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Equal Access to Bail Bond

In our on-going effort to examine and address perception issues of racial and ethnic bias in the courts, the Nebraska Minority and Justice Implementation Committee identified a concern with non-English speaking defendants' access to information pertaining to bail bonds. More specifically, there is a concern that in smaller counties, where interpreters and judges are not available on a daily basis, non-English speaking misdemeanor defendants could be detained until arraignment without being advised of available scheduled bonds. In addition to the issue of unequal access to scheduled bonds, the problematic nature of this situation could escalate if non-English speakers are encouraged to plead guilty for "time-served", thereby negatively impacting the defendant's criminal history, which may impact future sentencing decisions.

In an effort to ensure equal access to bonds the Minority and Justice Implementation Committee developed a packet of information to be shared with defendants. The packet has been approved by the Nebraska Supreme Court and includes the following: *Notice of Rights of An In-Custody Defendant*, *Notice of Right To Post Bond*, and *Affidavit In Support of Personal Recognizance Bond* (available on-line at <http://court.nol.org/rules/forms/>). This packet of information is intended to serve an informative purpose; non-English speaking defendants may or may not be familiar with the United States justice system and its processes. Moreover, if non-English speaking detainees are advised of the bond schedule and can post bond or contact someone to post bond for them, this procedure has the potential to relieve jail overcrowding. If defendants are not able to post bond they can use the financial affidavit to request a

personal recognizance bond. Finally, we believe that this procedure will help reduce any perception by minorities that they are being treated differently in regards to bonds and pretrial detention.

The content of the forms will soon be made available audibly, either through tape, CD or video to address any illiteracy issues. The forms are currently available in English and Spanish and will be translated by certified court interpreters in additional languages as requested. The Nebraska Supreme Court has also approved for publication, *Guidelines for Implementing Bilingual Bail/Bond Documents* to assist judges and jailers with the process of providing the forms (available on-line at <http://court.nol.org/rules/forms/>).

Dodge County Court Judge, Ken Vampola, a member of the Nebraska Minority and Justice Implementation Committee, has been piloting the forms in Dodge County for the past 6 months. According to Vampola, the forms are fulfilling their intended function, "The advisory forms are provided to all detainees regardless of language. I have noticed an increase in requests for court-appointed counsel prior to arraignment from both Spanish-speaking and English-speaking defendants. Also, it appears that the schedule bonds are being posted because I rarely review a schedule bond for a Spanish-speaking detainee."

The Minority and Justice Implementation Committee will conduct a small scale evaluation in 12 months, to assess the impact of the forms. Among other things, the study will assess how frequently the forms are being used, what benefits the forms have provided the court system, and if any changes to the forms are necessary. 