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2020 RES-177
**REVIEW OF POPULATION ASSESSED CASH BAIL
IN DANE COUNTY CIRCUIT COURT**

5 In parts of the United States, people who have been charged with a crime, who are presumed
6 innocent, have been incarcerated without being found guilty of a crime when a court sets cash
7 bail at an amount that a defendant cannot afford. According to the Brennan Center for Justice,
8 more than 70% of individuals incarcerated in jails across the nation are there because they cannot
9 afford bail.

11 Historically, Dane County has had a high pretrial release rate and therefore has a significantly
12 lower rate of incarceration than the rest of the country. A 2018 report from Dane County Circuit
13 Court Judge Nicholas J. McNamara to the Public Protection and Judiciary Committee found that,
14 from 2012-2016, Dane County released individuals charged with a crime with signature bonds,
15 rather than cash bail, 81% of the time. Dane County defendants charged in lower level cases
16 were released on signature bonds at an even higher rate: for misdemeanor cases signature bonds
17 were given in 86% of the cases; for criminal traffic cases 97% were given signature bonds.

19 To more fully understand the circumstances under which cash bail is required, Dane County
20 should complete a deeper review of the 19% of cases with cash bail by analyzing
21 all criminal misdemeanor and criminal felony charges from 2016 to 2018 when cash bail was
22 assessed by a judge or court commissioner in Dane County Court. This analysis could be
23 completed by the Criminal Justice Council Research and Innovation Team, working with the
24 Courts, the Clerk of Courts, and the Sheriff's Office, with available data and could include a report
25 to inform whether potential policy changes are needed to address cash bail in Dane County.

27 **NOW, THEREFORE, BE IT RESOLVED** that the Dane County Board of Supervisors requests
28 that the Courts, the Clerk of Courts and the Sheriff's Office work with the Criminal Justice Council
29 Research and Innovation Team to review all criminal misdemeanor and criminal felony charges
30 from 2016 to 2018, when cash bail was assessed. The effort shall include aggregate analysis of
31 the following questions:

- 33 1) Analysis of the most serious charge, and the number of charges total, for each
34 individual assessed cash bail;
35 2) Analysis of the amount of cash bail assessed;
36 3) Analysis of individuals assessed cash bail who also had a parole or probation hold, or
37 other external holds, that prevented the individual's release from Dane County Jail;
38 4) Analysis of individuals assessed cash bail based on race, gender, and age.

39
40 Additional specific analysis should be based on a random sample to address the
41 following:

- 42 1) What percentage of individuals assessed cash bail were able to post that bail? For
43 those who posted bail, how many days did they remain in jail until they posted? For
44 those who were assessed bail and were unable to post it and were not on a hold that
45 prevented their release, how many days was that individual in jail before there was a
46 final determination on the charges?
47 2) What percentage of individuals assessed cash bail had been given a signature bond
48 in the past, on this or any other charge? For individuals assessed cash bail who were
49 previously given a signature bond, did they violate the terms of the prior signature bond?
50
51

52 **BE IT FURTHER RESOLVED** that the analysis, to the extent possible, provide results broken out
53 by race for all data provided.

54

55 **BE IT FINALLY RESOLVED** that the Criminal Justice Council Research and Innovation Team
56 present a preliminary report to the Criminal Justice Council and to the Public Protection and
57 Judiciary Committee by January 30, 2021, with a final report to follow within three months, to the
58 extent possible given the constraints presented by the pandemic.