

National Association of Counties Resolution – Passed July 2009

Issue: Including Pretrial Justice in the National Commission on Criminal Justice Reform

Adopted Policy: NACo urges Congress to include an examination of pretrial justice policies and practices in the agenda of the National Commission on Criminal Justice Reform.

Background: Pretrial justice is the most neglected stage of the criminal justice system, yet it is one of the most important. The front-end screening of arrestees can be used to identify risks and needs, impacting violent crime, appropriate placement in problem solving courts, and the operation of traditional diversion programs. Research has shown that when controlling for all other factors, the pretrial release status of a defendant has the largest negative impact on his or her case outcome.

There has been a significant rise in jail populations since 1990, in spite of a significant decrease in the reported crime rates during the same period. Counties have seen more than a 500 percent increase in jail spending since 1982. County jails primarily house pretrial defendants. According to national estimates, two-thirds of jail inmates are in an un-convicted status, up from just over half in 1996. For most communities, those arrested have been arrested before, and a very small number of arrestees are making up a large majority of the arrests. Data collected on felony defendants by the Bureau of Justice Statistics show that financial bail is now set in two-thirds of felony cases nationwide, up from only half in 1990. As courts have imposed more and more financial bonds, the net result has been an increase in jail populations. Dealing more effectively with those individuals during the pretrial stage of the system can translate into substantial cost savings for counties across the nation.

NACo urges the National Commission on Criminal Justice Reform include a review of bail practices in the nation's counties. A high-functioning pretrial justice system can help ensure that defendants released into the community pending trial have their risks and needs managed, and appear for all court proceedings. The inclusion of pretrial justice issues in this National Commission would allow for national dialogue on bail reform not held since 1964's National Conference on Bail hosted by then-Attorney General Robert Kennedy.

Fiscal/Rural/Urban Impacts: There are no costs associated with the adoption of the National Commission on Criminal Justice Reform.