

“LIBERTY AND JUSTICE: PRETRIAL PRACTICES IN TEXAS” FACT SHEET

Public Policy Research Institute, Texas A&M University

<https://tinyurl.com/Texas-Bond-Study>

PART I: More than three years of criminal case data from two Texas jurisdictions were studied to compare pretrial processes and outcomes. Release from pretrial detention in Tarrant County is almost exclusively by means of financial bond, while Travis County officials use a validated risk assessment to identify low-risk people for release on personal bond. Findings indicate pretrial risk assessment has significant benefits for Texas counties.

Finding 1: Validated pretrial risk assessment successfully predicts defendants’ chance of bond failure.

- Pretrial risk assessment is a useful and effective tool, providing reliable information to judges about which defendants are likely to succeed on personal bond.

Finding 2: Similar decisions to release or detain defendants can be obtained using a lower-cost statistical algorithm instead of an interview-based risk assessment.

- Data already available in most county criminal justice systems’ electronic databases can be used to determine pretrial risk without costly interviews.

Finding 3: Validated risk assessment results in better pretrial classification: fewer high-risk defendants are released, and fewer low-risk individuals are detained.

- 12% more defendants released in the money bail system are “high risk.” They would have been detained if a risk assessment had been done (Figure 7).
- Release on money bond without risk assessment poses a serious threat to public safety.
 - In the money bond county, 22% more people commit new crimes while awaiting trial (Table 6).
 - 1.5 times more of the offenses committed in the money bond jurisdiction are violent felonies. The greatest differences are for homicides and robberies. 8 times more offenses involve weapons (Table 7).
 - Average victim costs/defendant are more than 3.5 times higher in the money bond system (Table 7).
- The money bond system does, however, do a better job ensuring defendants make court appearances. Bond forfeiture rates are 34% lower (Table 5).

Finding 4: The costs of a risk-informed pretrial release system are more than offset by savings that occur when defendants are properly classified.

- Overall pretrial costs are one-third lower where risk assessment is used (Figure 9).
- Risk-informed pretrial assessment and supervision costs an additional \$94/defendant in Travis County (\$145/defendant) compared to Tarrant County (\$51/defendant) (Figure 10).
 - Remaining pretrial program costs are paid by defendants: bond, electronic monitoring or drug testing, counseling to address risk concerns that can affect success on bond (Figure 10).

- The \$94/defendant cost increment required for risk-informed release returns more than 7 times that amount in direct savings to the county, including:
 - \$711/defendant for lower rates of new criminal activity (i.e., re-arrest, court, prosecution, defense costs) and reductions in total pretrial jail days,
 - PLUS an additional \$336/defendant in lower victimization costs (Figure 9).

Finding 5: A risk-informed pretrial release system is fairer for defendants.

- 10x more people get out of jail without financial requirements where pretrial release is based on risk (Figure 15). Risk-based personal bond removes financial ability as an obstacle to liberty.
- Where money bond is required for release, 24% more low-risk people are jailed to disposition (Figure 8).
 - 3x more low-risk people are unable to pay just \$200 or less for a surety bond (Figure 16).
- Risk-appropriate release matters. The already high chance of conviction increases by an average of 2% for each day in jail, other things being equal.

PART II: To learn about pretrial practices currently in use statewide, during the summer and fall of 2016 PPRI surveyed judges and pretrial professionals in Texas.

Finding 6: Despite advantages of safety, cost, and fairness, only six Texas counties currently use validated pretrial risk assessment.

- Although 25 jurisdictions do some form of pretrial determination, only 6 report using validated instruments shown to reliably predict bond failure (Figure 18).
- Where risk assessment is used, judicial discretion is still an important component of pretrial decision-making. Yet fewer than one in five judges statewide describe the tools they currently have available as “very reliable.” Over half of judges named the lack of validated risk assessment as a specific obstacle.

Finding 7: Pretrial personal bond or surety bond supervision programs were identified in 100 Texas counties. Most of these programs are implemented by existing local Community Supervision and Corrections Departments (CSCDs).

- About half of all pretrial bond supervision programs are “substantial” in nature, with significant operational budgets, staffing, and caseloads. The other half limit their work to “courtesy supervision” of selected defendants at the request of judges, using less than 10% of an FTE staff person (Table 14).

Finding 8: Stakeholders are optimistic about the feasibility of pretrial reform including validated risk assessment and personal bond supervision.

- Nearly three-fourths of pretrial stakeholders and judges both agree that personal bond supervision in particular would not be too difficult to integrate into current practice.
- Survey respondents were somewhat less confident about the ease of adopting validated pretrial risk assessment though a majority felt such a change was not unattainable. Nearly seven out of ten pretrial

stakeholders surveyed agree that responsibility for leading the transition to risk-based pretrial release falls largely to the courts.