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MARYLAND STATE LODGE
FRATERNAL ORDER OF POLICE®

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October 28, 2016

The Honorable Mary Ellen Barbera
Maryland Court of Appeals
361 Rowe Boulevard
Annapolis, MD 21401

Re: Standing Rules Committee on Practice and Procedure considering Bail

Dear Judge Barbera:

I write on behalf of the Fraternal Order of Police in regard to the recently publicized efforts of the Attorney General to amend the current practices relating to bail and release of defendants pending trial in the state of Maryland.

From a law enforcement perspective, we are not insensitive to the perception that there is a volume of people who are unable to secure release pending trial due wholly to a lack of financial means. However, even considering our sensitivity, we believe that real public safety implications will flow from the abandonment of our current system in lieu of a "release or detain" model.

As law enforcement, we appreciate detaining the most violent or potentially harmful defendants who are awaiting trial. Detaining those individuals likely guarantees that no further harm would be visited upon the communities we protect. However, such a change does not come without serious implications. Perhaps the most important of these implications is the necessary increased need for infrastructure and funding. This investment is required to ensure our facilities can handle a larger and more dangerous population. However, such an investment may impact the operations of our police departments and the function of our police officers due to a lack of available budget dollars. While we support the notion, we feel strongly that this debate belongs properly in the legislature where all voices can be heard.

Releasing persons accused of crime into the community with no accountability and no will cause a public safety upheaval. Earlier this year, recently retired Washington D.C. Metropolitan Police Department Chief Kathy Lanear criticized the Washington D.C. criminal justice system for returning offenders to the streets with no accountability. As members of our communities, with a duty to serve and protect, we understand that not every person accused of a crime should be required to provide bail. However, there are many circumstances and cases where bail is a necessary tool. Bail does have the effect of motivating appearance a trial and adjudication of the case. Bail also serves a valuable public safety function in the nature of a bail forfeiture following a failure of the defendant to appear as required by the Court.

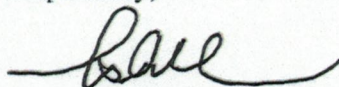
Representing the Professional Police Officers of the State of Maryland

In circumstances where a defendant failed to appear for his or her scheduled court event, bail forfeiture is triggered requiring that the defendant be produced or a monetary sum paid. Whether done by a bail bondsman or a family member who has provided the bail money directly, bail forfeiture as a criminal justice tool uses the relationships of the defendant to motivate that defendant to return and be adjudicated.

Bail is also a valuable tool in addressing failure to appear arrest warrants. As has been seen in other jurisdictions such as Philadelphia, when bail is improperly used or unsecured bail is the norm, warrant enforcement becomes a problem for law enforcement. More importantly, the abandonment of bail will reduce the system's involvement of bail bondsmen. Bail bondsmen are a necessary and important tool in addressing warrant enforcement and fugitive recovery. Such a policy shift will cause our officers to alone shoulder the burden of enforcement and collection of failure to appear warrants alongside their other day-to-day operational responsibilities. It should be noted that they will be forced to take on this additional duty with little or no infrastructural or fiscal support. This burden will also further add to the likely erosion of public safety.

Increasing the efficiency of the criminal justice system is laudable, but abandoning a tool that works in preference of a poor public safety policy will harm Marylanders. The proposals being discussed fail to consider all the unintended consequences and negatively impact our role as law enforcement. Even more concerning is this discussion may be held in a rules committee setting, rather than in the legislature where the process is designed to consider all substantive and fiscal concerns. We urge you to decline to allow the rules committee to act on this matter, and encourage this robust conversation to be taken up with the representatives of the people, who will consider all attendant circumstances, including public safety.

Respectfully,



Ismael Vincent Canales
President
Maryland Fraternal Order of Police

cc: The Honorable Lawrence J. Hogan, Jr.
The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch