

The Connecticut General Assembly

Task Force To Examine the Methods to Reduce Costs to Extradite

Chairman Chief State's Attorney Kevin Kane



c/o Judiciary Committee, Room 2500
Legislative Office Building
Hartford, CT 06106

MEETING MINUTES Monday, December 21, 2015 10:00 A.M. in Room 2B of the LOB

Attendance: Kevin Kane, Ryan Barry, Bruce Biel, Andrew "Drew" Bloom, Lt. Col. Warren "Butch" Hyatt; Kevin Lawlor, Judge Eliot Prescott, Andrew "Drew" Tingley, Brian Austin.

Convene Meeting & Introduction: Meeting commenced at 10:11 a.m. Chairman Kevin Kane read the emergency procedures; members introduced themselves and the entities they represent. Chairman Kane restated the charge of the task force, recent proposals to amend the current statutes and review of last meetings presentations.

Minutes: Minutes from the November 21, 2015 meeting were reviewed. Chairman Kane noticed a discrepancy in Chief Inspector James Hankard's testimony on page two, third bullet, relating to types of extraditions. The minutes reflect "Police would apply for a warrant that has not been "issued". What was said/meant to be said was "Police would apply for a warrant that has not been "served". The decision was made to accept the minutes and make a note in the report.

Statistics: Lt. Colonel Wyatt shared the statistics from the Extradition Unit concerning Governor's Warrants. If an individual waives extradition, there is no need to obtain a Governor's warrant. Chairman Kane noted the relatively small amount of warrants: In 2014, 30 Governor's Warrants and 141 waivers. Through Sept. 3, 2015, 21 Governor's warrants and 107 waivers.

Presentation: Stephen J. Sedensky, III, State's Attorney, Judicial District of Danbury

- Comments related to matters when bond has been posted by bondsman and defendant has fled the state.
- Defendant doesn't show in court first time, a bail commissioner's letter is issued informing the offender about the missed court date and next assigned court date. If person fails to show on the next court date, a warrant is issued (rearrest) and entered into the PRAWN system.
- Warrant is marked with terms of the extradition such as a list of extraditable states. Clerk's office notifies police departments. Clerk's office can no longer put the "File 5" in the computer.
- When fugitive defendant is out of state, facts of the case are reviewed: Violence/no violence, victim/no victim, ability for the state to prove the case to determine if it is worth it to send an agent.
- Same day travel is approved when the only expense is mileage. Number of cases of theft from the Danbury Mall and person flees beyond CT.
- Even if a misdemeanor and the only cost is mileage, retrieval is authorized from NY. Don't want defendants to get the impression they can steal in the mall, cross the border and avoid prosecution.
- In cases such as stealing from the mall, the warrant would go with the local police department (Danbury PD), who travels to get the person. With misdemeanors, an arrest warrant is necessary. For felonies, can get a fugitive arrest (with probable cause) without a warrant.

- Misdemeanors require an arrest warrant from CT and a fugitive warrant from NY state.
- If caught by NYPD and there is a warrant, NYPD can detain & the defendant can waive extradition.
- CT/New York prosecutor would request an initial 30 day continuance so CT would retrieve defendant.
- If extradition requires an overnight stay such as larceny in the 3rd degree, decision to be made if it is in the state's best interest to spend thousands of dollars on a crime when the loss may be just over \$2,000. The more serious the crime, the more likely to approve costs of extradition.
- §54-65c does not require the bondsman to produce the defendant whose appearance in court was implicitly guaranteed by the posting of the bond.
- To be released on the bond, the bondsman need only show the defendant is being held out of state and the state's attorney has declined extradition. There is no further incentive to the bondsman to make sure the defendant remained in the state or is brought back to the state for prosecution.
- Similar to proposal by member Drew Bloom, the Division of Criminal Justice proposes the bondsmen be responsible for the costs of extradition. The cost to the state will be eliminated or reduced and the exposure to the bondsman in having to pay the cost of extradition will encourage a more thorough evaluation of the risk of the bond and encourage greater monitoring of the defendant once out on bond.
- Currently if person is arrested and bailbondsmen posts bond and person doesn't appear, letter is sent out and ultimately a Failure to Appear warrant is issued the bond would be forfeited. The court will note the time and defendant has until 4:00 to show. If no-show by 4:00, there is a 6 month stay. If person returns within 6 months, the forfeiture is vacated. The bond is forfeited in terms of the collection
- After six months, collection is handled by Chief State's Attorney office.
- Proposal to require bondsman to pay costs of extradition up front rather than at end.
- Older PRAWN computer system had a box to check off with detailed limits of extradition. The clerk's office gives terms of the extradition to the police department. No automatic provision to get into PRAWN system. Typical arrest warrant will not go into NCIC. "File 5" lists terms of extradition.
- Challenge with current, more frequent practice of allowing defendant release with "promise to appear".

Discussion:

- Discussion included various scenarios for extraditing and costs involved in whether or not to extradite.
- Possible preset cost amount for each state or region is reasonable. From a business standpoint, it makes sense to determine a preset amount to be able to plan ahead. Currently the expense of extradition comes from the Division of Criminal Justice. Costs can vary widely depending how far the extradition occurs.
- If the bond is forfeited, the forfeiture goes into the General Fund, not the Division of Criminal Justice.
- Discussion included when to collect money if bondsmen absorb the cost.
- Schedule in which bonds are compromised depends on date on which they are outstanding. Most bonds are initially compromised 50%. Even when bonds are forfeited, bondsmen are never out the full amount.
- Even though the judge sets a bond amount, the bondsmen can set the amount the defendant pays for that bond. The amount charged the defendant impacts the likelihood of the defendant showing in court. The amount of held security incentivizes the defendant to show up or not.
- Example of a defendant incarcerated in NY for a year while having a CT court date in a month. It's very difficult for the bondsmen to produce the defendant for the court date. Bailbondsmen's hands are tied and motion requests to be released from the bond get continued over and over.
- Biggest complaint from bail bondsmen is having to pay the bond because they couldn't get the person back. Agents must continue to file motions and possibly hire an attorney.
- No current statistics available on the number of cases leading to final prosecution if the cost-shifting proposal is adopted. The monetary savings in Danbury would be approximately \$15,000-\$20,000.
- The number of extraditions will increase due to the change in cost responsibility. The state can now get more restitution for the victims.

- Based on many factors, judge, prosecutor and defense attorney collectively determine element of risk to put someone out on bail. Possibility of a business assessment in conjunction with all parties and accordingly all parties would share the exposure and cost of extradition.
- Members agreed it would be beneficial if limits of a warrant were in NCIC. The “check-box” feature is missing from the form. Draft recommendation could be included in the task force final report.

Presentation: Drew Bloom’s modification of earlier proposal.

- All FTA for felonies or class A misdemeanors be entered into NCIC.
- Bail Bond Company to pay fee of \$25 to court to enter absconder into NCIC thereby binding the company to pay costs of extradition.
- If costs of extradition exceed more than company is willing to pay, the option of paying the forfeiture.
- Any bail bondsman not paying forfeiture within thirty days would have license suspended.
- Fee would be set amount such as fixed amount mentioned in meeting based on the area. Minimum of \$500 and max of \$3,000. Any extradition outside of the U.S. would be mutually agreed upon.
- If paying costs of extradition, bailbondsmen request the defendant to not be out on promise to appear or non-surety bond. Persons should not be released to anything less than cash bond for the extradition costs. Similar to the procedure in Florida.
- Concerns arose over limiting/taking away the court’s discretion to set bond. Based on the discussion, the proposal was further modified to use “may” instead of “shall”, when setting terms of release.
- Cases of cash bonds would be similar to a “purge” in child support cases. Cash minus the costs of extradition or similar to current handling of restitution.
- Discussion included the limitations of the interstate compact allowing felony arrests, not misdemeanors.

Proposal Offered: State’s Attorney Kevin Lawlor based on discussion at meeting:

- Establish fixed costs based on research for each region of the country
- Create Bailbond Fund similar to Client Security Fund (for attorneys) to cover costs of extradition with a percentage assigned to all parties.
- Require police departments to enter all warrants with jurisdictional parameters and felony warrants into NCIC.
- State attorneys to seek restitution to the fund and General Fund for the costs of extradition for all pending cases. Replenishment of funds through people who flee.

Next Steps:

- Members to submit any additional proposals prior to next meeting.
- Governor has asked the Sentencing Commission to study the issue of bail; our charge is very narrow.
- Consider hearing from local police departments regarding impact on their practices.
- Consider and vote on all proposals at next meeting.
- Next meeting scheduled for Tuesday, January 12 at 10:00 AM in Room 2B of the LOB.
- Draft report based on meetings held thus far.

Adjournment: Meeting Adjourned at 11:36 A.M.