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Proponent Testimony on House Joint Resolution 2
House Criminal Justice Committee
April 5, 2022

Chairman LaRe, Vice Chair Swearingen, Ranking Member Leland and members of the House Criminal Justice Committee, thank you for allowing me the opportunity to offer proponent testimony on House Joint Resolution 2. My name is Rick Bley. I am the Chief of Police with Springfield Township Police Department, in Hamilton County, Ohio. I currently sit on the Executive Board of the Hamilton County Police Chiefs' Association, representing all police agencies in Hamilton County.

Bail allows the justice system to protect each person's right to be presumed innocent until guilt is proven, while still protecting the interest of public safety. The decision to grant bail and the determination of the appropriate amount of bail necessarily involve a delicate balancing of these interests in every case. Under Crim.R. 46, as it is currently interpreted by the Ohio Supreme Court, the only factors which may be considered when determining the amount of bail are: (1) the risk of non-appearance; (2) the seriousness of the offense; and (3) the previous criminal record of the defendant. H.J.R. No. 2 expands those factors to also require the consideration of the safety of the public. Given that public safety is the second public interest which is fundamental to the concept of bail, it seems only reasonable that a court consider public safety when determining the appropriate amount of bail in each case. Further, H.J.R. No. 2's requirement that courts consider public safety in determining the amount of bail is likewise reasonable because while it requires the court to consider public safety in its determination of the amount of bail, it allows the court to determine in each case the weight to be given to the consideration of public safety. In some cases, public safety will be critical to determining the amount of bail. In others, it will not be.

Take for instance, a case in which an individual (without any criminal record) is charged with murdering his girlfriend after he discovers her cheating with his best friend. He then kills his ex-best friend immediately before turning himself in for their murders. In determining bail in this case, the court might find that (1) the risk of non-appearance is likely moderate; (2) the offense is quite serious; (3) the defendant has no prior criminal record; and, if the new factor is added, (4) that the risk to public safety is minimal. The crime was one of passion and all of the persons who the defendant could conceivably want to harm are already dead. Thus, in this case, the addition of public safety as a factor in determining the amount of bail would make no difference.

Contrast that to a case where an individual (without any prior criminal record) is charged with seriously injuring a marijuana dealer in a robbery gone bad. There is no physical evidence tying the individual to the murder. There is only eye-witness testimony from 3 witnesses – two of whom are known to the defendant and one who reported the crime to crime-stoppers. When this defendant is arrested and comes before the court for bail, the analysis is quite different if the court cannot consider public safety in determining the amount of bail. Here, the court might find that: (1) the risk of non-appearance is low to moderate; (2) the offense is serious but certainly not as serious as murder; and (3) the defendant has no criminal record. Without considering public safety, including the very real threat to the 3 witnesses in this case, the court might grant a low bail. If, however, the court were able, and in fact were required, to consider the public safety, it could evaluate whether a low bond would endanger the lives of the witnesses who are the only evidence against the defendant. Without H.J.R. No. 2, the court cannot even consider the very real need for these witnesses to be protected from this defendant.

As a police officer for nearly 26 years, I have seen numerous cases in which witnesses have been frightened, threatened, disappeared or refused to participate in trials after contact with, or threatened contact by, the defendant. And, I cannot even count the number of times I questioned a witness who simply would not provide information which I knew they had because they were afraid for their safety. It has become increasingly more difficult for police officers to get and maintain cooperation from witnesses throughout the entire prosecution of a crime -- this is especially true in violent crimes. Witnesses fear potential retaliation for their involvement in the prosecution of these violent individuals. Allowing the courts to take into consideration the public's safety will help law enforcement prosecute these crimes, protect the witnesses throughout the entire case, and protect the general public from offenders reoffending pre-trial.

And, perhaps more importantly, requiring the courts to consider the public safety when determining the amount of bail will allow courts to consider the safety of the victim when granting bail. Recently, I was involved in a case where a 12-year-old boy was violently raped by his neighbor. Using the current 3-factor bail analysis, the court granted the defendant bail in the form of home incarceration with an electronic monitoring system. **Under the current system, the court could not even consider the risk to the victim or the community in granting bail to the alleged child-rapist.** Needless to say, the victim's family and the community were outraged and rightfully concerned that the alleged rapist would further harm the boy or other children in the community while he was on bail. Regardless of the defendant's actions while on bail, his mere presence in the same neighborhood created damage and posed risk to the victim -- a fact which under the current bail system could not even be considered by the court.

In conclusion, our entire criminal justice system is intended to help ensure the safety of our communities. Every day, police officers throughout Ohio put their lives on the line in pursuit of that goal. But, right now, judges are not permitted to give *any* consideration whatsoever to the question of public safety when they determine the amount of bail. This makes no sense and undermines the very purpose of our criminal justice system. Allowing judges to consider this factor, along with the others currently permitted, and to give it the appropriate weight in each case, will best serve the interests of justice and the communities we are all sworn to protect.

For these reasons, the Hamilton County Police Chiefs' Association strongly supports H.J.R. No. 2, and we strongly encourage you to support the Resolution as well. Thank you for your consideration.