



OHIO

CRIMINAL SENTENCING COMMISSION

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# Ad Hoc Committee on Bail and Pretrial Services

Final Report & Recommendations  
June 2017



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## I. Executive Summary

The system of bail was intended to ensure a defendant would appear in court and, eventually, ensure public safety by keeping those defendants who pose a substantial risk of committing crimes while awaiting trial in jail. The reality, however, is that those with money, notwithstanding their danger to the community, can purchase their freedom, while poor defendants remain in jail pending trial. Research shows that even short stays in jail before trial lead to an increased likelihood of missing school, job loss, family issues, increased desperation, and thus, an increased likelihood to reoffend.<sup>1</sup>

In 1968, the American Bar Association released criminal justice standards related to pretrial release and over the past several years many states have undertaken reviews of their pretrial systems and adopted various reforms. No less than 20 states have begun implementing reforms such as risk assessments for release determinations, citation in lieu of detention, and elimination of bond schedules (*Appendix A*). In addition, there has been a rise in litigation arguing that pretrial detention violates the Due Process and Equal Protection Clauses of the United States Constitution. For example, in *Walker v. City of Calhoun*, pretrial detainees challenged the City of Calhoun's bail system, which mandated payment of a fixed amount without consideration of other factors, including risk of flight, risk of dangerousness, and financial resources.<sup>2</sup> The trial court invoked U.S. Supreme Court decisions<sup>3</sup>, finding that the principle of those cases was especially applicable "where the individual being detained is a pretrial detainee who has not yet been found guilty of a crime."<sup>4</sup> The court found that the system violated the Equal Protection Clause since "incarceration of an individual because of the individual's inability to pay a fine or fee is impermissible."<sup>5</sup> The issue is currently under consideration by the Eleventh Circuit Court of Appeals, where the Justice Department has filed a brief in support of striking down the city's bail scheme.<sup>6</sup>

Nationally, pretrial services and bail have come under scrutiny in the past decade. The Conference of State Court Administrators (COSCA) issued a paper in 2013 supporting the ongoing work of the United States Department of Justice and the Pretrial Justice Institute to reform pretrial services.<sup>7</sup> The Conference of Chief Justices and the Conference of State Court Administrators has established a National Task Force on Fines, Fees and Bail Practices to address the ongoing impact these financial sanctions have on the economically disadvantaged in the United States.<sup>8</sup> Finally, the United States Department of Justice has funded bail reform initiatives

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<sup>1</sup> Pretrial Justice Institution, [www.pretrial.org/the-problem/](http://www.pretrial.org/the-problem/), December 1, 2016.

<sup>2</sup> *Walker v. City of Calhoun, Georgia*, 2016 WL 361612, N.D. Georgia, January 28, 2016.

<sup>3</sup> *Griffin v. Illinois*, 351 U.S. 12 (1956); *Bearden v. Georgia*, 461 U.S. 660 (1983).

<sup>4</sup> *Walker, supra* at 11.

<sup>5</sup> *Id.*, citing *Tate v. Short*, 401 U.S. 395 (1971).

<sup>6</sup> *Walker v. City of Calhoun, Georgia*, 11 Cir. CA, No. 16-10521-HH.

<sup>7</sup> Arthur W. Peppin, "2012-2013 Policy Paper Evidence-Based Pretrial Release", COSCA

<http://cosca.ncsc.org/~media/microsites/files/cosca/policy%20papers/evidence%20based%20pre-trial%20release%20final.ashx>

<sup>8</sup> "Top national state court leadership associations launch National Task Force on Fines, Fees and Bail Practices", National Center for State Courts, February 3, 2016, [http://www.ncsc.org/Newsroom/News-Releases/2016/Task-Force-on-Fines-Fees-and-Bail-Practices.aspx?utm\\_source=iContact&utm\\_medium=email&utm\\_campaign=Communications&utm\\_content=0216+COSCA+Bulletin](http://www.ncsc.org/Newsroom/News-Releases/2016/Task-Force-on-Fines-Fees-and-Bail-Practices.aspx?utm_source=iContact&utm_medium=email&utm_campaign=Communications&utm_content=0216+COSCA+Bulletin)

and provided data to states and, in its consent decree with the city of Ferguson, ended the use of secured money bonds.<sup>9</sup>

The Council of State Governments Justice Center found that, in Pennsylvania, less than half of those with monetary bail succeed in posting it, even for misdemeanors.<sup>10</sup> A recent decision in the Southern District of Texas stated “under federal and state law, secured money bail may serve to detain indigent misdemeanor arrestees only in the narrowest of cases, and only when, in those cases, due process safeguards the rights of the indigent accused.”<sup>11</sup> The Connecticut Criminal Sentencing Commission issued a report and recommendations in February 2017 that recommended many reforms similar to those contained in this report.<sup>12</sup>

Recent events fuel the debate over the reform of bail and pretrial services. In New Jersey recent reports show increased criticism of bail reform implemented at the beginning of 2017. New Jersey virtually eliminated the use of cash bail and, under the new law, only detains those who pose the highest risk for flight or reoffending. Police and victims have begun to criticize the new law as resulting in a “revolving door” of defendants.<sup>13</sup> Suggestions have been made that tragedies, like those in Kirkersville, Ohio, where a gunman killed the police chief and two nursing-home employees, would become more frequent under bail reform.<sup>14</sup> But New Jersey’s reforms went further than those recommended here, limiting judicial discretion in release and detain decisions,<sup>15</sup> and the gunman in Kirkersville was out of prison on judicial release post-conviction, not pretrial.

In Ohio, bail reform and pretrial services have been the subject of review in various individual jurisdictions. In Cuyahoga County, Administrative Judge John Russo formed a committee to review that county’s bail system, examine local policies and procedures among jurisdictions within the county, and consider the costs of the system.<sup>16</sup> Lucas County is one of 20 jurisdictions to participate in the MacArthur Foundation Safety + Justice Challenge network intended to support “a network of competitively selected local jurisdictions committed to finding ways to safely reduce jail incarceration.”<sup>17</sup> The local goal is to safely reduce jail population and address racial and ethnic disparities in the criminal justice system. Lucas County has implemented an administrative release program, which allows judges to administratively release inmates according to the risk they pose as determined by the Ohio Risk Assessment System Community Supervision Tool, to reduce the local jail population. Lucas County has also

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<sup>9</sup> Attorney General Loretta E. Lynch, Remarks at the Eight Annual Judge Thomas A. Flannery Lecture, November 15, 2016, <https://www.justice.gov/opa/speech/attorney-general-loretta-e-lynch-delivers-remarks-eighth-annual-judge-thomas-flannery> .

<sup>10</sup> “Justice Center Analysis of AOPC data”, Council of State Governments Justice Center, 2017, p.6.

<sup>11</sup> *ODonnell v. Harris City, Texas*, Case 4:16-cv-01414, p. 6, April 28, 2017.

<sup>12</sup> Connecticut Sentencing Commission, “Report to the Governor and the General Assembly on Pretrial Release and Detention in Connecticut”, February 2017. [http://www.ct.gov/ctsc/lib/ctsc/Pretrial\\_Release\\_and\\_Detention\\_in\\_CT\\_2.6.2017.pdf](http://www.ct.gov/ctsc/lib/ctsc/Pretrial_Release_and_Detention_in_CT_2.6.2017.pdf)

<sup>13</sup> Wallace, Sarah. “Nobody’s Afraid to Commit Crimes: Cops, Victims Blast Overhaul of NJ Bail System”. NBC New York, May 30, 2017. <http://www.nbcnewyork.com/news/local/Bail-Reform-New-Jersey-Criminals-Streets-Law-Jail-Investigation-422965474.html>

<sup>14</sup> Dayton Daily News, “Kirkersville murders: Judge who granted killer’s early release admits ‘mistakes’”. May 16, 2017.

<http://www.daytondailynews.com/news/local/kirkersville-murders-judge-who-granted-killer-early-release-admits-mistakes/VHn7a13jftSIwZ0nj9jjkK/>

<sup>15</sup> Rice, Josie Duffy. “New Jersey passes new bail reform law, changing lives of poor defendants”. Daily Kos. January 3, 2017.

<http://www.dailykos.com/story/2017/1/3/1616714/-New-Jersey-passes-new-bail-reform-law-changing-lives-of-poor-defendants>

<sup>16</sup> “Impact 2016:Justice for All”, cleveland.com,

[http://www.cleveland.com/metro/index.ssf/2016/05/cuyahoga\\_county\\_chief\\_judge\\_jo.html#incart\\_river\\_index\\_topics](http://www.cleveland.com/metro/index.ssf/2016/05/cuyahoga_county_chief_judge_jo.html#incart_river_index_topics)

<sup>17</sup> MacArthur Foundation, Safety + Justice Challenge, January 5, 2017, <http://www.safetyandjusticechallenge.org/about-the-challenge/>

implemented use of a risk assessment tool developed by the Laura and John Arnold Foundation (“Arnold tool”) to provide public safety assessments to determine risk of failure to appear and new criminal activity. Stark County and the Cleveland Municipal Court are also beginning use of the Arnold tool. Summit County has developed an in-house risk assessment tool for pretrial determinations.

The Ohio Criminal Sentencing Commission, in an effort to ensure that Ohio is holding people for the right reasons prior to trial, formed an Ad Hoc Committee on Bail and Pretrial Services to determine the current situation in Ohio and to make recommendations that will maximize appropriate placement for defendants, protect the presumption of innocence, maximize appearance at court hearings, and maximize public safety. One of the primary purposes of pursuing reform of bail practices and pretrial services is to ensure that those that pose the greatest risk to public safety and failure to appear are detained while awaiting trial while maximizing release of pretrial detainees to effectively utilize jail resources. According to a study conducted by the Department of Rehabilitation and Correction (DRC), 35.4% of people in local jails are awaiting trial – meaning they have not been convicted of a crime.<sup>18</sup> They are either being held without bail or cannot afford bail. In most cases it is the latter.

The Ad Hoc Committee was comprised of commission members and others with a vested interest in the bail and pretrial services system. Judges, prosecutors, defense counsel, clerks, court administrators, law enforcement, jails, and bondsmen were all represented on the Ad Hoc Committee so that all sides of the issues could be considered in making recommendations. The Commission secured technical assistance from the National Institute of Corrections for assistance in defining the problem and identifying national trends and successful solutions. The National Institute of Corrections (NIC) is an agency within the U.S. Department of Justice, Federal Bureau of Prisons which provides training, technical assistance, information services, and policy/program development assistance to federal, state, and local corrections agencies while also providing leadership to influence correctional policies, practices, and operations nationwide. At the request of the Commission, the Institute agreed to provide technical expertise on pretrial service reform. Lori Eville, correctional program specialist at NIC and Tim Schnacke,<sup>19</sup> executive director of the Center for Legal and Evidence-Based Practices, made several visits to Ohio to discuss national trends, the experience of other jurisdictions undertaking pretrial and bail reform, and to offer their experiences and expertise.

The full Ad Hoc Committee met five times over the course of 11 months and formed work groups to tackle the various issues identified by members as priorities for discussion. The first task undertaken by the majority of work groups was to design and disseminate surveys to determine the current state of pretrial services in Ohio. Surveys were sent to clerks, jail administrators, prosecutors, and judges (*Appendix B*). After analyzing the current state of pretrial services in Ohio, including presentations from Ohio counties currently undergoing reform efforts, and a review of

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<sup>18</sup> Brian D. Martin, Brian R. Kowalski, & Sharon M. Schnelle, *Findings and Recommendations from a Statewide Outcome Evaluation of Ohio Jails*, (June 2012), available at <http://www.drc.ohio.gov/web/ohiojailevaluation.pdf> at 41.

<sup>19</sup> Tim Schnacke is author of two papers on pretrial services and bail reform that were instrumental in educating Ad Hoc committee members. “Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform”, NIC, September 2014 and “Money as a Criminal Justice Stakeholder: The Judge’s Decision to Release or Detain a Defendant Pretrial”, NIC, September 2014 provided needed background and foundational information for the committee.

national trends, work groups met and developed recommendations to present to the full Ad Hoc Committee, which then considered each recommendation and voted on whether it should be included in the recommendations to the Ohio Criminal Sentencing Commission. After initial release of draft recommendations the Commission opened a public comment period soliciting comments from criminal justice partners, stakeholders, and the general public. The comment period resulted in only four submitted comments. Two comments previously submitted by the bail bond industry were included and also considered (*Appendix E*). A survey was sent to Ad Hoc Committee members to determine which, if any, of the public comment suggestions would be incorporated into the report prior to final approval by the Commission. Public comments are discussed throughout the report in appropriate sections.

The Ad Hoc Committee stresses that these recommendations should not be read or considered independently. Implementation of each recommendation is necessary to create a fair and effective bail system with robust pretrial services.<sup>20</sup> At the conclusion of the report, suggested language is provided for revisions to Crim.R. 4, Crim.R. 5, and Crim.R. 46 (*Appendix C*). The Ad Hoc Committee did not fully discuss this proposed language, but wanted to provide the Supreme Court of Ohio a starting point from which to develop rule amendments in line with their recommendations.

Recommendations to reform and create a system of pretrial justice that maximizes appearance, release and appropriate placement, preserves public safety, protects the presumption of innocence, and achieves efficiencies and consistency in Ohio’s pretrial system while decreasing the reliance on monetary bail as the primary release mechanism include:

1. **Establish a risk-based pretrial system, using an empirically based assessment tool, with a presumption of nonfinancial release and statutory preventative detention.** Setting monetary bail based only upon the level of offense, as most bond schedules do, negates the ability of the court to differentiate bail decisions based upon a defendant’s risk for failure to appear or the risk to public safety. At a minimum, defendants detained in accordance with the bond schedule should have a bond review hearing within a reasonable time. Bond schedules should be eliminated. However, if they are utilized, the schedule should be based upon a defendant’s risk for failure to appear or risk to public safety and should be consistent and uniform among counties and courts within counties.

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<sup>20</sup> The recommendations should be implemented in any situation where bond is set. For example, in child support civil contempt motions bond is often set in the amount of the arrears to guarantee appearance. These amounts can be very high and are not based upon the defendant’s risk for failure to appear.



2. **Implement a performance management (data collection) system to ensure a fair, effective and fiscally efficient process.** As in other areas of Ohio’s criminal justice system, data regarding pretrial decisions, agencies, and outcomes is rarely collected. A dedicated, concerted effort to increase data collection and analysis for all facets of the bail and pretrial system in Ohio includes each jurisdiction mandated to collect appearance rates, safety rates, and concurrence rates (how often a judge accepts a pretrial service agency recommendation), development of a method to track the number of hearings on bond and information about violations that occur while defendants are out on bond, and information regarding the effectiveness/success of diversion programs.
3. **Maximize release through alternatives to pretrial detention that ensure appearance at court hearings while enhancing public safety.** Diversion options, such as prosecutorial diversion programs and day reporting, should be offered in every jurisdiction with eligibility criteria that takes into account pretrial assessments.
4. **Mandate the presence of counsel for the defendant at the initial appearance.** The practice is a hallmark of an effective pretrial system and importantly, the United States Supreme Court has found that a criminal defendant’s initial appearance before a magistrate or judge, where the defendant learns the charge against him and his or her liberty is subject to restriction, marks the initiation of adversarial judicial proceedings.<sup>21</sup> This triggers the attachment of the Sixth Amendment right to counsel.<sup>22</sup>
5. **Require education and training of court personnel, including judges, clerks of court, prosecutors, defense counsel, and others with a vested interest in the pretrial process.** Without training and education, the individuals operating within the system will remain reluctant to embrace risk assessment and alternatives to monetary bail.
6. **Continued monitoring and reporting on pretrial services and bail in Ohio.** With the implementation of robust data collection and the onset of new practices under the recommendations in this report, the Ohio General Assembly should task the Ohio Criminal Sentencing Commission with periodic reporting on pretrial practices and operations to ensure continued progress.

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<sup>21</sup> *Rothery v. Gillespie County*, 554 U.S. 191, 213 (2008).

<sup>22</sup> *Rothery v. Gillespie County*, 554 U.S. 191, 213 (2008).

## II. Ad Hoc Committee Members\*

### Commission and Advisory Committee Members

*Judge Ken Spanagel* – Parma Municipal Court, Commission Member (*Co-Chair*)  
*Paul Dobson* – Prosecutor, Wood County, Commission Member (*Co-Chair*)  
*Lara Baker-Morrish* – Chief, Columbus City Attorney’s Office  
*Judge Fritz Hany* – Ottawa County Municipal Court  
*Chrystal Alexander* – Victim Services, Department of Rehabilitation and Correction  
*Judge Nick Selvaggio* – Champaign County Court of Common Pleas  
*Senator Cecil Thomas* – Ohio Senate  
*Kari Bloom* - Office of the Ohio Public Defender  
*James Lawrence* – Oriana House

### Additional Members

*Judge Ronald Adrine* – Cleveland Municipal Court  
*Judge Beth Cappelli* – Fairborn Municipal Court  
*Julie Doepke* – Hamilton County Adult Probation  
*Diana Feitl* – Oriana House  
*Stephanie Hardman* – Clerk, Mount Vernon Municipal Court  
*Sheriff Michael Heldman* – Hancock County  
*Ryan Kidwell* – Deputy, Hancock County Sheriff’s Office  
*Michael Kochera* – Court Administrator, Canton Municipal Court  
*John Leutz* – County Commissioners Association of Ohio  
*Branden Meyer* – Clerk, Fairfield County Court of Common Pleas  
*Charles Miller* – President, Ohio Bail Agents Association  
*Marta Mudri* – Ohio Judicial Conference  
*Michele Mumford* – Clerk, Shelby County Court of Common Pleas  
*Dan Peterca* – Ohio Association of Pretrial Service Agencies  
*Dave Phillips* – Prosecutor, Union County  
*Judge Cynthia Rice* – Eleventh District Court of Appeals  
*Tom Sauer* – Hamilton County Pretrial Intervention Services  
*Susan Sweeney* – Court Administrator, Summit County Court of Common Pleas  
*Penny Underwood* – Clerk, Champaign County Court of Common Pleas  
*Josh Williams* – Ohio Judicial Conference  
*Brenda Willis* – Ohio Association of Pretrial Service Agencies

*Sara Andrews* – Director, Ohio Criminal Sentencing Commission  
*Jo Ellen Cline* – Criminal Justice Counsel, Ohio Criminal Sentencing Commission  
*Lori Eville* – Correctional Program Specialist, National Institute of Corrections  
*Tim Schnacke* – Director, Center for Legal and Evidence-Based Practices

### III. Background

#### A. History<sup>23</sup>

Bail, in its earliest form, was a personal surety system where an individual would vouch for the accused and agree to oversee the accused until trial. When colonists settled the New World, they brought their bail traditions with them. “Bail” equaled release with unsecured bonds and no profit or indemnification. But as society changed over time, reform of pretrial practices resulted in significant changes. Americans initially put even more emphasis on release and freedom, but in the 1920s, with crime on the rise and jails becoming crowded, alternatives were needed to the traditional system to reduce the unnecessary detention of bailable defendants. This resulted in the rise of secured money bonds and the commercial bail industry. Later, in the 1960s, another reform movement resulted in the consideration of public safety as a valid purpose to limit pretrial release. Currently, the national trend toward risk assessment of pretrial defendants to determine release responds to notions that secured money bonds allow release of high-risk defendants and detention of low-risk defendants based solely upon financial means.

#### B. Basics of Bail

“When a person is arrested, the court must determine whether the person will be unconditionally released pending trial, released subject to a condition or combination of conditions, or held in jail during the pretrial process.”<sup>24</sup> In making its determination the court must consider if there is a significant risk that the defendant will not appear at future hearings or if the defendant will commit a serious crime during the pretrial period. Many pretrial detainees are low-risk individuals who are highly unlikely to commit another crime while awaiting trial and are very likely to return to court. Other pretrial detainees pose a moderate risk to reoffend or not return, which can generally be managed through effective monitoring and supervision. And, finally, there are pretrial detainees who pose a significant risk of committing new crimes or skipping court who should be detained pretrial. “Effectively balancing the presumption of innocence, the assignment of the least restrictive intervention for defendants, and the need to ensure community safety while minimizing defendant pretrial misconduct is the challenge afforded pretrial justice. Whether this balance is reached and how pretrial justice is administered has significant ramifications for both the defendant and the community. For the community at-large, the pretrial decision affects how limited jail space is allocated and how the risks of non-appearance and pretrial crime by released defendants are managed. The pretrial decision also affects defendants’ abilities to assert their innocence, negotiate a disposition, and mitigate the severity of a sentence.”<sup>25</sup> In some cases the court may find that the defendant cannot be released, or is non-bailable, and therefore, subject to pretrial detention. In the vast majority of cases, however, the court will determine that the defendant can be released pretrial, i.e., “bailable.” The court has a variety of options in releasing the defendant pretrial including releasing the person on their own recognizance or a conditional release, which entails putting specific conditions on

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<sup>23</sup> Tim Schnacke, “Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform”. National Institute of Corrections, September 2014, p. 19-37.

<sup>24</sup> “Moving Beyond Money: A Primer on Bail Reform”, Criminal Justice Policy Program, Harvard University, October 2016, p. 5.

<sup>25</sup> Cynthia A. Mamalian, Ph.D., “State of the Science of Pretrial Risk Assessment”. Pretrial Justice Institute, March 2011.

their release, including a secured or unsecured bond. Secured bail requires payment of money upfront to be released, while unsecured bail permits release without payment and only requires payment if the defendant does not comply with release conditions. Some courts allow the defendant to pay a percentage of the full bond amount to secure release. If the defendant lacks adequate funds or resources to pay the unsecured bond amount, a bail bond agent, or surety, can make the payment for the defendant.

### C. Current Law

#### Recommendation:

- 1) *Eliminate duplication between the Ohio Revised Code and the Ohio Rules of Criminal Procedure regarding the amount, conditions, and forms of bail.*

Article I, Section 9 of the Ohio Constitution provides:

*“All persons shall be bailable by sufficient sureties, except for a person who is charged with a capital offense where the proof is evident or the presumption great, and except for a person who is charged with a felony where the proof is evident or the presumption great and where the person poses a substantial risk of serious physical harm to any person or to the community. Where a person is charged with any offense for which the person may be incarcerated, the court may determine at any time the type, amount, and conditions of bail. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.*

*The General Assembly shall fix by law standards to determine whether a person who is charged with a felony where the proof is evident or the presumption great poses a substantial risk of serious physical harm to any person or to the community. Procedures for establishing the amount and conditions of bail shall be established pursuant to Article IV, Section 5(b) of the Constitution of the state of Ohio.”*

Based upon this Constitution construct, the Ohio General Assembly has adopted several statutes regarding eligibility for bail,<sup>26</sup> and the Supreme Court of Ohio has adopted Rule 46 of the Ohio Rules of Criminal Procedure. The statutory framework and the rule are, in many ways, duplicative. Both address the form of bail and the factors to be considered in setting bail. This duplication should be addressed in light of the Modern Courts Amendment, which states that the rules of procedure adopted by the Court supersede any conflicting statutory enactment regarding procedural matters.<sup>27</sup> Clarity in the law will assist greatly in consistency in application.

The Supreme Court of Ohio has not explicitly defined “bail” as it appears in Article I, § 9 of the Ohio Constitution. However, the Court has used the term “bail” to refer to security for the release of an accused from jail in order to appear before the court or judge. The Supreme Court has interpreted “bail” as the physical release of an accused person from jail. However,

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<sup>26</sup> R.C. §§ 2713.09-2713.29, 2935.15, 2937.22-2937.45, 2949.091, 2963.14

<sup>27</sup> Ohio Constitution, Article IV, §5(B).

most cases from the high court focus on the imposition of “excessive bail” and the financial aspects of bail.<sup>28</sup>

## IV. Recommendations

### A. Pretrial Risk Assessment

#### Recommendation:

- 1) *The General Assembly should mandate and fund the use of a validated, risk-assessment tool for pretrial release and detain decisions.*
- 2) *The Supreme Court of Ohio should amend Crim.R. 46 to include results of risk assessments as a factor to be considered in release and detain decisions.*

While there are many elements of an effective pretrial system, the one element that has been discussed repeatedly both in Ohio and around the country is the use of a validated risk assessment tool to assist in making release and detain recommendations or decisions.

According to the National Institute of Corrections (NIC), effective pretrial programs use validated pretrial risk assessment criteria to gauge an individual defendant’s suitability for release or detention pending trial. A good risk assessment tool is empirically based—preferably using local research — to ensure that its factors are proven as the most predictive of future court appearance and re-arrest pending trial.<sup>29</sup> The Laura and John Arnold Foundation has developed a universal risk assessment tool which provides an objective assessment of a defendant’s risk for committing a new crime, risk for committing violent crime, and risk of failing to appear.<sup>30</sup> Many states have begun using risk assessment to assist in pretrial decisions. Kentucky, North Carolina, Pennsylvania, Utah, Wisconsin, and Virginia all utilize some type of pretrial risk assessment.

Currently in Ohio, some jurisdictions are utilizing one tool in the Ohio Risk Assessment System (ORAS) for pretrial risk assessment and a few jurisdictions are utilizing other validated risk assessment tools.

Lucas County began utilizing the Arnold Foundation’s “Public Safety Assessment” tool in January 2015 to inform release and detain decisions at first appearances. The county was under a federal court order that capped the number of jail inmates which resulted in defendants being released to adhere to the order. The “Arnold” tool provides separate indicators for risk of failure to appear and new criminal activity and utilizes common non-interview dependent factors that predict risk, which optimizes the existing human and financial resources needed to administer risk assessments. The assessment system was implemented in January 2015 and already data is

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<sup>28</sup> *Locke v. Jenkins*, 50 Ohio St.3d 45 (1969); *Baker v. Troutman*, 50 Ohio St.3d 270 (1990); *Sylvester v. Neal*, 140 Ohio St.3d 47 (2014), *State v. Bevacqua*, 147 Ohio St. 20, (2011).

<sup>29</sup> “Pretrial Justice: How to Maximize Public Safety, Court Appearance and Release: Participant Guide”, National Institute of Corrections, Internet Broadcast, September 8, 2016, p. 39.

<sup>30</sup> “Developing a National Model for Pretrial Risk Assessment”. LJAF Research Summary, Arnold Foundation, November 2013.

showing a drop in the number of pretrial bookings. Prior to implementation of the risk assessment, 38.4 percent of all bookings were released due to the federal court order. After implementation of the risk assessment, only 4.3 percent of all bookings were released due to the federal court order. Cases disposed of at the first appearance have doubled since the implementation of the assessment tool. The data shows that after the first year of implementation, court appearance rates have improved, public safety rates have improved, and pretrial success rates have improved.<sup>31</sup>

Summit County utilizes a risk assessment tool developed in-house based upon a tool utilized in Virginia. Their tool has nine indicators and includes an interview with each defendant being screened. Recently, the Montgomery Court of Common Pleas and the Cleveland Municipal Court have also partnered with the Arnold Foundation on using the foundation’s risk assessment tool.

The Ad Hoc Committee makes no recommendation on what validated risk assessment tool should be utilized. However, the committee recommends that every jurisdiction in Ohio be mandated to utilize a validated, risk-assessment tool to assist in release and detain decisions pretrial. To be clear, risk assessment tools utilized pretrial should inform the court’s consideration of the release and detain decision, therefore, the assessment should be completed prior to the decision of whether to release or detain the defendant is made, and the assessment should never supplant the individual decision making of the judge. Finally, to ensure fundamental fairness in the pretrial process, the Ad Hoc Committee believes that risk assessment results should be available for review by the parties to the case.

Public comments were received from the Hamilton County Public Defender’s Office and the Office of the Ohio Public Defender asking the Commission to further clarify the meaning of “validated risk assessment tool”. No standard definition exists in any jurisdiction. According to the Pretrial Justice Institute, risk assessment tools are “developed by collecting and analyzing local data to determine which factors are predictive of pretrial success and to determine their appropriate weight.”<sup>32</sup> Validation is a multi-step process that looks at local indicators and predictive weights.<sup>33</sup> It also was suggested that the Ohio Criminal Sentencing Commission develop a list of approved risk assessment tools. The Commission, with appropriate statutory authority, would take on this responsibility by working with university researchers and criminal justice partners to identify appropriate risk assessment instruments that could be locally validated for each jurisdiction.<sup>34</sup>

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<sup>31</sup> VanNostrand, Marie, “Assessing the Impact of the Public Safety Assessment”, presented by Michelle Butts, Lucas County Court of Common Pleas, September 2016.

<sup>32</sup> Pretrial Justice Institute, “Risk Assessment: Evidence-based pretrial decision-making” 2013.

<https://university.pretrial.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=512bc99f-0e9f-ce77-a2a4-cc4a27ff0c10&forceDialog=0>. See also, Pretrial Justice Institute, “Pretrial Risk Assessment: Science Provides Guidance on Assessing Defendants”, May 2015.

<https://university.pretrial.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=23a6016b-d4b3-cb63-f425-94flab78a912&forceDialog=0>

<sup>33</sup> Id.

<sup>34</sup> Id.

The Office of the Ohio Public Defender requested that any assessment tool not include an interview with the defendant of Fifth and Sixth Amendment concerns. The Ad Hoc Committee did not recommend including this as a recommendation and the current Summit County assessment tool does include an interview component. However, jurisdictions adopting a risk assessment tool should be aware of these concerns.

The Office of the Ohio Public Defender also suggested that guidance be given by the Ad Hoc Committee on completing risk assessments, including how soon after arrest they should be given to the defendant. Because results from pretrial risk assessments are meant to inform, and not replace, a court's discretionary decision making, the assessment tool should be given to the defendant prior to their initial appearance before the court when the release and detain decision is made.

Finally, the Hamilton County Public Defender's Office suggested that the Ohio Administrative Code be clarified to ensure that risk assessment tools other than ORAS be permitted. It should be noted that the Ohio Risk Assessment System is comprised of a variety of risk assessment tools, one of which is relevant to pretrial risk assessment. The Commission agrees that the Ohio Administrative Code 5120-13-01 should be amended to delete ORAS as the "single validated risk assessment tool"<sup>35</sup> as it pertains to pretrial risk assessment.

## **B. Pretrial Services**

### Recommendations:

- 1) *The General Assembly should dedicate statewide funding and support to the pretrial function through the Supreme Court of Ohio, whether through a pretrial services agency or the existing probation function. The Supreme Court of Ohio should set minimum standards for the provision of pretrial services.*
- 2) *The Supreme Court of Ohio should amend Crim.R. 46 to indicate that if a defendant is eligible for release under the Ohio Constitution, and the trial court determines that the defendant should be released pretrial, the trial court should first consider nonfinancial release.*

NIC has developed a list of essential elements of an effective pretrial justice agency, which is essentially a roadmap on how to create a system of pretrial justice that will maximize appearance and public safety while also maximizing release and appropriate placement.<sup>36</sup> The Ad Hoc Committee looked at each of these elements in making its recommendations regarding reform of pretrial practices in Ohio.

First, NIC identifies that the guiding principle of pretrial release and detain decisions must be based upon risk. "A risk-based model proceeds from the presumption that pretrial defendants should be released."<sup>37</sup> According to the survey conducted by the Ad Hoc Committee,

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<sup>35</sup> OAC 5120-13-01(B)

<sup>36</sup> "Pretrial Justice: How to Maximize Public Safety, Court Appearance and Release: Participant Guide", National Institute of Corrections, Internet Broadcast, September 8, 2016, p. 26.

<sup>37</sup> "Moving Beyond Money: A Primer on Bail Reform", Criminal Justice Policy Program, Harvard University, October 2016, p. 14.

most pretrial decisions are being made based upon the nature of the current offense, the defendant's prior record, and prior failures to appear in making release decisions (*Appendix D*). The survey results indicate that courts are currently assessing risk at some level in making release decisions. However, NIC also recommends that there be a dedicated pretrial services agency or function within an existing agency that assesses pretrial risk, makes recommendations to the court, and allows for differential supervision of pretrial defendants.

While most survey respondents report having a pretrial department or an individual who handles pretrial *supervision*, most of these departments or individuals are not engaged in bail investigations. The Ad Hoc Committee recognizes that a robust pretrial agency or department will have a significant fiscal impact on budgets. However, the Commission views this investment in pretrial services as a shift of current funding from the costs of incarceration to the costs of pretrial services. These costs should be borne by the state with funding flowing from the General Assembly to the Supreme Court of Ohio, and the Court should set standards that will act as a basis for pretrial services based upon the recommendations contained in this report. It is imperative that dedicated funding and support exist around the pretrial function to allow these entities or individuals to give objective recommendations to the court on release and detain decisions. It is important to note that the Ad Hoc Committee does not recommend that every jurisdiction establish a new agency or department for pretrial services. Pretrial services are a 'function' and can be absorbed by existing probation departments (where most pretrial supervision is occurring currently in Ohio) or court personnel with minimal (although existent) need to "staff up". Jurisdictions should be left to determine what the pretrial function/agency looks like to meet their needs based upon objective data (crime rates, jail populations, how many pretrial releasees exist, etc.).

NIC has also identified a presumption of nonfinancial release and statutory preventative detention as essential parts of an effective system. This requires states and localities to stress the least restrictive conditions to ensure appearance and public safety with non-financial release always considered as the first option. In addition, this element requires a risk-based preventative detention option that affords defendants due process when the decision to detain them pretrial is made. In Ohio, with municipal courts required to adopt a bond schedule and some courts of common pleas adopting them as well, financial release is generally the first option considered. To combat this current proclivity for requiring money to secure release, the Ad Hoc Committee recommends that Crim.R. 46 be amended to indicate that if a defendant is eligible for release under the Ohio Constitution, and the trial court determines that the defendant should be released pretrial, the trial court should first consider nonfinancial release.

Public comment from the Buckeye Institute asked that this recommendation specify that cash bail is the least preferred condition of release and that it should only be used as a last resort to ensure the defendant's appearance and public safety. While the Commission believes the recommendation is clear, it bears repeating that the Supreme Court of Ohio should amend Crim.R. 46 so that nonfinancial release is considered by the judge before considering utilizing cash bail for release.



## C. Alternatives to Pretrial Detention

### Recommendations:

- 1) *Increase awareness and use of a continuum of alternatives to detention.*
- 2) *Law enforcement should increase use of cite and release for low-level, non-violent offenses.*
- 3) *Prosecutors should screen cases before initial appearance for charging decisions, diversion suitability, and other alternative disposition options.*
- 4) *Prosecutors and courts should increase the availability of diversion through expanded eligibility utilizing risk assessments.*

One of the primary purposes of pursuing reform of bail practices and pretrial services is to ensure that those who pose the greatest risk to public safety and failure to appear are detained while awaiting trial while maximizing release of pretrial detainees to effectively utilize jail resources. A survey conducted by the Ad Hoc Committee showed that most jails are not differentiating their pretrial detainees from others in their data. However, of those who did have statistics, many reported a significant portion of their daily population being pretrial.

In addition to maximizing release through valid risk assessment as discussed above, there are alternatives to pretrial detention that can maximize release while ensuring appearance at court hearings and public safety. The Ad Hoc Committee believes that local jurisdictions should be made more aware of the myriad of choices for alternatives to detention for pretrial defendants and, determining which of those alternatives are most suitable for their community, should begin to utilize those alternatives more often.

One such alternative is day reporting, which is not being used widely, if at all, in Ohio for pretrial defendants. The District of Columbia has instituted a day reporting center that provides a variety of services to defendants and community members. Boone County, Indiana, offers a day reporting program that encourages defendants to work by requiring community service (if they are not employed) until work is found. Providing services and supervision will allow more low- and moderate-risk defendants to be released pretrial, maintaining or encouraging their employment, while maximizing the likelihood of appearance and safety.

Electronic monitoring is used in many jurisdictions, primarily post-conviction, and usually through courts. Increased use for pretrial defendants will promote pretrial release from detention while safeguarding the community and ensuring the defendant appears in court.

An avenue not explored in detail by the Ad Hoc Committee during its research into Ohio's system are release options utilized by law enforcement following arrest. Release on the least restrictive means starts with law enforcement, which has the option to use citations or summonses in lieu of custodial arrests for low-level, non-violent offenses. Certainly Ohio law enforcement has the option to issue a citation to a low-level, non-violent defendant where there is

no reasonable cause to suggest defendants would be a risk to themselves or the community, or miss a court date.

Cite and release programs, which is effectively an arrest and release, enable law enforcement to release a defendant rather than requiring formal arrest and booking. Most often used in misdemeanor cases, Louisiana and Oregon permit citations for some felonies.<sup>38</sup> Crim.R. 4(A)(3) allows a law enforcement officer, in misdemeanor cases, to issue a summons instead of making an arrest when doing so seems reasonably calculated to ensure the defendant's appearance. Cite and release allows law enforcement to spend more time enforcing laws instead of booking defendants, and decreases the number of defendants detained in jails pretrial.

NIC also suggests that prosecutors screen criminal cases before the initial appearance for appropriate charging purposes and to allow for screening for prosecutorial diversion. As discussed further below, prosecutorial diversion programs exist in Ohio, but generally not pre-filing. Increased screening by prosecutors will encourage thinking about the defendant's suitability for diversion, intervention in lieu of conviction, or as potential candidates for specialized dockets. On the opposite side of the coin, having defense counsel engaged before initial appearance is another essential element identified for an effective system. In Ohio, according to survey respondents, defense counsel is appointed at the initial appearance of the defendant. This does not allow for counsel to represent their client during a critical stage in the case where their liberty is at issue.

Although not strictly an alternative to pretrial detention, another major practice that aids in the effective use of jail resources is diversion. The American Bar Association Criminal Justice Section Standard 10-1.5 encourages the development of diversion programs as a means to monitor defendants pretrial.<sup>39</sup> Diversion is widely used in Ohio both by prosecutors' offices and by courts. The program types vary by jurisdiction and include OVI diversion, license intervention, first defendant diversion, and theft diversion. Few communities are utilizing diversion pre-filing; charges are almost always filed and then the case is diverted. The National Association of Pretrial Services Agencies issued a report in 2009 based upon a national survey of pretrial diversion programs finding that over half of the respondent programs did not require any guilty plea as a condition of eligibility.<sup>40</sup> The Ad Hoc Committee recommends that diversion be offered in every jurisdiction with eligibility criteria that takes into account pretrial assessments that can help prosecutors and judges make diversion determinations.

Public comment from the Hamilton County Public Defender suggested the Commission stress the importance of training for attorneys and judges on detention alternatives. Training and education is a paramount addition to all the Commission's recommendations regarding bail and pretrial services. However, the importance of prosecutors, defense counsel, and judges knowing about alternatives to pretrial detention, how to access those alternatives, and when their use is

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<sup>38</sup> Mark Perbix, "Unintended Consequences of Cite and Release Policies", Warrant and Disposition Management Project, BJA, June 2014.

<sup>39</sup> Criminal Justice Section Standards, American Bar Association (November 22, 2016)

[http://www.americanbar.org/publications/criminal\\_justice\\_section\\_archive/crimjust\\_standards\\_pretrialrelease\\_blk.html](http://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_blk.html)

<sup>40</sup> "Pretrial Diversion in the 21<sup>st</sup> Century", National Association of Pretrial Services Agencies (2009)

<https://netforumpro.com/public/temp/ClientImages/NAPSA/18262ec2-a77b-410c-ad9b-c6e8f74ddd5b.pdf>

appropriate cannot be understated. Therefore, a concerted effort toward increased training, whether through the Ohio Judicial College or legal associations, is encouraged.

#### **D. Clerks of Court**

##### Recommendations:

- 1) *The General Assembly should amend the Ohio Revised Code to eliminate the use of bond schedules in Ohio.*
- 2) *In the alternative, if bond schedules continue to be utilized, courts should reduce reliance on bond schedules, bond review hearings should occur within 48 hours, and bond amounts should be consistent within counties. In addition, the Supreme Court should amend the Rules of Superintendence for the Courts of Ohio to require yearly review of bond schedules.*
- 3) *Clerks should require surety bail bond agents provide only the information required by the current Ohio Revised Code.*

In the administrative process for bonds and the payment of money bail, no entity is more important than the clerks of court. Clerks of court issue approvals for surety companies, handle bond payments (following bond schedules set by the court), and handle the administrative processing of payments. The clerks represented on the Ad Hoc Committee and surveyed by the committee feel strongly that their responsibilities in the bail process are merely implementing the will of the courts.

Under current law, municipal courts are required to adopt a bond schedule, and these bond schedules are generally available in the clerks' offices where payments are made.<sup>41</sup> Many Ad Hoc Committee members advocated for the complete elimination of bond schedules in Ohio. For others on the committee, however, elimination of the bond schedules seems fantastical. Therefore, although the majority of members believe that elimination of these schedules will create fundamental fairness in the criminal justice system and pretrial justice, committee members believe that, should they continue to be used or, until they are eliminated, changes in their use should be implemented. The American Bar Association Standards on Pretrial Release state that "financial conditions should be the result of an individualized decision" and "should never be set by reference to a predetermined schedule of amounts fixed according to the nature of the charge."<sup>42</sup>

Bond schedules vary widely among jurisdictions and are a cause of consternation for both defendants and practitioners. The Ad Hoc Committee understands the usefulness of a bond schedule in processing low-level, non-violent defendants out of jail. However, setting monetary bail based only upon the level of offense, as most bond schedules do, negates the ability of the court to differentiate bail decisions based upon a defendant's risk for failure to appear or the risk to public safety. At a minimum, defendants detained in accordance with the bond schedule

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<sup>41</sup> Crim.R.46(G)

<sup>42</sup> ABA Criminal Justice Section Standards 10-5-3(e).

should have a bond review hearing within 48 hours. The Ad Hoc Committee recommends bond schedules be consistent and uniform among counties and among courts within counties. In addition, the committee recommends requiring annual review of the bond schedule by the court.

Under current law, surety bail bond agents may be required by the court to register with the clerk.<sup>43</sup> The Ad Hoc Committee’s survey found that a number of factors go into approval of sureties, and not all clerks’ offices require the same information from bail bonds agents with some clerks requiring information additional to that required under the Revised Code.<sup>44</sup> To promote uniformity and clarity for bonding agencies, the Ad Hoc Committee recommends that clerks across Ohio only require what is required under the Ohio Revised Code: a copy of the agent’s surety bail bond license; a copy of the agent’s driver’s license or state identification; a certified copy of the surety bail bond agent’s POA from each insurer that the surety bail bond agent represents; and biennial renewal of the registration.

Public comments from the Buckeye Institute urged the Commission to recommend complete prohibition of bond schedules. The Ad Hoc Committee debated bond schedules at length during its original deliberations on recommendations. As noted above, several members of the Ad Hoc Committee promoted and advocated for a recommendation to mandate repeal of bond schedules. However, the majority of Ad Hoc Committee members expressed concerns over municipal court case processing and political realities that caused them to vote in favor of the current recommendation: Bond schedules should not be utilized, but if they are utilized, they should be based upon the defendant’s risk of failure to appear or commit a crime while awaiting trial and not solely on the offense(s) charged.

## **E. Release Violations**

### *Recommendations:*

- 1) *Jurisdictions should implement a court policy and utilize a response grid or matrix to “technical violations.”*

Under Ohio law, failure to appear after release is punishable as a fourth degree felony or a first degree misdemeanor.<sup>45</sup> In addition, Crim.R. 46 indicates that a breach of a condition of bail can result in an amendment to the bail.<sup>46</sup> The question the Ad Hoc Committee faced in its review is whether or not every violation of release conditions needs to go to the judge.

In probation, revocations for technical violations can be numerous and this can be the same problem in pretrial. A “technical violation” encompasses any violation of a condition that is not a re-arrest or a failure to appear. There is a continuum that must be analyzed to determine when a “technical violation” becomes something greater. Pretrial service agencies and departments should be given the opportunity to bring a defendant who has a technical pretrial

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<sup>43</sup> R.C. 3905.87

<sup>44</sup> R.C. 3905.87(B)

<sup>45</sup> R.C. 2937.99

<sup>46</sup> Crim.R. 46(I)

violation into compliance. The agency or department personnel must be able use their best professional judgment within the parameters of a specific, articulated court policy to say that “this violation” is the tipping point where it is no longer technical. The agency or department must have the option to recommend a different condition of bail or to put a new plan before the judge upon a violation.

The Ad Hoc Committee acknowledges that there needs to be a balancing of bail revocations resulting from technical violations and revocations based upon re-arrest or failure to appear. Clearly, in the Ad Hoc Committee’s opinion, if there is a re-arrest or failure to appear, the judge should receive notice of those violations, as generally happens today. One condition the committee discussed at length was ‘no contact’ orders. Because the committee recognized the potential for harm to victims if such an order is violated, the Ad Hoc Committee believes that a violation of a no contact order is never a “technical” violation.

In some jurisdictions a response grid or matrix has been developed for violations.<sup>47</sup> Approved by the court, a matrix makes it possible for responses to violations to be responsive to the defendant’s situation and ensures the response is swift and impactful. The Ad Hoc Committee encourages jurisdictions to consider adoption of a response grid for violations and to consider graduated responses based upon the nature of the violation.

## **F. Victims**

### Recommendations:

- 1) *Ensure the alleged victim is notified of arraignment decisions as required by the Ohio Revised Code.*
- 2) *The General Assembly should amend Revised Code Chapter 2930. to ensure alleged victims are informed on how to contact any pretrial supervisory authority.*

An important constituency in the pretrial structure is the alleged victims of the crimes committed by the defendant. The Ad Hoc Committee believes that it is imperative that alleged victims be aware of release and detain decisions. Most states, including Ohio, have laws that specifically address alleged victims’ interests related to pretrial release.<sup>48</sup> Forty-one states mandate notification of the pretrial release hearing and 19 of those states allow the alleged victims to participate in some manner.<sup>49</sup> In Ohio, alleged victims get notice of pretrial hearings and can appear if the alleged offense is an offense of violence and the alleged victim is eligible for a protection order. Notification generally is handled by the prosecutor’s office and the Ad Hoc committee recognizes the need to ensure that notification about what happened at arraignment is necessary and, most importantly, if a “stay away order” has been issued. Alleged victims also

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<sup>47</sup> Milwaukee County Behavior Response Guidelines (April 2014); Mesa (Co.) County Pretrial Services Response to Violations Guide; Ramsey (Mn.) County; Los Angeles (Ca.) County.

<sup>48</sup> R.C. 2930.05(A)

<sup>49</sup> Amber Widgery, “Victims’ Pretrial Release Rights and Protections”, National Center for State Courts, May 12, 2015, <http://www.ncsl.org/research/civil-and-criminal-justice/pretrial-release-victims-rights-and-protections.aspx>.

need to be given information on how to contact any pretrial supervisory authority if necessary.

## **G. Prosecutors**

### Recommendations:

- 1) *A representative of the prosecutor's office should be required to appear on behalf of the state at every initial appearance.*

Under current Ohio law, a representative of the state is not required to appear at a defendant's initial appearance and, in some jurisdictions, the prosecuting attorney or their representative does not appear. This is especially true in jurisdictions where the prosecutor is "part time." The Ad Hoc Committee believes that the presence of a representative of the state at the initial hearing where pretrial release and detain decisions are made is as important as the presence of defense counsel (discussed below). The presence of the state at the initial hearing can aid in the early resolution of cases and can ensure that charges are correct and appropriate, any release conditions are commensurate with the offense charged.<sup>50</sup>

## **H. Counsel for Defendant**

### Recommendations:

- 1) *When a defendant is in custody or taken into custody, counsel should be provided at bail hearings unless the defendant knowingly and voluntarily waives counsel.*
- 2) *If a defendant is in custody or taken into custody and qualified pursuant to R.C. 120.05, counsel for the case should be appointed prior to the conclusion of the arraignment proceeding.*

As discussed earlier in this report, NIC has identified the presence of counsel for the defendant at the initial appearance as a hallmark of an effective pretrial system. When defendants are at risk of losing their freedom when at risk of being detained, counsel should be present. The U.S. Supreme Court has found that the criminal defendant's initial appearance before a magistrate or judge, where the defendant learns the charge against him or her and his or her liberty is subject to restriction, marks the initiation of adversarial judicial proceedings.<sup>51</sup> This triggers the attachment of the Sixth Amendment right to counsel and is not dependent upon whether a prosecutor is aware of, or involved in, the initial proceeding.<sup>52</sup> Three states require counsel to be present at a defendant's pretrial release decision.<sup>53</sup>

While the Ad Hoc Committee recognizes that many jurisdictions have counsel present at the initial hearing, the Constitutional right to counsel is so vital to the process that we would be

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<sup>50</sup> National District Attorneys Association, "National Prosecution Standards, Third Edition", Standards 4-5.1 and 4-5.2, 2009, <http://www.ndaa.org/pdf/NDAA%20NPS%203rd%20Ed.%20w%20Revised%20Commentary.pdf>.

<sup>51</sup> *Rothery v. Gillespie County*, 554 U.S. 191, 213 (2008).

<sup>52</sup> *Rothery v. Gillespie County*, 554 U.S. 191, 194 (2008).

<sup>53</sup> Maryland, Connecticut, and New York. Sara Sapia, "Access to Counsel at Pretrial Release Proceedings" National Center for State Courts Pretrial Justice Center for Courts, November 2016.

remiss if we did not acknowledge that there are defendants who do not have any representation during bail determinations. An attorney must be provided at the initial bail hearing regardless whether the defendant has the ability to hire a private attorney or not. Indigent defendants must have an attorney appointed, but those defendants, not financially eligible for a public defender for their case, who may hire a private attorney, can still have the public defender or appointed counsel for the bail hearing, unless the defendant knowingly and voluntarily waives counsel.

Counsel for the case should be appointed prior to the conclusion of the arraignment proceeding. Most jurisdictions adhere to this practice, which promotes future appearances. The more information defendants have the more likely they are to return to court. Providing an attorney's name in the entry that defendants take with them will encourage them to contact their counsel, making it more likely they will return for future hearings. In addition, if the defendant has representation at arraignment, counsel assigned to the case will be better able to determine what factors were considered in the setting of bail, which is beneficial if that counsel is seeking an amendment to the bail amount.

Public comment from the Office of the Ohio Public Defender asked that this recommendation be reworded to stress that the defendant has a right to counsel at the initial hearing. Language in the body of recommendation was revised from the initial draft to indicate that counsel "must" be appointed. The same public comment suggested that a recommendation be included to allow an arrested person to knowingly, intelligently, and voluntarily waive their bond hearing. This suggestion received support by a majority of the Ad Hoc Committee members who responded. However, it was a very close vote (9 in favor, 7 opposed), so instead of a recommendation, the suggestion is noted here for policy makers in the General Assembly to consider as part of a package of reforms in bail and pretrial services.

## **I. Bondsmen**

### Recommendations:

- 1) *Continue to utilize bail bond surety agents, viewing them as another tool in the arsenal.*
- 2) *Continue utilizing bail bond surety agents in pretrial monitoring and supervision for their clients.*

The Ad Hoc Committee included bail bond surety agents in its membership because they currently exist as a major force in the pretrial system in Ohio. Both the Ohio Bail Bondsmen Association and the American Bail Coalition addressed the Ad Hoc Committee during its deliberations. According to the American Bail Coalition, there are approximately 600 licensed bail agents in Ohio.<sup>54</sup> Despite the recommendations above to decrease the usage of monetary bail and rely instead upon risk assessment, it is unlikely that monetary bail will be wholly replaced. The Ad Hoc Committee envisions a system in Ohio where the first instinct courts have regarding defendants pretrial is to release them on their own recognizance. But the Ad Hoc Committee

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<sup>54</sup> Jeff Clayton, National Policy Director, American Bail Coalition, "Presentation to the Ad Hoc Committee on Bail and Pretrial Services of the Ohio Criminal Sentencing Committee", July 22, 2016.

recognizes that there are situations where monetary bail may be the best way to ensure a defendant's appearance or protect public safety. For this reason, bondsmen need to be viewed as another tool in the arsenal for release.

Despite the most effective risk assessment tools available, there will be defendants who are released and then fail to appear at their court dates. Bondsmen are in a position to assist in ensuring that those who fail to appear are found and brought before the court for a review of their violations. Under the current system, bond agents also can be involved in GPS monitoring and drug or alcohol testing. Courts generally would like to have as much information about the defendant appearing before them as possible. If a surety bond agent can provide insight into a defendant's history, the likelihood the defendant is to appear, or other information, the court should be able to utilize that information.

The Professional Bail Agents of the United States (PBUS) and the Ohio Bail Agents Association both submitted comments on the Ad Hoc Committee's recommendations prior to the public comment period. PBUS suggested a series of eligibility requirements for a personal recognizance bond that would limit the issuance of those bonds to a limited number of defendants. The Commission opted not to incorporate the PBUS changes into the initial draft released in March. The Ohio Bail Agents Association expressed concerns over failure to appear rates in those counties currently utilizing pretrial risk assessment and the costs associated with the Ad Hoc Committee's recommendations. The information provided by the Ohio Bail Agents Association was disseminated to all Commission members and is a part of this report in *Appendix E*.

## **J. Data Collection**

### *Recommendations:*

- 1) *The General Assembly and the Supreme Court of Ohio should Increase data collection and analysis for all facets of the bail and pretrial system in Ohio.*
- 2) *Specifically, local courts, or the most appropriate entity, should collect data on diversion outcomes to measure effectiveness of programs and develop a method to track the number of hearings on bond and information about violations that occur while defendants are out on bond.*
- 3) *The General Assembly should ensure appropriate resources for any required data collection regarding bail and pretrial services.*

Recent trends in criminal justice reform, including bail and pretrial service reform, call for the use of evidence-based practices. Evidence-based practices and decision making require a strategic and deliberate method of applying empirical knowledge and research-supported principles to justice system decisions.<sup>55</sup> In order to adequately determine the current state of pretrial services in Ohio and measure outcomes of any implemented reforms, the General Assembly and the Supreme Court of Ohio must require the collection of robust and useful data.

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<sup>55</sup> National Institute of Corrections, Evidence Based Decision Making, January 23, 2017, <http://info.nicic.gov/ebdm/>.



NIC recognizes that performance management of the pretrial system is necessary to ensure effectiveness. As in other areas of Ohio’s criminal justice system data regarding pretrial decisions, agencies, and outcomes is rarely collected. Fewer than 20 percent of respondents to the Ad Hoc survey collect data on failure-to-appear rates and even fewer collect data regarding arrests for crimes committed while on release pretrial. The Ad Hoc Committee recommends a dedicated and concerted effort to increase data collection and analysis for all facets of the bail and pretrial system in Ohio. At a minimum, the committee recommends that collection of appearance rates, safety rates, and concurrence rates (how often a judge accepts a pretrial service agency recommendation) be mandated for each jurisdiction. However, policy makers at both the General Assembly and the Supreme Court of Ohio should consider the more robust measurements advocated by NIC in its publication “Measuring What Matters”.<sup>56</sup> In its work, NIC recommends the collection of the outcome measures mentioned above (appearance rates, safety rates, concurrence rates) and, in addition, the collection of performance rates, including universal screening and recommendation rates.<sup>57</sup> The recommended data points from NIC would vastly increase the knowledge policy makers have on the effectiveness of implemented reforms.

Additionally, the Ad Hoc Committee specifically recommends that data be collected regarding diversion programs and funding sources and data regarding diversion outcomes to measure the effectiveness of diversion programs. There is currently no existing clearinghouse of information on funding sources and information on diversion. Knowing success and failure rates of any diversion program is paramount in determining if the diversion programs are effective and if any risk assessment screening for diversion is effective.

Despite an increase in initial costs to begin collection of this data, whether through new systems or updates to case management systems, the Ad Hoc Committee strongly believes that these elements are the only true measure of the effectiveness of pretrial services. The Ad Hoc Committee acknowledges that data collection in a number of arenas too often falls on the clerks office. However, considering the dearth of data in the pretrial system the Ad Hoc Committee believes that clerks are going to have to be a part of a new emphasis on data collection. Specifically, the Ad Hoc Committee recommends the development of a method to track the number of hearings on bond and information about violations that occur while defendants are out on bond. The Ad Hoc Committee’s survey showed that this data is not currently being collected, either by the court or the clerks. However, the Ad Hoc Committee recommends this information must be collected to ensure an effective system. Regardless of which entity, i.e., court, clerks of court, local law enforcement, prosecutors, etc., is deemed to be in the best position to collect data regarding bail and pretrial services, appropriate resources need to follow any data-collection requirements. The General Assembly must work with the Supreme Court of Ohio to determine an appropriate amount for updates to all case management systems or for development of a statewide collection capability.

Public comment from the Office of the Ohio Public Defender suggested that counties be directed to submit all bail assessment results and arraignment/release hearing dockets to an

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<sup>56</sup> “Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field”, National Institute of Corrections, August 2011, <https://s3.amazonaws.com/static.nicic.gov/Library/025172.pdf>.

<sup>57</sup> *Id.* at p. 5.

independent entity. In addition, the suggestion was made to make all data a public record, including ORAS data. The Ad Hoc Committee did not favorably approve this suggestion for inclusion in the recommendations. However, the committee was split fairly evenly, which the Commission felt was important to note for policymakers as they consider increased data collection in bail and pretrial services.

### **K. Costs**

The Ad Hoc Committee is not naïve and understands that its recommendations have a cost. Research on existing pretrial programs shows wide discrepancies in costs dependent upon the nature of the programs. In Kentucky, for example, which operates a statewide pretrial system with 294 employees covering 120 counties, the 2012 budget was \$11,820,000. According to their Annual Report, the cost of pretrial release per defendant was \$11.74 while the cost for pretrial incarceration was \$613.80 per defendant.<sup>58</sup> In Salt Lake (Utah) County, where pretrial services are administered and funded at the local level, the budget for case management this year was \$1,477,722. Jail screening is funded separately and costs \$932,578.<sup>59</sup>

Summit County's pretrial service program began utilizing a validated risk assessment tool in felony cases in 2006. Pretrial investigations are conducted in the county jail on all new felony bookings, including an interview with the defendant, and the risk assessment tool's report is generated within two days of incarceration. Pretrial staff are present in all arraignments to assist the court in bail decisions. An independent, non-profit community corrections agency (Oriana House) provides pretrial supervision services to the court. In 2016 the program supervised 1,562 clients with a 77 percent success rate. Costs for pretrial supervision were dependent upon the level of supervision. A minimum supervision level cost \$1.32 per day per defendant, medium supervision cost \$2.64 per day and maximum supervision cost \$5.02 per day. The total cost of the pretrial supervision program in 2016 was \$783,000. Summit County Jail's daily rate for 2016 was \$133.25 per person, per day.<sup>60</sup>

Data collection costs would vary, dependent upon whether a court's case management system has the ability to currently track the data or if the system has to be modified to add database fields or codes. The Ad Hoc Committee is fully aware that implementation of these recommendations, particularly implementation of risk assessment systems, dedicated pretrial service staff, increased diversion opportunities, and increased data collection, will have fiscal implications for both the state and local governments.

It should be remembered, however, that the price of reform is offset by the potential savings in the cost of detention. The Pretrial Justice Institute recently estimated that American taxpayers spend about \$38 million per day incarcerating pretrial defendants, which works out to about \$14 billion annually.<sup>61</sup>

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<sup>58</sup> Kentucky Pretrial Services;

<https://www.pretrial.org/download/infostop/Kentucky%20Pretrial%20Services%20History%20Facts%20and%20Stats.pdf>

<sup>59</sup> Kele Griffone, Division Director, Salt Lake County Criminal Justice Services, December 1, 2016.

<sup>60</sup> All information was provided to the Ad Hoc Committee by Kerri Defibaugh, Summit County Pretrial Services Supervisor and Melissa Bartlett, OHI pretrial Services Coordinator, September 2016.

<sup>61</sup> "Pretrial Justice: How much does it cost", Pretrial Justice Institute, January 24, 2017.

## V. Conclusion

*Recommendation: The General Assembly should task the Ohio Criminal Sentencing Commission with creation of a committee for implementation and ongoing monitoring of the recommendations in this report.*

The Ad Hoc Committee believes that implementation of these recommendations will, over time, result in cost savings to the justice system and result in a pretrial justice system that maintains due process and equal protection while ensuring public safety and court appearances. The work is not finished with the publication of this report. Historically, there have been many solid, forward-thinking recommendations put forth in various reports from a myriad of committees, task forces, and commissions that have never been implemented. For that reason, the Ad Hoc Committee recommends that the General Assembly amend the Ohio Revised Code to require the Ohio Criminal Sentencing Commission to form an ongoing committee tasked with facilitating implementation of these recommendations and monitoring progress and trends regarding bail and pretrial issues.

The Ad Hoc Committee believes that implementation of the recommendations contained herein will promote efficiencies and consistency in Ohio's pretrial system while decreasing the reliance on monetary bail as the primary release mechanism. Of vital importance, however, is education and training of court personnel, including judges and clerks of court, prosecutors, defense counsel, and others with a vested interest in the pretrial process. Without training and education, the individuals operating within the system will remain reluctant to embrace risk assessment and alternatives to monetary bail. The Ad Hoc Committee encourages ongoing monitoring, through data collection and analysis of the pretrial system in Ohio, and suggests that the Ohio Criminal Sentencing Commission be tasked with periodically reporting on pretrial practices and operations.



# APPENDICES



# Appendix A

## PRETRIAL SYSTEM REFORMS

	Use of *Arnold Tool Risk Assessment	Use of Other Risk Assessment Tool	Contains a *SJC Site	*EJUL Case to Challenge Bond Schedules	*EJUL Case/Other Efforts to Promote Bail Reform	*Smart Pretrial State/Site	Rewritten Bail Statutes	*EBDM Practices
Alabama					X			
Alaska		X						X
Arizona	X		X					
California	X		X	X				
Colorado		X	X			X	X	X
Connecticut			X		X			
Delaware		X				X		
Florida	X	X	X					
Georgia				X				
Idaho			X					
Illinois	X		X					
Indiana								
Kansas								
Kentucky		X						X
Maine					X			
Maryland					X			
Massachusetts								
Mississippi					X			
Missouri			X	X				
Nevada								
New Jersey					X		X	
New Mexico							X	
New York			X		X			
North Carolina	X		X		X			
Ohio	X	X	X					
Oregon			X					
Pennsylvania	X		X					
Tennessee			X					
Texas			X	X				
Utah		X			X			
Virginia		X						X
Washington			X		X	X		
Washington D.C.								
Wisconsin	X		X					X

**\*Arnold Tool:** Entirely objective risk assessment tool developed to help judges make accurate evidence-based decisions about which defendants should be released or detained pending trial.

**\*SJC Site:** State that promotes the Safety and Justice Challenge initiative to reduce overpopulation in jails through the

establishment of more effective and just alternatives to excessive incarceration.

**\*Smart Pretrial State/Site:** States/sites participating in the Pretrial Justice Institute Smart Pretrial Demonstration initiative to research effective ways to reduce jail costs, while maintaining public safety, through the improvement of pretrial policies and practices

**\*EJUL:** Cases represented by the non-profit Equal Justice Under the Law organization that provides pro bono legal representation to individuals in extreme need

**\*EBDM:** Evidence-based decision making





# Appendix B

## Clerks Work Group Survey

**Q1 Which jurisdiction do you represent?**

- Municipal (1)
- Common Pleas (2)
- Both (3)

Q2 What process do you use to approve a surety?

Q3 Please provide a copy of your court's bond schedule.

Q4 Please provide the following for calendar year 2015 (if no information, please put an "X" in "No information")

Number of cash only bonds (1)

Number of 10% Bonds (2)

Number of ROR Bonds (3)

Number of ROR Bonds with pretrial supervision (4)

Number of 10% Bonds with pretrial supervision (5)

Number of surety bonds (6)

Number of surety bonds with pretrial supervision (7)

Number of property bonds (8)

Number of public safety detentions after hearing (9)

No information (10)

Q5 Please provide the number of bond/bail violations and hearings in the year 2015.

Q6 For your answer to question 5, what were the outcomes of those hearings? If there is no information, please put an "X" in "No information"

No finding of violation (1)

Violation found, bail bond revoked (2)

Violation found, conditions added or changed (3)

Violation found, financial conditions added or increased (4)

No information (5)

Q7 What are your jurisdictions policies regarding surety forfeitures?

Q9 Do you see delays in the bail system, and if so, where are those delays?

## Jail Work Group Survey

1 What is your jail capacity (design capacity)?

2 What was your average daily jail population in the past year?

3 Does your local jail have the capacity to separate pretrial defendants from convicted defendants?

- Yes (1)
- No (2)

4 What was the average daily percentage or number of pretrial defendants in jail in the past year? [Please include all persons brought in on a new crime violation (including violation of bond conditions)]

5 What services, if any, does your jail provide to those incarcerated?

- Mental health services (1)
- Medical services (2)
- Employment services (job hunt) (3)
- Library access (4)
- Specialized drug/alcohol services (5)
- Other (6)

6 What is the average length of stay?

7 In 2015, of the pretrial detainees incarcerated, what was their average length of stay?

8 Please provide a one week snapshot of the past 12 months of:

How many people made bail? (1)

What were the charges against those defendants? (2)

What was the amount of bail? (3)

9 Do you house any other inmates in your jail that you do not consider sentenced (convicted) or pretrial (unconvicted)? (e.g. courtesy holds)

- Yes (1)
- No (2)

10 What is the per diem rate that you would charge other agencies to house inmates in your jail?

11 What is the actual per diem rate of your jail?

12 Do you use a bail schedule for arrestees coming to your jail? (Please submit a copy)

- Yes (1)
- No (2)

13 Does your jail use an electronic monitoring program?

- Yes (1)
- No (2)

14 If your jail operates an electronic monitoring program, what are the total costs to operate the program?

15 Of those inmates utilizing electronic monitoring, what is the cost, per person, per day?

16 Does your jail operate any other program designed to manage defendants outside of secure confinement?

- Yes (1)
- No (2)

17 Does your jail operate a day reporting program for pretrial defendants?

- Yes (1)
- No (2)

18 If your jail operates a day reporting program, what are the total costs to operate the program?

19 What is the cost, per person, per day, of your day reporting program?

20 Does your jail have a plan currently in place to work with your local courts as it relates to alternatives to incarceration for pretrial detainees, or any plan relevant to jail bed allocation?

- Yes (1)
- No (2)

21 If you have a plan in place, can you please describe the plan?

22 Do you regularly report to your local courts of basic population data from the jail?

- Yes (1)
- No (2)

23 Is your jail currently under a federal court order, or any other order, as it relates to an allowable maximum number of incarcerated inmates before you have to release inmates?

- Yes (1)
- No (2)

24 Does your jail operate any other pretrial programs that keep individuals from incarceration while awaiting trial?

- Yes (1)
- No (2)

25 If the answer to question 24 was yes, please describe the program.

26 Do you believe there should be more legal reforms in Ohio that keep pretrial detainees from incarceration while awaiting trial?

- Yes (1)
- No (2)

27 What might those legal reforms look like?

28 Are there any other systematic issues that interfere with getting inmates to their proper place?

## Pretrial Services Utilization Work Group

Q1 Please provide your name.

Q2 What is your phone number and email address?

Q3 What is the size of your jurisdiction?

Q4 Does your court have a pretrial services department/process that provides information to the court on bail detention decisions?

- Yes (1)
- No (2)

Q5 If your answer to the previous question is "no", does your court have a department, person, or group of people tasked with the following:

	Yes (1)	No (2)
Bail investigation (criminal history, community ties) and/or risk analysis regarding bail or detention decision. (1)	<input type="radio"/>	<input type="radio"/>
Pretrial/bail supervision (2)	<input type="radio"/>	<input type="radio"/>

Q6 Where is the pretrial services agency or person(s) located administratively in the criminal justice system?

- Probation department (1)
- Court (2)
- Prosecutor (3)
- Public Defender (4)
- Sheriff (5)
- Jail Administrator (6)
- Private non-profit organization (7)
- Private for profit organization (8)
- Other (please specify) (9) \_\_\_\_\_

Q7 Does the agency or person(s) do universal screening?

- Yes (1)
- No (2)

Q8 If your answer to the previous question is "no", which defendants are not being screened?

- Minor misdemeanors (1)
- All misdemeanors (2)
- All felonies (3)
- Defendants charged with offenses not bailable by statute (4)
- Defendants charged with specific charges (5)
- Defendants with outstanding warrants in the same jurisdiction(s) served by the agency/person (6)
- Defendants held on warrant or detainer from another jurisdiction, in addition to local charges (7)
- Defendants currently on parole, probation, and/or pretrial release (8)
- Juvenile defendants charged as adults (9)
- None; all defendants are interviewed, unless they are sick, refuse, etc. (10)
- Other (please specify) (11) \_\_\_\_\_

Q9 How many employees does the pretrial services agency have (or equivalent people performing the functions of pretrial services)?

Q11 What is their caseload?

Q12 Do they receive specific training in providing pretrial services?

- Yes (1)
- No (2)

Q13 Does your court routinely or ever hold public safety hearings to detain individuals?

- Yes (1)
- No (2)

Q14 What information is utilized by the judge in making the initial bail or detain decision?

Q15 Do you use a validated risk assessment instrument?

- Yes (1)
- No (2)

Q16 If your answer to the previous question was yes, please attach the risk assessment instrument.

Q17 If your answer to the previous question was no, what criteria do you use to help individualize bail setting recommendations?

Q18 What factors are included in your risk assessment?

- Local address (1)
- Length of time resident in local community (2)
- Length of time at present address (3)
- Length of time at prior address (4)
- Ownership of property in the community (5)
- Possession of a telephone (6)
- Living arrangements (e.g. whether married or living with relatives) (7)
- Parental status and/or support of children (8)
- Employment and/or educational or training status (9)
- Income level or public assistance status (means of support) (10)
- Physical and/or mental impairment (11)
- Use of drugs and/or alcohol (12)
- Age (13)
- Comments from arresting officer/Arrest report (14)
- Comments from victim (15)
- Prior court appearance history (16)
- Prior arrests (17)
- Prior convictions (18)
- Compliance with probation, parole, or pending case (19)
- Whether currently on probation or parole or has another open case (20)
- Whether someone is expected to accompany the defendant to court at first appearance (21)
- Identification of references who could verify and assist defendant in complying with conditions (22)
- Other (please specify) (23)

Q19 Has your risk assessment scheme or system been validated?

- Yes (1)
- No (2)

Q20 When is the defendant provided counsel to discuss matters regarding bail?

Q21 Are defendants interviewed?

- Yes (1)
- No (2)

Q22 If the answer to the previous question is "yes", please describe the interview (e.g. what is asked, how long it takes, where it is done, whether or not statements are verified)

Q23 Are any defendants treated specially due to charge (e.g. domestic violence or OVIs)?

- Yes (1)
- No (2)

Q24 After the initial Bond is set, does your jurisdiction systematically re-review the Bail/Bond for defendants remaining in custody (Example, any defendants remaining in custody 3 days after Initial Hearing are re-interviewed)?

- Yes (1)
- No (2)

Q25 Does your jurisdiction assess defendants for Mental Health/Developmental Disabilities issues at booking?

- Yes (1)
- No (2)

Q26 Does the person or department make recommendations on bail/detain, or just provide a report to the court?

- Recommendation (1)
- Report (2)



Q27 What information about the defendant is provided to the court?

- Local address (1)
- Length of time resident in local community (2)
- Length of time at present address (3)
- Length of time at prior address (4)
- Ownership of property in the community (5)
- Possession of a telephone (6)
- Living arrangements (e.g. whether married or living with relatives) (7)
- Parental status and/or support of children (8)
- Employment and/or educational or training status (9)
- Income level or public assistance status (means of support) (10)
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- Comments from arresting officer/Arrest report (14)
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- Compliance with probation, parole, or pending case (19)
- Whether currently on probation or parole or has another open case (20)
- Whether someone is expected to accompany the defendant to court at first appearance (21)
- Identification of references who could verify and assist defendant in complying with conditions (22)
- Other (please specify) (23)

Q28 If you have a pretrial services agency, is it given any delegated release authority for certain defendants?

- Yes (1)
- No (2)

Q29 If your answer to the previous question is "Yes", please describe the pretrial services agency's authority to release defendants.

Q30 Is supervision of pretrial release conditions provided in your jurisdiction?

- Yes (1)
- No (2)

Q31 If supervision is provided, by whom?

- Pretrial services program (1)
- Probation or other department (2)
- No, no supervision (3)

Q32 What options are used in your jurisdiction to supervise defendants on pretrial release?

- Stay away from specific people or places (1)
- Curfew (2)
- Referral to substance abuse treatment (3)
- Referral to mental health services (4)
- Reporting to the program in person or by telephone (5)
- Third party custody to a community organization (6)
- Drug testing (7)
- Alcohol testing (8)
- Home confinement by electronic monitoring - programmed contract (i.e. periodic calls initiated to defendant's home to ensure defendant is there) (9)
- Electronic monitoring by defendant movement in the community through GPS technology (10)
- Day reporting center (11)
- Halfway house (12)
- Other (please specify) (13) \_\_\_\_\_

Q33 Is supervision provided to anyone who is also ordered a commercial surety bond?

- Yes (1)
- No (2)

Q34 Does anyone in your court/program notify released defendants of upcoming court appearances?

- Yes (1)
- No (2)

Q35 If you answered "yes" to the previous question, how is the defendant notified?

Q36 Does your court/program notify victims of crime of the pretrial release of the defendant?

- Yes (1)
- No (2)

Q37 Does your court/program calculate failure to appear rates?

- Yes (1)
- No (2)

Q38 If your answer to the previous question was "yes", what was your failure to appear rate for the last year?

Q39 Does your program capture information about, or are any comparisons made between, the FTA rates and recidivism rates of those charged with similar offenses released on "OR" as opposed to those released on monetary bonds?

- Yes (1)
- No (2)

Q40 If your answer to the previous question is "yes", please provide the information or comparison for the last full year.

Q41 Does your program calculate pretrial crime rates?

- Yes (1)
- No (2)

Q42 If your answer to the previous question is "yes", what was the pretrial crime rate for the last full year?

Q43 Does your program calculate release rates?

- Yes (1)
- No (2)

Q44 If your answer to the previous question is "yes", how many eligible defendants were released last year?

Q45 Why were those not released, not eligible?

## Pretrial Services, Bail and Diversion

Q1 What is the name of your court?

Q2 What is the geographic jurisdiction of your court?

- Municipality (1)
- County-Wide (2)
- Other (3)

Q3 Does your prosecutor's office offer a diversion program for misdemeanor offenders?

- Yes (1)
- No (2)
- Don't know (3)

Q4 If your answer to the previous question was "yes":

What type of diversion? (1)

What are the eligibility requirements? (2)

Q5 Does your prosecutor's office offer a diversion program for juvenile offenders?

- Yes (1)
- No (2)
- Don't know (3)

Q6 If your answer to the previous question was "yes":

What type of diversion? (1)

What are the eligibility requirements? (2)

Q7 Do you offer a specialized docket?

- Yes (1)
- No (2)

Q8 If your answer to the previous question was "yes", what type of specialized docket?

Q9 Are the dockets:

- Pre-conviction (1)
- Post-conviction (2)
- Both (3)

Q10 Do you offer intervention in Lieu of conviction?

- Yes (1)
- No (2)

Q11 Do you offer any other diversion programs (other than ILC or a specialized docket)?  
 Yes (1)  
 No (2)

Q12 If your answer to the previous question was "yes", please describe the other diversion program.

Q13 Do you use a bail schedule?  
 Yes (1)  
 No (2)

Q14 If you do not use a bail schedule, what do you rely on setting bail?

Q15 Do you do an ability to pay assessment?  
 Yes (1)  
 No (2)

Q16 Does your court have a pretrial services department/process that provides information to the court on bail/detention decisions?  
 Yes (1)  
 No (2)

Q17 If your answer to the previous question is "no", does your court have a department, person, or group of people tasked with the following:

	Yes (1)	No (2)
Bail investigation (criminal history, community ties) and/or risk analysis regarding bail or detention decisions (1)	<input type="checkbox"/>	<input type="checkbox"/>
Pretrial/bail supervision (2)	<input type="checkbox"/>	<input type="checkbox"/>

Q18 Where is the pretrial services agency or person(s) located administratively in the criminal justice system?

- Probation department (1)
- Court (2)
- Prosecutor (3)
- Public Defender (4)
- Sheriff (5)
- Jail Administrator (6)
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- Private for profit organization (8)
- Other (Please specify) (9) \_\_\_\_\_

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- Yes (1)
- No (2)

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- Defendants charged with offenses not bailable by statute (4)
- Defendants charged with specific charges (5)
- Defendants with outstanding warrants in the same jurisdiction(s) served by the agency/person (6)
- Defendants held on warrant or detainer from another jurisdiction, in addition to local charges (7)
- Defendants currently on parole, probation, and/or pretrial release (8)
- Juvenile defendants charged as adults (9)
- None; all defendants are interviewed, unless they are sick, refuse, etc. (10)
- Other (please specify) (11) \_\_\_\_\_

Q21 How many employees does the pretrial services agency have (or equivalent people performing the functions of pretrial services)?

Q22 What is their caseload?

Q23 Do they receive specific training in providing pretrial services?

- Yes (1)
- No (2)

Q24 Does your court routinely or ever hold public safety hearings to detain individuals?

- Yes (1)
- No (2)

Q25 What information is utilized by the judge in making the initial bail or detain decision?

Q26 Do you use a validated risk assessment instrument?

- Yes (1)
- No (2)

Q27 If you answered "yes" to the previous question, please attach a copy of your assessment instrument.

Q28 If you answered "no", what criteria do you use to help individualize bail setting requirements?

Q29 What factors are included in your risk assessment?

- Local Address (1)
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- Length of time at present address (3)
- Length of time at prior address (4)
- Ownership of property in the community (5)
- Possession of a telephone (6)
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- Income level or public assistance status (means of support) (10)
- Physical and/or mental impairment (11)
- Use of drugs and/or alcohol (12)
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- Whether currently on probation or parole or has another open case (20)
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- Identification of references who could verify and assist defendant in complying with conditions (22)
- Other (please specify) (23) \_\_\_\_\_

Q30 Has your risk assessment scheme or system been validated?

- Yes (1)
- No (2)

Q31 When is the defendant provided counsel to discuss matters regarding bail?

Q32 Are defendants interviewed?

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- No (2)

Q33 If the answer to the previous question is "yes", please describe the interview (e.g. what is asked, how long it takes, where it is done, whether or not statements are verified)

Q34 Are any defendants treated specially due to charge (e.g. domestic violence or OVIs)?

- Yes (1)
- No (2)

Q35 After the initial Bond is set, does your jurisdiction systematically re-review the Bail/Bond for defendants remaining in custody (Example, any defendants remaining in custody 3 days after Initial Hearing are re-interviewed)?

- Yes (1)
- No (2)

Q36 Does your jurisdiction assess defendants for Mental Health/Developmental Disabilities issues at booking?

- Yes (1)
- No (2)

Q37 Does the person or department make recommendations on bail/detain, or just provide a report to the court?

- Recommendation (1)
- Report (2)

Q38 If you provide a written report to the court, please provide a sample copy.



Q39 What information about the defendant is provided to the court?

- Local Address (1)
- Length of time resident in local community (2)
- Length of time at present address (3)
- Length of time at prior address (4)
- Ownership of property in the community (5)
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- Use of drugs and/or alcohol (12)
- Age (13)
- Comments from arresting officer/Arrest report (14)
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- Prior arrests (17)
- Prior convictions (18)
- Compliance with probation, parole, or pending case (19)
- Whether currently on probation or parole or has another open case (20)
- Whether someone is expected to accompany the defendant to court at first appearance (21)
- Identification of references who could verify and assist defendant in complying with conditions (22)
- Other (please specify) (23) \_\_\_\_\_

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- Yes (1)
- No (2)

Q41 If your answer to the previous question is "yes", please describe the pretrial services agency's authority to release defendants.

Q42 Is supervision of pretrial release conditions provided in your jurisdiction?

- Yes (1)
- No (2)

Q43 If supervision is provided, by whom?

- Pretrial services program (1)
- Probation or other department (2)
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- Curfew (2)
- Referral to substance abuse treatment (3)
- Referral to mental health services (4)
- Reporting to the program in person or by telephone (5)
- Third party custody to a community organization (6)
- Drug testing (7)
- Alcohol testing (8)
- Home confinement by electronic monitoring – programmed contact (i.e., periodic calls initiated to defendant’s home to ensure defendant is there) (9)
- Electronic monitoring by defendant movement in the community through GPS technology (10)
- Day reporting center (11)
- Halfway house (12)
- Other (please specify) (13) \_\_\_\_\_

Q45 Is supervision provided to anyone who is also ordered a commercial surety bond?

- Yes (1)
- No (2)

Q46 Does anyone in your court/program notify released defendants of upcoming court appearances?

- Yes (1)
- No (2)

Q47 If you answered "yes" to the previous question, how is the defendant notified?

Q48 Does your court/program notify victims of crime of the pretrial release of the defendant?

- Yes (1)
- No (2)

Q49 Does your court/program calculate failure to appear rate?

- Yes (1)
- No (2)

Q50 If your answer to the previous question was "yes", what was your failure to appear rate for the last year?

Q51 Does your program capture information about, or are any comparisons made between, the FTA rates and recidivism rates of those charged with similar offenses released on "OR" as opposed to those released on monetary bonds?

- Yes (1)
- No (2)

Q52 If your answer to the previous question was "yes", please provide the information or comparison for the last full year.

Q53 Does your program calculate pretrial crime rates?

- Yes (1)
- No (2)

Q54 If your answer to the previous question is "yes", what was the pretrial crime rate for the last full year?

Q55 Does your program calculate release rates?

- Yes (1)
- No (2)

Q56 If your answer to the previous question is "yes", how many eligible defendants were released last year?

Q57 Why were those not released not eligible?



# Appendix C

## Example 1:

### **Criminal Rule 4 Warrant or Summons; Arrest**

(F) Release after arrest. In misdemeanor cases where a person has been arrested with or without a warrant, the arresting officer, the officer in charge of the detention facility to which the person is brought or the superior of either officer, without unnecessary delay, may release the arrested person by issuing a summons when issuance of a summons appears reasonably calculated to assure the person's appearance. The arresting officer, or the officer in charge of the detention facility shall determine the reasonable likelihood that the arrested person will appear without the need for posting a bond according to the appropriate bail bond schedule, with a presumption towards non-financial release. The officer issuing such summons shall note on the summons the time and place the person must appear and, if the person was arrested without a warrant, shall file or cause to be filed a complaint describing the offense. No warrant or alias warrant shall be issued unless the person fails to appear in response to the summons.

## Example 2:

### Criminal Rule 4 Warrant or Summons; Arrest

(F) Release after arrest. In misdemeanor cases where a person has been arrested with or without a warrant, the arresting officer, the officer in charge of the detention facility to which the person is brought or the superior of either officer, without unnecessary delay, may release the arrested person by issuing a summons when issuance of a summons appears reasonably calculated to assure the person's appearance. The officer issuing such summons shall note on the summons the time and place the person must appear and, if the person was arrested without a warrant, shall file or cause to be filed a complaint describing the offense. No warrant or alias warrant shall be issued unless the person fails to appear in response to the summons.

In those cases where the arresting officer and/or the officer in charge of the detention facility, or the superior of either, deem that a summons does not appear reasonably calculated to assure the person's appearance, but the person's history does not include a history of failure to appear or current or past violent behavior, the officer may require additional conditions of bond other than monetary surety.

In those cases where the arresting officer and the officer in charge of the detention facility, or the superior of either, deem that a summons does not appear reasonably calculated to assure the person's appearance, such as where there is a history of failure to appear, or other articulable indicia that the detainee will fail to appear for future court appearances, or the offense charged involves a "crime of violence" or the detainee has committed other "crimes of violence" as those terms are defined in the Ohio Revised Code, the arresting officer and/or the officer in charge of the detention facility shall cause the detention of the arrested person pending an appearance before a judicial officer, or, where appropriate, release the individual on bond with additional conditions that may include, inter alia, requiring the posting of a monetary surety, based upon the level of the detainee's perceived risk of non-appearance and/or danger to the community or to any individual therein.

### **Example 1:**

#### **RULE 5. Initial Appearance, Preliminary Hearing Procedure upon initial appearance.**

When a defendant first appears before a judge or magistrate, the judge or magistrate shall permit the accused or the accused's counsel to read the complaint or a copy thereof, and shall inform the defendant:

- (1) Of the nature of the charge against the defendant;
- (2) That the defendant has a right to counsel and the right to a reasonable continuance in the proceedings to secure counsel, and, pursuant to Crim.R. 44, the right to have counsel assigned without cost if the defendant is unable to employ counsel;
- (3) That the defendant need make no statement and any statement made may be used against the defendant;
- (4) Of the right to a preliminary hearing in a felony case, when the defendant's initial appearance is not pursuant to indictment;
- (5) Of the right, where appropriate, to jury trial and the necessity to make demand therefor in petty offense cases. In addition, if the defendant has not been admitted to bail for a bailable offense, the judge or magistrate shall admit the defendant to bail as provided in these rules. In felony cases the defendant shall not be called upon to plead either at the initial appearance or at a preliminary hearing. In misdemeanor cases the defendant may be called upon to plead at the initial appearance. Where the defendant enters a plea the procedure established by Crim.R. 10 and Crim.R. 11 applies.

#### **RULE 10. Arraignment**

**(A) Arraignment procedure.** Arraignment shall be conducted in open court, and shall consist of reading the indictment, information or complaint to the defendant, or stating to the defendant the substance of the charge, and calling on the defendant to plead thereto. The defendant may in open court waive the reading of the indictment, information, or complaint. The defendant shall be given a copy of the indictment, information, or complaint, or shall acknowledge receipt thereof, before being called upon to plead.

#### **(B) Presence of defendant.**

- (1) The defendant must be present, except that the court, with the written consent of the defendant and the approval of the prosecuting attorney, may permit arraignment without the presence of the defendant, if a plea of not guilty is entered.
- (2) In a felony or misdemeanor arraignment or a felony initial appearance, a court may permit the presence and participation of a defendant by remote contemporaneous video provided the use of video complies with the requirements set out in Rule 43(A)(2) of these rules. This division shall not apply to any other felony proceeding.

**(C) Explanation of rights.** When a defendant not represented by counsel is brought before a court and called upon to plead, the judge or magistrate shall cause the defendant to be informed and shall determine that the defendant understands all of the following:

(1) The defendant has a right to retain counsel even if the defendant intends to plead guilty, and has a right to a reasonable continuance in the proceedings to secure counsel.

(2) The defendant has a right to counsel, and the right to a reasonable continuance in the proceeding to secure counsel, and, pursuant to Crim. R. 44, the right to have counsel assigned without cost if the defendant is unable to employ counsel. If the defendant indicates a request for counsel without cost, the court shall determine his or her eligibility at arraignment, and arrange for the appointment of counsel.

(3) The defendant has a right to bail, if the offense is bailable. If a defendant appears in court and has been unable to post a bond according to a bail bond schedule pursuant to Crim. R. 46, that person shall have the bond status reviewed at arraignment.

(4) The defendant need make no statement at any point in the proceeding, but any statement made can and may be used against the defendant.

**(D) Joint arraignment.** If there are multiple defendants to be arraigned, the judge or magistrate may by general announcement advise them of their rights as prescribed in this rule.



## **Example 2:**

### **RULE 5. Initial Appearance, Preliminary Hearing Procedure upon initial appearance.**

When a defendant first appears before a judge or magistrate, the judge or magistrate shall permit the accused or the accused's counsel to read the complaint or a copy thereof, and shall inform the defendant: (1) Of the nature of the charge against the defendant;

(2) That the defendant has a right to counsel and the right to a reasonable continuance in the proceedings to secure counsel, and, pursuant to Crim.R. 44, the right to have counsel assigned without cost if the defendant is unable to employ counsel;

(3) That the defendant need make no statement and any statement made may be used against the defendant;

(4) Of the right to a preliminary hearing in a felony case, when the defendant's initial appearance is not pursuant to indictment;

(5) Of the right, where appropriate, to jury trial and the necessity to make demand therefor in petty offense cases. In addition, if the defendant has not been admitted to bail for a bailable offense, the judge or magistrate shall admit the defendant to bail as provided in these rules. In felony cases the defendant shall not be called upon to plead either at the initial appearance or at a preliminary hearing. In misdemeanor cases the defendant may be called upon to plead at the initial appearance. Where the defendant enters a plea the procedure established by Crim.R. 10 and Crim.R. 11 applies.

### **RULE 10. Arraignment**

**(A) Arraignment procedure.** Arraignment shall be conducted in open court, and shall consist of reading the indictment, information or complaint to the defendant, or stating to the defendant the substance of the charge, and calling on the defendant to plead thereto. The defendant may in open court waive the reading of the indictment, information, or complaint. The defendant shall be given a copy of the indictment, information, or complaint, or shall acknowledge receipt thereof, before being called upon to plead.

#### **(B) Presence of defendant.**

(1) The defendant must be present, except that the court, with the written consent of the defendant and the approval of the prosecuting attorney, may permit arraignment without the presence of the defendant, if a plea of not guilty is entered.

(2) In a felony or misdemeanor arraignment or a felony initial appearance, a court may permit the presence and participation of a defendant by remote contemporaneous video provided the use of video complies with the requirements set out in Rule 43(A)(2) of these rules. This division shall not apply to any other felony proceeding.

**(C) Explanation of rights.** When a defendant not represented by counsel is brought before a court and called upon to plead, the judge or magistrate shall cause the defendant to be informed and shall determine that the defendant understands all of the following:

(1) The defendant has a right to retain counsel even if the defendant intends to plead guilty, and has a right to a reasonable continuance in the proceedings to secure counsel.

(2) The defendant has a right to counsel, and the right to a reasonable continuance in the proceeding to secure counsel, and, pursuant to Crim. R. 44, the right to have counsel assigned without cost if the defendant is unable to employ counsel. If the defendant requests the appointment of counsel at the public's expense due to indigency, the court shall determine the defendant's eligibility to be appointed such counsel at arraignment, and, upon determining that the defendant is eligible, shall arrange for the appointment of counsel, forthwith.

(3) The defendant has a right to bail, if the offense is bailable. If a defendant appears in court and was unable to post a bond following arrest pursuant to Crim. R. 46, that person shall have the bond's status reviewed at initial appearance or arraignment.

(4) The defendant need make no statement at any point in the proceeding, but any statement made can and may be used against the defendant.

**(D) Joint arraignment.** If there are multiple defendants to be arraigned, the judge or magistrate may by general announcement advise them of their rights as prescribed in this rule.

## Example 1:

### RULE 46. Bail

(A) Types and amounts of bail. Any person who is entitled to release shall be released upon one or more of the following types of bail in the amount set by the court:

- (1) The personal recognizance of the accused or an unsecured bail bond;
- (2) A bail bond secured by the deposit of ten percent of the amount of the bond in cash. Ninety percent of the deposit shall be returned upon compliance with all conditions of the bond;
- (3) A surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the defendant.

(B) Conditions of bail. The court may impose any of the following conditions of bail:

- (1) Place the person in the custody of a designated person or organization agreeing to supervise the person;
- (2) Place restrictions on the travel, association, or place of abode of the person during the period of release;
- (3) Place the person under a house arrest, electronic monitoring, or work release program;
- (4) Regulate or prohibit the person's contact with the victim;
- (5) Regulate the person's contact with witnesses or others associated with the case upon proof of the likelihood that the person will threaten, harass, cause injury, or seek to intimidate those persons;
- (6) Require a person who is charged with an offense that is alcohol or drug related, and who appears to need treatment, to attend treatment while on bail;
- (7) Require compliance with pretrial detention alternatives, including but not limited to diversion programs, day reporting, or comparable alternatives, to ensure a person's appearance at future court proceedings;

~~(7)~~ (8) Any other constitutional condition considered reasonably necessary to ensure appearance or public safety.

(C) Factors. In determining the types, amounts, and conditions of bail, the court shall consider all relevant information, including but not limited to:

- (1) The nature and circumstances of the crime charged, and specifically whether the defendant used or had access to a weapon;
- (2) The weight of the evidence against the defendant;

(3) The confirmation of the defendant's identity;

(4) The defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, jurisdiction of residence, record of convictions, record of appearance at court proceedings or of flight to avoid prosecution;

(5) Whether the defendant is on probation, a community control sanction, parole, post-release control, bail, or under a court protection order.

(6) The results of an empirically based assessment tool, with a presumption of nonfinancial release and statutory prevention detention.

(D) Appearance pursuant to summons. When summons has been issued and the defendant has appeared pursuant to the summons, absent good cause, a recognizance bond shall be the preferred type of bail.

(E) Amendments. A court, at any time, may order additional or different types, amounts, or conditions of bail.

(F) Information need not be admissible. Information stated in or offered in connection with any order entered pursuant to this rule need not conform to the rules pertaining to the admissibility of evidence in a court of law. Statements or admissions of the defendant made at a bail proceeding shall not be received as substantive evidence in the trial of the case.

(G) Bond schedule. Each court shall establish a bail bond schedule covering all misdemeanors including traffic offenses, either specifically, by type, by potential penalty, or by some other reasonable method of classification. The court also may include requirements for release in consideration of divisions (B) and (C)(5) of this rule. Each municipal or county court shall, by rule, establish a method whereby a person may make bail by use of a credit card. No credit card transaction shall be permitted when a service charge is made against the court or clerk unless allowed by law. Each court shall review their bail bond schedule bi-annually by January 31 of each even numbered year, to ensure an appropriate bail bond schedule. When a person has failed to post a bond as established by a bail bond schedule, that person shall have his bond status reviewed by a judicial officer within 48 hours after that person has been arrested.

(H) Continuation of bonds. Unless otherwise ordered by the court pursuant to division (E) of this rule, or if application is made by the surety for discharge, the same bond shall continue until the return of a verdict or the acceptance of a guilty plea. In the discretion of the court, the same bond may also continue pending sentence or disposition of the case on review. Any provision of a bond or similar instrument that is contrary to this rule is void.

(I) Failure to appear; breach of conditions. Any person who fails to appear before any court as required is subject to the punishment provided by the law, and any bail given for the person's release may be forfeited. If there is a breach of condition of bail, the court may amend the bail.

(J) Justification of sureties. Every surety, except a corporate surety licensed as

provided by law, shall justify by affidavit, and may be required to describe in the affidavit, the property that the surety proposes as security and the encumbrances on it, the number and amount of other bonds and undertakings for bail entered into by the surety and remaining undischarged, and all of the surety's other liabilities. The surety shall provide other evidence of financial responsibility as the court or clerk may require. No bail bond shall be approved unless the surety or sureties appear, in the opinion of the court or clerk, to be financially responsible in at least the amount of the bond. No licensed attorney at law shall be a surety.

## **Example 2:**

### **RULE 46. Bail**

(A) Types and amounts of bail. Any person who is entitled to release shall be released upon one or more of the following types of bail in the amount set by the court:

- (1) The personal recognizance of the accused or an unsecured bail bond;
- (2) A bail bond secured by the deposit of ten percent of the amount of the bond in cash. Ninety percent of the deposit shall be returned upon compliance with all conditions of the bond;
- (3) A surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the defendant.

(B) Conditions of bail. The court may impose any of the following conditions of bail:

- (1) Place the person in the custody of a designated person or organization agreeing to supervise the person;
- (2) Place restrictions on the travel, association, or place of abode of the person during the period of release;
- (3) Place the person under a house arrest, electronic monitoring, or work release program;
- (4) Regulate or prohibit the person's contact with the victim;
- (5) Regulate the person's contact with witnesses or others associated with the case upon proof of the likelihood that the person will threaten, harass, cause injury, or seek to intimidate those persons;
- (6) Require a person who is charged with an offense that is alcohol or drug related, and who appears to need treatment, to attend treatment while on bail;
- (7) Require compliance with pretrial detention alternatives, including but not limited to diversion programs, day reporting, court appearance alert notifications, or comparable alternatives, to ensure a person's appearance at future court proceedings;
- ~~(7)~~ (8) Any other constitutional condition considered reasonably necessary to ensure appearance or public safety.

(C) Factors. In determining the types, amounts, and conditions of bail, the court shall consider all relevant information, including but not limited to:

- (1) The nature and circumstances of the crime charged, and specifically whether the defendant used or had access to a weapon;
- (2) The weight of the evidence against the defendant;

(3) The confirmation of the defendant’s identity;

(4) The defendant’s family ties, employment, financial resources, character, mental condition, length of residence in the community, jurisdiction of residence, record of convictions, record of appearance at court proceedings or of flight to avoid prosecution;

(5) Whether the defendant is on probation, a community control sanction, parole, post-release control, bail, or under a court protection order.

(6) The results of an empirically based risk assessment tool, with a presumption of nonfinancial release and provision for statutory preemptive detention.

(D) Appearance pursuant to summons. When summons has been issued and the defendant has appeared pursuant to the summons, absent good cause, a recognizance bond shall be the preferred type of bail.

(E) Amendments. A court, at any time, may order additional or different types, amounts, or conditions of bail.

(F) Information need not be admissible. Information stated in or offered in connection with any order entered pursuant to this rule need not conform to the rules pertaining to the admissibility of evidence in a court of law. Statements or admissions of the defendant made at a bail proceeding shall not be received as substantive evidence in the trial of the case.

(G) Bond schedule. Each court shall establish a bail bond schedule covering all misdemeanors including traffic offenses, which shall provide for the release of all detainees charged with non-violent misdemeanors or traffic offenses on their own recognizance, unless the detainee has a history of failure to appear for court, the charge involves a crime of violence defined in the Ohio Revised Code, there are other outstanding wants, warrants, or detainers for the detainee’s arrest, or there are other articulable facts that suggest that the detainee poses a flight risk or a danger to the community or any member thereof. The court also may include requirements for release in consideration of divisions (B) and (C)(5) of this rule. Each municipal or county court shall, by rule, establish a method whereby a person may make bail by use of a credit card. No credit card transaction shall be permitted when a service charge is made against the court or clerk unless allowed by law. When a person has failed to post a bond, that person shall have his bond status reviewed by a Judicial Official within 48 hours after that person has been arrested.

(H) Continuation of bonds. Unless otherwise ordered by the court pursuant to division (E) of this rule, or if application is made by the surety for discharge, the same bond shall continue until the return of a verdict or the acceptance of a guilty plea. In the discretion of the court, the same bond may also continue pending sentence or disposition of the case on review. Any provision of a bond or similar instrument that is contrary to this rule is void.

(I) Failure to appear; breach of conditions. Any person who fails to appear before any court as required is subject to the punishment provided by the law, and any bail given for the person’s release may be forfeited. If there is a breach of condition of bail, the court may amend the bail.

(J) Justification of sureties. Every surety, except a corporate surety licensed as provided by law, shall justify by affidavit, and may be required to describe in the affidavit, the property that the surety proposes as security and the encumbrances on it, the number and amount of other bonds and undertakings for bail entered into by the surety and remaining undischarged, and all of the surety's other liabilities. The surety shall provide other evidence of financial responsibility as the court or clerk may require. No bail bond shall be approved unless the surety or sureties appear, in the opinion of the court or clerk, to be financially responsible in at least the amount of the bond. No licensed attorney at law shall be a surety.



# Appendix D

## Survey Answers – Raw Data

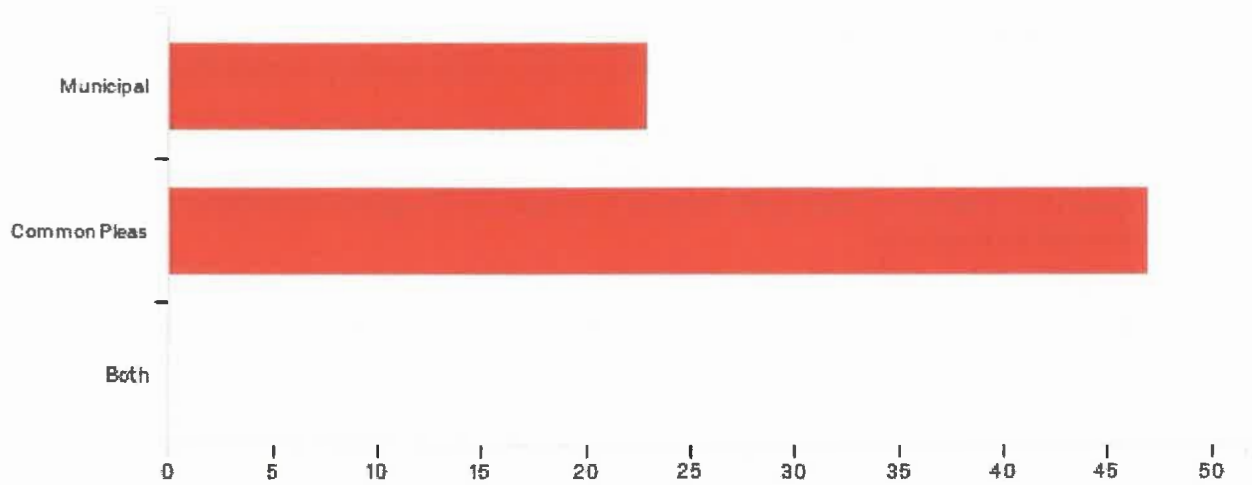


# Default Report

Clerks Work Group Survey

August 31st 2016, 1:58 pm EDT

## Q1 - Which jurisdiction do you represent?



Answer	%	Count
Municipal	32.86%	23
Common Pleas	67.14%	47
Both	0.00%	0
Total	100%	70

## Q2 - What process do you use to approve a surety?

What process do you use to approve a surety?

They are sent out to the Administrative Judge for approval.

Send them out to the Judge for approval

We make sure the bonding agent has filed a copy of his/her bonding license, driver's license and a certified copy of the power of attorney. We also check every surety to make sure the amount equals or exceeds the amount of the bond.

Appropriate paperwork must be filed with Clerk of Courts office prior to writing bail bonds: Qualifying POA, certificate of authority and certificate of compliance, and license renewals for all agents. An active list is kept up-to-date and provided to the Huron County Sheriff. Norwalk Municipal Court is given time-stamped copies of all paperwork filed by bail bond agencies.

register with the State Insurance Dept.

Bail bond agents must file appropriate paperwork prior to writing bonds: POA, Certificate of Authority, Certificate of Compliance, License Renewals for all agents writing bonds.

local rule, RC & confirm Co. is in good standing with Dept. of Insurance

We follow ORC 3905.87(A) and require sureties to register with the Clerk a copy of the agent's license, a copy of their DL or state ID, and a certified copy of the agent's appointment by POA. Agents must renew their registration every odd # year by Aug 1.

We review the surety bondsman paperwork to see if they qualify for writing a bond in the amount that the defendant is to post. If they qualify, we will continue processing the bond. If a surety bond is posted and a property is being used, we will ask for the person posting to show the amount that is owed on the mortgage, then check the tax value with the Auditors office to see if there is enough equity. We then will check with the Recorders office to see if there are any liens to be able to calculate the total amount of equity before we can accept the bond.

Have to see there driver's license, power of attorney, certification certificate, bonding licenses

bondsman

We require a copy of their current Ohio Department of Insurance License and their General Qualifying Power of Attorney

Registration with Court

Verify through Ohio Department of Insurance

CERTIFICATE OF AUTHORITY (INSURER NAME AND EXP DATE), CERTIFICATE OF COMPLIANCE, POWER OF ATTY WITH NAME AND AMOUNT, CERTIFICATE AND INSURANCE ID/DRIVERS LICENSE OF EACH AGENT AND NAME OF BONDING COMPANY

proof of insurance, ID card, registration from ODI

CERTIFICATE OF AUTHORITY (INSURER NAME AND EXP DATE), CERTIFICATE OF COMPLIANCE, POWER OF ATTY WITH NAME AND AMOUNT, CERTIFICATE AND INSURANCE ID/DRIVERS LICENSE OF EACH AGENT AND NAME OF BONDING COMPANY

CERTIFICATE OF AUTHORITY (INSURER NAME AND EXP DATE), CERTIFICATE OF COMPLIANCE, POWER OF ATTY WITH NAME AND AMOUNT, CERTIFICATE AND INSURANCE ID/DRIVERS LICENSE OF EACH AGENT AND NAME OF BONDING COMPANY

CERTIFICATE OF AUTHORITY (INSURER NAME AND EXP DATE), CERTIFICATE OF COMPLIANCE, POWER OF ATTY WITH NAME AND AMOUNT, CERTIFICATE AND INSURANCE ID/DRIVERS LICENSE OF EACH AGENT AND NAME OF

## BONDING COMPANY

Bonding companies are required to have on file current docs: general power, license, i.d. copy of agent, current certificate of authority and compliance.

Our Court does not discriminate on bond opportunities. Defendants can post cash, surety or 10% bonds.

Proper Paper work

Affidavit of Justification of Surety

ORC 3905.87; must file insurance card/ID or OL/Power of Attorney from insurer

We follow ORC 3905.87(B).

Reviewed by Judge

Our presiding judge has a list of approved bonding companies and the court only accepts bonds from companies on the approved list. This list is shared with the jailors and our off-duty bonding clerk. Anyone not on the list wishing to post bonds in our court must seek approval from Judge Capper.

CASH, PROPERTY, UNSECURED, 10 %

Certificate of compliance, cert. of authority w/co. name and ins. co name. Amt. they can bond for and copy of all agents

The Bondsman must present his or her Certificate of Compliance, General Qualifying Power of Attorney, copy of the Insurance License and a driver's license.

look at their card from the state and verify if we have paperwork filed here.

Local Rules indicate that any person wishing to file a bond in Wood County Common Pleas Court must register with the Clerk of Courts a copy of the agent's surety bail bond license, copy of the agent's driver's license and a certified copy of the surety bail bond agent's appointment by power of attorney from each insurer that the surety bail bond agent represents

X

Refer to Putnam County Prosecutor for investigation

Putnam County Prosecutor

Each surety company is required to submit a packet annually. The packet must include updated, power of attorney, license renewal from the State of Ohio, Certificate of compliance for all authorized agents and contact information. An updated list of approved surety companies is provided to the Lakewood Police department regularly.

Look at the Department of Insurance website to ensure that the bondsman is valid

We verify by driver's license, bonding license, power of attorney, certificate of compliance

Bondsman must be registered with Clerk's office, pursuant to ORC 2905.87. Bondsman must have a copy of the agent's surety bail bond license; a copy of the agent's driver's license or state I.D.; and a certified copy of the surety bail bond agent's appointment by power of attorney from each insurer that the surety bail bond agent represents.

Presentation of state issued bonding license, driver's license and qualifying power of attorney

The bondsman comes in with the Defendant, fills out the forms and gives us our copy to go in the criminal file

The Franklin County Municipal Court requires the information below to approve a surety. Completed Company Registration Copy of the State of Ohio Certificate of Authority and Certificate of Compliance for each insurance company you plan to write for. Signed Policy Acknowledgment on Registration. Completed Registration and Document Packet for each Agent. Prior to executing any bonds at the Franklin County Municipal Court, each agent is required to have an active appointment from the insurance company they are writing for, posted at the State of Ohio Dept. of Insurance, for each insurance company they are writing under. Photo copies of Driver's license and

Surety Agent bond license.

Department of Insurance Website

We require documentation from the insurance company (POA) and licensure information on each agent from the State of Ohio Dept. of Insurance

The Judge, Prosecutor and the Defendant or Defendant's attorney will come to an agreement during the Arrignment Process. Before the Arrignment we use the Bond Schedule that the Court has given to us to set the bonds.

Check to make sure they have the necessary insurance bond and they are filed with the State of Ohio and also our Common Pleas Court

Must be in good standing with Dept.of Insurance & be registered

Surety Bail Bonds are required to present the following documents when posting a bond: Certified Copy of General Qualifying Power of Attorney; State of Ohio Certificate of Authority; Certificate of Compliance; Bonding Company Registration; Bail Bond agent's Registration; Photo copy of Surety Agent's Bond Driver's license and Contact Information: Address, phone number and fax number. The Court keeps a list and distributes for those that are suspended/prohibited from posting bond.

We do not approve surety in the Clerk's Office. We use the initial Bond Schedule until the defendant goes to Arraignment then the Judge will keep the bond the same as the bond schedule , reduce or sometimes increase the bond with the input of the defendant, the defendant's attorney and the Prosecutor.

We vet each company with our judges and then ensure they are bonded

### Q3 - Please provide a copy of your court's bond schedule.

Please provide a copy of your court's bond schedule.

Name	Size	Type
BOND SCHEDULE JR 14 PG 141.pdf	503329	application/pdf
BOND SCHEDULE JR 14 PG 141.pdf	503329	application/pdf
NO INFORMATION AVAILABLE FOR BOND SCHEDULE.docx	12806	application/vnd.openxmlformats-officedocument.wordprocessingml.document
Bond Schedule Entry.pdf	77705	application/pdf
RRMC Bond Schedule.pdf	103737	application/pdf
Bond schedule.doc	54272	application/msword
BondSchedule.pdf	109097	application/pdf
BondSchedule.pdf	109097	application/pdf
BondSchedule.pdf	109097	application/pdf
BondSchedule.pdf	109097	application/pdf
Bond Schdule 8-27-13.pdf	46037	application/pdf
LocalRule_67.pdf	104193	application/pdf
Bond Schedule.doc	26624	application/msword
bonds.wpd.doc	109056	application/msword
SKM_454e16072811020.pdf	141806	application/pdf
Bond Schedule.docx	16605	application/vnd.openxmlformats-officedocument.wordprocessingml.document
Bond schedule.pdf	118844	application/unknown
BOND SCHEDULE.docx	12976	application/vnd.openxmlformats-officedocument.wordprocessingml.document
Bond schedule.pdf	55162	application/pdf
Bond Schedule Entry.pdf	77705	application/pdf
Bail Schedules 07 01 2009 table.doc	139264	application/msword
Bail Statutes.docx	37077	application/vnd.openxmlformats-officedocument.wordprocessingml.document

**Q4 - Please provide the following for calendar year 2015 (if no information, please put an "X" in "No information")**

Number of cash only bonds	Number of 10% Bonds	Number of ROR Bonds	Number of ROR Bonds with pretrial supervision 348 (it's possible not all are pretrial bonds)	Number of 10% Bonds with pretrial supervision 70 (it's possible not all are pretrial bonds)	Number of surety bonds	Number of surety bonds with pretrial supervision 199 (it's possible not all are pretrial bonds)	Number of property bonds	Number of public safety detentions after hearing	No information
0							0		
55	30	237 (This number includes ALL personal recognizance bonds ordered) . Personal recognizance bonds are ordered on every case in combination with other types of bonds. A smaller number of cases have personal recognizance only bonds	0 (Pretrial supervision is not done in Huron County per secretary in Probation Department)	0 (Pretrial supervision is not done in Huron County per secretary in Probation Department)	77	0 (Pretrial supervision is not done in Huron County per secretary in Probation Department)	2	0	



		ordered.								
5	4	170			25					
13	20	80	80	info not available	227	info not available	0	info not available		
0	0	82	29	82	0	0	0	0		
0	0	269		0	2	0	0	0		
0	13	0	182	4	33	3	0	52		x
3	13	675			150		0			
11	334	131	x	x	65	x	x	x		x
501	299	2897	x	x	103	x	x	x		x
31	469	1637	630	x	283	x	x	x		x
4	1384	x	x	x	125	x	0	x		
4	997	0	0	0	120	0	0	0		
1	102	x	x	102	102	x	x	x		x
0	29	61	0	0	51	0	0	Unknown		
1	245	3203	1841	X	1253	X	0	X		
0										X (other than we never have cash only)
0	All	unknown	0	0	unknown	x	x	unknown		
x	x	x	x	x	x	x	x	x		x
x	x	x	x	x	x	x	x	x		x
42	30	505	not available	Not Available	101	not available	0	not available		
0	4	72	x	x	8	x	x	x		x
11	12	377	x	x	x	x	0	x		x
36	120	1000			391		6			
7	4	355	78	X	119	X	0	X		X
458	7948	2445	x	x	4674	x	0	x		x
x	x	x	x	x	x	x	x	x		
none	91	92	none	none	116	none	none	7		XXX
300	580	78	4	0	0	0	12	70		

**Q5 - Please provide the number of bond/bail violations and hearings in the year 2015.**

Please provide the number of bond/bail violations and hearings in the year...

Each Judge handles it different, one does a Show Cause Hearing and the other does not, therefore we can not pull data for this questions.

These would be show cause hearings with bond forfeiture dispositons. We do not track these hearings.

The court schedules any hearings

X (unknown - information not tracked)

data would come from the Court

None.

unable to extract information

41

83

We don't have a program to provide this information

none

not available

0

136

7 Violations no hearings

40 Violations no hearings

1,032 Vilolations/No hearings held

4

0

x

Unknown

983

information not tracked

unknown

Our software system does not track these hearings

UNKNOWN

INFORMATION NOT AVAILABLE

x

not available

X

0

0

Don't have this information

73

n/a

1

Cannot provide

N/A

unknown

not tracked

no way to pull a report to find this information

450

**Q6 - For your answer to question 5, what were the outcomes of those hearings? If there is no information, please put an "X" in "No information"**

No finding of violation	Violation found, bail bond revoked	Violation found, conditions added or changed	Violation found, financial conditions added or increased	No information
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
x	x	x	x	x
159	46	250	98	

## Q7 - What are your jurisdictions policies regarding surety forfeitures?

What are your jurisdictions policies regarding surety forfeitures?

They are handled as a case, except we DO NOT send an OLF if it is not paid.

Our courts send out notices for a bond forfeiture hearing to all parties, including the bonding agents and insurance companies. If the bond is ordered to be forfeited, we get our Prosecutor's Office involved.

Court makes determination of surety forfeiture.

Individual case, by Court Order

As required per ORC 2937.35 & 2937.36

x

x

none

These are challenging to do, but with persistence we now either receive a check or they may produce the defendant.

BONDING COMPANY AND INSURANCE AGENCY IS ISSUED A LETTER AND COPY OF WARRANT, GIVEN 30 DAYS TO PRODUCE BODY OR APPEAR AT HEARING

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we follow the statute and issue a statutory notice of forfeitued recognizances to the surety and schedule a show cause hearing in approximately 55 days to allow the surety to appear and produce the defendant or show cause why bond should not be forfeited. It is only after that hearing that the disposition relative to bond is completed.

Our Court does not pursue collection of any monies from surety forfeitures.

x

Rules of Practice of the Court of Common Pleas, Local Rule 67

ORC 2937.36; set for hearing and notice sent

Our Court follows the Ohio Revised Code. The Clerk notifies the Bail Bondsman and Insurance Company.

surety Bondsman to pay monies

We have no set policy. Bond forfeitures are at the discretion of the Presiding Judge.

NA

Any bonding co. ordered to pay forfeiture on a bond in a criminal case shall not be authorized to file bonds for any other defendent until the forfeiture is paid.

My Judge set bonds and decides who when and where bonds are given.

N/A

CLERK SETS FORFEITURE HEARING 45 - 60 DAYS OUT FOR SURETY TO APPEAR IN COURT AND STATE WHY THEY SHOULD NOT BE HELD LIABLE FOR THE BALANCE OF THE BOND.

Refer to Putnam County Prosecutor

Refer Case to Prosecutor

Once a defendant does not appear for a court appearance and order is put on by the Judge forfeiting the bond. The bondsman is given thirty days to either show cause or pay the full amount of the bond. The Clerk personally calls the bondsman to notify him or her that the defendant did not appear, the letter is being mailed and a new warrant has been issued for the defendant.

We set the case for a show cause hearing and if the bondsman is unable to show cause then the bail is forfeited.

When a capias is issued for failure to appear, the Judge holds an adjudication hearing. Surety is notified of hearing date. Judge decides whether to forfeit bond or continue bond.

Bonding agent is given specified time to bring in defendant. Then order of forfeiture put on

STATE OF OHIO

Contact agent, DOI, and bonding company

Case by case basis

We receive a court order from the Judge forfeiting the bond. We send copies to the court, prosecutor, Surety Company and agent that wrote the bond.

If a forfeiture is ordered and not paid, the surety can no longer write bonds until that forfeiture is paid

This information will need to come from the Judge. In the Clerk's Office we receive a Court Order saying the bond has been forfeited.

We don't have any

**Q9 - Do you see delays in the bail system, and if so, where are those delays?**

Do you see delays in the bail system, and if so, where are those delays?

No

No

not from the clerk's perspective; any delays would be seen from the court's perspective. Our role is based upon the issuance of the bond and the processing of the bond proceeds.

No

No

x

no

Our experience seems to indicate that not all bail bondsmen monitor their clients closely.

No

No we do not

No I do not

No

No

not really, we get calls over the weekend to set bail or modify bail. We have a system in place to respond to those calls. Anyone who is detained over a weekend is arraigned Monday morning. While we do not specifically track unsecured bonds, we allow a lot of them and our records reflect predominantly 10% bonds.

Not in our jurisdiction.

x

NO

no

NO

I do not.

X

no

no

The jail list is checked on a daily basis and is updated two (2) times each day to ensure that a person is not unreasonably kept in jail for financial reasons.

No delays due to having the bond schedule and hearing jail cases almost daily

No

Not in our county

The bail system works fine for us

JAIL NOT GETTING THINGS UPDATED TIMELY.

Yes...not sure if we can rely on Dept of Insurance if they are not updating..May need a reporting system for the Clerks who do not get surety money

I do not see any delays in the bail system other than people calling the bail agent to post the bond and than the agent post the bond late in the day instead of right away or the agent is busy or lives in another County that may cause a delay in getting the bond posted. If it is too late in the day the person won't be released from the jail until the next morning.

I do not understand this question. What kind of delays would there be? A bond is set, and it is either posted or not posted.

In our Jurisdiction I do not see any delays in the bail system. I believe the current system works very well.



# Default Report

*Jail Work Group Survey*

August 31st 2016, 2:00 pm EDT

## 1 - What is your jail capacity (design capacity)?

What is your jail capacity (design capacity)?

2

286

88

220

638

Downtown Jail was designed to hold 111. New state standards have lowered the capacity to 48. Our Incarceration Facility is designed capacity is 240.

745

1762

1765

100/With a 12 bed variance (112)

914 beds

188

914 beds

160

N/A

N/A

578

848

914

914 maximum occupancy beds

26

26

118 Full SVC facility

82 MSJ facility

200 Total

24

Full Service Facility

65

10 beds

Hamilton County Justice Center- 1,522

Reading Road (Talbert House)- 163

Woodburn (Turning Point)- 53

258

82

218

100

We have two facilities one is Full service and holds 39 and one is Minimum Security and holds 48.

40 males

181

2

124

124

182 beds

36 males

422

1700

5

182

76 beds

76 beds

5

3 cells which hold 3 inmates total

we can hold 1 prisoner (one room with bed and one room with shower/sink/toilet)

36 beds

38

534

Total: 384

120

8 persons

8

5 holding, 13 for 12 days

411

6

7 cells

98 Beds

## 2 - What was your average daily jail population in the past year?

What was your average daily jail population in the past year?

0

Jan. 1, 2015 - Dec. 31, 2015 the ADP was 240.

89

145

571

Downtown Jail ADP for 2015 was 61

Incarceration Facility ADP for 2015 was 78

553

2165

2150

2015 (99)

2015 ADP for Montgomery County was 804.80

2015 580

2016

156

2015 ADP for Montgomery County was 804.80

150

N/A

N/A

490.21

786

803

803 inmates

17

11.69

124 Full SVC facility

16 MSJ facility

13

63.4

64.91

1

Hamilton County Justice Center- 1,227

Reading Road (Talbert House) - 148

Woodburn (Turing Point)- 36

219.58

34 - 2015

246

66

Full service was 42.48

Minimum Security 43.49

67.3

192

0

90.89 males and 23.16 females

145

21

411

2100

1.5

194

54.17

54.17

.2

0-1 inmates

0

38

55

500

281.22

118

1.3

11.5

5.4

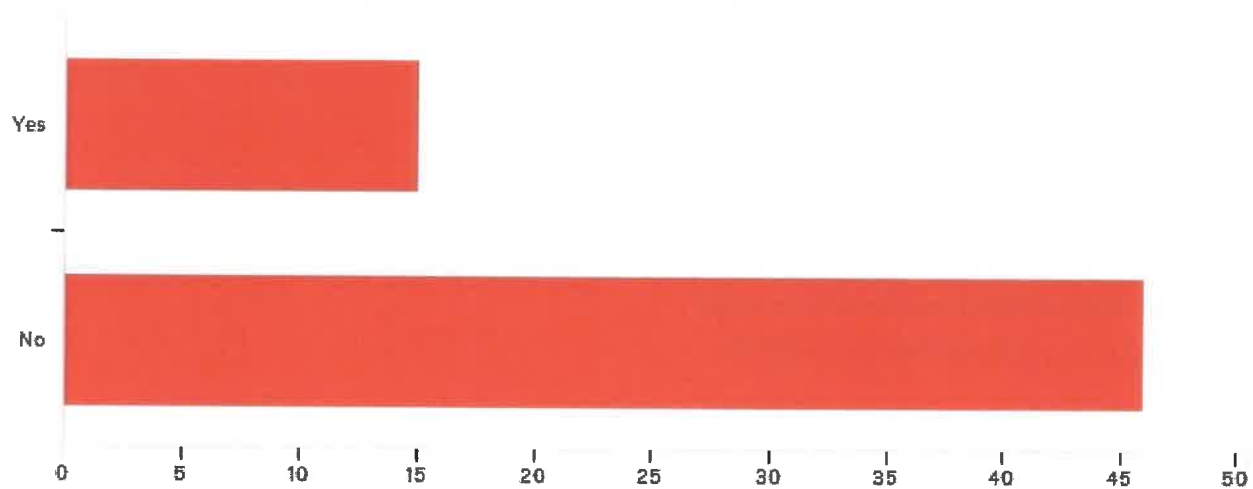
328

0

3

101 for 2015

### 3 - Does your local jail have the capacity to separate pretrial defendants from convicted defendants?



Answer	%	Count
Yes	24.59%	15
No	75.41%	46
Total	100%	61

**4 - What was the average daily percentage or number of pretrial defendants in jail in the past year? [Please include all persons brought in on a new crime violation (including violation of bond conditions)]**

What was the average daily percentage or number of pretrial defendants in j...

0

Pre-trial status; accounts for 60% - 70% of inmates in 2015. The jail does not have automated system to determine pre-trial status; status is determined by release codes.

We are running at an average of 74% unsentenced.

Pre trial 32%

Sentenced 68%

We do not track this information

Unknown.

734

70%

2015 estimate of 1,038

I do not believe we track this specific information as you've requested. If it is located, it will be submitted.

Cannot measure that through out current JMS system

I do not believe we track this specific information as you've requested. If it is located, it will be submitted.

Approximately 80 percent

N/A

N/A

70%

Not tracked

35

Estimate 95%

68 Full SVC facility

0 MSJ facility

1,676 persons booked in 2015

Do not know

56

90% est

84.89

Unknown



n/a

unknown

53

0

Unable to obtain that information

I do not have a program to figure this out for you. I can estimate 75%

No stats kept on this

75 percent

Unknown

39.67

39.67

33

0-1 inmates

0

90%

44%

do not capture this data

unable to say

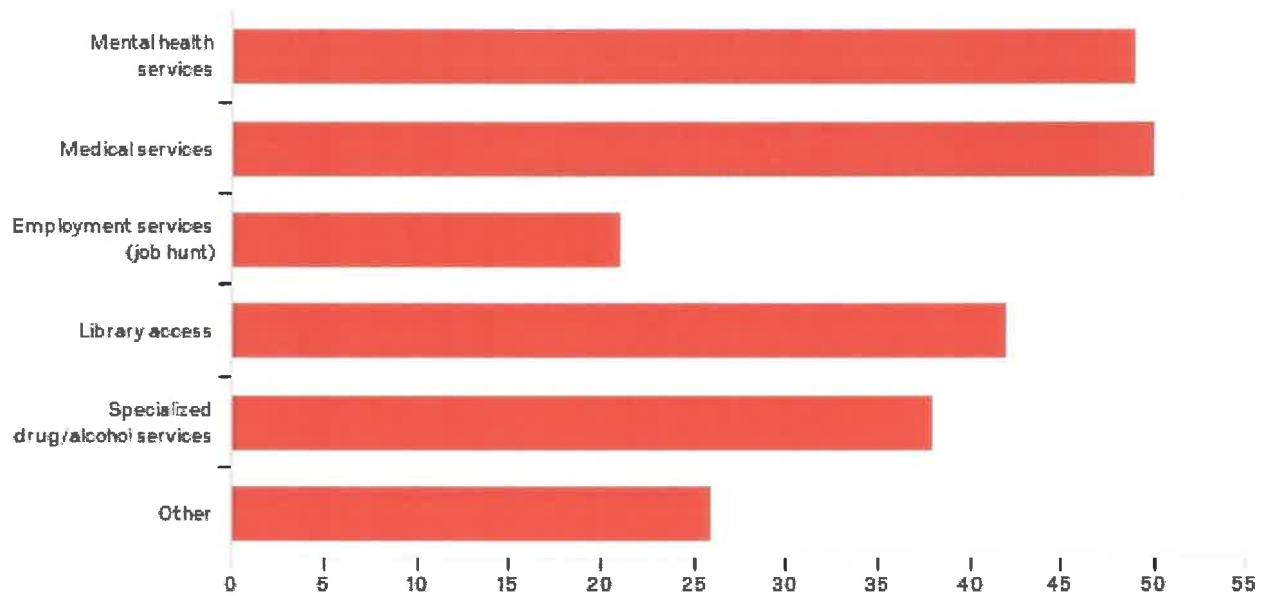
169

0

I would say the majority are pretrial or fresh arrests with only an occasional time server sentenced to jail time

45 inmates of the 101 ADP or 45%

**5 - What services, if any, does your jail provide to those incarcerated?**



Answer	%	Count
Mental health services	90.74%	49
Medical services	92.59%	50
Employment services (job hunt)	38.89%	21
Library access	77.78%	42
Specialized drug/alcohol services	70.37%	38
Other	48.15%	26
<b>Total</b>	<b>100%</b>	<b>54</b>

## 6 - What is the average length of stay?

What is the average length of stay?

2 hours

20 days in 2015.

14

The average length of stay for 2015 was 9 days

27.3 days

Average length of stay for 2015 is 17.5 days

18 days

30.90 Days

31 days

38 days

In 2015, the ALS for Montgomery County was 6.09 days for misdemeanants, 20.10 days for felons and 11.65 days for the total population.

52 days

In 2015, the ALS for Montgomery County was 6.09 days for misdemeanants, 20.10 days for felons and 11.65 days for the total population.

11 days (2016)

N/A

N/A

31.99 Days

22.5 days

20 days for felons and 6 days for misdemeanants

20 days for felons and 6 days for misdemeanants

17

2.92 days

18.5 Full SVC facility

19 MSJ facility

7 days

28 days

25.57 days

1 day

HCJC- Males-158 Female-118  
Reading Road (Talbert House) 3rd floor- 134  
Reading Road (Talbert House) 1st and 2nd floors- 108  
Woodburn (Turning Point)- 108  
Detention Male and Female-1

26.3 days

12.46

16 days

Full Service 24

Minimum Security 30

20 days

29.01 days

0- we are only a 6 hr facility and contract out to larger jails for most of our needs.

13.77 days

12 days 9 hrs

22 days

30 Days

30 days

2.7

7.5 days

22.57

22.57

27.7 hours

1 day

2 hours

14 days

20 days

21 days

23.3

16 days

2 day

1 day

18 days

We have a THF and contract our jail services to outside municipalities.

15 hours

16.8 Days for all persons incarcerated

**7 - In 2015, of the pretrial detainees incarcerated, what was their average length of stay?**

In 2015, of the pretrial detainees incarcerated, what was their average len...

2 hours

No means to track this data.

unknown

Unable to run a report on this.

13.8 days

We do not track this information

Unknown

15.22 Days

31 days

I do not believe we track this specific information as you've requested. If it is located, it will be submitted.

I do not believe we track this specific information as you've requested. If it is located, it will be submitted.

Current JMS does not measure that

I do not believe we track this specific information as you've requested. If it is located, it will be submitted.

13 days

N/A

N/A

Unknown

not tracked

7 days

8 days

Estimated 2.5 days

10 days

5-7 days, estimate

do not know

25.57 days

1 day

1 day

unknown

n/a

unknown

JMS cannot calculate this

0

NA

15days, 9 hrs

Not available

No stats kept on this

80 days

Unknown

n/a

n/a

21.30 hours

1 day

no pretrial detainees

20 Days

N/A

unknown

I am not able to supply this number

do not differentiate between pretrial and sentenced

unable to say

0

15 hours

Our jail management system does not separate out pretrial detainees regarding average length of stay. We at the present time do not have the ability to hand research over two thousand inmates. We are however looking to change this ability for the future.

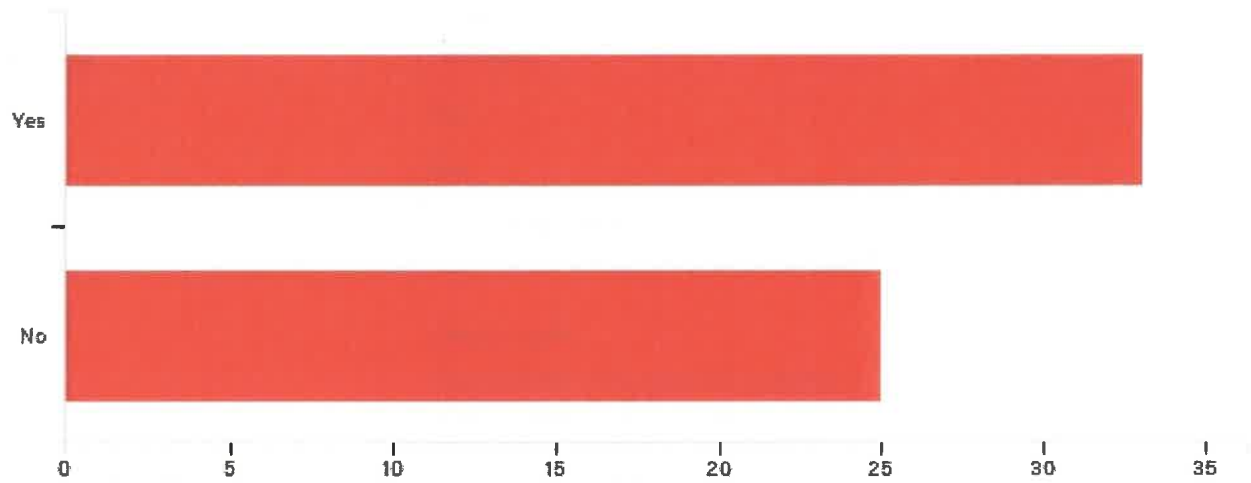
**8 - Please provide a one week snapshot of the past 12 months of:**

How many people made bail?	What were the charges against those defendants?	What was the amount of bail?
n/a	n/a	n/a
no means to track this data	no means to track this data	no means to track this data
unknown	unknown	unknown
17	OVI Suspension, Probation Violation, Corr Another with Drugs, Assault, Theft, Agg. Menacing, Menacing, OVI, Inducing Panic, Drug Abuse, Prostitution, Sale of Liquor to Underage, Burglary, Sexual Imposition, Disorderly Conduct	1,500-50,000
We do not track this information	We do not track this information	We do not track this information
Unable to extract this information	Unknown	Unknown
105	Various traffic charges, misdemeanor and felony criminal offenses	\$298,559 - cash/cash surety/ten percent bonds
105	Various traffic charges, misdemeanor and felony criminal offenses	\$298,559 - cash/cash surety/ten percent bonds
statistic not maintained	N/A	N/A
N/A	N/A	N/A
N/A	N/A	N/A
unknown	unknown	unknown
11	misdemeanor offenses	3500 10% average
35 out of 41 posted bond	Trespass, OVI (2), passing bad checks, misuse of credit cards, Domestic violence (2), and numerous warrants for failure to appear	The highest amount posted was \$10,000
20	DV, Failure to Appear, Theft	varried
do not know	do not know	?
not on tracking system		
15	warrants, theft and traffic charges	max of \$425
unknown	unknown	unknown
n/a	n/a	n/a
1	OVI or DUS	\$500
10	OVI 3cts, Failure to Register, Hit Skip, Obstructing Official Business 2cts, Endangering Children, Improper Turn,	24,800 total



140	Tampering with Drugs, Assault 2cts, Resisting, DV 2cts, Obstructing Justice, DUS, Violation of TPO, Theft, Breach of Recog, Possession of Drug Instruments Multiple from felony to minor misdemeanor	Amounts varied
Unknown	Unknown	Unknown
0	n/a	n/a
0	n/a	n/a
1	capias for dus, ovi	350, 500
0		
1	Drug charges	N/A
42	Domestic Violence, OVI, Trafficking In Drugs, Abduction, Inducing Panic, Endangering Children, Aggravated Possession of Drugs, Forgery, Theft, Burglary, OVI Refusal w/Prior Conviction, Assault, Menacing By Stalking, Rape, Illegal Manufacturing of Drugs (Meth), Felonious Assault, Aggravated Menacing, Unlawful Sexual Conduct With A Minor, Disrupting Public Services, Petty Theft, Disorderly Conduct	\$10,000, \$1,000, \$25,000, \$150,000, \$20,000, \$1,000, \$25,000, \$0, \$26,000, \$50,000, \$20,000, \$1,000, \$1,000, \$100,000, \$100,000, \$100,000, \$1,000, \$0, \$100,000, \$5,000, \$263.40
unknown	unknown	unknown
2	Assault/DUI	\$3,000 10%
0		
unable to say	unable to say	varied
0		0
9	Poss of Drugs Schedule II, III, IV; Disorderly Conduct; DV Knowingly Cause Physical Harm; Contempt Fail to Pay Support; Petty Theft / DUS Revocation Restriction; DUS FRA Suspension; DUS OVI Suspension / Speed; Contempt Fail to Pay Support	25,000; 1000.00; 2500.00; 250.00' 1000.00; 350.00; 625.00; 500.00

9 - Do you house any other inmates in your jail that you do not consider sentenced (convicted) or pretrial (unconvicted)? (e.g. courtesy holds)



Answer	%	Count
Yes	56.90%	33
No	43.10%	25
Total	100%	58

**10 - What is the per diem rate that you would charge other agencies to house inmates in your jail?**

What is the per diem rate that you would charge other agencies to house inm...

n/a

\$65.00 per day

N/A

\$55/day

\$82.50

\$55.00 per day

133.25

85.00

\$85 per day

Consultation with the Sheriff & Commissioners on actual rate charged which is currently under this.

Same as our actual per diem rate.

\$55.00 to \$60.00 a day

Same as our actual per diem rate.

\$77.44 per inmate per day for 2016

N/A

N/A

\$80.00 per day

\$70

\$61.03

75-80 dollars a day

85/day for some agencies and flat fee to provide jail services for two agencies.

\$65.00 per day

\$80/day

\$82.94

in county 50.00 dollars a day out of county 60.00 a day

we do not house for other agencies

Federal Inmates- \$55.00 per day.

City Only- \$65.00 per day.

we do not house for other agencies

\$45 per day

66.00

50

\$48.00

\$55 but we dont have room

we do have the ability to house other inmates...we are typically above capacity

we do not hold prisoners for other agencies

60.00 per day

60.00

Fed contract - \$70.00

Outside PD's \$75.00

50.00 per day

\$75.00 Daily

85 dollars a day

\$65.00

\$58.65

\$65.00

\$65.00

\$50/day

We don't house inmates for other departments. Occasionally we will stop someone that has a warrant from another department. We are asked to hold that individual till the other department can make arrangements for pick up. Usually an hour or so.

Unknown

\$58.50 per bed per day

\$55/day

90.00

\$60.00 per day

We don't contract with out side agencies.

do not house for other agencies

45.00/day for in county agencies

55.00/day for out of county agencies

\$100

\$66.54

N/A

\$70.00

\$86.50

## 11 - What is the actual per diem rate of your jail?

What is the actual per diem rate of your jail?

n/a

Offered on a sliding fee scale starting at \$1.00 up to \$60.00 per day based on the Federal Poverty Guidelines.

\$55.00 per day.

N/A

\$72.05

\$50.00

133.25

85.00

\$85 per day

\$81.82

Approx. \$59.58

Approximately \$55.00

Approx. \$59.58

\$77.44 per inmate per day for 2016

N/A

N/A

\$86.00

\$55.60

\$61.03

unsure, too many factors to consider

Depends on population

Low \$74

High \$77

\$80/day

\$82.94

same as above

we do not house for other agencies

\$65.00

in 2015, it was \$93.83

\$93.25 per day - 2015

46.00

50

\$65.00

\$55

this question can be interpreted in many different ways...I can tell you meal cost is \$5.22 and laundry is at \$0.62 per day. I do not have a calculated cost for utilities etc as the Jail does not pay these bills.

n/a

60.00 per day

60.00

\$68 - Utilities, not factored in

\$75.00 Daily

50 dollars

\$58.65

estimated \$90.00

estimated \$90.00

-

N/A

\$55/day

90.00

\$70.00

\$70.00

not applicable

45.00/day for in county agencies

55.00/day for out of county agencies

unable to say

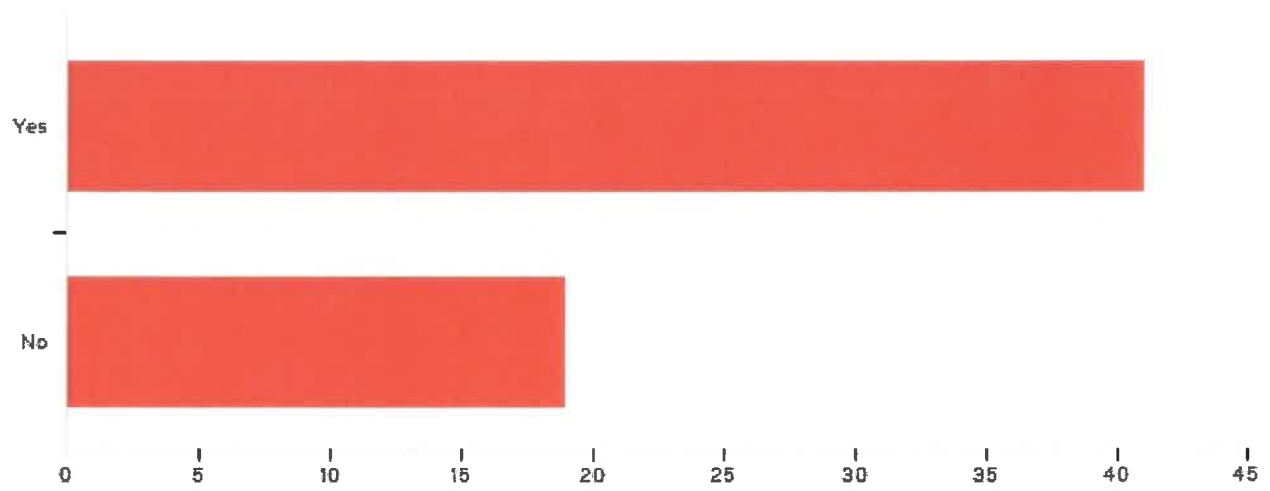
\$71.43

N/A

\$70.00

\$99.35

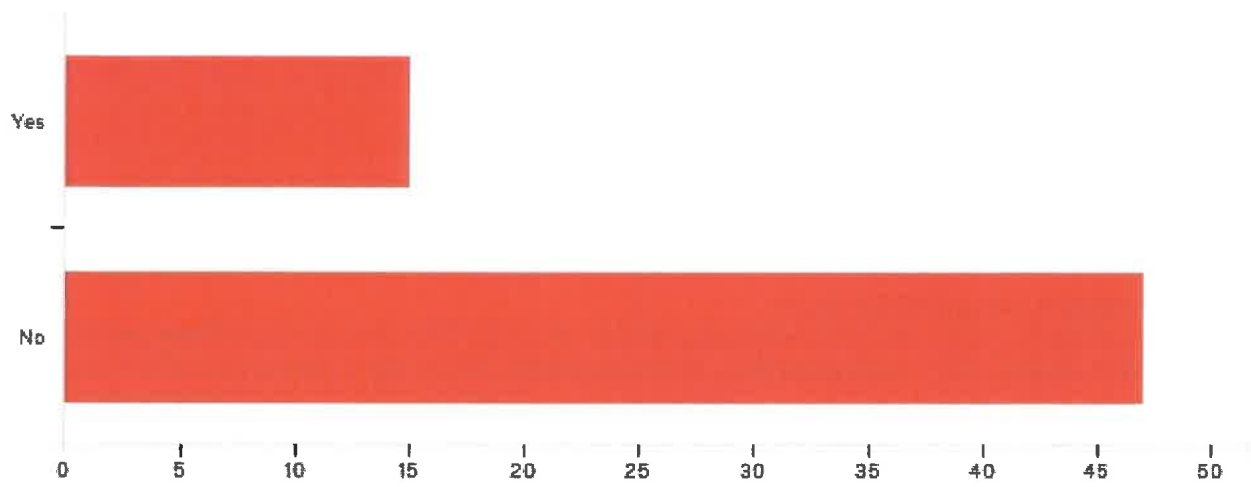
**12 - Do you use a bail schedule for arrestees coming to your jail? (Please submit a copy)**



Answer	%	Count
Yes	68.33%	41
No	31.67%	19
Total	100%	60



### 13 - Does your jail use an electronic monitoring program?



Answer	%	Count
Yes	24.19%	15
No	75.81%	47
Total	100%	62

## 14 - If your jail operates an electronic monitoring program, what are the total costs to operate the program?

If your jail operates an electronic monitoring program, what are the total...

n/a

N/A

Electronic monitoring is managed by the courts.

Municipal court contracts out for electronic monitoring service. Municipal Court: Around \$150.00 per person - pending of level of security - for 2 weeks of service which is around \$10.00 per day. \$7,858 annual cost in 2015. No investigation occurs at Municipal Court prior to arraignment. Delaware Municipal Court arraignments may be in person but typically occur via video five days per week, most within 24 hours. Bond can be set six days/week.

Common Pleas operates electronic monitoring service in-house. Common Pleas: 2015 annual cost for equipment ONLY was \$45,000; \$8.00 per person/per day, indigent services are absorbed by court. Implemented in Jan. 2016, the Pre-trial Supervision officer screens the majority of Common Pleas cases prior to their first court appearance; a written report is given to the judges and to the prosecutor's office for bond consideration. Screening is usually done through an interview using the ORAS PAT screening tool, which assess for mental health conditions, likelihood of future fail to appear and likelihood of new criminal activity. Current there are approximately 80 individuals on pre-trial supervision; most get drug screens. Highest pre-trail caseload was 100 individuals, estimated weekly average is 30 individuals. Electronic monitoring is used frequently. Common Pleas arraignments occur within ten days of indictment. 20% of cases are out of county.

We have an EM program but it is operated by the Adult Probation Department. Therefore, I do not have the costs to operate it.

This program provides EM, GPS and Transdermal Alcohol Detection units (TAD) to offenders from 5 counties.

\$606,680.00

325000 yr

N/A

N/A

N/A

2 programs. 1 is grant funded through the State of Ohio (\$31,500.00 annually). The other program is funded by the Madison County Sheriff. Other electronic monitoring programs are offered by courts or county probation.

N/A

N/A

unavailable

No

n/a

N/A

\$2.2 Million per year

N/A

N/A

n/a

The Marietta Municipal Court uses this system not our jail.

It is only used for those granted work release while incarcerated. The cost is \$10.00 per day, however the inmate pays \$5 per day, the other \$5 is covered by commissary fund

50.00 connection fee 10.00 per day unless otherwise found indigent by the court and need house arrest due to medical issues. Actual cost of device is 5.00 per day.

No cost to our facility they are set up by the court through various monitoring companies

\$4.75 per device per day when in use

\$4.75 per device per day when in use

N/A

We use an outside agency, they do not pay the jail.

N/A

N/A

**15 - Of those inmates utilizing electronic monitoring, what is the cost, per person, per day?**

Of those inmates utilizing electronic monitoring, what is the cost, per per...

n/a

See above.

Regular EM \$10.00 /day

GPS \$ 14.00 /day

TADD \$ 12.25 /day

Alcohol only TADD \$11.00/day

10.00

The various courts sometimes use this type of service, Unaware who.

Electronic Home Detention is run by a Dayton Municipal Court and the Court of Common Pleas in Montgomery County.

Electronic Home Detention is run by a Dayton Municipal Court and the Court of Common Pleas in Montgomery County.

Cost to the inmate is nothing, unless they damage or destroy the equipment. If that takes place, the appropriate Court for that jurisdiction will determine if restitution is to be made.

N/A

N/A

unavailable

n/a

n/a

N/A

Base Unit- \$2.25 per day

ET1 (GPS) \$4.34 per day

TAD Unit (Alcohol)- \$6.82 per day

N/A

N/A

n/a

NA

The cost is \$10.00 per day, however the inmate pays \$5 per day, the other \$5 is covered by commissary fund  
50.00 connection fee 10.00 per day unless otherwise found indigent by the court and/or need house arrest due to medical issues

Most of them charge a \$300 hook up fee then \$10 a day. This varies by the court

\$25.00 initial installation fee, then \$10. 00 per day

\$25.00 initial installation fee, then \$10. 00 per day

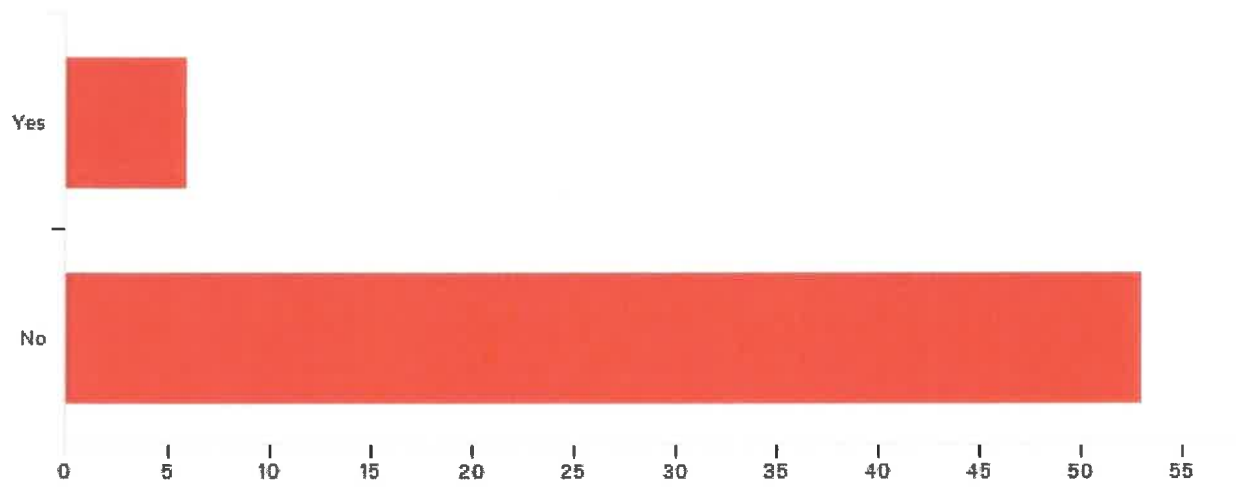
N/A

N/A

N/A

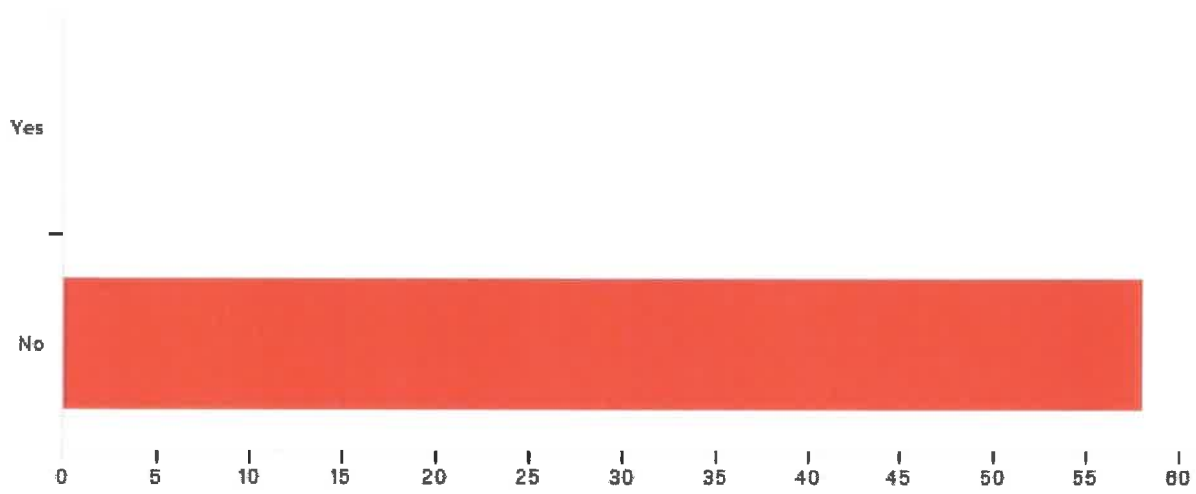
N/A

**16 - Does your jail operate any other program designed to manage defendants outside of secure confinement?**



Answer	%	Count
Yes	10.17%	6
No	89.83%	53
Total	100%	59

### 17 - Does your jail operate a day reporting program for pretrial defendants?



Answer	%	Count
Yes	0.00%	0
No	100.00%	58
Total	100%	58

**18 - If your jail operates a day reporting program, what are the total costs to operate the program?**

If your jail operates a day reporting program, what are the total costs to...

n/a

N/A

N/A

N/A

N/A

N/A

N/A

Jail doesn't operate reporting program, the Municipal Court handles this, no cost totals available

n/a

N/A

N/A

N/A

n/a

n/a

n/a

-

N/A

N/A

N/A

N/A



**19 - What is the cost, per person, per day, of your day reporting program?**

What is the cost, per person, per day, of your day reporting program?

n/a

N/A

N/A

N/A

N/A

N/A

N/A

unavailable

n/a

N/A

N/A

N/A

n/a

n/a

n/a

-

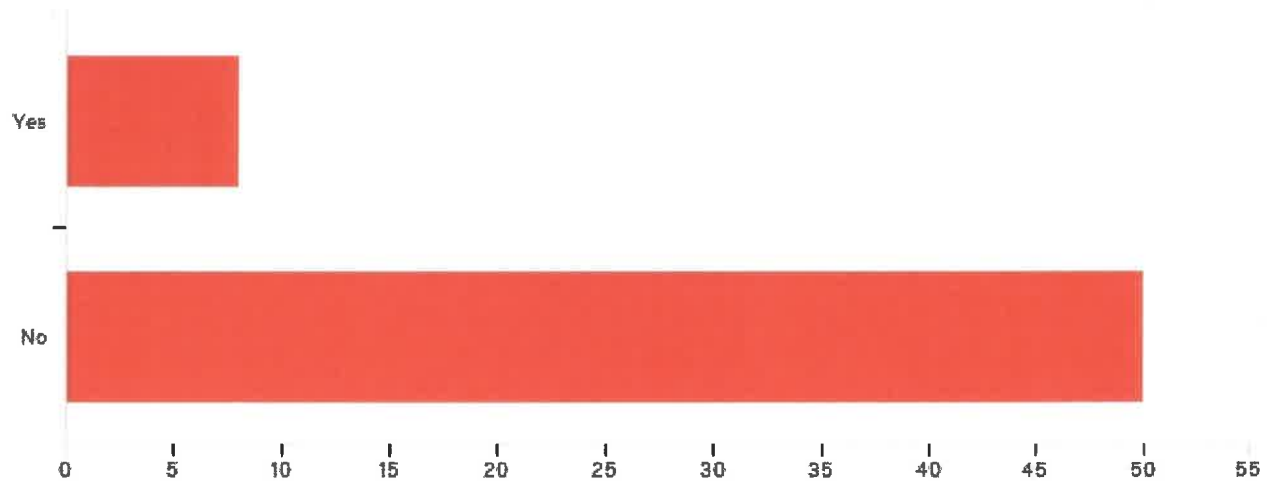
N/A

N/A

N/A

N/A

**20 - Does your jail have a plan currently in place to work with your local courts as it relates to alternatives to incarceration for pretrial detainees, or any plan relevant to jail bed allocation?**



Answer	%	Count
Yes	13.79%	8
No	86.21%	50
Total	100%	58

## 21 - If you have a plan in place, can you please describe the plan?

If you have a plan in place, can you please describe the plan?

n/a

N/A

Electronic Monitoring, TADD, GPS and House Arrest EM

Felony Pretrial Services

N/A

N/A

N/A

N/A

N/A

Jail bed allocations.

Most alternatives to incarceration are handled by our Municipal Court and the Probation Department

n/a

BUTLER COUNTY DETENTION CENTER

Veteran Court, Drug Court and transitional housing (e.g. CCAT house, River City, Salvation Army, First Step House, Prospect House, ADAPT, etc.)

N/A

N/A

Courts have programs available

n/a

Veterans Court and Drug Court. The courts look at alternatives like treatment besides just incarcerating individuals

n/a

n/a

-

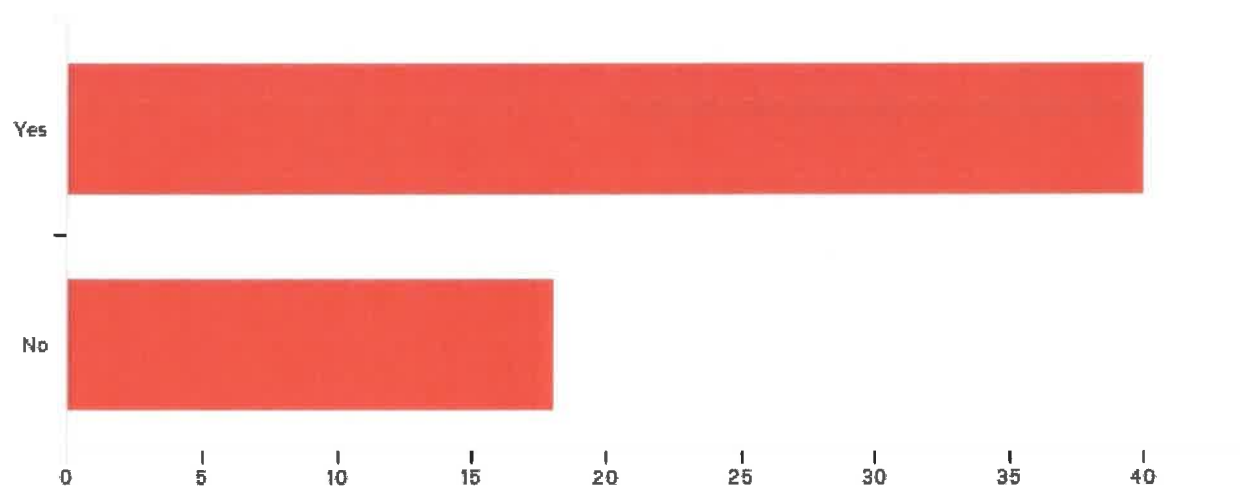
N/A

If the jail is full we will contact the sentencing judge of the new inmate coming to jail and ask them to look at a list of inmates due to get out within the next month for a possible release to make room. If no release is given the we will try out of county housing, depending on what is available. If nothing I available or budgetary issues we may house inmates in the recreation area.

N/A

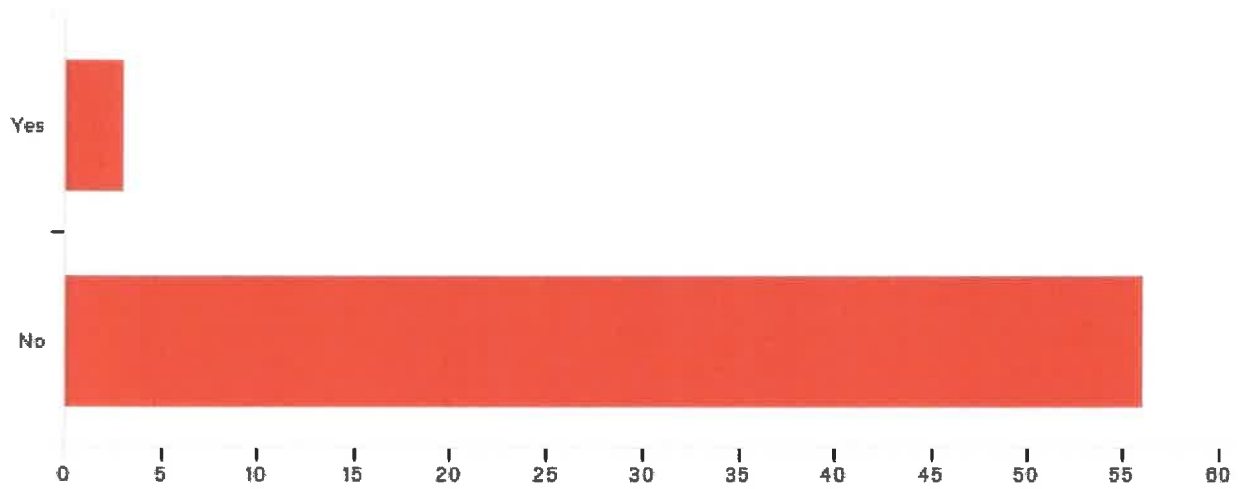
N/A

## 22 - Do you regularly report to your local courts of basic population data from the jail?



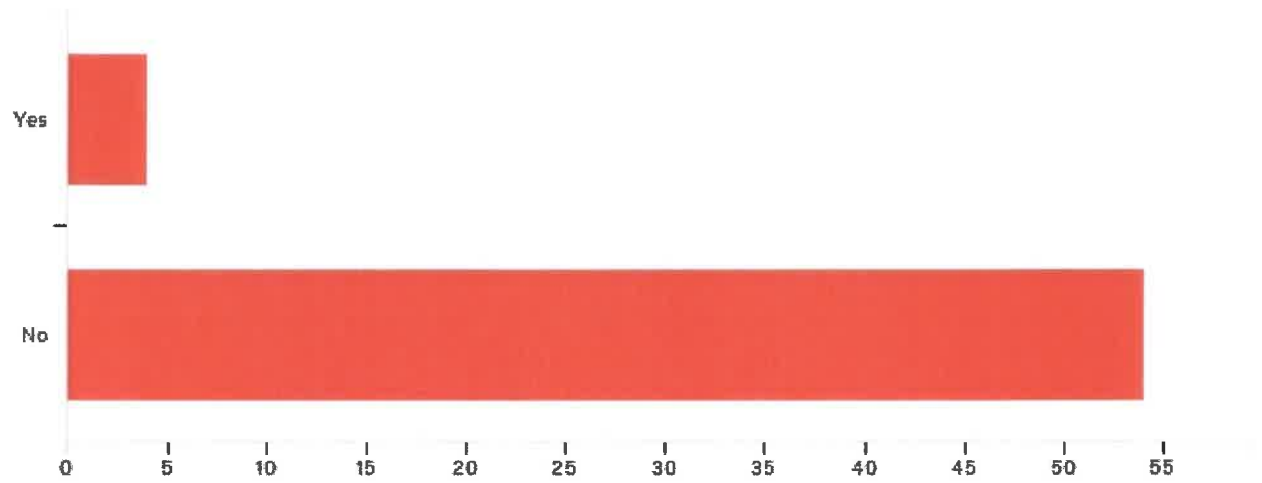
Answer	%	Count
Yes	68.97%	40
No	31.03%	18
Total	100%	58

**23 - Is your jail currently under a federal court order, or any other order, as it relates to an allowable maximum number of incarcerated inmates before you have to release inmates?**



Answer	%	Count
Yes	5.08%	3
No	94.92%	56
Total	100%	59

**24 - Does your jail operate any other pretrial programs that keep individuals from incarceration while awaiting trial?**



Answer	%	Count
Yes	6.90%	4
No	93.10%	54
Total	100%	58

**25 - If the answer to question 24 was yes, please describe the program.**

If the answer to question 24 was yes, please describe the program.

n/a

N/A

Work Release

N/A

N/A

N/A

N/A

N/A

n/a

Process Only- Inmate has to be charge with a non-violent offence to be eligible. The inmate is processed into the jail as normal and is released giving the inmate a court date for the charge.

N/A

n/a

Veterans Program - Assists veterans with mental health or physical treatment. Also works with the court to find alternatives besides incarceration

Stepping up Program - Assists with drug and alcohol counseling and treatment.

Lorain County Reentry - Assists with counseling, shelter, legal questions, obtaining a valid I.D., jobs

n/a

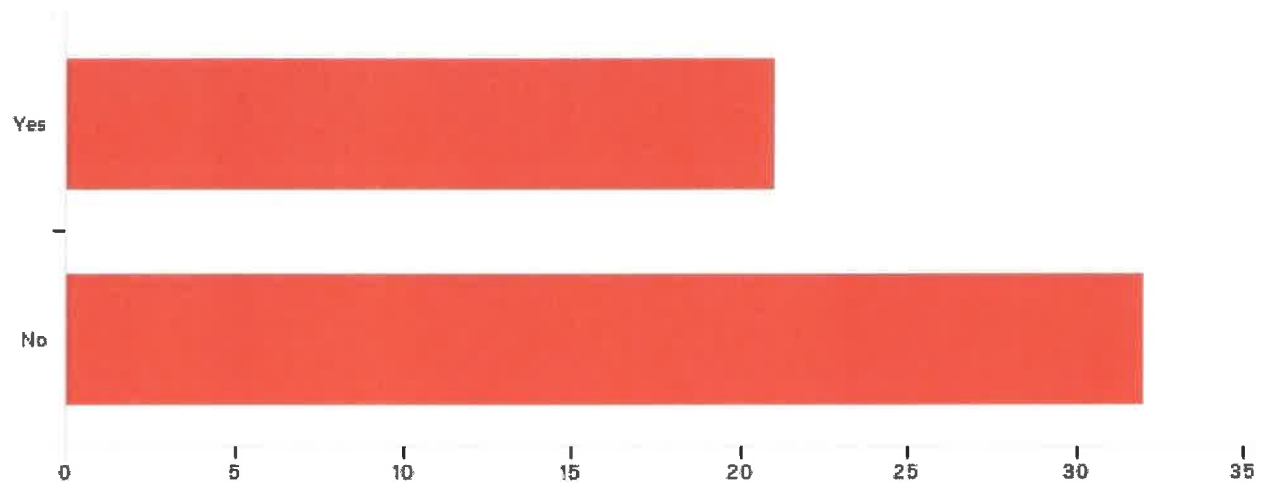
n/a

-

N/A

N/A

**26 - Do you believe there should be more legal reforms in Ohio that keep pretrial detainees from incarceration while awaiting trial?**



Answer	%	Count
Yes	39.62%	21
No	60.38%	32
Total	100%	53



## 27 - What might those legal reforms look like?

What might those legal reforms look like?

unknown

N/A

Reduced Bond amounts when being supervised with EM, GPS, or TADD

Arrest Diversion Programs, specifically for first time felony offenders. No money bail

Electronic monitoring & more mental health & detox facilities

Bond reform, increased ADAMHS screening capabilities, pre-detention diversion screening and community crisis centers

Bond reform, increased ADAMHS screening capabilities, pre-detention diversion screening and community crisis centers

N/A

N/A

Mandated day reporting/work details

Depends upon charge; many are unemployed need some type reporting / work program while seeking employment prior to court.

DRUG AND ACOHOL ADDITCION

mandate that judges acutaly show up in court and hear cases

Get away from set bond schedules at both the municipal and common please court levels

N/A

House Arrest / ankle monitors

There is a need to restrict the sentencing powers of municipal and county court judges. Misdemeanor probation cases and crimes are filling county jails. With all the sentence restructuring in felony courts something has to be done at the misdemeanor level

n/a

NA

Treatment for drug addiction while the wait for trial

n/a

n/a

-

House arrest /electrinic monitoring

N/A

To keep low level, non violent, non threat to community safety type of offenders out of jail on bond while awaiting trial. This will reduce overcrowded populations in jails, save bed space for more serious and /or violent offenders while reducing the amount of tax paying dollars spent on the cost of incarceration.



**28 - Are there any other systematic issues that interfere with getting inmates to their proper place?**

Are there any other systematic issues that interfere with getting inmates t...

mental health issues

No we have a transportation system to assist the Sheriffs in getting defendants to court.

no

Judges treating the jail as a medical/mental health facility rather than a jail.

no

Yes lack of mental health care facilities and detox facilities

Not sure what this question is asking for.

Not sure what this question is asking for.

N/A

N/A

Not enough bed space in programs, not enough programs

Bed availability for mental health inmates, also for drug and alcohol treatment

no not that I am aware of.

Yes, the immediate availability of mental health beds continues to be an issue. Person with severe mental illness are still incarcerated because it is convenient.

NO

YES. CUYAHOGA COUNTY JAIL DOES NOT HOUSE PRE-TRIAL DETAINEES. THIS CREATES A HUGE ISSUE WITH LOCAL JAILS. MOST DETAINEES HAVE DRUG ADDICTIONS AND MENTAL HEALTH ISSUES THAT LOCAL JAILS ARE NOT EQUIPPED, NOR STAFFED TO DEAL WITH. CUYAHOGA COUNTY JAIL MUST EXPAND A MENTAL HEALTH WARD THAT PRE TRIAL DETAINEES FROM LOCAL JAILS CAN BE BROUGHT THERE TO RECEIVE THE MENTAL HEALTH TREATMENT THEY NEED. LOCAL JAIL ARE FORCED TO USE HOSPITAL EMERGENCY ROOMS WHICH ARE COST PROHIBITIVE, AND DO NOT PROVIDE THE PROPER TREATMENT.

No

Need more video arraignments and video court because of under staffing.

Lack of funding

n/a

NA

NA

I come from a small agency in a Rural area - we do have some barriers that are most likely unique to us or other small agencies such as transportation.

I also believe that lack of a case manager is an issue. The inmate needs more direction to help link to services and

where they need to go, what they need to do, etc. We set them up to fail when we give a list of requirements and then send them out the front door without some assistance or accountability.

No

Financial constraints

Financial constraints

-

Lack of Mental Health Facilities

System overload

No

N/A

N/A

# Default Report

*Pretrial Services Utilization Work Group*

August 31st 2016, 2:59 pm EDT

## Q1 - Please provide your name.

Please provide your name.

Administrative and Presiding Judge John J. Russo

Jonathan Hein

Judge Gene A. Zmuda

Judge Jeffrey L. Reed

Richard L. Collins, Jr.

Melissa Litteral

Greene County Common Pleas Court /Greene Co. Adult Probation

Judge David N. Abruzzo

Pam Myers

Beth A. Cwalina

Robert C. McClelland

Guy L. Reece II

Michael Holbrook

Joyce V. Kimbler

Howard Harcha

Chris Collier

Eugene A. Lucci

Edward Emmett O'Farrell

Reeve Kelsey

Brenda A. Willis

Jody Luebbers

John T. Wallace

steve wolaver

Nick Selvaggio

W.WYATT MCKAY

Judge P. Randall Knece  
Pickaway County Common Pleas Court

Judge Jim Slagle

Dan Favreau

Rocky A. Coss

Scott Fulton, Director  
Adult Court Services Department  
Licking County Common Pleas Court

Robert J. Batchelor

Thomas marcelain

Judge Taryn Heath  
Stark county Court of Common Pleas

michael p kelbley

Alan Mayberry

Corey E. Spitler

Everett krueger

Judge Roger E. Binette

Judge Craig Hedric

Judge John S. Collier

William C. Cooper

Ronald P. Forsthoefel

Tiffany Beckman

Timothy N. O'Connell

Forrest W. Burt

David Matia

## Q2 - What is your phone number and email address?

What is your phone number and email address?

216-443-8676;  
cpjr1@cuyahogacounty.us  
937-547-7325

commonpleas@co.darke.oh.us  
419-213-4565

gzmuda@co.lucas.oh.us  
41-223-8525  
jreed@allencountyohio.com  
440-350-2720

judgecollins@lakecountyohio.gov  
937-562-5146  
mlitteral@co.greene.oh.us

937-456-8165; 101 East Main Street, Eaton, Ohio 45320

419-774-5565 pmyers@rcapoh.com

440-326-4718 bcwalina@loraincounty.us

216-442-8686  
CPRM1@cuyahogacounty.us  
614 525-6288

(614)525-3664 and Michael\_holbrook@fccourts.org

330 725 9737 jkimbler@medinacommonpleas.com  
740-355-8207

hharcha@sciotocounty.net  
330-725-9731  
cdemlow@medinaco.org  
(440) 350-2100  
JudgeLucci@LakeCountyOhio.gov  
330 - 365-3213

4193549220  
(740) 223-4239

bwillis@co.marion.oh.us  
513-946-5755  
judgeluebbbers2016@gmail.com  
(740) 385-4027

937 562-5218 swolaver@co.greene.oh.us

937-484-1000

nselfaggio@co.champaign.oh.us

330-675-2577

CAMCKAY@CO.TRUMBULL.OH.US

740-474-6026

rknece@yahoo.com

jslagle@co.marion.oh.us

740-223-4212

740-962-3371

937-393-2422

judgecoss@co.highland.oh.us

740.670.5732

740-622-1595

bobbatchelor@coshoctoncounty.net

740-670-5777 tmarcelain@lcounty.com

330-451-7708

judgeheath@starkcountyohio.gov

419 447 2982 ext 1

mpk@senecacocourts.org

419-354-9600

amayberry@co.wood.oh.us

330 287 5540

cspitler@waynecourts.org

740833 2550; you have it since you sent the survey

(419) 627-7732

rbinette@eriecounty.oh.gov

513-887-3672

hedriccd@butlercountyohio.org

(419) 592-5926

john.collier@henrycountyohio.com

740-534-5848

judgeccooper@yahoo.com

419-282-4291

court@ashlandcommonpleas.com

Phone is 419-399-8220

trbeckman@gmail.com

937-225-4416

440-279-2015

216-443-8695

cpdtm@cuyahogacounty.us



### Q3 - What is the size of your jurisdiction?

What is the size of your jurisdiction?

1.263 million

53,000

Lucas County is in excess of 500,000

Approximately 120,000

All of Lake County, Ohio

Population 230,000

Common Pleas Court General Division

302,827

1.5 million citizens

Large County

Franklin County

150,000

70,000

175,000

232,000

100,000

80,000 county-wide

125,000

50000

37,000 people

807,598

county wide About 28,000 people live in Hocking county.

160,000

40,000 people

OVER 200,000

55,000

Marion County - 66,000 population

421 square miles 15,000 population

43,000

110,000

Coshocton County (pop. est. 36,000)

165,000 +/-?

population approximately 375,000

59000

130,000

115,000

180000-190000

Countywide

400,000 plus

I have county wide jurisdiction as a general division common pleas court judge. The population of the county is about 29,000.00

65000

County Population approx. 54,0000

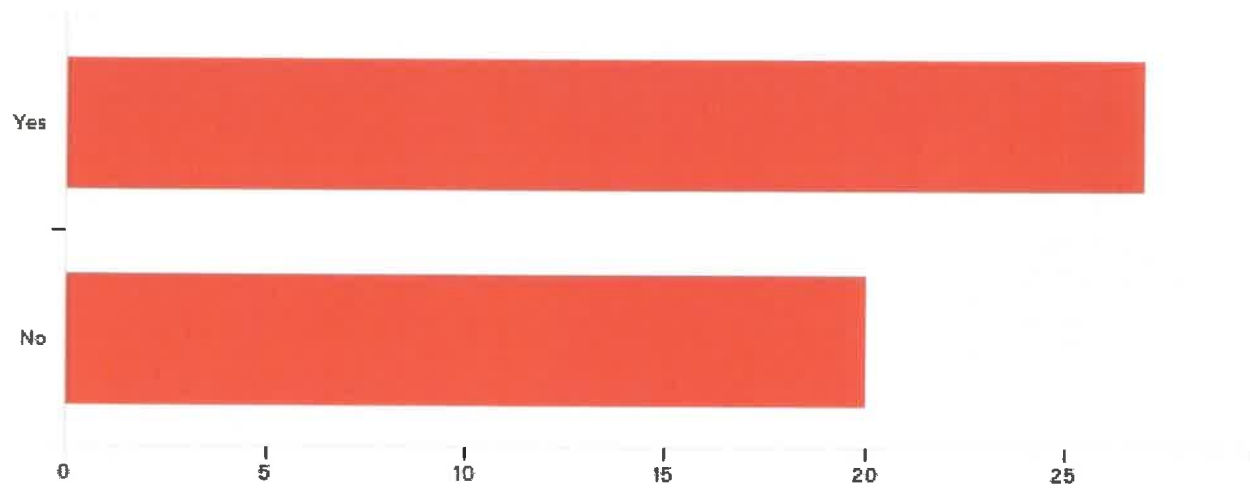
Small, rural--20,000 in county

450,000 population

95,000

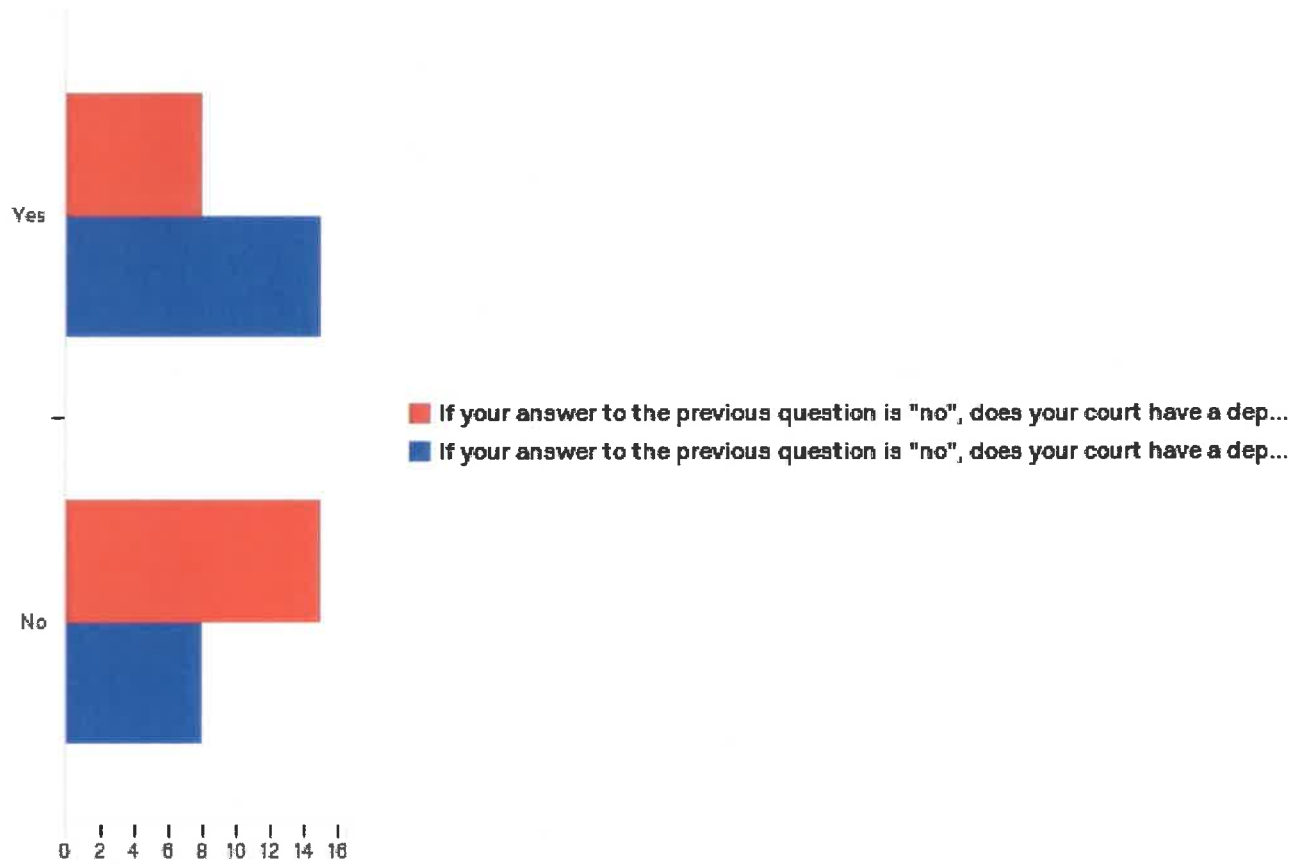
1mil+

**Q4 - Does your court have a pretrial services department/process that provides information to the court on bail detention decisions?**



Answer	%	Count
Yes	57.45%	27
No	42.55%	20
Total	100%	47

**Q5 - If your answer to the previous question is "no", does your court have a department, person, or group of people tasked with the following:**



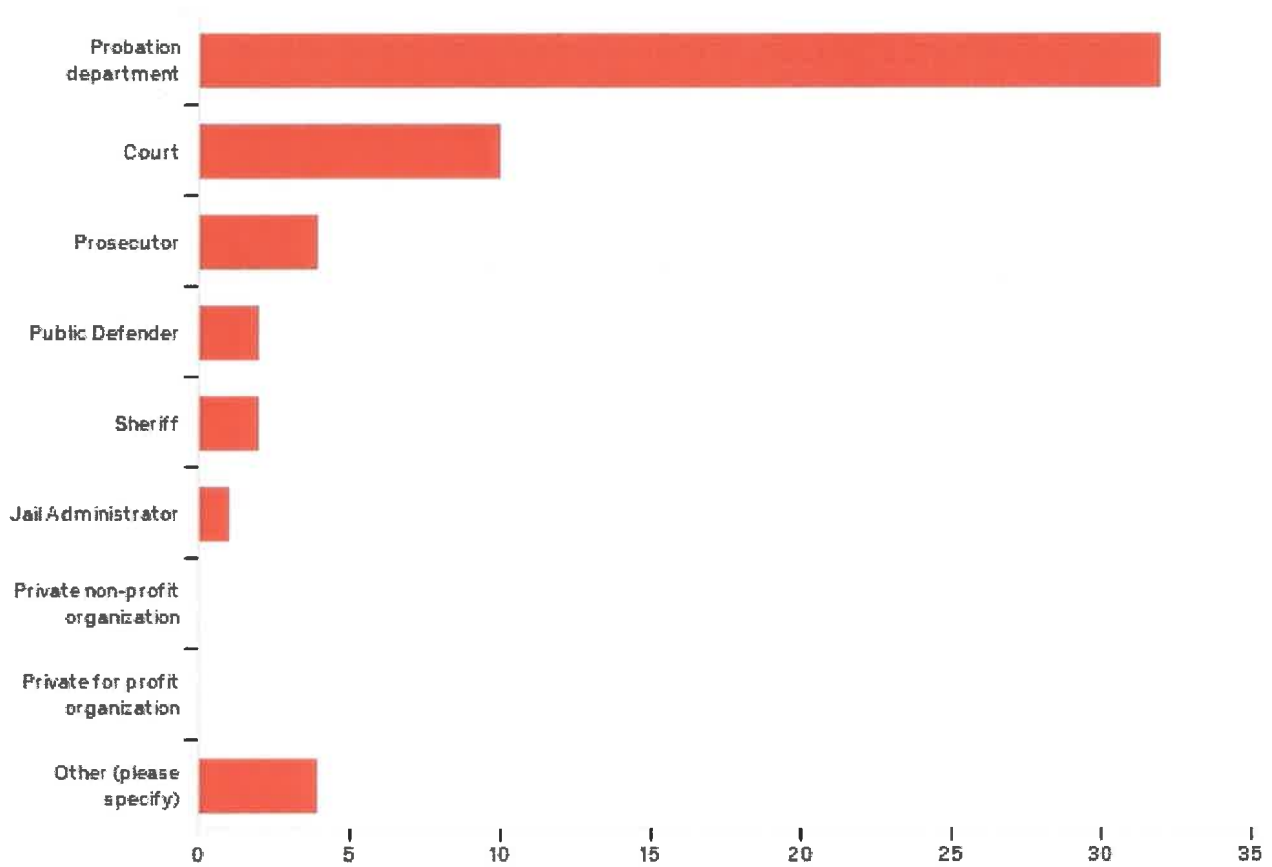
**Question**

**Bail investigation (criminal history, community ties) and/or risk analysis regarding bail or detention decision.**

**Pretrial/bail supervision**

	Yes	No	Total
Bail investigation (criminal history, community ties) and/or risk analysis regarding bail or detention decision.	34.78% 8	65.22% 15	23
Pretrial/bail supervision	65.22% 15	34.78% 8	23

**Q6 - Where is the pretrial services agency or person(s) located administratively in the criminal justice system?**



Answer	%	Count
Probation department	72.73%	32
Court	22.73%	10
Prosecutor	9.09%	4
Public Defender	4.55%	2
Sheriff	4.55%	2
Jail Administrator	2.27%	1
Private non-profit organization	0.00%	0
Private for profit organization	0.00%	0
Other (please specify)	9.09%	4
Total	100%	44

Other (please specify)

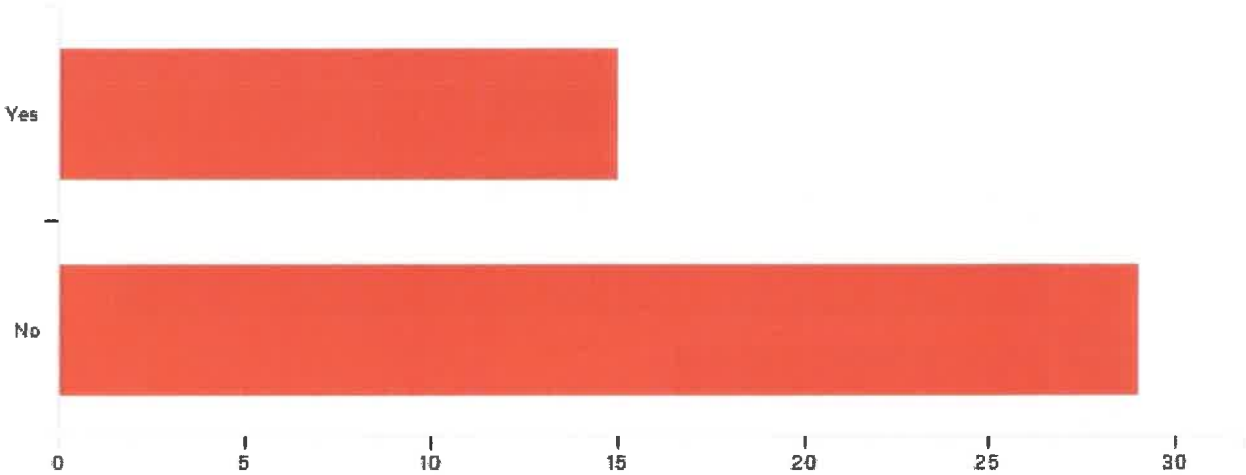
Other (please specify)

Regional Court Services

N/A

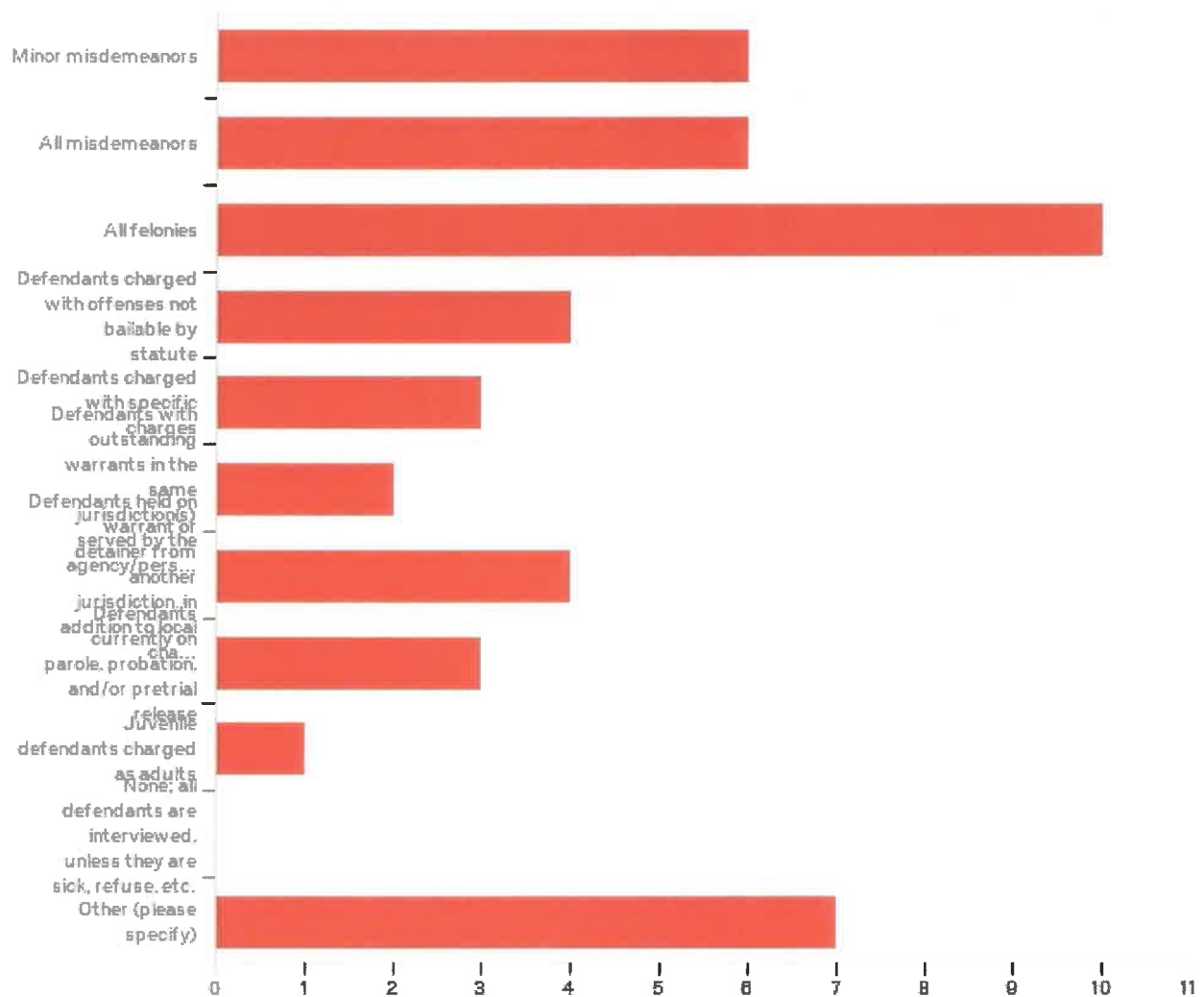
The limited information I get relating to pre-trial investigation comes from the Prosecutor's office

**Q7 - Does the agency or person(s) do universal screening?**



Answer	%	Count
Yes	34.09%	15
No	65.91%	29
Total	100%	44

**Q8 - If your answer to the previous question is "no", which defendants are not being screened?**



Answer	%	Count
Minor misdemeanors	22.22%	6
All misdemeanors	22.22%	6
All felonies	37.04%	10
Defendants charged with offenses not bailable by statute	14.81%	4
Defendants charged with specific charges	11.11%	3
Defendants with outstanding warrants in the same jurisdiction(s) served by the agency/person	7.41%	2
Defendants held on warrant or detainer from another jurisdiction, in addition to local charges	14.81%	4



Defendants currently on parole, probation, and/or pretrial release	11.11%	3
Juvenile defendants charged as adults	3.70%	1
None; all defendants are interviewed, unless they are sick, refuse, etc.	0.00%	0
Other (please specify)	25.93%	7
Total	100%	27

Other (please specify)

Other (please specify)

Those people not in the County jail.

N/A

screening occurs only upon referral from judge in specific case

all felonies other than those issued summons on indictment

misdemeanors other than domestic violence

summoned arraignments

We have no department to do this

**Q9 - How many employees does the pretrial services agency have (or equivalent people performing the functions of pretrial services)?**

How many employees does the pretrial services agency have (or equivalent pe...

Approximately 15-20 in the Probation Department and 17 in the Criminal Records Department.

2

5

N/A

Our Pre-trial section is called Pre-Sentence. I have 4 staff and 1 administrative assistant. This section completes all bond reviews, all pre-sentence motions prior to sentencing, and all pre-sentence investigative reports are completed in this section.

2

5

I am unsure of the number.

approximately a dozen plus four with house arrest

2

1

1

1

one

1

1

Three

I don't know

one, parttime

2

N/A

ONE

zero

1

4

two

one full-time employee and one part-time employee

1

I would say the equivalent of 3 full time; the probation dept. employs 2 full time, and one from the Sheriff's office participates and one from the Magistrate's office and one from the clerk's office, who contribute together probably equal to one more full time spot.

7

1

Probation Department has 8 employees

1

2

7-8

2

2

Combination of persons & part-time staff. Could be done by a single individual tasked with just that role.

N/A

Five

2

We have Pretrial services probation officers and separate bond investigators. We have five bond investigators.

## Q11 - What is their caseload?

What is their caseload?

The Criminal Records Department performed 3,543 interviews from 1/1/16 to 7/31/16.

about 45 cases per officer; officers also have other duties

N/A

3 officers complete a minimum of 150 reports a year (psi).

Arraignment, Bond Conditions, Bond Reviews, and Bond Modifications and misc. pre-trial motions are handled by the 3 officers.

On average each officer addresses 80 motions regarding bond, bond modification and OR bonds.

55

70 offenders

I am not aware of the number.

600 to 700

60

Bailiff

30 per month

50

just a handful

1 Officer has 26

1 Officer has 29

1 Officer does all interviews, assessment, PTR paperwork, ect, but does not do supervision

I don't know, but its high

about 260 cases a year.

100 cases

DON'T KNOW

N/A

unknown

approximately 100 total

supervising approximately 250 individuals on bond with pending charges.

150 cases per year

the court will hear 800-900 criminal cases per year. They see bond defendants every day, so it varies.

Total caseload for the department averages 340

unknown

180 / for both.

unknown

about 150 felony defendants/year

400 per year

All pending

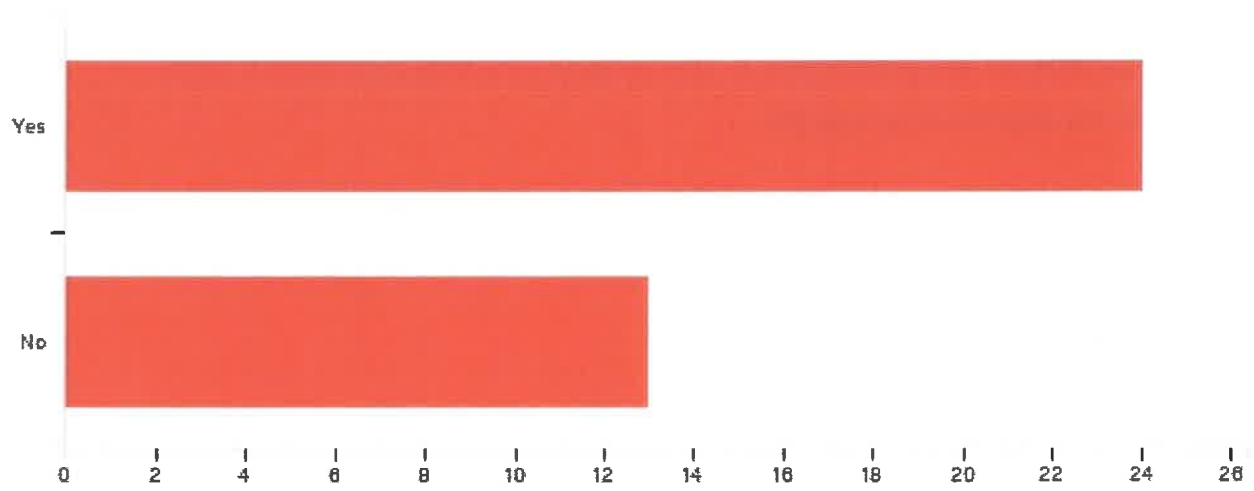
N/A

35

40-50 cases

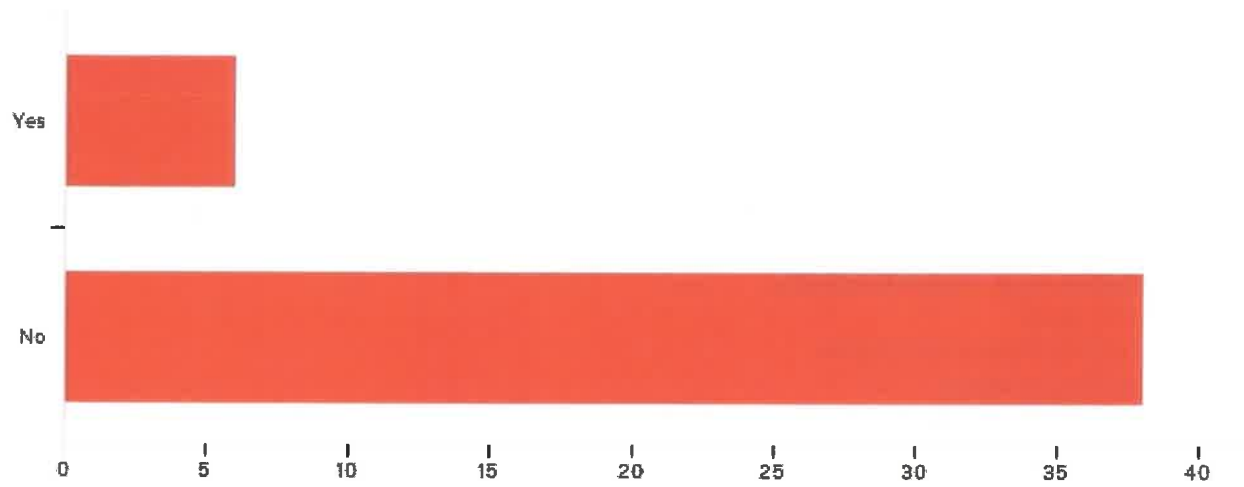
I do not know.

### Q12 - Do they receive specific training in providing pretrial services?



Answer	%	Count
Yes	64.86%	24
No	35.14%	13
Total	100%	37

**Q13 - Does your court routinely or ever hold public safety hearings to detain individuals?**



Answer	%	Count
Yes	13.64%	6
No	86.36%	38
Total	100%	44

## Q14 - What information is utilized by the judge in making the initial bail or detain decision?

What information is utilized by the judge in making the initial bail or det...

The recommendation of the Bond Investigator based on the bail investigation completed by the Criminal Records Department.

1. Current substance abuse, especially opiates.
2. Prior failures to appear
3. Current and prior probation completion
4. Mental health circumstances
5. Severity of conduct, especially violence against others.

PSA Bond report, defendant's record, brief bio questionnaire, and arguments of counsel

nature of offense[s];

Prior record of defendant

Prior Failures to Appear of defendant

nature of possible penalty

ties to the community

whether defendant is employed

Who is the victim

Factors to be considered per Criminal Rule and Revised Code as provided by the Prosecutor, Defense Attorney, Transcript from Municipal Court, if applicable, and, Court Records and Dockets for prior criminal cases, if any, and current case.

Nature of Offense

Criminal History

Failure to Appear for prior court hearings

A review of the police report (submitted by Prosecutor); a brief interview by the Court's bailiff (as ordered) and input from the Defendant and/or his defense counsel.

past record and seriousness of the crime and victims

criminal history

level of felony

stable residence

likelihood of appearing for court

The information put together by the bond commissioner's office which includes an interview, a rough ORAS score, the criminal record, and the nature of the charges.

Nature of the charge, record, work history, need to assure attendance at court and safety of the community.

record check and a report from pretrial with address and work verification

risk of flight, danger to the public, substance abuse, residency, nature of the violation and criminal history

Prior record and seriousness of case.

Report from pretrial service; defense attorney information, prosecutor information

I establish bail as a personal recognizance (with or without conditions) universally. Bail is denied only in those cases subject to the application of R.C.2937.222.



crime charged, criminal history, employment, likelihood of appearing, danger to society, likelihood of conviction

Indictment; pre-arraignment report, arguments of counsel

Nature of crime, residential address of defendant, etc.

criminal history including history of court appearances

bond interview information obtained from pretrial release officer

ORAS-PTR Score

Information provided from pre-trial services

What the Prosecutor and Defendant state at the bond hearing.

everything PTR provides to me about the case and the person

Generally the factors set forth in Crim.R. 46(C), including filed charges, facts of the case as contained in a municipal court statement or related by the prosecutor pertaining to acts or displays of violence, any existence of ongoing safety threat toward victim or society, criminal history of the accused (including history of non-compliance with court orders), and any information that suggests that the accused is likely to re-offend if released.

**CRIMINAL RECORD AND VIOLENCE OF OFFENSE AND DEGREE OF FELONY**

Look at defendant's record and bond recommendation of prosecutor. I also consider any information provided by defendant and/or public defender at arraignment.

Prosecutor recommendation; Defense recommendation; Probation recommendation; ORAS; prior record; nature of charge;

information provided by prosecutor, prior probation records if any, check of Court files by court if any, prior appearance history.

level of offense, prior criminal history, prior history of failure to appear or to comply with supervision, nature of offense, danger to community

A report to the Court is submitted by the pre-trial officer after the officer meets with the defendant at the jail and an ORAS Pre-trial assessment is completed. The given address is verified and employment is verified as part of the report to the Court before the initial appearance.

nature of offense, possible penalties, criminal history, ties to community

The information provided by the pre-trial services division; the bond recommendation from the prosecutor/arresting agency; criminal history; complaint; court appointed attorney affidavit; the screening tool. Information from the defendant.

Risk assessment, criminal background, nature of charge, failure to appear history, ties to the community, employment, victim information

prosecutor has prior record printout

level of offense

is it an offense of violence

history of prior crimes

history of prior failure to appear

address (own or rent)

length of time at the address

is the person from a state that routinely fails to cooperate with our efforts to return fugitives or serve process

is the person currently on probation, parole or post release control

is the defendant employed and for how long

family ties

is the person a multi-state offender

recommendation of prosecutor, offense charged, criminal history, history of failing to appear

## ORAS

Prior PSI / information at APD from prior offenses

Police Reports

nature of charge, criminal history, ORAS test score

The prosecutor is present for initial appearance as well as a representative of the victim advocates office. If the defendant was on PRC or Community control a representative from Probation would be present

proximity to the court; prior record if any; individual facts of each case

Criminal History, nature of pending charge, standard bond schedule based on offense level

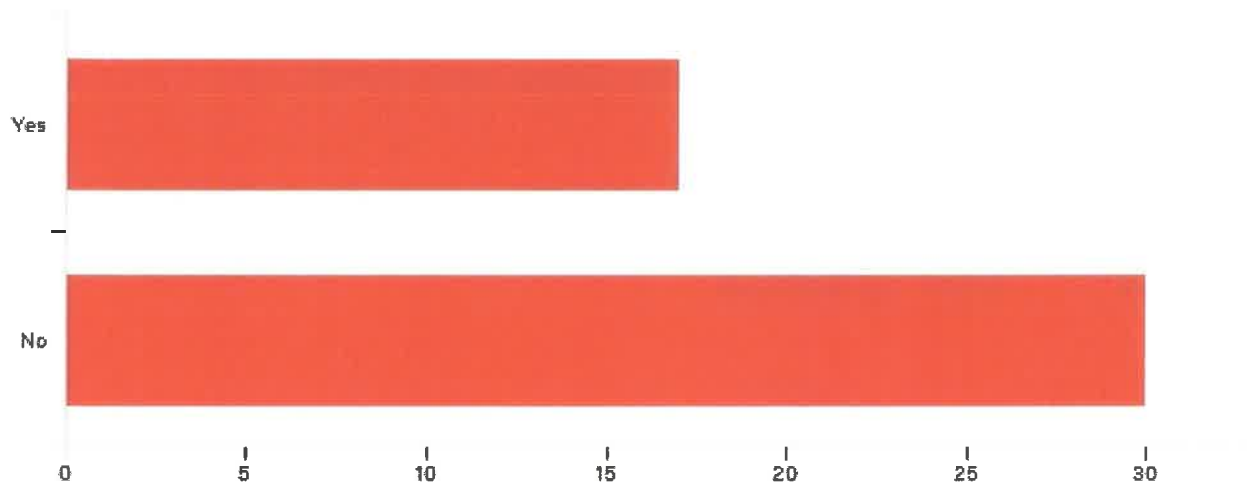
Prior record, community contacts, severity of the offense, likelihood of appearing at trial, drug/alcohol usage, employment and all other information as described by the applicable statutes and rules.

community ties, offense charged, prior convictions if any, appearance history, employment, family, ORAS if available, supervision history

LEADS, Defendants' answers to judges' questions, Prosecutor's recommendation, defense counsel's recommendation

The bond investigator makes a recommendation regarding the bond after meeting with the defendant and reviewing the defendant's prior criminal history.

### Q15 - Do you use a validated risk assessment instrument?



Answer	%	Count
Yes	36.17%	17
No	63.83%	30
Total	100%	47

**Q16 - If your answer to the previous question was yes, please attach the risk assessment instrument.**

If your answer to the previous question was yes, please attach the risk ass...

Name	Size	Type
ORAS_Pretial_Tool.pdf	28896	application/pdf
oras cst-tool.pdf	263478	application/pdf

**Q17 - If your answer to the previous question was no, what criteria do you use to help individualize bail setting recommendations?**

If your answer to the previous question was no, what criteria do you use to...

(Use ORAS -- pretrial screening test)

See above

Factors to be considered per Criminal Rule and Revised Code as provided by the Prosecutor, Defense Attorney, Transcript from Municipal Court, if applicable, and Court Records and Dockets for prior criminal cases, if any, and current case.

See above.

records check and prosecutors recommendation

We use ORAS. Cannot upload as it is online program.

I don't know if they do, so I am unable to answer the question yes or no.

nature of offense(s), record, previous capias and warrants, pretrial interview and verifications and statements of counsel

routine practice and common sense

ORAS is used.

checklist of risk factors for flight and dangerousness

see answer above

see above

Indictment, pre-arraignment report, arguments of counsel, speedy time considerations

nature of crime, danger to community, residence of defendant

I expect to hear about the Defendant's record and whether he has any failures to appear on his record.

facts as to the risk to the public and likelihood to appear

In addition to the factors noted above, we also consider the lifestyle stability of the accused as it pertains to housing, employment and family ties and the ability of the court and attorney to contact the accused available for future hearings or meetings, respectively. The Court also determines whether the accused is a suitable candidate for alternative forms of detention, including electronic monitoring and house arrest.

**CRIMINAL RECORD AND VIOLENCE OF OFFENSE AND DEGREE OF FELONY PLUS A LAUNDRY LIST OF OTHER FACTORS LISTED BELOW**

Look at defendant's record, crime charged, ties to community and any other information presented at arraignment.

see above plus any other matters that are applicable such as seriousness of the charge

same as answer to prior question

nature of offense, possible penalties, criminal history, ties to community

28 years experience

all the above

Contacts with the community such as family members in the community or employment in the community. Has the defendant ever failed to appear in other cases or was the defendant on PRC or Community Control when the offense was committed. Does the defendant have a residence where they can stay in the area, but not necessarily our county.

see prior answers

See answer above

Prior record, community contacts, severity of the offense, likelihood of appearing at trial, drug/alcohol usage, employment and all other information as described by the applicable statutes and rules.

Past failures to appear

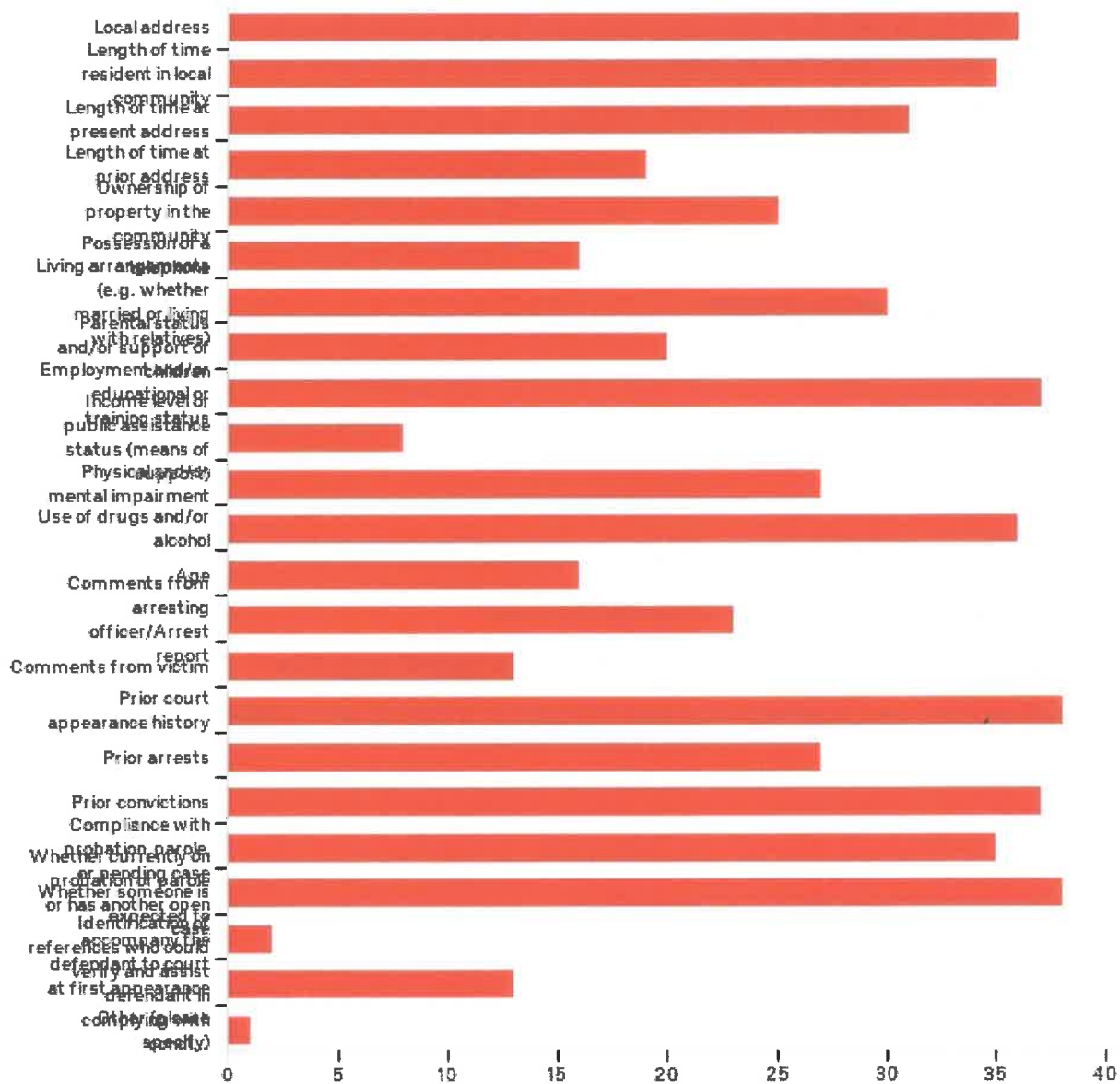
Criminal history

Ties to the community

Seriousness of the charges

See above

## Q18 - What factors are included in your risk assessment?

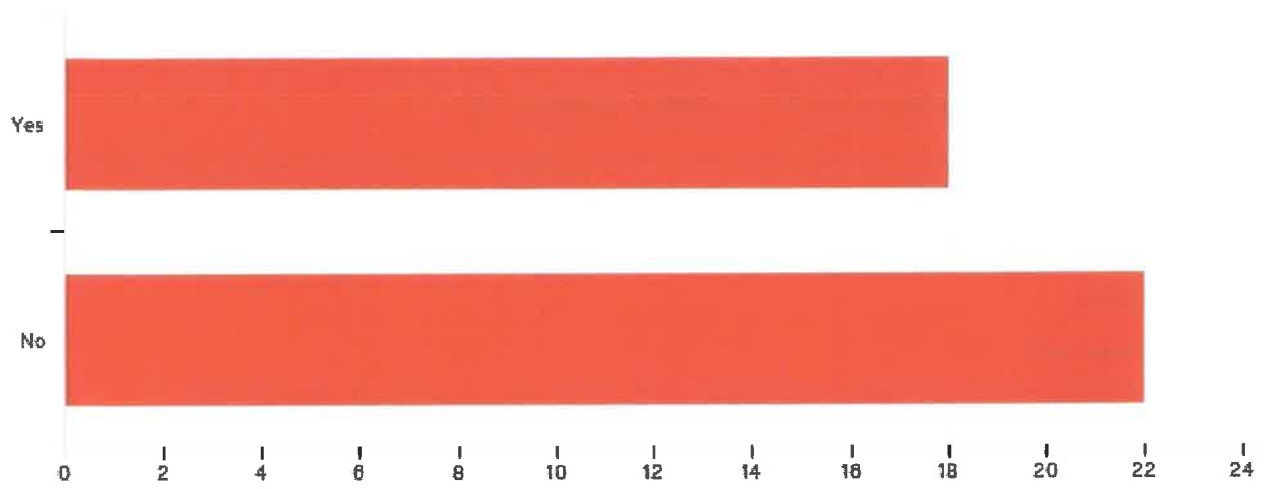


Answer	%	Count
Local address	87.80%	36
Length of time resident in local community	85.37%	35
Length of time at present address	75.61%	31
Length of time at prior address	46.34%	19
Ownership of property in the community	60.98%	25
Possession of a telephone	39.02%	16

Living arrangements (e.g. whether married or living with relatives)	73.17%	30
Parental status and/or support of children	48.78%	20
Employment and/or educational or training status	90.24%	37
Income level or public assistance status (means of support)	19.51%	8
Physical and/or mental impairment	65.85%	27
Use of drugs and/or alcohol	87.80%	36
Age	39.02%	16
Comments from arresting officer/Arrest report	56.10%	23
Comments from victim	31.71%	13
Prior court appearance history	92.68%	38
Prior arrests	65.85%	27
Prior convictions	90.24%	37
Compliance with probation, parole, or pending case	85.37%	35
Whether currently on probation or parole or has another open case	92.68%	38
Whether someone is expected to accompany the defendant to court at first appearance	4.88%	2
Identification of references who could verify and assist defendant in complying with conditions	31.71%	13
Other (please specify)	2.44%	1
Total	100%	41



### Q19 - Has your risk assessment scheme or system been validated?



Answer	%	Count
Yes	45.00%	18
No	55.00%	22
Total	100%	40

## Q20 - When is the defendant provided counsel to discuss matters regarding bail?

When is the defendant provided counsel to discuss matters regarding bail?

The defendant can be provided counsel at the time of the First Appearance Docket or at the time of Arraignment, or counsel can be retained at any time.

At initial appearance or arraignment.

at initial appearance

At or before arraignment

Generally, at Municipal Court level - Initial Appearance or Common Pleas Court level - Arraignment

Often, before both of those appearances.

Arraignment --if in Jail. If indigent when a public defender is assigned or when they hire their counsel.

The Defendant is provided counsel at his or her initial appearance in the lower court or at arraignment if the Defendant has just been indicted. A continued arraignment is held within a matter of days so that the Defendant may appear and address bond with counsel present.

arraignment

Yes

At the first appearance.

At arrest and bail hearing.

before arraignment

At arraignment

at or after arraignment

Arraignment

yes

I do not detain accused men and women after arraignment unless bail has been denied under R.C.2937.222 after a full evidentiary hearing has been conducted and the salient findings have been made underpinning denying bail. They are discharged upon the execution of the personal recognizance document.

at arraignment

Generally prior to bail decision

at initial appearance or arraignment

At preliminary hearing held at Municipal Court

before appearing in court, shortly after they are arrested

Usually after arraignment.

at arraignment

At arraignment with counsel, which usually takes place within one to three days after initial arraignment.

ARRAIGNMENT OR SOONER AS WE HAVE PUBLIC DEFENDER SYSTEM THAT ROUTINELY INTERVIEWS DEFENDANTS AT EARLIEST POSSIBLE DATES

At arraignment.

On direct indictments, the defendant does not have appointed counsel until after arraignment. On felony cases that originated w/ a complaint in Municipal Court, the Defendant has an atty by the time of the Common Pleas arraignment.

appointed at arraignment

at arraignment

arraignment

immediately

Initial appearance

prior to bond hearing

at preliminary hearing , or arraignment

Defendant usually has counsel appointed within 24 hours of arrest

as soon as def requests atty

At arraignment or Pre-trial hearings - basically it is when a request is made to have the defendant's bond amended / reduced. Then defendant and counsel are notified of APD doing the risk assessment and recommendation to the Court

at arraignment if counsel already provided; if not, within 7 days.

If they appear without counsel, it is provided at the initial appearance.

generally at the municipal court level, unless it was a secret indictment

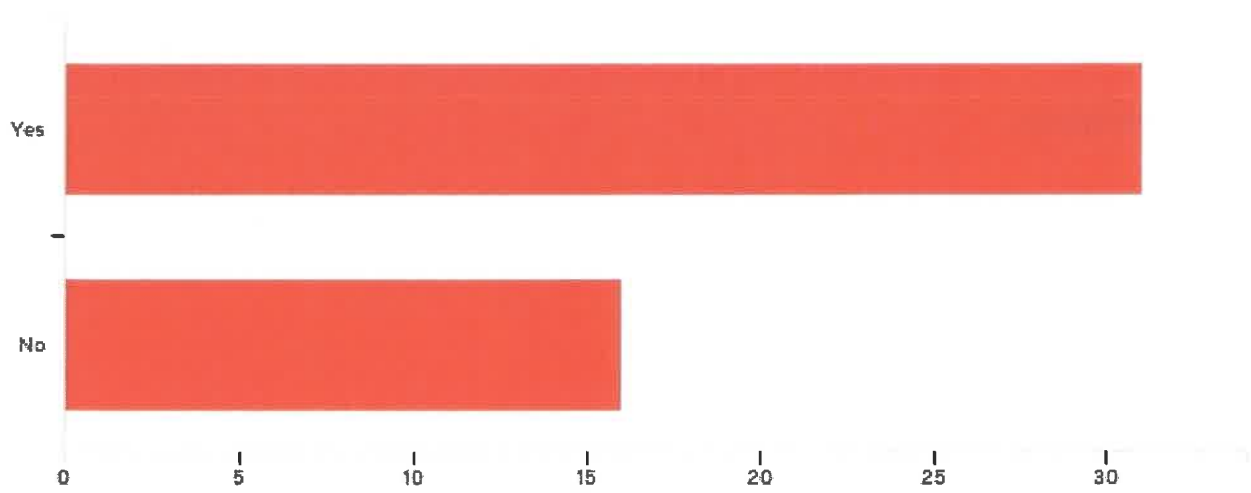
Prior to arraignment

Defendants are provided an attorney at arraignment. Sometimes that attorney is physically present immediately and sometimes they are appointed at arraignment and return for a pre-trial. Defendants will be granted a separate bond hearing upon request of counsel.

at arraignment or within a few days

At the initial appearance and arraignment

### Q21 - Are defendants interviewed?



Answer	%	Count
Yes	65.96%	31
No	34.04%	16
Total	100%	47

**Q22 - If the answer to the previous question is "yes", please describe the interview (e.g. what is asked, how long it takes, where it is done, whether or not statements are verified)**

If the answer to the previous question is "yes", please describe the interv...

The investigators ask several questions, including those on the ORAS PAT. The investigation takes place in the jail and takes approximately 5-10 minutes. The address and employment of the defendant are verified where possible.

ORAS and 15 minute interview

Defense counsel interviews the defendant

The "interview" consists only of dialogue with a defendant in court at arraignment, and then only to clarify information provided by Prosecutor and Defense Attorney, etc., regarding the factors to be considered, and then only if a defendant wishes to provide such information.

The interview process takes about 25 minutes. We use the ORAS risk assessment and we go over a bond packet they have filled out prior to our arrival that we send to the Jail. Our policy is that we have 7 days from the time of interview to provide information to court. It does not generally take this long, but it does depend on work load. after bond is posted address, who they live with, vehicle, employment, education, prior arrest, prior record, drug use

30 minutes with assessing staff while incarcerated, completion of PAT ORAS

I do not know the time spent with each defendant.

The attorney conducts the interview

both by pretrial if available and by the public defenders

See form. At jail. Verification attempted.

45 minutes, at the jail before the first court appearance, statements are verified, to the extent they can be, prior to arraignment.

in court

?

Assume defense counsel interviews defendant

Interview takes approximately 10 minutes. It is completed at local jail, and information is verified as time and information provided permits.

I don't know

BY PUBLIC DEFENDER AND PRE-TRIAL RELEASE EMPLOYEE OF PROBATION DEPARTMENT

Attorney representing defendant at arraignment. Ninety percent of defendants not released at arraignment of recognizance bond have felony records, are unemployed and have no substantial ties to the community. Bail is not a major issue in Pickaway County. We do not spend a great deal of time arguing the issue of bail. If the defendant is worthy of pretrial release he/she gets it. If not, a reasonable bond is set and we move the case along.

ORAS Pretrial Release questions

Criminal record is verified

Prior supervision records from this court are obtained.

interview at first appearance on the record by t he Court

Only newly arrested defendants are interviewed.

A questionnaire is given to defendants when they are booked into the jail by the jailer and asked to complete the questionnaire. A Pre-trial Officer then meets with the defendant in the morning of the next business day at the jail. If the questionnaire is completed by the defendant the interview takes about 15-20 minutes if the questionnaire has not been completed then the interview takes about 30 minutes. Address, employment and criminal history is verified.

you should see the pre-trial report, which I am not technologically proficient enough to attach; it is done at the jail, early in the morning, takes about 20 minutes or so, and statements are verified.

Interview takes approximately one hour and is conducted at the jail. Statements are verified. Attached is the Pretrial Release Interview Questionnaire.

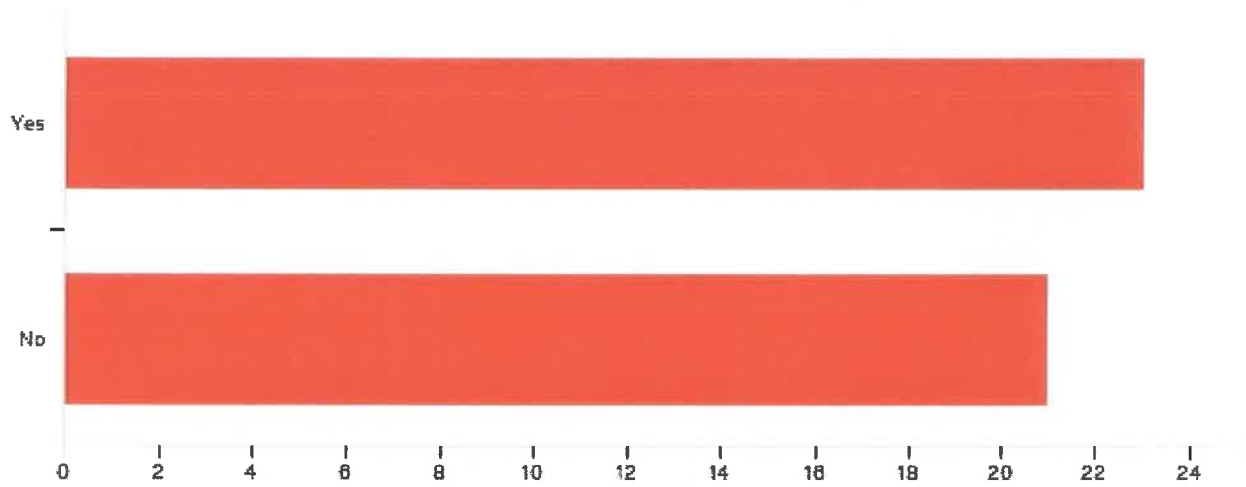
I do not know specifics, depends on case

ORAS test. - Done at jail -Done by PO from APD

Defendants are told NOT to discuss facts of their case / PO won't be asking them any questions about facts of their case.

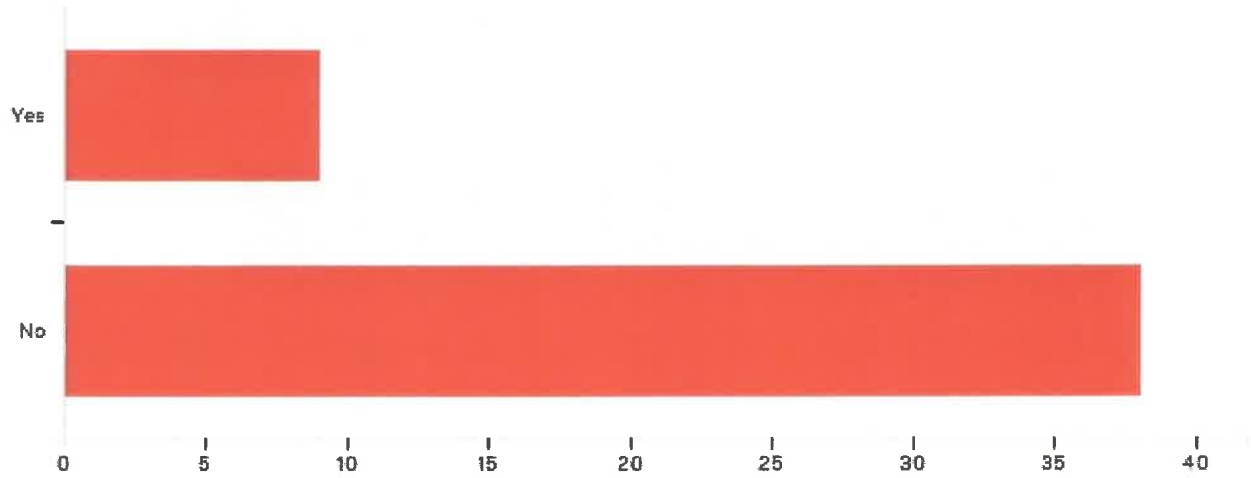
unknown, I do not participate in the process

**Q23 - Are any defendants treated specially due to charge (e.g. domestic violence or OVIs)?**



Answer	%	Count
Yes	52.27%	23
No	47.73%	21
Total	100%	44

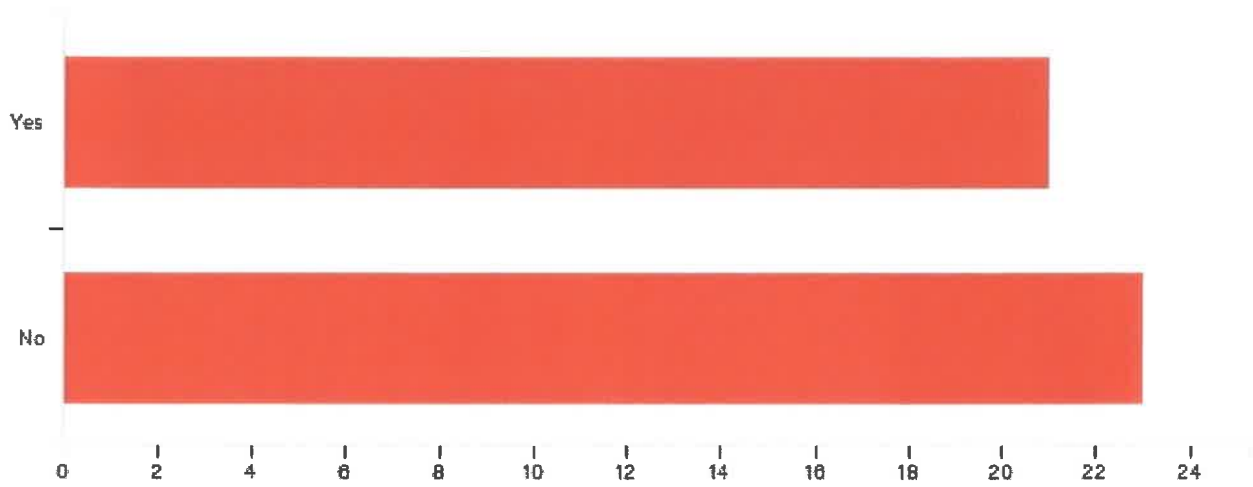
**Q24 - After the initial Bond is set, does your jurisdiction systematically re-review the Bail/Bond for defendants remaining in custody (Example, any defendants remaining in custody 3 days after Initial Hearing are re-interviewed)?**



Answer	%	Count
Yes	19.15%	9
No	80.85%	38
Total	100%	47

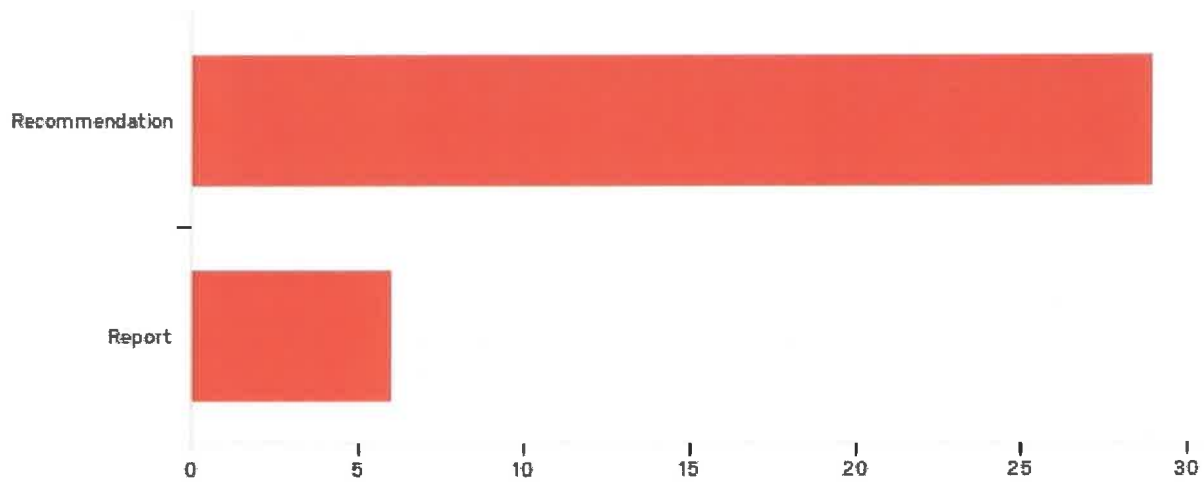


**Q25 - Does your jurisdiction assess defendants for Mental Health/Developmental Disabilities issues at booking?**



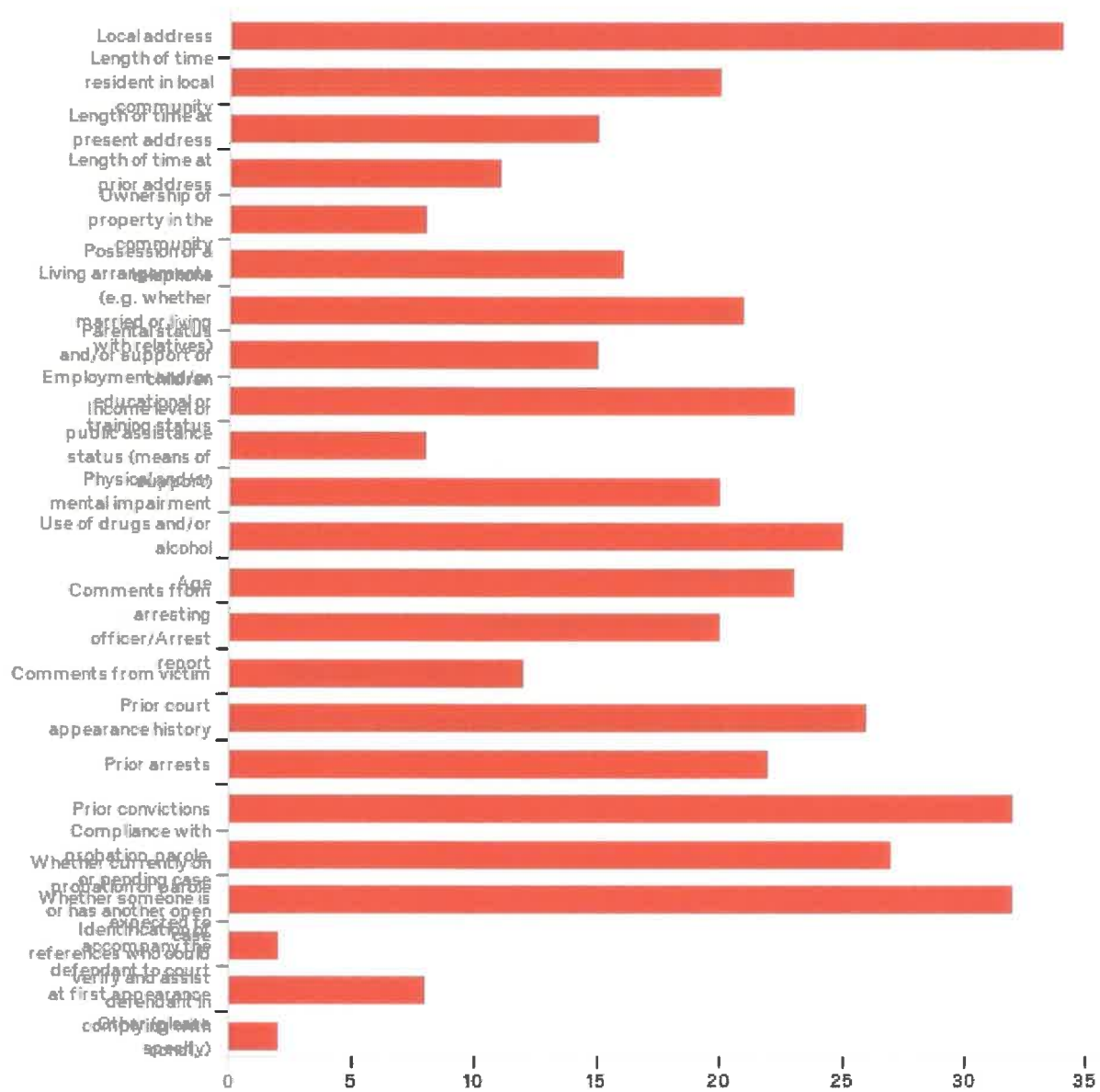
Answer	%	Count
Yes	47.73%	21
No	52.27%	23
Total	100%	44

**Q26 - Does the person or department make recommendations on bail/detain, or just provide a report to the court?**



Answer	%	Count
Recommendation	82.86%	29
Report	17.14%	6
Total	100%	35

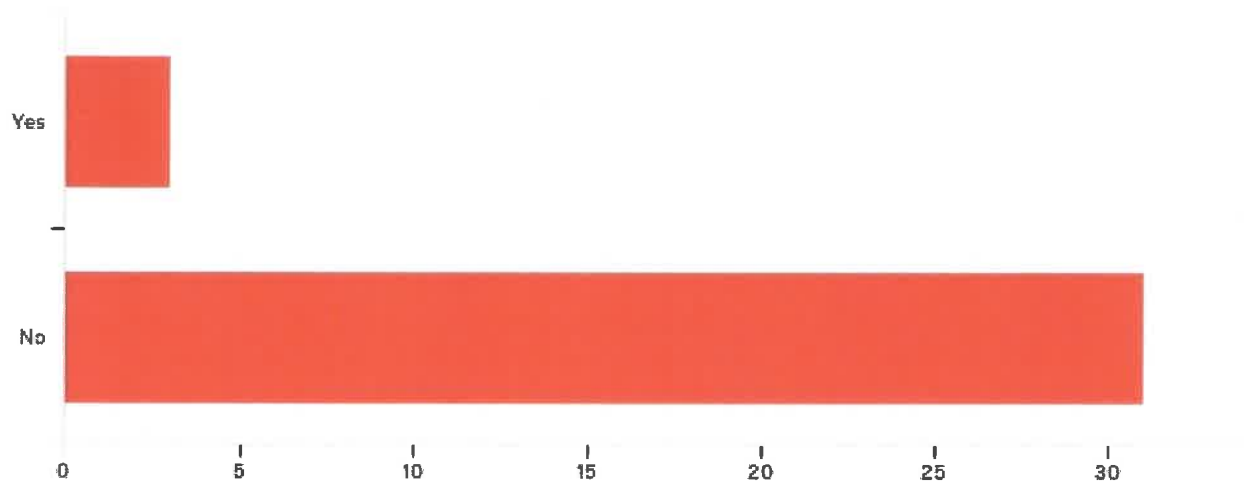
## Q27 - What information about the defendant is provided to the court?



Answer	%	Count
Local address	94.44%	34
Length of time resident in local community	55.56%	20
Length of time at present address	41.67%	15
Length of time at prior address	30.56%	11
Ownership of property in the community	22.22%	8
Possession of a telephone	44.44%	16

Living arrangements (e.g. whether married or living with relatives)	58.33%	21
Parental status and/or support of children	41.67%	15
Employment and/or educational or training status	63.89%	23
Income level or public assistance status (means of support)	22.22%	8
Physical and/or mental impairment	55.56%	20
Use of drugs and/or alcohol	69.44%	25
Age	63.89%	23
Comments from arresting officer/Arrest report	55.56%	20
Comments from victim	33.33%	12
Prior court appearance history	72.22%	26
Prior arrests	61.11%	22
Prior convictions	88.89%	32
Compliance with probation, parole, or pending case	75.00%	27
Whether currently on probation or parole or has another open case	88.89%	32
Whether someone is expected to accompany the defendant to court at first appearance	5.56%	2
Identification of references who could verify and assist defendant in complying with conditions	22.22%	8
Other (please specify)	5.56%	2
Total	100%	36

**Q28 - If you have a pretrial services agency, is it given any delegated release authority for certain defendants?**



Answer	%	Count
Yes	8.82%	3
No	91.18%	31
Total	100%	34

**Q29 - If your answer to the previous question is "Yes", please describe the pretrial services agency's authority to release defendants.**

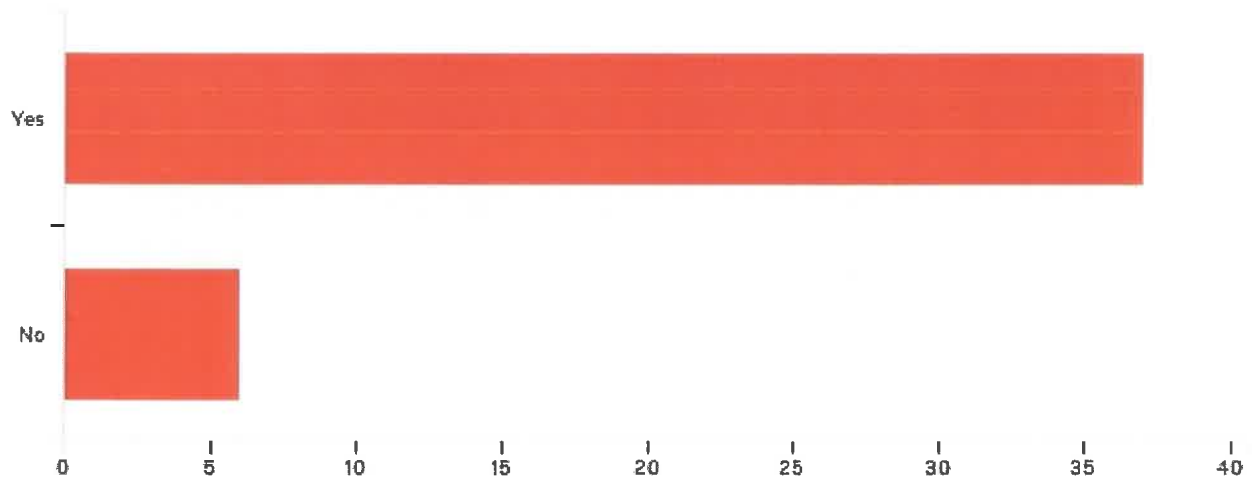
If your answer to the previous question is "Yes", please describe the pretr...

not applicable

Any low level nonviolent offenders based on criteria which includes not currently on probation and out of prison for more than a year, not 2 or more felony convictions in the last 4 years

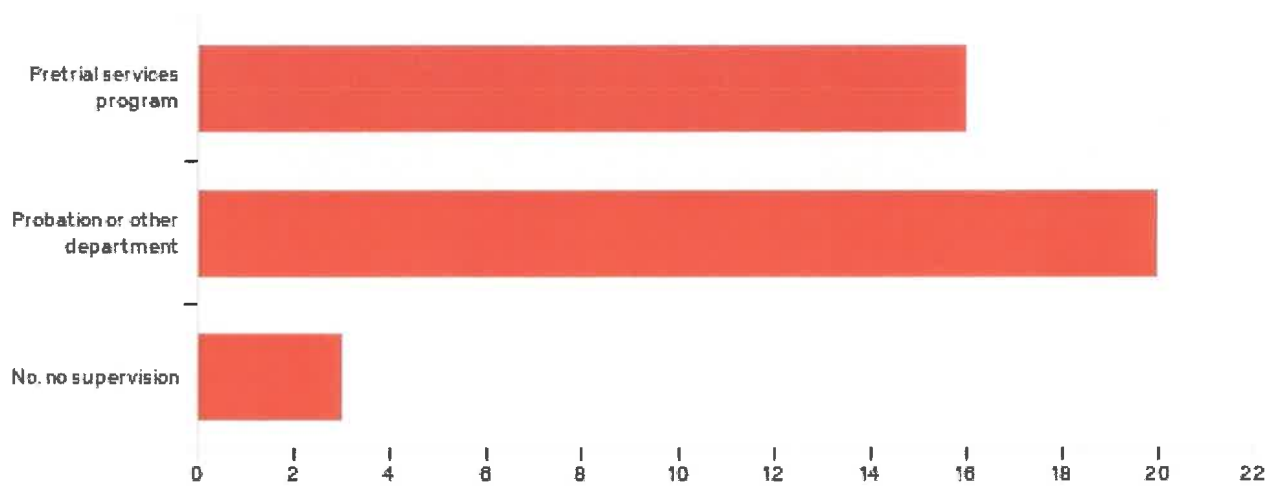
n/a

**Q30 - Is supervision of pretrial release conditions provided in your jurisdiction?**



Answer	%	Count
Yes	86.05%	37
No	13.95%	6
Total	100%	43

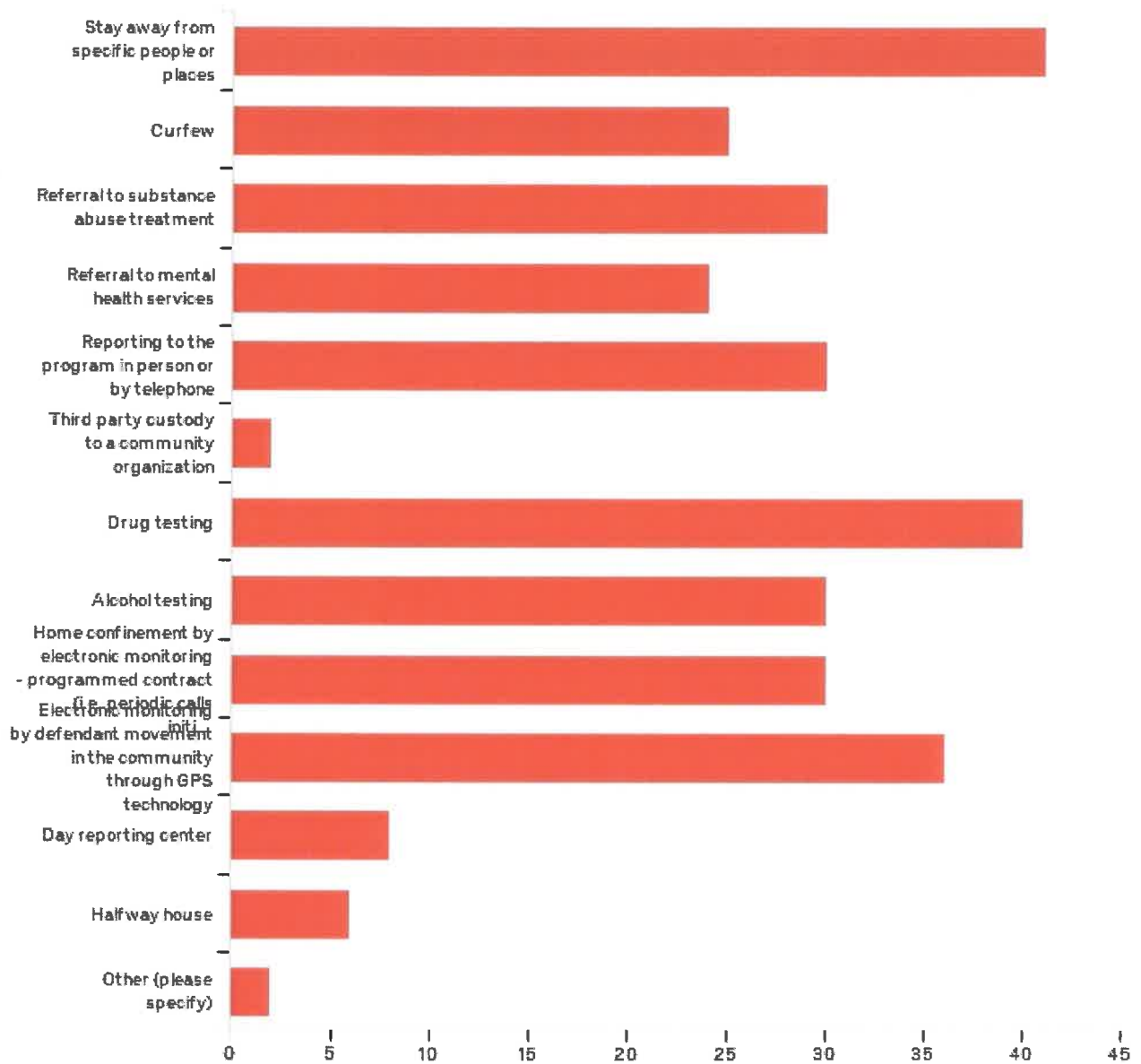
### Q31 - If supervision is provided, by whom?



Answer	%	Count
Pretrial services program	41.03%	16
Probation or other department	51.28%	20
No, no supervision	7.69%	3
Total	100%	39



### Q32 - What options are used in your jurisdiction to supervise defendants on pretrial release?



Answer	%	Count
Stay away from specific people or places	91.11%	41
Curfew	55.56%	25
Referral to substance abuse treatment	66.67%	30
Referral to mental health services	53.33%	24
Reporting to the program in person or by telephone	66.67%	30

Third party custody to a community organization	4.44%	2
Drug testing	88.89%	40
Alcohol testing	66.67%	30
Home confinement by electronic monitoring - programmed contract (i.e. periodic calls initiated to defendant's home to ensure defendant is there)	66.67%	30
Electronic monitoring by defendant movement in the community through GPS technology	80.00%	36
Day reporting center	17.78%	8
Halfway house	13.33%	6
Other (please specify)	4.44%	2
Total	100%	45

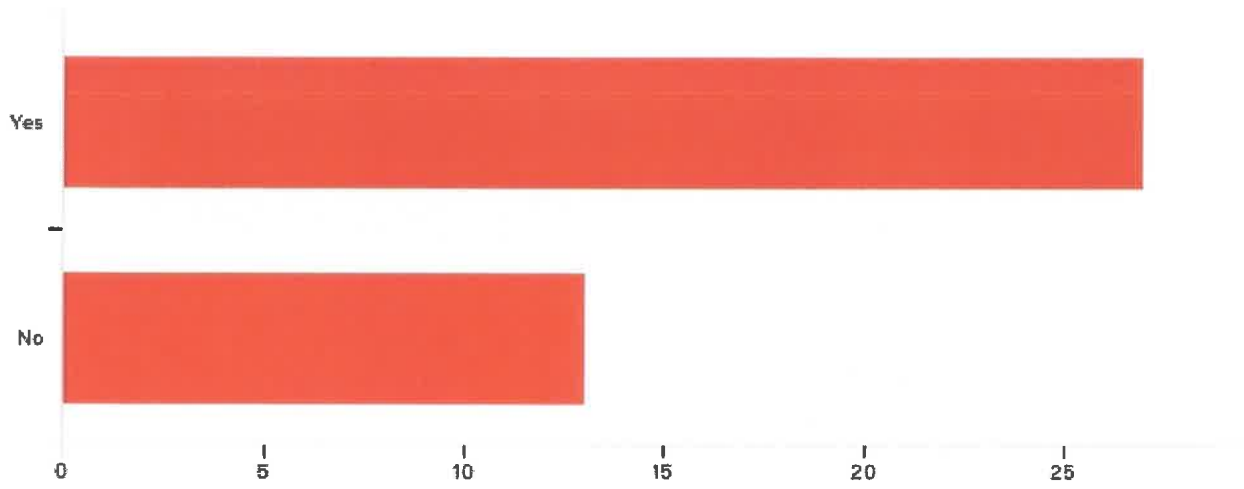
Other (please specify)

Other (please specify)

Alternative jail

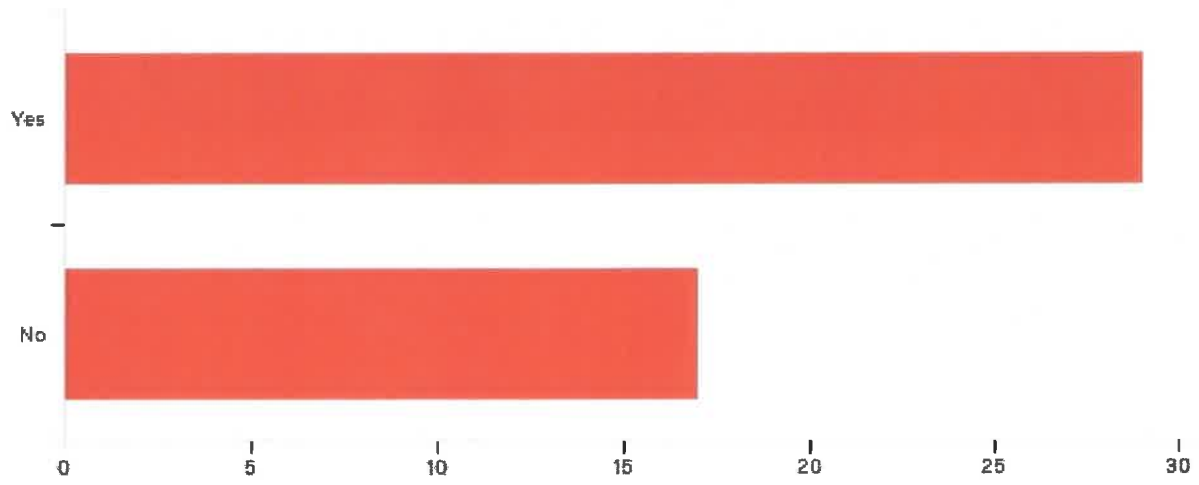
SCRAM

**Q33 - Is supervision provided to anyone who is also ordered a commercial surety bond?**



Answer	%	Count
Yes	67.50%	27
No	32.50%	13
Total	100%	40

**Q34 - Does anyone in your court/program notify released defendants of upcoming court appearances?**



Answer	%	Count
Yes	63.04%	29
No	36.96%	17
Total	100%	46

## Q35 - If you answered "yes" to the previous question, how is the defendant notified?

If you answered "yes" to the previous question, how is the defendant notified...

When notified, it is through the pre-trial services Court Supervised Release (CSR) Probation Officer.

At scheduled appointments with PT officer. Also notified at initial appearance or arraignment. Journal Entry provides the date and time, also.

telephonically and by written notice

ONLY by notification in writing sent by email to a defendant's attorney. NO notice directly from the court to a defendant.

The court provides the dates for all upcoming hearings. We also list all dates on the initial bond conditions as provided by the Court. Any other hearings the Court notifies the Attorneys-they notify their client.

Notice of hearings are announced in open court. Follow up changes to hearing dates and relayed through the Defendant's attorney.

they are reminded at office visits, up to the attorney to notify, 1st appearance is also on their bond

Both through mail, email, and through their counsel.

Informed in court of the next court hearing. Written and oral notification. In addition, the defendant has an attorney or has been appointed an attorney by this time and the attorney gives notification.

written notice to counsel

Generally defendant is in court when appearance is set; defendant's attorney

clerk of courts mails scheduling order to defense counsel and to defendant

In person by their supervising officer, as well as entries being mailed to their listed residence. They are also notified by their defense counsel.

He signs for a court notice before release or return to the jail.

The court provides every defendant with a date upon arraignment. A pretrial is scheduled at arraignment and the defendant signs a notice of the pretrial and receives a copy.

By mail.

By pretrial release officer.

thru counsel or by letter

at arraignment by a written assignment notice

Not all defendants are notified, just the defendants that are required to report on a regular basis and as part of speaking with the pre-trial officer their court date is given to them and discussed as a reminder.

in person when reporting

telephone notification

next date is set in open court

in person when hearing is set and follow up letter to the address they give the court

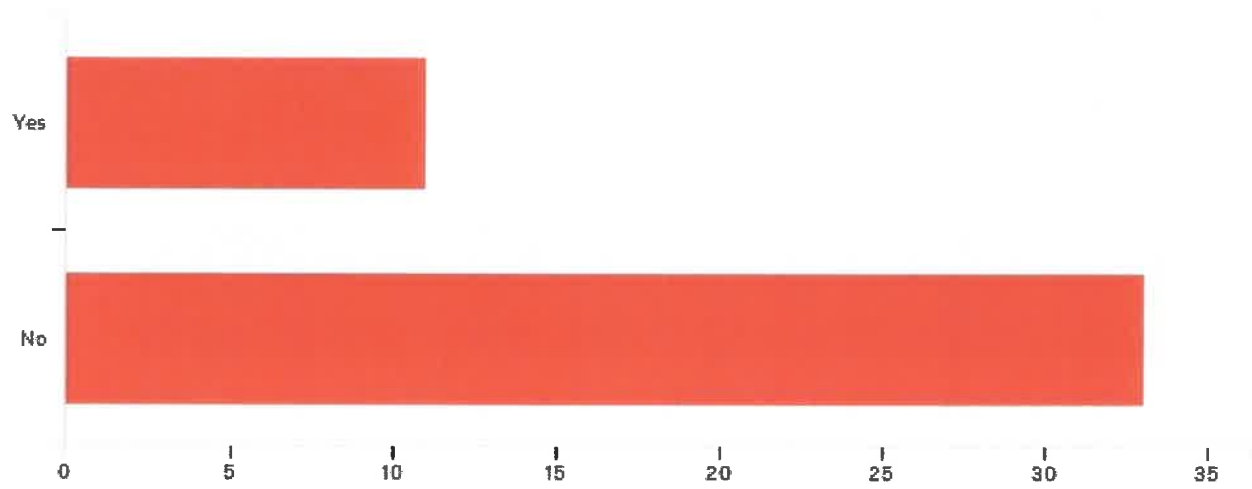
The jail and court

a person in the probation department advises the defendant of court dates when they either report in person or call in as a requirement of their bond conditions.

at reporting and in court

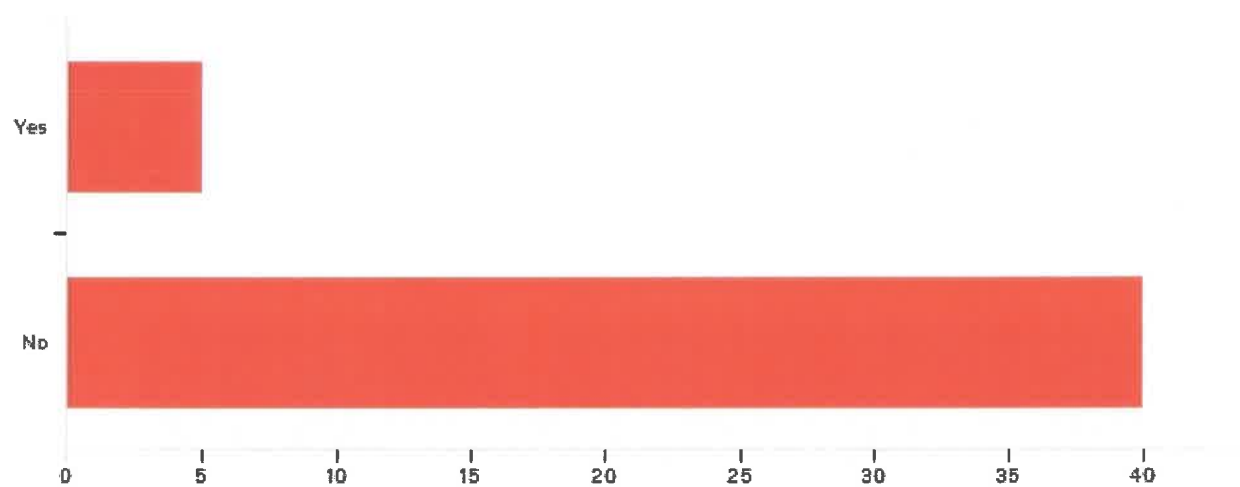
Defendants are sent all notices in addition to counsel  
Pretrial Release officers remind defendants of upcoming hearings  
At his arraignment by the judge and the arraignment personnel.

**Q36 - Does your court/program notify victims of crime of the pretrial release of the defendant?**



Answer	%	Count
Yes	25.00%	11
No	75.00%	33
Total	100%	44

### Q37 - Does your court/program calculate failure to appear rates?



Answer	%	Count
Yes	11.11%	5
No	88.89%	40
Total	100%	45



**Q38 - If your answer to the previous question was "yes", what was your failure to appear rate for the last year?**

If your answer to the previous question was "yes", what was your failure to...

Capias of scheduled bail defendants was 31.2%.

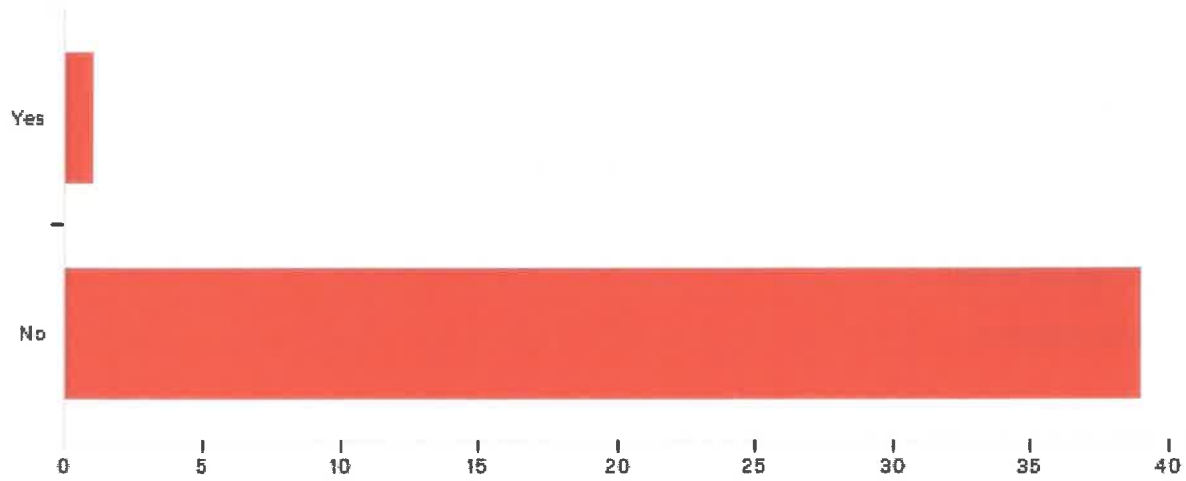
I would really like to know how this is completed. This would be very useful.

25 percent

I don't know the answer to this.

See attached 2015 statistics.

**Q39 - Does your program capture information about, or are any comparisons made between, the FTA rates and recidivism rates of those charged with similar offenses released on "OR" as opposed to those released on monetary bonds?**



Answer	%	Count
Yes	2.50%	1
No	97.50%	39
Total	100%	40

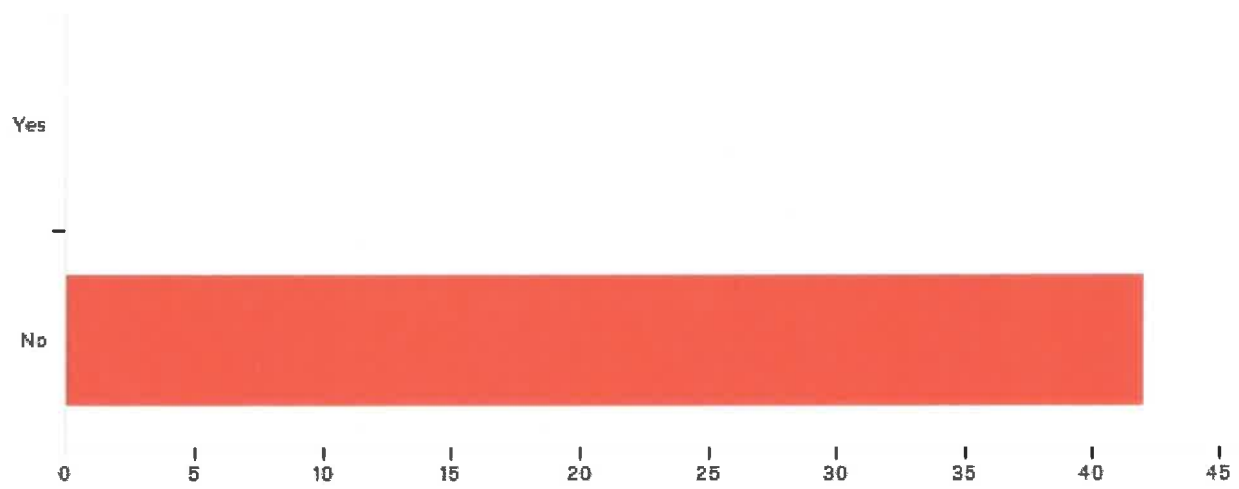
**Q40 - If your answer to the previous question is "yes", please provide the information or comparison for the last full year.**

If your answer to the previous question is "yes", please provide the inform...

Again, I could really use this information

I don't know

### Q41 - Does your program calculate pretrial crime rates?



Answer	%	Count
Yes	0.00%	0
No	100.00%	42
Total	100%	42

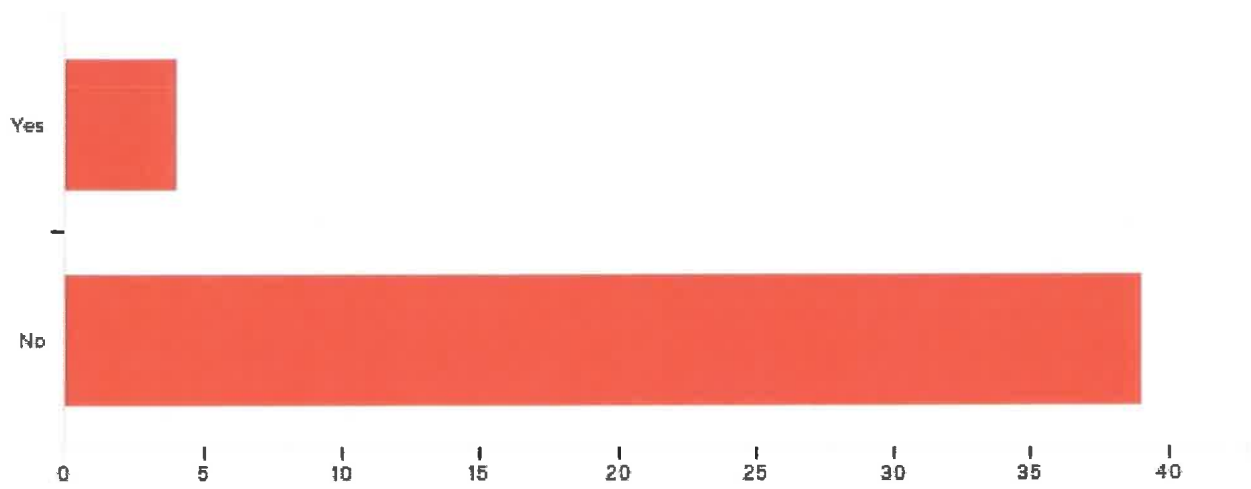
**Q42 - If your answer to the previous question is "yes", what was the pretrial crime rate for the last full year?**

If your answer to the previous question is "yes", what was the pretrial cri...

Again, I could really use this information, would like to know what system is used for this data.

I don't know

### Q43 - Does your program calculate release rates?



Answer	%	Count
Yes	9.30%	4
No	90.70%	39
Total	100%	43

**Q44 - If your answer to the previous question is "yes", how many eligible defendants were released last year?**

If your answer to the previous question is "yes", how many eligible defenda...

The majority of our defendants were out on Bond. We had 238 motions for bond, bond review, or OR bond. 110 were placed on Bond.

I don't know

1691

## Q45 - Why were those not released, not eligible?

Why were those not released, not eligible?

Sorry - do not understand the question. Do not know what is meant by "eligible/not eligible".

Seriousness of Offense

Past history of non-compliance or bond was revoked

Do not think they should be released.

No data available

concern for showing up for court hearings (absconding)

concern for safety of community (additional crimes committed while on bond)

concern for safety of defendant (overdosing)



# Default Report

*Pretrial Services, Bail and Diversion*

August 31st 2016, 2:01 pm EDT

## Q1 - What is the name of your court?

What is the name of your court?

Cuyahoga County Common Pleas Court

Cuyahoga County Court of Common Pleas

Fairborn Municipal Court

Delaware County Common Pleas Court

Vandalia Municipal Court

The Ottawa County Municipal Court

The East Cleveland Municipal Court

Shaker Heights Municipal Court

Ashtabula Municipal Court

Highland County Court

Chillicothe Municipal Court

Cleveland Municipal Court

Chardon Municipal Court

Paulding County Court

Licking County Municipal Court

Lakewood Municipal Court

Delaware Municipal Court

Massillon Municipal Court

Stark County Ohio

Auglaize County Municipal

Hamilton County Municipal Court

Columbiana county municipal court.

Canton Muni

Fremont Municipal Court

Clark County Municipal Court

Hamilto Co Municipal and Common Pleas Court

Warren Municipal Court

Shaker Heights Municipal Court

Hillsboro Municipal Court

Canton Municipal Court

Marion County Municipal Court

Clinton County Municipal Court

Paulding County Court

franklin county municipal court

Akron Municipal Court

Circleville municipal court

Sandusky County County Court

Mount Vernon Municipal Court

Columbiana County Municipal Court

Euclid Municipal Court

Avon Lake Municipal Court

City of Fairfield Municipal Court

New Philadelphia Municipal Court

Licking County Municipal Court

Kettering Municipal Court

Lima Municipal Court

Defiance Municipal Court

Sidney Municipal Court

OBERLIN MUNICIPAL COURT

Muskingum County Court

Chillicothe Municipal Court

Stow Municipal Court

Municipal Court

Painesville Municipal Court

Van Wert Municipal Court

Delaware Municipal Court

Miami County Municipal Court

Vinton County Court

Lorain Municipal Court

Chardon Municipal Court

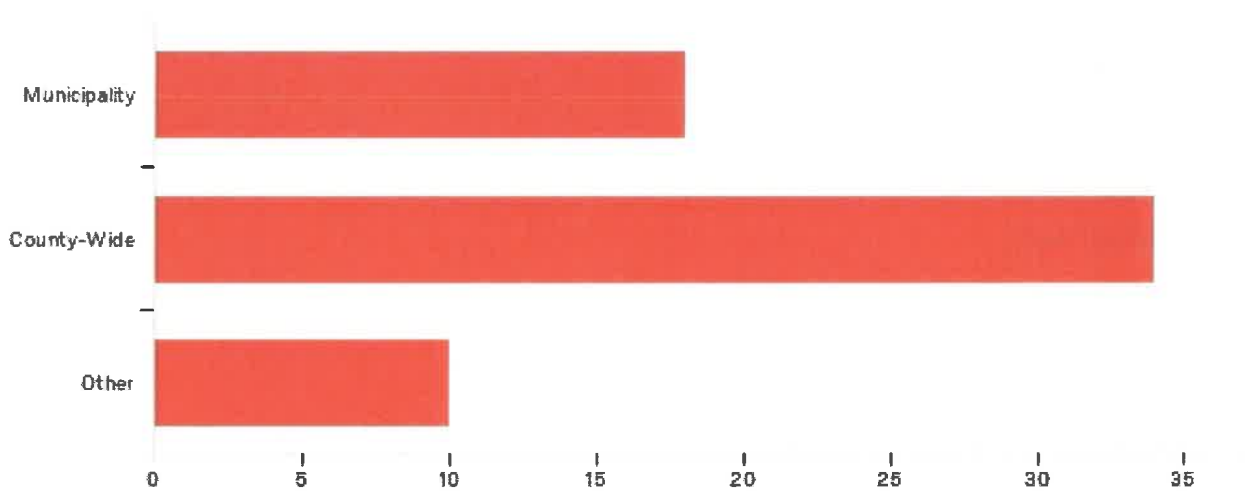
Athens County Municipal Court

Sandusky County Court, Dist. No. 2

Delaware Municipal Court

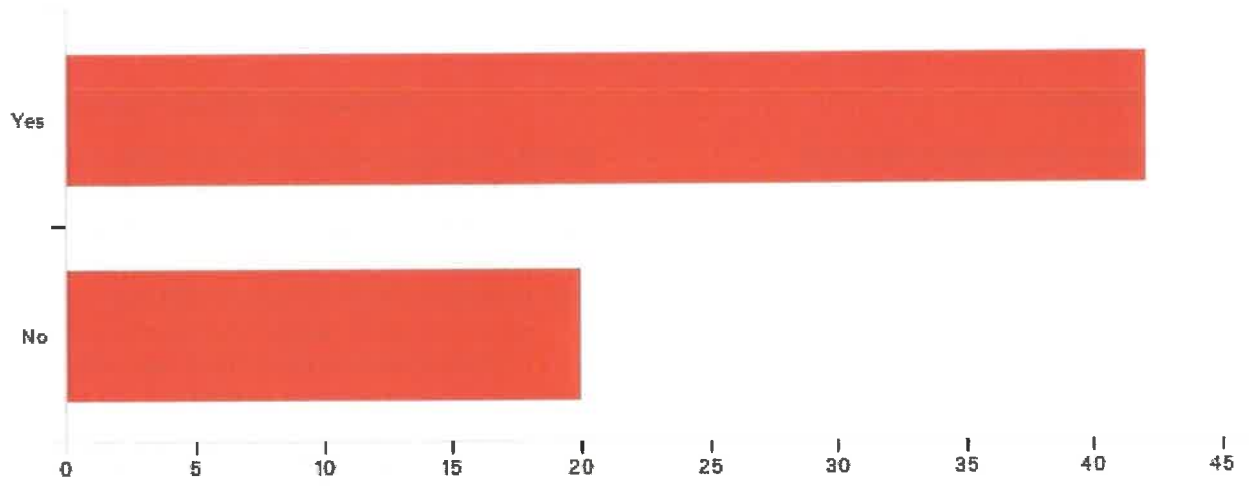
Fairfield County Municipal Court

## Q2 - What is the geographic jurisdiction of your court?



Answer	%	Count
Municipality	29.03%	18
County-Wide	54.84%	34
Other	16.13%	10
Total	100%	62

**Q3 - Does your prosecutor's office offer a diversion program for misdemeanor offenders?**



Answer	%	Count
Yes	67.74%	42
No	32.26%	20
Total	100%	62

#### Q4 - If your answer to the previous question was "yes":

What type of diversion?

OVI/License Intervention Program/Underage Consumption

What are the eligibility requirements?

No prior diversion in lifetime; no prior OVI convictions in lifetime; No prior OVI reductions, prior Physical Control or Disregard to Safety; No Felony filings from an OVI stop; No OVI test of .24% breath/blood or .33% urine and above; Felony filing from OVI may be referred upon companion felony referred diversion or ILC through Common Pleas Court; No multi-vehicle accidents with occupants or pedestrians; All accidents involving damage to private property must have current liability insurance and proof of payment of all damages; No violent/disorderly behavior arising out of and OVI stop; No Commercial Driver's License or Commercial Driver's Temporary Permit; No illegal aliens; OVI under 21 years of age reviewed on case-by-case basis; No felony conviction within 5 years; No current invalid OL with multiple suspensions and bad driving record showing complete disregard for privilege to drive; All applicants subject to Judicial/Prosecutorial Review and may be denied based on a reason or cause not listed above; License Intervention Program: Violator does not contest merits of citation; License is not suspended as a result of a pending OVI, drug conviction, vehicular homicide, vehicular manslaughter, vehicular assault, hit/run violations or habitual alcoholic designation; Valid automobile insurance at time of citation or obtain insurance within 120 days; No criminal felony or misdemeanor charges accompanying or arising from traffic stop; No moving violation resulting in accident associated or accompanying the driver's license offense unless damages are covered by insurance or paid in full by offender; and Violator cannot have more than three open non-compliance suspensions within a five-year time period in or to apply for driving privileges. If violator has no current suspension, except for unpaid reinstatement fees, must apply for payment plan with BMV; Judgment or security suspension may not exceed \$2,000; and Violator may not possess a Commercial Driver's License regardless of vehicle operated at time of offense; If violator has speeding violation in excess of 30 miles over posted speed limit or in construction zone they must appear before Judge prior to referral; Underage Consumption: Must be first-time offender including juvenile alcohol offenses and no prior alcohol-related traffic offenses and no previous diversion program and no criminal and/or alcohol-related traffic

It is administrated through the Court upon application of the prosecutor's office and with the agreement of the defendant

First Offenders and Case reduction diversion

the COURT runs a first offenders' program

Pre-trial Diversion

Drug Rehab Domestic Violence Program Anger Mgmt

1. Criminal Diversion, 2. Underage Alcohol, 3. Minor Traffic Offense

first offender program

Criminal and Domestic Violence

For most criminal offenses (except some violent offenses, minor misdemeanors, and drug-related offenses)

Marijuana and other drugs, alcohol under age charges, housing violations and others on a case by case basis

theft, drugs

Theft, Drug Abuse, License Recovery, Underage Possession and Consumption

no prior criminal history' prosecuting witness, arresting officer and prosecutor must agree

Felony and Misd diversion

First offenders

Pre trial

theft

Criminal and Domestic Violence

theft, traffic and drug

first offender

marijuana and underage possession

offenses pending in any Court at this time; complete 8-hour Alcohol Education Program and complete any follow-up treatment recommended by Program; Shall not enter or attempt to enter any establishment whose principal purpose is to sell alcoholic beverages for consumption on site including, but not limited to, bars, taverns, clubs; Must complete twenty (20) hours supervised community service within 90 days of entering diversion.

Generally, one must be a first offender and involves a non-violent misdemeanor.

The type of offense and victim impact

Generally, no prior convictions, no crime of violence, many other details

Set by City Solicitors Office

Vivitrol Shot/ Clean drug test

Varies with the program

40 hours community service, theft class or substance abuse class, where applicable

No priors, working/student, pay \$200/\$250, 40 hours community service, complete required programs, 1 year no arrests/2years for DV

No prior felony convictions and no more than one prior misdemeanor conviction

no priors

first time offender status and thefts under 100.00.

Written procedures in place with brochure

1st time non violent non drug related offenders.

Restitution under \$5000 and arresting officer and PW must agree.

crime specific, no other convictions or completed first offender's program completions

no prior criminal offenses

underage consumption

No priors, working or student, pay \$250, must be able to meet with probation officer every other month for one year, no new charge

varies

first offender, not a crime of violence

No priors

dismissal of charge upon completion of designated programming and payment of \$150.00 diversion fee

Criminal and Traffic

earned reduction for underage alcohol

72 hour DIP

DIVERSION FOR DISMISSAL

pre-trial

Underage drinking and marijuana offenses

pretrial

underage alcohol, theft, minor misdemeanor possession charges

Diversion for underage alcohol consumption, theft(1st offense), MM drug abuse and paraphernalia, and income tax violations. Defendant's enter a guilty plea and if they complete diversion, their plea and conviction is vacated.

Theft and Underage Consumption

underage consumption

marijuana, theft

first offender program

DUS, Alcohol

Tax, theft, drugs

first time offender, agreement of victim and officer

No more than 1 prior; OVI's and drug-related charges not eligible

first time offenders

No prior offenses

CASE BY CASE BASIS

non-violent first time offenders first degree misdemeanors

first offender

first offender

no previous convictions as an adult, completion of community service, a fee, which includes record sealing fee, completion of an education course, and no further violations while the case is pending

First offenders.

Prosecutor referral

first time offender

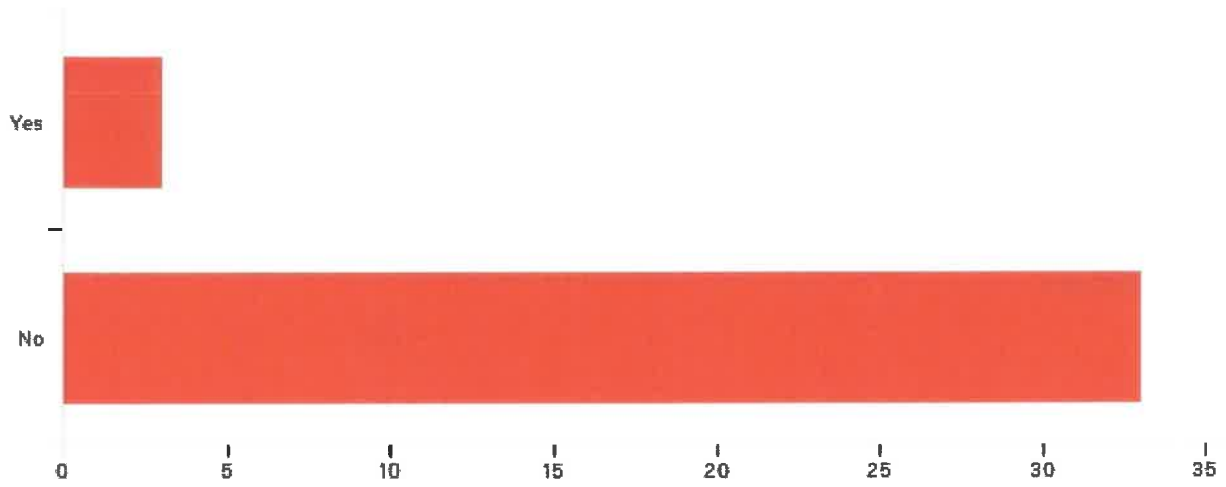
first time offender

first offense of any kind

no priors



### Q5 - Does your prosecutor's office offer a diversion program for juvenile offenders?



Answer	%	Count
Yes	8.33%	3
No	91.67%	33
Total	100%	36

**Q6 - If your answer to the previous question was "yes":**

What type of diversion?

What are the eligibility requirements?

This court does not handle juvenile cases

misdemeanors only

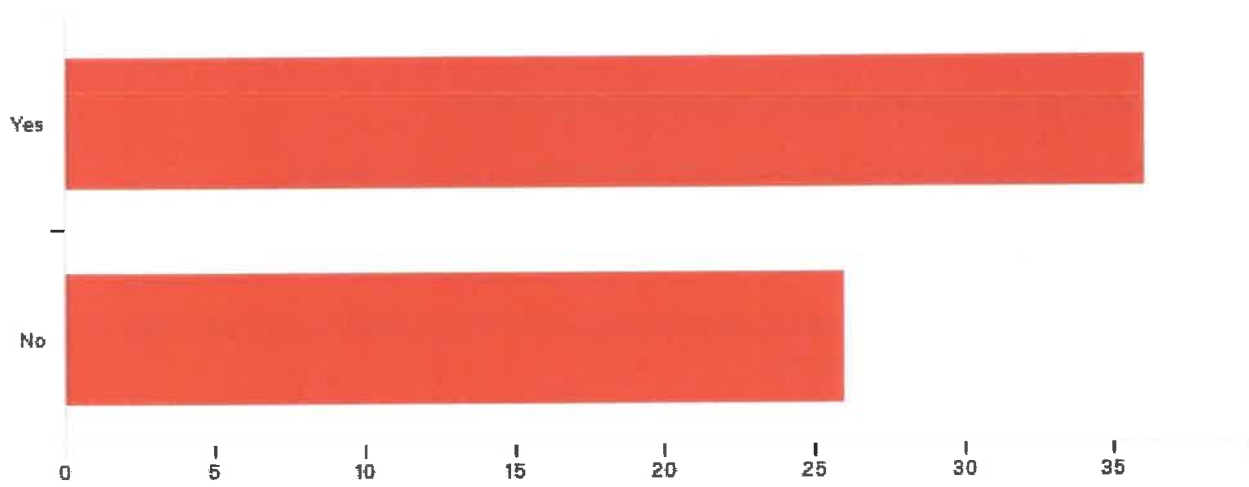
first time offenders

We are adult court only

n/a

n/a

### Q7 - Do you offer a specialized docket?



Answer	%	Count
Yes	58.06%	36
No	41.94%	26
Total	100%	62

## Q8 - If your answer to the previous question was "yes", what type of specialized docket?

If your answer to the previous question was "yes", what type of specialized...

Early Intervention Program, Veteran's Court, Drug Court, Intervention in Lieu of Conviction

Vivitrol drug court

mental health and recovery docket

We handle mental health cases as a specialized docket although with 5 municipalities and a single judge, the cases are handled on separate court dates, as needed.

Drug Court for drug and alcohol offenders that meet certain qualifications and are otherwise eligible.

Mental Health Docket

Veteran's Treatment Docket

Drug Court

Human Trafficking Docket

Drug Court and OVI Court

Although not designated as a specialized docket, as a single judge court I handle all aspects of every case filed with the court. This includes drug, alcohol, mental health, traffic, criminal and housing violations.

OVI and Mental Health Docket

mental health court, vets court, trafficked persons court (pending certification)

Mental health and we are currently working on a drug court.

Mental Health

Felony Drug Court

Felony and misd Veterans Court

Felony and misd Mental Health Court

Misd CHANGE Court- those involved in soliciting and prostitution.

Domestic Violence

Mental health

Mental Health

3 specialiaized dockets:

1. Mental health
2. Veterans' Treatment Court
3. Medication Assisted Recovery Court

mental health, drug, vivitrol/heroin, catch

We have 5: OVI Court, Mental Health, Family Violence, Valor Court (for veterans) and Drug Court.

Drug Court, OVI Court

Drug Court

Mental Health

Mental Health and OVI

Opiate Recovery

Municipal Drug Court

Drug Court that meets every other week. We have one drug court operating now in Judge Hursh's Court; we are intending to initiate another Drug Court in Judge Rodabaugh's Court this fall.

2; mental health and drug

Drug Court

Mental health

Mental Health Docket

OVI docket

Drug Court

Housing Docket--code enforcement

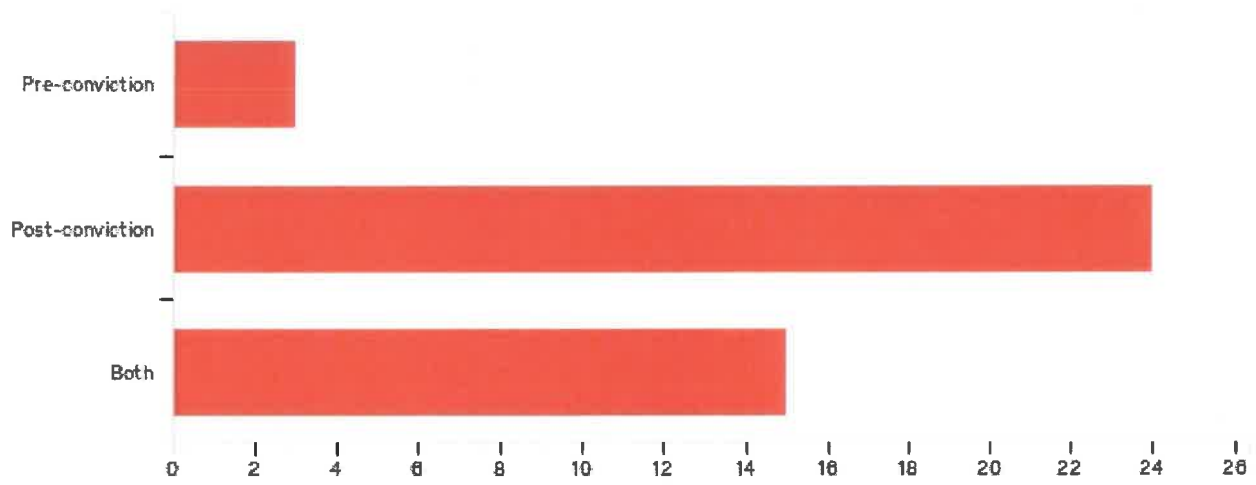
OVI Court and SAMI Court

OVI, Mental Health

Recovery Court

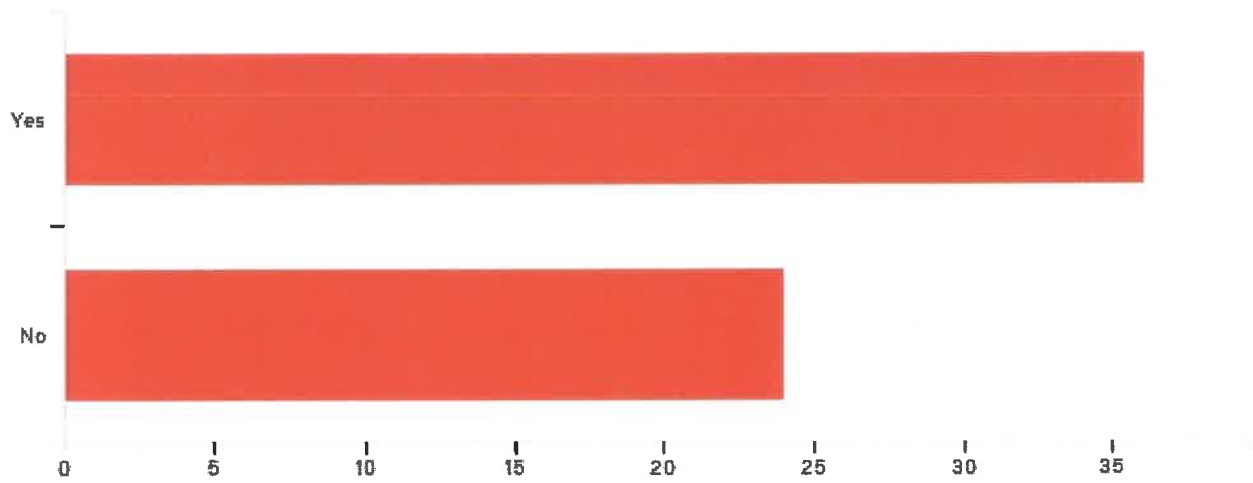
Mental Health Court

### Q9 - Are the docket:



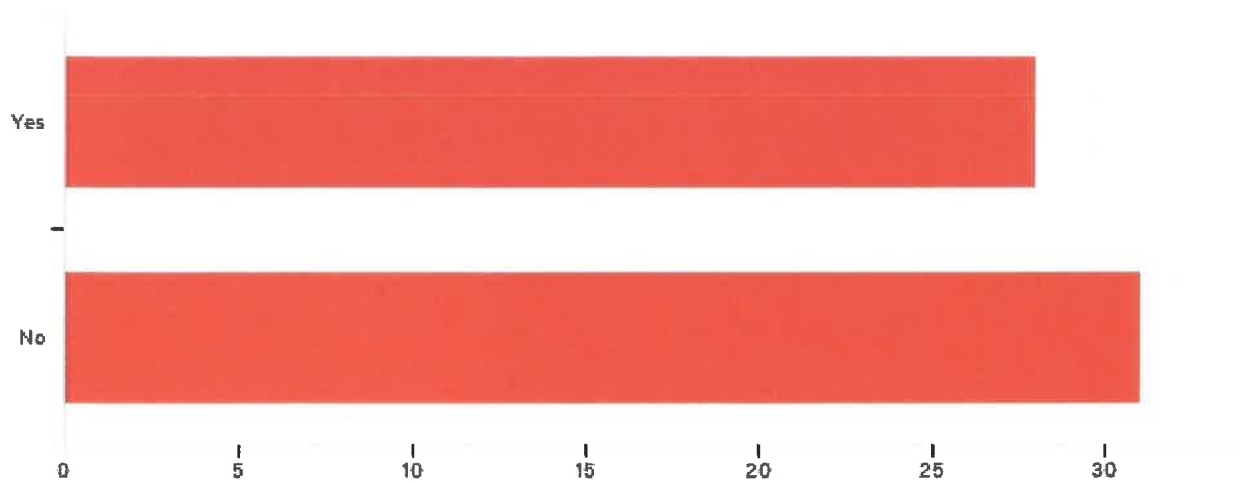
Answer	%	Count
Pre-conviction	7.14%	3
Post-conviction	57.14%	24
Both	35.71%	15
Total	100%	42

### Q10 - Do you offer intervention in Lieu of conviction?



Answer	%	Count
Yes	60.00%	36
No	40.00%	24
Total	100%	60

**Q11 - Do you offer any other diversion programs (other than ILC or a specialized docket)?**



Answer	%	Count
Yes	47.46%	28
No	52.54%	31
Total	100%	59



**Q12 - If your answer to the previous question was "yes", please describe the other diversion program.**

If your answer to the previous question was "yes", please describe the othe...

Early Intervention Program- Similar to ILC but it's part of our Pretrial Unit. Drug Court and Veteran's Court are also part of Pretrial.

We now offer a diversion program

See prior answer above regarding diversion programs.

Leadership development

Finish First Program

Emotional Intelligence

See above.

Diversion is set out in the local rules of court and handled on a case by case basis with concurrence of the prosecutor

Veterans AoD treatment programs

ILC is offered to defendants who have prior criminal convictions; the diversion program is offered to defendants with no prior convictions

STEPS for underage consumption.

The court offers diversion to first-time non-violent offenders. The program requires participants to do community service, write an essay, and, if appropriate, complete counseling.

Post Booking Jail MH Diversion- Low level city misd cases that are currently connected to one of 4 mental health providers in Hamilton Co.

Theft, Driving Under Suspension, No Operator's License, Permitting Unlicensed Operator, Under 21 Consumption deferred sentencing is common. A guilty plea is taken and sentencing is postponed to allow certain conditions to be met. (this is most commonly used in domestic violence cases to complete counseling). When completed the charge may be reduced or dismissed.

First Time non violent offenses

It's a pretrial diversion program for defendants charged with theft, marijuana possession, underage consumption, obstructing, etc. Mostly for non violent offenses. OVI does not qualify.

Upon completion of community service, payment of all fines and costs, completing an educational component and letter of apology are all terms that may be put in the probation program. all components must be completed and then the case is dismissed.

Our diversions are for theft, underage consumption, and domestic violence. All are offered AFTER guilty plea, and conditions must be met in order to avoid sentence. If conditions are met, the guilty plea is vacated and the case is dismissed.

first offense underage alcohol charges are referred to an informal diversion program

Diversion programs are offered for first time offenders for the following offenses: underage consumption/possession of alcohol; possession of marihuana; theft; and domestic violence.

First-time marijuana and acohol offenders

First offender marijuana, marijuana paraphernalia and underage consumption/possession of alcohol

See above

For Prohibition charges on underage O.V.I. violations; an on-line driver's education program.

Case by case basis, the prosecutor will offer counseling and no similar violations for a period of time or proceed on the original charge. Single court judge's dockets are all "specialized" since they handle all cases and do treatment and tracking and follow up on all cases! Don't really have "luxury" of one judge handling one type of case or setting days aside for one type of case. Tracking all and holding all accountable is the skill that makes the difference. Just can't get the extra funding for counseling, etc. without "jumping through the hoops" to become specialized!

license intervention for suspended driving.

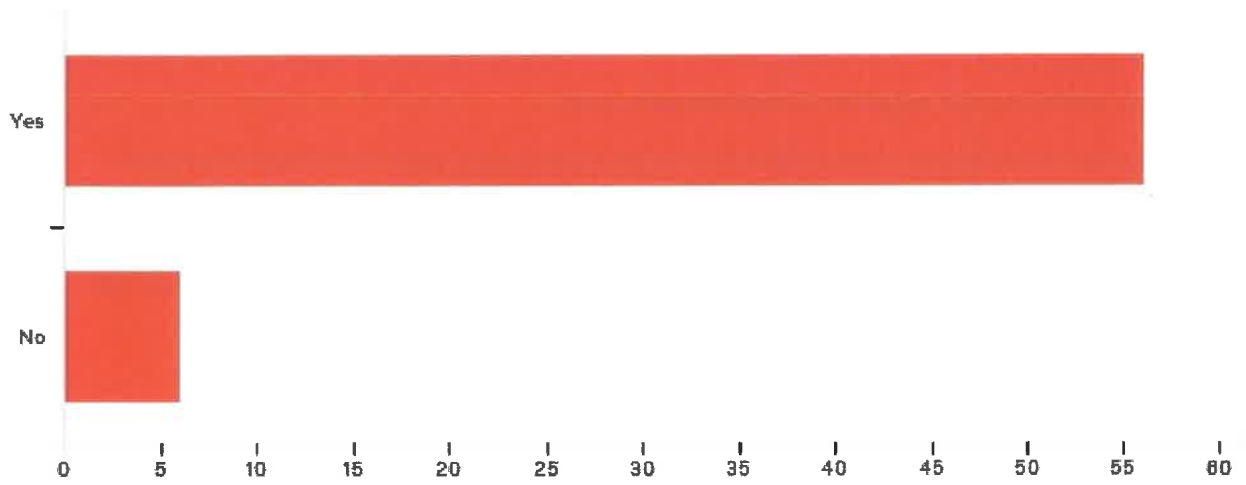
Thieft

Our largest is Underage Consumption Diversion, which is a Prosecutor referral. We also have theft and traffic diversion.

Selective program that requires prosecutor approval. Non violent, first time offenders can be eligible.

My probation supervisor takes care of the few cases where I believe it is important to offer young offenders a second chance.

### Q13 - Do you use a bail schedule?



Answer	%	Count
Yes	90.32%	56
No	9.68%	6
Total	100%	62

## Q14 - If you do not use a bail schedule, what do you rely on setting bail?

If you do not use a bail schedule, what do you rely on setting bail?

We make a bond recommendation to the Judge based on the Pretrial ORAS and a bond interview with the Defendant

However many of the bonds are set after review of the case and victim impact review.

Cases reviewed to determine when adjustments are needed on a daily basis. No schedule for DV, cases with criminal protection orders or felonies.

Statutory / criminal rule

Specific facts and circumstances of the defendant and the offense.

Judicial discretion.

The bail schedule is for after hours and weekends. During business hours and at jail arraignments, I consider the normal statutory bail considerations built around likelihood of appearing and public safety.

Description of offense in affidavit, defendant's record.

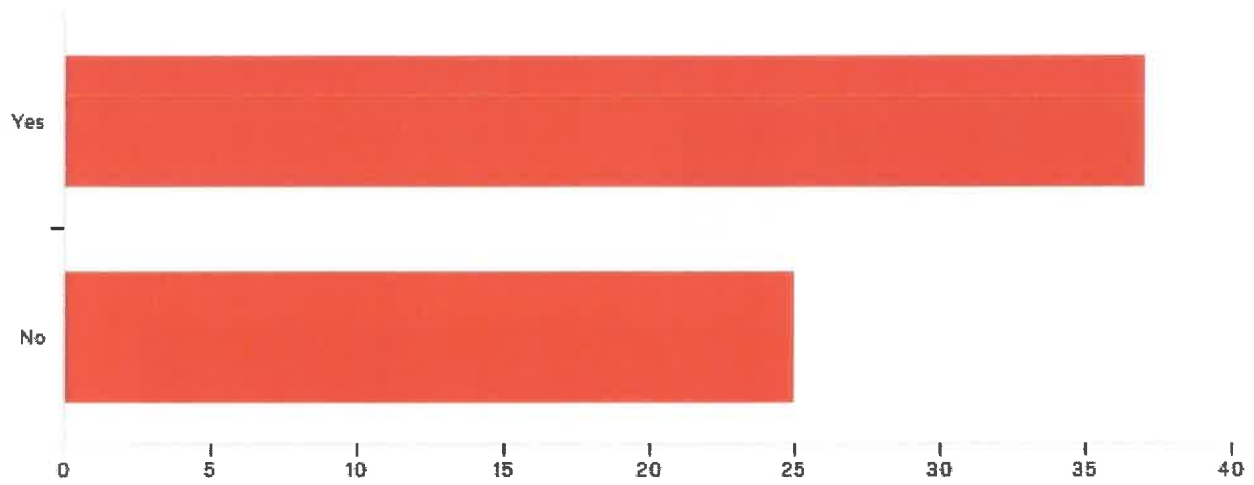
The risk of leaving the jurisdiction, especially for out-of-state defendants. The seriousness of the charge. Whether an innocent victim needs to be protected. Recommendations by Court Officers. Also, the Probation Department and Prosecutors Office are often involved.

We only have a bail schedule for misdemeanors. Felony bonds must be reviewed by a Judge.

Criminal rule 46.

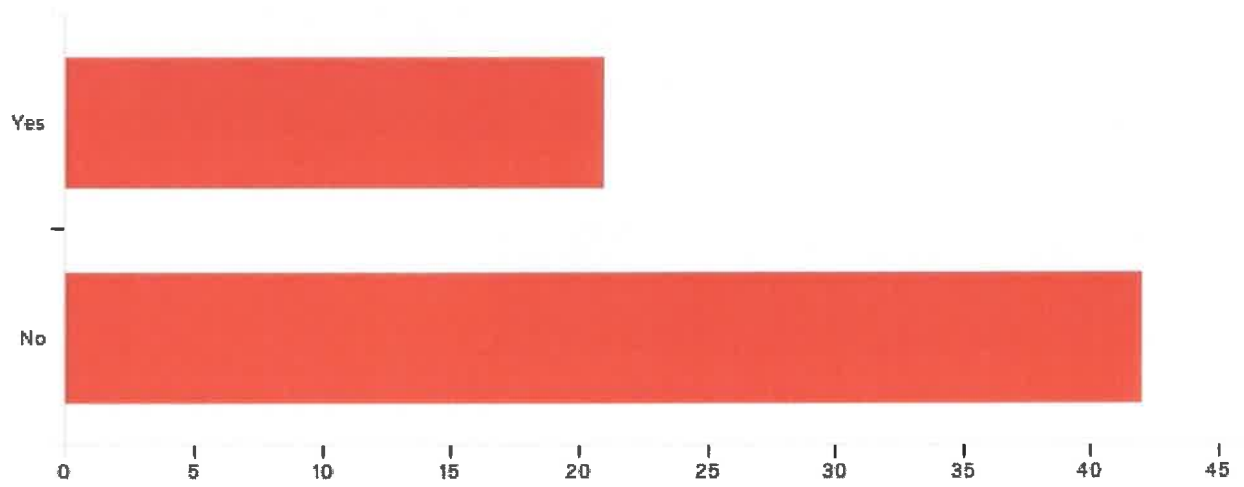
criminal record; residence of Defendant; type of crime; age of victim, if applicable; alcohol and/or mental health issues

### Q15 - Do you do an ability to pay assessment?



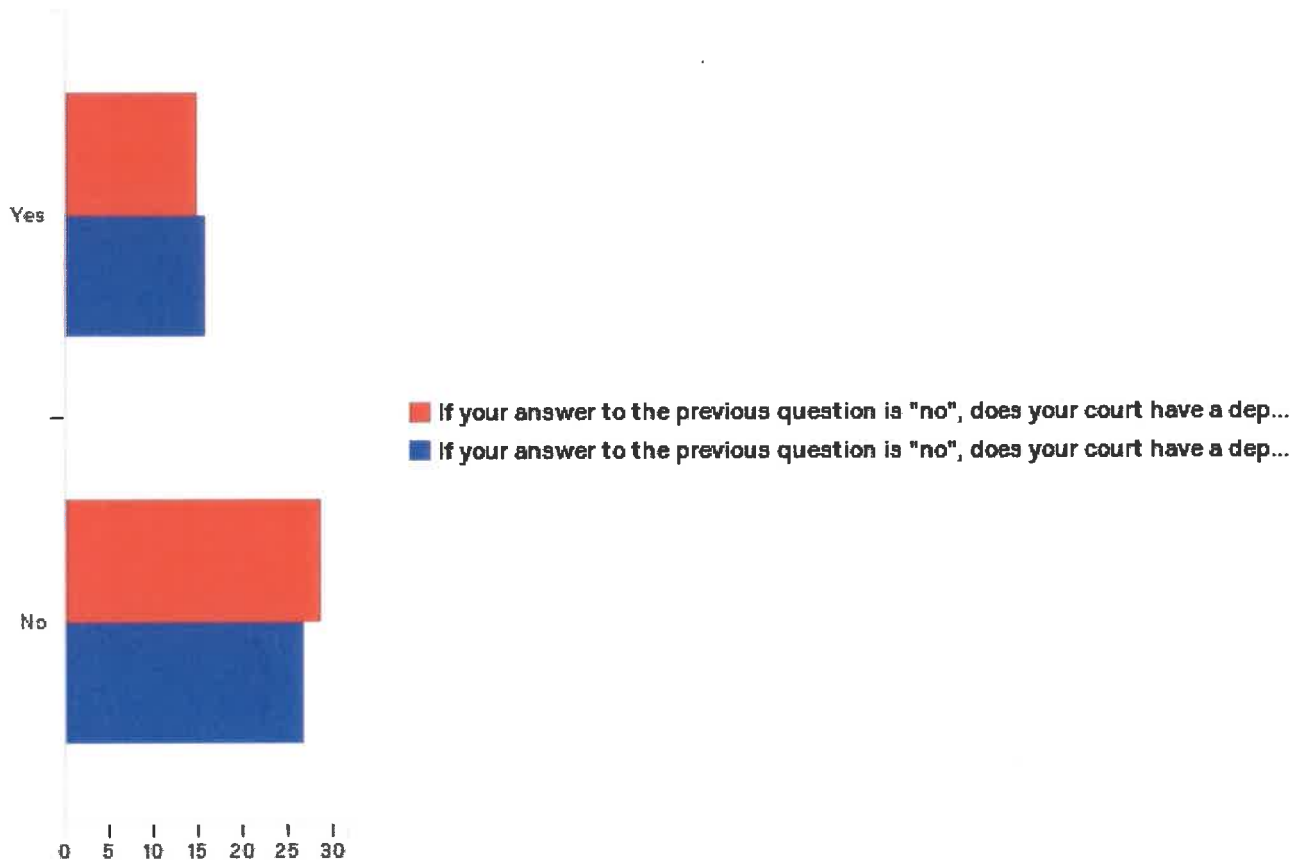
Answer	%	Count
Yes	59.68%	37
No	40.32%	25
Total	100%	62

**Q16 - Does your court have a pretrial services department/process that provides information to the court on bail/detention decisions?**



Answer	%	Count
Yes	33.33%	21
No	66.67%	42
Total	100%	63

**Q17 - If your answer to the previous question is "no", does your court have a department, person, or group of people tasked with the following:**



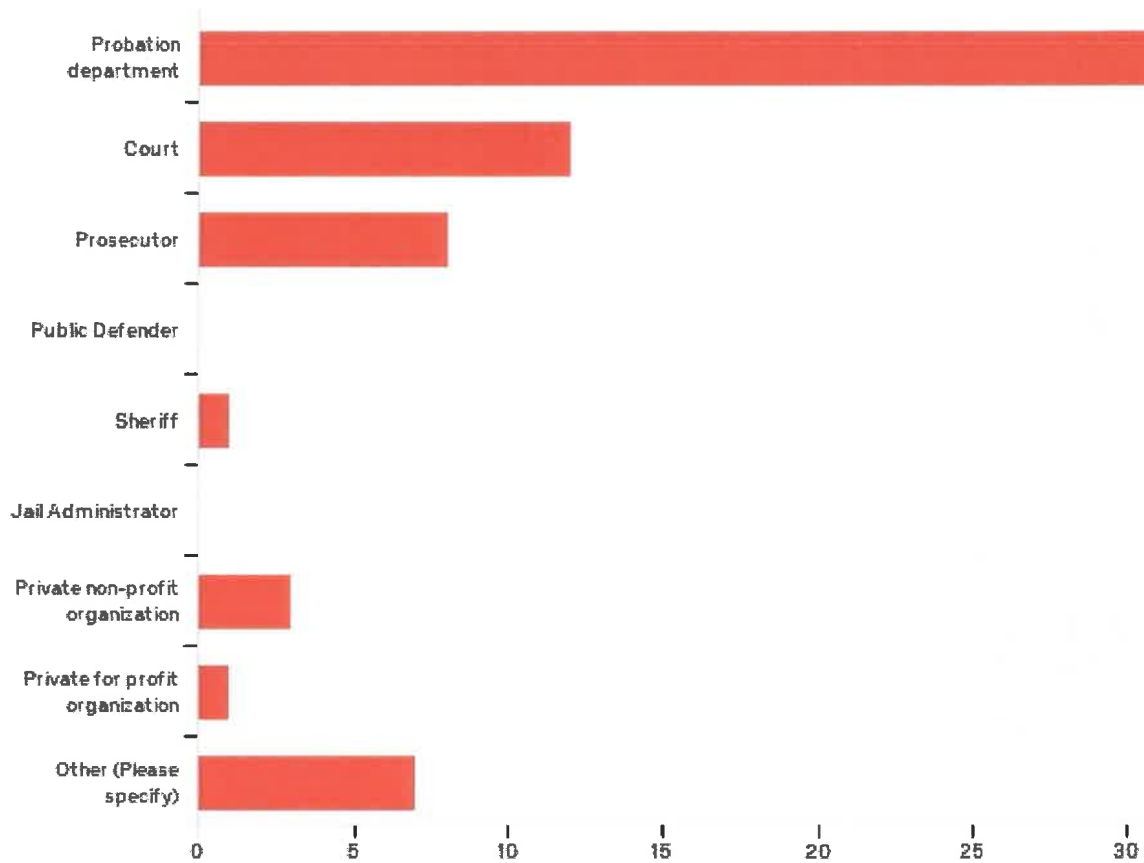
Question

Bail investigation (criminal history, community ties) and/or risk analysis regarding bail or detention decisions

Pretrial/bail supervision

	Yes		No		Total
Bail investigation (criminal history, community ties) and/or risk analysis regarding bail or detention decisions	34.09%	15	65.91%	29	44
Pretrial/bail supervision	37.21%	16	62.79%	27	43

**Q18 - Where is the pretrial services agency or person(s) located administratively in the criminal justice system?**



Answer	%	Count
Probation department	59.62%	31
Court	23.08%	12
Prosecutor	15.38%	8
Public Defender	0.00%	0
Sheriff	1.92%	1
Jail Administrator	0.00%	0
Private non-profit organization	5.77%	3
Private for profit organization	1.92%	1
Other (Please specify)	13.46%	7
Total	100%	52



Other (Please specify)

Other (Please specify)

County-run pretrial services program

Individual police departments provide reports and CCH, statements, photos, etc. to assist the court in setting bail

Pretrial Release Program

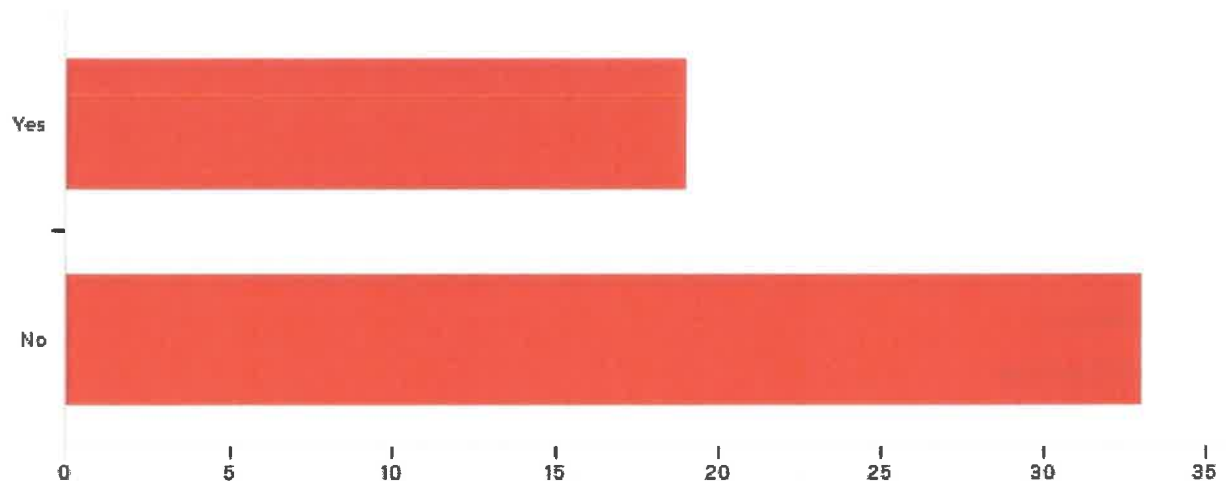
No specific pretrial services

None for muni court

There is no pre-trial services. If requested by the judge, the probation department would provide services in rare cases.

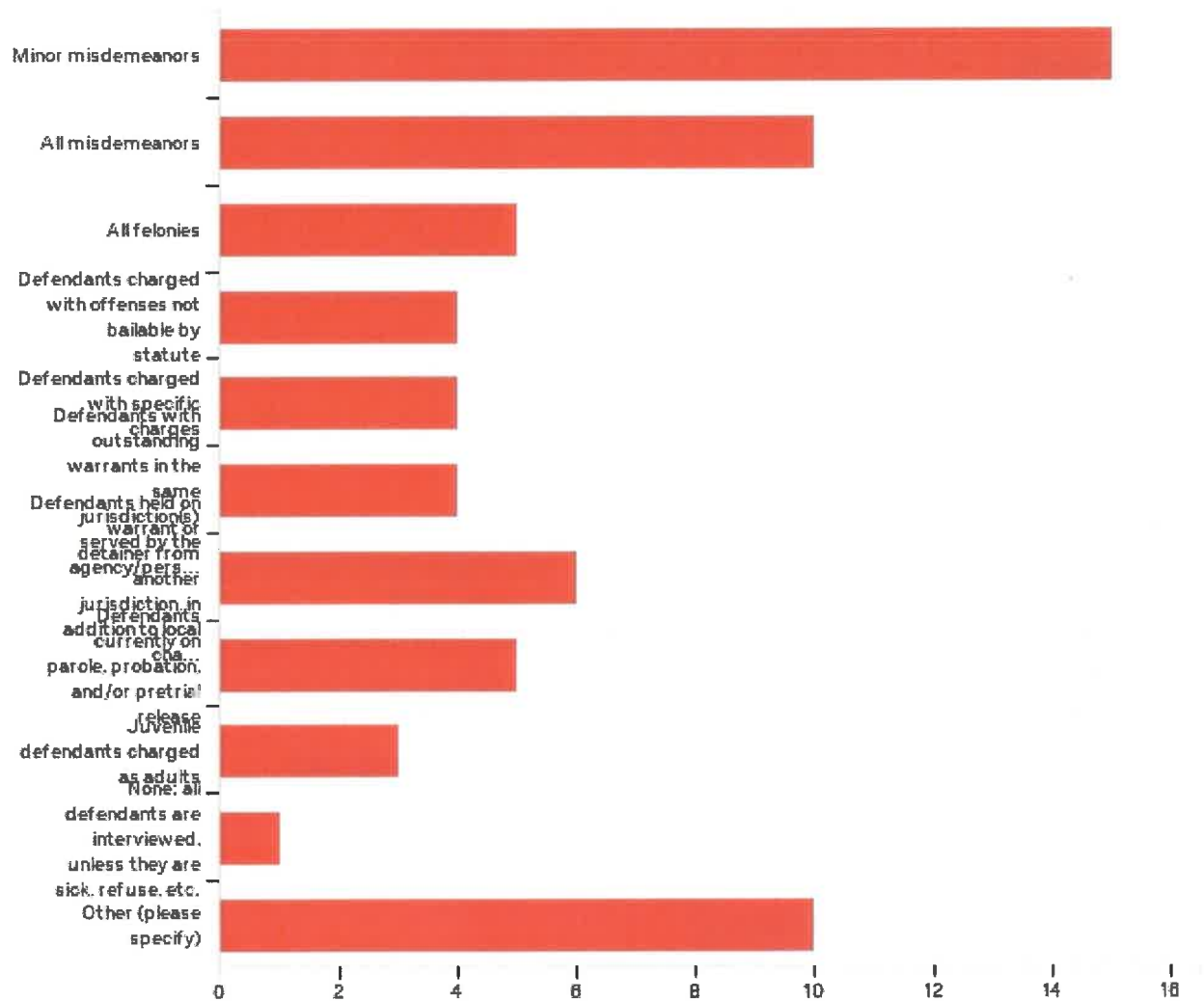
They have their own office across from the PRobation Department

### Q19 - Does the agency or person(s) do universal screening?



Answer	%	Count
Yes	36.54%	19
No	63.46%	33
Total	100%	52

**Q20 - If your answer to the previous question is "no", which defendants are not being screened?**



Answer	%	Count
Minor misdemeanors	44.12%	15
All misdemeanors	29.41%	10
All felonies	14.71%	5
Defendants charged with offenses not bailable by statute	11.76%	4
Defendants charged with specific charges	11.76%	4
Defendants with outstanding warrants in the same jurisdiction(s) served by the agency/person	11.76%	4
Defendants held on warrant or detainer from another jurisdiction, in addition to local charges	17.65%	6

Defendants currently on parole, probation, and/or pretrial release	14.71%	5
Juvenile defendants charged as adults	8.82%	3
None; all defendants are interviewed, unless they are sick, refuse, etc.	2.94%	1
Other (please specify)	29.41%	10
Total	100%	34

### Other (please specify)

Other (please specify)

Jail overcrowding

Defendants in prison

Non-violent offenders

I am unable to tell you what the police do regarding screening. They provide documents to the court from which the judge tries to determine flight risk/danger, etc. I can't answer for the police.

The probation department only gets involved if the judge directs them to (by installing a SCRAM or conducting random drug and alcohol testing)

each cases is handled individually and all cases are screened when bond is set

Police supply some information and then the judge tries to use that info in setting bond

We do not currently conduct pre-trial screening

No defendants are screened prior to conviction

Don't know what is meant by "Universal Screening"

**Q21 - How many employees does the pretrial services agency have (or equivalent people performing the functions of pretrial services)?**

How many employees does the pretrial services agency have (or equivalent pe...

30

roughly 20

1

unknown

N/A There is no pretrial service agency for the suburban muni courts in Cuyahoga County

2

one

1

10+

Primarily myself as judge with input from probation department, police department and booking information.

none

3 in our court

0

the dept has a director, asst director, and it is staffed on all 3 shifts, and there is also a rep who sits in court during arraignment; idk the exact number

2

45

Six

n/a We don't have one

2

2 ---- the bailiff prints off the information and the Judge reviews it before setting bond.

One

1

8

1

Law Director and one Assistant Law Director.

.5

2

All four (4) probation officers may be assigned supervise defendants assigned to pretrial supervision by the Judge/Magistrate at arraignment

13

unknown

six to eight; who also have other duties in their particular positions.

3 to 4

2

3

0

I do not know as we do not use them at this time

2

4

2 full-time probation officers

Two Full Time Employees

2

one

2

none

One

## Q22 - What is their caseload?

What is their caseload?

varies

varies from 40-200

approximately 80 active cases

unknown

High

125

For pre-trial supervision, very, very small (less than 10 at any given time)

none

I have no idea. Pretrial Services is not under the Municipal Court jurisdiction. It is a county wide agency

0

screen all misdemeanor and felons at intake, who are arrested in Hamilton county

1800

For those that carry a caseload approx. 80 to 120 people.

Unknown

HUGE!

about 10 right now

135

however many cases/defendants that need to be screened that day.

Approximately 1,200 criminal cases and 4,500 traffic cases per year.

unknown

Our caseload is approximately 10,000 per year

Currently 16 supervised by probation department

over 800 cases

unknown

Unknown.

approximately 8,600 yearly

Do not understand the context of the question

250 m/l

I do not know

100

unknown

active list is approximately 200-250.

It fluctuates

350 per officer

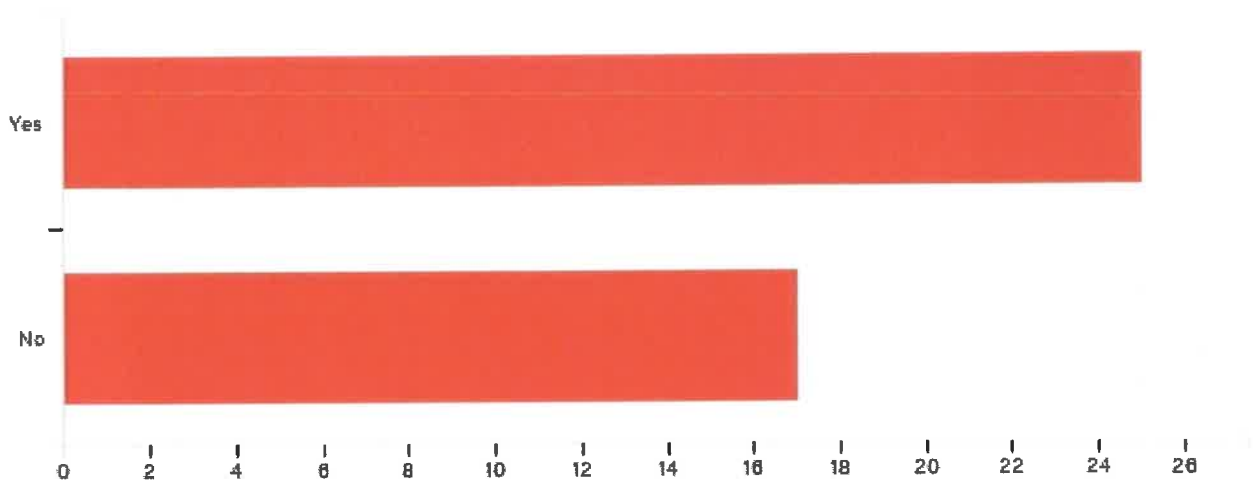
approximately 50

approximately 600

Pretty large...don't have the number handy.

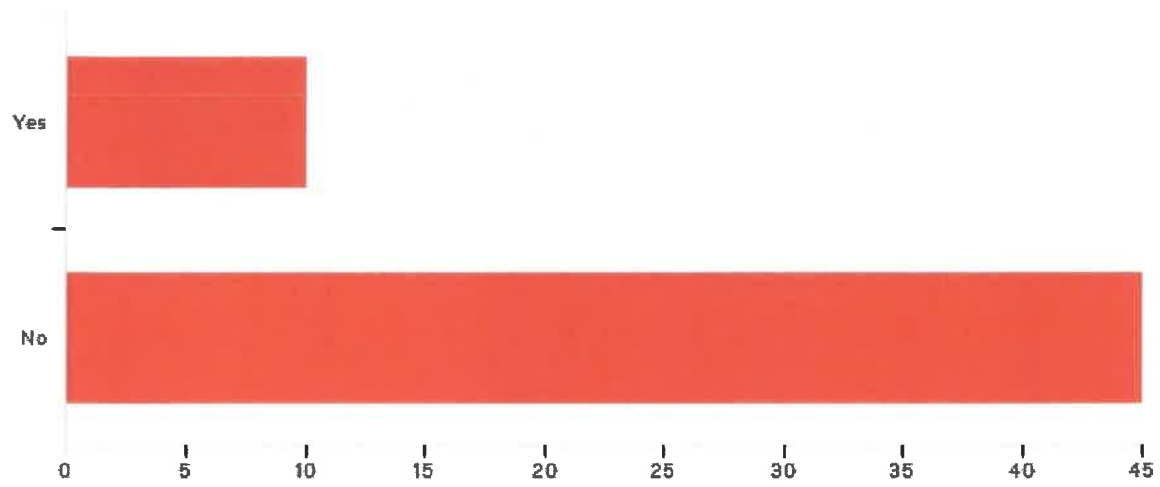


### Q23 - Do they receive specific training in providing pretrial services?



Answer	%	Count
Yes	59.52%	25
No	40.48%	17
Total	100%	42

**Q24 - Does your court routinely or ever hold public safety hearings to detain individuals?**



Answer	%	Count
Yes	18.18%	10
No	81.82%	45
Total	100%	55

## Q25 - What information is utilized by the judge in making the initial bail or detain decision?

What information is utilized by the judge in making the initial bail or det...

place to live, drug history, mental health, previous warrants for failure to appear

Criminal history, our court history with the individual, the investigative reports, conversation with the defendant in regard to residential location and length, employment, etc, jail overcrowding

The bond interview form from Pretrial Services and information from the Prosecutor's office

offense committed, safety of public and/or defendant, flight risk, pretrial services report if received

The Court considers the factors and provisions set forth in its misdemeanor bond schedule, Criminal Rule 46, Traffic Rules and ORC Sec. 2937.22 et seq.

Criminal History, Victim impact, danger to the victim or community

Everything available: crime, evidence against the person, CCH, LEADS if relevant, missed court or violated court dates/orders, statements and police reports, financial data furnished by the defendant, mental health screenings....anything that exists.

Level of charge, prior arrests, failure to appear, nature of crime, danger to the public, recommendations from attorney and/or solicitors

Bail schedule, prior convictions, offenses charged, visible injuries or lack thereof, issuance of a protection order, alleged victim concerns, county of residence, reliability/credibility of complaining witness(es), etc.

CCH of Defendant, LEADS, whether on probation, parole, pretrial release, community control or post-release control, resident of county, drug related offense, safety issues to defendant or community member, mental health issues

Residency, employment, family in community, severity of charges, other financial resources, if on paper anywhere else, record of convictions, any previous failure to appears,

Nature of offense and alleged facts; prior criminal history; ties to the community; employment

nature of offense, prior convictions, safety of victim and community, prior missed court dates, mental health, physical health and drug use by defendant as well as other factors that may apply to a particular case.

record of not appearing, contacts with central Ohio, where they live, work, how long, criminal record

Ability to appear at the next hearing. Other court holders. Criminal History. Defendants' past records of not appearing and severity of the crime.

Prior offenses, facts alleged in the charge, prior probation, information as to defendant's residence, employment and family

pretrial packet includes ORAS score, affidavit and complaint and bond preference of arresting officer (usually no preference is indicated), what bond def says s/he can make, current residence, local, out of county and natl criminal records, juvenile history, failure to appear history, pending charges, if a def is currently on probation, current employment, whether or not a def has a residence for electronic monitoring, and a reference who can verify residence and job

Criminal history, severity of the crime, harm caused to the victim, and knowledge from the local arresting agency of the defendant.

Defendant's contacts with the community, severity of the potential sentence, and the prior history of appearing.

Nature of offense charged, criminal history.

Many Judges in this county look at the arrest history and the FTA history along with the nature of the current charge.

Risk assessment reports

Criminal history

Police reports

Everything police make available to us as well as reports when agencies like Recovery Resources do assessment or when we have to hire a psychiatrist at the court's own cost to assess someone.

criminal history, seriousness of the offense, probation violations

criminal and traffic records and failure to appear record.

questions of the police and the defendant based upon Rule 46 considerations

Factors such as employed and length of employment, prior convictions, on community control now, family ties to the community, length of residency, family members in community, seriousness of offense, any failure to appear in past

history of non appearance for prior court dates, potential for violence, history of violence, nature of charge, local or transient, length of residency or homeless,

Public safety, victim safety, likelihood that defendant will appear for hearings.

All available information from CCH to hearsay information from family, friends, probation, law enforcement, prosecutors, defense counsel, etc.

Criminal record provided by arresting agency, occasionally prosecutor input, in house criminal history.

Residence. Employment. History of failure to appear. Criminal history. Presence of mental health or substance abuse.

family ties to the community

length of residency at current address

employment

relationship to victim

Type of offense, severity of injuries if any, criminal history, likelihood of fleeing

all statutory considerations are made

Facts of case at bar/nature of the offense (violent, drug-related, property offenses, etc.); prior convictions; history of failing to appear for hearings, ties to the community; employment

All available information is used, varies by case as to what is available. Most commonly the prior record of the Defendant along with the facts of the new charge, Defendant's ties to the community (job, family, residence). But also get input from Defense counsel, defendant family members, minister, etc. in many cases.

See above.

Prior record, screenings as to a danger to self or others, nature of offense, prior failures to appear, victim concerns, contact information with arresting officers.

Oh. R. Crim. P. 46

Don't know what is meant by "public safety hearings". To the extent this means that we consider public safety under Criminal Rule 46 the answer is yes.

A statement of probable cause, criminal history, previous failures to appear, connection to the community, and other factors offered by prosecutor and defense counsel.

For me it is residence location to the court, length of time at residence, is the residence stable, criminal record with warrant info, seriousness of crime, contact with victim, behavior in court

criminal record, employment, family size, risk to public, number of prior failures to appear, whether new charges while another case is pending, ability to pay

Drug screening, prior record, risk of flight, danger to self or other

the nature of the crime charged, whether a victim is involved, past criminal history, whether the use of drugs or

alcohol may have been a factor, whether a mental health assessment may be helpful, any prior failures to appear and the interest of public safety

Nature of charge/threat to public safety.

Ties to community.

Mental health issues.

Criminal history and record of non-appearance.

Stability of residence.

Employment.

The Pretrial Report, the risk the offender poses to the community, and the likelihood the person will appear in court.

severity of offense, criminal history, ties to the community, history of non-appearance.

CCH, recommendation of prosecutor; type of offense

if available, I review the leads; I assess the seriousness of the offense; the availability of the defendant to appear ( where he lives; connection or lack thereof with the community); victim's statement, if appropriate; any other relevant information available at that time.

prior failures to appear to court, probation violations, seriousness of current charges, contacts within central Ohio for work/home

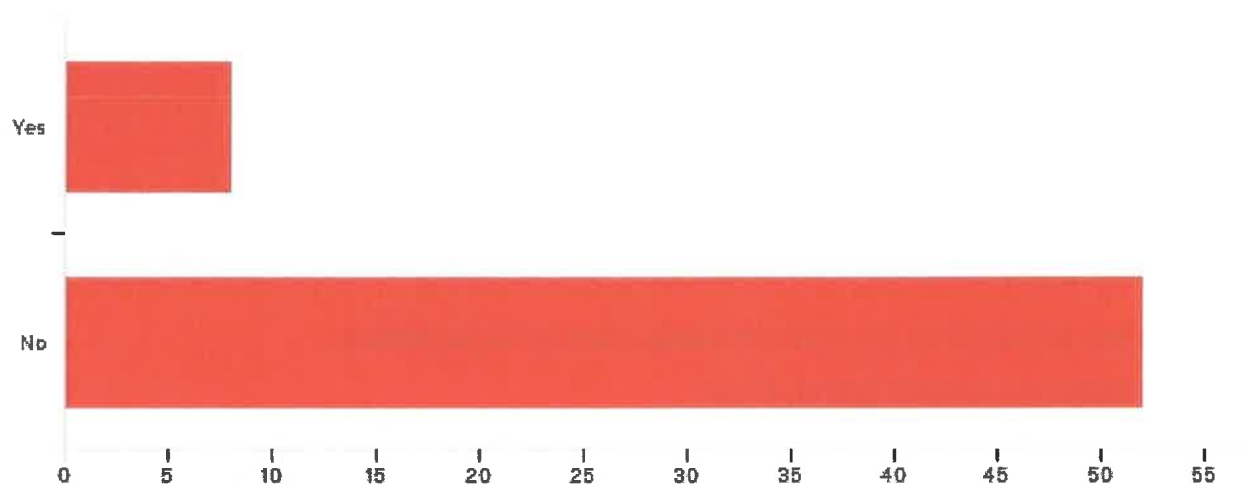
Seriousness of offense

previous criminal history

whether or not defendant is on probation

whether or not defendant is local

### Q26 - Do you use a validated risk assessment instrument?



Answer	%	Count
Yes	13.33%	8
No	86.67%	52
Total	100%	60

**Q27 - If you answered "yes" to the previous question, please attach a copy of your assessment instrument.**

If you answered &quot;yes&quot; to the previous question, please attach a copy of you...

Name	Size	Type
underage consumption diversion criteria.pdf	131900	application/pdf
PTWEB - ORAS_asp.htm	15972	text/html

## Q28 - If you answered "no", what criteria do you use to help individualize bail setting requirements?

If you answered "no", what criteria do you use to help individualize bail s...

Warrant history, criminal history, ties to the area, whether alcohol or drugs are alleged to be involved or mental health, any alleged injuries, community control or probation violation history, jail overcrowding offense committed, risk of harm to others/public/defendant, risk of flight

Criminal History, Victim impact, danger to the victim or community

See above.

Level of charge, prior arrests, failure to appear, nature of crime, danger to the public, recommendations from attorney and/or solicitors

Facts of case / record of Defendant, risk to community

See above.

all listed above

Bench book criteria as outlined above

See above

See prior answer concerning bail decision

see above

Criminal History. Pending charges in our court. Review Ohio Courts Network to determine other cases that may be outstanding.

Information as to prior offenses, prior probation, facts alleged in offense, residence, job, family, drug use

Same as above

nature of offense charged, criminal history.

Risk assessment report

Criminal history

Police reports

Anything you can think of: Criminal Rule 44 criteria, criteria set forth in the domestic violence codes to be considered in setting bond, police reports, witness statements, prior CCH, community ties, past history of violating court orders including coming to court, verification of defendant ID, job and economic information and any other data available that assists in determining whether defendant is likely to show for court appearances and whether defendant poses a threat to him/herself or others.

Arrest Information and Complaint.

Would love to have PSA program developed by Arnold Foundation, but they will not release it.

criminal and traffic history and failure to appear history and address info and type of charge filed against defendant and substance use info

rule 46

The criteria outlined above; family support, if any; assets or lack thereof; children living in the area;



see above and I look at the defendant's prior criminal history and contempt record.

I do the job I was elected to do and I consider in depth all of the Crim. R. 46 matters and the attendant case law associated with interpreting Crim.R. 46. There is no substitution for me taking the time to review each arraignment case prior to setting bail on the record.

Criminal rule 46 factors.

The prosecutor provides information and the Court inquires of the Defendant on the factors listed above.

see above

CCH, prior no show history from other local courts, length of hold on cash/surety bond without ability to be pay.

utilize statutory considerations

All statutory considerations are made

See above

See above

See information utilized by judge above.

Oh. R. Crim. P. 46. No risk assessment is used before guilt or innocence is determined.

Criminal Rule 46 factors:

(1) Nature and circumstances of crime

(2) Weight of Evidence

(3) Confirmation of Defendant's identity

(4) Defendant's family ties, employment, financial resources, character, mental condition, length of residence in community, jurisdiction of residence, record of convictions, record of appearances at court proceedings or flight to avoid prosecution.

(5) Whether the defendant is on probation, a community control sanction, parole, post-release control, bail, or under a protection order.

Statutory factors

See above

criminal record, employment, family size, number of previous failures to appear, risk to public, whether new charges occurred while another case is pending, ability to pay

see above

I follow the statutory requirements in the ORC

Information received from prosecutor and victim advocate.

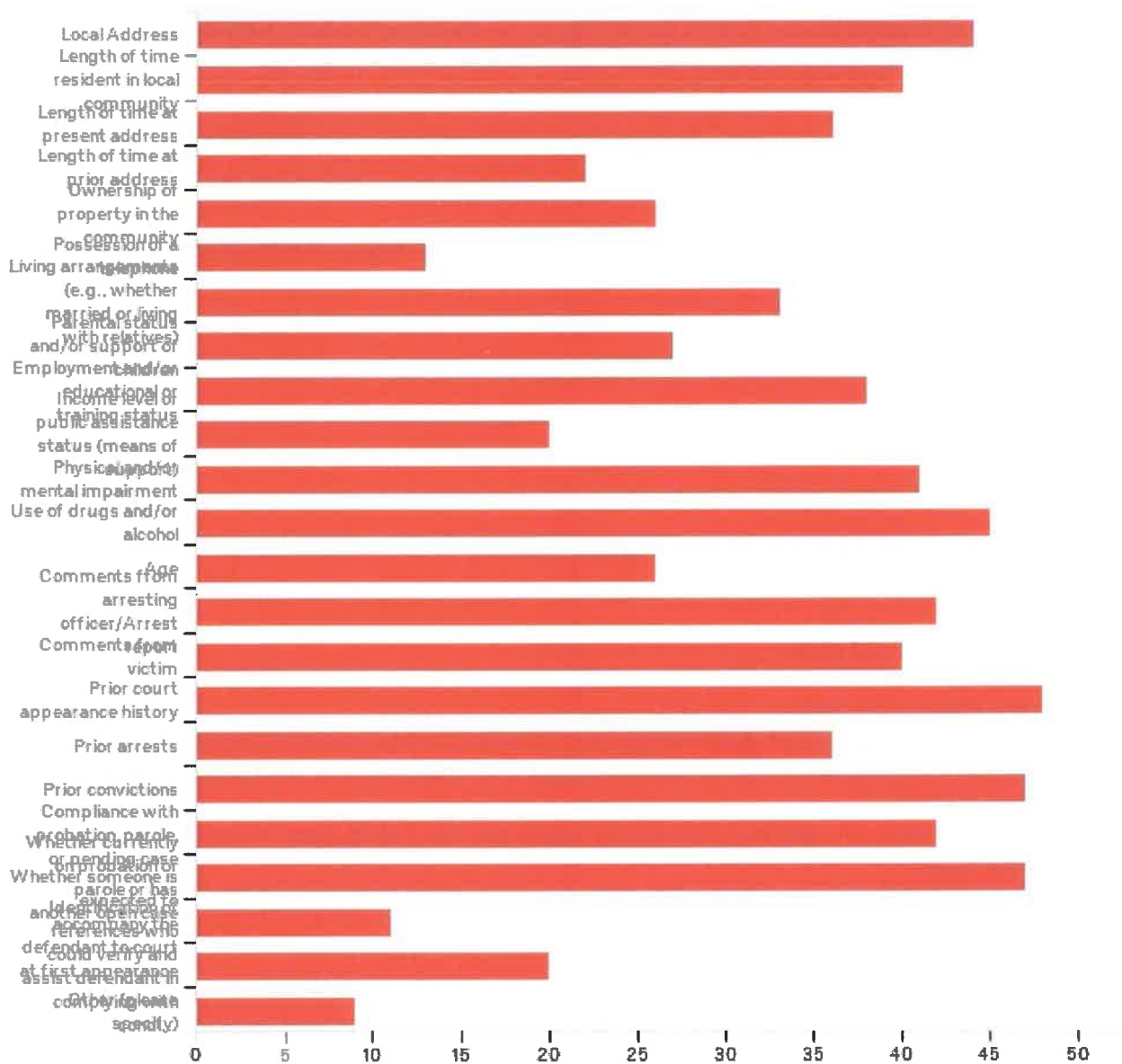
Criminal history

see above answer

prior record of failing to appear, probation violations, seriousness of offense, contacts within central Ohio for work/home

See above

## Q29 - What factors are included in your risk assessment?



Answer	%	Count
Local Address	86.27%	44
Length of time resident in local community	78.43%	40
Length of time at present address	70.59%	36
Length of time at prior address	43.14%	22
Ownership of property in the community	50.98%	26
Possession of a telephone	25.49%	13

Living arrangements (e.g., whether married or living with relatives)	64.71%	33
Parental status and/or support of children	52.94%	27
Employment and/or educational or training status	74.51%	38
Income level or public assistance status (means of support)	39.22%	20
Physical and/or mental impairment	80.39%	41
Use of drugs and/or alcohol	88.24%	45
Age	50.98%	26
Comments from arresting officer/Arrest report	82.35%	42
Comments from victim	78.43%	40
Prior court appearance history	94.12%	48
Prior arrests	70.59%	36
Prior convictions	92.16%	47
Compliance with probation, parole, or pending case	82.35%	42
Whether currently on probation or parole or has another open case	92.16%	47
Whether someone is expected to accompany the defendant to court at first appearance	21.57%	11
Identification of references who could verify and assist defendant in complying with conditions	39.22%	20
Other (please specify)	17.65%	9
Total	100%	51

### Other (please specify)

Other (please specify)

Jail overcrowding

Age of first arrest under 33, FTAs

GAF score

what are actual allegations

public safety

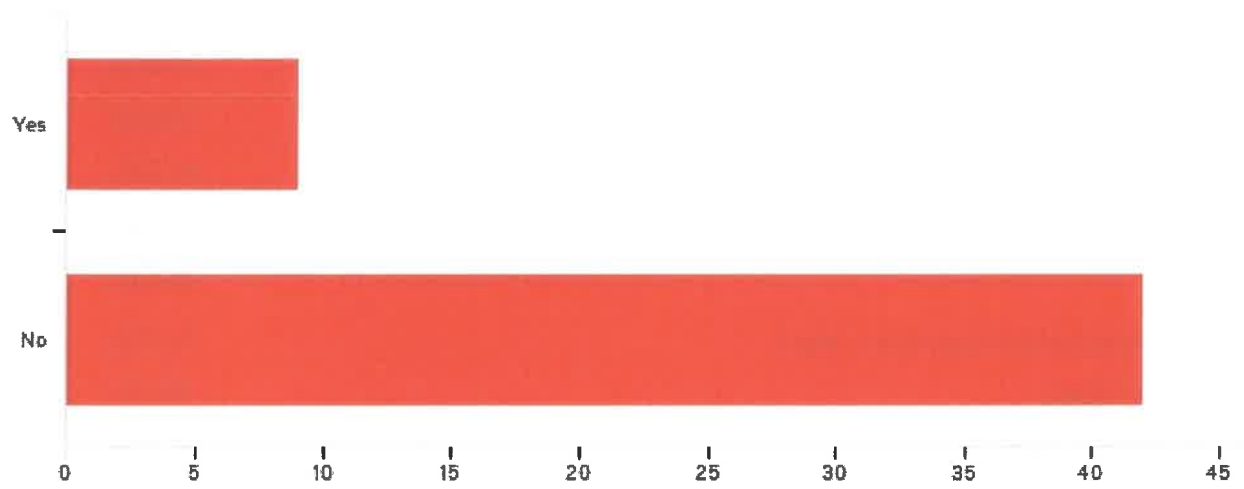
all of the above

safety issues both for the community and the defendant

Drug testing

any other information I deem to be relevant.

### Q30 - Has your risk assessment scheme or system been validated?



Answer	%	Count
Yes	17.65%	9
No	82.35%	42
Total	100%	51

## Q31 - When is the defendant provided counsel to discuss matters regarding bail?

When is the defendant provided counsel to discuss matters regarding bail?

I don't know

I believe it's during the arraignment

After the arraignment

Don't know

initial appearance

The defendant is provided the opportunity to obtain counsel at the initial appearance and/or arraignment for assistance on all matters relating to the case including the issue of bond.

At the first court appearance or before if defendant requests.

Private attorney - at arraignment.

Public defender - at pretrial or preliminary hearing

1st pretrial

In most instances, prior to (but the same day as) arraigned or initial appearance.

Initial Appearance

at initial appearance if felony; prior to first pretrial if misdemeanor

Arraignment if requested or first pre-trial conference which is usually scheduled as quickly as possible

After initial appearance

within hours of arrest.

asap

before arraignment if they wish. Many defendants appear at their arraignment with counsel

At the time bond is set

in the morning hours before arraignment

At the arraignment if the CDC is available.

Counsel is appointed at initial appearance.

Prior to arraignment which happens within 48 hours of arrest

Preliminary hearing felony

Pretrial misdemeanor

At the initial appearance

upon request

after arraignment or earlier if counsel is retained

after arraignment

First pre-trial or preliminary hearing. At arraignment if Defendant expresses questions about bail, the criteria used, etc. Defendant is advised a hearing will be set within 7-10 days to review bail after Defendant has had opportunity to consult with counsel. If counsel appointed, they are provided with contact information to contact counsel.

arraignment

At the first pre-trial

From the beginning

After initially set/ after arraignment or initial appearance.

Defendants are advised of their right to counsel. The Knox County Public Defender goes to the Jail weekly to meet with clients.

depends upon whether indigent counsel is available at bond hearing

counsel is appointed upon discussion at arraignment and submission of affidavit.

At arraignment

Not before arraignment

Upon retaining counsel or court appointing counsel

In retained cases, at time attorney retained. In appointed cases, appointment made on first appearance before Judge.

Whenever it is requested on jailable offenses.

At Arraignment Defendants are asked whether they wish to discuss bail or wait to say anything until they speak with an attorney. (They are told upon arrest of the bond schedule regarding their offense)

First Court date after arrest.

If an attorney is available at the initial appearance. If not, an attorney is appointed and contacted ASAP and given information about the Defendant and about the case if the Defendant is indigent.

Whenever requested or retained

prior to arraignment

The defendant is given an attorney if requests an attorney and is indigent

At arraignment

At initial appearance

At arraignment, the Defendant is given contact information for the Public Defender assigned on the case, including address and telephone number. If the Defendant is incarcerated, a fax requesting contact can be sent to the attorney's office and phone or in-person interviews are conducted at the jail.

Counsel is appointed at arraignment but there is generally no opportunity to speak to counsel before bail is set.

Prior to his initial appearance/arraignment.

pretrial

At arraignment

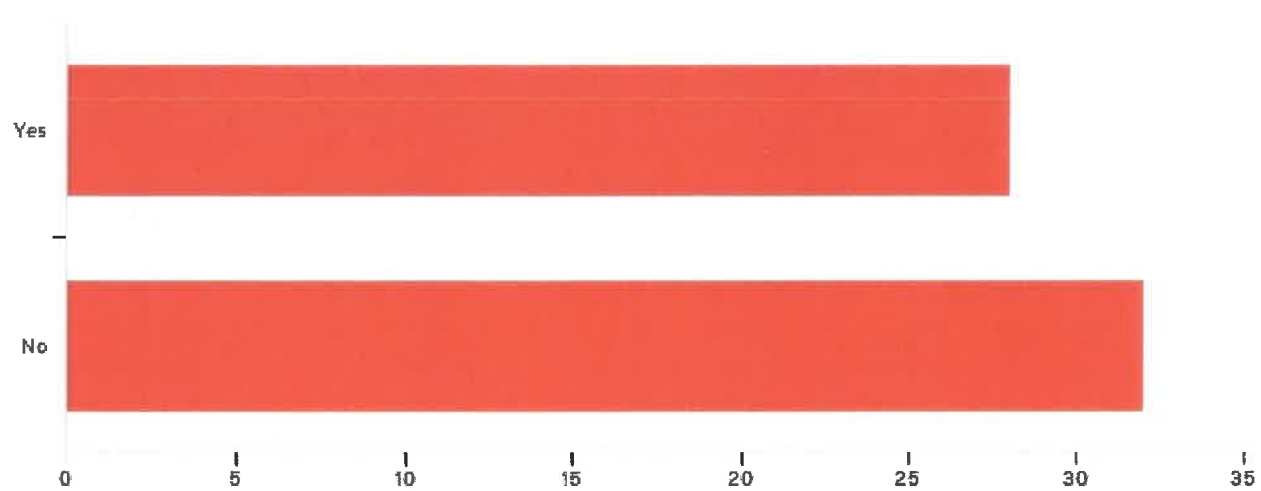
when requested or if felony charge

It depends.

After arraignment

Shortly after arraignment

### Q32 - Are defendants interviewed?



Answer	%	Count
Yes	46.67%	28
No	53.33%	32
Total	100%	60



**Q33 - If the answer to the previous question is "yes", please describe the interview (e.g. what is asked, how long it takes, where it is done, whether or not statements are verified)**

If the answer to the previous question is "yes", please describe the interv...

10-15 min. living arrangements, past drug/alcohol history, mental illnesses, income , employment, emergency contact

Defendants are interviewed at the jail and it takes about 8 to 10 minutes maximum. They do not make statements, just answer my questions. I ask basic demographics, address, employment, basic mental health, PT ORAS

handled by pretrial services or by judge in open court if no pretrial services report received

completed by probation department

Assistant public defender conducts the interview

Judge interviews, from the bench, on the record, few minutes

Interview with defense counsel to protect the defendant's right against self incrimination. The defense counsel will then bring applicable information to the judge's attention.

I have no idea. Pretrial Release Services does the interview. It would help if the person asking these questions ever practiced in a large municipal court district. We collaborate with jail personnel, prosecutors office, defense bar, public defenders office and our county pretrial release services .

pretrial does this at intake; see above questions and answers

Interviewed to determine eligibility for court-appointed counsel. Prior to arraignment.

Interviews in Hamilton Co are conducted in the Intake area of the Justice Center. An interview, and criminal background analysis takes 15- 20 minutes total. Aside from static information, name, address, work history , education level, military involvement etc. we also ask a series of mental health and trauma questions as well as substance use questions.

At the jail post initial appearance upon request by the public defender. Affidavits are filled out, and if accepted by the public defender, they are approved by the court without further investigation.

Counsel conducts interviews with defendants of varying length. Unable to advise but estimate around an hour.

The interview is done at arraignment, on the record, with input from prosecutor and/or victim's advocate. It is done in a few minutes, questions asked of Defendant, explain bond (what, why) ask if they have any input on bond (work? school? family? etc). Nothing verified. No time at arraignment for that.

interviewed by public defenders and pretrial services before arraignment court during a 2-3 hour window

That is done by the probation officer before the judge sees the defendant at the jail.

The Court asks Defendants about their residence, length of residence, employment, etc., at bond hearings. Each case takes 5-10 minutes. Defendant are arraigned at the Jail by video conferencing. Defendant statements about prior records, current supervision or history of failing to appear can be verified by the prosecutor.

same questions as above, the interview is in a private room the statements are not verified

At arraignment the risk factors listed above are discussed/

Varies by case.

At initial appearance or arraignment on the record. Where do you live, how long, do you work, where, how long, do you have family in the area, who, where do they live, if released where will you live, when is the last time you talked with the person at that address, sure they will let you stay there. Less than 5 minutes depending on individual. Statements are verified usually by bailiff.

by the public defender's office

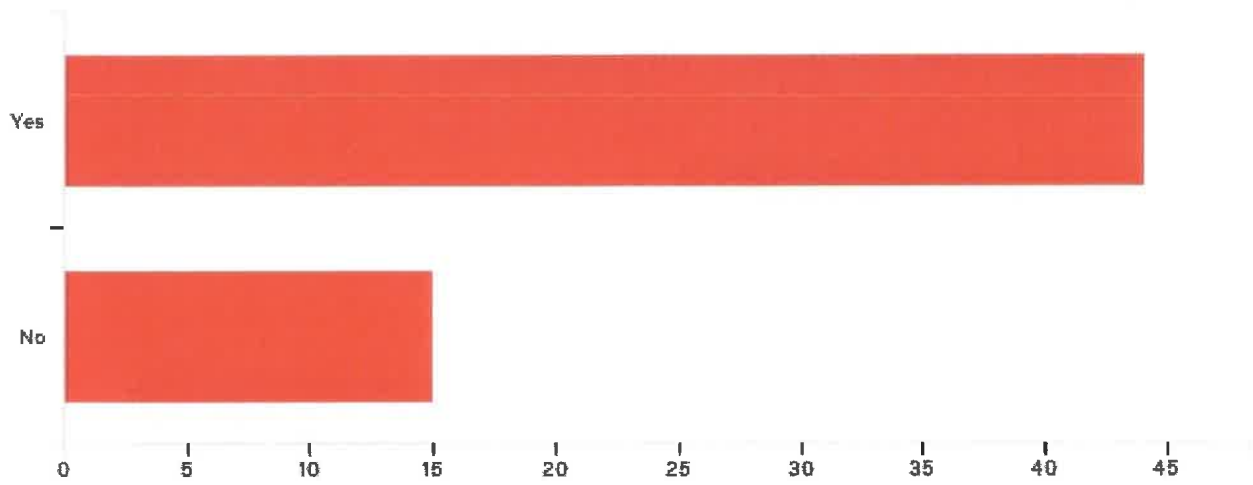
5 minutes before court appearance

A brief inquiry is made to see if the Defendant wants to be represented by an attorney and whether there are means or income to hire an attorney. The inquiry is very brief because it is in open court on the record, usually in front of other people present and I don't want to be too invasive. I also explain that if it is later determined, according to the State published guidelines for a Public Defender appointment, that the Defendant doesn't qualify, then he/she will still have the option to hire an attorney or represent him/herself.

The Defendant is interviewed by the PTS Officer at the jail. They are also interviewed separately by the Public Defender prior to arraignment.

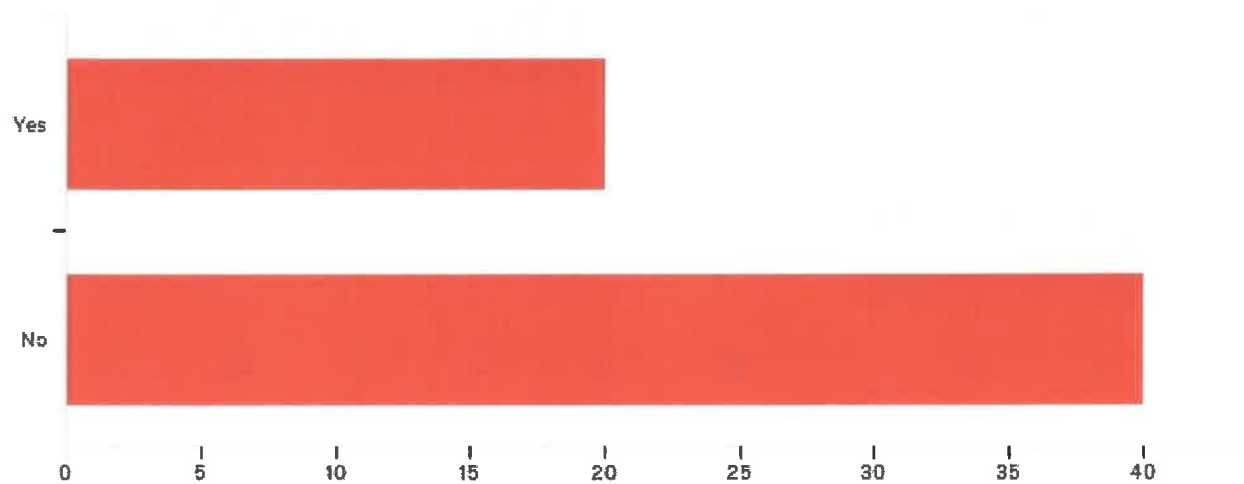
address, employment, finances

**Q34 - Are any defendants treated specially due to charge (e.g. domestic violence or OVIs)?**



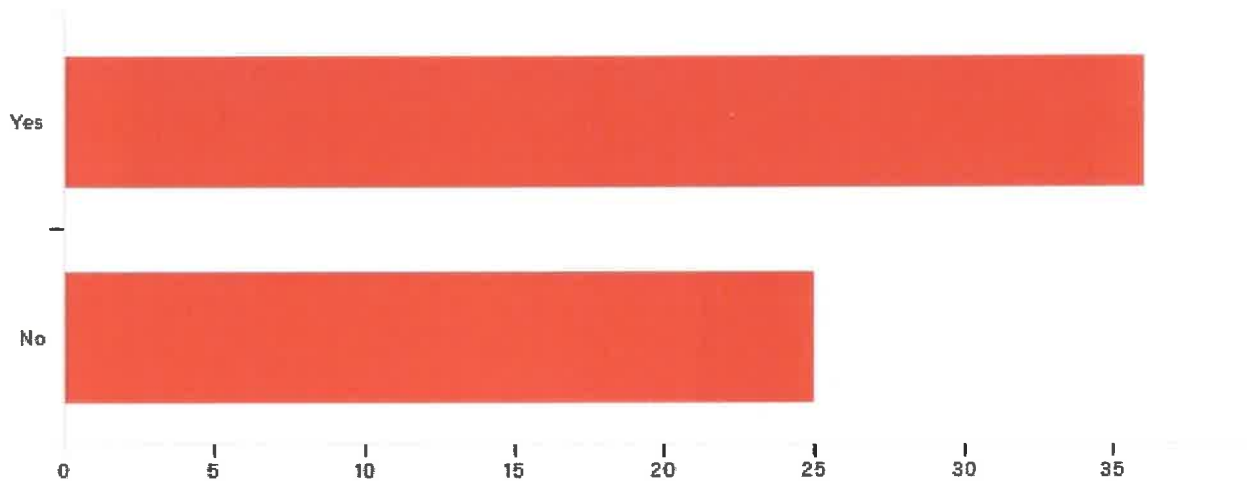
Answer	%	Count
Yes	74.58%	44
No	25.42%	15
Total	100%	59

**Q35 - After the initial Bond is set, does your jurisdiction systematically re-review the Bail/Bond for defendants remaining in custody (Example, any defendants remaining in custody 3 days after Initial Hearing are re-interviewed)?**



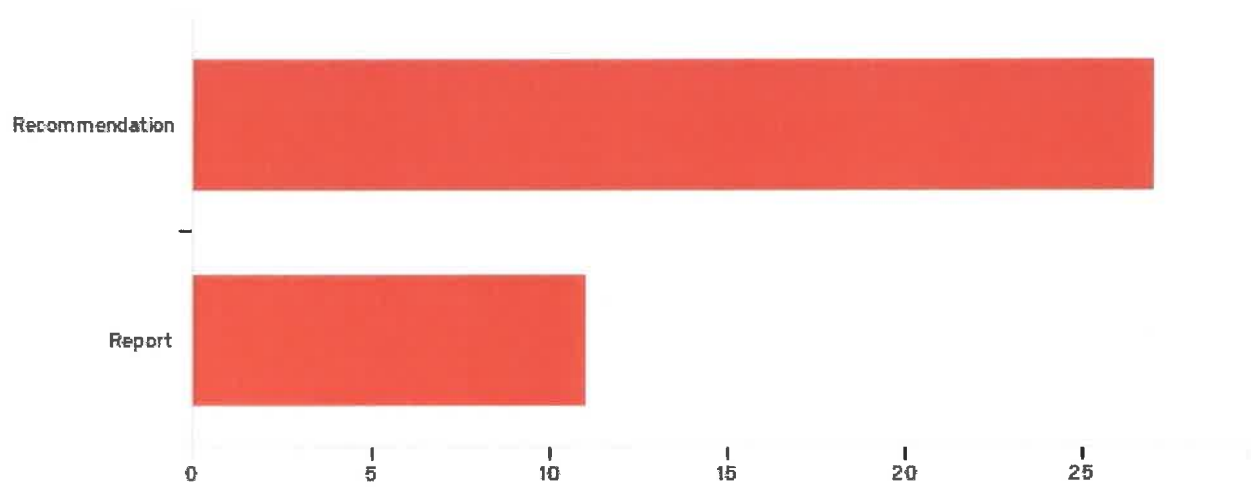
Answer	%	Count
Yes	33.33%	20
No	66.67%	40
Total	100%	60

**Q36 - Does your jurisdiction assess defendants for Mental Health/Developmental Disabilities issues at booking?**



Answer	%	Count
Yes	59.02%	36
No	40.98%	25
Total	100%	61

**Q37 - Does the person or department make recommendations on bail/detain, or just provide a report to the court?**



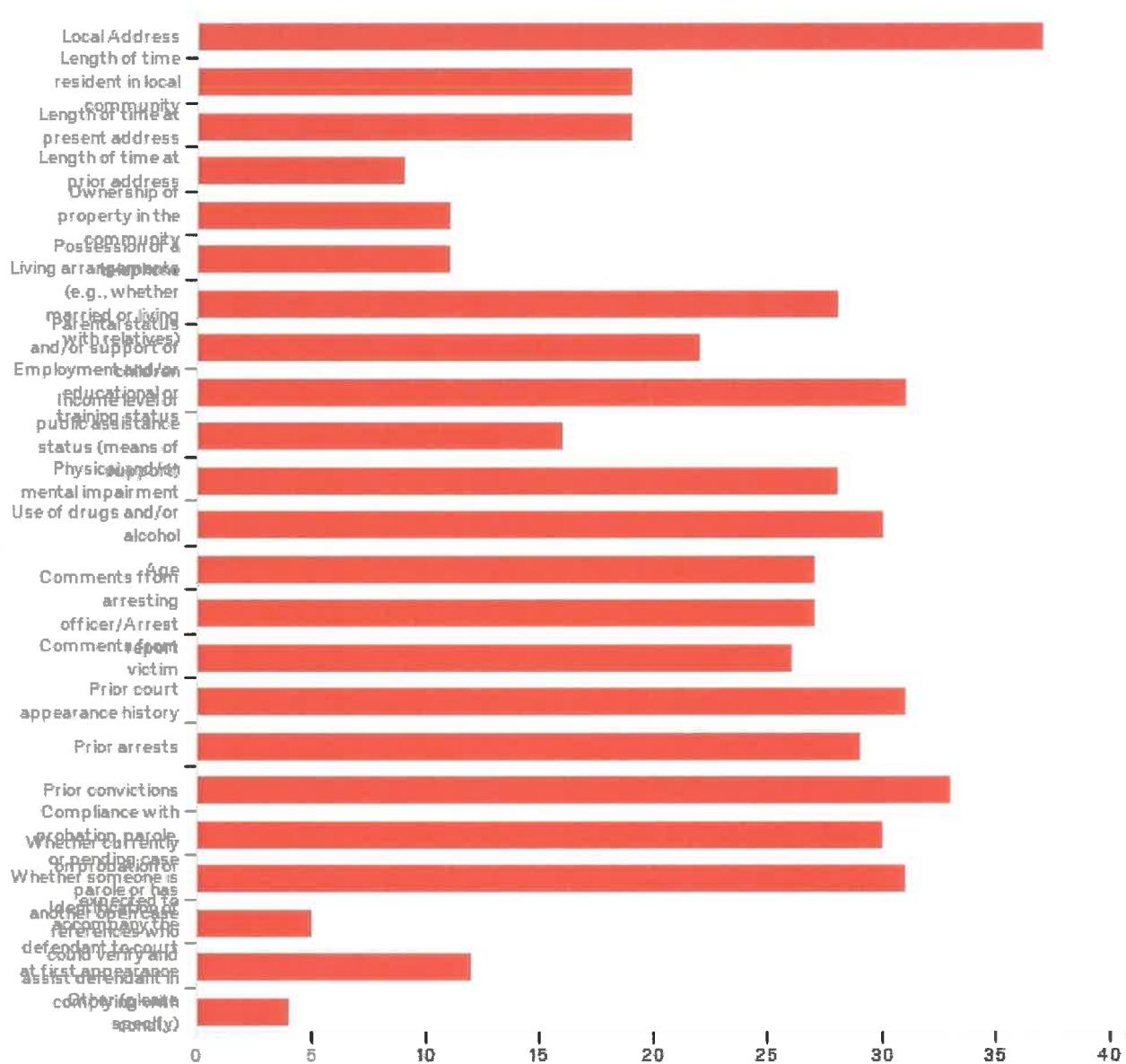
Answer	%	Count
Recommendation	72.97%	27
Report	29.73%	11
Total	100%	37

**Q38 - If you provide a written report to the court, please provide a sample copy.**

If you provide a written report to the court, please provide a sample copy.

Name	Size	Type
------	------	------

### Q39 - What information about the defendant is provided to the court?



Answer	%	Count
Local Address	92.50%	37
Length of time resident in local community	47.50%	19
Length of time at present address	47.50%	19
Length of time at prior address	22.50%	9
Ownership of property in the community	27.50%	11
Possession of a telephone	27.50%	11



Living arrangements (e.g., whether married or living with relatives)	70.00%	28
Parental status and/or support of children	55.00%	22
Employment and/or educational or training status	77.50%	31
Income level or public assistance status (means of support)	40.00%	16
Physical and/or mental impairment	70.00%	28
Use of drugs and/or alcohol	75.00%	30
Age	67.50%	27
Comments from arresting officer/Arrest report	67.50%	27
Comments from victim	65.00%	26
Prior court appearance history	77.50%	31
Prior arrests	72.50%	29
Prior convictions	82.50%	33
Compliance with probation, parole, or pending case	75.00%	30
Whether currently on probation or parole or has another open case	77.50%	31
Whether someone is expected to accompany the defendant to court at first appearance	12.50%	5
Identification of references who could verify and assist defendant in complying with conditions	30.00%	12
Other (please specify)	10.00%	4
Total	100%	40

### Other (please specify)

Other (please specify)

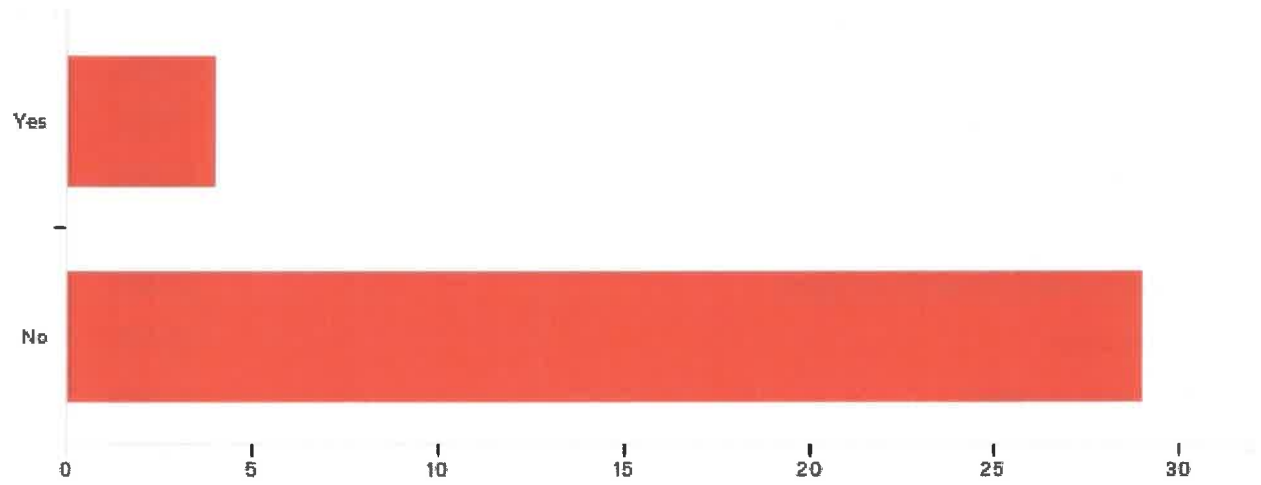
If they are a veteran

You can't answer these questions. The answer is "it depends." The court reviews anything it can get from police agencies. If at booking the agency identifies mental health factors, an assessment is done...

If convictions are out of jurisdiction, when, where and identify conviction

case dependant

**Q40 - If you have a pretrial services agency, is it given any delegated release authority for certain defendants?**



Answer	%	Count
Yes	12.12%	4
No	87.88%	29
Total	100%	33

**Q41 - If your answer to the previous question is "yes", please describe the pretrial services agency's authority to release defendants.**

If your answer to the previous question is "yes", please describe the pretr...

probation office

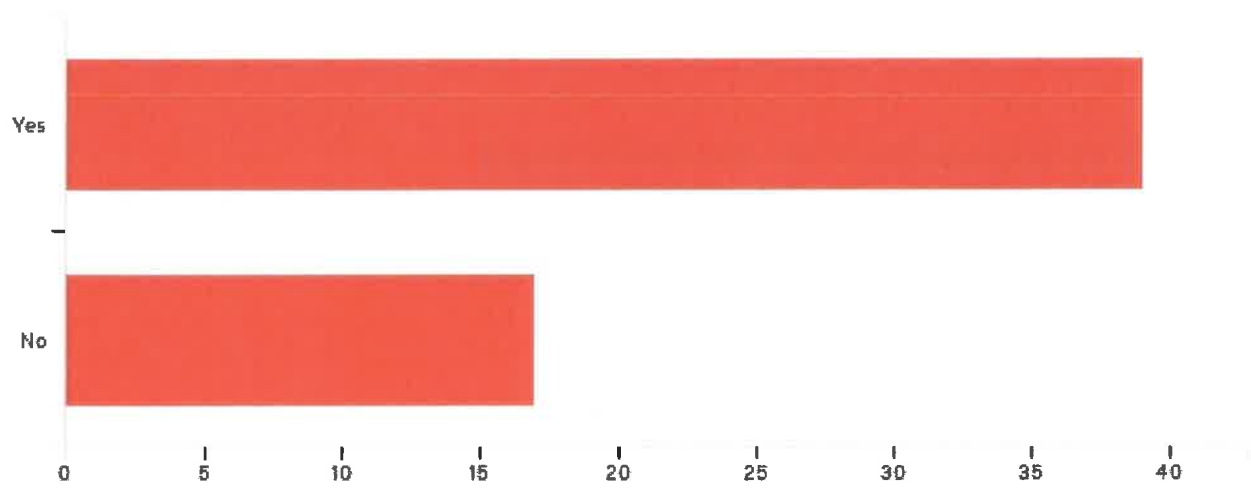
Mobile crisis is used for defendants with mental health issues.

low level non-violent felonies

felonies only

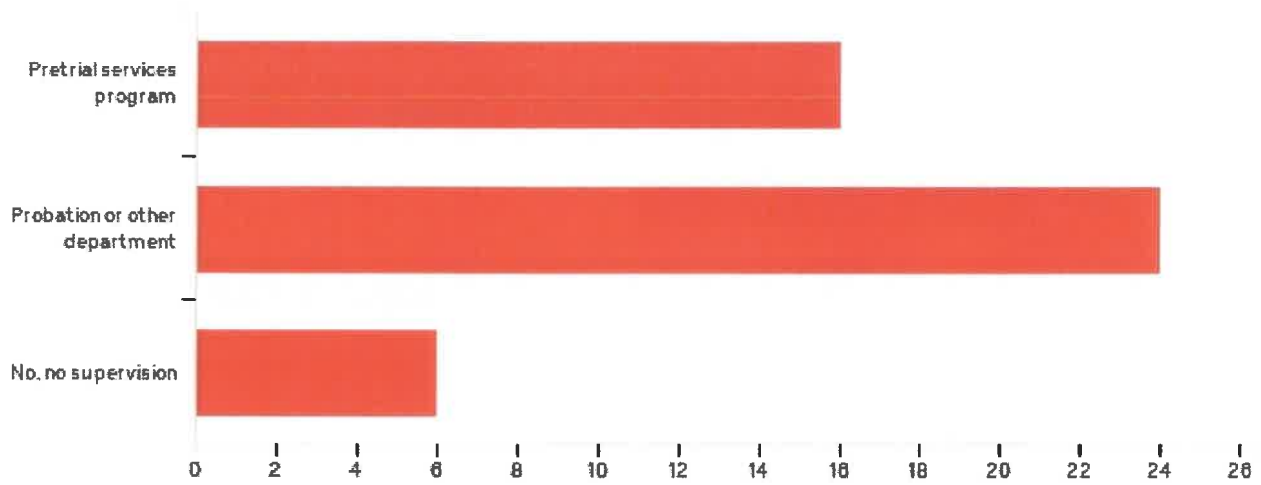
They can release Defendants only with the Courts approval

### Q42 - Is supervision of pretrial release conditions provided in your jurisdiction?



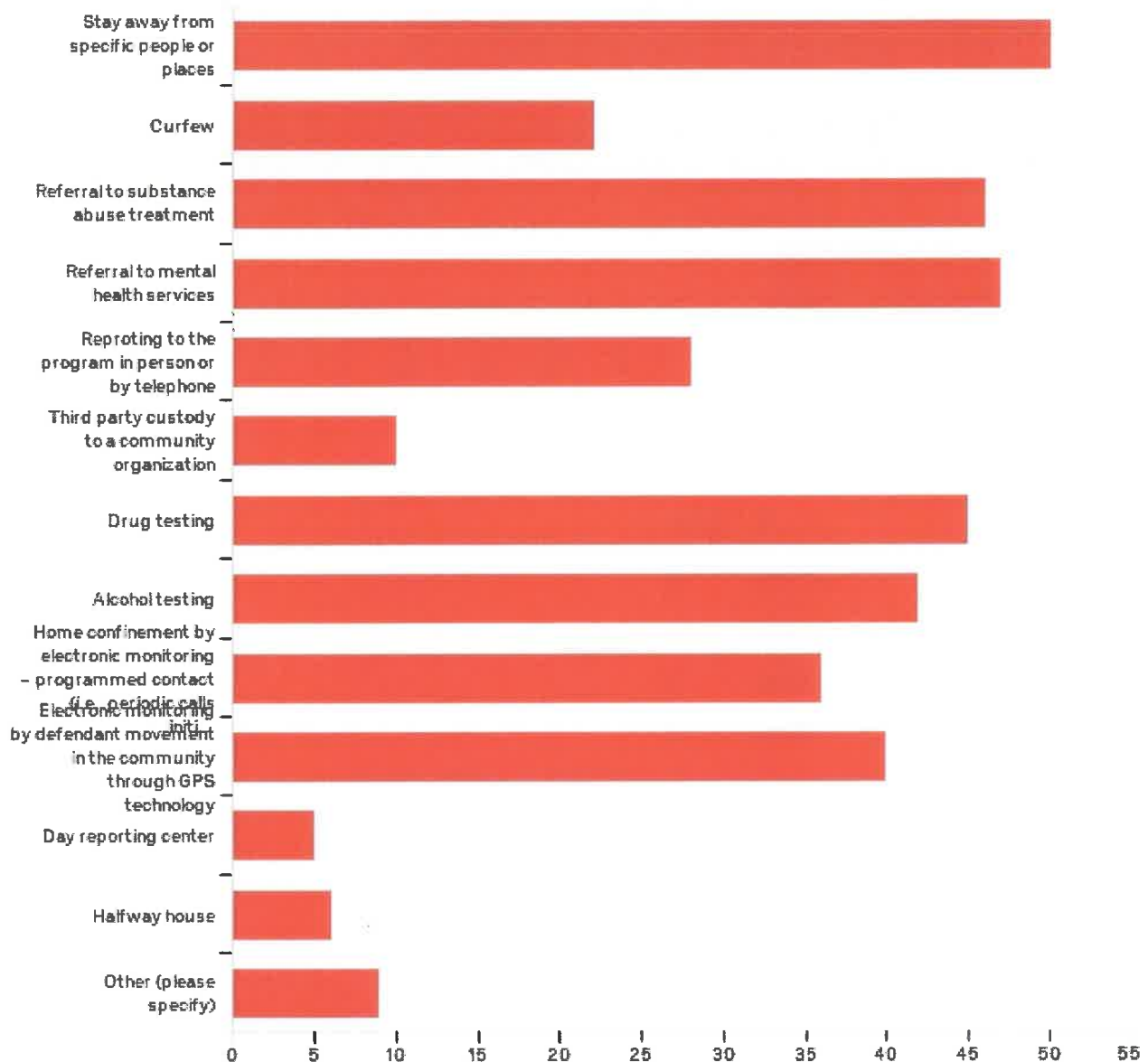
Answer	%	Count
Yes	69.64%	39
No	30.36%	17
Total	100%	56

### Q43 - If supervision is provided, by whom?



Answer	%	Count
Pretrial services program	35.56%	16
Probation or other department	53.33%	24
No, no supervision	13.33%	6
Total	100%	45

**Q44 - What options are used in your jurisdiction to supervise defendants on pretrial release?**



Answer	%	Count
Stay away from specific people or places	90.91%	50
Curfew	40.00%	22
Referral to substance abuse treatment	83.64%	46
Referral to mental health services	85.45%	47
Reproting to the program in person or by telephone	50.91%	28

Third party custody to a community organization	18.18%	10
Drug testing	81.82%	45
Alcohol testing	76.36%	42
Home confinement by electronic monitoring – programmed contact (i.e., periodic calls initiated to defendant’s home to ensure defendant is there)	65.45%	36
Electronic monitoring by defendant movement in the community through GPS technology	72.73%	40
Day reporting center	9.09%	5
Halfway house	10.91%	6
Other (please specify)	16.36%	9
<b>Total</b>	<b>100%</b>	<b>55</b>

**Other (please specify)**

Other (please specify)

We have no tools of this nature. I may set terms of bond like those factors described above and conduct a bond revocation hearing if violated.

alcohol monitoring device, A.A. meetings, IOP, executed release of information

reporting to police agency

We have access to none of this

SCRAM monitoring

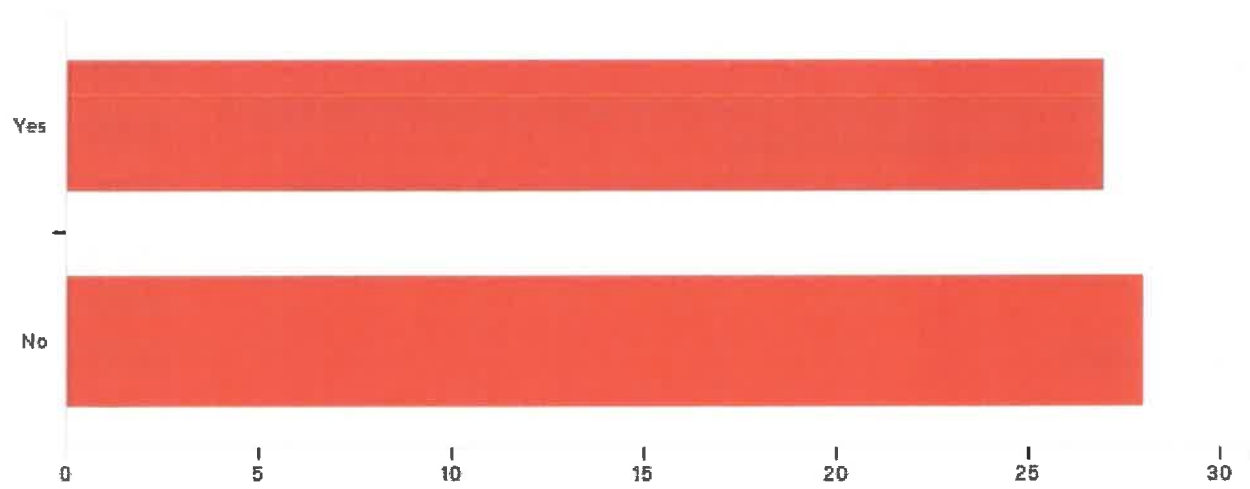
Alcohol monitoring device ("SCRAM")

Scram monitoring

SCRAM Bracelet

case dependant

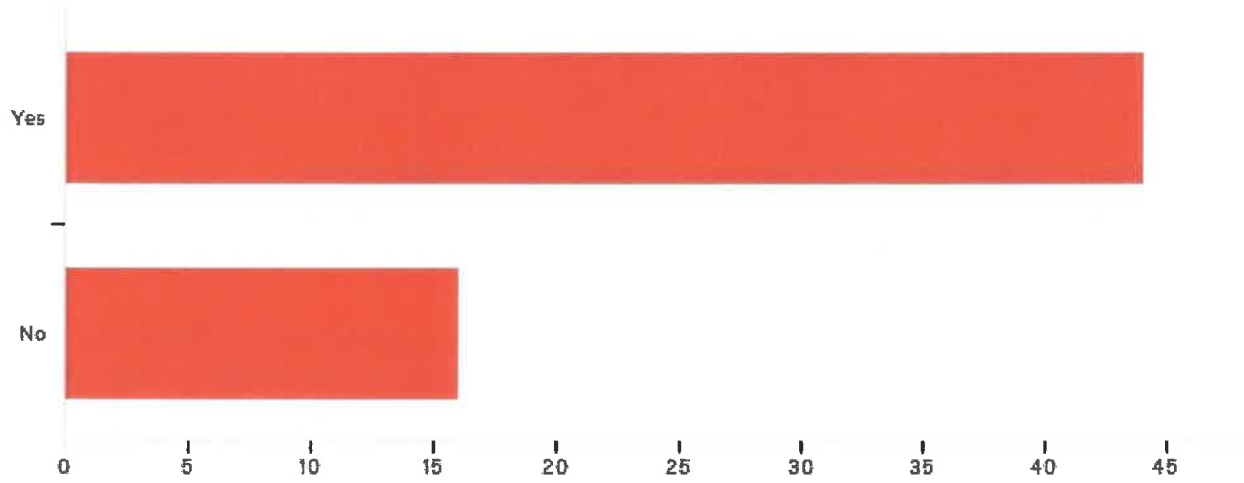
**Q45 - Is supervision provided to anyone who is also ordered a commercial surety bond?**



Answer	%	Count
Yes	49.09%	27
No	50.91%	28
Total	100%	55



**Q46 - Does anyone in your court/program notify released defendants of upcoming court appearances?**



Answer	%	Count
Yes	73.33%	44
No	26.67%	16
Total	100%	60

## Q47 - If you answered "yes" to the previous question, how is the defendant notified?

If you answered "yes" to the previous question, how is the defendant notified...

phone

by the PO, attorneys. I believe our county is working on an automated reminder system

usually in person when they are here for an office visit I will remind them of their next court appearance, or call them on the phone to remind them if I have not seen them in a while.

US Postal Service

The court provides notice to the defendant until an appearance of counsel is a matter of record. At that time, it is the responsibility of counsel to notify the defendant of all future court appearances. It is equally the responsibility of the defendant to stay in contact with counsel and/or the court for these dates and times.

Mail and phone

The clerks' office sends notices to defendant of all appearances.

They are given a paper hearing notice at time of appearance. Sometimes it is mailed to defendant.

phone call and written confirmation

Clerk sends notice

Hearing notices are sent directly to unrepresented defendants or only to defense counsel if there is one.

The Judge. Defendant advised in court with counsel unless the defendant waives right to counsel on the record. .

Mail

jail gives defendant a notice of next court date upon release from jail

Clerks office hand delivers the next court date to all defemdants.

Regular mail.

In person by the probation officer who is coordinating a designated activity for the defendant.

in person at times and then my mail

in person/by mail

before leaving the jail they are given a notice of hearing.

pretrial appointment, phone calls

Personal service of Court dates.

notice mailed to last address, notice to counsel

At arraignment by written notice

Told at time of release from custody and by letter and through their attorney

At meetings and in writing

By written notice sent through regular U.S. mail directly to the defendant if no counsel; through counsel if one is on the case.

Provided with date and time of next court appearance in writing before released.

Given charge with court date verified by officer.

Given a written notice in open court

In writing

By the court in writing

Defendants always sign a notice of hearing form created by the clerks office

Personally served written notice

Every person is given a notice in writing of the next court appearance. In addition, a notice may also be mailed to the person's current address, confirmed at the time of the initial court appearance.

Defendant's are personally served with their next hearing date before leaving the courtroom or jail.

WE use a robo call system and they are handed their notice at arraignment.

written notice, telephone

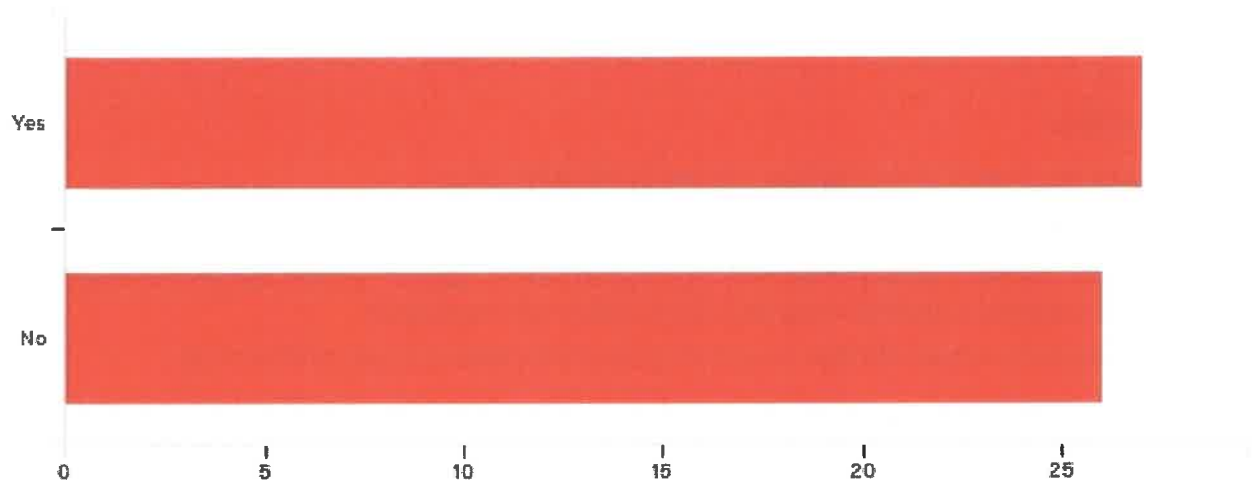
In court, by phone, by mail.

physical notice sent to Defendant

paper notice, signed by defendant at time of arraignment

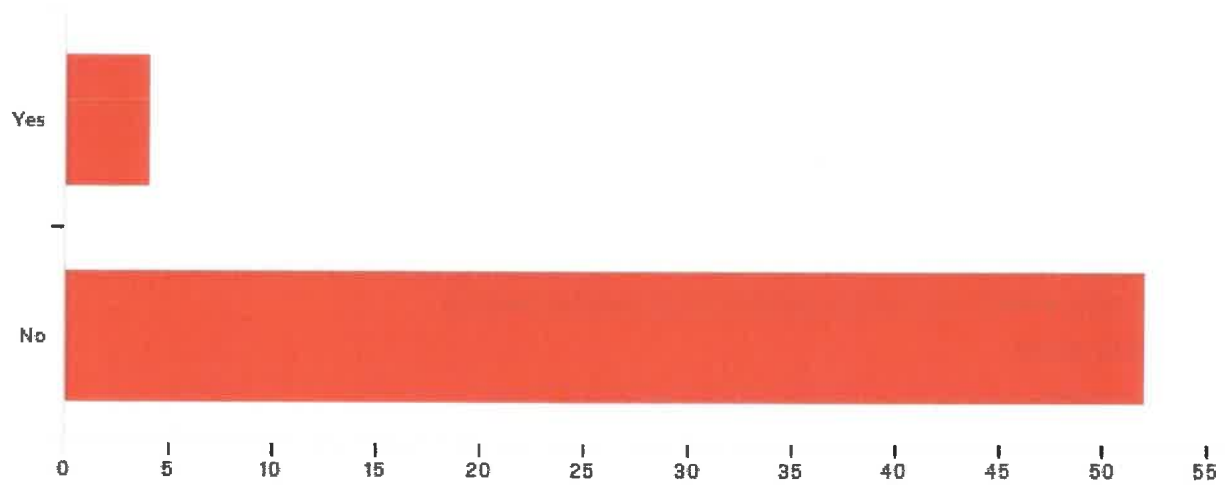
by mail or served in person

**Q48 - Does your court/program notify victims of crime of the pretrial release of the defendant?**



Answer	%	Count
Yes	50.94%	27
No	49.06%	26
Total	100%	53

### Q49 - Does your court/program calculate failure to appear rate?



Answer	%	Count
Yes	7.14%	4
No	92.86%	52
Total	100%	56

**Q50 - If your answer to the previous question was "yes", what was your failure to appear rate for the last year?**

If your answer to the previous question was "yes", what was your failure to...

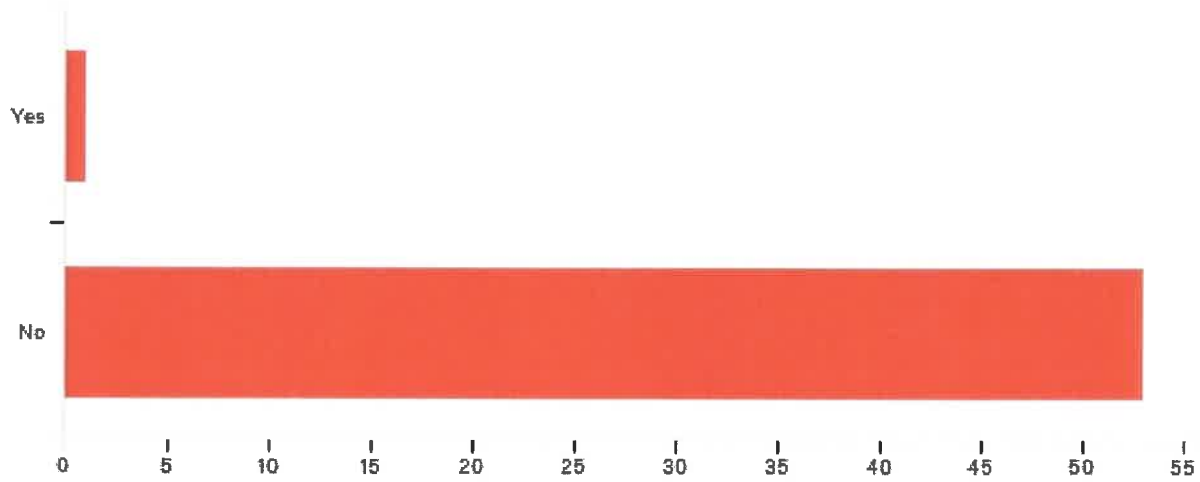
25 %

tremendous problem with failure to appear. My court does not calculate it; possible the sheriff does this. My court does not notify a victim of a release--possibly the prosecutor does this

Approx 30% fail to appear

Unknown at present time due to new computer system implementation.

**Q51 - Does your program capture information about, or are any comparisons made between, the FTA rates and recidivism rates of those charged with similar offenses released on "OR" as opposed to those released on monetary bonds?**



Answer	%	Count
Yes	1.85%	1
No	98.15%	53
Total	100%	54

**Q52 - If your answer to the previous question was "yes", please provide the information or comparison for the last full year.**

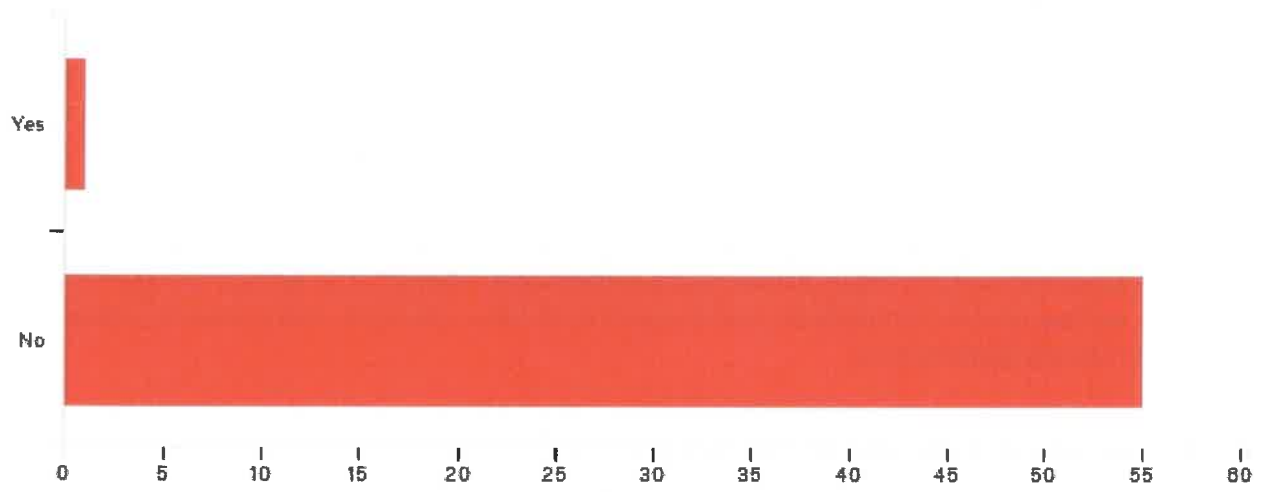
If your answer to the previous question was "yes", please provide the infor...

unknown

Unknown at present time due to new computer system implementation.



### Q53 - Does your program calculate pretrial crime rates?



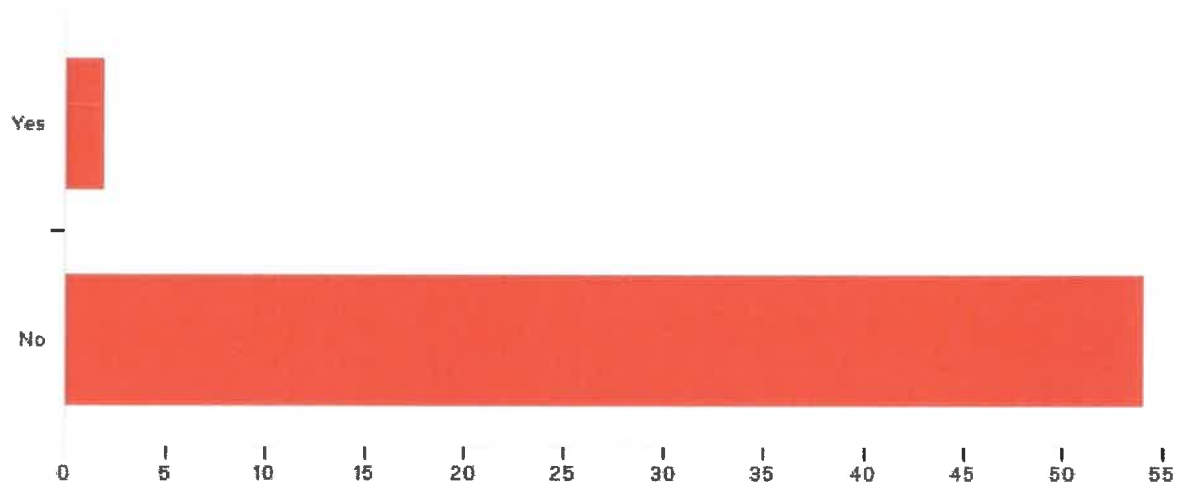
Answer	%	Count
Yes	1.79%	1
No	98.21%	55
Total	100%	56

**Q54 - If your answer to the previous question is "yes", what was the pretrial crime rate for the last full year?**

If your answer to the previous question is "yes", what was the pretrial cri...

I have just finished a week of county-wide arraignments and anecdotally I can tell you that MANY defendants who are "out" on pending charges get charged with new crimes while the first charges are pending!!! the problem is, our defendants know that our jail is full at all times, and that they will be released, even without first posting a bond--because we have nowhere to hold them, and therefore there will be few to no repercussions for violating a pretrial bond, in any way shape or form

### Q55 - Does your program calculate release rates?



Answer	%	Count
Yes	3.57%	2
No	96.43%	54
Total	100%	56

**Q56 - If your answer to the previous question is "yes", how many eligible defendants were released last year?**

If your answer to the previous question is "yes", how many eligible defenda...

Maybe the sheriff has this data

## Q57 - Why were those not released not eligible?

Why were those not released not eligible?

x

The ones that I do not release are not released because they are violating existing bond conditions.

Seriousness of offense, potential harm to community, history of failure to appears, holders from other jurisdictions

Most we not release due to pending felony matters, or who posed a danger to the community due to mental health issues. Persons also posed a risk to themselves due to multiple heroin overdoses.



# Appendix E

## Public Comments







# THE BUCKEYE INSTITUTE

## **The Buckeye Institute Comments on Ohio Criminal Sentencing Commission: *Ad Hoc Committee on Bail and Pretrial Services Final Report***

Ohio's Criminal Sentencing Commission has proposed rule changes that will help make our communities safer, our criminal justice system more just, and our local jails less crowded.

The Buckeye Institute supports the Commission's proposed changes, but we suggest two amendments to the new rules.

First, the proposed rules unfortunately maintain outdated bail bond schedules that do not make an accurate, individual assessment of each defendant's flight risk or the risk he poses to the community. Instead, the rules should do away with bail bond schedules and require the courts to use vetted risk assessment tools to assess every defendant individually.

Second, bail bonds serve two valid purposes—protecting the community and ensuring that defendants return to court. But new information and technology have made cash bail an antiquated practice with limited utility. Risk assessment tools, like those used in Lucas County, have proven more effective than current cash bail practices by every metric. The proposed rules should recognize that cash deposits do not make defendants less dangerous, and should therefore require that cash bail be used only as a last resort.

### **Risk Assessment Tools**

Knowledge is power, and at the risk of sounding like a pizza commercial: better information, better decision-making. Businesses have long understood this and have gone to great lengths to enhance the data and information at their disposal in order to improve profit margins, create better experiences and products for their customers, and become more effective and efficient at whatever they do. Our favorite sports teams have more recently discovered the not-so-secret benefits of data collection. Teams now routinely use “analytics” to maximize their defense or point-scoring efficiency. Baseball teams employ the infield “shift” on some opposing power hitters who statistically do not hit to the opposite field. Basketball statisticians have shown that taking an uncontested three-point shot has more value and probability of success than shooting a contested layup. Analytics.

But “big data” is not just for “big business.” Ohio can use data and analytics in her criminal justice system in much the same way that the Indians and Reds know when to shift the infield. The shortstop doesn't play behind second base against every batter.

Similarly, vetted risk assessment tools allow courts to collect statistically significant information from defendants in order to better determine whether a particular defendant poses much of a risk to the community or how likely he might be to skip town. These analytical tools do not set the terms or conditions of a defendant's release, but they can provide courts with better information to help them make better decisions. Courts in Lucas County, for example, are successfully using

a risk assessment tool that, according to the Sentencing Commission Report, has already improved court appearance rates, public safety rates, and pretrial success rates—all while awarding more pretrial releases.<sup>1</sup> And more courts are following Lucas County’s lead.

Unfortunately, the Sentencing Commission’s proposed rule still refers to bail bonds schedules, the antithesis of individualized risk assessments.

### **Bail Schedules, Judicial Discretion, & Public Safety**

Mandatory bail schedules undermine judicial discretion without enhancing public safety. Unlike individualized risk assessments, prescribed bails schedules allow some defendants to remain in jail simply because they cannot afford the bail, while also releasing other, potentially more dangerous defendants merely because they can afford the fixed bail. What bail a given defendant might afford, of course, has no reasonable bearing on the danger that he may present to the community—making it an imprudent means of securing our public safety. A dangerous defendant is dangerous regardless of the money he gives to the bail bond agent, and there are far more effective conditions of pre-trial release—such as electronic monitoring, periodic court check-ins, and required appointments with probation officers—that can help make our communities safer while dangerous defendants await trial.

There are limited circumstances when assessing cash bail makes sense. When an out-of-state defendant poses no threat to the community, for instance, but needs a financial inducement to return for his court date, a reasonable cash bond is likely to ensure his return. But ordinarily, cash bail is the least effective way to keep communities safe and should be the exception rather than the rule.

The final rule should abolish and not even refer to bail schedules. The Commission Report asks the legislature to do away with bail schedules, but the Ohio Supreme Court should exercise its constitutional authority to make this change unilaterally. Article I Section 9 of the Ohio Constitution states, in part, that “[p]rocedures for establishing the amount and conditions of bail shall be established pursuant to Article IV, Section 5(b) of the Constitution of the state of Ohio.” Article IV, Section 5(b) gives rule-making authority to the Ohio Supreme Court.

Thus, although state law requires (R.C. 2937.23(A)(2)) our courts to set bail schedules, Article IV, Section 5(b) of the Ohio Constitution makes clear that an Ohio Supreme Court rule would supersede this law if the rule and the statute are inconsistent: “All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.” The Supreme Court should use its constitutional authority to establish a new, unilateral rule on bail schedules for all Ohio courts to follow.

### **Conclusion**

To maximize public safety, justice, and local jail facilities, the Sentencing Commission’s proposed rules should:

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<sup>1</sup> The Ohio Criminal Sentencing Commission: *Ad Hoc Committee on Bail and Pretrial Services Final Report*, at 9.

1. Prohibit bail bonds schedules; and
2. Acknowledge that cash bail is the least preferred condition of release that should only be used as a last resort to ensure a defendant's appearance in court.



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RAYMOND T. FALLER  
DEPUTY PUBLIC DEFENDER  
DANIEL J. JAMES

**Comments from the Office of the Hamilton County Public Defender to the Report and Recommendations of the Ohio Sentencing Commission’s Ad Hoc Committee on Bail and Pretrial Services**

**I. Introduction and general statement of interest.**

In March 2017, the Ohio Sentencing Commission’s Ad Hoc Committee on Bail and Pretrial Services released a document entitled “Report and Recommendations” (“Report”) regarding bail and pretrial services in Ohio. The Report stated that “the system of bail was intended to ensure defendant would appear in court and, eventually, ensure public safety by keeping those defendants who pose a substantial risk of committing crimes while awaiting trial in jail. **The reality, however, is that those with money, notwithstanding their danger to the community, can purchase their freedom while poor defendants remain in jail pending trial. Research shows that even short stays in jail before trial lead to an increased likelihood of missing school, job loss, family issues, increased desperation and thus an increased likelihood to reoffend.**” Report, p. 1.

The reality on the ground in Hamilton County is that financial bail/bond is usually set even when there is no risk to public safety or no “flight risk.” The detrimental impact of this reality falls squarely on the shoulders of poor defendants in Hamilton County. While there is no centralized, public data collection in Hamilton County that specifically tracks information about defendants at arraignment along with their resulting bail, the Office of the Hamilton County Public Defender (“HCPD”) collects client and case data for all indigent defendants in Hamilton County. In addition, attorneys from HCPD staff every arraignment/initial appearance day in

Room A.<sup>1</sup> In Hamilton County, the bail or bond set in the initial appearance is often unrelated to ensuring the client return to court and whether the client will commit new crimes. For example, a sixty-four year old man was arrested for misuse of a credit card as a felony offense. It was alleged that he had used a church's home depot card to charge \$1,800. This man's last contact with the system was a traffic ticket in 1995. The records do not show this man had missed any court dates in that case. In other words, the records show that there is no risk to public safety and no risk that the man would not return to court. However, bail was set in the amount of \$1,000. When he was indicted, the court changed his bond to a recognizance bond with an electronic monitoring unit ("EMU") at an estimated cost to the county of \$9.50/per day<sup>2</sup> and, essentially, confining the man to his residence on a non-violent felony and the man's first contact with the criminal justice system in over 20 years. Risk assessment tools and the Report indicate that the presumption in this kind of case should be that the defendant is released on their own recognizance, without financial bail or EMU. However, that presumption is absent in Hamilton County. In Hamilton County, the presumption is that financial bail should be set in all cases where a person is arrested. The case example above is not an isolated incident. A review of cases arraigned in the same month show multiple individuals arraigned on cases with identical case facts, charges, and criminal histories. The same bail was set in each case. Both data and experience show a presumption of financial bail is the standard in Hamilton County. Such a presumption of bail can decrease rather than increase public safety.

The Committee's suggested reforms will make Hamilton County safer. As this Committee noted, short stays in jail can lead to the loss of a job or other necessities essential to ground individuals in the community and decrease recidivism. Hamilton County's presumption of bail in all arrests has the greatest detrimental impact on poor defendants. This contributes to and reinforces already existing disparities in communities of color in Hamilton County.<sup>3</sup> As one HCPD attorney, who represents indigent clients solely on misdemeanor cases, put it: "I feel like everyday I have clients locked up on a bond they can't afford which causes them to lose their

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<sup>1</sup> Room A is where all initial arraignments and bail determinations are made for both misdemeanors and felonies.

<sup>2</sup> <http://www.fox19.com/story/23088628/new-gps-ankle-monitors-alleviate-hamilton-co-jail-overcrowding> (accessed May 11, 2017). Although this is the cost to the county, indigent clients incur expense when such a device is required. See p. 12 *infra*.

<sup>3</sup> <http://www.gcul.org/wp-content/uploads/2015/08/The-State-of-Black-Cincinnati-2015-Two-Cities.pdf> (accessed May 13, 2017).

jobs, SSI, housing, etc.” Presumption of financial bail results in unnecessary and, often, unfairly imposed, financial bail and bail conditions in Hamilton County, resulting in a detrimental impact on the individuals that come into contact with the system as well as public safety.

Another result of the presumption of bond and the resulting unjustified pretrial incarceration, is the consistent problem of jail overcrowding in Hamilton County.<sup>4</sup> Jail overcrowding has remained unsolved. Not coincidentally, the issues with the misuse of bond and pretrial detention remain unaddressed in Hamilton County. Jail overcrowding results in dangerous conditions to non-violent clients (who should have been released pending trial) and guards in the jail, as well as astronomical costs to the citizens of Hamilton County for no benefit. The problem of jail overcrowding could be impacted through the reforms suggested by this Committee. For these reasons, as well as those described below, the Office of the Hamilton County Public Defender supports the committee’s recommendations and offers additional suggestions on how the recommendations could be improved or implemented.<sup>5</sup>

**II. Report Recommendation #1: Establish a risk based pretrial system, using an empirically based assessment tool, with a presumption of nonfinancial release and statutory preventative detention.**

**A. Presumption of nonfinancial release:** The Report recommends that the Supreme Court of Ohio “amend Crim.R. 46 to indicate that if a defendant is eligible for release under the Ohio Constitution, and the trial court determines that the defendant should be released pretrial, the trial court should first consider nonfinancial release.” Report, p. 10. The Report also recommends providing clarity in Ohio’s bail statutes. *Id.* at p. 8.

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<sup>4</sup> <http://www.wcpo.com/news/region-central-cincinnati/hamilton-county-sheriff-jim-neil-ends-arrest-and-realease-practice-at-jail> (accessed May 12, 2017); <http://www.wlwt.com/article/jail-overcrowding-stay-request-could-determine-hunter-s-prison-term/3549582> (accessed May 12, 2017); <http://www.citybeat.com/news/porkopolis/article/13017852/no-easy-answers-to-jail-overcrowding> (accessed May 12, 2017); <http://www.citybeat.com/news/article/13024730/news-what-jail-is-like> (accessed May 12, 2017); [http://www.dispatch.com/content/stories/local/2007/09/24/z-apoh-overcrowdedjails\\_0921.ART\\_ART\\_09-24-07\\_B4\\_6P80BB7.html](http://www.dispatch.com/content/stories/local/2007/09/24/z-apoh-overcrowdedjails_0921.ART_ART_09-24-07_B4_6P80BB7.html) (accessed May 12, 2017).

<sup>5</sup> HCPD supports all the recommendations in the Report. However, HCPD offers comment on those provisions most relevant to critical issues in Hamilton County and critique when necessary to fulfill recommendations suggested in the Report.

The Hamilton County Public Defender's Office ("HCPD") supports a presumption of nonfinancial release. However, HCPD also recommends greater clarity in the suggested language in the report. The change to the criminal rules should create a clear presumption of nonfinancial release. Greater clarity<sup>6</sup> in the Report's suggested language is required for a number of reasons.

But primarily, greater clarity is needed when a presumption of nonfinancial release is a reversal of a long-standing practice in places like Hamilton County. Here in Hamilton County, as one attorney put it, "bonds are the norm" for people who have been arrested. As this same attorney noted, the default, with few exceptions, is to "put a [financial] bond on any crime" at the initial arraignment.<sup>7</sup> Clarity is necessary to reverse such long standing practices and policies. In addition, as this Committee noted, clarity in the law will result in greater consistency in application. Report, p. 8.

Further evidence of the presumption of financial bail in Hamilton County are the bonds set in misdemeanor domestic violence cases, even in cases where there is no injury. In one case handled by a municipal court attorney in HCPD, following the arrest of a man on a misdemeanor domestic violence charge, the woman that made the allegations appeared at arraignment and stated that she did not fear for her safety and did not want an order of protection. The man stated that if he remained locked up, he would lose his job and both he and the woman would lose their home. Despite this, the arraignment judge set a \$20,000 bond. When the case was adjourned to the trial judge, the woman again returned, told the prosecutor that she did not wish to pursue charges and did not fear for her safety. The man's counsel made another motion to reduce the bond, but the trial court refused. After 30 days, the trial court was required by law to dismiss the case. The man, after remaining incarcerated for 30 days, lost his job. Both the man and woman likely lost their housing. In another misdemeanor domestic violence case, the arraignment judge set a bond of \$500,000 secured. That man's counsel set the case for trial. He remained incarcerated, but the attorney was able to get a trial date within 12 days of arraignment. The judge found the man not guilty following a bench trial.

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<sup>6</sup> For example, "If the defendant is eligible for release under the Ohio Constitution, they are entitled to the presumption of a nonfinancial release."

<sup>7</sup> In Hamilton County, all initial bonds are determined by municipal court judges.

Finally, some judges set \$10,000 bond on any misdemeanor that involves heroin regardless of a defendant's prior record.<sup>8</sup> Because of the long standing practice in Hamilton County to the contrary, HCPD asks that the language include a clear presumption of nonfinancial release when the defendant is eligible for release under the Ohio Constitution.

**B. Establish a risk based pretrial system, using an empirically based assessment tool.**

This Committee made two specific recommendations here:

- a. The General Assembly should mandate and fund the use of a validated, risk-assessment tool for pretrial release and detain decisions.
- b. The Supreme Court of Ohio should amend Crim.R. 46 to include the results of the risk assessments as a factor to be considered in release and detain decisions.

HCPD wholeheartedly supports both specific recommendations in (a) and (b) above.

1. **Criminal Rule 46 should require that the results of a validated, risk assessment tool be considered as a factor in release and detention decisions.**

Although, Hamilton County is currently using the Ohio Risk Assessment System ("ORAS"), most attorneys report that the judges setting bond pay little to no attention to the ORAS score. In order to remedy this, the statute should mandate consideration of the results of an appropriately validated risk assessment tool. Moreover, it is imperative that those that use or rely on the results of the risk assessment tool receive trainings on how the tool was developed and the meaning of the scores. The trainings should come directly from the creators of the tools as well as those that have successfully used the tool to safely release those that are a low risk to reoffend and who are also a low flight risk. These trainings are crucial to ensure that the tools are factored into release and bail decisions appropriately.

2. **Additional Recommendations and Comment.**

The Report mentions two risk assessment tools: (1) Ohio Risk Assessment System ("ORAS"), and (2) Laura and John Arnold Foundation's ("LJAF") Public Safety Assessment ("PSA") tool. Although the Report indicates that ORAS is used in Ohio for

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<sup>8</sup> While bonds may be justified based on prior failures-to-appear, it is difficult to fathom a basis for a \$10,000 bond on a non-violent misdemeanor.



bail related risk assessments, it is important to note that ORAS has a number of different risk assessment tools and each are designed to evaluate different things. For example, ORAS's pretrial assessment tool ("PAT") considers/weights different factors than ORAS's tool for community supervision.<sup>9</sup> The Report states that it does not take a position on what risk assessment tool individual jurisdictions should use. The Report simply states that a validated, risk assessment tool be used.

**a. Amend Ohio Admin. Code 5120-13-01 and related code sections to repeal mandate to use ORAS.**

HCPD recommends clarifying Ohio's administrative code regarding risk assessment tools to reflect this position. Hamilton County has interpreted the following code section to mandate use of ORAS as a risk assessment tool:

(A) Section 5120.114 of the Revised Code requires the department of rehabilitation and correction to **identify a single validated risk assessment tool to be used by courts, probation departments, and other entities to assess an adult offender's risk of reoffending** and to assess the offender's rehabilitative needs.

(B) **The department of rehabilitation and correction hereby selects the Ohio risk assessment system (ORAS)** created by the university of Cincinnati's center for criminal justice research **as the single validated risk assessment tool** to be used for the purposes described in paragraph (A) of this rule. ORAS shall remain the risk assessment tool identified by the department pursuant to section 5120.114 of the Revised Code until such time as the department amends this rule to identify a different tool.

(Emphasis added.) Ohio Admin. Code 5120-13-01 Ohio risk assessment system.

**b. Further defining "validated risk assessment tool" is necessary for reliability and accuracy.**

In addition, HCPD recommends further defining "validated, risk assessment tool." HCPD joins the National Association for Public Defense, Gideon's Promise, National Legal Aid & Defender Association, and the National Association of Criminal Defense Attorneys in endorsing "the use of validated pretrial risk assessment tools as means to reduce unnecessary pretrial detention and assist in eliminating racial bias."<sup>10</sup> HCPD

<sup>9</sup> [http://www.ocjs.ohio.gov/ORAS\\_FinalReport.pdf](http://www.ocjs.ohio.gov/ORAS_FinalReport.pdf) (May 12, 2017).

<sup>10</sup> [http://www.publicdefenders.us/blog\\_home.asp?Display=563](http://www.publicdefenders.us/blog_home.asp?Display=563) (accessed May 11, 2017) ("Joint Statement").

agrees with the Joint Statement's recommendations for pretrial assessment tools, which are as follows:

- Data used in the development of pretrial risk assessments must be reviewed for accuracy and reliability;
- Data collection must include a transparent and periodic examination of release rates, release conditions, technical violations or revocations and performance outcomes by race to monitor for disparate impact within the system;
- Data collection should avoid interview-dependent factors (such as employment, drug use, residence, family situation, mental health) and consist solely of non-interview dependent factors (such as prior convictions, prior failures to appear) as intensive studies have shown that when sufficient objective, non-interview factors were present, none of the interview-based factors improve the predictive analytics of the pretrial risk assessment, but significantly increase the time it takes to complete the pretrial risk assessment.

#### Joint Statement.

These factors should be incorporated into the rule to define “validated, risk assessment tool.” The importance of incorporating the above requirements into the definition can be seen by comparing PAT from ORAS with PSA from LJAF.

As noted above, Hamilton County currently uses ORAS. ORAS was developed by researchers at the University of Cincinnati.<sup>11</sup> The researchers completed the initial validation work in 2009 for a number of different instruments, but this discussion focuses only on the validation and study of ORAS's pretrial assessment tool (“PAT”). ORAS Report, p. 9. Researchers developed data collection instruments. These instruments were used as the method to collect data. The data collection instrument was different for each risk assessment tool—e.g. PAT, probation, etc. For PAT, the data collection tool collected information on over 35 items and also included a 4 page self-report questionnaire. *Id.* at p. 12. However, because they were not able to obtain sufficient data in the initial collection period, researchers shortened the data collection tool to only include 8 items and collected additional data with this tool. *Id.* at p. 14. The data collection for validation of PAT occurred in Butler, Cuyahoga, Summit, Franklin, Hamilton, Richland, and Warren counties. *Id.* at p. 13. In the end, only **452** offenders from across these 7 counties were utilized to validate PAT. *Id.* at p. 14. For PAT validation, outcomes were measured based on “recidivism.” *Id.* at p. 15-16. For the

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<sup>11</sup> [http://www.ocjs.ohio.gov/ORAS\\_FinalReport.pdf](http://www.ocjs.ohio.gov/ORAS_FinalReport.pdf) (accessed May 11, 2017) (“ORAS Report”).

PAT tool, “recidivism” was defined as “new arrests” and “failure-to-appear.” *Id.* The results of the data collection showed that—of the over 100 potential predictors of recidivism—7 items were found to be related to recidivism. *Id.* at p. 19. Researchers also used the data to design a system to weight and score the factors in order to produce a score of low, moderate, or high risk groups. *Id.* at p. 20-22.

In the end, these are the factors assessed by ORAS’s pretrial instrument:

**APPENDIX A: SCORING FORMS FOR EACH ASSESSMENT**

**OHIO RISK ASSESSMENT SYSTEM: PRETRIAL ASSESSMENT TOOL (ORAS-PAT)**

Name: \_\_\_\_\_ Date of Assessment: \_\_\_\_\_  
 Case#: \_\_\_\_\_ Name of Assessor: \_\_\_\_\_

Pretrial Items		Verified
1.1. Age at First Arrest	<input type="text"/>	<input type="checkbox"/>
0=33 or older		
1=Under 33		
1.2. Number of Failure-to-Appear Warrants Past 24 Months	<input type="text"/>	<input type="checkbox"/>
0=None		
1=One Warrant for FTA		
2=Two or more FTA Warrants		
1.3. Three or more Prior Jail Incarcerations	<input type="text"/>	<input type="checkbox"/>
0=No		
1=Yes		
1.4. Employed at the Time of Arrest	<input type="text"/>	<input type="checkbox"/>
0= Yes, Full-time		
1= Yes, Part-time		
2= Not employed		
1.5. Residential Stability	<input type="text"/>	<input type="checkbox"/>
0=Lived at Current Residence Past Six Months		
1=Not Lived at Same Residence		
1.6. Illegal Drug Use during Past Six Month	<input type="text"/>	<input type="checkbox"/>
0=No		
1=Yes		
1.7. Severe Drug Use Problem	<input type="text"/>	<input type="checkbox"/>
0=No		
1=Yes		
<b>Total Score:</b>		<input type="text"/>

Scores	Rating	% of Failures	% of Failure to Appear	% of New Arrest
0-2	Low	5%	5%	0%
3-5	Moderate	18%	12%	7%
6+	High	29%	15%	17%

It is important to remember that **ORAS noted the limitations of its initial validation study** and recommended “that revalidation studies be conducted of ORAS.” *Id.* at p. 45. The ORAS Report noted that the initial validation did not use sufficient data to make a generalization about all offenders in Ohio. *Id.* The other limitation of all of ORAS’s risk assessment tools, including PAT, is that the data used to “validate” ORAS lacks diversity. For example, ORAS stated that because of the short time in which they had to collect data, their data did not necessarily include more serious offenses, e.g. sex offenses. *Id.* at 45. In addition, women and Hispanics were also noted as populations that might be underrepresented in the data. *Id.* Finally, researchers had to obtain informed consent from offenders in order to evaluate them as part of the study because of the subjective nature of their data collection tool. Willingness of the offenders to participate also limited the diversity of the data collected. *Id.* The result of the lack of diversity of the data, is that the tool is less accurate and less reliable for populations that are not represented in the data.

However, the revalidation of ORAS recommended by its creators has never occurred. In fact, once counties utilize ORAS risk assessment tools, R.C. 5120.115<sup>12</sup> bars the release of any data, including to the creators of PAT and ORAS’s other risk assessment tools. In other words, R.C. 5120.115 prevents the revalidation that ORAS creators stated was necessary. Based on the limited data collected and the lack of

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<sup>12</sup> 5120.115 Authorized users; confidentiality of reports.

- (A) Each authorized user of the single validated risk assessment tool described in section 5120.114 of the Revised Code shall have access to all reports generated by the risk assessment tool and all data stored in the risk assessment tool. An authorized user may disclose any report generated by the risk assessment tool to law enforcement agencies, halfway houses, and medical, mental health, and substance abuse treatment providers for penological and rehabilitative purposes. The user shall make the disclosure in a manner calculated to maintain the report's confidentiality.
- (B) All reports generated by or data collected in the risk assessment tool are confidential information and are not a public record. No person shall disclose any report generated by or data collected in the risk assessment tool except as provided in division (A) of this section.
- (C) As used in this section, "public record" has the same meaning as in section 149.43 of the Revised Code.

diversity of that data, ORAS is not accurate or reliable beyond those included in the data collected during the initial validation.

In contrast, the Laura and John Arnold Foundation (“LJAF”) developed a risk assessment tool called the Public Safety Assessment (“PSA”). LJAF created the PSA using a large and diverse sets of records—a total of 1.5 million cases from across 300 jurisdictions.<sup>13</sup> Because of the large size of the data set, as well as the diversity of the data set (to include offenses of violence, etc. unlike ORAS), PSA is supported by data of sufficient size and diversity to be reliably and accurately applied to those seen in initial appearances.<sup>14</sup> PSA also provides more guidance to a judge making a bail determination (FTA, failure-to-appear; NCA, new criminal activity; NVCA, new violent criminal activity):<sup>15</sup>

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<sup>13</sup> <http://www.arnoldfoundation.org/wp-content/uploads/PSA-Risk-Factors-and-Formula.pdf> (accessed May 13, 2017).

<sup>14</sup> <http://www.arnoldfoundation.org/wp-content/uploads/PSA-Risk-Factors-and-Formula.pdf> (accessed May 13, 2017).

<sup>15</sup> <http://www.arnoldfoundation.org/wp-content/uploads/PSA-Risk-Factors-and-Formula.pdf> (accessed May 13, 2017).

## RELATIONSHIP BETWEEN RISK FACTORS AND PRETRIAL OUTCOMES

Risk Factor	FTA	NCA	NVCA
1. Age at current arrest		X	
2. Current violent offense			X
<i>Current violent offense &amp; 20 years old or younger</i>			X
3. Pending charge at the time of the offense	X	X	X
4. Prior misdemeanor conviction		X	
5. Prior felony conviction		X	
<i>Prior conviction (misdemeanor or felony)</i>	X		X
6. Prior violent conviction		X	X
7. Prior failure to appear in the past two years	X	X	
8. Prior failure to appear older than two years	X		
9. Prior sentence to incarceration		X	

*Note: Boxes where an "X" occurs indicate that the presence of a risk factor increases the likelihood of that outcome for a given defendant.*

After LJAF determined the variables that impacted each of the three categories, the data was then used to assign each factor a "weight" according to the strength of its relationship to the variable or factor and the specific pretrial outcome.<sup>16</sup> The tool then converts the weighted factors into a raw score with a scale for the arraigning judge to appropriately utilize in its bail determination.<sup>17</sup>

HCPD recommends statutory/rule language which requires that "validated risk assessment tool(s)" are accurate and reliable for the population being accessed by the tool. In other words, the data used to "validate" the risk assessment tool must be of sufficient size and diversity so that it can be reliably and accurately applied to the population of Ohio or the specific county utilizing the tool. Specifically, HCPD

<sup>16</sup> <http://www.arnoldfoundation.org/wp-content/uploads/PSA-Risk-Factors-and-Formula.pdf> (accessed May 13, 2017).

<sup>17</sup> <http://www.arnoldfoundation.org/wp-content/uploads/PSA-Risk-Factors-and-Formula.pdf> (accessed May 13, 2017).

recommends defining “validated risk assessment tool” to incorporate the recommendations listed on page 6, *supra*.

In addition, HCPD recommends creating an exception in R.C. 5120.115 to permit the release of non-identifying data to ORAS, LJAF, or any other organization developing a risk assessment tool. Alternatively, the exception could permit the release of non-identifying data to a specific governmental organization, and risk assessment tool developers could obtain the data from that government entity. Such an exception would be necessary in order to ensure accurate and reliable risk assessment tools and would likely be necessary to undertake the data collection recommended in this Report. HCPD supports such data collection.

**III. Report Recommendation #2: Implement a performance management (data collection) system to ensure a fair, effective, and fiscally efficient process.**

See p. 11-12 *supra*.

**IV. Report Recommendation #3: Maximize release through alternatives to pretrial detention that ensure appearance at court hearings while enhancing public safety.**

The Report lists 4 specific recommendations:

- Increase awareness and use of a continuum of alternatives to detention.
- Law enforcement should increase use of cite and release for low-level, non-violent offenses.
- Prosecutors should screen cases before initial appearance for charging decisions, diversion suitability, and other alternative disposition options.
- Prosecutors and courts should increase the availability of diversion through expanded eligibility utilizing risk assessments.

HCPD fully supports these recommendations. Hamilton County has both a diversion and pretrial services division. However, the recommendations offered by the Report show there is room for growth and improvement in these areas in Hamilton County.

**A. Diversion Eligibility.**

As noted above, Hamilton County uses ORAS. An ORAS risk assessment tool is utilized to assess individuals for pre-trial services and diversion. This is not the same tool as PAT, which is used for bail determinations. Although the tool is not the same, it also suffers from the same lack of revalidation and limitations as the PAT. See pp. 7-11, *supra*. As a result, the

recommendations made by HCPD to define validated risk assessment tools and amend the Ohio Administrative Code so as not to require use of ORAS tools exclusively will assist to make improvements here. This is important, as LJAF is working on improving assessments in pretrial services and diversion as well.<sup>18</sup> Localities should be able to choose the accurate, reliable validated risk assessment tool of their choosing. As this Report notes, the work of diversion and pretrial services needs to be supported with appropriate resources. Certainly, as jail overcrowding and related costs go down, this will assist in the availability of resources at the local level.

**B. Alternatives to Detention are important, but should not be misused.**

Awareness of alternatives to detention is important. However, awareness must be coupled with training. Without training as to when alternatives to pretrial detention, as well as jail alternatives, provide assistance with ensuring community safety and/or assurance that a defendant will return to court, such alternatives will be used in addition to financial bail and could be subject to misuse and abuse. For example, EMU is heavily overused in Hamilton County. In fact, it is the practice of some arraigning judges to make EMU a condition of bail on every person arrested regardless of the charge—including misdemeanors. In addition, the majority of the EMU devices in Hamilton County only work with a landline phone. Many indigent individuals do not have a landline. Sometimes it is simply because the person can only afford one phone—a cell phone.

However, for many indigent clients, they do not have a landline because they could not keep up with payments for a prior landline in their name and now their landline has been turned off. Now, if bail is imposed on this individual, they have to pay past phone bills, new phone installment fees, and a monthly bill in order to obtain an otherwise unnecessary land line—all in addition to financial bail— in order to be released from jail. Hamilton County does have units that work with cell phones. However, the number of cell phone compatible units is small and the waiting list is long. As a result, even if an indigent defendant can make bond, if they cannot afford to also install a landline (from jail), they remain in the jail awaiting a cell phone compatible EMU. Finally, there are indigent clients that do not have a phone of any kind.

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<sup>18</sup> <http://www.arnoldfoundation.org/initiative/criminal-justice/crime-prevention/piloting-and-evaluating-innovations-and-interventions/> (accessed May 14, 2017).



In Hamilton County, EMUs are not an alternative to financial bail, they are being used “in addition to” financial bail. In addition, its overuse is resulting in over incarceration. The costs of the units to the individual serves to increase financial bail. More importantly, using EMU in all cases demonstrates a blanket policy rather than individualized bail determinations. HCPD recommends, at minimum, training in addition to awareness of alternatives to detention.

It is certainly important for prosecutors to screen cases prior to an initial appearance at arraignment. In Hamilton County, there are rarely plea offers at arraignments except on traffic offenses and minor misdemeanors as prosecutors have not spoken with the officer or the complaining witness. With the exception of misdemeanors like OVI that might require additional investigation, misdemeanors where the officer is the complaining witness should be screened, evaluated, and an initial offer determined prior to arraignment in counties with large prosecutors’ offices, like Hamilton County.

**V. Report Recommendation #4: Mandate the presence of counsel for the defendant at the initial appearance.**

In Hamilton County, HCPD and appointed counsel are present at the initial appearances for misdemeanors in Hamilton County and the City of Cincinnati. The standard in HCPD is to conduct an interview of the client prior to arraignment. HCPD agrees that this should be the model throughout Ohio. In addition, HCPD agrees with and adopts the recommendations from the Joint Statement regarding this issue:

- Pretrial risk assessments should be used as part of a deliberative, adversarial hearing that must involve defense counsel and prosecutors before a judicial officer;
- Defense counsel must have the time, training, and resources to learn important information about the client's circumstances that may not be captured in a pretrial risk assessment tool and adequate opportunity to present that information to the court;
- Requests for preventive detention by the state must require an additional hearing where the government proves by clear and convincing evidence that no condition or combination of conditions will reasonably assure the person's appearance in court or protect the safety of the community; and
- The system must provide expedited appellate review of any detention decision.

Joint Statement.

The presence of counsel at the initial appearance where bail is set is critical. Courts are reluctant to change bail decisions, even if those decisions are made without counsel present. When an indigent person is arrested, the presence of counsel is critical to appropriate determination of bail or release. Because the security of employment, housing, benefits, relationships, etc. flow from such a critical determination, counsel's presence is even more critical.

**VI. Report Recommendation #5: Require education and training of court personnel, including judges, clerks of court, prosecutors, defense counsel, and others with a vested interest in pretrial process.**

As noted on page 5, and 13-14 *supra*, education and training—especially on rule changes, risk assessment tools, cognitive bias, and the detrimental impact of the improper use of bail—is critical to change and reform. All parties involved in the pretrial process need education and training on these topics in order to implement the Report's recommendations.

**VII. Report Recommendation #6: Continued monitoring and reporting on pretrial services and bail in Ohio.**

Monitoring and reporting are important to determine whether the recommendations implemented are being followed, as well as the results and impact of implementing a recommendation. This will identify when recommended changes are not being followed and whether any additional amendments to the implemented recommendations are necessary. Monitoring and reporting is also critical to identifying where additional resources are needed.

## Cline, Jo Ellen

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**From:** Kari.Bloom@opd.ohio.gov  
**Sent:** Monday, May 01, 2017 10:07 AM  
**To:** Cline, Jo Ellen  
**Subject:** Comments on Bail Document

Hi Jo Ellen,

Please find the following comments from OPD on the Bail Committee's report. I am happy to supplement this submission at your request.

1. The report contains a recommendation which requires a "validated" risk assessment tool. There must be a validation credential included in the recommendation, instead of using "validation" in a colloquial way. Credentialing options exist for counties to use/seek for their own tools, and the Committee could create a list of approved risk assessment tools for them to choose from. It is important that all of the tools that are used do not include an interview with the arrested person. While not the purpose of the interview, any tool that requires an interview necessarily implicates and, likely, violates the Fifth and Sixth Amendments. This leads to the quandary of defense counsel telling clients not to participate and the person forgoing a potential release from pretrial incarceration.
2. The Committee should add a recommendation regarding data collection, where counties should keep all of the bail assessment results and arraignment/release hearing dockets. The Committee should decide where that data should be submitted to, and the best way to transmit it. The Racial Justice Institute at OPD is happy to write the language of the Recommendation at the Committee's request. This data collected should have names and identifying information removed for arrested people and the data is a public record. ORAS data is not a public record, so we either have to address that change in the public records law, or be explicit in our recommendation.
3. The Committee should consider redrafting the report section that governs the right to counsel at initial appearance. Recommendation #4 unequivocally state that counsel should be present at initial appearance. This language should be repeated in the body of the report but it is not. The report, at section H, does not say this unequivocally. Instead, it says that counsel should be appointed prior the conclusion of the arraignment proceeding. This language suggests a person may be arraigned without counsel. In Ohio, the arraignment meets both prongs of the *Rothgery* decision that mandates counsel be present at the hearing. Appointing an attorney prior to the conclusion, who will not be there, does not comport with the United States Constitutional requirements under the Sixth Amendment.
4. Though there is a recommendation against bond schedules, it could be stronger by referencing the ABA standard 10-5-3 which states that financial conditions for release should never be set by reference to a predetermined schedule of amounts fixed according to the nature of the charge.
5. The Committee should consider adding procedural guidance on completing the risk assessment, namely how soon after arrest it must be completed. Further, the Committee should consider adding a recommendation allowing an arrested person to waive a bond hearing, with the traditional knowing, intelligent, and voluntary waiver language included.

**From:** Gary Dumm [<mailto:gary@circlevillecourt.com>]  
**Sent:** Thursday, April 13, 2017 11:30 AM  
**To:** Andrews, Sara  
**Cc:** Gary Dumm  
**Subject:** Public Comment Ad Hoc Committee on Bail and Pretrial Services

Good morning Sara!

I appreciate the work of the committee and the report itself. My only continuing comment on the issue of bail reform is that there would be little need for the current efforts, if all judges around the state took the time to evaluate bail issues adequately, both in setting bail initially and in reviewing bail while the case is pending. "Set it and forget it" should never be the approach. Those of us, whom I believe to be in the majority are paying a price for the smaller percentage of folks who like the idea of relying on a bond schedule as an easy and thoughtless way to set bail. Using an assessment tool once again gives those judges who like a no brainer approach to continue that practice by merely using the tool as justification for how they set bail.

I like to think that current Crim. R. 46 and the case law behind it provide all the tools judges need and that judges themselves are the assessment tools, if they take the time to consider the rule's opportunities. More discussions at conferences on bail attention would go a long way to deal with the problems articulated by the committee than rule modifications.

Our court is and always has been, very mindful of always taking the position that recognizance bonds should be the first line of bail, unless public safety or failure to appear are major concerns. As an aside, we also track our failure to appear warrants and it is noteworthy that they have increased each year since 2014 by around 50% each year. We attribute most of that to the opiate related cases, where defendants are much more concerned with getting daily fix than coming to court; however, more liberal bond setting probably also results in more failure to appear warrants.

My best, Gary Dumm

**TO:** Ohio Criminal Sentencing Commission, Members of the Ad Hoc Committee  
**FROM:** Eddie Miller, President, Ohio Bail Agents Association  
**DATE:** February 9, 2017  
**RE:** Pre-Trial Release

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- 1.) **What is BAIL?** (See Ohio Revised Code 2937.22) (See **Figure 1**)
  - a.) To date there has been no discussion as to the importance of the word “**Appearance.**”
  - b.) See *State v. Hughes*. 27 Ohio St.3d 19, 20 (1986)  
*State, ex rel. Baker v. Troutman*, 50 Ohio S.Xt.3d 270, 272 (1990) (See **Figure 4**)  
[Summit Co. habeas case where Summit Co. Common Pleas Court’s pretrial bond orders were found to be unconstitutional]
  - c.) Victims and Society want the accused to be brought to justice. In order for justice to be served the accused first must **appear**.
  
- 2.) The Summit County Pretrial Release Program (Program) cites figures of a 77% success rate.
  - a.) This means roughly that 1 in 4 defendants fail to appear. Where in this report do we recognize how and what we do when a defendant fails to appear?
  - b.) The Summit County analysis fails to consider the economic effect of failure to appear. This analysis makes a faulty assumption that all those released through the Program would have otherwise been in jail. The analysis also fails to consider how many individuals were released on some form of surety (10%, Professional Surety, etc.) and the return rate of those individuals.
  - c.) The Program, while claiming to create a saving of some (\$133/ day?) fails to consider the fact that those who post professional surety creates a 100% saving since the surety is responsible for the problem children. i.e., the high risk person who fails to appear.
  
- 3.) Cost Savings vs Expense. As stated above in the Summit County Pretrial Presentation.
  - a.) \$133/ day per inmate (?)
  - b.) Please see **Figure 2 & 3** for 3 other counties located in Ohio (Why is there such a disparity in cost from one jail to another?)
  - c.) One would assume that the people who do not fit the matrix would remain in jail in lieu of bail for at least 48 hours. Ohio already has in place under the ORC Sections 2935.13 – 2935.14 which requires the issuing court to bring a defendant “forthwith and there let to bail” as well as the right to Counsel.
  
- 4.) Comparative Cost Analysis
  - a.) DC Pretrial Release Program: Population of 658,893; Cost of Program: **\$62,000,000 –**  
  
Columbus Ohio Pretrial Release (Probation Department): Population of 822,553;  
Cost of Program: **\$10,323,537**  
  
{Look at the cost of the DC Stats (See **Figure 5**) and compare them to the stats of Columbus (See **Figure 6**).}

b.) One would assume that there would be an increase of \$50,000,000 in the City of Columbus alone, if it implements a program like the one in D.C.

5.) The New Mexico Myth (See Figure 7)

a.) At the Ad Hoc Committee Meeting on January 20<sup>th</sup> 2017, it was stated that there was no more Commercial Bail in the State of New Mexico. That happens to be **FALSE**; Commercial Bail is still practiced throughout the state. The compromise amendment to the New Mexico Constitution preserved Monetary Bail and Jail House Bond Schedules

6.) Data Collection (See Figure 8, 9, & 10)

a.) There are only 3 known sources that report "Failure to Appear"

1.) One source has a 23% Fail to Appear Rate - (Summit County, Figure 9)


2.) The second source has a 33% Fail to Appear Rate - (Lucas County, Figure 8)

3.) Lastly, the Ohio Supreme Court's records do not reflect a true Fail to Appear Rate (See Figure 10) – The Ohio Supreme Court's data can be found at the Case Management area of its website.

In conclusion, there is insufficient information as to the costs to implement any change to the Bail System as well as what the actual Appearance and Non-Appearance Rates truly are. In states or areas that have implemented No Money Bail (i.e. Philadelphia and Washington D.C.) has this really been worth the expense and kept crime low?

I know that this may not be popular with some on this committee but dispute where you may!

Figure 1

 **LAWriter**® Ohio Laws and Rules

Route: [Ohio Revised Code](#) • Title: [\[29\] CRIMES - PROCEDURE](#) • Chapter: [2937. PRELIMINARY EXAMINATION - BAIL](#)

**2937.22 Form of bail.**

{A} Bail is security for the appearance of an accused to appear and answer to a specific criminal or quasi-criminal charge in any court or before any magistrate at a specific time or at any time to which a case may be continued, and not depart without leave. It may take any of the following forms:

{1} The deposit of cash by the accused or by some other person for the accused;

{2} The deposit by the accused or by some other person for the accused in form of bonds of the United States, this state, or any political subdivision thereof in a face amount equal to the sum set by the court or magistrate. In case of bonds not negotiable by delivery such bonds shall be properly endorsed for transfer.

{3} The written undertaking by one or more persons to forfeit the sum of money set by the court or magistrate, if the accused is in default for appearance, which shall be known as a recognizance.

{B} Whenever a person is charged with any offense other than a traffic offense that is not a moving violation and posts bail, the person shall pay a surcharge of twenty-five dollars. The clerk of the court shall retain the twenty-five dollars until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the twenty-five dollars on or before the twentieth day of the month following the month in which the person was convicted, pleaded guilty, or forfeited bail to the treasurer of state, and the treasurer of state shall deposit it into the indigent defense support fund created under section [120.08](#) of the Revised Code. If the person is found not guilty or the charges are dismissed, the clerk shall return the twenty-five dollars to the person.

{C} All bail shall be received by the clerk of the court, deputy clerk of court, or by the magistrate, or by a special referee appointed by the supreme court pursuant to section [2937.46](#) of the Revised Code, and, except in cases of recognizances, receipt shall be given therefor .

{D} As used in this section, "moving violation" has the same meaning as in section [2743.20](#) of the Revised Code.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 10/16/2009.

Effective Date: 01-01-1960 .

Figure 2

## Clermont County Jail bed cost

**Scheetz, Sukie** to you [show details](#)  [show image slideshow](#)

Mr Miller –

The 2016 cost for operating the 326 jail beds in the Clermont County jail was \$77.68/day/bed.

Sukie Scheetz



Director, Office of Management & Budget

(513)732-7986

[sscheetz@clermontcountyohio.gov](mailto:sscheetz@clermontcountyohio.gov)

Figure 3

# Warren County Sheriff billed high holding costs for extra inmates

Paige Godden, [pgodden@registermedia.com](mailto:pgodden@registermedia.com) 11:38 a.m. ET July 16, 2015



(Photo: MICHAEL ROLANDS/RECORD-HERALD)

COMMENT EMAIL MORE

The Warren County Sheriff's department is billed more than \$100,000 annually from other county jails for holding overflow inmates, and that cost doesn't include the gas or deputy pay for transporting the inmates.

Sheriff Brian Vos said between Monday, July 6, and Friday, July 10, the county had 13 transports.

The trips, depending on where they're to, take at least two hours apiece, he said.

Generally, the county transports its extra inmates to the Marion County Jail, which charges a \$40 daily holding fee. Or, if that's full, inmates are sent to Madison County, which charges \$55 per day.

The Warren County Jail, on the top floor of the courthouse, has a maximum capacity of 18.

Vos said the number of inmates transported each week depends on how many inmates flow through the jail. Last Thursday night, four were brought in.

"On weekends, this weekend will be a nice weekend, so we may get six to 10 people in overnight," Vos said.

Within the last month, Vos said the daily number of inmate check-ins ranged from about 10 to 19.

He said with that many overflow prisoners, the county is completely at Marion County's mercy as far as having enough beds to house them all.

## TOP VIDEOS



Lava flows like fiery waterfall from Hawaii volcano

0:36



Protests erupt at U.S. airports over refugee ban

1:26



This baby dolphin will brighten up your day

0:42



Trump dances, Internet notices

0:46



Two weeks ago, the jail was full and Warren County was asked to reassign its five inmates who were staying there.

Vos said Warren County does have one deputy who is assigned to transport inmates Monday through Friday.

He said the position usually goes to one of the older deputies getting closer to retirement.

Warren County has been planning to build a new jail for several years now, and the plan received more attention after two inmates escaped last month.

Shive-Hatter, a West Des Moines engineering firm, has been hired to do a feasibility study on the old jail.

Earlier this year, assistant Warren County attorney Doug Eichholz presented several options for a new facility to the Warren County Board of Supervisors. He said the old facility could either be renovated, a new jail could be built or the jail and courthouse could swap buildings with the county administration building, because there's a lot more room in the administration building.

Eichholz said another option is to do nothing with the jail facilities.

However, state jail inspector Delbert Longly released a report on the jail saying if the county stops moving forward with plans to fix up the jail he will shut it down. Longley cited several safety concerns in his report.

In addition to space needs, Vos said the report also will look at staffing needs for several new jail scenarios.

Vos said those staffing needs change depending on whether the new jail and courthouse will be attached and how big the jail would be.

A public committee has been formed to help identify the needs at the courthouse and to help review any information Shive-Hattery provides.



Toddler rescues twin from fallen dresser  
0:33

## Figure 4

# STATE EX REL. BAKER v. TROUTMAN

No. 89-2044.

Email | Print | Comments (0)

50 Ohio St. 3d 270 (1990)

*THE STATE, EX REL. BAKER ET AL., v. TROUTMAN, SHERIFF, ET AL.*

Supreme Court of Ohio.

Submitted February 6, 1990.

Decided April 25, 1990.

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### **View Case**

Cited Cases

Citing Case

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#### **Attorney(s) appearing for the Case**

*Gold, Rotatori, Schwartz & Gibbons Co., L.P.A., and Niki Z. Schwartz, for petitioner-relator Donald Shury.*

*John L. Wolfe, for petitioner-relator Kenneth Baker.*

*Lynn C. Slaby, prosecuting attorney, Gabrielle A. Manus and Larry G. Poulous, for respondents.*

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#### **Per Curiam.**

We agree that Miscellaneous Order No. 555 of the Court of Common Pleas of Summit County violates Section 9, Article I of the Ohio Constitution,<sup>1</sup> as implemented by Crim. R. 46,<sup>2</sup> and have

[50 Ohio St. 3d 272]

granted a writ of habeas corpus ordering Baker's release on the posting of a \$5,000 bond and a peremptory writ of mandamus in the first instance requiring respondents to nullify Miscellaneous Order No. 555.

First we reject respondents' arguments that Baker has no action in habeas corpus. In *State v. Bevacqua* (1946), 147 Ohio St. 20, 33 O.O. 186, 67 N.E.2d 786, we held that habeas corpus is the proper method of securing relief for excessive pretrial bail under Section 9, Article I, Ohio Constitution.

We also reject respondents' contention that they owe no clear duty to Baker not to limit his access to a surety via Miscellaneous Order No. 555. Under Section 9, Article I, a criminal defendant, except a defendant in a capital case, has a right to nonexcessive bail on approval of sufficient sureties. We have stated that this right is absolute. *Locke v. Jenkins* (1969), 20 Ohio St.2d 45, 49 O.O. 2d 304, 253 N.E.2d 757.

The United States Constitution does not grant an absolute right to bail in noncapital cases. It only prohibits excessive bail. Eighth Amendment to the United States Constitution. Hence, federal law allows more exceptions to the right to bail than the capital-case exception expressly permitted by the Ohio Constitution. See *United States v. Salerno* (1987), 481 U.S. 739. Nevertheless, the Eleventh Circuit Court of Appeals has held that conditioning bail on its availability for payment of a fine is excessive and in violation of the Eighth Amendment. *United States v. Rose* (C.A.11, 1986), 791 F.2d 1477. A former justice of the United States Supreme Court reached the same conclusion. *Cohen v. United States* (1962), \_\_\_\_ U.S. \_\_\_\_, 7 L. Ed. 2d 518, 82 S.Ct. 526.

The rationale behind these federal opinions is that the purpose of bail is to ensure the appearance of the defendant at all stages of the criminal proceedings and that conditions that do not relate to appearance are necessarily excessive. In Ohio, that purpose is expressly stated in Crim. R. 46(A), which implements Section 9, Article I, Ohio Constitution:

"The purpose of bail is to insure that the defendant appears at all stages of the criminal proceedings. \* \* \*"

Thus, we examine Miscellaneous Order No. 555's effect on appearance.

Bail ensures appearance. Therefore, the conditions placed on it must relate to appearance and the reasons for forfeiture to nonappearance. Miscellaneous Order No. 555 was not so structured. It conditioned the right to bail on an accused's or surety's consent to forfeit the bail for fines and costs, which respondents did not explain or justify in terms of ensuring appearance. Moreover, it provided implicitly for forfeiture upon conviction even though the obligation to appear was fully satisfied. We view its operation as excessive bail under Section 9, Article I because it placed limiting conditions on bail that were unrelated to appearance of the accused.

Respondents further argue that they owe no duty to relator Shury because R.C. 2937.40(B) states, or at least implies, that cash or security deposits may be retained with consent of the surety:

[50 Ohio St. 3d 273]

"\* \* \* The court shall not apply any of the deposited cash or securities toward, or declare forfeited and levy or execute against property pledged for a recognizance for, the satisfaction of any penalty or fine, and court costs, assessed against the accused upon his conviction or guilty plea, except upon express approval of the person who deposited the cash or securities or the surety."

It does not follow that because a statute prohibits use of cash or security deposits to pay fines and costs except with consent, a court may then *require* "consent" before permitting such deposits. Moreover, were respondents' construction of R.C. 2937.40(B) correct, it too would violate Section 9, Article I.

We also reject respondents' contentions that relators had a plain and adequate remedy in the ordinary course of law through appeal. To be adequate a remedy must be beneficial and speedy as well as complete. *State, ex rel. Liberty Mills, Inc., v. Locker* (1986), 22 Ohio St.3d 102, 22 OBR 136, 488 N.E.2d 883. Resolving the issue on appeal would have come far too late to aid Baker. Since we resolve the issues on Baker's behalf immediately, we find no merit in forcing Shury to appeal only to receive the same result.

Accordingly, we affirm *State v. Bevacqua*, which held that habeas corpus is a proper remedy to contest excessive pretrial bail, and also hold that Miscellaneous Order No. 555 violates the prohibition of Section 9, Article I against excessive bail. So holding, we find that relator Shury has a clear right to relief from the unconstitutional order, that respondents have a clear duty to grant that right, and that neither relator has a plain and adequate remedy in the ordinary course of law. By our previous order, we have granted relators the relief sought.

*Writs allowed.*

MOYER, C.J., SWEENEY, HOLMES, DOUGLAS, WRIGHT, H. BROWN and RESNICK, JJ., concur.

1. Section 9, Article I, Ohio Constitution provides:

"All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted."

2. Crim. R. 46 provides in part:

"(A) Purpose of and right to bail. The purpose of bail is to insure that the defendant appears at all stages of the criminal proceedings. All persons are entitled to bail, except in capital cases where the proof is evident or the presumption great. "\* \* \*

"(C) Pretrial release in felony cases. Any person who is entitled to release under subdivision (A), shall be released on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judge, unless the judge determines that such release will not assure the appearance of the person as required. Where a judge so determines, he shall, either in lieu of or in addition to the preferred methods of release stated above, impose any of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions: "\* \* \*

"(4) Require the execution of a bail bond with sufficient solvent sureties, or the execution of a bond secured by real estate in the county, or the deposit of cash or the securities allowed by law in lieu thereof, or;

"(5) Impose any other constitutional condition considered reasonably necessary to assure appearance."

Figure 5

*Summary of Washington D.C. Pretrial Services Budget*

Fiscal Year	Budget Request	Percentage Increase (Decrease) from Prior FY	Number of New Defendant Admissions for Supervision	Carry Over Supervision Population	Total Number of Supervisions
2017	*****	4.7%	18000 (Summary)	N/A	18,000
2016	*****	2.5%	14143	4514	18656
2015	*****	2.3%	15635	4545	20184
2014	*****	0.1%	17920	6743	24663
2013	*****	0.9%	20546	6205	26752
2012	*****	3.2%	9000	8000	17000
2011	*****	4.7%	11470	N/A	11470
2010	*****	6.8%	11217	N/A	11217
2009	*****	9.9%	10895	N/A	10895
2008	*****	8.0%	8999	N/A	8999
2007	*****	10.6%	8612	N/A	8612

	Bench Warrants Over 60	Number of Arrests for Release Violation/Egativ	FTE	Number of Adult Arrests
2017	N/A	N/A	374	N/A
2016	N/A	N/A	373	N/A
2015	N/A	5199 (Pg. 32)	385	33157
2014	N/A	5825 (pg. 28)	367	38224
2013	N/A	4624 (Pg. 28)	376	36570
2012	N/A	4331 (Pg. 300)	378	39421
2011	6161	6713 (Pg. 28)	378	48080
2010	5948	4829 (Pg. 24)	376	48513
2009	5470	3924 (Pg. 29)	373	42789
2008	3616	4400 (Pg. 25)	350	48940
2007	2741	4106 (Pg. 25)	340	46540

Figure 6



## Common Pleas

### 2017 Agency Overview – Approved Budget

**Mission**  
The vision is to provide responsible, efficient, and effective government that delivers outstanding public services through innovative leadership and sound fiscal management, and improve the quality of life for the residents of Franklin County.

**Strategic Initiatives**  
1) The Franklin County Court of Common Pleas, General Division, is dedicated to dispensing equal justice in all matters under the Court's jurisdiction, preserving the rule of law, protecting the rights and liberties guaranteed under the Constitution and laws of the United States and providing the highest quality of professional support in a prompt, efficient and cost effective manner.

**Strategic Issues**  
1) Time to Disposition (The percentage of cases disposed or otherwise resolved within established timeframes) This measure is a fundamental management tool that assesses the length of time it takes a court to process cases. It compares a Court's performance with local state and national guidelines for timely case processing. 2) Clearance Rates (Clearance rate measures whether the court is keeping up with its incoming caseload). The number of outgoing cases as a percentage of incoming cases. Courts dispose of the same number of cases that have been filed, reopened, or reactivated in a period by having a clearance rate of 100 percent or higher.

**Full Time Equivalents (FTEs)**

Program:	2016 Approved Budget	2017 Requested Budget	2017 Approved Budget
Justice Operations Program	113.02		115.02
Information Technology Program	7.50	7.50	7.50
Adult Probation/Community Corrections Program	126.50	126.50	126.50
<b>Total Agency FTEs</b>	<b>247.02</b>	<b>249.02</b>	<b>249.02</b>

Available Resources:	2015 Actual	2016 Approved Budget	2017 Requested Budget	2017 Approved Budget	% Change 2017 Approved vs. 2016 Approved
<b>Fund:</b>					
General Fund	\$1,309,504	\$1,176,886	\$1,380,354	\$1,298,284	10.1%
Computerization Fund	\$1,898,648	\$2,114,998	\$2,355,768	\$2,355,768	11.4%
Community Corrections Program Fund	\$2,458,139	\$2,511,027	\$2,512,036	\$2,512,036	0.0%
Probation Services Fund	\$1,221,917	\$1,263,807	\$1,099,961	\$1,099,961	-5.6%
Community Corrections Misdemeanor Fund	\$402,329	\$401,687	\$397,670	\$397,670	-1.0%
Indigent Interlock Fund	\$11,541	\$14,341	\$19,242	\$19,242	34.2%
Home Incorporation Fund	\$126,385	\$131,592	\$53,929	\$53,929	-59.0%
Justice Reinvestment Fund	\$1,151,508	\$1,953,096	\$2,256,940	\$2,256,940	15.6%
Arbitration Filing Fee Fund	\$39,355	\$39,355	\$39,355	\$39,355	0.0%
<b>Total</b>	<b>\$8,578,399</b>	<b>\$9,508,071</b>	<b>\$10,115,255</b>	<b>\$10,033,185</b>	<b>5.5%</b>

Expense Budget:	2015 Actual	2016 Approved Budget	2017 Requested Budget	2017 Approved Budget	% Change 2017 Approved vs. 2016 Approved
<b>Program:</b>					
Justice Operations Program	\$12,430,533	\$13,076,455	\$13,779,912	\$13,754,856	5.2%
Information Technology Program	\$1,154,414	\$1,065,985	\$1,176,670	\$1,175,050	9.9%
Adult Probation/Community Corrections Program	\$10,323,537	\$11,802,753	\$12,077,525	\$12,050,201	2.1%
<b>Total</b>	<b>\$23,908,484</b>	<b>\$25,945,193</b>	<b>\$27,034,107</b>	<b>\$26,980,107</b>	<b>4.0%</b>

Link to Agency web site

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## Changes in bail system beneficial

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By Jeff Clayton / Executive Director, American Bail Coalition  
Sunday, December 4th, 2016 at 12:02am

 EMAIL

 PRINT

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There has been a lot of information – and misinformation – written about New Mexico's new constitutional amendment on bail. Therefore, it is important to understand just what happened and what the amendment will actually mean for the state. As a person on the front line of this issue, I wanted to share my thoughts on the ramifications of this amendment.

First, the idea that bail bondsmen or monetary conditions of bail is somehow going away is not the case. Of course, it was Justice Charles Daniels' desire to implement a no-money bail system like the one in Washington, D.C. However, he was unsuccessful in his lobbying efforts with the Legislature to get it passed this year.

Ultimately, Daniels was able to negotiate the language in the compromise version of the New Mexico constitutional amendment that preserved the use of monetary bonds and jail house bond schedules.

This compromise subsequently passed the state Legislature 67-0 and was approved by an overwhelming majority of voters.

Notably, it did not implement the no-money bail system – a component that was a major reason for Daniels' original political coalition to break apart, with many groups making the choice to oppose the amendment. The compromise also had the effect of overruling his own earlier decision, which stated that no one could be held on bail they cannot afford, which practically speaking, banned all monetary bail.

Next, the amendment created a constitutional right to a hearing for individuals being held in jail to determine if their bail is beyond reach and/or without justification. That is a decided improvement in the system, making New Mexico the first state to offer an expedited bail review hearing as part of its Constitution.

Lastly, the amendment expands the use of preventative detention in serious criminal cases. This means judges and prosecutors now have greater authority to detain defendants in jail with no bail.

In abandoning Daniels' attempt to implement the Washington, D.C. system on New Mexico, the state Legislature made the denial of bail an option in more cases. But it did not specify this as the sole reason a person could be held in jail pending trial.

This was a critical point in the compromise. Under the system that Daniels wanted, prosecutors would have had to hold a mini-trial prior to every case in which a person was to be held in jail pending trial. Under the new compromise, prosecutors can select cases where they feel this is necessary. Judges are then left to set reasonable and appropriate monetary and non-monetary conditions of bail on the remaining cases.

This saves the state millions of dollars that would have been wasted on more judges, prosecutors and public defenders.

Daniels has rightfully taken a lot of heat for what seemed to be a conflict of interest. While active as sitting judge, he directly lobbied the state Legislature on a substantive matter of criminal law.

Yet, credit must be given where it is due. At the end of the day, the compromise that he helped broker (along with representatives of the bail industry and others in the criminal justice system), offered an elegant solution to a portion of the most important issues we are seeing with bail around the country. It offered some real answers to the questions concerning how to deal with dangerous defendants, who may also be poor.

At the same time, it respects the history and tradition of bail in New Mexico and our country at large.



Figure 8

## Assessing PSA Impact in Lucas County, OH

### » Research Results – Pretrial Bookings PSA Only

- N = 12,233 with 8,467 (69.2%) released w/PSA results

Risk Level	N	Population	Released	Any Failure (FTA and/or NCA)
1	1,864	15.2%	86.9%	19.9%
2	2,357	19.3%	83.0%	25.5%
3	1,991	16.3%	71.6%	31.8%
4	1,472	12.0%	69.6%	42.6%
5	1,258	10.3%	54.3%	44.5%
6	3,291	26.9%	53.4%	47.1%
	12,233	100.0%	Avg. 69.2%	Avg. 33.6%

33.6% Avg.

- As risk level increases
  - ✓ Release rates decrease (detention rates increase)
  - ✓ Failure rates increase for released defendants



Figure 9

## Summit County Pretrial Services

- ▶ Currently, we have 3 Monitors and 1 Program Coordinator who monitor clients and their compliance with supervision requirements.
- ▶ Defendants are reminded weekly of their next court appearance.
- ▶ The program supervised 1562 clients (118,000 mandays) in 2016 with a 77% success rate.
- ▶ Average daily count was 317 clients per day. Number of active placements on January 13, 2017 was 379
- ▶ Cost of placement varies by supervision level.
  - Minimum supervision: \$1.32 per day
  - Medium supervision: \$2.64 per day
  - Maximum supervision: \$5.02 per day (approximately 50% of the clients are on maximum supervision)



Figure 10

Municipal Courts  
Overall Caseloads  
2015

Court	Judges	-----Population-----		-----New Filings, Transfers, and Reactivations-----			-----Terminations-----			Clearance Rate
		Total	Per Judge	Total	Per Judge	Per 1,000 Pop.	Total	Per Judge	Per 1,000 Pop.	
Akron	6	237,795	39,633	55,850	9,275	234	55,755	9,293	234	100%
Alliance	1	42,428	42,428	8,276	8,276	195	8,272	8,272	195	100%
Ashland	1	53,139	53,139	11,861	11,861	223	11,789	11,789	222	99%
Ashtabula	1	32,775	32,775	8,285	8,285	253	7,842	7,842	239	95%
Athens County	1	84,757	84,757	14,872	14,872	227	14,492	14,492	224	99%
Auglaize County	1	45,949	45,949	11,706	11,706	255	11,750	11,750	256	100%
Avon Lake	1	47,756	47,756	4,079	4,079	85	4,090	4,090	88	100%
Barberton	2	113,197	56,599	14,536	7,268	128	14,400	7,200	127	99%
Bedford	2	80,088	40,043	18,824	9,312	233	18,785	9,383	234	101%
Bellefontaine	1	45,858	45,858	9,421	9,421	205	9,632	9,632	210	102%
Bellevue [PT]	1	12,097	12,097	3,122	3,122	258	3,162	3,162	281	101%
Berea	1	121,538	121,538	13,656	13,656	112	12,806	12,806	105	94%
Bowling Green	1	63,484	63,484	12,437	12,437	196	12,322	12,322	194	99%
Brown County	1	44,846	44,846	9,378	9,378	209	9,356	9,356	209	100%
Bryan	1	37,642	37,642	8,966	8,966	238	9,112	9,112	242	102%
Cambridge	1	40,087	40,087	12,622	12,622	315	12,741	12,741	318	101%
Campbell [PT]	1	9,627	9,627	4,042	4,042	420	4,334	4,334	450	107%
Canton	4	200,708	50,177	29,097	7,274	145	29,642	7,411	148	102%
Carroll County	1	28,836	28,836	2,943	2,943	102	2,893	2,893	100	98%
Celina	1	40,814	40,814	7,839	7,839	195	8,072	8,072	198	102%
Champaign County	1	40,097	40,097	4,927	4,927	123	4,936	4,936	123	100%
Chardon	1	93,389	93,389	10,223	10,223	109	10,159	10,159	109	99%
Chillicothe	2	78,064	39,032	16,131	8,066	207	16,091	8,046	206	100%
Circleville	1	55,698	55,698	13,382	13,382	240	13,382	13,382	240	100%
Clark County	3	138,333	46,111	26,833	8,878	193	26,128	8,709	189	98%
Clermont County	3	197,363	65,788	35,499	11,833	180	35,555	11,852	180	100%
Cleveland	12	398,012	33,168	122,293	10,191	307	123,001	10,250	309	101%
Cleveland (Housing)	1	398,012	398,012	17,898	17,898	45	18,012	18,012	45	101%
Cleveland Heights	1	46,121	46,121	17,549	17,549	380	17,978	17,978	390	102%
Clinton County	1	42,040	42,040	11,395	11,395	271	11,747	11,747	279	103%
Columbiana County	2	84,642	42,321	14,233	7,117	168	14,523	7,262	172	102%
Conneaut	1	12,841	12,841	2,895	2,895	225	2,860	2,860	223	99%
Coshocton	1	36,901	36,901	3,528	3,528	96	3,526	3,526	96	100%
Crawford County	1	43,784	43,784	11,425	11,425	281	11,566	11,566	284	101%
Darke County	1	52,194	52,194	5,793	5,793	111	5,771	5,771	111	100%
Dayton	5	141,527	28,305	35,608	7,122	252	36,067	7,213	255	101%
Defiance	1	39,037	39,037	9,527	9,527	244	9,532	9,532	244	100%
Delaware	2	174,214	87,107	24,885	12,343	142	24,302	12,151	139	98%
East Cleveland	1	17,843	17,843	5,081	5,081	285	4,969	4,969	278	98%
East Liverpool	1	23,199	23,199	2,899	2,899	125	2,910	2,910	125	100%
Eaton	1	42,270	42,270	6,401	6,401	151	6,380	6,380	151	100%
Elyria	2	120,568	60,284	20,824	10,412	173	20,803	10,402	173	100%
Erle County	1	14,766	14,766	9,809	9,809	664	9,640	9,640	653	98%
Euclid	1	48,920	48,920	10,430	10,430	213	10,556	10,556	216	101%

**Municipal Courts  
Overall Caseloads  
2015**

Court	Judges	-----Population-----		New Filings, Transfers, -----and Reactivations-----			-----Terminations-----		Per 1,000 Pop.	Clearance Rate
		Total	Per Judge	Total	Per Judge	Total	Per Judge			
Fairborn	1	91,548	91,548	18,171	18,171	198	17,949	17,949	196	99%
Fairfield	1	42,510	42,510	8,938	8,938	210	9,061	9,061	213	101%
Fairfield County	2	146,156	73,078	23,823	11,912	163	23,731	11,866	162	100%
Findlay	2	70,342	35,171	17,974	8,987	256	17,991	8,986	256	100%
Franklin [PT]	1	28,076	28,076	8,587	8,587	306	8,597	8,597	306	100%
Franklin County	14	1,163,414	83,101	231,828	16,559	199	233,802	16,700	201	101%
Franklin County (Env.)	1	1,163,414	1,163,414	7,814	7,814	7	7,867	7,867	7	98%
Fremont	1	26,338	26,338	6,456	6,456	245	6,378	6,378	242	99%
Gallipolis	1	30,934	30,934	7,988	7,988	258	8,028	8,028	260	101%
Garfield Heights	2	79,896	39,948	16,364	8,182	205	16,290	8,145	204	100%
Girard	1	41,170	41,170	9,687	9,687	235	9,524	9,524	231	98%
Hamilton	1	77,850	77,850	20,718	20,718	266	20,456	20,456	263	99%
Hamilton County	14	802,374	57,312	183,567	13,112	229	183,049	13,075	228	100%
Hardin County [PT]	1	32,058	32,058	4,196	4,196	131	4,142	4,142	129	99%
Hillsboro	1	36,864	36,864	5,296	5,296	144	5,310	5,310	144	100%
Hocking County	1	29,380	29,380	5,275	5,275	180	5,259	5,259	179	100%
Holmes County	1	42,366	42,366	3,647	3,647	86	3,468	3,468	82	95%
Huron [PT]	1	10,697	10,697	3,590	3,590	336	3,507	3,507	328	98%
Ironton	1	24,582	24,582	3,500	3,500	142	3,462	3,462	141	99%
Jackson County	1	33,226	33,226	11,366	11,366	342	10,533	10,533	317	93%
Kettering	2	119,077	59,539	15,127	7,564	127	15,053	7,527	126	100%
Lakewood	1	52,131	52,131	13,007	13,007	250	13,024	13,024	250	100%
Lawrence County [PT]	1	37,868	37,868	7,548	7,548	199	7,506	7,506	198	99%
Lebanon [PT]	1	34,712	34,712	7,172	7,172	207	6,996	6,996	202	98%
Licking County	2	186,492	83,246	21,425	10,713	129	21,558	10,779	129	101%
Lima	2	106,331	53,166	21,027	10,514	198	20,901	10,451	197	99%
Lorain	2	79,573	39,787	15,445	7,723	194	15,183	7,592	191	98%
Lyndhurst	1	57,777	57,777	14,728	14,728	255	14,709	14,709	255	100%
Madison County	1	43,435	43,435	12,230	12,230	282	12,255	12,255	282	100%
Mansfield	2	105,949	52,975	28,098	14,044	265	27,849	13,925	263	99%
Marietta	1	81,778	81,778	12,552	12,552	203	12,520	12,520	203	100%
Marion	1	86,501	86,501	18,409	18,409	277	18,286	18,286	275	99%
Marysville	1	52,300	52,300	11,346	11,346	217	11,199	11,199	214	99%
Mason [PT]	1	86,771	86,771	10,192	10,192	153	10,183	10,183	153	100%
Massillon	2	132,450	66,225	14,572	7,286	110	14,519	7,260	110	100%
Maumee	1	46,011	46,011	10,817	10,817	231	10,602	10,602	230	100%
Medina	1	125,691	125,691	13,148	13,148	105	13,107	13,107	104	100%
Mentor	1	54,602	54,602	8,463	8,463	155	8,489	8,489	155	100%
Miami County	2	103,271	51,636	20,722	10,361	201	20,325	10,163	197	98%
Miamisburg	1	72,307	72,307	12,964	12,964	179	13,203	13,203	183	102%
Middletown	1	71,329	71,329	16,449	16,449	231	17,077	17,077	239	104%
Montgomery Co.	3	114,927	38,309	17,389	5,796	151	17,809	5,936	155	102%
Morrow County	1	34,827	34,827	8,058	8,058	231	8,387	8,387	241	104%
Mount Vernon	1	60,921	60,921	7,138	7,138	117	7,025	7,025	115	98%

**Municipal Courts  
Overall Caseloads  
2015**

Court	Judges	-----Population-----		New Filings, Transfers, -----and Reactivations-----			-----Terminations-----			Clearance Rate
		Total	Per Judge	Total	Per Judge	Per 1,000 Pop.	Total	Per Judge	Per 1,000 Pop.	
Napoleon	1	28,215	28,215	4,233	4,233	150	4,102	4,102	145	97%
New Philadelphia	1	86,545	86,545	12,163	12,163	183	12,238	12,238	184	101%
Newton Falls	1	29,221	29,221	7,548	7,548	258	7,521	7,521	257	100%
Niles	1	29,897	29,897	5,209	5,209	174	5,159	5,159	173	99%
Norwalk	1	54,500	54,500	13,282	13,282	243	13,277	13,277	243	100%
Oakwood [PT]	1	9,202	9,202	1,883	1,883	183	1,881	1,881	181	99%
Oberlin	1	45,841	45,841	9,246	9,246	202	9,177	9,177	200	99%
Oregon	1	23,523	23,523	6,667	6,667	283	6,571	6,571	279	99%
Ottawa County	1	41,428	41,428	7,726	7,726	186	7,943	7,943	192	103%
Painesville	1	89,304	89,304	12,458	12,458	140	12,416	12,416	139	100%
Parma	3	176,858	58,953	28,478	8,825	150	26,231	8,744	148	99%
Perrysburg	1	59,535	59,535	12,784	12,784	215	13,054	13,054	219	102%
Portage Co. (Kent)	1	80,709	80,709	9,835	9,835	119	9,629	9,629	119	100%
Portage Co. (Ravenna)	2	80,710	40,355	30,151	15,076	374	30,041	15,021	372	100%
Portsmouth	2	79,499	39,750	13,884	6,932	174	13,782	6,891	173	99%
Putnam County	1	34,499	34,499	2,846	2,846	82	2,859	2,859	83	100%
Rocky River	2	118,137	59,069	17,613	8,807	149	17,609	8,805	149	100%
Sandusky	1	39,479	39,479	14,862	14,862	376	15,543	15,543	394	105%
Shaker Heights	1	60,508	60,508	14,320	14,320	237	17,330	17,330	286	121%
Shelby [PT]	1	18,526	18,526	2,160	2,160	117	2,162	2,162	117	100%
Sidney	1	49,423	49,423	8,490	8,490	172	8,654	8,654	175	102%
South Euclid	1	22,295	22,295	6,100	6,100	274	5,881	5,881	254	93%
Steubenville	1	18,659	18,659	4,477	4,477	240	4,506	4,506	241	101%
Stow	2	190,789	95,395	21,238	10,619	111	21,158	10,579	111	100%
Struthers [PT]	1	35,159	35,159	4,407	4,407	125	4,377	4,377	124	99%
Sylvania	1	77,278	77,278	16,089	16,089	208	15,839	15,839	205	98%
Tiffin-Fostoria	1	63,654	63,654	8,967	8,967	141	8,754	8,754	138	98%
Toledo	6	295,003	49,167	117,094	19,516	397	117,787	19,631	399	101%
Toledo (Housing)	1	295,003	295,003	8,736	8,736	30	8,416	8,416	29	96%
Upper Sandusky	1	22,615	22,615	8,480	8,480	375	8,452	8,452	374	100%
Van Wert	1	28,744	28,744	8,676	8,676	302	8,276	8,276	288	95%
Vandalia	1	78,580	78,580	18,272	18,272	233	18,212	18,212	232	100%
Vermillion [PT]	1	19,753	19,753	4,858	4,858	246	4,851	4,851	246	100%
Wadsworth	1	46,641	46,641	7,483	7,483	160	7,469	7,469	160	100%
Warren*	2	75,111	37,556	14,080	7,040	187	14,083	7,032	187	100%
Washington C. H.	1	29,030	29,030	5,192	5,192	179	5,121	5,121	176	99%
Wayne County	2	114,520	57,260	19,100	9,550	167	19,064	9,532	166	100%
Willoughby	1	86,135	86,135	15,316	15,316	178	14,999	14,999	174	98%
Xenia	1	89,558	89,558	11,549	11,549	166	11,436	11,436	164	99%
Youngstown	2	88,982	33,491	12,781	6,391	191	12,351	6,176	184	97%
Zanesville	1	25,487	25,487	6,382	6,382	250	6,285	6,285	246	98%
Statewide*	214	11,536,504	49,363	2,189,652	10,232	176	2,191,584	10,241	176	100%

\* Due to issues arising during a case management system conversion, Warrens Municipal Court was not able to provide statistics for December 2015.

All population data from 2010 U.S. Census.



# PROFESSIONAL BAIL AGENTS OF THE UNITED STATES

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## **Ohio Sentencing Commission**

February 9, 2017

To Whom It May Concern:

The Professional Bail Agents of the United States (PBUS) is aware that the Ohio Sentencing Commission will be meeting tomorrow to further discuss proposed rule changes for the release of defendants in the Ohio criminal justice system. PBUS believes it will be a mistake to implement a blanket personal recognizance bond release system across the great state of Ohio. Such recommendation will have a direct affect on judicial discretion in the handling of misdemeanor cases and may very well cause the court system to overload their dockets, causing further delays in a resolution of cases.

The Ohio Constitution clearly states that all persons shall be bailable by "sufficient sureties." Pretrial services programs are not deemed "sufficient sureties," and release through such programs can have unintended consequences that affect public safety. A bail bond's purpose is to ensure the appearance of a defendant in court. A prior failure to appear in court should eliminate a defendant from ever being released on a personal recognizance bond. When a defendant fails to appear on a supervised own recognizance bond, he/she is no longer "sufficient" for that bond.

States across the country, such as New Jersey and Maryland, have suffered tremendously under similar proposed rule changes to their criminal justice system as the Ohio Sentencing Commission is considering. Lucas County, Ohio has a pretrial services program that has grown to cost taxpayer's over \$2 million annually. This program recommended release on own recognizance for a defendant charged with vehicular homicide, a felony offense. In addition, the defendant already had a criminal history that included 15 separate charges and 12 failure to appears over a two-and-a-half year period of time. This is not the type of individual that should be recommended and released on an own recognizance bond back into the community.

Of the 88 counties in Ohio, 61 counties do not currently have a pretrial services program. The cost to these counties, who already lack resources to adequately fund jails, courts, etc., will skyrocket when required to hire additional personnel to oversee a taxpayer-funded system to recommend release mechanisms to the court and supervise defendants released through the program. These additional costs will be passed to the taxpayers to fund.

**Regarding the Ohio Sentencing Commission's proposed rule changes:**

Rule 46 (8)(C)(6): we disagree with "the presumption of non-financial release"

"Financial release" has been proven to be the most efficient and effective release method and is the most secure method of pretrial release, at no cost to the taxpayer.

Rule 46 (8)(D): we disagree with "a recognizance bond shall be the preferred type of bail."

The preferred type of bail should always be that which is at no cost to the taxpayer, and most secure, which is financial release ("*sufficient sureties*").

**Criminal Rule 4: Warrant or Summons; Arrest**

Question: "What if defendant has a history of failures to appear? Recommended eligibility requirements:

1. Anyone who is currently on bond for a felony would not be eligible for a personal recognizance bond.
2. Anyone currently out on a personal recognizance bond would not be eligible for a second personal recognizance bond in any county.
3. Anyone who fails to appear on a personal recognizance bond would not be eligible for another for one year.
4. Anyone who has failed to appear for a 1st class misdemeanor in the last three years would not qualify for a personal recognizance bond.
5. Anyone who has failed to appear on a felony in the last three years would not be eligible for a personal recognizance bond.
6. Anyone who has been charged with sexual assault on a child/minor causing great bodily harm would not be eligible for a personal recognizance bond.
7. Anyone who has been convicted in the last five years for the charge of escape would not be eligible for a personal recognizance bond.

Secured financial release using a surety bond is a third-party contract that strengthens the likelihood that a defendant will appear for court. The bail agent, indemnitors and the surety insurance company underwriting the bond, are all responsible for court appearance and the successful disposition of a case. Taxpayers are not burdened with this responsibility or associated costs.

PBUS respectfully requests that the Ohio Sentencing Commission take further time to review and discuss the revisions to any proposed rule changes and study the implications of such changes. We ask that common sense rules and parameters be put in place that will protect public safety and use taxpayer dollars in the most efficient and effective way.

Best Regards,



Beth Chapman  
President



# OHIO

## CRIMINAL SENTENCING COMMISSION

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