North Carolina Bail Agents Association

August 31, 2016

TO: Chief Justice Mark Martin
Members of the Criminal Investigation & Adjudication Committee

FROM: Randy Cauthen
President
North Carolina Bail Agents Association

RE: Industry Response to Request for Public Comment Regarding Pretrial Release of Defendants

Dear Chief Justice Martin and Committee Members:

The North Carolina Bail Agents Association (NCBAA) is the only non-profit trade association for bail bonding professionals in North Carolina, established in 1992 to protect, promote and preserve private bail in this state. We began participating in the numerous meetings of the Commission and several of its committees from its inception in the fall of 2015. We became involved not because we were invited by the Commission or the committee as a stakeholder, as the interim report by the committee suggests, but because we insisted on being part of the process as the largest form of pretrial release of defendants in North Carolina.

As a matter of fact, we were not the only stakeholder intentionally left out of this process. The North Carolina School Board Association, representing school boards across the state who receive bond forfeiture funds, was not invited to participate. Victim advocacy groups, such as the NC Victim Assistance Network, SADD, MADD, and the NC Coalition Against Domestic Violence, and victims themselves were not invited to participate. Many were not even aware that the Commission had been empaneled. The only entity allowed to present to the committee was public funded pretrial services, who gave a five-hour presentation on February 12, 2016. Opponents of public funded pretrial release have been restricted to less than 20 minutes of comment period, despite being promised equal time to present the facts on the topic of pretrial release.

The interim report by the committee in July of 2016 states the reasons for examining pretrial release.

"One is a concern that North Carolina may be routinely detaining individuals who present little or no pretrial release risk simply because of their inability to pay a money bond. Another concern is that wealthy but very dangerous defendants can simply buy their way out of detention, presenting an unacceptable risk to community safety. Other concerns revolve around the lack of evidence-based practices with respect to pretrial assessment and the opportunity for racial and other biases to improperly influence pretrial release decisions."

The Commission conducted a jail study of five counties, seeking to investigate "....the number of pretrial detainees in local jails, their race, their offense type, the number detained on secured bond, the average secured bond by offense type, and the average days of pretrial detention." What this study neglected to report was the defendant's criminal history, the history of the defendant's failure to appear in court and the findings of fact, required by law, associated with each decision for pretrial detention by a judicial official. Additionally, the expert retained by the Commission to prepare the interim report didn't contact any of the stakeholders regarding the pretrial release of defendants, therefore creating a study that is not factual or accurate.

In addressing the recommendations of the "expert", the Association will attempt to respond to each point included in the report as follows:

- "Whether or not North Carolina should adopt a procedure allowing for the preventative detention of defendants for whom pretrial release is inappropriate. If so, what the procedure should look like."

  The presumptive "procedure" would be a taxpayer funded program that would require the public to pay for salaries, benefits and expenses associated with the operation of an entity already being provided for by private businesses at no cost to the taxpayer. Included as part of the individuals being taxed would be the victim of the crime or the family of the victim if there were a loss of life due to the crime. Victims of crime are paying repeatedly through loss of property, injury and sometimes their life. Re-victimization by forcing them to pay for pretrial release programs is unacceptable.

- "A statement of general principles with respect to release of persons other than those preventatively detained and recommendations regarding statutory language to that effect."

  The presumption is that these government run programs would provide the "tools" necessary to make pretrial decisions and to impose restrictions on defendants, including but not limited to mandatory drug testing, community service, etc. This would be the greatest violator of a defendant's civil rights and completely unconstitutional by imposing punishment prior to conviction and subjecting defendants to evidence that would potentially be used against them in court, most not even related to the criminal charge for which they are awaiting trial.

- "Whether or not North Carolina should provide clear guidance to judicial officials to help them match appropriate pretrial conditions to an individualized assessment of pretrial risk. If so, how."

  Pretrial release of defendants is statutorily within the purview of the bail policy in each judicial district and set by the Resident Superior Court Judge and Senior District Court Judge. The inference that magistrates and judges are not competent and capable to make their own decisions or that in doing so they are being racist (based on the study referenced herein) is ludicrous and encroaches on the authority of these judicial officials to make these decisions. There are already victim assistance individuals within the office of the district attorney that should be or could be providing this information to the judicial officials making pretrial decisions. The "risk assessment tools" referenced in pretrial discussions don't take into consideration human decisions by judicial officials but instead utilizes a formula or "points system", if you will, that attempts to predict what a human criminal defendant will do once released into these programs. The enclosed example of a New Orleans mass shooting proves this type of approach does not work. Pretrial decisions should be made by a human and not an algorithm.

- "An evaluation of pretrial conditions currently being used in North Carolina and identification of effective pretrial release conditions being used in other jurisdictions that should be considered here (e.g., court date reminders)."

  Court date reminders, phone calls or other means of communication with defendants are difficult at best as defendants tend to change phone numbers and addresses frequently during a criminal case. It is also a repetition of services already being provided by private business men and women in dealing with defendants.

- "Identification of statutes, court rules, local policies, etc., that would need to be adopted, modified or repealed to implement the recommendations."

  These issues are mute points if we concentrate our efforts on improving the efficiency of our court resources already in place. Our profession (as taxpayers also) envisions a criminal justice system in North Carolina where the communication between all parties in the process is streamlined and where resources that are already being funded by taxpayers actually get utilized for a more efficient process. From collaboration between the Sheriff, the Clerk of Court, the District Attorney and our judicial officials like magistrates and judges, this vision can be accomplished.

It has been proven time and time again over the years through studies by the Bureau of Justice Statistics, surveys of the National Sheriff's Association, research reports from other states and high profile criminal cases that public funded pretrial release programs DO NOT WORK and are not a more efficient, less expensive alternative for the pretrial release of criminal defendants. New Jersey's new legislation has been applauded as the future but will cost taxpayers millions of dollars to enforce. North Carolina cannot afford these programs. There is no accountability for these programs or the money they spend.

I have enclosed materials for your review, including studies, surveys, news articles and research reports. I hope you will find them helpful and will consider all of the issues we have addressed when making your final report to the General Assembly for the 2017 Legislative Session. We reiterate our request to be given equal time to present our position to the committee as we were promised and stand ready as a resource for the Commission in this discussion.

Regards,

Randy E. Cauthen

Randy Cauthen
President

RC/ms

Encl.

The importance of Private Bail in North Carolina

Private bail has long been a vital part of the judicial system in North Carolina, reducing the jail population and assuring the defendant's appearance in court. Even so, little is known about the real value private bail provides to our State.

First, to get your attention: *Two Billion Dollars in Savings* per year provided by private bail in reducing jail population.

In addition to a citizen's right to bail and that bail is not excessive, it is economically necessary that the majority of persons arrested be released from jail. The question is, what type of release is most "cost effective" and provides the "greatest assurance" of the defendant's appearance in court. The answer has always been private bail. Why? Private bail is a win-win for the State.

When a person has been placed under bail to assure their appearance in court, the bail, a monetary amount, must be posted. In most cases the defendant uses the services of a bail bondsman to post the bail. The defendant only has to pay a small percentage (up to 15%) of the bail as premium to the bondsman. Although though private bail is sometimes accused of discriminating against the poor, the opposite is true. Bondsmen often work with defendants on the premium payment, posting the bond on partial credit, or even full credit, and allowing the defendant to make payments. Once the bond is posted, the bondsman stands good for the full amount of the bail to the court in the event the defendant doesn't appear for trial. If a defendant does not appear in court and the bail must be paid, the State benefits in that the amount of bail goes to *support the free public schools of the State*.

Studies shows Private Bail is the most Efficient

In addition to the savings provided by private bail in reducing the jail population, private bail is considered the most efficient type of pretrial release in assuring the defendant's appearance in court. Bondsmen have the lawful authority to apprehend and arrest a defendant who has failed to appear at trial and therefore making the defendant available to the court. Bondsmen often go to other States to arrest a defendant to bring him back to North Carolina for trial. In addition to the savings mentioned above, the bondsman's power of arrest offers another savings in that they are an "arrest force" of over 1700 bondsmen at no cost to the tax payer. It is estimated that bondsmen apprehend and arrest 98% of those persons who fail to appear that were release by private bail. Studies show that many defendants who appear in court under a bond with a bail bondsman would not have appeared otherwise. That is the influence of private bail.

Two Billion Dollars in reducing Jail Overcrowding

How can private bail claim that it saves the State this amount in reducing jail overcrowding? Private bail uses the same formula used by tax-paid pretrial services to justify their programs; the jail cost of housing an inmate on a daily basis times the number of days the defendant is in the program.

Example: A bondsman has two hundred defendants on bond per day. (Remember that bondsmen are writing bonds faster than the cases are being tried so two hundred is a low number.) The jail cost of housing an inmate is $34.00 (another low number). Two hundred times $34.00 equals $6,800.00 per day, which would equal to $2,242,000 per year. There are over 1700 bondsmen in the State. Example: Seventeen hundred bondsmen have 100 people out on bond per day. $34 x 100 = $3,400 x 1700 = $5,780,000 per day, times 365 days = **$2,109,700,000 per year**. **THIS IS A LOW NUMBER** because the jail cost of housing an inmate is substantially higher and private bail companies have thousands of persons on bond each and every day.

Again the savings and benefits provided by private bail are that of;

Reducing jail overcrowding
Assuring defendants in court
Additional arrest force
Support of public school if bond is paid
ALL OF WHICH IS PROVIDED AT NO COST TO THE TAX PAYER

COMPARISON

Benefits of Program	Private Bail	Pretrial Services
Provide release of defendants from jail	Yes	Yes
Obligated for court appearance of def.	Yes	No
Provide discipline for court appearance	Yes	No
Consequence for def. failure to appear	Yes	No
Authority to enforce the program	Yes	No
Paid for by tax payers	**NO**	**YES**

Pretrial Studies

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics Special Report
November 2007, NCJ 214994
State Court Processing Statistics, 1990-2004
By BJS Statisticians Thomas H. Cohen, Ph.D. and Brian A. Reaves, Ph.D.
Pretrial Release of Felony Defendants in State Courts:

Findings: Compared to release on recognizance, defendants on financial release were more likely to make all scheduled court appearances. Defendants released on an unsecured bond or as part of an emergency release were most likely to have a bench warrant issued because they failed to appear in court.

Research Report *January 2013*
Pretrial Release Mechanisms in Dallas County, Texas:
Differences in Failure to Appear (FTA), Recidivism/Pretrial Misconduct, and Associated Costs of FTA
By Robert G. Morris, Ph.D. Associate Professor of Criminology
Director, Center for Crime and Justice Studies
The University of Texas at Dallas

Findings: This analysis suggested that net of other effects (e.g., criminal history, age, indigence, etc.), defendants released via commercial bonds were least likely to fail to appear in court compared to any other specific mechanism. This finding was consistent when assessed for all charge categories combined and when the data was stratified by felony and misdemeanor offenses, respectively... (Note: FTA rate for commercial bonds were 23 % compared to the FTA rate for pretrial services at 37%) ...Overall, analyses based on the data explored here suggest that commercial bonds were the most successful in terms of defendant appearances rates, followed by attorney bonds, cash bonds, and pretrial services releases.

As to the costs associated with FTA across each release type, model suggest that commercial bond releases were the most cost-efficient in Dallas County, based on the group of defendants captured by the study... The largest difference in cost were seen between commercial bonds and pretrial services bonds. (Note: Study shows commercial bail netted Dallas County a savings of $11 million dollars compared to pretrial services costing the county $13 million dollars in administrative and court costs, e.g., judges time, attorney fees and law enforcement costs.)

U.S. Department of Justice
Office of Justice Programs

Bureau of Justice Statistics
Special Report

November 2007, NCJ 214994

State Court Processing Statistics, 1990-2004

Pretrial Release of Felony Defendants in State Courts

By Thomas H. Cohen, Ph.D.
and Brian A. Reaves, Ph.D.
BJS Statisticians

Between 1990 and 2004, 62% of felony defendants in State courts in the 75 largest counties were released prior to the disposition of their case. Beginning in 1998, financial pretrial releases, requiring the posting of bail, were more prevalent than non-financial releases. This increase in the use of financial releases was mostly the result of a decrease in the use of release on recognizance (ROR), coupled with an increase in the use of commercial surety bonds. These findings are from a multi-year analysis of felony cases from the biennial State Court Processing Statistics (SCPS) program, sponsored by the Bureau of Justice Statistics.

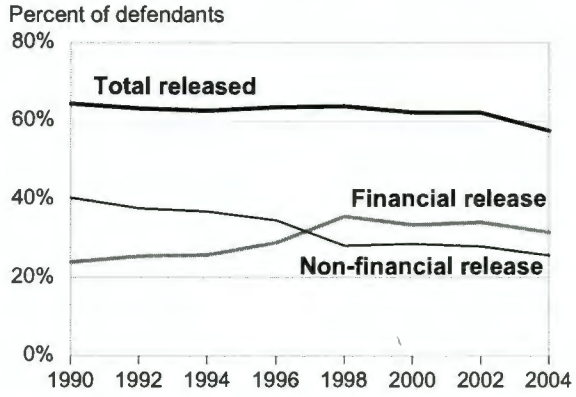
Among defendants detained until case disposition, 1 in 6 had been denied bail and 5 in 6 had bail set with financial conditions required for release that were not met. The higher the bail amount set, the lower the probability of release. About 7 in 10 defendants secured release when bail was set at less than $5,000, but this proportion dropped to 1 in 10 when bail was set at $100,000 or more.

Murder defendants were the least likely to be released pretrial. Defendants charged with rape, robbery, burglary, and motor vehicle theft also had release rates lower than the overall average. The highest release rate was for defendants charged with fraud.

Defendants were less likely to be released if they had a prior arrest or conviction or an active criminal justice status at the time of arrest (such as those on probation or parole). A history of missed court appearances also reduced the likelihood that a defendant would be released.

About a third of released defendants were charged with one or more types of pretrial misconduct. Nearly a fourth had a bench warrant issued for failing to appear in court, and about a sixth were arrested for a new offense. More than half of these new arrests were for felonies.

Since 1998, most pretrial releases of State court felony defendants in the 75 largest counties have been under financial conditions requiring the posting of bail



Logistic regression analyses that controlled for factors such as offense and criminal history found that Hispanics were less likely than non-Hispanic defendants to be released, and males were less likely than females to be released.

Logistic regression was also used to calculate the probability of pretrial misconduct for defendants with a given characteristic, independent of other factors. Characteristics associated with a greater probability of being rearrested while on pretrial release included being under age 21, having a prior arrest record, having a prior felony conviction, being released on an unsecured bond, or being part of an emergency release to relieve jail crowding.

Compared to release on recognizance, defendants on financial release were more likely to make all scheduled court appearances. Defendants released on an unsecured bond or as part of an emergency release were most likely to have a bench warrant issued because they failed to appear in court. The probability of failing to appear in court was higher among defendants who were black or Hispanic, had an active criminal justice status at the time of arrest, or had a prior failure to appear.

About 3 in 5 felony defendants in the 75 largest counties were released prior to case disposition

From 1990 to 2004, an estimated 62% of State court felony defendants in the 75 largest counties were released prior to the disposition of their case (table 1). Defendants were about as likely to be released on financial conditions requiring the posting of bail (30%) as to be granted a non-financial release (32%). Among the 38% of defendants detained until case disposition, about 5 in 6 had a bail amount set but did not post the financial bond required for release.

Table 1. Type of pretrial release or detention for State court felony defendants in the 75 largest counties, 1990-2004

Detention-release outcome	State court felony defendants in the 75 largest counties	
	Number	Percent
Total	424,252	100%
Released before case disposition	264,604	62%
Financial conditions	125,650	30%
Surety bond	86,107	20
Deposit bond	23,168	6
Full cash bond	12,348	3
Property bond	4,027	1
Non-financial conditions	136,153	32%
Personal recognizance	85,330	20
Conditional release	32,882	8
Unsecured bond	17,941	4
Emergency release	2,801	1%
Detained until case disposition	159,647	38%
Held on bail	132,572	32
Denied bail	27,075	6

Note: Counts based on weighted data representing 8 months (the month of May from each even-numbered year). Detail may not add to total because of rounding.

From 1990 to 2004, surety bond (33%) and release on recognizance (32%) each accounted for about a third of all releases. Other release types that accounted for at least 5% of releases during this period were conditional release (12%), deposit bond (9%), unsecured bond (7%), and full cash bond (5%). (See box on page 3 for definitions of release types.)

Type of pretrial release	Percent of all releases, 1990-2004
Financial conditions	48%
Surety bond	33
Deposit bond	9
Full cash bond	5
Property bond	2
Non-financial conditions	51%
Recognizance	32
Conditional	12
Unsecured bond	7
Emergency release	1%
Number of releases	264,604

Since 1998 a majority of pretrial releases have included financial conditions

Except for a decline to 57% in 2004, the percentage of defendants released each year varied only slightly, from 62% to 64%. A more pronounced trend was observed in the type of release used (figure 1). From 1990 to 1998, the percentage of released defendants under financial conditions rose from 24% to 36%, while non-financial releases dropped from 40% to 28%.

Detention-release outcomes for State court felony defendants in the 75 largest counties, 1990-2004

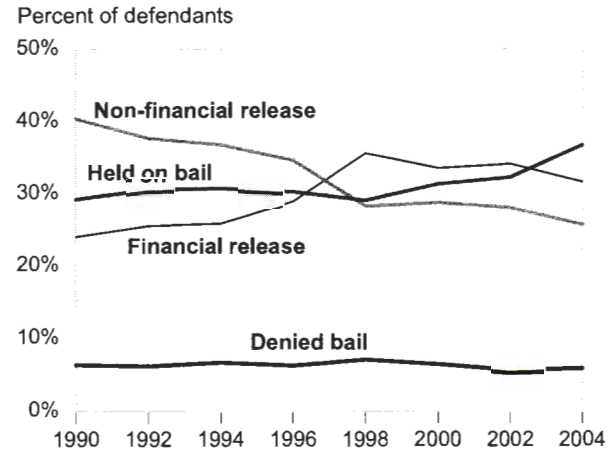


Figure 1

Surety bond surpassed release on recognizance in 1998 as the most common type of pretrial release

The trend away from non-financial releases to financial releases was accompanied by an increase in the use of surety bonds and a decrease in the use of release on recognizance (ROR) (figure 2). From 1990 through 1994, ROR accounted for 41% of releases, compared to 24% for surety bond. In 2002 and 2004, surety bonds were used for 42% of releases, compared to 23% for ROR.

Type of pretrial release of State court felony defendants in the 75 largest counties, 1990-2004

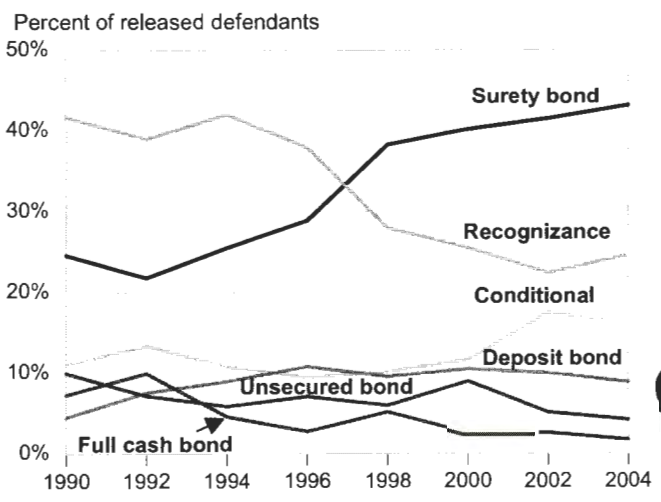


Figure 2

Types of pretrial release used in State courts

Type of release	Defendant	Financial liability for failure to appear	Liable party
Financial			
Surety bond	Pays fee (usually 10% of bail amount) plus collateral if required, to commercial bail agent.	Full bail amount	Bail agent
Deposit bond	Posts deposit (usually 10% of bail amount) with court, which is usually refunded at successful completion of case.	Full bail amount	Defendant
Full cash bond	Posts full bail amount with court.	Full bail amount	Defendant
Property bond	Posts property title as collateral with court.	Full bail amount	Defendant
Non-financial			
Release on recognizance (ROR)	Signs written agreement to appear in court (includes citation releases by law enforcement).	None	N/A
Conditional (supervised) release	Agrees to comply with specific conditions such as regular reporting or drug use monitoring.	None	N/A
Unsecured bond	Has a bail amount set, but no payment is required to secure release.	Full bail amount	Defendant
Emergency release	Released as part of a court order to relieve jail crowding.	None	N/A

Two-thirds of defendants had financial conditions required for release in 2004, compared to half in 1990

Including both released and detained defendants, the percentage required to post bond to secure release rose from 53% in 1990 to 68% in 2004 (not shown in table). Overall, about half (48%) of defendants required to post bail for release did so. From 1998 through 2004, 51% posted bail, compared to 45% in prior years.

The higher the bail amount the lower the probability of pretrial release

The median bail amount for detained defendants ($15,000) was 3 times that of released defendants ($5,000); the mean amount was about 5 times higher ($58,400 versus $11,600) (not shown in table). For all defendants with a bail amount set, the median bail amount was $9,000 and the mean was $35,800.

There was a direct relationship between the bail amount and the probability of release. When the bail was under $10,000, most defendants secured release, including 7 in 10 defendants with bail under $5,000 (figure 3). The proportion released declined as the bail amount increased, dropping to 1 in 10 when bail was $100,000 or higher.

Defendants arrested for violent offenses or who had a criminal record were most likely to have a high bail amount or be denied bail

Courts typically use an offense-based schedule when setting bail. After assessing the likelihood that a defendant, if released, will not appear in court and assessing any danger the defendant may present to the community, the court may adjust the bail higher or lower. In the most serious cases, the court may deny bail altogether. The use of a high bail amount or the denial of bail was most evident in cases involving serious violent offenses. Eighty percent of defendants charged with murder had one of these conditions; with rape, 34%; and with robbery, 30% (table 2).

Bail amount and release rates for State court felony defendants in the 75 largest counties, 1990-2004

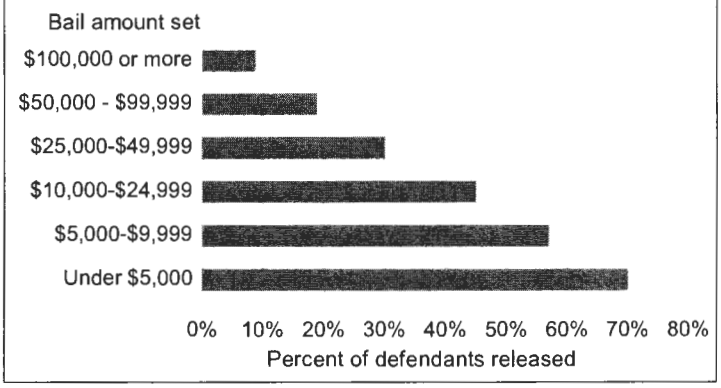


Figure 3

Table 2. State court felony defendants in the 75 largest counties with bail set at $50,000 or more or denied bail, 1990-2004

Characteristic	Percent of defendants: Bail $50,000 or more	Denied bail
Most serious arrest charge		
Murder	35%	45%
Rape	25	9
Robbery	20	10
Assault	13	7
Non-violent offenses	7	6
Criminal justice status at arrest		
Active	13%	13%
None	8	3
Prior felony conviction		
Yes	13%	10%
No	7	4

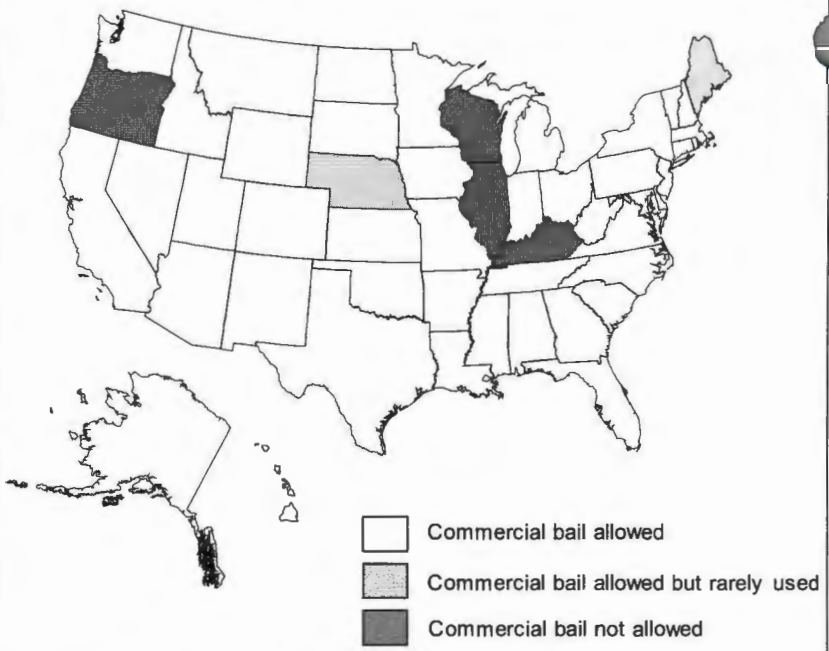
Defendants who had an active criminal justice status (13%) were about 4 times as likely as other defendants (3%) to have bail denied. Defendants with 1 or more prior felony convictions (10%) were more than twice as likely as those without such a conviction (4%) to have bail denied.

Commercial bail and pretrial release

An estimated 14,000 commercial bail agents nationwide secure the release of more than 2 million defendants annually, according to the *Professional Bail Agents of the United States.* (See *Methodology* for other sources on bail and pretrial release.) Bond forfeiture regulations and procedures vary by jurisdiction, but most States regulate commercial bail and license bail agents through their departments of insurance. Four States do not allow commercial bail: Illinois, Kentucky, Oregon, and Wisconsin. Also, the District of Columbia, Maine, and Nebraska have little commercial bail activity.

Bail agents generally operate as independent contractors using credentials of a surety company when posting appearance bond for their client. For a fee, the surety company allows the bail agent to use its financial standing and credit as security on bonds. In turn, the bail agent charges the defendant a fee (usually 10% of the bail amount) for services. In addition, the bail agent often requires collateral from the defendant.

Commercial bail agents are active in almost every State



A bail agent usually has an opportunity to recover a defendant if they fail to appear. If the defendant is not returned, the agent is liable to the court for the full bail amount. Most jurisdictions permit revocation of the bond, which allows the agent to return the defendant to custody before the court date, freeing the agent from liability. The agent may be required to refund the defendant's fee in such cases. Courts can also set aside forfeiture judgments if good cause is shown as to why a defendant did not appear.

Commercial bail has been a target of critics since the 1960s. Some organizations, such as the American Bar Association and the National District Attorney's Association, have recommended its abolishment. Some critics have succeeded in obtaining reforms in the release process, beginning with the Manhattan Bail Project in 1961.

This project showed that defendants could be successfully released pretrial without the financial guarantee of a surety bail agent if verified information concerning their stability and community ties were presented to the court.

The success of the Manhattan Bail Project resulted in a wide range of pretrial reforms in the Federal system, culminating in the Bail Reform Act of 1966. This Act created a presumption in favor of release for most non-capital defendants and led to the creation of non-surety release options, such as refundable deposit bail and conditional release. Many States followed the Federal system and created such release options. The Bail Reform Act of 1984 set forth new procedures which allowed the pretrial detention of defendants believed to be a danger to the community in addition to a flight risk.

Pros and cons of commercial bail

Issue	Proponents:	Critics:
Jail crowding	Reduces jail population by providing a means for defendants to obtain pretrial release.	Increases jail population because indigent defendants can't afford commercial bail services. Others are passed over because they are seen as a flight risk.
Private enterprise	Provides pretrial release and monitoring services at no cost to taxpayers.	A private, for-profit entity should not be involved in the detention-release decision process.
Performance incentives	Creates an incentive that results in the majority of defendants being returned to court because the bail agent is liable for defendants who fail to appear.	Bail agents don't always have their bonds forfeited or actively pursue absconders.
Value of service	Provides the opportunity for many defendants to secure their freedom while awaiting disposition of their case.	The fee and collateral are typically more than indigent defendants can afford. Defendants who have the money would be better off spending it on legal representation.

Financial releases took longer on average than non-financial releases

About half of all pretrial releases occurred within 1 day of arrest, and about three-fourths within 1 week. Non-financial releases (59%) were more likely to occur within a day of arrest than financial releases (45%). For all release types, more than 90% occurred within 1 month of arrest. Among defendants released under financial conditions, the amount of time from arrest to release increased with bail amounts, ranging from a mean of 8 days for those with a bail amount of less than $5,000 to 22 days for bail amounts of $50,000 or more (not shown in table).

	Cumlative percent of releases occurring within —		
	1 day	1 week	1 month
All releases	52%	78%	92%
Financial	45	76	92
Non-financial	59	80	93

About a quarter of released defendants had failed to appear in court during a prior case

A majority (61%) of the defendants released into the community to await disposition of their case had been arrested previously (table 3). This included 27% who had failed to appear in court during a prior case. About half had 1 or more prior convictions (48%), and nearly a third (30%) had at least one prior felony conviction. About 1 in 4 released defendants had an active criminal justice status from a prior case at the time of their arrest.

Table 3. Criminal history of released and detained State court felony defendants in 75 largest counties, 1990-2004

Criminal history	Released defendants	Detained defendants
Prior arrest	61%	83%
With at least 1 failure-to-appear	27	44
Prior conviction	48%	75%
Felony	30	57
Violent felony	7	15
Active criminal justice status	27%	51%

The role of pretrial services programs in the release process

According to a BJA nationwide study, about 300 pretrial services programs were operating in the U.S. during 2001.* More than two-thirds of the programs had begun since 1980 and nearly half since 1990. The programs operated in a variety of administrative settings, including probation offices, courts, sheriffs' offices, independent agencies, and private non-profit organizations.

Pretrial programs play an important role in the release process. Standards published by the American Bar Association and the National Association of Pretrial Services Agencies have specified core functions a model pretrial program should provide.

Information gathering and assessment

An important function of a pretrial program is to conduct a pretrial investigation to assist judicial officers in making release decisions. Prior to the initial court appearance, the pretrial program gathers information about the defendant, primarily through voluntary interviews and records checks. Some defendants may not be eligible for pretrial release because of the severity of the charged offense or an existing criminal justice status such as parole, probation, or an outstanding warrant.

Information collected from the pretrial investigation typically includes:

- residency
- employment status
- community ties
- criminal record
- court appearance record
- criminal justice status
- mental health status
- indications of substance abuse

Often a risk assessment tool is used to incorporate the information from the pretrial investigation into a score that guides the release decision. Periodic validation of the instrument ensures that it provides an accurate, unbiased measure of a defendant's potential for misconduct if released.

Supervision and follow-up

Pretrial services programs provide supervision and monitoring of a defendant's compliance with release conditions, such as testing for drug or alcohol use and electronic monitoring of defendants confined to a restricted area. These programs also assist with locating and returning defendants who fail to appear in court. Such assistance may include providing information to law enforcement officials or working directly with defendants to persuade them to return.

Pretrial programs may regularly review the status of detained defendants for changes in their eligibility for release and facilitate their release where appropriate.

*John Clark and D. Alan Henry, *Pretrial Services Programming at the Start of the 21st Century: A Survey of Pretrial Services Programs,* Washington D.C.: Bureau of Justice Assistance, July 2003 (NCJ 199773).

Prior criminal activity was more prevalent among pretrial detainees. About half had a criminal justice status at the time of arrest. A large majority had prior arrests (83%) and convictions (75%). More than half (57%) had a prior felony conviction, including 15% with a conviction for a violent felony. Nearly half (44%) had a prior failure to appear.

Many factors influence the pretrial release decision

SCPS collects information on some of the factors courts consider when making pretrial release decisions, such as arrest offenses, criminal justice status, prior arrests, prior court appearance record, and prior convictions. It does not collect data on residency, employment status, community ties, mental health status, or substance abuse history.

The unique contribution of the factors collected in SCPS to the release decision can be assessed using logistic regression techniques. Logistic regression produces nonlinear estimations for each independent variable which can be transformed into predicted probabilities (table 4). In the case of pretrial release, the logistic regression analyses yielded patterns similar to that of the bivariate results. (See *Methodology* for more information on the logistic regression techniques).

Murder defendants (19%) had the lowest probability of being released, followed by those charged with robbery (44%), burglary (49%), motor vehicle theft (49%), or rape (53%). Defendants charged with fraud (82%) were the most likely to be released.

Male and Hispanic defendants less likely to be released than females and whites

Female defendants (74%) were more likely than males (60%) to be released pretrial. By race and Hispanic origin, non-Hispanic whites (68%) had a higher probability of release than Hispanics (55%). Pretrial detention rates for Hispanics may have been influenced by the use of immigration holds to detain those illegally in the U.S.

Defendants with a prior criminal record less likely to be released than those without a prior arrest

Defendants on parole (26%) or probation (43%) at the time of their arrest for the current offense were less likely to be released than those without an active criminal justice status (70%). Defendants who had a prior arrest, whether they had previously failed to appear in court (50%) or not (59%), had a lower probability of release than those without a prior arrest (79%).

Defendants with a prior conviction (51%, not shown in table) had a lower probability of being released than those without a conviction (77%). This was true even if the prior convictions were for misdemeanors only (63%). The effect of a conviction record on release was more pronounced if the defendant had at least one prior felony conviction (46%).

Table 4. State court felony defendants in the 75 largest counties released prior to case disposition, 1990-2004

Variable	Percent released	Predicted probability of release
Most serious arrest charge		
Murder	19%	11%**
Rape	53	44**
Robbery	44	36**
Assault	64	59*
Burglary	49	49**
Motor vehicle theft	49	50**
Larceny/theft	68	66
Forgery	72	67
Fraud	82	76**
Drug sales (reference)	63	63
Other drug (non-sales)	68	70*
Weapons	67	65
Driving-related	73	76**
Age at arrest		
Under 21 (reference)	68%	64%
21-29	62	63
30-39	59	60**
40 or older	62	60**
Gender		
Male (reference)	60%	60%
Female	74	69**
Race/Hispanic origin		
White non-Hispanic (reference)	68%	66%
Black non-Hispanic	62	64
Other non-Hispanic	65	63*
Hispanic, any race	55	51**
Criminal justice status at arrest		
No active status (reference)	70%	67%
Released on pending case	61	63
On probation	43	49**
On parole	26	37**
Prior arrest and court appearance		
No prior arrests (reference)	79%	65%
Prior arrest record without FTA	59	62*
Prior arrest record with FTA	50	58*
Most serious prior conviction		
No prior convictions (reference)	77%	70%
Misdemeanor	63	64**
Felony	46	51**

Note: Logistic regression (predicted probability) results exclude the year 1990 because of missing data. Asterisks indicate category differed from the reference category at one of the following significance levels: *<=.05, **<=.01. Not all variables in the model are shown. See Methodology on page 11 for more information.

About 1 in 5 detained defendants eventually had their case dismissed or were acquitted

Sixty percent of released defendants were eventually convicted — 46% of a felony and 14% of a misdemeanor (table 5). Conviction rates were higher for detained defendants, with 78% convicted, including 69% of a felony.

On average, released defendants waited nearly 3 times longer than detainees for case adjudication

Released defendants waited a median of 127 days from time of arrest until adjudication, nearly 3 times as long as those who were detained (45 days). For those released, the average time from release to adjudication was nearly 1 month longer for those on financial release (125 days) than for those released under non-financial conditions (101 days) (table 6). By specific release type, defendants released on recognizance had the shortest wait (98 days), while those released on property bond had the longest (140 days).

Table 5. Adjudication outcomes for released and detained State court felony defendants in the 75 largest counties, 1990-2004

	Released defendants	Detained defendants
Adjudication outcome		
Convicted	60%	78%
Felony	46	69
Misdemeanor	14	9
Not convicted	40%	22%
Dismissal/acquittal	31	19
Other outcome	9	2
Median number of days from arrest to adjudication	127 days	45 days

Note: Detail may not add to total because of rounding.

Table 6. Time from pretrial release until adjudication of State court felony defendants in the 75 largest counties, 1990-2004

Type of release	Average time Mean	Median
All types	112 days	90 days
Financial releases	125 days	106 days
Surety bond	125	106
Full cash bond	122	100
Deposit bond	126	108
Property bond	140	120
Non-financial releases	101 days	75 days
Recognizance	98	72
Conditional	103	75
Unsecured bond	110	86

Incidents of pretrial misconduct increased with length of time in release status

The number of defendants charged with pretrial misconduct increased with the length of time spent in a release status. About a third (32%) of failure-to-appear bench warrants were issued within a month of release and about two-thirds (68%) within 3 months. The pattern was similar for rearrests, with 29% occurring within 1 month of release and 62% within 3 months.

	Cumulative percent of pretrial misconduct occurring within — 1 week	1 month	3 months	6 months
Any type	9%	32%	67%	88%
Failure to appear	9	32	68	89
Rearrest	8	29	62	85

A third of released defendants were charged with pretrial misconduct within 1 year after release

From 1990 through 2004, 33% of defendants were charged with committing one or more types of misconduct after being released but prior to the disposition of their case (figure 4). A bench warrant for failure to appear in court was issued for 23% of released defendants. An estimated 17% were arrested for a new offense, including 11% for a felony.

Pretrial misconduct rates for State court felony defendants in the 75 largest counties, 1990-2004

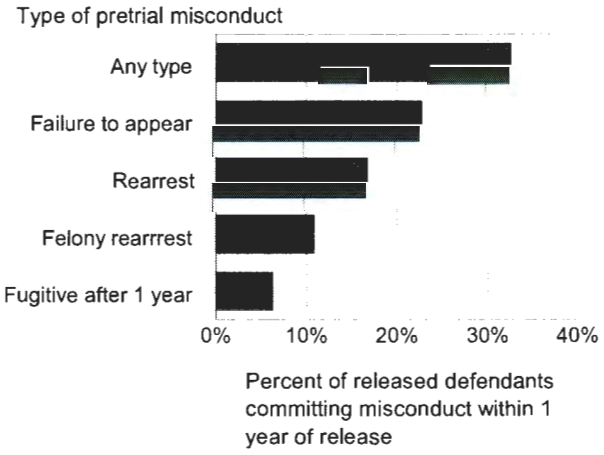


Figure 4

Pretrial misconduct rates stable from 1990-2004

Overall misconduct rates varied only slightly from 1990 through 2004, ranging from a high of 35% to a low of 31% (figure 5). For failure to appear, the range was from 21% to 24%, and the fugitive rate ranged from 5% to 8%. Overall rearrest rates ranged from 13% to 21%, and felony rearrest rates from 10% to 13%.

Pretrial misconduct rates for State court felony defendants in the 75 largest counties, 1990-2004

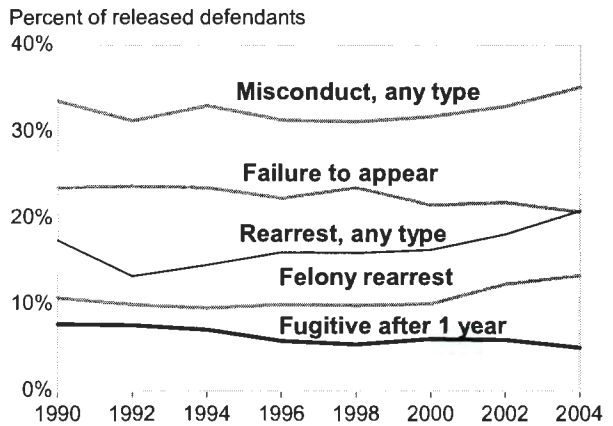


Figure 5

Pretrial misconduct rates highest for emergency releases

About half (52%) of the 1% of defendants released under an emergency order to relieve jail crowding were charged with some type of misconduct (table 7). Pretrial misconduct rates for other types of releases ranged from 27% to 36%.

After emergency release (45%), the highest failure-to-appear rate was for defendants released on unsecured bond (30%). Property bond (14%), which also accounted for just 1% of releases, had the lowest failure-to-appear rate followed by surety bond (18%).

About 1 in 4 defendants who failed to appear in court were fugitives at end of a 1-year study period

By type of release, the percent of the defendants who were fugitives after 1 year ranged from 10% for unsecured bond releases to 3% of those released on surety bond.

Overall, 28% of the defendants who failed to appear in court and had a bench warrant issued for their arrest were still fugitives at the end of a 1-year study period. This was 6% of all defendants released pretrial (not shown in table).

Compared to the overall average, the percentage of absconded defendants who remained a fugitive was lower for surety bond releases (19%).

Type of release	Number of defendants failing to appear	Percent still a fugitive after 1 year
All types	54,485	28%
Surety bond	13,411	19%
Emergency	1,168	22
Conditional	6,788	27
Property bond	490	30
Recognizance	20,883	30
Deposit	4,548	31
Unsecured bond	5,018	33
Full cash bond	2,179	36

Likelihood of pretrial misconduct lower for defendants released after being charged with murder or rape

Defendants released after being charged with murder (19%) or rape (18%) had misconduct rates that were about half that for defendants charged with motor vehicle theft (39%), drug trafficking (39%), or burglary (37%).

Younger, male, black, and Hispanic defendants more likely to be charged with pretrial misconduct

Released defendants age 20 or younger (33%) had higher misconduct rates than those age 40 or older (28%). This pattern also existed for rearrest and failure-to-appear rates. Male defendants (34%) had a higher misconduct rate than females (28%). Black (36%) and Hispanic (34%) defendants had a higher misconduct rate than whites (28%).

Prior criminal activity associated with greater probability of pretrial misconduct

Defendants who had an active criminal justice status at the time of arrest — such as pretrial release (48%), parole (47%), or probation (44%) — had a higher misconduct rate than those who were not on a criminal justice status (27%). This difference was observed for both failure to appear and rearrest.

Defendants with a prior failure to appear (49%) had a higher misconduct rate than defendants who had previously made all court appearances (30%) or had never been arrested (23%). Defendants with a prior failure to appear (35%) were about twice as likely to have a bench warrant issued for failing to appear during the current case than other defendants (18%).

Defendants with at least one prior felony conviction (43%) had a higher rate of pretrial misconduct than defendants with misdemeanor convictions only (34%) or no prior convictions (27%).

Table 7. State court felony defendants in the 75 largest counties charged with pretrial misconduct, 1990-2004

Variable	Number of defendants	Percent of released defendants charged with pretrial misconduct			
		Any type	Rearrest	Failure to appear	Fugitive
Type of pretrial release					
Release on recognizance	80,865	34%	17%	26%	8%
Surety bond	78,023	29	16	18	3
Conditional release	31,162	32	15	22	6
Deposit bond	20,993	30	14	22	7
Unsecured bond	17,001	36	14	30	10
Full cash bond	11,190	30	15	20	7
Property bond	3,649	27	17	14	4
Emergency release	2,656	52	17	45	10
Most serious arrest charge					
Murder	741	19%	12%	9%	1%
Rape	3,481	18	9	10	2
Robbery	12,947	35	21	21	6
Assault	32,931	23	12	14	4
Burglary	18,377	37	19	25	6
Larceny/theft	26,667	33	16	25	7
Motor vehicle theft	6,415	39	20	29	7
Forgery	8,374	33	15	24	7
Fraud	9,094	21	8	15	5
Drug trafficking	47,182	39	21	27	8
Other drug	50,547	37	18	29	8
Weapons	8,574	27	13	17	5
Driving-related	8,148	28	14	18	5
Age at arrest					
20 or younger	55,505	33%	20%	21%	5%
21-29	90,768	34	17	24	7
30-39	71,049	33	16	24	7
40 or older	44,701	28	13	20	6
Gender					
Male	211,396	34%	18%	23%	6%
Female	52,291	28	12	21	6
Race/Hispanic origin					
Black, non-Hispanic	96,348	36%	19%	25%	7%
White, non-Hispanic	64,571	28	14	19	4
Hispanic, any race	49,544	34	17	25	8
Other, non-Hispanic	5,165	23	13	14	3
Criminal justice status at arrest					
On parole	6,012	47%	25%	32%	7%
On probation	25,765	44	26	30	6
Released pending prior case	25,955	48	30	30	7
No active status	167,227	27	12	19	6
Prior arrests and FTA history					
Prior arrest record with FTA	59,468	49%	27%	35%	8%
Prior arrest record, no FTA	75,806	30	17	18	5
No prior arrests	85,366	23	8	18	7
Most serious prior conviction					
Felony	75,187	43%	25%	28%	6%
Misdemeanor	44,989	34	19	23	5
No prior convictions	129,975	27	12	19	7

Logistic regression analysis of pretrial misconduct

Logistic regression was used to assess the impact of given characteristics independent of other factors on the probability of a released defendant being charged with pretrial misconduct. The predicted probabilities generated from these analyses are presented in the adjacent table. (See *Methodology* for more information on logistic regression).

Type of release

Predicted overall misconduct rates were higher for unsecured bond (42%) and emergency (56%) releases. This was also the case for rearrest and failure to appear rates. Property (17%), surety (20%), deposit (20%), and full cash (20%) bonds all had lower predicted failure-to-appear rates than recognizance (24%). The percent of released defendants predicted to be fugitives after 1 year was lowest for property (3%) and surety bonds (4%). Emergency release and property bonds each accounted for 1% of all releases, compared to about 30% each for surety bonds and recognizance. (See table 7 for the number of defendants accounted for by each type of pretrial release).

Arrest offense

Drug trafficking defendants (38%) had higher predicted rates of overall misconduct, rearrest and failure-to-appear than defendants charged with murder (19%), rape (21%), assault (26%), fraud (29%), or a weapons offense (31%).

Demographic characteristics

Defendants age 20 or younger (39%) had a higher predicted misconduct rate than those ages 21 to 39 (35%) or age 40 or older (30%). This pattern held for rearrest, but for court appearance record only defendants age 40 or older were predicted to perform better than those under age 21.

Male defendants (35%) were predicted to have a higher misconduct rate than females (32%). Hispanic (37%) and black (36%) defendants were predicted to be charged with misconduct more often than whites (32%). This difference also existed for failure to appear, but not rearrest.

Criminal history

Defendants with an active criminal justice status at the time of arrest, such as parole (42%), probation (39%), or pretrial release (42%), had higher predicted misconduct rates than those without such a status (33%). This difference was observed for both failure to appear and rearrest.

Compared to those without prior arrests (29%), defendants with an arrest record were predicted to be charged with misconduct more often, especially if they had previously failed to appear in court (47%). This pattern was observed for both failure to appear and rearrest. Defendants with prior felony convictions (39%) had a higher predicted misconduct rate than other defendants (33%). This pattern also existed for rearrest, but not failure to appear.

Variable	Predicted probability of being charged with pretrial misconduct			
	Any type	Rearrest	Failure to appear	Fugitive
Type of pretrial release				
Recognizance (reference)	34%	17%	24%	6%
Surety bond	33	19	20**	4**
Conditional release	37	18	24	6
Deposit bond	32	18	20*	5
Unsecured bond	42**	21*	28*	8
Full cash bond	34	19	20*	6
Property bond	31	18	17**	3**
Emergency release	56**	26**	39*	8
Most serious arrest charge				
Drug trafficking (reference)	38%	20%	24%	6%
Murder	19**	11*	8**	/
Rape	21**	11**	10**	2**
Robbery	32**	18	19**	5
Assault	26**	15**	14**	3**
Burglary	37	19	23	5*
Larceny/theft	37	19	25	6
Motor Vehicle theft	39	20	27*	5
Forgery	38	19	27	6
Fraud	29**	15**	18**	4**
Other drug	42**	21	29**	7
Weapons	31**	16**	19**	4**
Driving-related	33**	16**	22	6
Age at arrest				
20 or younger (reference)	39%	24%	22%	4%
21-29	35**	19**	23	5**
30-39	35**	17**	23	6**
40 or older	30**	14**	20**	5**
Gender				
Male (reference)	35%	19%	22%	5%
Female	32**	16**	22	5
Race/Hispanic origin				
White, non-Hispanic (reference)	32%	18%	20%	4%
Black, non-Hispanic	36**	19	23**	5**
Other, non-Hispanic	27*	16	16*	3
Hispanic, any race	37**	19	25**	7**
Criminal justice status at arrest				
No active status (reference)	33%	17%	21%	5%
Released pending prior case	42**	24**	26**	5
On probation	39**	22**	25**	5
On parole	42**	20	29**	6
Prior arrests and FTA history				
No prior arrests (reference)	29%	13%	20%	5%
Prior arrest record with FTA	47**	26**	31**	6*
Prior arrest record, no FTA	33**	20**	19	4**
Most serious prior conviction				
No prior convictions (reference)	33%	17%	22%	6%
Misdemeanor	33	17	21	4**
Felony	39**	22**	23	4**

Note: Asterisks indicate category differed from reference category at one of the following significance levels: *<=.05, **<=.01. Not all variables in model are shown. See Methodology on page 11 for more information. /Murder defendants were excluded from the fugitive analysis.

Methodology

Data utilized

This report analyzed data from the State Court Processing Statistics (SCPS) series, covering felony cases filed in May of even-numbered years from 1990 through 2004. SCPS is a biennial data collection series that examines felony cases processed in a sample of 40 of the Nation's 75 most populous counties. The counties included in the sample have varied over time to account for changing national population patterns. For a year-by-year summary of the counties participating in SCPS, see Appendix table 1. For more information on the SCPS methodology see the BJS report *Felony Defendants in Large Urban Counties, 2002* at http://www.ojp.usdoj.gov/bjs/abstract/fdluc02.htm>.

Each SCPS data collection tracks approximately 15,000 felony cases for up to one year, with the exception of murder defendants who are followed for up to two years. In addition to defendant demographic characteristics and criminal history, SCPS also obtains data on a variety of felony case processing factors, including the types of arrest charges filed, conditions of pretrial release such as bail amount and type of release, and instances of pretrial misconduct including failure to appear in court, rearrest while on pretrial release, and other violations that resulted in the revocation of release. Adjudication and sentencing outcomes are also recorded.

Using multivariate statistical techniques

This report analyzes pretrial release and misconduct through both bivariate and multivariate statistical techniques. While the bivariate statistics provide a descriptive overview of pretrial release and misconduct among felony defendants in the 75 most populous counties, multivariate analysis can help disentangle the impacts that independent variables such as demographic characteristics, prior criminal history, severity of arrest charges, and release type have on dependent variables such as the probability of pretrial release and misconduct. Logistic regression models were used to estimate the probability of pretrial release and misconduct. This is one widely accepted method for analyzing the effects of multiple independent factors on dichotomous or binomial outcomes.

The regression analyses excluded data from 1990 because of the large number of cases missing data on race or Hispanic origin. The regression models also excluded cases that had missing data on either the independent or dependent variables. This resulted in reductions in the number of cases analyzed. From 1992 through 2004, 99,899 felony defendants were either released or detained, but when missing data were excluded from the regression models, the number of cases analyzed declined to 71,027.

To determine the impact of missing data, logistic regression models excluded certain independent factors to increase the number of analyzed cases. Since the results from these analyses did not differ appreciably from the full model, missing data did not affect the results.

SCPS data are drawn from a sample and weighted to represent cases processed in the 75 most populous counties during the month of May. When the regressions used these weighted data, the large number of weighted cases resulted in statistical significance for nearly all the variables in the model. Effect weighting was employed to address this issue. Through effect weighting, the SCPS data were weighted to the number of cases actually sampled rather than the number of cases in the universe represented by the sample.

Generalized estimating equation techniques

One primary assumption of binary logistic regression is that all observations in the dataset are independent. This assumption is not necessarily appropriate for the SCPS series because the data are collected on a county basis. The county-based nature of SCPS creates a presumption of clustered data. In clustered datasets, "the data can be grouped into natural or imposed clusters with observations in the same clusters tending to be more alike than observations in different clusters."* The clustered nature of the SCPS data was handled by utilizing generalized estimating equation (GEE) techniques. Logistic regression modeling with generalized estimating equation (GEE) techniques provides for more efficient computation of regression coefficients and more robust standard error estimates.

Interpreting logistic regression probabilities

Logistic regression produces nonlinear estimations for each independent variable that can be difficult to interpret. In this report, the logistic regression coefficients are made interpretable by transforming them into predicted probabilities (see table 4 and box on page 10). The predicted probabilities were calculated by setting all independent variables to their mean levels, setting the independent variable of interest to a value of one, multiplying the means of each independent variable by their respective logistic regression parameter estimates, taking the exponential function of the summed product of means and parameter estimates, and then calculating the probability of that exponential function.

Limitations of models

The logistic regression analyses were limited and intended to reflect the effects of only selected factors that were available in the SCPS data. Other factors could potentially be related to pretrial release and misconduct. Examples of these include: defendants' residence, employment status, community ties, mental health status, and substance abuse. If data on these variables were available, the logistic regression results could be altered.

*Paul D. Allison, 2001. *Logistic Regression Using the SAS System: Theory and Application*, Cary, N.C.: SAS Institute Inc., page 179.

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics

Washington, DC 20531

Official Business
Penalty for Private Use $300

NCJ 212749

PRESORTED STANDARD
POSTAGE & FEES PAID
DOJ/BJS
Permit No. G-91

Additional sources on bail and pretrial release include:

Demuth, Stephen, "Racial and Ethnic Differences in Pretrial Release Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees." *Criminology*: 41(3): 873 (2003).

Feeley, Malcolm M., "Bail Reform," chap. 2 in *Court Reform on Trial: Why Simple Solutions Fail (*New York, NY: Basic Books, Inc., 1983, pp. 40-79).

Goldkamp, John, "Danger and Detention: A Second Generation of Bail Reform." *Journal of Criminal Law and Criminology*: 76:1 (1985).

Helland, Eric and Alexander Tabarrok, "Public versus Private Law Enforcement: Evidence from Bail Jumping." *Journal of Law and Economics*: (47): pp. 93-122 (2004).

Kennedy, Spurgeon and D. Alan Henry. *Commercial Surety Bail: Assessing Its Role in the Pretrial Release and Detention Decision* <http://www.pretrial.org/publications.html> (1996).

Watson, Jerry W. and L. Jay Labe, "Bail Bonds," chap. 8 in *The Law of Miscellaneous and Commercial Surety Bonds*, Chicago, IL: American Bar Association, 2001, pp. 127-142.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jeffrey L. Sedgwick is the director.

This Special Report was written by Thomas H. Cohen, Ph.D., and Brian A. Reaves, Ph.D. William J. Sabol, Ph.D. provided technical assistance. Tracey Kyckelhahn provided verification. Tina Dorsey produced and edited the report, under the supervision of Doris J. James. Jayne Robinson prepared the report for final printing.

November 2007, NCJ 214994

This report in portable document format and in ASCII and its related statistical data and tables are available at the BJS World Wide Web Internet site: <http://www.ojp.usdoj.gov/bjs/abstract/prfdsc.htm>.

Office of Justice Programs

Innovation • Partnerships • Safer Neighborhoods
http://www.ojp.usdoj.gov

Appendix table 1. State Court Processing Statistics, participating jurisdictions, 1990-2004

County or equivalent	Number of cases		Year of participation							
	Unweighted	Weighted	1990	1992	1994	1996	1998	2000	2002	2004
Jefferson (AL)	1,517	6,612			■	■	■	■	■	■
Maricopa (AZ)	4,245	13,848	■	■	■	■	■	■	■	■
Pima (AZ)	2,655	7,588			■	■	■	■	■	■
Alameda (CA)	1,941	8,471			■	■	■	■	■	■
Contra Costa (CA)	817	2,043			■	■	■	■	■	■
Los Angeles (CA)	10,419	41,676	■	■	■	■	■	■	■	■
Orange (CA)	2,984	9,964	■			■	■	■	■	■
Riverside (CA)	1,646	5,926						■	■	■
Sacramento (CA)	1,898	6,786	■	■	■	■	■			
San Bernardino (CA)	3,061	9,909	■	■	■	■	■	■	■	■
San Diego (CA)	1,529	6,604	■	■				■	■	■
San Francisco (CA)	1,327	5,675		■	■	■	■			
San Mateo (CA)	526	1,315						■	■	■
Santa Clara (CA)	2,840	9,552	■	■	■	■	■	■	■	■
Ventura (CA)	576	1,901			■	■	■			
New Haven (CT)	238	1,047						■		
Washington (DC)	263	1,315	■	■						
Broward (FL)	2,155	7,095	■	■	■	■	■	■	■	■
Duval (FL)	387	1,935	■	■				■	■	■
Miami-Dade (FL)	4,355	17,420	■	■	■	■	■			
Hillsborough (FL)	1,415	4,515	■	■	■	■	■			
Orange (FL)	1,367	5,938			■	■	■			
Palm Beach (FL)	1,154	4,255	■	■				■	■	■
Pinellas (FL)	1,687	6,290	■	■				■	■	■
Fulton (GA)	1,748	6,992	■	■		■		■	■	■
Honolulu (HI)	890	2,692	■		■	■		■	■	■
Cook (IL)	5,738	22,952	■	■	■	■	■	■	■	■
DuPage (IL)	463	1,528			■	■	■			
Marion (IN)	2,878	9,908				■	■	■	■	■
Jefferson (KY)	310	1,240			■	■	■			
Essex (MA)	546	2,004	■	■						
Middlesex (MA)	657	2,168			■					
Suffolk (MA)	1,546	5,753	■	■	■	■	■			
Baltimore (MD)	1,006	2,515						■	■	■
Baltimore (city) (MD)	1,542	4,108			■	■	■			
Montgomery (MD)	1,216	3,494		■			■	■	■	■
Macomb (MI)	644	1,610						■	■	■
Wayne (MI)	2,030	8,120	■	■	■	■	■	■	■	■
Jackson (MO)	999	3,297			■	■	■			
St. Louis (MO)	1,582	5,447	■	■	■	■	■			
Essex (NJ)	2,636	11,947	■	■	■			■	■	■
Bronx (NY)	3,713	15,404	■	■	■	■	■	■	■	■
Erie (NY)	1,048	4,134	■	■	■	■	■			
Kings (NY)	3,893	15,988	■	■	■	■	■	■	■	■
Monroe (NY)	1,124	3,874	■	■	■	■	■			
Nassau (NY)	772	1,930						■	■	■
New York (NY)	2,801	11,204	■	■	■	■	■			
Queens (NY)	2,058	7,943	■	■	■	■	■			■
Suffolk (NY)	778	2,567			■	■	■			
Westchester (NY)	980	2,450						■	■	■
Franklin (OH)	618	2,719						■	■	■
Hamilton (OH)	1,188	4,970	■	■	■	■	■			
Allegheny (PA)	502	1,516	■	■	■	■	■			
Montgomery (PA)	567	2,225	■	■					■	■
Philadelphia (PA)	4,043	15,952	■	■	■	■	■	■	■	■
Shelby (TN)	2,837	11,332	■	■	■	■	■	■	■	■
Dallas (TX)	2,169	8,676	■	■	■	■	■	■	■	■
El Paso (TX)	949	2,373						■	■	■
Harris (TX)	3,661	14,644	■	■	■	■	■	■	■	■
Tarrant (TX)	1,526	6,941	■	■				■	■	■
Travis (TX)	660	2,904						■	■	■
Salt Lake (UT)	1,212	4,981	■	■				■	■	■
Fairfax (VA)	1,158	4,670	■	■				■	■	■
King (WA)	1,324	5,591	■	■	■	■	■			
Milwaukee (WI)	1,542	5,161		■	■	■	■			

Appendix table 2. Logistic regression analysis of pretrial release decision

Variable	Mean	Estimate	Standard error
Most serious arrest charge			
Murder	0.0084	-2.6575**	0.2412
Rape	0.0142	-0.7846**	0.1173
Robbery	0.0588	-1.1088**	0.1004
Assault	0.1222	-0.1821*	0.0785
Other violent	0.0401	-0.1755	0.1173
Burglary	0.0870	-0.5562**	0.0817
Larceny	0.0888	0.1313	0.0805
Motor vehicle theft	0.0342	-0.5281**	0.0997
Forgery	0.0279	0.1781	0.1052
Fraud	0.0274	0.6323**	0.1660
Other property	0.0411	0.3007	0.1655
Other drug	0.1995	0.3023*	0.1384
Weapons	0.0272	0.1001	0.1074
Driving-related	0.0276	0.6147**	0.1306
Other public order	0.0294	0.0926	0.1332
Age at arrest			
21-29	0.3423	-0.0544	0.0357
30-39	0.2871	-0.1700**	0.0451
40 or older	0.1884	-0.1713**	0.0456
Gender			
Female	0.1735	0.4031**	0.0393
Race/Hispanic origin			
Black, non-Hispanic	0.4456	-0.1274	0.0690
Other, non-Hispanic	0.0229	-0.1592*	0.0734
Hispanic, any race	0.2432	-0.6488**	0.1122
Criminal justice status at arrest			
Other status	0.0283	-0.9417**	0.1509
Released pending prior case	0.1057	-0.1758	0.1325
On probation	0.1605	-0.7471**	0.0686
On parole	0.0610	-1.2450**	0.1671
Prior arrest and FTA history			
Prior arrest record with FTA	0.3050	-0.3144*	0.1468
Prior arrest record, no FTA	0.4205	-0.1597*	0.0749
Most serious prior conviction			
Felony	0.4156	-0.8396**	0.0756
Misdemeanor	0.1746	-0.2886**	0.0847
Study year			
1992	0.0940	0.2602	0.1513
1994	0.1212	0.1664	0.1515
1996	0.1332	0.3148*	0.1512
1998	0.1276	0.1924	0.1475
2000	0.1731	0.1250	0.1190
2002	0.1795	0.1576	0.1069
Intercept	1.0000	1.4226	0.1652
Number of observations	71,027		
Log likelihood	-41377.1132		

Note: Logistic regression figures derived from generalized estimating equation (GEE) methods. GEE logistic regression procedures were an appropriate technique because of the clustered nature of the felony case processing data. The regression estimates were transformed into predicted probabilities in the report by setting all independent variables at their mean levels, setting the independent variable of interest to a value of one, and then calculating the probability of the dependent measure outcome for that particular independent variable. Asterisks indicate category difference from the reference category at one of the following significance levels:*>=.05, **>=.01.

Appendix table 3. Logistic regression analysis of pretrial misconduct

Variable	Mean	Estimate	Standard error
Most serious arrest charge			
Murder	0.0019	-0.9339**	0.2569
Rape	0.0118	-0.8203**	0.1123
Robbery	0.0329	-0.2552**	0.0930
Assault	0.1212	-0.5577**	0.0584
Other violent	0.0414	-0.5564**	0.0829
Burglary	0.0684	-0.0368	0.0745
Larceny	0.0985	-0.0148	0.0585
Motor vehicle theft	0.0270	0.0616	0.0888
Forgery	0.0318	0.0264	0.0884
Fraud	0.0373	-0.3690**	0.1076
Other property	0.0472	-0.1442*	0.0624
Other drug	0.2255	0.1666**	0.0544
Weapons	0.0273	-0.2932**	0.0635
Driving-related	0.0327	-0.1878**	0.0694
Other public order	0.0290	-0.4768**	0.1095
Age at arrest			
21-29	0.3403	-0.1352**	0.0251
30-39	0.2737	-0.1736**	0.0428
40 or older	0.1865	-0.3842**	0.0399
Gender			
Female	0.2148	-0.1258**	0.0390
Race/Hispanic origin			
Black, non-Hispanic	0.4449	0.1695**	0.0317
Other, non-Hispanic	0.0238	-0.2248*	0.0897
Hispanic, any race	0.2021	0.2163**	0.0334
Criminal justice status at arrest			
Other status	0.0177	0.1061	0.1047
Released pending prior case	0.0943	0.4042**	0.0561
On probation	0.1105	0.2764**	0.0475
On parole	0.0239	0.3778**	0.1046
Prior arrest and FTA history			
Prior arrest record with FTA	0.2371	0.7565**	0.0540
Prior arrest record, no FTA	0.4111	0.1756**	0.0438
Most serious prior conviction			
Felony	0.3034	0.2417**	0.0496
Misdemeanor	0.1807	-0.0071	0.0482
Type of pretrial release			
Surety bond	0.3714	-0.0570	0.0682
Full cash bond	0.0352	-0.0408	0.1078
Deposit bond	0.0957	-0.0963	0.1114
Property bond	0.0118	-0.1435	0.1249
Conditional release	0.1443	0.1107	0.0850
Unsecured bond	0.0647	0.3188**	0.1036
Emergency release	0.0105	0.8663**	0.1830
Study year			
1992	0.1007	-0.2136	0.1483
1994	0.1199	-0.1810	0.1237
1996	0.1378	-0.2908	0.1746
1998	0.1171	-0.3394*	0.1588
2000	0.1797	-0.2050	0.1332
2002	0.1828	-0.1417	0.1146
Intercept	1.0000	-0.6608	0.1264
Number of observations	40,179		
Log likelihood	-23469.1617		

Note. See note on appendix table 2. Asterisks indicate category difference from the reference category at one of the following significance levels:*>=.05, **>=.01.

Appendix table 4. Logistic regression analysis of pretrial rearrest for new offense

Variable	Mean	Estimate	Standard error
Most serious arrest charge			
Murder	0.0018	-0.7451*	0.3078
Rape	0.0119	-0.7720**	0.1070
Robbery	0.0329	-0.1737	0.0987
Assault	0.1215	-0.3368**	0.0670
Other violent	0.0415	-0.3810**	0.0955
Burglary	0.0685	-0.0593	0.0708
Larceny	0.0986	-0.0569	0.0584
Motor vehicle theft	0.0270	-0.0229	0.0790
Forgery	0.0320	-0.1010	0.0875
Fraud	0.0377	-0.3578**	0.1238
Other property	0.0471	-0.1260	0.0752
Other drug	0.2233	0.0585	0.0604
Weapons	0.0275	-0.3018**	0.1159
Driving-related	0.0329	-0.3122**	0.0842
Other public order	0.0292	-0.3861**	0.0949
Age at arrest			
21-29	0.3407	-0.3505**	0.0338
30-39	0.2731	-0.4504**	0.0399
40 or older	0.1870	-0.6585**	0.0472
Gender			
Female	0.2155	-0.2279**	0.0344
Race/Hispanic origin			
Black, non-Hispanic	0.4468	0.0653	0.0430
Other, non-Hispanic	0.0238	-0.1297	0.1010
Hispanic, any race	0.1999	0.0705	0.0468
Criminal justice status at arrest			
Other status	0.0177	0.2058*	0.0979
Released pending prior case	0.0953	0.4476**	0.0485
On probation	0.1099	0.3147**	0.0501
On parole	0.0240	0.1713	0.1054
Prior arrest and FTA history			
Prior arrest record with FTA	0.2370	0.8455**	0.0701
Prior arrest record, no FTA	0.4136	0.4895**	0.0578
Most serious prior conviction			
Felony	0.3049	0.3581**	0.0617
Misdemeanor	0.1807	0.0471	0.0552
Type of pretrial release			
Surety bond	0.3747	0.1077	0.0611
Full cash bond	0.0350	0.0991	0.1273
Deposit bond	0.0969	0.0600	0.1089
Property bond	0.0119	0.0404	0.1462
Conditional release	0.1453	0.0640	0.0842
Unsecured bond	0.0655	0.2473*	0.1160
Emergency release	0.0104	0.5156**	0.1371
Study year			
1992	0.0981	-0.5280**	0.1859
1994	0.1145	-0.3974	0.2419
1996	0.1378	-0.4183	0.2615
1998	0.1152	-0.4412*	0.1998
2000	0.1836	-0.3840**	0.1466
2002	0.1866	-0.2230	0.1244
Intercept	1.0000	-1.3631	0.1478
Number of observations	39,209		
Log Likelihood	-15735.4776		

Note. See not on appendix table 2. Asterisks indicate category difference from the reference category at one of the following significance levels:*>=.05, **>=.01.

Appendix table 5. Logistic regression analysis of pretrial failure to appear

Variable	Mean	Estimate	Standard error
Most serious arrest charge			
Murder	0.0019	-1.3123**	0.3566
Rape	0.0118	-1.0242**	0.1934
Robbery	0.0329	-0.2917**	0.0810
Assault	0.1212	-0.6787**	0.0599
Other violent	0.0413	-0.7196**	0.0721
Burglary	0.0683	-0.0595	0.0690
Larceny	0.0987	0.0527	0.0667
Motor vehicle theft	0.0271	0.1741*	0.0895
Forgery	0.0319	0.1358	0.0897
Fraud	0.0374	-0.3719**	0.1115
Other property	0.0471	-0.0572	0.0756
Other drug	0.2245	0.2330**	0.0586
Weapons	0.0275	-0.2747**	0.0660
Driving-related	0.0328	-0.0964	0.0710
Other public order	0.0289	-0.4888**	0.1249
Age at arrest			
21-29	0.3404	0.0299	0.0296
30-39	0.2737	0.0363	0.0471
40 or older	0.1869	-0.1253**	0.0415
Gender			
Female	0.2150	-0.0300	0.0380
Race/Hispanic origin			
Black, non-Hispanic	0.4450	0.2006**	0.0377
Other, non-Hispanic	0.0238	-0.2509*	0.1023
Hispanic, any race	0.2019	0.2970**	0.0459
Criminal justice status at arrest			
Other status	0.0177	0.0778	0.1026
Released pending prior case	0.0947	0.2711**	0.0570
On probation	0.1103	0.2347**	0.0556
On parole	0.0238	0.4306**	0.1076
Prior arrest and FTA history			
Prior arrest record with FTA	0.2376	0.5902**	0.0646
Prior arrest record, no FTA	0.4106	-0.0505	0.0458
Most serious prior conviction			
Felony	0.3036	0.0494	0.0603
Misdemeanor	0.1805	-0.0439	0.0414
Type of pretrial release			
Surety bond	0.3712	-0.2713**	0.0890
Full cash bond	0.0353	-0.2444*	0.1047
Deposit bond	0.0962	-0.2307*	0.1193
Property bond	0.0117	-0.4271**	0.1499
Conditional release	0.1447	-0.0119	0.0958
Unsecured bond	0.0650	0.2051*	0.1063
Emergency release	0.0106	0.6762*	0.2823
Study year			
1992	0.1003	0.0228	0.0958
1994	0.1202	-0.0754	0.0906
1996	0.1356	-0.0846	0.0849
1998	0.1180	-0.0251	0.0864
2000	0.1801	-0.0041	0.0903
2002	0.1836	0.0413	0.1050
Intercept	1.0000	-1.3378	0.1278
Number of observations	39,838		
Log likelihood	-19756.0265		

Note. See not on appendix table 2. Asterisks indicate category difference from the reference category at one of the following significance levels:*>=.05, **>=.01.

Appendix table 6. Logistic regression analysis of pretrial fugitive status

Variable	Mean	Estimate	Standard error
Most serious arrest charge			
Rape	0.0118	-1.2836**	0.2824
Robbery	0.0330	-0.3058	0.1690
Assault	0.1215	-0.8666**	0.1170
Other violent	0.0414	-0.8022**	0.1352
Burglary	0.0684	-0.2789*	0.1133
Larceny	0.0988	0.0044	0.0817
Motor vehicle theft	0.0271	-0.2829	0.1506
Forgery	0.0320	-0.1446	0.1210
Fraud	0.0375	-0.5742**	0.2041
Other property	0.0471	-0.2003	0.1418
Other drug	0.2250	0.0861	0.1021
Weapons	0.0275	-0.3852**	0.1358
Driving - related	0.0329	-0.0587	0.1268
Other public order	0.0289	-0.6688**	0.1355
Age at arrest			
21-29	0.3404	0.3634**	0.0685
30-39	0.2739	0.3892**	0.0556
40 or older	0.1870	0.2437**	0.0700
Gender			
Female	0.2153	-0.1027	0.0717
Race/Hispanic origin			
Black, non-Hispanic	0.4449	0.2836**	0.0767
Other, non-Hispanic	0.0238	-0.1648	0.1917
Hispanic, any race	0.2020	0.6593**	0.0905
Criminal justice status at arrest			
Other status	0.0177	0.0222	0.1925
Released pending prior case	0.0949	0.0150	0.0744
On probation	0.1103	0.0332	0.0738
On parole	0.0236	0.2334	0.1520
Prior arrest and FTA history			
Prior arrest record with FTA	0.2379	0.1558*	0.0732
Prior arrest record, no FTA	0.4104	-0.3075**	0.0742
Most serious prior conviction			
Felony	0.3037	-0.2730**	0.1049
Misdemeanor	0.1806	-0.2527**	0.0663
Type of pretrial release			
Surety bond	0.3710	-0.6047**	0.1126
Full cash bond	0.0353	-0.0503	0.1600
Deposit bond	0.0962	-0.3515	0.3069
Property bond	0.0116	-0.7676**	0.2294
Conditional release	0.1448	-0.0633	0.1156
Unsecured bond	0.0650	0.1997	0.1726
Emergency release	0.0106	0.2469	0.2407
Study year			
1992	0.1002	0.3370**	0.1208
1994	0.1201	0.1748	0.1116
1996	0.1357	0.1633	0.0965
1998	0.1180	0.2129	0.1388
2000	0.1802	0.2684**	0.0908
2002	0.1835	0.1906	0.1112
Intercept	1.0000	-2.9223	0.1845
Number of observations	39,752		
Log Likelihood	-8391.7631		

Note. See not on appendix table 2. Asterisks indicate category difference from the reference category at one of the following significance levels:*>=.05, **>=.01.

RESEARCH REPORT

PRETRIAL RELEASE MECHANISMS IN DALLAS COUNTY, TEXAS:

DIFFERENCES IN FAILURE TO APPEAR (FTA), RECIDIVISM/PRETRIAL MISCONDUCT, AND ASSOCIATED COSTS OF FTA*

Prepared by:

Robert G. Morris, Ph.D.,
Associate Professor of Criminology
Director, Center for Crime and Justice Studies

The University of Texas at Dallas
800 West Campbell Rd, GR 31
Richardson, Texas 75080-3021

(972) 883-6728
morris@utdallas.edu

January 2013

* **This study was completed on behalf of the Dallas County (Texas) Criminal Justice Advisory Board (CJAB).**

DISCLAIMER
No attempt by the research investigator, Professor Robert Morris, or the University of Texas at Dallas, will be made to explain the reasons behind the findings presented within this report. Nor will recommendations be made as to how the county should, or should not, respond to these findings. The information presented is driven solely by the data provided by Dallas County and caution should be used in any attempt to generalize these findings to other counties. The computer programming written to extract the data for analysis, as well as those used to established model estimates, will be made publically available upon request to ensure research transparency and objectivity. Any audit of this programming by a qualified professional/s is welcomed. Contact Robert G. Morris, Ph.D. with questions: morris@utdallas.edu

EXECUTIVE SUMMARY

Relative to other elements of the criminal justice system, pretrial release and the mechanisms by which it operates, has received little attention from scholars and empirical research is lacking. To date, no study has been carried out that has focused on pretrial release mechanisms at the county level and their isolated effects on failure to appear (FTA) and recidivism/pretrial misconduct. Further, it remains unclear whether the costs associated with one particular form of release outweigh the costs of another. While a handful of studies have explored failure to appear and recidivism across release types, they have been limited by data problems or problematic research designs.

The purpose of this study was to address a number of very important issues that underlie pretrial release from jail, specific to varying mechanisms of release including: attorney bonds, cash bonds, commercial bonds, and pretrial services bonds.[1] Archival data was culled from official records collected by the Dallas County criminal justice system as well as from the Texas Department of Public Safety (DPS). The analyses presented here were based on all defendants booked into the Dallas County jail during 2008 for a crime/s in which the defendant was not previously arrested/jailed, and who were released via one of the above noted release mechanisms (n = 22,019). Specifically, this study addresses the following questions: (1) Do failure to appear (FTA) rates vary across release mechanisms and if so, by how much? (2) Does recidivism/pretrial misconduct vary across release mechanisms and if so, by how much? (3) What are the additional court costs (observed and estimated) associated with FTA rates across release types? and (4) What are the strongest predictors of FTA across each release mechanism?

Methods and Findings. Regarding FTA and recidivism/pretrial misconduct, this study approximated an experimental research design to provide for an objective "apples-to-apples" empirical analysis (propensity score matching). This analysis suggested that net of other effects (e.g., criminal history, age, indigence, etc.—see technical appendix), defendants released via commercial bonds were least likely to fail to appear in court compared to any other specific mechanism. This finding was consistent when assessed for all charge categories combined and when the data were stratified by felony and misdemeanor offenses, respectively. For felony defendants (among the matched pairs), those *not* released on commercial bond were between 39 and 56 percent more likely to fail to appear in court, with the largest difference being between cash and commercial, followed by pretrial and then attorney bonds. For misdemeanors, differences were similar, ranging between 26 and 32 percent with pretrial bonds being the most different from commercial, followed by attorney bonds, then cash bonds. Overall, analyses based on the data explored here suggest that commercial bonds were the most successful in terms of defendant appearance rates, followed by attorney bonds, cash bonds, and pretrial services releases.

Findings for the remaining bond type comparisons were mixed. For felonies and misdemeanors, limited/inconsistent support was found favoring FTA rates for pretrial services over cash bonds; other differences were not statistically significant.

---

[1] Personal recognizance was not analyzed here due to its very limited use in release for new crimes (less than 1%).

Regarding recidivism (or pretrial misconduct), analyses were carried out for new crimes occurring within 9 and 12 months of release for the book-in of record. It is important to note that such crimes may or may not have occurred during the pretrial phase for the book-in of record as this data was not readily available. The findings for recidivism were mixed and more commonly null (i.e., no difference was found between release types). Note: Extreme caution should be used in interpreting the recidivism/pretrial misconduct analysis due to the situational factors associated with recidivism that are completely external to the associated release mechanism.

As to the costs associated with FTA across each release type, model estimates suggest that commercial bond releases were the most cost-effective in Dallas County, based on the group of defendants captured by the study. This finding was corroborated by the observed data, which suggested that for the 22,000+ defendants captured by this study, assuming a public cost of $1,775 per FTA[2], the use of commercial bonds saved over $7.6 million (or ~$350k per 1,000 defendants) among felony defendants and over $3.5 million (or $160k per 1,000 defendants) among misdemeanor defendants, as compared to attorney bonds, cash bonds, and pretrial services bonds. The largest differences in costs were seen between commercial bonds and pretrial services bonds.

[2] Estimate adjusted for inflation from 1997 dollars. Base estimate taken from Block and Twist (1997), who conduced a complete cost-benefit analysis of failure to appear in Los Angeles, CA.

TABLE OF CONTENTS

STUDY HIGHLIGHTS

- The study explored failure to appear (FTA) and recidivism (at 9 and 12 months) based on longitudinal data for 22,019 defendants released from the county jail during 2008 for the first new offense occurring during that year.

- The analyses isolated the effect of particular bond types by statistically controlling for many correlates (i.e., predictors of) of FTA and recidivism/pretrial misconduct and approximating an experimental research design (see appendix for a complete listing and definitions).

- When comparing similarly situated defendants' probability of FTA for all case types, defendants released via a commercial bond (i.e., a bail bond company) were significantly and substantively less likely to fail to appear in court compared to attorney bonds, cash bonds, and pretrial services bonds, respectively. This finding held when analyzing all defendants simultaneously and when assessing felony and misdemeanor defendants separately.

- Regarding recidivism/pretrial misconduct (at 9 and 12 months) among misdemeanor defendants, no statistically/practically significant differences were found between any combination of the release mechanisms.

- Regarding recidivism/pretrial misconduct (9 and 12 months) for felony defendants, the findings supported cash and attorney bonds, however, there may be qualitative differences in how the recidivism relationship operates for these particular release mechanisms, as they are the most expensive form of financial bail.

- Differences for 12 month recidivism/pretrial misconduct were found between commercial bonds and pretrial services bonds for the model including running data for all charge categories combined, favoring pretrial services, however, the differences were nullified when assessing felonies and misdemeanors separately.

- Release on their own recognizance (OR) was rarely used for an initial release (less than 1% of defendants). For this reason, OR was excluded from the analysis.

- A basic cost-benefit analysis suggested that commercial bonds are the most cost effective release type in Dallas County, in terms of the court costs associated with FTA. Based on the observed data for the 22,000+ defendants captured by this study (all initial releases for a new crime in 2008), assuming a public cost (i.e., justice administration) of $1,775 per FTA[3], the use of commercial bonds saved over $7.6 million (or ~$350k per 1,000 defendants) among felony defendants and over $3.5 million (or $160k per 1,000 defendants) among misdemeanor defendants, as compared to attorney bonds, cash bonds, and pretrial services bonds. The largest differences in costs were seen between commercial bonds and pretrial services bonds.

- The strongest predictor variables of FTA across release mechanisms were also explored. Such variables were limited to those made available by Dallas County. The factors predicting FTA varied considerably across release mechanisms and are outlined within.

---

[3] Estimate adjusted for inflation from 1997 dollars. Base estimated taken from Block and Twist (1997), who conduced a complete cost-benefit analysis of failure to appear in Los Angeles, CA.

STUDY FINDINGS

Descriptive Statistics for Study Defendants

Release Mechanisms Studied (All Charge Types)

Release Mechanism	Freq.	%
Attorney Bond	684	3.1
Cash Bond	4,219	19.2
Commercial Bond	14,705	66.8
Pretrial Bond	2,411	10.9
Total	22,019	100.0

Release Mechanisms Studied (Felony Defendants)

Release Mechanism	Freq.	%
Attorney Bond	326	5.1
Cash Bond	339	5.3
Commercial Bond	5,048	78.9
Pretrial Bond	682	10.7
Total	6,395	100.0

Release Mechanisms Studied (Misdemeanor Defendants)

Release Mechanism	Freq.	%
Attorney Bond	342	2.5
Cash Bond	3,529	25.2
Commercial Bond	8,548	61.0
Pretrial Bond	1,589	11.3
Total	14,008	100.0

Descriptive Statistics for **Failure to Appear (FTA)** in Court

All Charge Types

	# of Defendants	% FTA
Attorney Bond	684	34.1
Cash Bond	4,219	29.2
Commercial Bond	14,705	23.0
Pretrial Services Bond	2,411	37.0

TOTAL 16,274 Overall FTA Rate = 26.1%

Felonies

	# of Defendants	% FTA
Attorney Bond	326	28.2
Cash Bond	339	30.7
Commercial Bond	5,048	16.6
Pretrial Services Bond	682	26.1

TOTAL 6,359 Overall FTA Rate = 19.0%

Misdemeanors

	# of Defendants	% FTA
Attorney Bond	342	37.4
Cash Bond	3,529	30.2
Commercial Bond	8,548	26.7
Pretrial Services Bond	1,589	39.6

TOTAL 14,008 Overall FTA Rate = 29.3%

Descriptive Statistics for **Recidivism/Pretrial Misconduct** (9 months / 12 Months)

All Charge Types

	# of Defendants	% Recidivating (9 Months/12 Months)
Attorney Bond	684	19.0 / 22.4
Cash Bond	4,219	11.7 / 13.8
Commercial Bond	14,705	23.5 / 27.3
Pretrial Services Bond	2,411	24.4 / 28.5

TOTAL 16,274 Overall Recidivism/Pretrial Misconduct Rate = 21.2% / 24.7%

Felonies

	# of Defendants	% Recidivating (9 Months/12 Months)
Attorney Bond	326	17.5 / 20.3
Cash Bond	339	9.7 / 12.1
Commercial Bond	5,048	26.2 / 29.7
Pretrial Services Bond	682	25.2 / 28.9

TOTAL 6,359 Overall Recidivism/Pretrial Misconduct Rate = 24.7% / 28.2%

Misdemeanors

	# of Defendants	% Recidivating (9 Months/12 Months)
Attorney Bond	342	20.2 / 24.0
Cash Bond	3,529	11.5 / 13.7
Commercial Bond	8,548	22.1 / 26.0
Pretrial Services Bond	1,589	24.6 / 29.1

TOTAL 14,008 Overall Recidivism/Pretrial Misconduct Rate = 19.7% / 23.2%

ANALYTICAL FINDINGS

PROPENSITY SCORE MATCHING ANALYSIS: FAILURE TO APPEAR

The below findings represent an "apples-to-apples" approach to exploring differences in FTA rates among similarly situated defendants, across the release mechanisms. These estimates have been conditioned (i.e., statistically adjusted on other influence factors) based on the defendant/crime characteristics outlined in the technical appendix, by means of a counterfactual statistical modeling strategy known as propensity score matching (PSM).

PSM was used to assess the effect sizes of different combinations of release mechanisms on 1) whether a defendant fails to appear (FTA) in court and on 2) whether the defendant recidivated within a specified time period post-release (9 or 12 months). This counterfactual model approximates an experimental design by allowing for comparisons to be made between defendants that had an equivalent probability of receiving some treatment (here the treatment being a release mechanism) over an alternative treatment. Similar analytical designs where the focus has been on multiple treatment effects are not uncommon in the social sciences (see Lechner, 1999; 2001)

***NOTE: Prior to presenting the results, readers unfamiliar with PSM are encouraged to read the information provided in the technical appendix to get a basic idea of what the technique does and how to interpret the findings presented in the below tables.

The below table presents the statistically significant findings on FTA stemming from the propensity score matching analysis and using commercial bonds as a reference category (comparison) group. This approach was taken because significant differences were found only for comparisons that included similarly situated (matched) defendants released on a commercial bond defendants.

In short, the findings clearly demonstrate that when comparing similarly situated defendants against one another (apples-to-apples), commercial bonds were much less likely to fail to appear in court after release for the first time for a new offense. The differences are fairly consistent when analyzing all defendants and also when assessing felony and misdemeanor cases separately. Differences in FTA rates between defendants released via other release types (e.g., attorney bonds vs. pretrial bonds) were not statistically or substantively different from one another (i.e., FTA rates were equivalent for those comparison groups).

For felony defendants (among the matched pairs), those ***not*** released on commercial bond were between 39 and 56 percent more likely to fail to appear in court, with the largest difference between cash and commercial, followed by pretrial and then attorney bonds. For misdemeanors, difference were similar, ranging between 26 and 32 percent, with pretrial bonds being the most different from commercial, followed by attorney bonds, then cash bonds.

Multi-treatment Propensity Score Matching Results on Failure to Appear: Attorney, Cash, and Pretrial Bonds as compared to Commercial Bonds.

Treated vs. Matched Controls released on Commercial Bond	Mean FTA Rate (Treated)	Mean FTA Rate (Controls)	FTA Rate Difference	% Difference in FTA vs. Commercial
All Defendants				
Attorney	0.34	0.27	0.07	21% higher
Cash	0.29	0.20	0.09	31% higher
Pretrial	0.37	0.23	0.14	39% higher
Felony				
Attorney	0.28	0.17	0.11	39% higher
Cash	0.32	0.14	0.18	56% higher
Pretrial	0.26	0.15	0.11	42% higher
Misdemeanor				
Attorney	0.38	0.27	0.11	29% higher
Cash	0.31	0.23	0.08	26% higher
Pretrial	0.40	0.27	0.13	32% higher

Note: All findings are compared to Commercial Bonds (the reference category). Only statistically significant comparisons shown where equivalent findings were demonstrated between alternated reference categories ($p < .05$).

Failure to Appear Analysis – Propensity Score Matching Results

How are the below tables interpreted?

The below tables represent all differences between release types (unlike the above table which illustrates the same findings, but for statistically significant findings only). The PSM findings are presented to illustrate the differences in FTA rates between those treated and their matched controls for all releases, felonies, misdemeanors, and state jail felonies, respectively. On the diagonal of these tables are the unadjusted FTA rates for each release type. These statistics are presented for reference only. The off-diagonal statistics are the mean (average) difference in FTA rates (i.e., the treatment effect) between those released via a particular treatment (i.e., release mechanism)--which is identified by the left-hand column--compared to a particular alternative, identified by the top row of the table. Note that the percent range displayed (if statistically significant) reflects the estimated difference for matching based on an inverted treatment outcome (e.g., commercial vs. attorney compared to attorney vs. commercial)(Non-significant findings are indicated as such in the table).

As an example, looking at the top category, "Attorney Bond" on the far left column of the first table below, we can see that the unadjusted FTA rate for this release type is 34 percent. Following this row to the right, we see that there is no statistically significant difference in FTA rates between comparable (i.e., similarly situated) defendants released by an attorney bond compared to cash bonds. However, the conditioned difference in FTA rate for attorney bonds is 7-13% higher than for Commercial bonds. Further, we find no significant difference between attorney bond FTA rates and pretrial services bonds.

ALL DEFENDANTS - Average Treatment Effects: Failure to Appear (Unconditioned rates on the diagonal)

	Attorney Bonds	Cash Bonds	Commercial Bonds	Pretrial Services
Attorney Bond	***.34***	No Significant Difference	.07-.13 higher	No Significant Difference
Cash Bond		***.29***	.09-.10 higher	No Significant Difference
Commercial Bond			***.23***	.14-.15 lower
Pretrial Services				***.37***

Note: Unadjusted failure to appear (FTA) rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

FELONY DEFENDANTS - Average Treatment Effects: Failure to Appear (Unconditioned rates on the diagonal)

	Attorney Bonds	Cash Bonds	Commercial Bonds	Pretrial Services
Attorney Bond	***.29***	No Significant Difference	.11-.12 higher	No Significant Difference
Cash Bond		***.30***	.15-.18 higher	Partial support favoring Pretrial
Commercial Bond			***.17***	.10-.11 lower
Pretrial Services				***.26***

Note: Unadjusted failure to appear (FTA) rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

MISDEMEANOR DEFENDANTS - Average Treatment Effects: Failure to Appear (Unconditioned rates on the diagonal)

	Attorney Bonds	Cash Bonds	Commercial Bonds	Pretrial Services
Attorney Bond	***.37***	No Significant Difference	.10-.11 higher	No Significant Difference
Cash Bond		***.30***	.08 higher	Partial support favoring Pretrial
Commercial Bond			***.27***	.12-.13 lower
Pretrial Services				***.40***

Note: Unadjusted failure to appear (FTA) rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

Recidivism/Pretrial Misconduct Analysis – Propensity Score Matching Results

12 Months

Note: Unadjusted Failure to appear (FTA) rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

ALL DEFENDANTS - Average Treatment Effects: Recidivism/Pretrial Misconduct w/in12 months (Unconditioned rates on the diagonal)

	Attorney Bond	Cash Bond	Commercial Bond	Pretrial Services
Attorney Bond	***.22***	No Significant Difference	No Significant Difference	No Significant Difference
Cash Bond		***.14***	.02-.03 lower	No Significant Difference
Commercial Bond			***.27***	.14-.15 lower
Pretrial Services				***.29***

Note: Unadjusted recidivism rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

FELONY DEFENDANTS - Average Treatment Effects: Recidivism/Pretrial Misconduct w/in 12 months (Unconditioned rates on the diagonal)

	Attorney Bond	Cash Bond	Commercial Bond	Pretrial Services
Attorney Bond	***.21***	No Significant Difference	.09-.13 lower	Partial support favoring Attorney
Cash Bond		***.12***	.06-.07 lower	.16-.19 lower
Commercial Bond			***.30***	No Significant Difference
Pretrial Services				***.29***

Note: Unadjusted recidivism rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

(Continued from previous page)

MISDEMEANOR DEFENDANTS - Average Treatment Effects: Recidivism/Pretrial Misconduct w/in 12 months (Unconditioned rates on the diagonal)

	Attorney Bond	Cash Bond	Commercial Bond	Pretrial Services
Attorney Bond	***.24***	Partial support favoring Cash	Partial support favoring Commercial	No Significant Difference
Cash Bond		***.14***	.01-.02 lower	No Significant Difference
Commercial Bond			***.26***	No Significant Difference
Pretrial Services				***.29***

Note: Unadjusted recidivism rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

Recidivism Analysis – Propensity Score Matching Results

9 Months

ALL DEFENDANTS - Average Treatment Effects: Recidivism/Pretrial Misconduct w/in 9 months (Unconditioned rates on the diagonal)

	Attorney Bond	Cash Bond	Commercial Bond	Pretrial Services
Attorney Bond	***.19***	No Significant Difference	No Significant Difference	No Significant Difference
Cash Bond		***.12***	.03 lower	No Significant Difference
Commercial Bond			***.24***	No Significant Difference
Pretrial Services				***.24***

Note: Unadjusted recidivism rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

FELONY DEFENDANTS - Average Treatment Effects: Recidivism/Pretrial Misconduct w/in 9 months (Unconditioned rates on the diagonal)

	Attorney Bond	Cash Bond	Commercial Bond	Pretrial Services
Attorney Bond	***.19***	No Significant Difference	.08-.12 lower	Partial support favoring Attorney
Cash Bond		***.12***	.05-.08 lower	.16-.19 lower
Commercial Bond			***.24***	No Significant Difference
Pretrial Services				***.24***

Note: Unadjusted recidivism rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

(Continued from previous page)

MISDEMEANOR DEFENDANTS - Average Treatment Effects: Recidivism/Pretrial Misconduct w/in 9months (Unconditioned rates on the diagonal)

	Attorney Bond	Cash Bond	Commercial Bond	Pretrial Services
Attorney Bond	***.20***	No Significant Difference	No Significant Difference	No Significant Difference
Cash Bond		***.12***	Weak support favoring cash	No Significant Difference
Commercial Bond			***.22***	No Significant Difference
Pretrial Services				***.25***

Note: Unadjusted recidivism rate for first 2008 release on diagonal. Off diagonal statistics are between-release-type ESTIMATED TREATMENT EFFECT differences (row compared to column). All treatment effect differences shown are statistically significant.

COSTS OF FAILURE TO APPEAR

The below matrices represent a basic cost-benefit analysis based on the treatment effect of each release mechanism for treated versus matched controls. Since no exact figures were available on the cost of a single FTA, it was conservatively assumed that the public cost for an FTA is $1,775 per FTA (see Block and Twist (1997).

For this example, the below figures represent the costs associated with the processing of FTAs per 1,000 defendants. These numbers do not reflect the subsequent social costs that may stem from FTA. These differences (i.e., between release types) are based on the mean (average) treatment effect size differences presented in the propensity score matching analysis outlined above.

INTERPRETATION OF TABLES: The on-diagonal numbers are the costs for dollars spent on FTA processing for a particular release type, based on the FTA rates from the matched pairs of defendants resulting from the PSM analysis. The off-diagonals represent the *differences* in cost between release types (row versus column). Note that positive (+) numbers reflect extra costs and negative (-) numbers represent savings. For example, in the first row of the table immediately below, for every 1,000 defendants released by way of either an attorney bond or a commercial bond, we expect that an extra $117,683 will be spent on FTA processing for those released via an attorney bond. An alternative interpretation would be that if these same individuals were released via a commercial bond, the savings in FTA processing costs would have been -$117,683. Because there was no difference in the effect of release type on FTA between attorney bonds and cash bonds, the cost difference was $0.

COSTS of Failure to appear for 1,000 similar defendants released from jail.

All Charge Types

	Attorney	Cash	Commercial	Pretrial
Attorney	***$603,500***	$0	$117,683	$0
Cash	$0	***$514,750***	$48,901	$0
Commercial	-$117,683	-$48,901	***$408,250***	-$59,196
Pretrial	$0	$0	$59,196	***$656,750***

Felonies

	Attorney	Cash	Commercial	Pretrial
Attorney	***$514,750***	$0	$59,196	$0
Cash	$0	***$532,500***	$87,863	$0
Commercial	-$59,196	-$87,863	***$301,750***	-$31,684
Pretrial	$0	$0	$31,684	***$461,500***

Misdemeanors

	Attorney	Cash	Commercial	Pretrial
Attorney	***$656,750***	$0	$68,959	$0
Cash	$0	***$532,500***	$42,600	$0
Commercial	-$68,959	-$42,600	***$479,250***	-$59,906
Pretrial	$0	$0	$59,906	***$710,000***

(Continued from above)

From this analysis, which was based on model estimated differences, commercial bonds represent the most cost-effective mechanism in terms of preventing FTA, as compared to other release types. These differences hold for similar defendants charged with either a misdemeanor or a felony charge. No differences in cost are predicted between attorney bonds and cash bonds, attorney bonds and pretrial services bonds, or cash bonds and pretrial services bonds.

Cost Estimates Based on Actual FTA Records

Other costs, based on the actual (historical) numbers may also be of interest. The below tables reflect the costs of FTA (assuming $1,775 per FTA) across each release mechanism observed for the inmates represented in the study (i.e., those entering jail for a new offense in 2008). Commercial bonds are used as a reference category (i.e., as compared to) for percent differences due to it being the most common release mechanism. NOTE: These numbers reflect only NEW CRIMES for 2008 and NOT ALL releases from jail or FTAs occurring during 2008.

All Charge Types

	# of Defendants	% FTA	Cost per 1000 Defendants	Rate Difference	$ Difference
Attorney Bonds	684	34.1	$605,275	+11	$197,025
Cash Bonds	4,219	29.2	$518,300	+6	$110,050
Commercial Bonds	14,705	23.0	$408,250	Ref. Category	Ref. Category
Pretrial Services	2,411	37.04	$656,750	+14	$248,500

Felonies

	# of Defendants	% FTA	Cost per 1000 Defendants	Rate Difference	$ Difference
Attorney Bonds	236	28.2	$500,550	+12	$205,900
Cash Bonds	339	30.7	$544,925	+14	$461,925
Commercial Bonds	5,048	16.6	$294,650	Ref. Category	Ref. Category
Pretrial Services	682	26.1	$463,275	+10	$380,275

Misdemeanors

	# of Defendants	% FTA	Cost per 1000 Defendants	Rate Difference	$ Difference
Attorney Bonds	342	37.4	$663,850	+11	$189,925
Cash Bonds	3,529	30.2	$536,050	+4	$62,125
Commercial Bonds	8,548	26.7	$473,925	Ref. Category	Ref. Category
Pretrial Services	1,589	39.6	$702,900	+13	$228,975

Estimating the "strongest" predictors of FTA and Recidivism/Pretrial Misconduct among Absconders across release types.

This analysis was based on a logistic regression modeling approach assessing two outcomes (FTA and FTA plus recidivism at 12 months). These estimates are conditioned on the type of offense charged with the 2008 book-in. Variables with (+) next to them are positive findings, (-) are negative. Here, the meaning of positive is that for an increase in the variable, there is an increased chance (odds) of failure to appear. Negative refers to a reduction in the chance of failure to appear.

Attorney Bonds:

Failure to Appear:

Celerity (+)
Felony (-)
Indigence (+)
Time Criminally Active (-)
Days in Jail (+)

Recidivism/Pretrial Misconduct *among Absconders:*

Felony (-)
Celerity (-)
Jail history (-)

Cash Bonds:

Failure to Appear:

Felony (-)
Age (-)
Indigence (+)
Celerity (+)
Days in Jail (+)
Jail History (+)
FTA History (+)
US Born (-)

Recidivism/Pretrial Misconduct *among Absconders:*

Age (-)
Celerity (-)
Jail history (-)
US Born (-)
Criminal History (+)

Commercial Bonds:

Felony (-)
Male (+)
Indigence (+)
Celerity (+)
Days in Jail (+)
Mental Illness (+)
Jail History (+)
Hispanic vs. all other (+)
Year of First Arrest (+)
Criminal History (+)
FTA History (+)

Recidivism/Pretrial Misconduct *among Absconders:*

Age (-)
Celerity (-)
Hispanic vs. White (-)
Criminal History (+)

Pretrial Services Bonds:

Felony (-)
Male (+)
Indigence (+)
Jail History (+)
Married (-)
Hispanic vs. all other (+)

Recidivism/Pretrial Misconduct *among Absconders:*

Felony (+)
Mental Illness (+)
US Born (-)
Criminal History (+)

(+) Positive association with FTA (i.e., increased odds of occurrence)
(-) Negative association with FTA (i.e., reduced odds of occurrence)

STUDY LIMITATIONS

- The findings presented herein are limited to one county (Dallas County, Texas) and are not necessarily generalizable to counties other than those of similar demographic make-ups and those with similar pretrial release practices/proportions. Readers should use caution in any attempt to make inferences about other counties based on these findings.

- Release on recognizance is an important mechanism of release but was rarely used by Dallas County for new crimes (less than 1% defendants). For this reason, own recognizance releases are not analyzed.

- Pretrial services bonds may involve a diversionary program for some defendants. The data provided no indication of whether this was the case, thus no information is provided in terms of FTA for any particular diversion program.

- While the statistics presented here from the propensity score matching analysis are relatively robust, there are indicators of release type and FTA that were not collected by, or made available from, Dallas County. These include employment status, residential status, as well as pre-release and risk assessment measures. However, the Dallas County data are unique in the fact that they do include many measures that other data sources do not include, such as drug offense history, mental illness, and indigence.

- Analyses were not carried out specific to any particular criminal offense (e.g., DWI). The findings may change when exploring particular offenses.

- The measure of recidivism/pretrial misconduct does not exclusively account for rearrests for a new crime during the pretrial phase for the book-in of interest. Crimes that occurred after the pretrial phase, but within the window of opportunity (here 9 or 12 months) are also counted as recidivism. Additional data will be required to develop a recidivism measure that is exclusively representative of pretrial misconduct.

- The indicator of FTA for pretrial services releases was limited to bonds that were held "insufficient" rather than an official indicator of non-appearance in court. This was due to limits on the data collection procedures currently in practice by the County. It is possible that some bonds held insufficient do not reflect a failure to appear, however, in discussion with Dallas County Pretrial Services, it was determined that this possibility was minimal.

TECHNICAL APPENDIX

What is propensity score matching (PSM)?

PSM is a well-known statistical matching procedure that approximates an experimental design by matching cases, (i.e., defendants), based on a near equivalent probability of having been released from jail by way of one mechanism versus a possible alternative. (For this study, within a maximum difference of 0.1% probability, which is considered very conservative). Here, the varying release types can be considered treatments, just like in an experiment. Since there are multiple treatments under study (i.e., the four release types), comparisons are made from one release-type to another, for every possible combination of treatments, respectively. The goal is to end up with an estimate of the "treatment effect." This is the difference in average probability for defendants failing to appear, or recidivating, between two specific release mechanisms. Again, these comparisons are based on statistically matched (i.e., similarly situated) defendants equally likely to have received the treatment.

Restated, a series of predictor variables (outlined in the technical appendix) are used to estimate a defendant's probability of receiving one treatment over another particular treatment. This estimate is the conditioned probability of receiving the treatment–also known as the propensity score. Upon establishing the quality and robustness of the propensity score, mean (average) levels of a final outcome (e.g., failure to appear in court) can be compared between the treated (i.e., those receiving the treatment) and the matched controls (i.e., those who did not receive the treatment, but who had an equal probability of having received it). *In the end, comparisons are made not between all defendants released by way of a particular method, but only between statistically matched pairs.*

How robust are these findings and how was this determined?

The quality of the matching procedure was assessed in multiple ways, using contemporary statistical methods. These include 1) an assessment of balance on covariates between matched and unmatched samples, 2) a sensitivity analysis to determine how strong an unmeasured covariate (i.e., something not available in the data such as employment history) would need to be to change the results (Rosenbaum Bounds), and 3) a complementary weighted regression analysis that involved both matched and unmatched defendants (Inverse Probability of Treatment Weighting, IPTW).

These procedures resulted in a strong level of confidence that these PSM analysis findings are robust to the influence of unmeasured covariates and that the matching procedure was very good at finding suitable matches to those actually treated. The specific details on these diagnostics are available via the Center for Crime and Justice Studies webpage (www.utdallas.edu/epps/ccjs) and/or can be requested via email (morris@udallas.edu).

ANALYSIS OVERVIEW

There are four major types of release (bonds) used in Dallas County that are explored here. Such bonds include: (1) cash bonds, (2) attorney bonds, (3) commercial bonds, and (4) pretrial

services bonds. Note that release on recognizance and "other" release types (e.g., release to TDCJ for incarceration) are not assessed. The PSM approach will assess the effect of each bond compared to an alternative bond, respectively, across all combinations of bond types. This is illustrated in Figure 1 below.

Figure 1: Counterfactual Comparison Groups

(1) Attorney	vs.	(2) Cash
(1) Attorney	vs.	(3) Commercial
(1) Attorney	vs.	(4) Pretrial
(2) Cash	vs.	(3) Commercial
(2) Cash	vs.	(4) Pretrial
(3) Commercial	vs.	(4) Pretrial

As noted, PSM matches individuals who received a treatment, here a type of bond, to others who did not receive the treatment, but who had a statistically identical probability of having received such. In other words, these are similarly situated defendants (e.g., similar offense, criminal history, demographics, etc.) This approach allows for the isolation of a particular bond effect as compared to every alternative. For example, this approach allows us to determine whether cash bonds do better at reducing the probability of FTA compared to an attorney bond, net of other predictive variables on FTA.

Measurement/Definition of Variables

This section outlines and defines all data variables used in this study. The section is broken down by outcome variables, treatment variables (i.e., bond types) and control variables.

Statistical Model Output will be made available via Professor Morris's webpage, and/or can be requested via email (morris@utdallas.edu)

Outcome Variables

Failure to Appear (FTA) is defined differently depending on the type of bond. For attorney, cash, and commercial bonds, FTA is defined by whether the Court passes a judgment *NISI* against the defendant. A *NISI* is a judicial declaration that a bond is forfeited unless s/he can provide a suitable reason why there was no court appearance. While it is not uncommon for a judgment *NISI* to be overturned, this is an indication of FTA in Court and was easily identified in the `bond_forfeiture` data file provided by Dallas County.

FTA for personal recognizance and pretrial diversion rarely results in a judgment *NISI* being entered by the Court. Unfortunately, there was not a specific data indicator provided by Dallas County indicative of FTA for these two bond types. In order to gather this information, data on FTA were extracted from court comments through a character extraction algorithm constructed by Dr. Morris, and approved by Mr. Ron Stretcher (the Director of Criminal Justice for Dallas Co.). The comment information was provided in the `dc_bonds` data file. For personal recognizance and pretrial diversion bonds, FTA was indicated by the issuance of a bond forfeiture, however, most personal bonds are not formally identified as being forfeited. Rather a

bond is held "insufficient" when a defendant out on a personal bond does not appear in court. The specific terms used in the character extraction algorithm are available upon request (email morris@utdallas.edu).

Recidivism/Pretrial Misconduct is defined by a new arrest occurring after the offense of record for the study (i.e., an individual's first arrest occurring in 2008). The recidivism measures here specifically exclude re-arrest for failure to appear (absconding) only; only "new" crimes are counted as part of the measure. This issue is important because we should expect higher return to jail rates for absconders since either the system or a surety actively attempts to capture absconders. It is important to note that the measure of recidivism/Pretrial Misconduct here does not exclusively reflect pretrial misconduct as such data (i.e., court hearing dates) were not readily available. Recidivism researchers agree that differing lengths of time be used to assess any effect on recidivism, generally at no more than 36 months. However, since these release mechanisms should impact recidivism sooner rather than later (if ever), recidivism was assessed at 9 and 12 months, respectively, to help account for new crimes during the pretrial phase. The reason for this approach is that the context of a release mechanism stays with a defendant only to the disposition of a criminal case. After that point, the relationship is terminated.

Data for the recidivism/Pretrial Misconduct measure stem from supplementary data provided by the Texas Department of Public Safety (DPS), as well as those from Dallas County. DPS arrest data were required as Dallas County does not have in its possession arrest data for arrests occurring in other jurisdictions and are not tied to a Dallas County arrest. Using both of these data sources for the same set of defendants, recidivism represents any "new crime" arrest occurring in Dallas County or elsewhere, provided it is on file with DPS, which took place after the first 2008 book in and occurred prior to January 1st, 2012.

Control Measures

In addition to FTA, a series of variables serve as control variables for the present study. The variables outlined below are limited to what was available within the data provided by Dallas County. Definitions are provided as needed.

SOCIODEMOGRAPHIC VARIABLES

Age	(in years) at Time of Arrest
Age^2	Age squared (i.e., age as a non-linear effect)
Gender	(Female=1, Male=0)
Race	(Black, White, Hispanic) – Those indicated as "other" on race were less than 3% of all defendants.
Marital Status	(Married=1, otherwise=0)
Mental Illness History	(1=yes, 0=no)

Medical Problems (1=yes, 0=no)

Indigence (1=yes, 0=no)

Born in the United States (1=US born; 0=foreign born)

CRIMINAL HISTORY VARIABLES

Number of Prior Arrests – refers to the number of arrests that a defendant has on file with either Dallas County or Texas Department of Public Safety (DPS). Reporting error exists between the arrests reported to DPS from Dallas County. In order to minimize such error, the number of prior arrests was based on the total number of unique arrests occurring prior to the book-in of record stemming from Dallas Co., DPS, or both (whichever was highest).

Type of Offense for Book-in of Record – refers to the offense/s for which a defendant was charged underlying the primary 2008 book-in (i.e., the book-in of record). This was codified in part by UCR Index Crime definitions. Each of these 16 crime types was indicated by a binary variable to allow for multiple charge types to be included in the analysis simultaneously. For example, someone arrested for burglary may also have a charge of aggravated assault for the same arrest (or book-in). The offense categories include: drug related crimes, family violence, homicide (not present in data), robbery, aggravated assault, burglary, larceny, auto theft, fraud, obstruction of justice, weapons related offenses, and driving while intoxicated (DWI or DUI).

Offense of Record Category (OOR; misdemeanor vs. felony) – The category of offense was used at times to produce results stratified between misdemeanors and felonies (and sometimes state jail felonies).

Failure to Appear History (1=at least one previous FTA; 0=no previous FTAs)

Year of First Arrest on File – This variable serves as a proxy for the amount of time that an individual has been criminally active, as far as it is indicated in official police records.

Days in Jail for the OOR – The number of days spent in jail for the offense of record. This variable was not included in analyses of release for time served.

Celerity – Celerity refers to the amount of time between the date of the offense and the date of arrest (in days). This variable was log-transformed prior to analyses to correct for skewness.

Dallas County Jail History – An indicator of whether a defendant had been booked into the County jail at any time prior to the book-in of record

Treatment Variables

There are four main categories of bonds (release mechanisms) explored here. These include attorney bonds, cash bonds, commercial bonds, and pretrial services bonds.

The 2012 Texas Association of Counties (TAC) Bail Bond Handbook (p. 9) provides a detailed explanation of the bond process in Texas, which may vary between counties and defines a bail bond as:

> *A "bail bond" is a written undertaking entered into by the defendant and the defendant's sureties for the appearance of the principal therein before a court or magistrate to answer a criminal accusation; provided, however, that the defendant on execution of the bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond in lieu of having sureties signing the same. Any cash funds deposited under this article shall be receipted for by the officer receiving the funds and, on order of the court, be refunded, after the defendant complies with the conditions of the defendant's bond, to:*
>
> *(1) any person in the name of whom a receipt was issued, in the amount reflected on the face of the receipt, including the defendant if a receipt was issued to the defendant; or*
>
> *(2) the defendant, if no other person is able to produce a receipt for the funds.*

Attorney Bond

In Texas Bail Bond Board Counties, a state licensed attorney may post bonds as a surety for official clients in a criminal case, without the need to be licensed as a bail bond agent. The Sheriff of a County may inquire as to the security of the attorney in his/her ability to write a bond in accordance with TEXAS Code of Crim. Proc. Ch 17.

Cash Bond

'A "cash bond" occurs when the criminal defendant executes the bond himself as principal and posts the entire amount of the bond in cash with the "custodian of funds of the court" in lieu of having sureties sign the bond.' A cash bond is "unsecured" and if the defendant fails to appear for trial, s/he is liable for the full bond amount.

Commercial Bond

A commercial bond is one type of surety bond wherein the bond is made by a corporate surety (an insurance company), via a bonding company. In Texas, only a specially licensed insurance company can write such bonds. This form of bond occurs when a jailed defendant contacts a bail bond company and applies for bail. If approved, the defendant is released to the bonding company for a fee (generally 10-20% of the bail amount set by the court).

Personal Bonds

Personal Recognizance (not analyzed here), or release on recognizance, is one form of personal bond wherein the court releases an individual from jail without sureties or other security (i.e., financial penalty), but with the promise of the defendant that s/he will reappear for trial.

Pretrial Services bonds involve the release of a defendant under an unpaid, or $20 fee, bond held accountable to the Pretrial Services Division. These bonds are intended for low-risk defendants who are unable to secure release solely to the fact that they cannot access funding needed for a financial bond. A pretrial services bond is technically a type of personal recognizance bond.

In Dallas County, pretrial services eligibility is determined by reviewing a list of inmates booked in the jail the previous business day (or over the weekend), who have yet to be released, and who reside in Dallas and the surrounding counties. Among these inmates, the current offense is checked for eligibility (see below list of exclusions), along with the set bond amount (Dallas County Pretrial Services, 2012). If an inmate is eligible, his/her criminal background is checked via TCIC and NCIC. If still eligible and incarcerated, the inmate is interviewed by Pretrial Services that day. The inmate is then required to provide reference information, which must be confirmed by two personal references. The inmate also has to agree to abide by the program rules. The references are given the information of the amount of the pretrial fee (20 dollars or 3% of the bond, whichever is greater). Information is entered into the computer that the pretrial bond has been approved and once the fee is paid, the inmate is released. If the fee is not paid, a determination is made whether or not the fee should be waived in order to keep the jail population down. The financial status (i.e., indigence) of an inmate is not considered in Dallas Co. pretrial services releases. Inmates released via pretrial services tend to be those who cannot access funding to secure a financial bond.*

Specific eligibility requirements for pretrial services in Dallas Co. were determined via a Court Order in 1999 (Dallas County Court Order No. 99-1951), and were revised in 2007. Serious and violent offenses preclude an inmates eligibility for pretrial services release as are inmates with a history of felony/assaultive offenses. In some cases, exceptions can be made with approval from a supervisor and/or the District Attorney's office. Pretrial services tend to include individuals charged with minor non-violent (e.g., thefts and fraud) and/or lesser drug possession offenses.

Formal risk assessment tools are not used by Dallas County Pretrial Services in making release decisions.

During the period of observation for this study, Dallas County's Pretrial unit was staffed by four pretrial services officers who operate during normal business hours only. Therefore, potential defendants are screened the next business day after book-in to the jail. The monitoring of defendants other than the required regular check-ins took place solely by telephone.

The offenses that are excluded by Pretrial Services are outlined in the following page:

*Above paragraph paraphrased from in-person and email correspondence with Dallas County Pretrial Services (December, 2012).

Offenses Excluded by Pretrial Services Releases

1. Aggravated kidnapping
2. Aggravated Manufacture, Delivery or possessions of Controlled Substances
3. Aggravated Promotion of Prostitution
4. Aggravated Sexual Assault
5. Aggravated Robbery
6. Capital Murder
7. Criminal Solicitation
8. Aggravated Assault
9. Enticing a child
10. Prohibited Sexual Conduct
11. Indecency with a child
12. Injury to a child, elderly or disabled individual
13. Murder
14. Sexual assault
15. Parole violation
16. Sale, distribution or display of harmful materials to a minor
17. Sale or purchase of a child
18. Sexual performance by a child
19. Criminal solicitation of a minor
20. Any charge involving a firearm
21. Any charge involving assault with bodily injury
22. Stalking
23. Family violence
24. Violation of protective order or Magistrate's order; and
25. Harassment (includes telephone harassment)

References

Block, M. K. & Twist, S. J. (May, 1997). *Report Card on Crime-Runaway Losses: Estimating the Costs of Failure to Appear in the Los Angeles County Criminal Justice System.* American Legislative Exchange Council.

Dallas County Pretrial Services (personal communication, December 10, 2012).

Lechner, M. (1999a). Earnings and Employment Effects of Continuous Off-the-job Training in East Germany after Unification. *Journal of Business and Economic Statistics, 17,* 74-90.

Lechner, M (2001) Identification and Estimation of Causal Effects of Multiple Treatments under the Conditional Independence Assumption. In: Lechner M, Pfeiffer P (eds.) Econometric Evaluation of Labour Market Policies. Heidelberg and New York, Physica.

Texas Association of Counties. (2012). Bail Bond Handbook: Basic Information for County Officers, 2012 Update. Available at https://www.county.org/member-services/legal-resources/publications/Documents/Bail-Bond-Handbook.pdf

Acknowledgements

The author of this study would like to thank Dallas County, Texas and its agents in providing cooperation in the data-gathering phase of this project. Special thanks to Dr. Elba Garcia (Dallas County Commissioner, District 4), Ron Stretcher (Director of Criminal Justice), Jill Reese (fmr. Jail Population Manager), Mark Crooks (Dallas Co. IT Department), and Leah Gamble for their time, support, and guidance. Mr. Crooks was particularly instrumental to the data collection component and deserves special recognition for his mastery of the County's data infrastructure, which was sufficiently complex. Thanks are also deserved by the Dallas County District Attorney, Craig Watkins, and his staff, particularly Mr. Gordon Hikel, for their support and cooperation in establishing an MOU between the County and the University so that this study could be made possible. Recognition is also deserved by the Texas Department of Public Safety, for expediting the delivery of statewide arrest records for Dallas County jail inmates. Ms. Amanda Russell, the graduate research assistant on the project, is also deserving of thanks for all of her time and effort with this project. Finally, thanks to the University of Texas at Dallas's School of Economic, Political and Policy Sciences (EPPS) and (former) Dean James Marquart for providing financial and graduate student support for the completion of this project.

ABOUT THE AUTHOR

Robert G. Morris, Ph.D. is Associate Professor of Criminology as well as the Director of the Center for Crime and Justice Studies at the University of Texas at Dallas. Dr. Morris' specializes in quantitative analytics, criminological theory, and contemporary issues in criminal justice, having published dozens of peer reviewed scholarly studies in top-ranked scientific journals such as *Justice Quarterly*, *Crime and Delinquency*, *Intelligence*, and *Journal of Quantitative Criminology*. He teaches doctoral level statistics/analysis courses at UT Dallas as well as undergraduate courses surrounding criminal justice and criminology. He is the recent recipient of numerous research and teaching awards including the prestigious UT System Regents' Outstanding Teaching Award (2011) and the Academy of Criminal Justice Sciences Outstanding Research Paper Award (2012). Dr. Morris received his Ph.D. in Criminal Justice from Sam Houston State University in 2007.

PRIVATE BAIL

VS

PRETRIAL SERVICES

The Scorecard

	Private Bail	PTS
Provide Jail Release for defendants	✓	✓
Obligated for court appearance of defendants	✓	
Provide discipline to help ensure defendant's appearance in court	✓	
Consequence for defendant's failure to appear in court.	✓	
Authority to enforce program	✓	
Paid for by TAXPAYER		✓

Private bail is not simply a jail release program. Private bail is a jail release and court appearance program. Using the same formula created by PTS to determine savings to the State by the release of defendants from jail through its program, the bail bondsmen of North Carolina are saving the State two billion dollars a year by the release of defendants from jail through private bail. But savings to the State through the release of defendants from jail is where the similarities of the two programs end and the value of private bail shines forth. Studies, including the Bureau of Justice Statistics, prove that secured bonds by bail bondsmen are the better and proven way of ensuring defendants' appearance in court and that the greatest number of defendants who fail to appear in court were released unsecured as with PTS. Unlike PTS, that must rely on law enforcement for those who fail its program, bail bondsmen have the authority to arrest those persons for whom they have posted bond and therefore are able to enforce the bond. As a result, private bail in North Carolina provides an additional investigative and arrest force of over 1,700 bondsmen to ensure the defendants' appearance in court. Bondsmen have a 98% arrest and surrender rate of those who fail to appear on surety bonds.

To recap: Private bail provides savings to our State through the release of defendants from jail, producing the defendants for court appearance, and providing its services FREE to the taxpayers of North Carolina. Private Bail is a win-win for North Carolina and nobody does the job better.

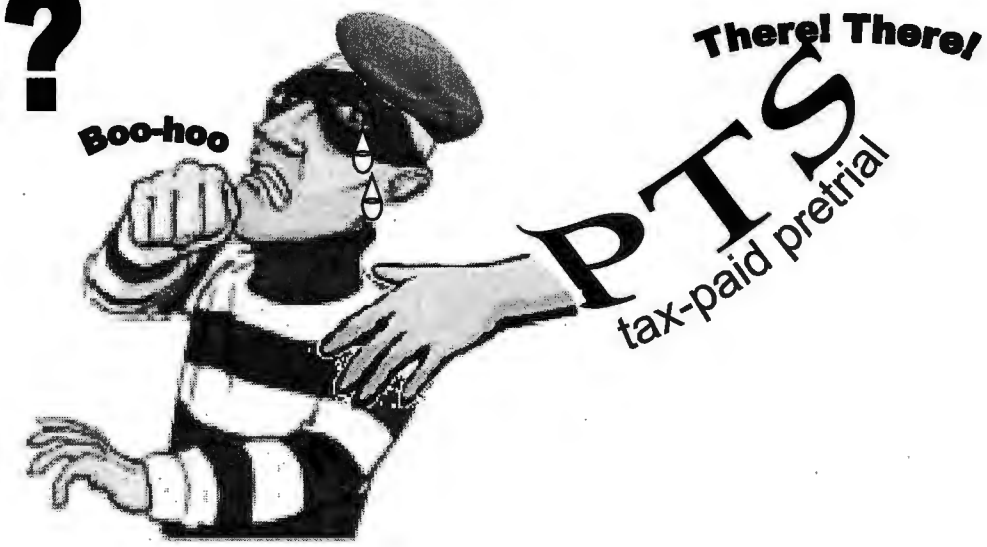
Did You Know?

Did you know the greatest majority of defendants who fail to appear in court were allowed an unsecured release through programs like those provided by PTS?

Did you know, if someone breaks into your house and steals your valuables or assaults you or your loved one, you pay for the release of that person with your tax dollars through programs provided by PTS?

Did you know those employed in the programs provided by PTS are not under any obligation if the defendant does not appear in court, and continues to be paid by your tax dollars even if the defendant is never located and arrested?

Victim?



- **PTS is not concerned with the real victims of crime**

PTS views a jail inmate as a victim of society, even though the inmate is charged with crimes against the State and its citizens, and strives to free him through its program with the inmate's PROMISE to appear in court. The FREE "Get out of Jail" card provided by PTS through its programs is slap in the face to North Carolina citizens who are the real victims as a result of the inmate's actions and who expect some measure of justice.

Another victim of PTS programs is the justice system itself by the increased failures to appear in court generated by PTS "get out of jail free" programs.

What is Bail ?

PTS is not obligated in any way to assure the defendant's appearance in court.

Bail is Collateral required by the Court

Collateral has always been sound business WISDOM throughout the ages and continues to be so in every aspect of today's modern business life.

Bail is the only collateral by which the court can use to help ensure the appearance of defendants or others who may be required by the court.

Alternatives to bail is keeping defendants incarcerated or allowing FREE release through government funded programs such as the ones provided by PTS. Jails are continually overcrowded and free release programs generate increased failures to appear in court adding to the court and jail's problems.

Bail continues to prove itself as the most efficient type of jail release / court appearance program.

What would happen ?

PTS's true mission is to abolish private bail which is saving the State two billion dollars a year..

PTS's mission, other than providing FREE release to all those in jail, is the abolishment of private bail. If PTS succeeded in this endeavor, what would happen to the tens of thousands of defendants who have been released on surety bonds? How would it impact the courts and justice system if the secured releases of those tens of thousands of defendants were changed to unsecured and no one was responsible for their appearance in court?

Although PTS's mission is to abolish private bail, the formula created by PTS calculates that Private Bail is saving the State over **two billion dollars** a year in jail cost.

the Breeding Ground

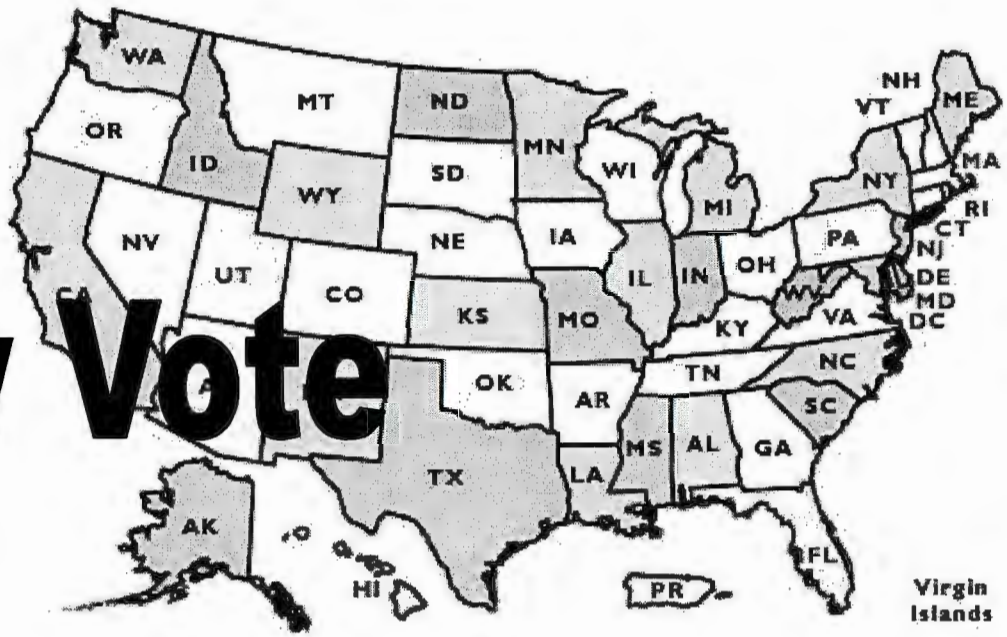
PTS creates a breeding ground for crime

FREE release programs provided by PTS create the perfect environment for those who have broken the law to continue and even flourish in their unlawful pursuits.

Without the discipline of the courts imposing bail and the additional discipline provided by private bail bondsmen as a result of bail, the release programs provided by PTS, which allow FREE release from jail without restraint, creates a lack of respect for the courts and the justice system, generates greater numbers of failures to appear in court and in turn provides a BREEDING GROUND for Crime.

Bail imposed by the court and the Private Bail Industry of North Carolina are part of the much needed discipline to help reduce crime and protect the citizens of our State.

PTS is losing in forty six states



Majority Vote

A deciding factor as to the important value bail bondsmen provide, comes from the leaders of the states of our nation in which forty six of the fifty states use and benefit from private bail.

The overwhelming opinion is that private bail provides tremendous value and does a better job at no cost to the taxpayer.

WHY SHOULD TAXPAYER PAY FOR A LESS EFFICIENT PROGRAM?

PTS programs are inefficient and costly

Savings to North Carolina by Private Bail

TWO BILLION DOLLARS

The court approved formula, to determine jail cost savings, created by PTS calculates that Private Bail is saving the State of North Carolina over **two billion dollars** a year in jail cost alone.

Private Bail provides additional savings to the State by producing the defendant in court when required and the arrest and surrender of defendants who fail to appear in court, all at no cost to the taxpayer.

PTS programs do not support the children of North Carolina

Support of local Schools

Bail bondsmen of North Carolina are obligated to ensure the defendant's appearance in court. If that cannot be done the bondsman is required to pay the full amount of the bond to the State. The forfeitures paid on bonds go to help support the free public schools of our State. This is still another way that private bail provides value to North Carolina.

Under PTS free release programs, there are no consequences if a defendant in their program fails to appear. Those employed by the program continue to be paid by your tax dollars even if the defendant is never located and arrested?

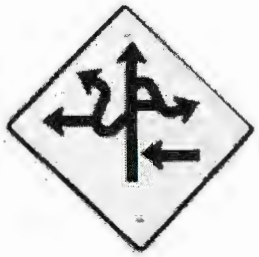
- **PTS does not provide its records for examination**

CITIZEN'S RIGHT TO KNOW

There is no way to determine the value, or lack, of PTS programs. PTS program records are not available for examination and therefore the purported savings by its programs cannot be verified.

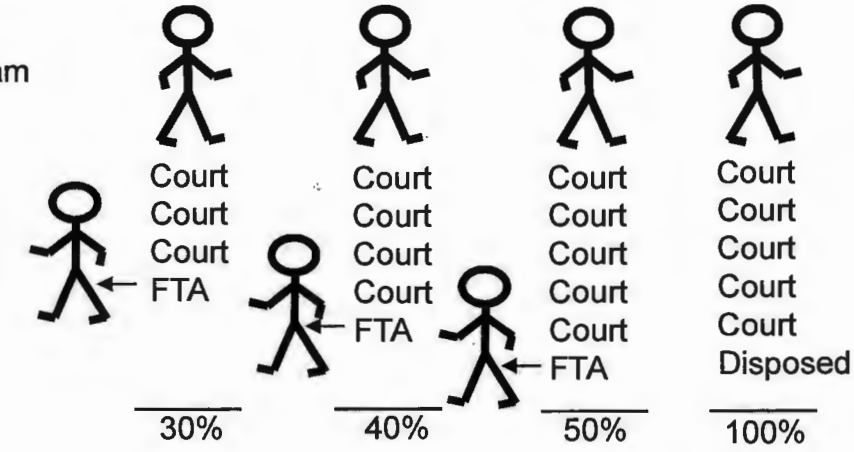
PTS has repeatedly fought "Citizen's Right to Know" legislation in an attempt to hide the program's faulty numbers and deceptive reports.

PTS's reporting is deceptive



Fuzzy Math

Def. in PTS program



PTS's reported success rate on each defendant

PTS's report of high success rates include the number of times a defendant appears in court, even if they failed to appear in court

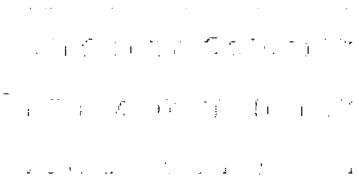
Reality Check: 75%+ failure rate

It's good to have someone you can trust !

PTS is a tremendous investment potential for your county and your State. You can take my word on it.

Your friend,

Bernard Madoff



(https://www.aiasurety.com/)

Bail Bond Blog

National Bail Reform Survey: Public Opposed to FREE Release

August 30, 2016 (https://www.aiasurety.com/2016/08/) / Posted by admin (https://www.aiasurety.com/author/admin/) / in Bail Bond Blog (https://www.aiasurety.com/category/bail-bond-blog/)

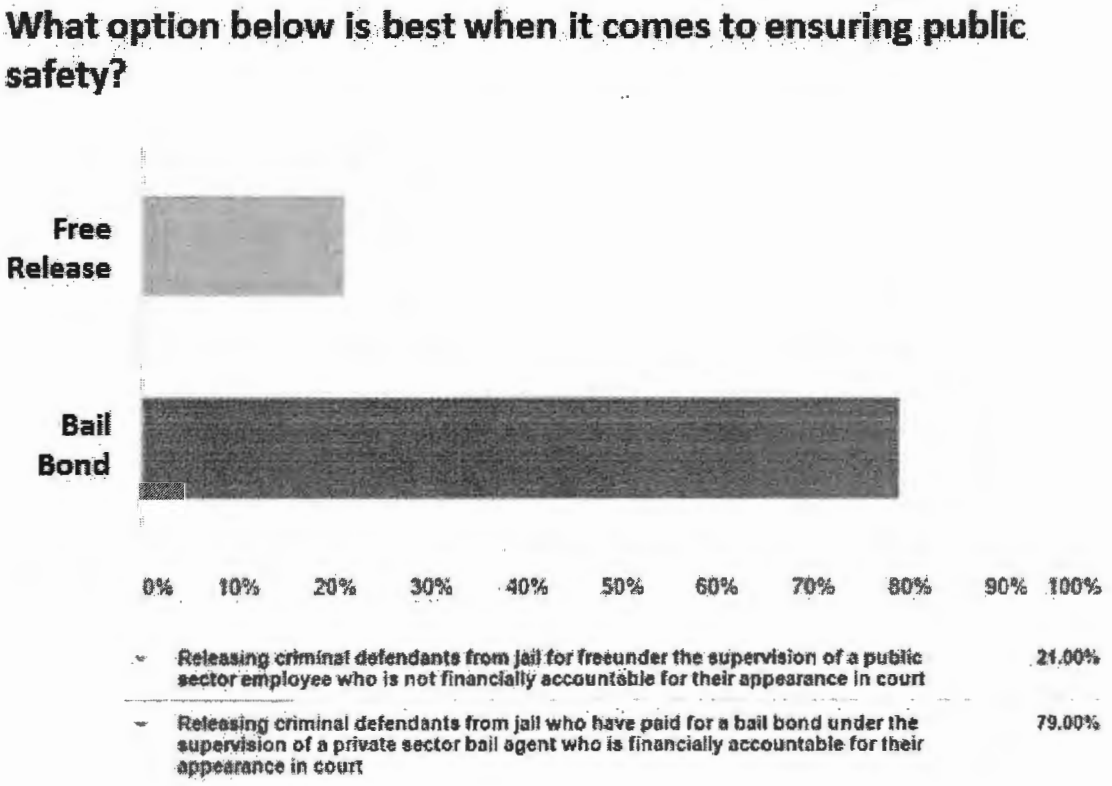
In another attempt to gauge the public's opinion of the ongoing discussion around bail reform, we thought we would expand our last survey's reach from just Texas to the entire country. In order to maintain an "apple to apple" comparison between the two surveys, we asked our national survey respondents the same questions that we did our Texas respondents a couple weeks back.

The results, exactly the same as those from the Texas survey...and that is that people are NOT in favor of the "free release" policies that are being advocated as part of the bail reform movement. The results of the first survey question alone show that the public understands and supports the importance of the concept of financially securing a defendant's release from jail as opposed to free release through a taxpayer funded public sector pretrial release program. In fact, 89% of respondents did NOT agree with releasing defendants from jail for FREE. Additionally, when asked about the most pressing issues in the criminal justice system, the public did not see the use of "money in the bail system" as a major problem (the least selected issue with only 3%). What the public did identify as their top concerns were issues like racial discrimination (19%), police misconduct (15%), lack of alcohol and drug treatment (15%) and recidivism (14%).

Some of the other key results of the survey are outlined below:

- 86% of respondents agreed that bail agents provide a valuable service to the criminal justice system.
- 76% of respondents disagreed with the concept of defendants being released for free and not having to financially secure their release by posting bail

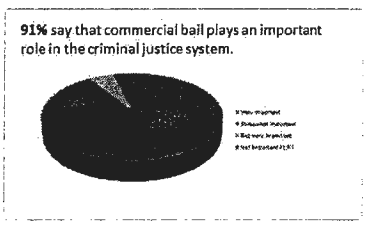
- 71% of respondents said they wouldn't vote for a candidate running for public office who supports the concept of letting more defendants out of jail for free without having to post a monetary condition of bail.
- 79% of respondents believe that releasing defendants on a financially secured commercial bail bond under the supervision of a bail bond agent is the best option when it comes to public safety. Only 21% selected free release through a public sector pretrial program as the better option.
- 77% of respondents believe that releasing defendants on a financially secured commercial bail bond under the supervision of a bail bond agent is the best option when it comes to protecting the rights of victims. Only 23% selected free release through a public sector pretrial program as the better option.



The point here is that while many agree that our criminal justice system needs some reform, the consensus of our surveys is that the reform needed has nothing to do with the "use of money in the bail system." Over the past 6 months, we have conducted surveys in multiple states asking over 1000 respondents in total their thoughts on bail reform, and consistently the public has disagreed with the concept of free taxpayer funded bail policies proposed by those advocating for reform. Consistently these surveys have shown that the public supports and appreciates the role that bail agents play in the criminal justice system (an average of 83% support bail). It is time to put away the anti-bail rhetoric and focus on the real challenges of the criminal justice system. It is time to give judges the tools (including bail) and the discretion they need to make the most fair and informed decisions in order to protect the public and ensure justice for defendants, victims and the community.

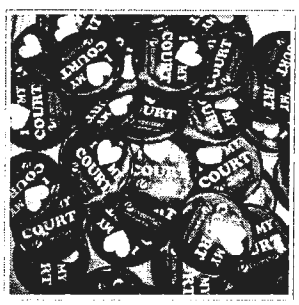
Criminal Justice Stakeholders Identify Bail Bond Industry as an Important and Effective Component

Thursday, December 13, 2012



The ExpertBail team was at it again earlier this week at the eCourts Conference in Las Vegas, Nevada. The team passed out several hundred of its new "I LOVE MY COURT" buttons and introduced itself to many key players in the court system. The conference was attended by a broad range of stakeholders in the criminal justice system including but not limited to Court Administrators, Clerks of Courts, Judges, Attorneys, Technology Officers, Probation Officers and Bailiffs.

As always, the ExpertBail team attended the conference and spent time talking with each of these stakeholders about their perceptions of the bail bond industry and its role in the criminal justice system. Additionally, the team spent time educating people on the realities of the bail industry and dispelling the many myths and stereotypes. As part of our discussions, we conducted a brief survey among attendees. Much like the previous surveys conducted by the ExpertBail Team at the National Sheriffs' Association Conference and the American Judges Association Conference, the results of this latest survey, show a strong understanding and support of commercial bail within the court system.



Below are the results of the survey.

- **91% said that commercial bail plays an important role** in the criminal justice system (68% said very important)
- **50%** described bail bondsman as **professional**, 32% as **helpful**, 21% as intimidating

- **76% felt that the bail bond industry was effective** at getting defendants back to court (31% said extremely effective)
- When comparing commercial bail to Pretrial Service Agencies in terms of speed of release, **49% felt that commercial bail was faster** while only 5% felt that Pretrial Services Agencies were faster.
- When comparing commercial bail to Pretrial Service Agencies in terms of effectiveness, **52% of people said that bail bondsman were more effective,** while 14% said Pretrial was more effective (34% said both were the same)

Twenty-one states (including Puerto Rico) were represented in the survey results.

Social Links

Contact Information

Tel: 800.938.BAIL

email: info@expertbail.com

Join the Mailing List

Enter your email for updates! Submit Que

The Crime Report | (http://thecrimereport.org/2014/04/22/2014-04-pretrial-justice-the-true-cost-of-bail-reform/)

Pretrial Justice: The True Cost of Bail Reform

By **gabe** | April 22, 2014

Incarcerating defendants prior to trial can be an expensive undertaking. That is why pretrial release has become such a hot topic with county supervisors and legislators in recent years.

With shrinking resources and increasing jail populations, states and counties are faced with the growing costs of managing the incarceration of individuals, as well as their release.

Currently, more than $100 million is spent nationally on funding public sector pretrial release programs. These programs were created nearly half a century ago to help the indigent and those with special needs.

However, over the years, pretrial programs have grown and mutated to include individuals the programs were never designed to serve.

This has resulted in the creation of large public sector budgets that allocate additional taxpayer dollars to fund the release of defendants who can and *should* be required to financially obtain their own release.

It's also important to note that public sector pretrial programs have been proven repeatedly, through independent research, to be the least effective form of release. Simply put, defendants are not getting back to court.

This is hugely important because of both the financial and social cost to the public.

Traditionally, the cost of incarcerating a defendant has been calculated by the price of a jail bed. If a jail bed is freed up, the cost is also alleviated. While this may appear logical, it is not an accurate representation of the actual costs involved in pretrial release.

A study (http://www.utdallas.edu/epps/ccjs/dl/Dallas%20Pretrial%20Release%20Report%20-FINAL%20Jan%202013c.pdf) published last year by Dr. Robert Morris of the University of Texas at Dallas, examined 22,000 pretrial releases in that state's Dallas County in 2008. It examined and compared four types of pretrial release mechanisms: cash bonds, public sector pretrial release programs, attorney bonds and surety bonds (commercial bail bonds).

Commercial bail outperformed all other forms of release with the lowest failure-to-appear (FTA) rates, with only 23 percent not showing up for their court dates. The worst performer? Public sector pretrial release programs with a failure-to-appear rate of 37 percent.

According to the study, felony defendants who were not released on commercial bond were between 39 percent and 56 percent more likely to fail to appear in court.

Beyond the performance metrics, the research revealed some enlightening statistics on the costs when defendants failed-to-appear for their court dates. Based on the administrative costs incurred by the courts, each FTA in Dallas County costs $1,775.

Using that as a baseline, Dr. Morris was able to calculate the actual cost to the county of their pretrial program's performance. He determined that when defendants who were being supervised through Dallas' pretrial services program didn't show up for court, it cost the county more than $13 million in lost administrative and court costs, e.g., judges time, attorney fees and law enforcement costs. (This is based on more than 7,400 FTAs at a cost of $1,775 each.)

When utilizing commercial bail as the primary release mechanism, as compared to public sector pretrial services, the cost to Dallas County was significantly lower based on the numbers in Dr. Morris' study – an estimated $11 million in net savings to the public.

Dr. Morris' study gives a fresh perspective on the true costs associated with public sector pretrial release. Rather than focusing on saving $50-$60/day on a jail bed by releasing defendants through these publicly-funded programs, counties must also consider looking at the associated costs in reduced effectiveness of the release mechanisms.

To lose $1,775 on the back-end while trying to save $50 on the front-end is a losing proposition by any definition.

The cost of bail reform needs to be addressed not by how much funding public sector pretrial release programs require, but rather, by how much they can potentially cost counties based on their performance.

By performing these analyses, counties can better understand both the cost and performance value of using more private sector pretrial release mechanisms, such as commercial bail.

Eric Granof *(http://www.expertbail.com/resources/media-center/executive-team-bios/eric-granof) serves as Vice President of Corporate Communications for AIA/ExpertBail. The AIA family of companies,formed in 2003, is the nation's largest underwriter of bail and has been partnering with agents across the country for over a century. For addition information on AIA/Expert bail, please click HERE (http://www.expertbail.com). He welcomes comments from readers.*

Resources

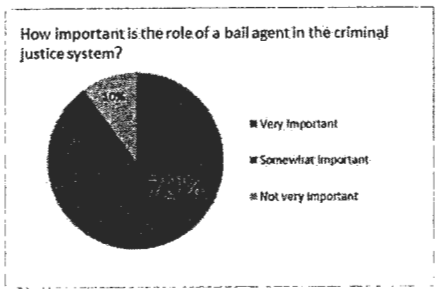
Bail Bond FAQs
Bail Glossary
Bail Industry News
Media Center
Press Releases
ExpertBail Blog
ExpertBail News

Home / Resources / ExpertBail News / Verdict Out On Bail Bond Industry: Judges Agree that Commercial Bail is Most Effective Form of Pretrial Release

Verdict Out On Bail Bond Industry: Judges Agree that Commercial Bail is Most Effective Form of Pretrial Release

Wednesday, October 3, 2012

As part of our ongoing efforts to promote understanding of the bail industry throughout the country, our team attended the American Judges Association Conference in New Orleans, Louisiana earlier this week.



We spent time talking with judges from all over the country about the bail bond industry and the role that it plays in their specific states and counties. During the two day conference, we handed out several hundred "I Love My Judge" buttons as well as fielded a two page survey to gain insights into judges' perceptions of the bail bond industry and its role in the criminal justice system. Much like the recent survey conducted amongst Sheriffs at this years' National Sheriffs' Association Conference, the results shed a lot of light on the reality of the bail industry and dispel many myths and stereotypes that currently exist about this relatively unknown but extremely important industry.

The following are the results of the survey:

- 90% said bail plays an important role in the criminal justice system (70% said very important)
- 37% described agents as helpful, 27% as professional... Intimidating was next with 20%
- 96% felt confident that a defendant when released on a bail bond would show up for court (23% were extremely confident)

- 30% said that when a defendant is released OR or through a pretrial services agency that they had little to no confidence in their return (70% somewhat confident)... None replied extremely confident

- When asked how effective bail agents were at getting defendants to appear 86% said effective with 33% of those saying extremely effective

- When asked to compare bail with OR/pretrial in terms of most effective...60% said bail (secured release) vs. 6% saying unsecured release.

Social Links

Contact Information

Tel: 800.938.BAIL

email: info@expertbail.com

Join the Mailing List

Enter your email for updates! Submit Que

Resources

Bail Bond FAQs
Bail Glossary
Bail Industry News
Media Center
Press Releases
ExpertBail Blog
ExpertBail News

Home / Resources / ExpertBail News / Sheriffs Give the Bail Industry a Big Thumbs Up

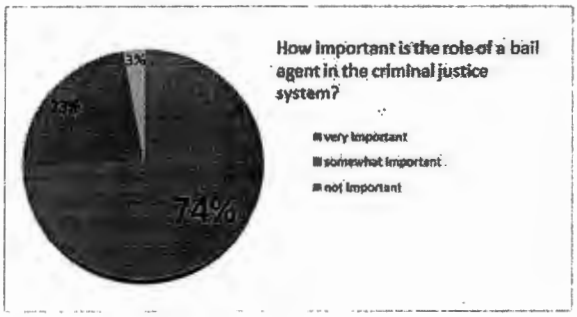
Sheriffs Give the Bail Industry a Big Thumbs Up

Friday, June 22, 2012

For the second year in a row, the AIA/ExpertBail Team spent Father's Day at the National Sheriffs' Association Conference. This year the event took place in Nashville, Tennessee at the Gaylord Opryland Hotel and was one of the largest conventions yet. As a Platinum Corporate Partner, the AIA/ExpertBail team was there to talk with sheriffs about the bail bond industry as well as pass out their now famous "I Love My Sheriff" buttons. In two short days, the team passed out close to 2000 buttons.

In addition, to general discussions about the industry and ExpertBail, the team conducted a short survey amongst sheriffs that passed by the booth. All in all over 120 sheriffs took the survey.

The results of the survey were both interesting and extremely positive for the industry. They not only confirmed the team's initial thoughts in regard to sheriff's perceptions of bail, but also provided new insights into what sheriffs really think about the bail industry. Below are some highlights of the survey as well as a copy of the press release on the results.



When asked how important bail bond agents are to the criminal justice system, sheriffs responded as follows:

74% Very Important
23% Somewhat Important
3% Not Important

When asked which attributes best describe a bail bond agent, sheriffs responded as follows:

60% Professional
37% Helpful
10% Caring
6% Intimidating
5% Dishonest
5% Unethical

When asked whether they work with bail agents in the context of their job, sheriffs responded as follows:

62% Yes
38% No

We believe these results are a confirmation of the strong connection that law enforcement and the bail industry have within the criminal justice system. We look forward to continuing to partner with the NSA and to finding ways to work together and leverage each other's strengths. See the press release below, or click on the following link to see the original releasse: Sheriffs Give Bail Bond Agents a Big Thumbs Up!

Press Release

Sheriffs Confirm that Bail Agents Play an Important Role in the Criminal Justice System
Expertbail's recent survey at the National Sheriffs' Association Conference shows that 97% of sheriffs surveyed understand the important role that bail agents play in the criminal justice system

June 25, 2012 (Calabasas, California) - In its continued support of the National Sheriffs' Association, as a Platinum Corporate Partner, the ExpertBail team attended this year's National Conference in Nashville, Tennessee this past week. The conference was well attended with several thousand sheriffs representing counties from all over the country.

During the conference, ExpertBail passed out their famous "I Love My Sheriff" buttons and fielded a short eight question survey to gain insights into sheriffs' understanding and opinion about the bail industry. The survey results were both interesting and informative as they shed light on the real value that bail agents bring to the criminal justice system.

When asked how important the bail bond industry is to the criminal justice system, 74% of sheriffs responded that the bail industry is "Very Important." 25% of sheriffs responded that the bail industry is "Somewhat Important." Only 2% of respondents said "Not Important."

"We think that these results make an important statement about our industry," said ExpertBail's Chief Marketing Officer, Eric Granof. "97% of sheriffs we surveyed confirmed that bail is an important part of the criminal justice system. We have always known that bail is a natural adjunct to law enforcement, but to get this type of confirmation from such a large sample of sheriffs is very encouraging."

In addition to perceiving bail as very important, sheriffs were also asked to identify those attributes that best describe the bail industry. The number one attribute chosen by over 60%

of respondents was "Professional." The number two attribute selected by 37% of respondents was "Helpful." The remaining attributes broke out as follows: Caring – 10%; Intimidating – 6%; Dishonest - 5%; Unethical – 5%.

"Once again, we are very optimistic about the results of the survey," says Granof. "For far too long, the bail industry has been pinned with the "thug/criminal" stereotype. It is nice to see that such an important stakeholder in the criminal justice system, like law enforcement, is able to look past those false images and see our industry in such a positive and professional way."

About ExpertBail

ExpertBail is the bail bond industry's first true national bail bond brand. Comprised of the most experienced and highest quality bail agents in the industry, ExpertBail helps consumers reduce the clutter in the bail marketplace and directs them towards a trusted, proven and experienced bail agent in a simple and transparent way. Expert Bail is backed by AIA, the oldest and largest family of bail bond insurance companies. With over 150 years of stability, trust and knowledge behind every bond written in the ExpertBail Network, our focus is on the consumer and helping them through a difficult time. The mission of ExpertBail and its network of agents is not only to meet the expectations of our customers, but to exceed them substantially.

About AIA

The AIA family of companies has been partnering with agents across the country for over a century. Formed in 2003 as an alliance of the surety bail industry's leading companies Allegheny Casualty, International Fidelity and Associated Bond, AIA utilizes a unique "service-focused" approach to management that provides its family of agents with the knowledge, tools and commitment they need to grow their business and succeed. AIA has become the overwhelming industry leader in agent service, national coverage, bail written and number of agents.

Social Links

Contact Information

Tel: 800.938.BAIL

email: info@expertbail.com

Join the Mailing List

Enter your email for updates! Submit Que

Low risk rank for Akein Scott, Mother's Day shooting suspect, called into question

New Orleans police on Wednesday night booked Akein Scott, 19, left, in the Mother's Day shooting that left 20 people injured on Sunday, May 12, 2013. The shooting was captured on surveillance footage. *(NOPD)*

By **NOLA.com | The Times-Picayune**
Follow on Twitter
on May 17, 2013 at 6:31 PM, updated May 18, 2013 at 7:03 AM

After his arrest in March on charges of possessing heroin and a handgun with an extended magazine, Mother's Day shooting suspect **Akein Scott** underwent a pre-trial risk assessment that labeled him unlikely to re-offend or fail to show up for court, and thus deserving of a relatively low bond amount, according to a report obtained by NOLA.com | The Times-Picayune.

The six-page report, which weighed Scott's criminal history, work record, education and other factors, ranked the 19-year-old as a "3" on a scale of zero to 24.

Whether Orleans Parish Magistrate Commissioner Harry Cantrell used the report in setting an initial, $35,000 bond for Scott is uncertain. But the $15,000 bond he was given for the charge that Orleans Parish District Attorney Leon Cannizzaro accepted, and for which Scott made bail, has become a source of controversy and criticism from both Cannizzaro and Mayor Mitch Landrieu, who have said it was too light.

Police believe Scott and his 24-year-old brother, Shawn, shot 19 people during a second-line parade in the 7th Ward last Sunday that also left one person injured from a trampling.

The report from New Orleans' pre-trial services program - run by the Vera Institute of Justice - made its determination because Scott said he was a high school graduate and a student at a college in Talladega, Ala.

"We try to verify residence and employment, which includes school and other things," said Jon Wool, director of the Vera Institute's New Orleans office. "And if we are unable to verify it, we take the defendant's word. That is another aspect that we intend to reexamine."

Wool said the case has prompted a closer look at how the pre-trial services program assesses defendants.

The record acknowledges without elaborating that Scott was first arrested when he was 13, with a single misdemeanor conviction listed.

The report, however, made no mention that Scott had been arrested in the first semester of his freshmen year in Talladega, last

fall.

It also doesn't reflect the confusion that exists about where or whether Scott actually obtained a high school diploma or the circumstances of his enrollment in college before he was jailed in connection to one of the most notorious crimes in recent New Orleans history.

A spokesman for the Miller-McCoy Academy for Mathematics and Science told NOLA.com | The Times-Picayune and other media outlets this week that Scott graduated from the school in May 2012. However, on Friday, interim school CEO Andrea Thomas-Reynolds said in a text message that Scott was only "a former student" but not a graduate.

Thomas-Reynolds said she was told that Scott had walked at Miller-McCoy's 2012 graduation. However, for reasons that weren't known Friday, he had left the school right before a period of turmoil in management that saw the departure of the school's two founders and its data manager, among others.

Thomas-Reynolds joined Miller-McCoy in the fall, and she said student records were disorganized.

Meanwhile, Scott enrolled at Talladega College, though it isn't clear whether he got there with a valid diploma and, if so, from what school. One of Talladega College's requirements for admission is a high school transcript from an accredited school as well as a letter of recommendation from someone such as a high school principal teacher or guidance counselor.

The college didn't respond to numerous requests for comment.

While at Talladega, it didn't take long for Scott to get into trouble. On Nov. 4, Talladega police say, Scott and another Talladega student parked behind an auto sales store and started smoking marijuana.

Police say they spotted the car and went up to it because the windows were foggy, making it difficult to see into the vehicle. Scott and the other student tried to flee when approached but were captured, police said.

The Talladega City Police Department booked Scott with second-degree marijuana possession. He was released from jail Nov. 5.

Without elaborating, a court official in Talladega on Friday said during a telephone conversation that Scott was charged "as a youthful offender," so she couldn't discuss the disposition of his case. The official then said Scott was ordered to pay a fine of more than $600, but the official abruptly hung up when asked for a copy of the report.

About four months after his arrest in Alabama, Scott was back in New Orleans, where he was jailed on counts of carrying drugs and a gun at the corner of Frenchmen and North Derbigny streets, which is where the gang police say he and his older brother belong to is based.

One of those charges carried a $15,000 bail amount in court later. Magistrate Commissioner Cantrell found no probable cause for several of the counts, but Cannizzaro's office accepted a felony charge against Scott: illegally carrying a weapon while in possession of narcotics.

The Vera Institute's New Orleans office, which has been given $484,000 in city funds to run the city's pre-trial services, produced the risk assessment on Scott before Cantrell made his bonding decision.

Among Scott's unfavorable factors was the fact that he was facing a felony charge involving a firearm. But it helped him that the report said he was a full-time student with just one conviction - on the day he was booked on the gun and heroin count he had pleaded no contest to simple battery after attacking someone for "mouthing off to him" in September 2010.

Sometime after the pre-trial report declared Scott to be low risk, a Criminal District Court clerk's official transferred the $15,000 bond amount from the misdemeanor charge to the accepted felony charge without a judge's approval, according to Cannizzaro.

At Scott's arraignment, prosecutors in Cannizzaro's office never asked Criminal District Judge Arthur Hunter to raise his bond, and Hunter didn't volunteer it.

Cannizzaro has said that in retrospect he should have sought a higher bail amount. Scott, who was still in jail when he was arraigned in Hunter's courtroom, went free on bail April 29.

"Everyone made the appropriate decision based on the information available," said Wool after reviewing the record. "I wouldn't blame the district attorney and I wouldn't blame the judges."

Thirteen days after Scott made bail, police say he and his brother positioned themselves on opposite sides of Frenchmen Street near the corner of North Villere. As a mid-day second line passed, they sprayed bullets into the unsuspecting crowd, police say. Among those injured were two 10-year-olds, a boy and a girl.

Police have said the Scotts' motive was gang-related. Authorities had both brothers in custody by Thursday morning. **Five people** have been jailed on accusations of trying to hide the Scotts from the law.

Landrieu last year publicly pressed the judges of criminal and municipal courts to implement a policy of high cash bonds - at least $30,000 - for serious gun offenses, citing a similar initiative in St. Louis, Mo., that was credited in 2010 for a dramatic drop in that city's murder rate.

On Thursday, the mayor told a WVUE-TV reporter that he might consider pushing state legislation that would mandate higher bonds for gun offenses the law.

Such a proposal would mark the first minimum mandatory bond law in the state and would surely come up against heavy opposition from the judiciary.

Ryan Berni, a spokesman for Landrieu's office, said he wasn't aware of the mayor's comment, which came after a news conference.

"The bigger point here is that we know the data shows firearm offenders - (namely for) illegal possession of a weapon - make up the large percentage of people who are murder victims or suspects," Berni said. "And the pre-trial assessments should heavily weigh gun offenses as risk factors."

The theory behind the pre-trial services program is to base bond decisions not solely on the particular offense, but on a combination of factors that are better predictors of whether a defendant will commit another crime or fail to turn up in court.

Ironically, Scott was due in court on the pending gun and drug case on the morning his bail was set at $10 million in Sunday's mass shooting.

"The pre-trial process led to a $35,000 bond," Wool said. "Tragically, that didn't result in his being kept in jail.

"We agree with the mayor and Councilmember (Susan) Guidry: We need to work with our law enforcement partners to capture any additional information available that can predict risk of violence and get this information to the judge before the first bond hearing. And we need to examine whether additional risk points need to be attributed to gun charges."

*Staff writer **Danielle Dreilinger** contributed to this report.*

***Correction:** This post at one point stated that the Mother's Day shooting happened 13 days after Scott was arraigned on an unrelated charge. It actually happened 13 days after he made bail.*

http://www.pressofatlanticcity.com/news/crime/courts/how-much-will-bail-reform-cost-n-j-taxpayers/article_485f04c4-4abc-11e6-b384-eff1718c3d56.html

‹
PREVIOUS

NJ Supreme Court sides with Castellani, ends three year case
›

How much will bail reform cost N.J. taxpayers?

JOHN DeROSIER, Staff Writer Jul 16, 2016

A law that will allow New Jersey judges the right to deny bail to high-risk defendants accused of first-degree crimes next year will cost counties — and likely taxpayers — millions of dollars to enforce, local county officials say.

While the officials laud the legislation's intentions — to keep violent defendants in jail before trial and to allow nonviolent defendants charged with third- and fourth-degree offenses quicker bail hearings — they worry about how they'll pay for it.

New Jersey residents voted in favor of the Bail Reform/Speedy Trial Act in a 2014 referendum to amend the state constitution. The law goes into effect Jan. 1.

While several officials have said they applaud the effort to change the bail system in New Jersey, they also said the amendment will be very expensive for all 21 counties.

RELATED

Atlantic County Executive says bail reform will be costly

Atlantic County Executive Dennis Levinson said the new law will cost $2.5 million a year. The extra costs stem in part from the Prosecutor's Office requesting 10 additional assistant prosecutors and the Sheriff's Office requesting seven extra officers to comply with the requirement that offenders have a court hearing within 48 hours of being arrested, including on weekends.

"The bail-reform process has become just another example of actions taken by Trenton special interests that result in very significant increased financial costs to county taxpayers," Levinson said in a statement. "Instead of thinking of ways to lower taxes, Trenton continues to create situations that further increase our tax burden."

Cape May County Freeholder Director Jerry Thornton said his county will also need to hire more staff.

"It's going to be costly," he said.

John Donnadio, executive director of the New Jersey Association of Counties, said county officials across the state have been trying to find ways to pay for the

RELATED

amendment. He said the expected $50 million it will take to implement the reforms will most likely fall on the residents of New Jersey in the form of a tax increase.

OUR VIEW

FROM THE EDITORIAL PAGES OF THE PRESS

Coming bail reform looks good, except for bondsmen

"There's really no other alternative," he said, noting that the counties have been working over the past year to find ways to mitigate the costs. "How else are we going to pay for it?"

He said counties could save costs by having video hearings instead of bringing every person into the courtroom. But he said that still doesn't address the concerns of buying new fingerprinting technology, which is required under the amendment to help identify offenders and the risks they may pose.

"It doesn't cost much to house an inmate," Donnadio said. "It's the staff that costs money."

Cumberland County Freeholder Director Joe Derella said that in seven to 10 years, the county could see some savings. However, the expenses up front for new fingerprinting technology, equipment for video hearings and possibly expanding the courtroom far outweigh any savings down the line.

Overall, Derella said it will cost the county anywhere from $2 million to $3.2 million to comply with the amendment.

"The jails are still going to be open seven days a week, 365 days a year," he said.

The costs to implement the reforms came as a surprise to some lawmakers. Assemblyman Chris Brown, R-Atlantic, said the amendment was presented as a way to cut costs throughout the state, not increase them.

"This is another example of the state breaking its promise to the public, who approved the ballot question because the state promised us bail reform would save county taxpayers money," Brown said in a statement. "But instead, the state is adding another financial burden to Atlantic County's families and retirees who are already struggling to pay their bills so they can keep their homes."

Assemblyman Vincent Mazzeo and Sen. Jim Whelan, D-Atlantic, who voted yes along with Brown, did not respond to requests for comment.

RELATED

Cape May County to build new $37 million jail

Cape May County to build new $37 million jail

But costs aside, many officials in New Jersey think the concept of bail reform is a good idea.

"It was a great idea," Derella said. "It's fair for the people who are incarcerated to have a speedy decision. I just don't know how much the cost was thought out."

Contact: 609-272-7260

JDeRosier@pressofac.com

Twitter @ACPressDeRosier

Copy desk chief / comics blogger

Bail bondsmen question new reforms at Atlantic City forum

To Whom It May Concern

From June, 2015 through August, 2016 there have been a total of 153 offenders released through the Rowan County Pretrial Services. Of the 153 offenders released all offenders with the exception of 3-4 have appeared in court and had their cases finalized. One of those has not appeared and remains at large due to residing in the State of Kentucky. The State of Kentucky will not allow a bondsman to cross state lines to pick up an offender.

These 153 people were bonded out using a bail bond service which has ensured that these offenders, with the exception of one, will appear in court or will be found and brought to the jail for failing to appear as agreed.

If you have any questions, please feel free to contact me at 704-216-8733.

Sincerely,

Janet Ruffin

Pretrial Services Coordinator

Rowan County