



# District Court

FIRST JUDICIAL DISTRICT

100 JEFFERSON COUNTY PARKWAY

GOLDEN, COLORADO 80401-6002

**MARGIE L ENQUIST**  
JUDGE

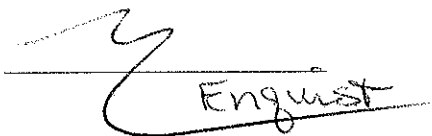
1. My name is Margie Enquist, and I am a District Court Judge in Colorado's First Judicial District, comprised of Jefferson and Gilpin Counties. I received my law degree from the University of Minnesota Law School, graduating *magna cum laude*. Before being appointed to the bench in 2004, I served as Deputy District Attorney for the First Judicial District, handling felony cases, with an emphasis on crimes against children.
2. I have provided training to law enforcement academies and continuing legal education seminars to attorneys in Colorado. I have occasionally been asked to speak outside of Colorado (to other judges and policy makers), primarily on issues surrounding pretrial release and detention as well as research on the impact of those decisions. I co-authored a paper on the topic of release and detention in Jefferson County for the Attorney General's National Symposium on Pretrial Justice in 2011.
3. As a Colorado judge, I am bound by a judicial code of conduct that limits my ability to provide testimony. Accordingly, I will not be commenting on the merits of this particular case. Instead, I will only respond to a letter dated December 22, 2016, titled "Proposed Amendment by Standing Committee on Practice and Procedure Regarding Rules of Criminal Procedure on Pretrial Release." To be clear, I do not speak for the Colorado Judicial Branch or any other judges in my district.
4. As an initial matter, you should be aware that three signatories of the above-mentioned letter were not in their present positions during the years-long process research and implementation of a project that we named the "Jefferson County Bail Project." From what I recall, none of them were present during the many meetings during which we compromised to reach consensus, they did not participate in or contribute to the research, they did not help with the various documents produced during the process, and, in my opinion, that impairs their ability to fairly evaluate the success or failure of either the Jefferson County Bail Project, or a sub-study titled the "Bail Impact Study."
5. Jefferson County began discussions concerning the effectiveness of our pretrial release and detention practices in 2008 and 2009. Those discussions culminated in our local Criminal Justice Coordinating Committee (CJCC), comprised of all the criminal justice stakeholder groups and chaired by our then-Chief Judge Brooke Jackson, voting to further explore the issues. In 2009, after a lengthy period of study, the County's Criminal Justice Planning Unit (staff to the CJCC) produced a series of recommendations for making changes to our then-existing pretrial processes.

6. Based on those recommendations, judges in the First Judicial District chose to engage with the rest of the County in discussions surrounding what we called the Jefferson County Bail Project, which involved a collaborative process of reworking our first advisement bail settings and examining all aspects of the pretrial process. I was asked to serve as one of two Judge Representatives during that process. The overall project was a complicated but collaborative process of change involving representation from multiple stakeholders from the entire criminal justice system.
7. One component of this long process was a study titled the Bail Impact Study, which was a fourteen-week pilot project designed to measure the impact of many of the proposed recommendations for change. The Bail Impact Study (BIS) was designed merely to provide local data, specifically concerning outcomes from the various changes made to local practices during the fourteen weeks.
8. The Bail Project was much broader, and included meetings, papers, the creation of new pretrial supervision practices and responses to violations, and numerous policy level discussions over various proposals (such as having all defendants appear before a judge prior to bond settings, and having defense attorneys at bail hearings, at least in felony cases). The differences between the BIS and the overall Bail Project have been documented and published in 2014 in two separate papers found here: <https://www.pretrial.org/download/pji-reports/Jefferson%20County%20Bail%20Project-%20Impact%20Study%20-%20PJI%202014.pdf> (impact study); and here: <http://www.pretrial.org/download/pji-reports/Jefferson%20County%20Bail%20Project-%20Lessons%20Learned%20-%20PJI%202014.pdf>.
9. The CJCC (including the Sheriff and County Commissioner on the committee) voted nearly unanimously (the one vote cast against was by the District Attorney) to attempt to fully implement the studied and recommended changes.
10. In my opinion, and as someone who was present throughout the Jefferson County Bail Project, that Project had an overall positive impact. It led to the elimination of the County's arbitrary monetary bail schedule (which was arguably unconstitutional because it was based solely on charged offense and not ability to pay or risk to the community), to having public defenders at first advisements, to having Saturday advisements, and overall to fostering a more thoughtful and educated process of bail settings in our District. The data collected by the planners showed that judges could release more people on unsecured bonds and still retain the same court appearance and public safety rates, a finding that has helped countless jurisdictions in America struggling to find solutions to pretrial issues.
11. The Bail Project also led the statewide Colorado Commission on Criminal and Juvenile Justice to examine bail practices, and to discuss alternatives to the traditional money bail system. I was a Co-Chair of the Subcommittee tasked with leading those discussions, which ultimately led to revisions to our state laws changing the definition of bail, and encouraging the use of unsecured bonds, an actuarial pretrial risk assessment, and pretrial services supervision where available.

12. The letter of December 22, 2016, states that “the county shifted toward an unsecured bond system,” but that now “the use of financial bail, including the use of commercial sureties, has been re-introduced into the system.” In fact, despite the findings of the BIS, the county never completely “shifted” to an unsecured bond system, and money and commercial sureties were never eliminated from the system to begin with (even during the BIS). Then, as now, judges have been able to use their discretion (within constitutional limits) to set types and amounts of bond, under Colorado state law.
13. The letter of December 22, 2016, also states that “the program did not work as intended,” citing budget issues. In fact, while budget concerns (related to an anticipated need for more jail space) led to initial discussions over pretrial changes, to me, as a person asked to represent the judges during this project, budget issues ultimately became secondary to issues of fairness and effectiveness in the administration of justice. Moreover, as stated, some judges then and today choose secured bonds despite the empirical evidence. Accordingly, any claims concerning the current budget cannot be easily attributed to changes in bond types made during the pilot project. And surety bonds have not solved the problem.
14. The letter of December 22, 2016, further states that “the program did not work as intended,” citing accountability issues. In fact, the BIS study, cited above, demonstrated that secured bonds did not increase “accountability,” as measured by court appearance despite the fact that failure to appear is the only basis for bond forfeiture in Colorado. Secured bonds are also not correlated with improved public safety rates in Colorado because those bonds are not forfeit in the event of a new offense. Secured bonds are effective in increasing public safety and court appearance when they result in detention, but I am unaware of any research showing that the use of secured bonds decreases recidivism, increases public safety, or decreases failures to appear after release.
15. Overall, the Bail Project worked as intended as a necessary first step in the iterative process toward more just and effective bail practices in Jefferson County. In sum, the Jefferson County Bail Project provided an overall benefit in that it educated Jefferson County judges and stakeholders about bail setting, helped the County in making significant changes to pretrial practices, and informed state lawmakers when changing Colorado’s bail laws. Moreover, the BIS portion of the Project was highly successful in showing that judges could release more persons pretrial while keeping the same court appearance and public safety rates. To the extent that the implementation of the recommendations was not successful, the reasons therefor extend far beyond the scope of the statements in the letter of December 22, 2016.

I swear under penalty of perjury that the foregoing is true and correct to the best of my ability.

March 6, 2017

  
Engquist

*Signed & sworn before me  
this 6th day of March 2017  
in Jefferson County, CO*  
