

VILLAGE OF YELLOW SPRINGS, OHIO

RESOLUTION 2020-54

SUPPORTING AN END TO THE PRACTICE OF CASH BAIL IN GREENE COUNTY, OHIO, ENCOURAGING ROBUST IMPLEMENTATION OF CRIMINAL RULE 46 IN ORDER TO REDUCE JAIL POPULATIONS, DECREASE RECIDIVISM, IMPROVE THE ADMINISTRATION OF JUSTICE AND SAVE TAXPAYERS MILLIONS OF DOLLARS

Whereas, Council is aware that persons charged with crimes are regularly incarcerated pre-trial and that cash bail is set for their release, a bail many of those charged cannot afford to pay; and

Whereas, prior to trial, persons charged with a crime are legally **presumed to be innocent** until proven guilty beyond a reasonable doubt per O.R.C. 2938.08; and

Whereas, the ACLU study of cash bail in Ohio (released September 2020: the “ACLU Study”) found that the imposition of cash bail disproportionately **punishes and targets people of color**, who are **more often charged and jailed**, and are more likely to have bond set over \$10,000; and

Whereas, the ACLU Study found that Ohio governments **would save between \$199 and \$264 million annually** if the practice of cash bail for most alleged offenders was eliminated; and

Whereas, implementation of bail reform would significantly reduce the number of persons incarcerated pre-trial, thereby reducing the number of beds needed in the local jail and would **save Greene County taxpayers millions of dollars in the planning and construction of a new jail**; and

Whereas, Chief Justice Maureen O’Connor of the Ohio Supreme Court has advocated publicly for common sense bail reforms consistent with the ACLU study, stating in a September 2020 press conference about cash bail:

- a) That even three(3) days in detention can ruin a person’s life – loss of residence, support system, and/or a job;
- b) That the socio-economic impact is not fair. The purpose of bail historically was a method **to be released** from jail - not detained -- and it has morphed into a mentality common in the judiciary of “let’s set a high bail to keep them in jail.”
- c) That the only reason to keep someone in jail is flight risk or criminal activity (e.g., a likelihood of terrorizing witnesses, victim); and
- d) That there are other, non-monetary conditions of release that are just as effective in achieving an efficient administration of justice and yet those are not front and center as alternatives like money has become; and finally
- e) That it drains the coffers and other precious resources of the community; and

WHEREAS, the Ohio Supreme Court has **adopted a revision to Criminal Rule 46** requiring courts to release a defendant “on the least restrictive conditions that, in the discretion of the court, will reasonably assure the defendant’s appearance in court, the protection or safety of any person or the community, and that the defendant will not obstruct the criminal justice process,” and “[I]f the court orders financial conditions of release, those financial conditions shall be related to the defendant’s risk of non-appearance,” the court continues. “Any financial conditions

shall be in an amount and type which are least costly to the defendant while also sufficient to reasonably assure the defendant's future appearance in court," and

Whereas, we believe that 1) cash bail, even a low amount, results in needless and unjust incarceration due to the poverty of those being held-pre-trial; 2) that pre-trial incarceration, even for a few days, has severe consequences for the lives of persons charged but not convicted, and with almost no advantage to the administration of justice, 3) that most of those held pre-trial and without cash bail are non-violent offenders; and 4) that pre-trial incarceration makes it much more difficult for charged persons to meet with their attorneys and to otherwise mount a defense to the charges.

NOW THEREFORE, be it resolved by Council for the Village of Yellow Springs that,

Section 1: Council urges the courts and local governments in Greene County, Ohio to **end cash bail** for most offenders for the reasons stated below.

Section 2: Council finds, based upon the study of the ACLU and the comments of the Chief Justice of the Ohio Supreme Court:

- a) That the imposition of cash bail unjustly impacts the poor, resulting in wealth-based detention;
- b) That being incarcerated pre-trial simply due to inability to pay puts people at risk of losing their jobs, falling behind at school, not getting needed medication and losing housing and/or custody of children. Additionally, during the pandemic, it puts defendants and jail staff at unnecessary risk of infection.
- c) That the system of cash bail is costly, burdening Ohio taxpayers to the tune of \$199-\$264 million annually, money can be saved by ending cash bail with common sense pre-trial reforms;
- d) That a policy of releasing non-violent defendants while their cases are resolved poses no greater risk of failing to appear in court or to the public at large;
- e) That poverty causes unjust results because persons in pre-trial detention are 90% more likely to plead guilty simply to get out of jail and get on with their lives, not because they are actually guilty.

Section 3. Council recommends the Adoption of Bail Reforms. We urge the courts of Greene County and the State of Ohio, and other governmental entities in their roles as fiscal agents for the taxpayers, to adopt and implement a **Bail Reform Policy** to reform the two-tiered system of justice based upon cash bail. Council recommends:

- a) That judges return to the practice of **honoring the presumption of innocence** until proven guilty beyond a reasonable doubt and **presume that OR bond** will be issued or, in the alternative, the least restrictive means for controlling the risk of flight or harm to others;
- b) **End cash bail** for non-violent offenses and to implement other recommendations in the ACLU study and Criminal Rule 46 and as suggested by Chief Justice O'Connor;
- c) That all charged persons be **released on a recognizance bond** unless a judge makes a finding on the record that the charged person is a flight risk or a genuine risk to a person in the community and that no other means of release can control for the risk (e.g., house arrest with electronic monitoring);
- d) That persons placed on electronic monitoring pay according to their ability to pay;

