mains provided the Committee with the legislative update. Please see the attached addendum for a summary of the pretrial resolutions/bills discussed.

5. Pretrial Practice Manual Revisions

Based on direction from the Committee at the December meeting, Diane Mains has been reviewing the Pretrial Practice Manual that was developed in 2018 by the EBDM

Pretrial Workgroup. She has prepared a redline version identifying areas where revisions or updates are needed. The Committee briefly discussed the target audience and how this document should be used. Judge Spitzer offered the suggestion of forming a subcommittee for the purpose of further discussion regarding document revisions and updates. Judge Carmichael, Magistrate Custer, Judge Diekhoff and Judge Spitzer will serve on the subcommittee. Diane to follow-up with subcommittee members.

6. SRS Reporting Demo

Lisa Thompson provided a brief update on the collection of data, reporting that six pilot counties consisting of Clark, Owen, Grant, Cass, Carroll, and Bartholomew have participated in data collection through SRS since October 31, 2022.

Lisa, with permission of Cass County, provided the Committee with an SRS demonstration using their data. During the demonstration, Committee members were shown various data points including the release rate, court appearance rate, public safety rate, success rate, recommendation rate, concurrence rate and problem cases.

7. Data Subcommittee Update

Troy Hatfield reported that some changes have been made by IOCT to ensure that data can be pulled accurately from SRS. Additionally, data collection has been expanded to include the assessed pretrial population and not just those released on pretrial supervision.

Troy Hatfield presented and discussed an updated redline version of the Outcome and Performance Measures document that was originally adopted in June 2022. Troy indicated that no substantive changes are being proposed. He indicated the subcommittee has altered the initial hearing definition, provided clarification in some areas, and made limited data element changes.

There was discussion from the Committee regarding data collection comparison. Troy discussed strategies to aggregate data and indicated the focus of the subcommittee moving forward is to analyze the data. Following discussion, the Committee approved the revisions to the Outcome and Performance Measures document.

A training webinar on data collection using SRS is scheduled for February 17, 2023. Hillary Hartoin and Lisa Thompson will develop and provide the training. Troy Hatfield proposed recording the webinar for future use.

8. Education Subcommittee Update

Traci Collyard reported there are currently 18 registrants for the upcoming Pretrial Staff Orientation. Additionally, the Justice Services Conference will be held May 22-24, 2023, at the Indiana Convention Center. A session specific to pretrial data collection will be held at the conference. It was also reported that this year there will

be a pretrial track at the National Association of Drug Court Professionals (NADCP) annual conference.

9. Pretrial Coordinators Subcommittee Update

Shelby Bear reported the Pretrial Coordinators Subcommittee has been working with the Data Subcommittee on the data changes. They are very excited about the data collection roll-out and the upcoming training webinar. The subcommittee will be meeting again in March and will discuss data collection.

10. Certification Update

Lora Moeller reported there are a total of 43 pretrial agencies, 22 programs are in the planning stage with 21 programs certified. Of the 21 certified, seven are provisionally certified and the remaining 14 are fully certified.

11. Adjourn

Judge Spitzer adjourned the Pretrial Release Committee meeting at approximately 10:55 a.m.

Future Meeting Dates:

- March 17, 9:30 a.m. via Zoom (TENTATIVE Based on Legislative Session)
- May 12, 9:30 a.m. via Zoom
- August 18, 9:30 a.m. 201 N. Illinois St., Ste 200 Fuse East Conference Room
- November 17, 9:30 a.m. via Zoom

**Pretrial Release Committee
Meeting Minutes Addendum**

2023 LEGISLATIVE SESSION – PRETRIAL RESOLUTIONS/BILLS

[SJR 1 Limitation on right to bail](#) - Senator Koch, Senator Bray, and Senator Freeman

Co-author: Senator Baldwin

Citation Affected: Indiana Constitution Article 1, Section 17

Provides that a person who poses a substantial risk to the public is not entitled to release on bail.

[SJR 9 Right to bail](#) – Senator Young

Citation Affected: Indiana Constitution Article 1, Section 17

Provides that certain persons charged with a crime and awaiting trial may be released on bail, but are not entitled to be released on bail.

[SB 158 Domestic violence](#) – Senator Young, Senator Garten, and Senator Baldwin

Co-authors: Senator Sandlin, Senator Bohacek, Senator Freeman, Senator Koch, and Senator Glick

Citations Affected: IC 35-31.5; **IC 35-33**; IC 35-46; and IC 35-47

Specifies that certain offenses, if committed against a family or household member, are considered a crime of domestic violence. Increases the period of time that a person arrested for a crime of domestic violence may not be released on bail to 24 hours. (The current time period is eight hours.) Provides that a charge of invasion of privacy is elevated to a Level 6 felony if the person has a prior unrelated criminal stalking conviction. Provides that certain crimes are considered a serious violent felony for the purposes of unlawful possession of a firearm by a serious violent felon.

[SB 286 Credit Time](#) – Senator Freeman, [Senator Koch](#), and [Senator Bohacek](#)

Co-authors: [Senator Sandlin](#), [Senator Glick](#), [Senator Garten](#), and [Senator Raatz](#)

Citations Affected: IC 35-38; IC 35-50

Provides that a habitual offender is not entitled to good time credit. Permits a person placed on pretrial home detention to earn accrued time and good time credit in the same manner as other persons on home detention but provides that specified misconduct will result in the deprivation of all accrued time earned on pretrial.

[SB 365 Credit time for home detention](#) – Senator Pol

Citations Affected: IC 35-38-3-2; IC 35-50-6

Provides that good time credit earned for pretrial home detention is the same as good time credit earned for pretrial incarceration. Makes conforming changes.

[SB 444 Judicial transparency](#) – Senator Gaskill

Citation Affected: IC 33-24-6

Requires the office of judicial administration to prepare, publish, and transmit the public safety and judicial accountability report containing certain information about judicial officers who exercise criminal jurisdiction. [Includes reporting pretrial data.]

[SB 445 Electronic monitoring standards](#) – Senator Walker

Citations Affected: IC 11-13-1-9; IC 33-38-9.5-7.5; IC 35-38-2.7

Requires the justice reinvestment advisory council to develop electronic monitoring standards and submit an annual report to the standards. Requires the justice reinvestment advisory council to conduct a workload study of local supervising agencies concerning electronic monitoring and home detention, make certain findings, and submit a report to the legislative council not later than July 1, 2025. Makes an appropriation to conduct the workload study. Provides that a contract employee of a supervising agency is required to notify the supervising agency of certain actions with respect to a tracked individual not later than 12 hours after the action occurs. Requires this notification to be sent within 15 minutes if the tracked individual is serving a sentence for a crime of violence or a crime of domestic or sexual violence. Specifies that a supervising agency must include in a quarterly report the number of tracked individuals who are on parole supervision and the number of false location alerts, device malfunctions, or both. Provides that a local supervising agency and the division of parole services shall report directly to the local justice reinvestment advisory council each quarter. Requires the statewide justice reinvestment advisory council to transmit an annual electronic report to the legislative council and to the judicial conference of Indiana not later than March 15 of each year. [Applies to pretrial home detention cases.]

[SB 459 Bail](#) – Senator Gaskill

Citation Affected: IC 35-33-8-3.8

Provides that a court, in setting bail, shall consider all relevant information available to the court. Removes a provision requiring a court to consider releasing a defendant without money bail under certain circumstances, and prohibits a court from releasing certain arrestees without money bail. Provides that a court is not required to administer a pretrial risk assessment to an arrestee if doing so will unduly delay the consideration of an appropriate amount of bail for an arrestee. (Under current law, a court is not required to administer an assessment if doing so will delay the arrestee's release.)

[HB 1006 Mental health programs](#) – Representative Steuerwald

Co-authors: Rep. McNamara, Rep. Jeter, and Rep. Moseley

Citations Affected: IC 5-2-21.2-6; IC 12-7-2; IC 12-15-5-13.5; IC 12-26; IC 16-36; IC 16-41-9-5; IC 27-8-5-15.9; IC 27-13-7-28; IC 31-37-4-3; IC 33-23-18; [IC 35-33-8-3.2](#)

Specifies the circumstances under which a person may be involuntarily committed to a facility for mental health services and specifies that these services are medically necessary. Establishes a local mental health referral program to provide mental health treatment for certain persons who have been arrested. Repeals obsolete provisions.

[HB 1144 State employment of probation officers](#) – Representative Prescott

Citations Affected: IC 5-10.3-7-1; IC 11-12-2-4; IC 11-13; IC 31-31-5-2; IC 33-33; [IC 35-33-8-3.3](#); IC 35-38-2-1; IC 36-2-16.5; IC 36-3-6-3

Provides that a probation officer is a state employee whose salary is: (1) fixed by the appointing court in accordance with minimum compensation requirements adopted by the judicial conference of Indiana; and (2) paid from the state general fund. Allows a county, city, or town to pay a probation officer a salary supplement in the unit's salary ordinance.

**Pretrial Release Committee
Meeting Minutes
May 12, 2023
Location: Via Zoom**

1. Call to Order

Committee Chair, Judge Mark Spitzer called the meeting to order and welcomed members and guests. Persons in attendance were as follows:

Committee Members:

Shelby Bear, Judge Vicki Carmichael, Bernice Corley, Courtney Curtis, Magistrate Jason Custer, Judge Mary Ellen Diekhoff, Troy Hatfield, Christine Kerl, and Judge Mark Spitzer

Additional Attendees and Guests:

Jesstina Ditton Duncan

Staff: Jamie Bergacs, Traci Collyard, Tom Felts, Janelle Johnson, Zach Johnson, Diane Mains, Lora Moeller, Kevin Riley, Reilly Sommers, and Nicole Wesling

2. Approval of February 3, 2023, Meeting Minutes

The February 3, 2023, meeting minutes were presented. The Committee unanimously approved the minutes.

3. Pretrial Practice Manual Revisions Update

Judge Spitzer indicated that the Supreme Court's Pretrial website includes the Pretrial Practices Manual, which was developed during the EBDM process. A subcommittee was developed to review the manual and make needed revisions. He reported many of the revisions have been completed; work still remains to be done on the research section. Diane Mains and Judge Spitzer are working to finish this section. Once completed they will present to the subcommittee and then to the Committee for final approval.

4. Allen County CR 6 Savings

Magistrate Custer presented the estimated court savings of Allen County's pretrial release program. He indicated that in preparation for a podcast, which was done to get information out to the public, an analysis of their practices was completed. He discussed the report that was distributed to Committee members, which indicated a conservative estimate in a savings of \$6,561,115 in incarceration costs. It was estimated that 119, 293 incarcerations days were avoided due to risk-informed releases as opposed to exclusively charged-based release, per the standard bond schedule.

Magistrate Custer answered questions from a Committee member on the specific practices of Allen County and the impact such savings has on the county's new jail project.

5. Legislative Update

Diane Mains provided the Committee with the legislative update. The Committee discussed the proposed amendment to the Indiana Constitution on pretrial release. Diane explained the resolution process and the earliest this could be law is 2026. The Committee discussed the current language and their thoughts and concerns. There is still work that can be done with the language that will not derail the 2026 timeline.

Additionally, it was reported that \$4M was added to the budget to support pretrial program. This is an increase from \$2.8M

Please see the attached addendum for a summary of the pretrial resolutions/bills discussed.

6. Data Subcommittee Update

Troy Hatfield reported the Data Subcommittee is monitoring the collection of data. The subcommittee is working to determine the best way to handle case outliers. They are very eager to see the aggregate data and are hopeful to have information to provide to the Committee soon.

Troy also reported a training webinar on data collection using SRS was held on February 17, 2023, led by Hillary Hartoin and Lisa Thompson. He reported Hillary and Lisa have been very helpful with helping answer questions.

7. Education Subcommittee Update

Traci Collyard reported there were 20 attendees from 10 counties at the spring Pretrial Staff Orientation. The next orientation will be held on October 5, 2023 virtually. She also reminded Committee members of the upcoming Justice Services Conference which will be held May 22-24, 2023, at the Indiana Convention Center. She indicated there will be five sessions specific to pretrial held during the conference.

8. Certification Update

Reilly Sommers reported there are a total of 43 pretrial agencies, 18 programs are in the planning stage with 25 programs certified. Of the 25 certified, eight are provisionally certified and the remaining 17 are fully certified.

Judge Spitzer indicated there has been a leveling off in the number of counties submitting letters of intent. He is hopefully the Justice Services Conference may initiate some interest. He also indicated he would like to provide a short advertisement at the Annual Judicial Conference. Diane Mains indicated that she has submitted that request on his behalf.

9. Adjourn

Judge Spitzer adjourned the Pretrial Release Committee meeting at approximately 10:05 a.m.

Future Meeting Dates:

- August 18, 9:30 a.m. 201 N. Illinois St., Ste 200 Fuse East Conference Room
- November 17, 9:30 a.m. via Zoom

**Pretrial Release Committee
Meeting Minutes Addendum**

Indiana General Assembly, 2023 Session

Pretrial Law

SJR 1-2023 A joint resolution proposing an amendment to Article 1, Section 17 of the Constitution of the State of Indiana concerning constitutional law.

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the One Hundred Twenty-Third General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement. SECTION 2. ARTICLE 1, SECTION 17 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 17. Offenses, other than murder or treason, shall be bailable by sufficient sureties, unless the accused poses a substantial risk to any other person or the community. Murder or treason shall not be bailable when the proof is evident, or the presumption strong. An offense other than murder or treason shall not be bailable if: {1} the proof is evident or the presumption strong; and {2} the state proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community.

[SEA 158-2023 Domestic violence](#). Provides that a person arrested for certain crimes committed against a family or household member may not be released on bail for 24 hours. Provides that a charge of invasion of privacy is elevated to a Level 6 felony if the person has a prior unrelated criminal stalking conviction. Provides that certain crimes are considered a serious violent felony for the purposes of unlawful possession of a firearm by a serious violent felon. [Amends IC 35-33-8-6.5]

[SEA 286-2023 Credit Time](#). Permits a person placed on pretrial home detention to earn accrued time and good time credit in the same manner as other persons on home detention, but provides that specified misconduct will result in the deprivation of all credit time earned on pretrial home detention. Amends the sentencing guidelines for a habitual offender. [Amends IC 35-38-3 and IC 35-50-6]

[HEA 1001-2023 State budget](#). Supreme Court has been awarded \$4M in its budget to for pretrial compliance. (See p. 10)

[HEA 1006-2023 Mental health programs](#). Specifies the circumstances under which a person may be involuntarily committed to a facility for mental health services and specifies that these services are medically necessary when provided in accordance with generally accepted clinical care guidelines. Establishes a local mental health referral program to provide mental health treatment for certain persons who have been arrested. Repeals obsolete provisions and makes technical corrections. [Amends IC 35-33-8-3.2(a)(9) ; See IC 33-23-18]

**Pretrial Release Committee
Meeting Minutes
August 18, 2023
Location: Via Zoom**

1. Call to Order

Committee Chair, Judge Mark Spitzer called the meeting to order and welcomed members and guests. Persons in attendance were as follows:

Committee Members:

Shelby Bear, Judge Vicki Carmichael, Bernice Corley, Magistrate Jason Custer, Judge Mary Ellen Diekhoff, Troy Hatfield, Christine Kerl, Judge Dan Moore, Judge David Najjar, Judge Mark Spitzer, Magistrate Matthew Symons, and Bill Watson

Additional Attendees and Guests:

Jesstina Duncan, Melanie Golumbeck, Melissa Jones, and Erin McEnery

Staff: Jamie Bergacs, Chris Biehn, Traci Collyard, Tom Felts, Zach Johnson, Diane Mains, Kevin Riley, David Sexton, Reilly Sommers, and Nicole Wesling

2. Introduction of New Members

Judge Spitzer introduced two new members appointed to the Committee by Chief Justice Rush on July 1, 2023; Judge David Najjar of Hamilton Superior Court 5 and Magistrate Matthew Symons of Marion Superior Court.

3. Approval of May 12, 2023, Meeting Minutes

The May 12, 2023, meeting minutes were presented. The Committee unanimously approved the minutes.

4. Pretrial Practice Manual Revisions Update

Judge Spitzer indicated pretrial research is the final area to incorporate into the pretrial practice manual. Given that research will need to be continuously updated, consideration is being given on how to incorporate this piece. It is anticipated that the pretrial practice manual will be submitted for the Committee's final approval at the November meeting.

5. Pretrial Constitutional Amendment

The Committee discussed the proposed amendment to the Indiana Constitution on bail. Committee members determined the earliest this could be law is 2026, as it must pass two consecutive legislative sessions. The Committee discussed the current language and their thoughts and concerns. Draft language developed by the Public Defender's Council will be shared with the Committee. Judge Spitzer asked for Committee members to review the language and submit comments to IOCS so that it could be incorporated into one document for review at the November meeting.

6. Data Subcommittee Update
Troy Hatfield reported the data subcommittee took a break from meeting over the summer, but continued fielding questions. Troy indicated that there are a few questions that the subcommittee would like to bring to the full Committee. Additionally, the subcommittee will be compiling aggregate data to provide the Committee at a future date.
7. Education Subcommittee Update
Traci Collyard reported that 15 people are registered for the fall orientation which is scheduled for October 5, 2023. At this time, all pre-courses have been assigned.
8. Certification Update
David Sexton reported there are a total of 43 pretrial agencies, 17 agencies are in the planning stage with 26 agencies certified.
9. Other Business
Judge Spitzer indicated that he would like to expand the number of certified pretrial agencies. At the next Spring Judicial College, he proposes having a pretrial panel. Tom Felts indicated he will bring this to the IOCS Education Division.
10. Adjourn
Judge Spitzer adjourned the meeting at approximately 10:15 a.m.

Future Meeting Dates:

- November 17, 9:30 a.m. Location TBD

**Pretrial Release Committee
Meeting Minutes
November 17, 2023
Indiana Supreme Court Conference Room**

1. Call to Order

Committee Chair, Judge Mark Spitzer called the meeting to order and welcomed members and guests. Persons in attendance were as follows:

Committee Members: Judge Vicki Carmichael, ISP Superintendent Douglas Carter, Magistrate Jason Custer, Judge Mary Ellen Diekhoff, Troy Hatfield, Christine Kerl, Judge Dan Moore, Judge David Najjar, Judge Mark Spitzer, Magistrate Matthew Symons, and Zachary Stock, proxy for Bernice Corley

Additional Attendees and Guests: Hillary Hartoin, Dr. Laura van der Lugt and Vibha Venkatesha

Staff: Jamie Bergacs, Traci Collyard, Tom Felts, Maja Grgic, Janelle Johnson, Lora Moeller, Kevin Riley, Reilly Sommers, and Nicole Wesling

2. Approval of August 18, 2023, Meeting Minutes

The August 18, 2023, meeting minutes were presented and unanimously approved.

3. Pretrial Practices Manual Revisions

Judge Spitzer presented the revised pretrial manual. Jamie Bergacs indicated that the only points of discussion from the previous version reviewed by the Committee revolve around the research piece. A question was raised regarding counties' ability to make changes based on local practices. Judge Spitzer clarified the manual should be used as a guide and counties have the ability to modify as they see fit.

The Pretrial Practices Manual was approved and will be uploaded to the IOCS pretrial website.

4. Pretrial Constitutional Amendment

Judge Spitzer presented suggested revisions to the constitutional amendment that were incorporated into one document following the August meeting. The Committee discussed thoughts and concerns regarding the current and

proposed revised language. The Committee discussed how to move forward, indicating that it is important to talk to potential sponsors about concerns with the language. Judge Spitzer agreed to draft a final version to be shared with authors and sponsors to gauge their willingness to accept the changes.

5. Data Subcommittee and Coordinators' Subcommittee Update

Troy Hatfield reported the focus of the Data Subcommittee continues to be addressing problem cases in the pretrial data. Troy reported he met with Chris Biehn regarding ways to assist counties with problem cases. Finding a path to resolve problem cases in order to generate trust in the data being produced is of utmost importance.

Troy reported the Coordinators' Subcommittee is working with Dr. Evan Lowder on a new opportunity for pretrial research in Indiana. The research proposal is to study pretrial supervision in 10 Indiana counties to determine model approaches in pretrial supervision, what works and what is effective at mitigating risk in the community.

6. Education Subcommittee Update

Traci Collyard reported the Justice Services Conference is scheduled for May 8-10, 2024. At this time, proposals for presentations are still being accepted. She also reported that 19 attendees from 10 agencies were present for the October staff orientation. The next staff orientation is scheduled for April 2024.

7. Certification Update

Lora Moeller reported that there are 43 pretrial agencies, 16 agencies are in the planning stages with 27 agencies certified. Since the last meeting Dubois received provisional certification. Clark and Hendricks have been fully certified.

The Committee discussed various ideas to assist/encourage agencies who have not progressed beyond the planning stage. The Committee decided to complete targeted outreach to those counties. Jamie Bergacs was asked to send Committee members a list of planning stage counties. It was also suggested to expand education by presenting at the Spring Judicial College, Indiana Sheriff's Association and Indiana Association of Chiefs of Police Annual Conferences.

8. Other Business

Proposed 2024 Meeting Dates:

- February 23-via zoom
- May 17- via zoom

- August 23- in-person (location TBD)
- November 15- via zoom

9. Adjourn

Judge Spitzer adjourned the meeting at approximately 11:10 a.m.