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## Reinstating a private bail system debated by panel overhauling Philly courts

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Members of a special committee exploring ways to overhaul Philadelphia's criminal justice system clashed Monday over whether the system should bring back the use of private bail bonders.

Advocates said commercial bail would work wonders in improving the system's dismal record for making sure defendants show up for trial.

Critics said the courts should move toward abandoning the use of money standards to get people to court. They said smarter evaluations of defendants' flight risk and greater use of close supervision and electronic monitoring would do a better and fairer job.

Cash bail has "so many disadvantages," warned John Goldkamp, chairman of the Temple University criminal justice program, who is widely seen as the leading academic expert on Philadelphia's courts.

"People who shouldn't be released can purchase it," he said. "People who should be released can't be because they can't afford it."

The differing views were aired during a session of a volunteer advisory panel established after The Inquirer published an in-depth critique in late 2009 of the Philadelphia courts.

The series portrayed a criminal justice system in crisis, buffeted by widespread witness intimidation, a massive number of fugitives, and some of the nation's lowest conviction rates for violent crimes.

As the state Senate panel met at the Philadelphia Bar Association offices at 11th and Market Streets, members also briefed the committee about proposals to reduce witness fear.

Jonathan S. Satinsky, a criminal defense lawyer with the Ballard Spahr firm, urged the state to provide \$390,000 in annual funding so the District Attorney's Office could create a unit to prosecute those who threaten victims and witnesses.

District Attorney Seth Williams said later Monday that he would welcome the money.

"In almost every homicide case in Philadelphia, and in almost every shooting case, there is some level of intimidation," Williams said. "If we had some detectives to follow those leads, to bring specific cases, that would do a lot to prevent other cases."

Among other proposals, Satinsky's panel also called for the Philadelphia Housing Authority and the state's victim-assistance agency to do more to provide shelter for witnesses who are in danger in their neighborhoods.

And Walter M. Phillips Jr., who is of counsel to the Obermayer, Rebmann, Maxwell & Hippel firm, reported that the state Supreme Court was considering permitting prosecutors to use indicting grand juries to bring charges in selected cases.

In such cases, witnesses would speak at closed hearings without facing cross-examination, though they would still have to testify openly at trial. Phillips has been a leading proponent of this, saying use of these grand juries could spare witnesses from repeated trips to court and from hostile questioning in early court sessions.

In its series, The Inquirer disclosed that a staggering 47,000 defendants were long-term fugitives from the Philadelphia courts. The system was owed more than \$1.5 billion in forfeited bail, fines, and restitution, officials have said.

Goldkamp and advocates of private bail agree that the Philadelphia system for handling defendants awaiting trial is deeply flawed, neither jailing those who skip court nor imposing any financial penalties.

There also appears to be agreement that the city's bail guidelines are badly out of date. Drafted by Goldkamp 16 years ago to evaluate defendants' risk of flight and criminal threat, the guidelines have not been revised. Goldkamp has long ago urged the courts to update them.

Heavy use of private bail ended in Philadelphia about 40 years ago amid scandal. Bondsmen, working in concert with corrupt court officials, had been shaking down defendants.

In a reorganization, the court began operating its own bail system, as is the practice in many cities. For decades, it has released thousands of defendants annually after requiring that they put up 10 percent of their bail amount.

Defendants were warned that they would have to pay the rest if they ducked court, but until *The Inquirer* spotlighted the issue, no one had ever gone after the remaining debt.

Despite opposition from Williams and top judges, the bail business has been arguing that it should be given a major role again in Philadelphia.

At Monday's session, Nicholas Wachinski, a lawyer with Musi, Malone & Daubenger who represents bail insurers, said U.S. Justice Department research had shown that commercial bail firms bested government-run programs."

Fewer private clients run in the first place, and when they do, he said, the firms do a better job at getting them back to court.

In part, Wachinski said, this is because the companies put pressure on a defendant's entire family.

Even a "hardened criminal," Wachinski said, would rather show up for court than face "his mother's wrath" at the prospect of losing a home put up as collateral for bail.