



A SURVEY OF PRETRIAL SERVICE PROVIDERS IN TEXAS:

PRELIMINARY REPORT FINDINGS

**DEVELOPING AN UNDERSTANDING OF DIVERSITY IN PRETRIAL SERVICE PROGRAM
FUNCTIONS, PRACTICES, LOCATIONS, AND ADMINISTRATION**

MARCH 2012

INTRODUCTION

The Texas Criminal Justice Coalition (TCJC) is a non-profit 501(c)(3) statewide organization that identifies and advances real solutions to the problems facing Texas' juvenile and criminal justice systems. We conduct policy research and analysis, form effective partnerships, and educate key stakeholders to promote effective management, accountability, and best practices that increase public safety and preserve human and civil rights.

Among TCJC's current efforts, we are working to better understand the state of pretrial services in Texas. Pretrial services are an essential component of our justice system, intended to ensure that only those defendants who objectively pose a flight and/or safety risk are subjected to bail or other conditions for release. Effective pretrial service providers rely on known best practices to increase safety and stability in their communities, while saving taxpayer dollars through reduced jail overcrowding.

SURVEY METHODOLOGY

TCJC recently conducted an online survey in an effort to better understand the state of pretrial services in Texas, including the diversity in program functions, practices, locations, and administration. We reached out to all Community Supervision & Corrections Department (CSCD) directors (probation directors) to identify individuals currently providing pretrial functions in their counties. From that initial contact, we then sent 116 survey requests to all identified pretrial personnel and current CSCD directors who provided some type of potential pretrial function – even if not named as a pretrial service program – with services ranging from conducting risk assessments or pretrial interviews to making recommendations for release or providing supervision of pretrial defendants. The survey was comprised of 42 questions compiled with the input of pretrial experts and practitioners.

Ultimately, we received 40 responses, a high response rate considering the relatively few pretrial service programs/providers in Texas. We included many questions that allowed respondents to “check all that apply” to accommodate a wide range of diversity in program/service delivery, as well as allowing respondents to add comments in an “other” option. Furthermore, we did not require all questions to be answered and, in some cases, questions were skipped. Despite the challenges in quantifying and comparing these types of responses, we have drawn several conclusions that prompt further consideration.

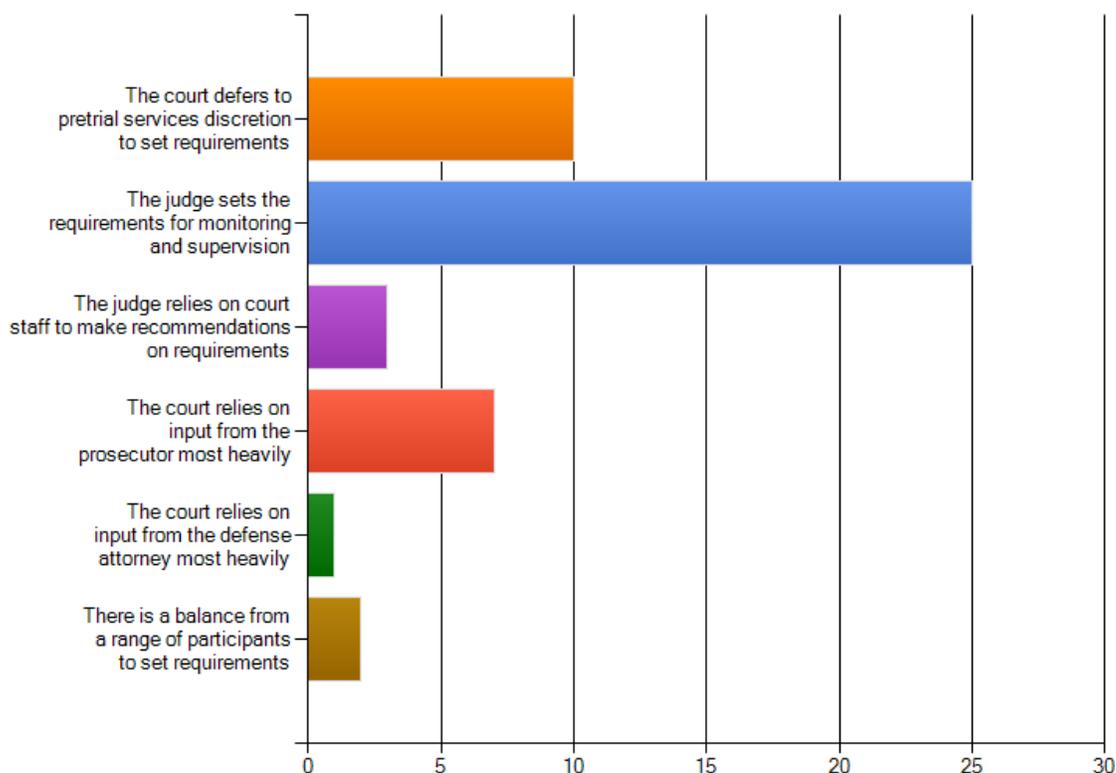
FINDINGS

- (1) The provision of pretrial services across Texas varies widely.** Although most counties do not offer any type of pretrial service to defendants, of those we were able to identify (36 respondents indicated services in 47 counties), a broad range of program names describe various pretrial functions, including Bond Supervision, Pretrial Services, Pretrial Diversion, and even Alternative Incarceration. Furthermore, huge variances exist in the pretrial functions provided by each county, as does diversity in procedures, practices, and data collection.

- (2) **Most pretrial service providers function under the purview of Community Supervision & Corrections Departments (CSCDs).** Nearly 67% of respondents indicated their pretrial service program is located within a CSCD (probation department), whereas only 27% identified their program as an independent agency under a Commissioners Court, and 2% noted they were under the purview of a court/court administrator. We learned from our initial contacts with CSCD directors that several of the currently independent pretrial programs initially began under a CSCD but later lost their funding.
- (3) **Monitoring and supervision was the most significant part of each pretrial service program’s mission in the majority (60%) of responses.** Diversity in the comments about the mission/activities should also be noted: For instance, “The most significant part of our job is/should be supervising probationers!! Not overseeing pre-trials who seldom pay,” as opposed to “Interviewing and releasing clients eligible for pretrial release in [name of county], no supervision component.”
- (4) **Given the lack of important services throughout many Texas jurisdictions, such as a local pretrial release program, judges most often make their own assessment (i.e., via a gut feeling) about releasing defendants on personal bond or setting bail amounts.**
- (a) When considering the release of defendants on personal bond, of those counties that did not have a pretrial release program, 50% of respondents indicated that the judge makes his or her own assessment about whether to release a defendant on personal bond, and following that the judge relies on the prosecutor to make a recommendation.
- (b) When considering the amount of bail to require of a defendant, of those counties that did not have a pretrial release program, 62% of respondents noted that the judge again makes his or her own assessment, and following that the judge again relies on the prosecutor to make a recommendation.
- (5) **Most pretrial service providers typically do not rely on validated assessment instruments or separate assessment tools designed for specific populations when evaluating defendants’ risk/needs.** Only two county programs identified the type of risk assessment instruments they currently (or intend to) use, the ORAS-PAT and the Wisconsin Risk/Needs instrument.
- (a) Of respondents who indicated how their current risk assessment instrument/scheme was developed, most claimed the assessment was established on “Local decision, based on subjective assessment of what should be included.” However, of the 12 respondents who indicated “Other,” 5 noted “N/A” (presumably indicating that risk assessments are not used), while 5 noted that judges decide risk/conditions of supervision/eligibility (with 1 respondent including the prosecutor in this response).
- (b) When asked about use of separate assessment tools according to type of concern (e.g., substance abuse, mental health, domestic violence, etc.), nearly 65% of respondents indicated “None.”

- (6) While most pretrial service programs that provide recommendations to the court concerning defendants have the capacity to make recommendations for release on personal bond, many such programs indicated that they do not make any recommendations at all. Of the 17 respondents selecting the types of recommendations their programs make, 15 indicated “Release on Personal Bond.” Of the 13 respondents who selected “Other,” 12 noted “N/A” (presumably indicating that the authority to make recommendations did not apply to them) or indicated directly that they did not make recommendations.
- (7) Nearly all of the pretrial service programs surveyed were required to supervise defendants’ pretrial release conditions. Only 2 of 34 respondents indicated that there was no capacity to provide supervision of pretrial conditions of release, and 3 of 34 respondents indicated that another program, such as the local probation department, provided the supervision function.
- (8) Judges most often set the requirements for supervision and monitoring, with only 10 of 33 respondents indicating that the court defers to the discretion of the pretrial service program.

If your pretrial program is responsible for monitoring and supervision of pretrial defendants, who determines the requirements of the monitoring and supervision? (Check all that apply)

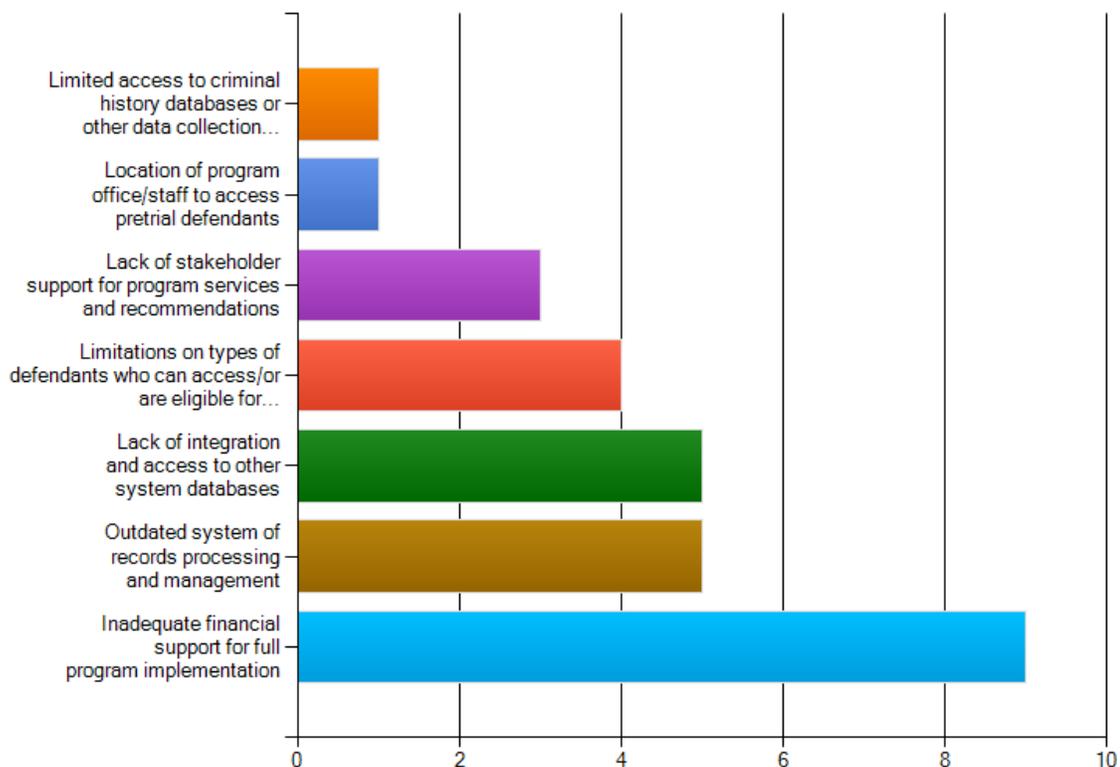


(9) Of the jurisdictions responsible for monitoring and/or supervising pretrial defendants, most indicated that the functions of their program incur costs for a range of supervision, counseling, testing, and device monitoring. However, the bulk of those costs are passed on to the pretrial defendant.

(10) Pretrial service program providers indicated that the most significant barrier to increasing the success of pretrial release services was “Inadequate financial support for full program implementation.” Of the 5 respondents that indicated “Other,” 2 indicated “N/A” and 3 noted the following:

- “Philosophical differences among some Commissioners and Judges as it relates to the existence of a strong Pretrial Services Program vs. surety bond.”
- “The success depends on the client’s demeanor and willingness to alter their lifestyle.”
- “CJAD refuses to fund these cases” (another financial argument).

What are most significant barriers to increasing the success of your pretrial release services? (Check all that apply)



RECOMMENDATIONS

In consideration of the findings of this survey – and in the interest of improving fairness throughout Texas’ justice process, increasing safety and stability in our communities, and saving dollars in reduced pretrial jail populations – we offer the following recommendations:

- Texas should establish a panel to study the needs for pretrial services in under-served counties, develop basic pretrial service program guidelines and funding recommendations based on best practices, and provide technical assistance to support the implementation of equitable pretrial services (with validated, tailored risk/needs assessment instruments) in all counties.
- County Commissioners Courts should shift expenditures from costly jail beds and instead support the efforts of pretrial service providers to offer appropriate risk assessments and objective release recommendations that will reduce jail overcrowding and increase safety and security in their communities.
- Judges must begin adhering to pretrial practitioners’ recommendations for bond/bail release or detention, following defendants’ screenings for flight risk and recidivism.
- The agencies/departments currently administering pretrial service programs should ensure that the essential principles that are the basis for meaningful and effective pretrial services are incorporated into mission statements and adhered to in practice.