Legislative Bond Review and Efforts to Reduce Jail Population

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Abstract

You shouldn't have to be incarcerated simply because you can not afford to bail out of jail. With inflation on the rise, low employment numbers, and an ongoing pandemic making the most out of a bail system for pretrial defendants is logical and the ethical thing to do for all. While I am going to review pre-trial bail bonds, I take a deep dive into effective tools to mitigate bail requirements including tools and alternative to bond will be reviewed. Public Defenders and Jail Administrators will be surveyed to see if correlating data will show the need for bail bond reform in the State of Florida. Data collected will also determine if this problem is only subjecting increased financial requirements to bail out to a set area or jurisdiction, or the State of Florida as a whole. The ultimate goal will be to determine how to reduce pre-trial jail population while effectively protecting the equal rights of all citizens through bail bond reform.

Introduction

Socioeconomic factors should not affect an individual's ability to get out of jail. Within issues causing an individual to become incarcerated, many factors should be considered to decide if they should remain incarcerated until their criminal case is completed. Items that ensure an individual will return for their day in court answering for their case involve a few key points of input from the involved prosecution, counter points from the defense attorneys, and final input from the presiding judge. Those pointed items discussed vary between the seriousness of the alleged crime, local ties to community, prior criminal activity, and limited input for risk to reoffend. Within those two review bodies competing against each other the judge in each case has the final say for the establishment of bond/bail to require an individual to provide ensuring their return to court.

The review by prosecution and defense for a pretrial individual typically will only discuss the surface items minimally required during initial review, primarily due to a large number of individuals processing through the judiciary at any given time. Once a bail or bond amount is established for a detainee, they are required to have that financial burden satisfied before they can be released. A bleak outlook can be observed by detainees if they miss several of those mitigating matters of review. If they are a first-time offender with a medium to minor charge, they should be levied a low to medium range bond amount. However, with my experience directly I have observed a non-standardized approach to selecting bond amounts without fact proven logical factors in place. Depending on the presiding judge of that first appearance review, a defendant can receive a multitude of bond assignments from said judge. While at face value I have observed judges take into consideration defense input, prosecutorial suggestion typically has the most direct weighted argument in a bond recommendation. Yet, I have observed no

standardized amount suggested as each case is purely not reviewed as an individual matter but a person with said charge and potential victim liabilities. Bonds usually mold to that viewpoint, instead of risk to reoffend and mitigating factors that caused the person to become incarcerated in the first place.

Pretrial jail population has been on the rise in the State of Florida, specifically in Duval County we have observed a two-decade record high of pretrial detainees with astronomical bond assignments. As well, I have observed individuals processing through first appearance bond review charged with similar charges as others, yet they have retained private counsel for their representation in court versus a public defender. Those who have a private attorney typically will receive a reduced bond, with logic shown that the judiciary assumes that the private attorney will ensure a defendant will return to court because of their financial bond with their client. That leads me to believe that unless you have the means to retrain private counsel, a defendant will be subject to higher bond restrictions than others of varying economic influence. With the use of pretrial risk assessment tools, pretrial service programs, and other robust functionality, a standardized bond schedule for all pretrial detainee inmates throughout the state of Florida will assist in overuse of suggested judicial prejudice and allow those of less socioeconomic backgrounds to not have to be constantly incarcerated awaiting their day in court.

Literature Review

Ecological Contributors within Bond Amounts

This article's purpose was to drill down into issues that compose a bond assignment versus pretrial detention in legal cases. The intent from its author was to shed light on specific areas of concern with bond assignments based off of ecological contributors for defendants facing bond versus retention in jail while going through the pretrial process. The random sample size of 2,677 defendants were broken down into a few subcategories of violent crimes, drug crimes, versus property crimes. The subcategories of charge type would give credence to more violent offenders getting a higher bond regardless of ecological contributors. Additionally, an overarching concern that pretrial detainment would pose a greater risk for defendant's odds of increased conviction and overall imprisonment (Wooldredge, 2017).

Two types of levels of defendants in the sampling allowed the research to granularly review felony types versus street block associated with the crimes committed. This detailed drill down divided up categories of the three types of felonies (violent/drug/property) with age groups and status of victims and prison time served by each of the offenders. Within said group, the second level associated the crimes into street blocks of neighborhoods with columns of overall disadvantaged financial status, African American residents, female head of household, vacant structures, and renters. The two levels of review within said sample showed that a coordinated bond amount with neighborhood disadvantaged defendants were regularly subjected to higher bond amounts. This specific finding showed that within the sample pulled, judges may be more inclined to deny pretrial release options or personal recognizance style of releases in an

effort to “crack down on offenders in more crime-ridden neighborhoods,” (Wooldredge, 2017).

Bail setting and Courtroom Interaction

This article was a review of bail bond setting, and the interaction of all the key players within the court system. For initial bail bond setting, the Judge involved has the final say of what will occur. Instead of typical bail bond reform studies, this article focuses on the needs of involvement with influenced parties to subjugate an offender to a type of pretrial release versus pretrial detention. Reviewing proper elements of composing a bail recommendation typically involved are nature of the offense, penalty imposed, probability of defendant’s flight/re-appearance, and local social involvement weigh heavy. Social involvement at the local level varies depending on the age of the defendant, ties to their community, job status and length, financial feasibility, and ability to have no victim or witness contact.

Within courtroom interactions, the Judge and prosecution have the most detailed conversation to decide said bail amount. The defense attorney involved is asked for their opinion, however the likelihood of their suggestion being taken is slim to none. A typical interaction shows a prosecutor giving a recommendation, a defense attorney giving their input and the preceding Judge levying the final decision. Typically, the defendant is a “passive bystander” where the roll actors listed above are engulfed in the defendants next step in proceedings (Suffet, 1967). Due to this bystander practice, unless a Judge asks a defendant specific question, typically only the attorneys involved speak. The authors observation in court proceedings showed that typically the Judge would accept the prosecutions recommendation for bond issuance to pseudo relinquish ownership of the defendant violating conditions of release. Personal recognizance bonds require 100% of the Judges authority to issue and all of the liability on the Judge if the defendant reoffends while awaiting trial. The use of prosecution recommendations allows the Judge to impart some type of ownership for defendants to prove they will stay out of trouble while released.

American Bail Tinting of Criminal Justice

This article focuses on the history of bail bonds associated with penal strategies, and its evolution throughout history within the United States of America. Four specific periods in American history depict a multitude change of bail bond practices, which modified bail bond usage depending on political and external influences. This article reviews the four periods and the eventual evolution of bail bond with pretrial defendants. The first of four periods were known as the “Formative Period”, (Dabney,Page,Topalli, 2017). This Formative Period started in early 1645 and operated in varying methods through the 1940’s. Starting in the colony of Virginia, bail bonds were requirements of liability-based recognizances for those accused of crimes. This type of recognizance was widely accepted moving into the 1700’s then between 1776 to 1949 several infrastructure issues of the legal system showed that a build out of required adjustment of recognizance bond styles was needed. The Judicial Branch of government teamed up with the Legislative Branch to co-endorse a new type of financial requirement for bond, essentially

creating a commercial bail bond industry (Dabney,Page,Topalli, 2017). With this new style of bail bond being the base requirement for defendants, governmental reporters started watching the funding partners of bail bond groups. The attention the new commercial bail bond industry uttered in the second phase of bail bonds, the "Liberal Period," (Dabney, Page,Topalli, 2017). This Liberal Period was engulfed with political legal environments constantly evolving its view on bail bond requirements, and the potential negative impact of those who are less financially stable than others. With financial gains made through private companies, a push from the general public was given to provide better buy in from defendants and Judges, and less support from outside companies that would affect one's release conditions or decisions. Therein this caused other issues that pushed review of potential discrimination of bail bond issuance and waives of bail bond industry scandals and mob involvement. In the 1960's the Vera Institute of Justice released a crafted review of the bail bond industry, and a recommendation to move towards Release on own Recognizance (ROR) model of release. This ROR model was accompanied with structured screening and evidenced-based release recommendations, (Dabney,Page,Topalli, 2017). The Vera Institute of Justice model proved to be successful with New York and other states adopting variations of its operations principles.

The Third and Fourth phases of the bail bond industry focus on the 1980's till current. The Third phase is known as the "Law and Order Period," (Dabney,Page,Topalli, 2017). This "Law and Order Period" was truly at the height of the tough of drugs period with President Ronald Regan, and the push to be tough on crime and a more conservative approach to bail bond issuance. The liberal outlook from the 1960's Vera model was deemed more of a basic framework with needed involvement outside of assessment tools and defendant involvement. To mandate additional requirements, the Law-and-Order period saw the establishment of federally mandated acts to ensure bail bond was given uniformly and use of the Comprehensive Crime Control Act of 1984 to sway conservative bond requirements to political allies (Dabney,Page,Topalli, 2017). Therefore, additional federal requirements were issued to combat the conservative nature of the "Tough on Crime" model with it being federally required to have pretrial Release programs, and federally required assessments done on defendants prior to first appearance bond hearings. Lastly, the fourth current phase of bail bond view is the "Managerial Period", (Dabney,Page,Topalli, 2017). This fourth and final period in review brings all models to current times. The "Tough on Crime" initiatives of the past showed a swelling increase of pretrial defendants and surge in jail populations throughout the country. The increased of pretrial populations administrators have pushed to review and monitor those with release conditions in addition or in avoidance of financial requirements for pretrial release. The increase of release monitor conditions in the Federal system has trickled down into the local governmental issuance, however there is no mandate for local governments to have set bail pretrial recommendations as the federal system does.

Analytic Review of Pretrial Research

This article dives into the additional review options for pretrial release programs, and the additional add-ons that the judiciary can use to ensure defendants reappear for their day in court. The additional requirements therein show court notifications, pretrial

supervision, drug/alcohol testing, and financial bond type. Pretrial assessment tools showed effective use within this article showing defendants risk to reoffend or failure to appear lower than those jurisdictions that don't use a type of list. The article also reviews prior criminal history, charge severity and martial status combined with assessment tools to determine the effective ness of pretrial supervision. Each of the data sets reviewed in the showed failure to appear in said cases maybe an outcoming trend larger when compared to criminal arrests (Betchtel,Holisning, 2016). Issues within the data sets showed a wide variety of variance depending on how the pretrial model was initiated during the court proceedings.

The improvement in pretrial assessments and the overall success of alternative to bail bond has shown distinct positive movement during this study. This study also shows that there is a more important relationship of risk factors for each individual involved in a pretrial assessment, which lends credence that program evaluation for pretrial defendants should actually be fluid and no regimented as a one sized all approach. Overall, there is a dedicated call for "intentional and directed research" in this area of pretrial assessments at all levels of court, given that the discrepancy of each model has to be consistently reviewed and modified to stay current with the times (Betchtel,Holisning, 2016).

Effects of Jail Capacity on Bail Bond Decisions

This article reviews the overarching effect on jail capacities and its effectiveness on influencing a judge to levy a specific bond amount. This article studies three distinct key markers of pretrial defendants, and their applicable jurisdiction condition too. A combined review of types of charges, socioeconomic indicators by defendant, and rated jail capacity were reviewed by said study. The most important decision of the pretrial review process was determined by the author that Judges heavily relied on seriousness of the initial offense before anything else. Property and drug offenses trended in the study showing less than an effective high rate of financial requirement from bail bonds and pretrial assessments, yet when serios offenders were differentiated from violent offenders Judges tend to assign higher bonds during the pretrial phase (Williams, 2015).

This study review of conditional release options showed that rated jail capacity was significant with higher rated jails when a defendant received its bail assignment than smaller capacity facilities. The dedicated findings of this study revealed several deficiencies as a whole due to its limitation of staying within the State of Florida. A broader outreach of other states usage of pretrial supervision versus pretrial detention could potentially show a leverage of alternatives to incarceration, whereas the true successfulness of an induvial to appear in court and complete their interaction with the court system was never evaluated. A simple approach was determined that jurisdictions instead would possibly try to out build the problem, by constantly building larger facilities to counteract the potential issue of influence individuals to be released (Williams, 2015).

Risk Assessment and the Future of Bail Reform

This article reviews the usage of pretrial assessment tools and their general application with defendants in an effort to create widespread bail bond reform through fluid design assessments. Specific static questions are used in pretrial assessments that

give a reviewed predictive model of review and intelligible option of risk to reoffend. Three specific items have listed out as cause for concern within pretrial assessment tools. Firstly, the static questions used in tools that are from old bail bond assignments that potentially mask or overestimate a subject's risk to reoffend. Secondly, "decision-making frameworks" are mandated jurisdictional implied rules that force a court systems ability use of risk estimates that allow public officials to not be held accountable for their decisions as a court administrator (Koeple, Robinson, 2018). Thirdly, the believe is that long term solutions of risk assessment tools possibly objectify concepts of what maybe determined to be dangerous which could impact dentition alternatives for defendants.

A determined review of static pretrial assessment questions through this article brings light to the issue of judicial ownership and transparent action for all going through the pretrial process. Instead of static questions that check a proverbial box, a framework of empowered local third parties within a jurisdiction could potentially give oversight needed to a continuously evolving assessment tool. The allowance of community oversight into said assessment questions and constant review allows for an updated outlook of those not involved, and gives defendants justified time to potentially avoid dated material questions that might not be applicable within today's society standards. Safety being of top concern, outdated risk assessment instruments for pretrial defendants may yet show themselves as foolproof with the test of time. It also brings to light that there is not enough empirical evidence to show they are truly effective with compared to community oversight-based models.

Bail Reform and New Directions of Pretrial Detention

This article focuses on the base line use of bail hearings and pretrial hearings within the current state of judicial practice. The article also brings to the light the potential improvement of direction of said practices, becoming more efficient and transparent for those involved. Typically, pretrial hearings for bond and probable cause have little involvement with each defendant. The types of oversight during the hearing can be a local judge, or even a local magistrate. Since there is a myriad of options for defendants to be presented in front of at their first appearance, education is most imperative for those governing bodies. Informing those involved of the potential effect on not only the individual but the overall pretrial detention rates for their justification should be a key point in their regular training regimen (Stevenson, 2017). Detailed drill down of alternatives to incarceration such as automatic court reminders can give an additional provided level of defendant reassurance that they will show for their day in court. Needing their review, said defendants also can be applied to risk assessment devices for statistical review of risk to reoffend too.

The risk assessment tool conundrum is where the strength of evidence provided in questions to the defendant build out a risk assessment scoring statistic. This statistic can be evaluated by other empirical evidence gathered from that local jurisdiction compared to others who have either reoffended or failed to appear in court. Using dedicated jurisdictional data will give the end user an accurate depiction of the potential liability when releasing a defendant back into society (Stevenson, 2017). Moreover, further research needs to be done to determine the long-term effects of a localized

assessment questioner to determine its effectiveness versus static programs that are in place at the federal and statewide levels.

Texas Procedure Bail Bond Setting

This article reviews a different states approach to determining the effectiveness of cash bail bond operations, and the determination of pretrial detention for first appearance court proceedings. Defendants who do not have the ability to obtain cash for a monetary mean of bonding out show they are similarly indicative of those who can not obtain council for their court case too. With the combination there of, defendants face a higher percentage in Texas of remaining in pretrial status in detention versus on release due to a lack of financial means (Woog, Fennell, 2021). Use of alternatives to incarceration are built in as options that are available for the judiciary, yet the operators of said programs have ties into local jurisdictions and political elections. To effectively establish pretrial tools for offenders to not remain incarcerated during their pretrial case, the State of Texas must allow guideline ability for companies to operate without political affiliation to the judiciary branch (Woog, Fennell, 2021). Having distinct lines of communication and boundaries will give the ability for transparent action and pretrial release of defendants back into society as well as give the judicial branch the autonomy that they are doing the right thing by not supporting cash bail commodities.

Washington Need for Bail Reform

This article identifies the State of Washington's issue of alleged mass incarceration with a determined reliance of a cash bail bond system. This cash bail bond system allegedly pushes up the incarceration percentage for the state and increases overall pretrial conditions and potential institutionalization of individuals who have to experience being incarcerated. The articles author believes that the use of money bail is purely a predetermined factor that makes sure someone is going to reappear for court, (Hawk, 2016). There are four key indicators that the State of Washington shows effects an individual while incarcerated, harm towards families, harm towards children of those incarcerated, harm to the financial benefits if the incarcerated person obtains public benefits, and potential loss of housing too. Because the State of Washington does not have a dedicated requirement for Pretrial Release Programs, the lack of resources for a defendant shows that the requirement is purely on the defense attorney involved to help reduce or recommend alternatives to a cash bond amount. Instead, a recommended implementation of pretrial assessment tools and an evaluation matrix questionnaire would give the liability of the judiciary to allow those who don't have financial means to be released into some version of supervised release. All types of pretrial release can be considered from physical reporting into a dedicated unit, electronic monitoring, drug testing, and alcohol testing judicial bodies can rely on dedicated data to verify defendants are not only staying out of trouble while release, but also will reappear for their day in court. Moreover, this will require the State of Washington to deploy specific mandates for local jurisdiction to stand up pretrial programs and availability of funding to help bring said programs into existence (Hawk, 2016).

Bail Reform and Foucault's Dangerous Individual

This article reviews the issue of pretrial detainment and a drilled down focus of how continued incarceration of someone can push someone towards the "dangerous individual" portion of the Foucault psychological profile (Wright, 2021). Current incarcerated individuals all have to go through a pretrial process of review for probable cause. This review depending on the jurisdiction of the case can be up to forty-eight hours after their arrest (Wright, 2021). Due to this varying length in time between detention and arraignment, there is necessary review of the persons history and risk to reoffend. This necessary review can potentially give the governing body of the court the availability to issue alternatives to incarceration while the person is going through tis pretrial phase. Where this becomes an issue is when determining the long-term effects that the psyche can be bombarded with. The author dedicates a portion of their research to recap on "Foucault's Dangerous Individual" profile, which is a physiological profile on those who have experienced long term incarceration (Wright, 2021). This need of avoiding the long-term effects of incarceration only proves valid that there are dedicated individuals who can benefit from alternatives to incarceration. The recommendation to provide alternatives to incarceration should not support cash bail bond systems, however the author alludes to the fact that services rendered, and support systems put into place can allow defendants to successfully navigate the potential traumatizing experience of the judicial system.

Methods

The purpose of this research was to see if there was a correlation between high jail population count, pretrial assessment tools, alternatives to bond, and set bond schedules would show a factor of a need for standardized bond reform throughout the State of Florida.

Data was gathered through online survey tools directed to jail administrators and Public Defenders. Since the State of Florida is divided up into twenty judicial circuits, all twenty Public Defender offices were surveyed. To match the twenty judicial circuits, I selected the largest jurisdiction from each circuit (if there were multiple counties in a circut) and surveyed that specific Jail Administrator. The direct approach of pulling data set questions of jail population and available tools and programs for pretrial inmates was sought after to determine if a base line feeling of concern or contentment was there between two opposite sides of the criminal justice process. Survey questions were directed differently to Jail Administrators to focus on jail capacity versus programs and an overall feeling of the institutionalization of inmates in their custody. Public Defender jurisdictions were directed questions that cross reference pretrial programs and tools, but also tap into bond schedules and belief of successful return of defendants for their day in court. Cross section questioning between the two types of survey groups were purposefully aligned to determine that pretrial service program operations were either an integral role of incarceration population control or not.

While the surveys were directed to a specific Jail Administrator or Public Defender, options were left on the instructions giving that they could allow for a designee to complete

the required eight questions. Strengths of the data collected showed an overall usage of pretrial tools in the process of either defense of a client or jail operations to thin out overcrowding. A weakness is that the limited scope of questions leaves interpretation from the other parties in the court, more specifically the prosecutorial bodies charged with proving the criminal case. A true lack of understanding can be seen when looking at the myopic view of who is in control of said portion of the criminal justice process.
Here is a list of the specific groups being surveyed:

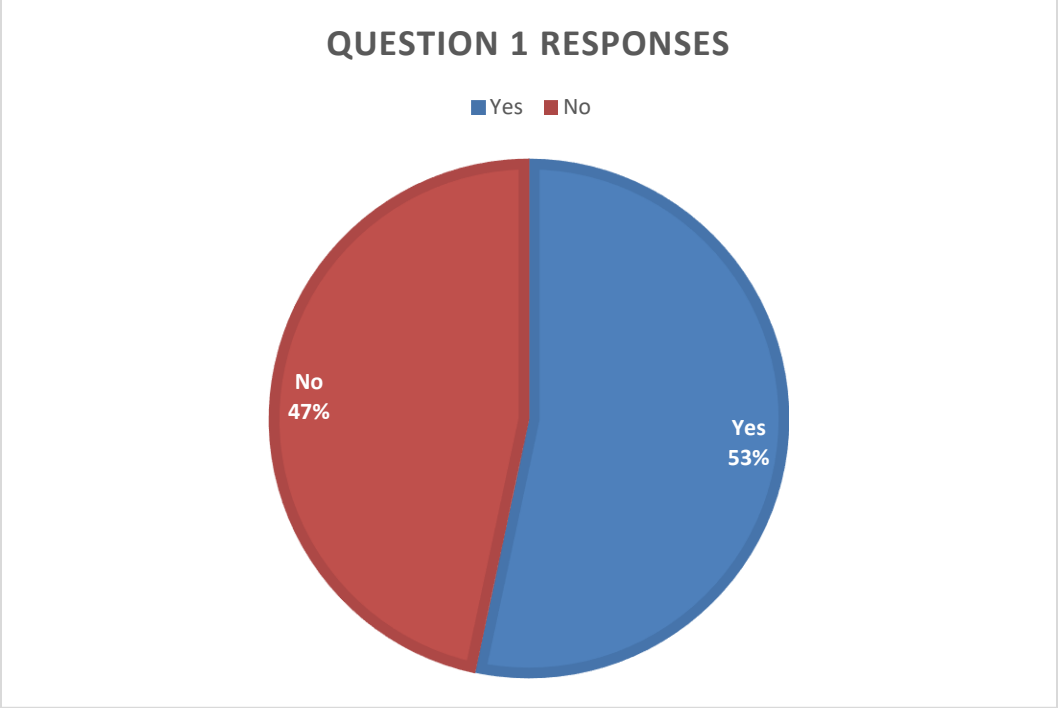
Judicial Circuit	Public Defenders	County Agency
1	Honorable Bruce Miller	Escambia
2	Honerable Jessica Yeary	Leon
3	Honorable Cliff Wilson	Columbia
4	Honorable Charles Cofer	Duval
5	Honorable Mike Graves	Marion
6	Honorable Sara Molo	Pinellas
7	Honorable Matthew Metz	Volusia
8	Honorable Stacy Scott	Alachua
9	Honorable Robert Wesley	Orange
10	Honorable H.Rex Dimmig	Polk
11	Honorable Carlos Martinez	Miami-Dade
12	Honorable Larry Eger	Sarasota
13	Honorable Julianne Holt	Hillsborough
14	Honorable Mark Sims	Bay
15	Honorable Carey Haughwout	Palm Beach
16	Honorable Robert Lockwood	Monroe
17	Honorable Gordon Weekes	Broward
18	Honorable Blaise Trettis	Brevard
19	Honorable Diamond Litty	St Lucie
20	Honorable Kathleen Smith	Collier

Results

The Public Defender survey was compiled of eight questions. Out of the twenty Public Defenders surveyed only 15 responded. That yielded a 75% response rate, and a 25% failure to respond rate from those surveyed.

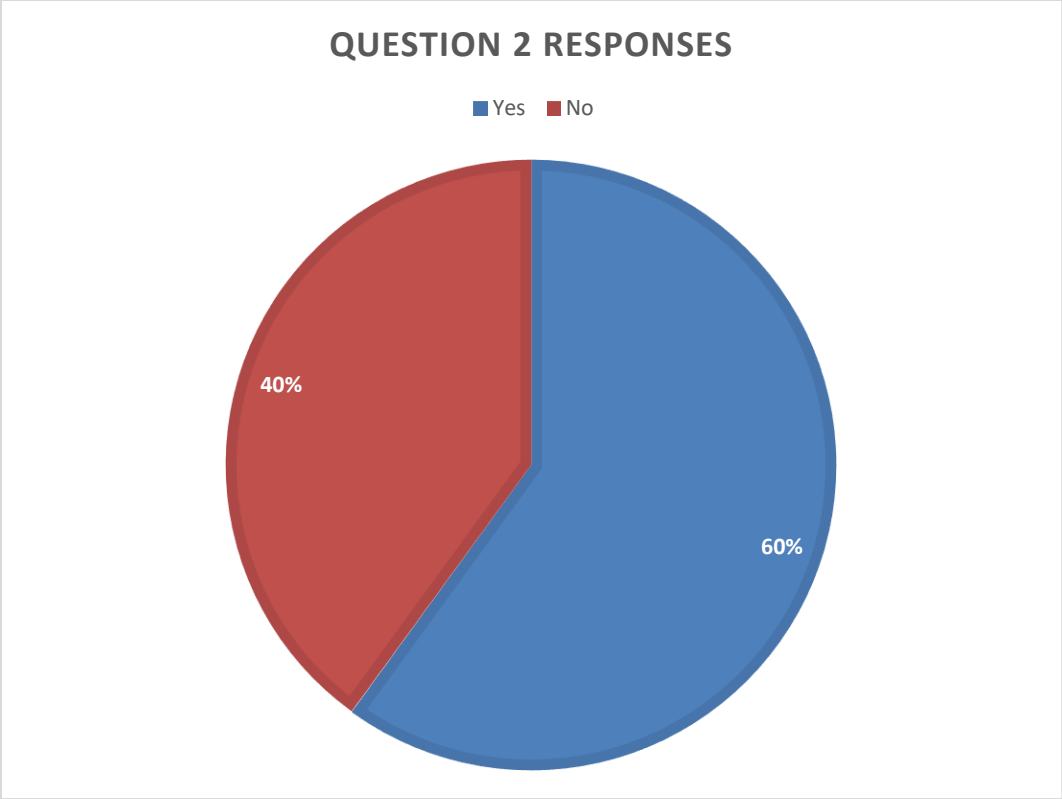
Question 1: Do you think Pretrial Service Programs are effective?

Yes responses: 8
No responses: 7



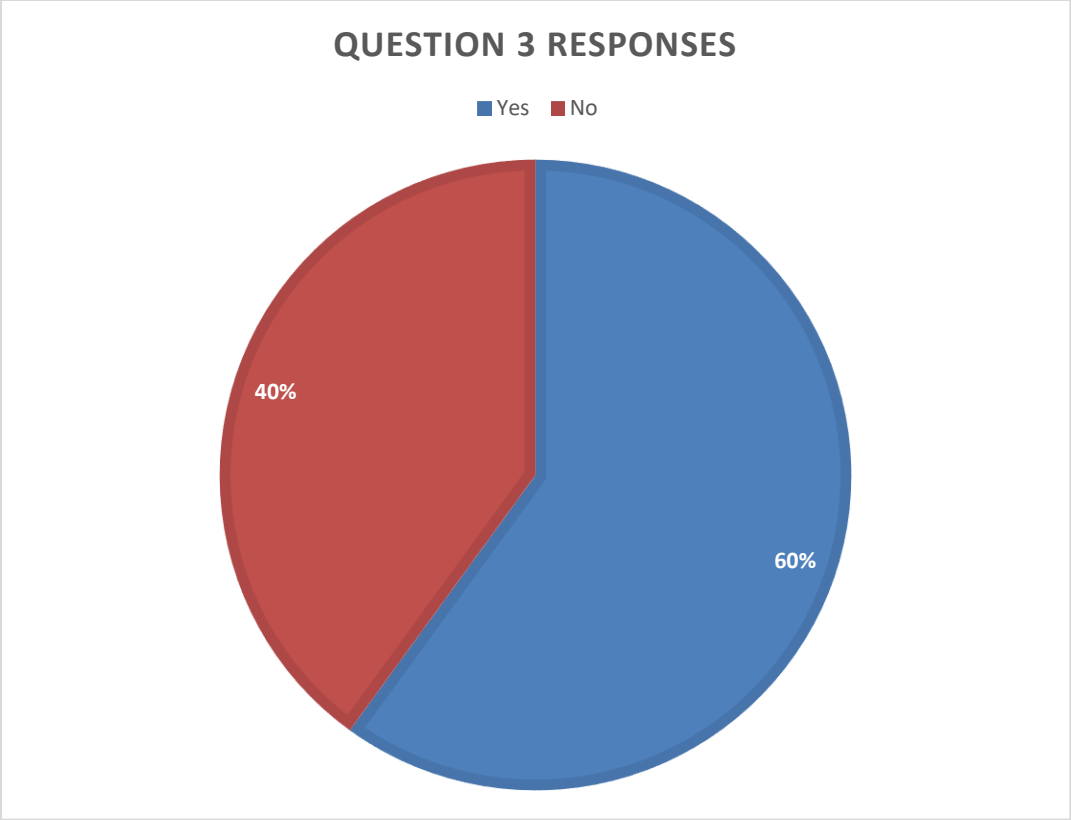
Question 2: Do you think pretrial assessment tools are effective?

Yes responses: 9
No responses: 6



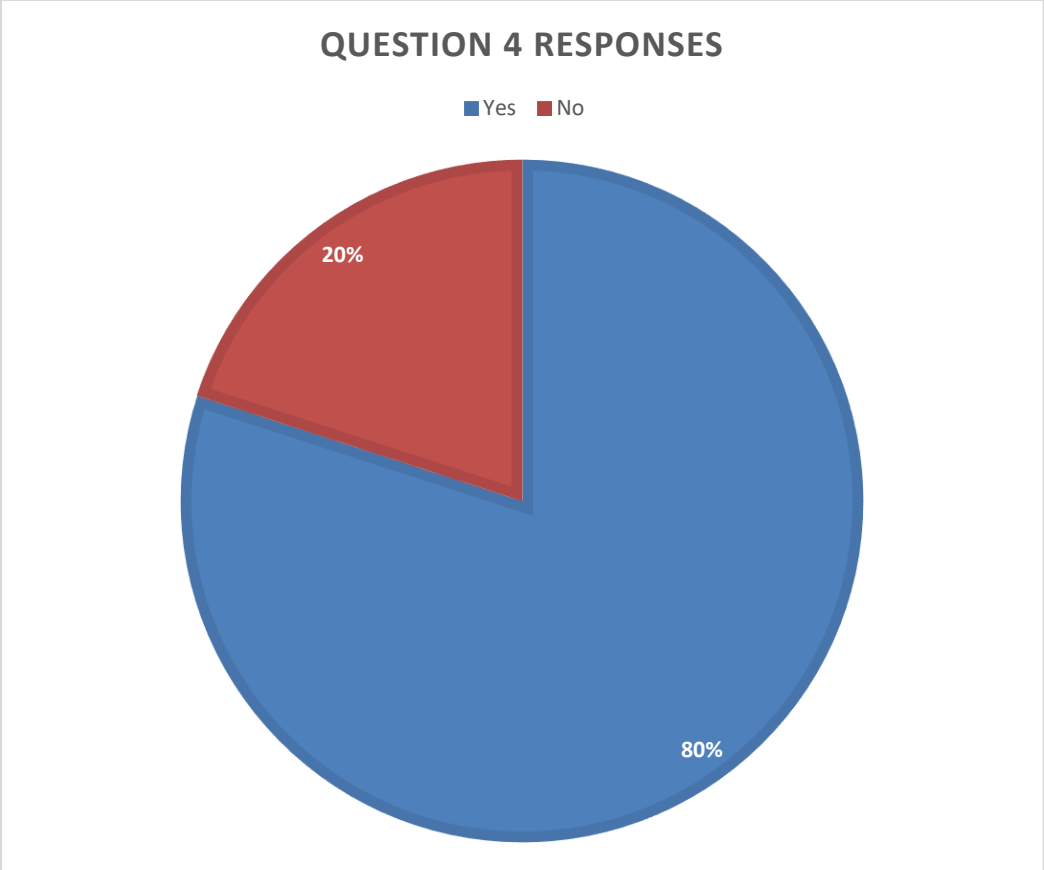
Question 3: Do you believe alternatives to traditional bond (GPS monitor/alcohol monitor/drug patch/pretrial services) are effective in making sure detainees return for their day in court?

Yes responses: 9
No responses: 6



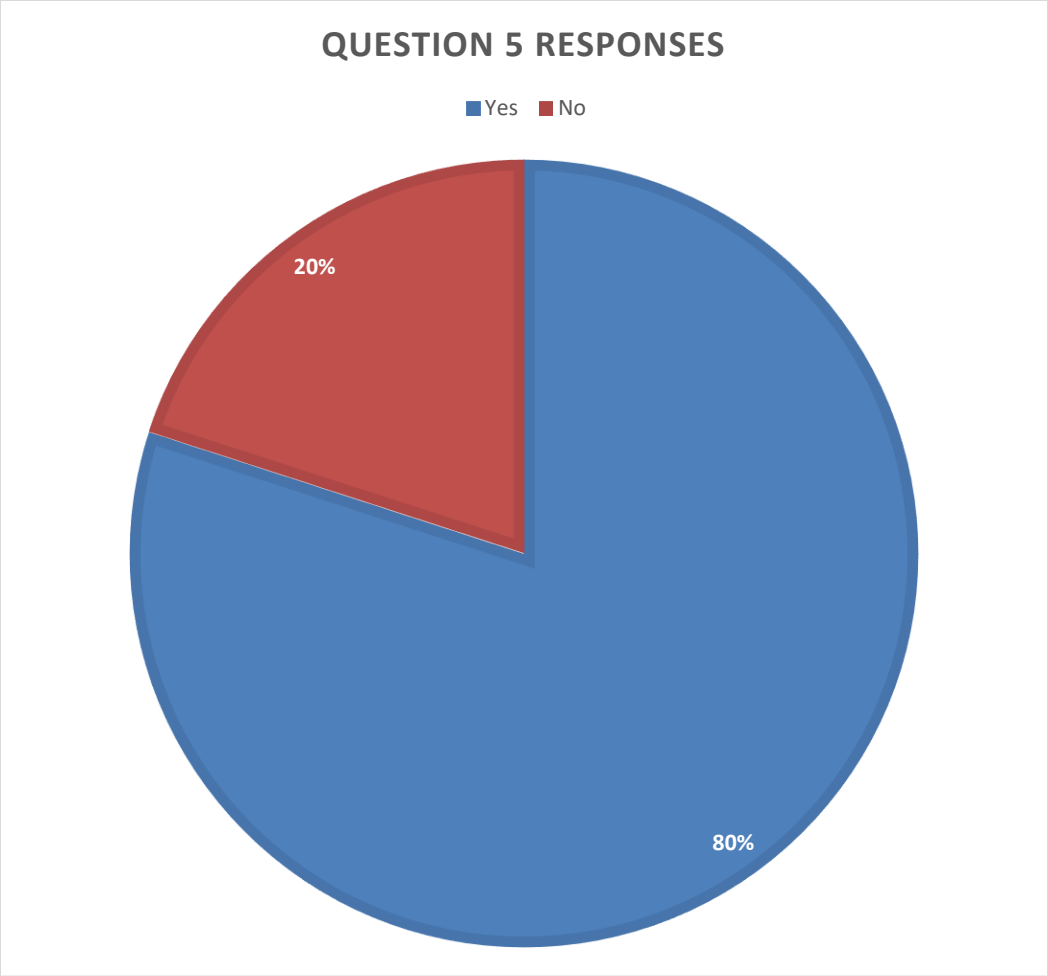
Question 4: Do you have a set bond schedule recommendation for misdemeanor charges?

Yes responses: 12
No responses: 3



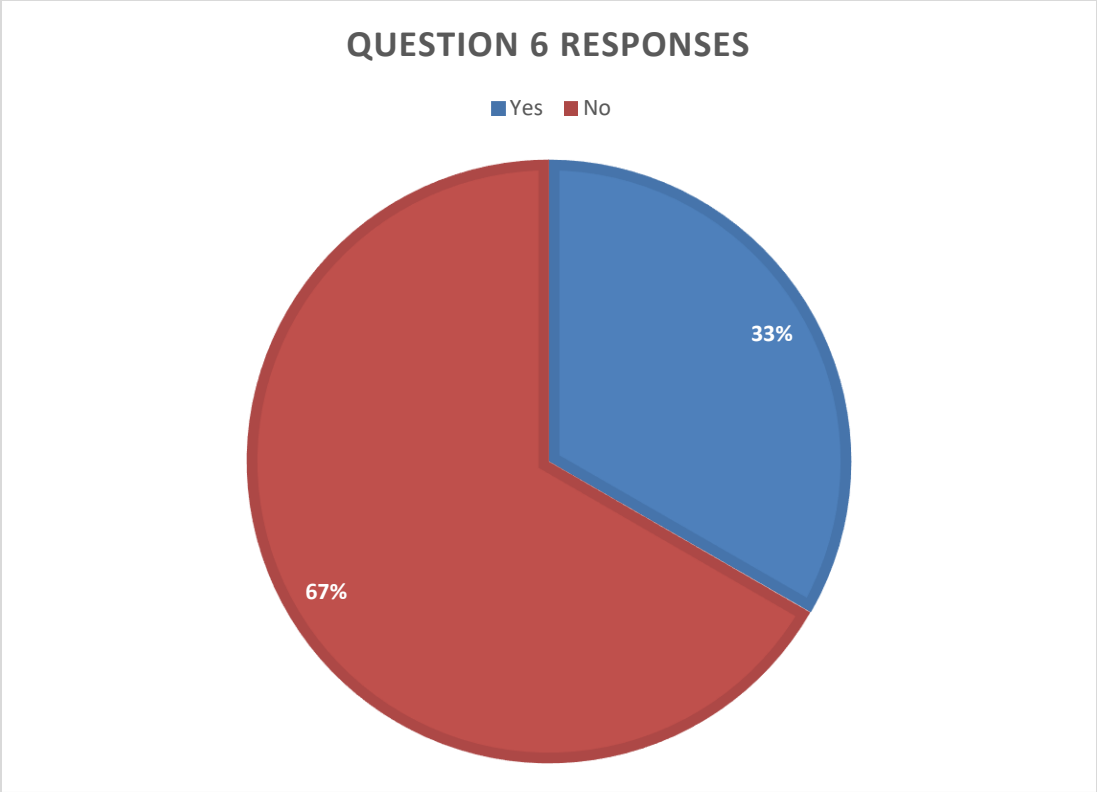
Question 5: Do you have a set bond schedule recommendation for non-violent felony charges?

Yes responses: 12
No responses: 3



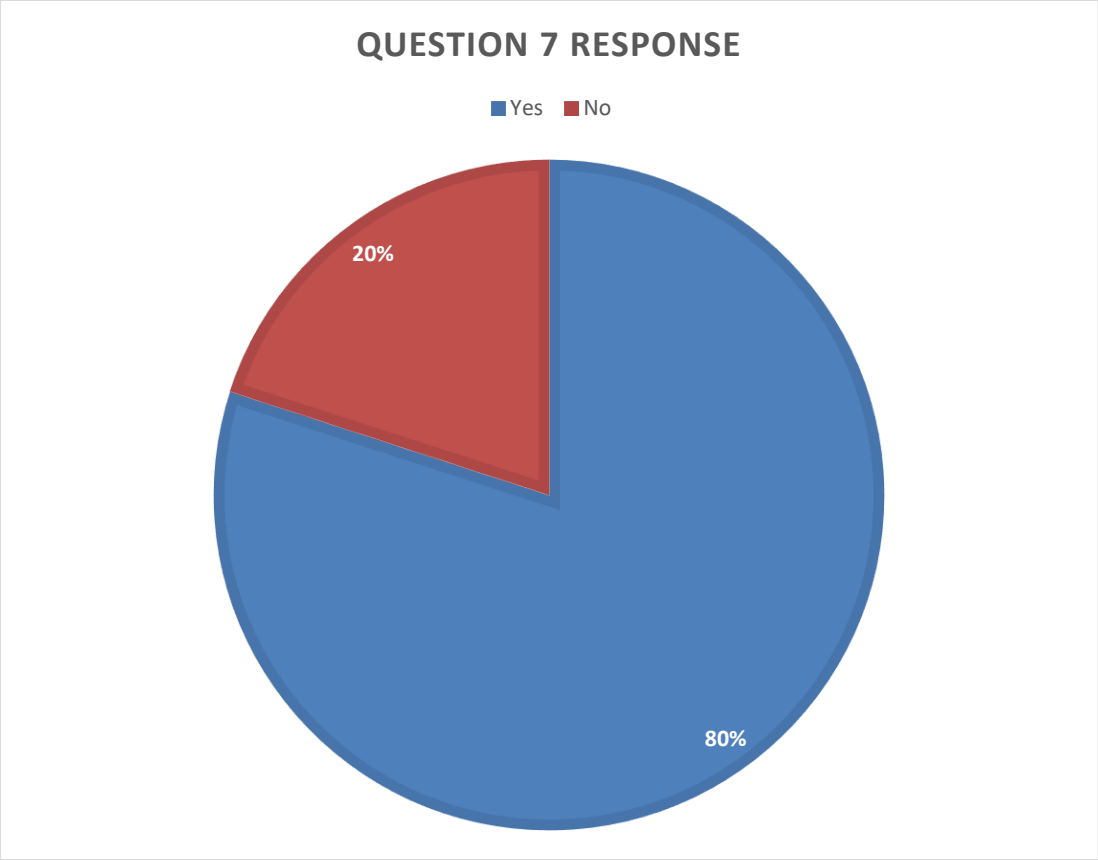
Question 6: Do you feel the higher a bond, the more likely the defendant is to return for their day in court?

Yes responses: 5
No responses: 10



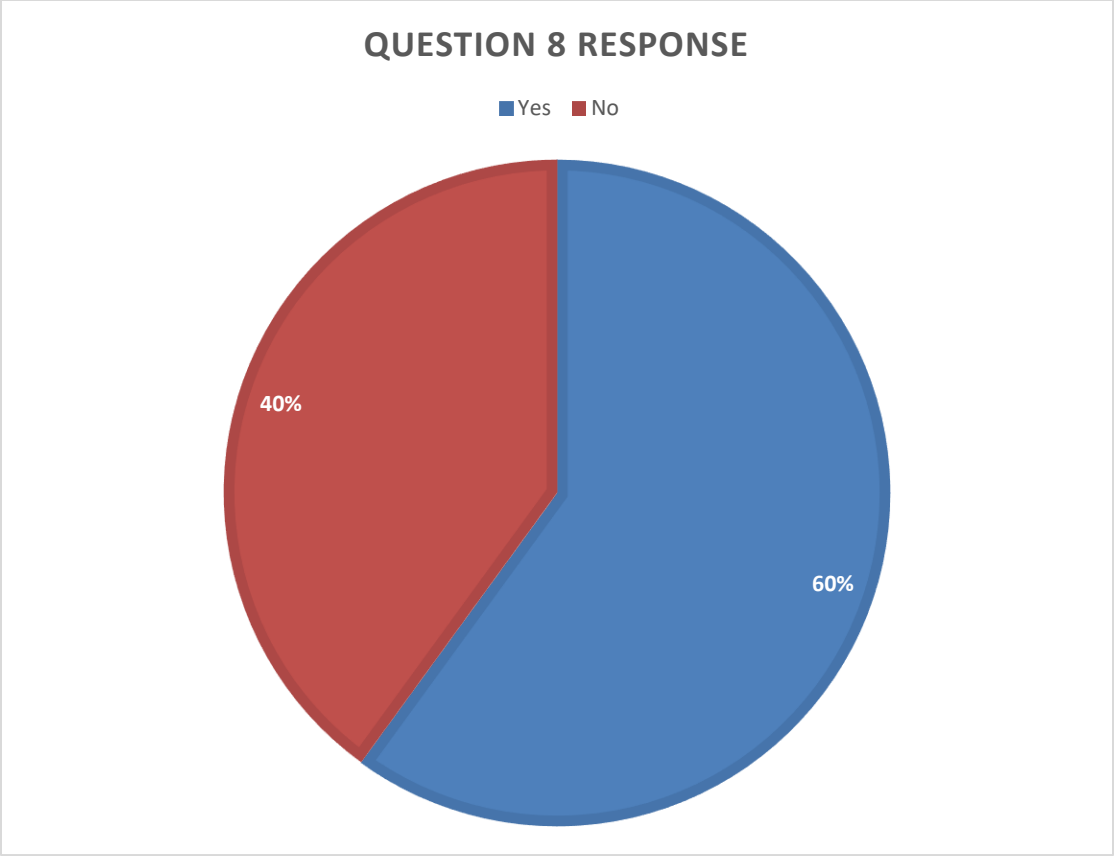
Question 7: Do you think a set bond schedule for first time offenders, low risk to reoffend defendants, or non-violent charges will provide an option for those of less financial means to bail out and return for their day in court?

Yes responses: 12
No responses: 3



Question 8: Do you think a set bond schedule for any drug related charge that does not involve violence will provide an option for those of less financial means to bail out and return for their day in court?

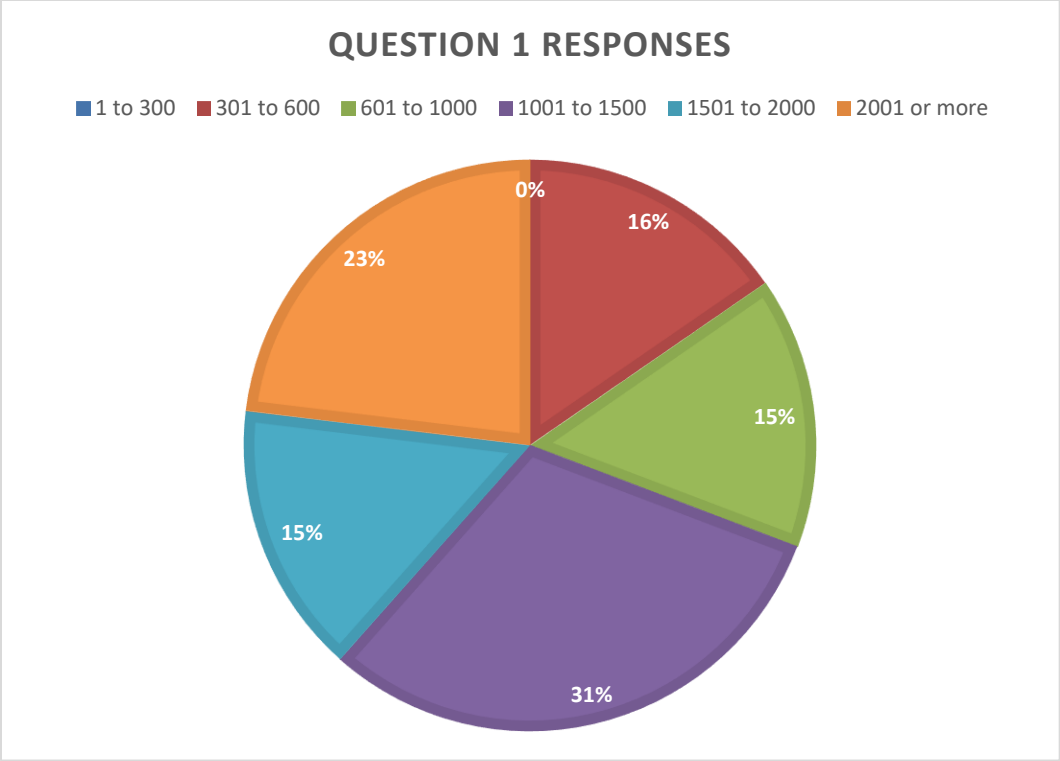
Yes responses: 9
No responses: 6



The Jail administrator survey was compiled of eight questions. Out of the twenty Jail Administrators surveyed only 13 responded. That yielded a 65% response rate, and a 35% failure to respond rate from those surveyed.

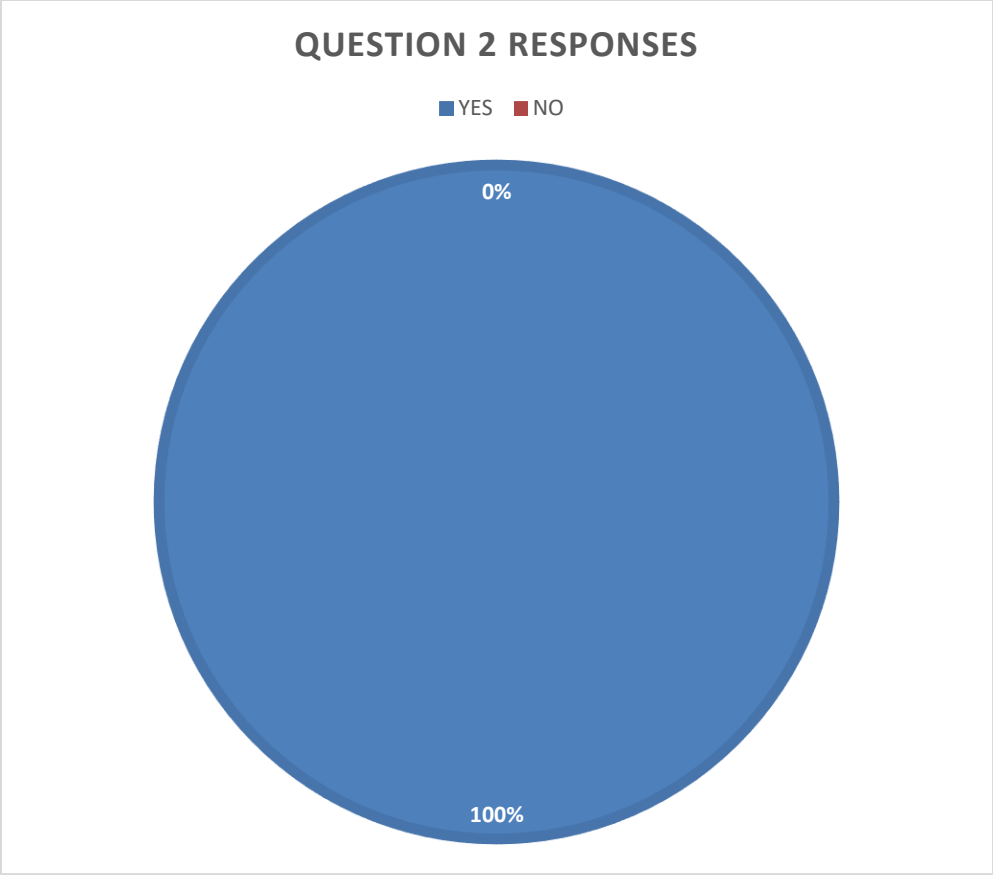
Question 1: What is your jail population who are awaiting trial?

Responses	
1 to 300 inmates:	0
301 to 600 inmates:	2
601 to 1000 inmates:	2
1001 to 1500 inmates:	4
1501 to 2000 inmates:	2
2001 or More:	3



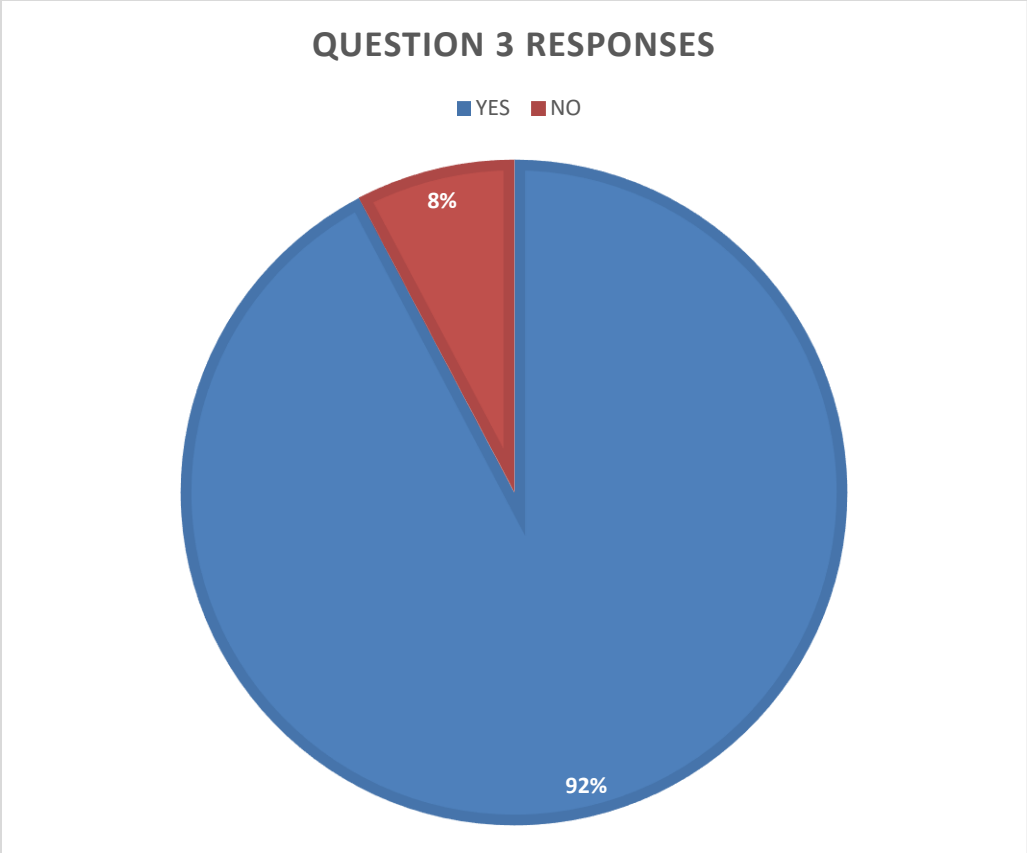
Question 2: Does your agency (or other entity in your county) operate a Pretrial Services Unit?

Yes responses: 13
No responses: 0



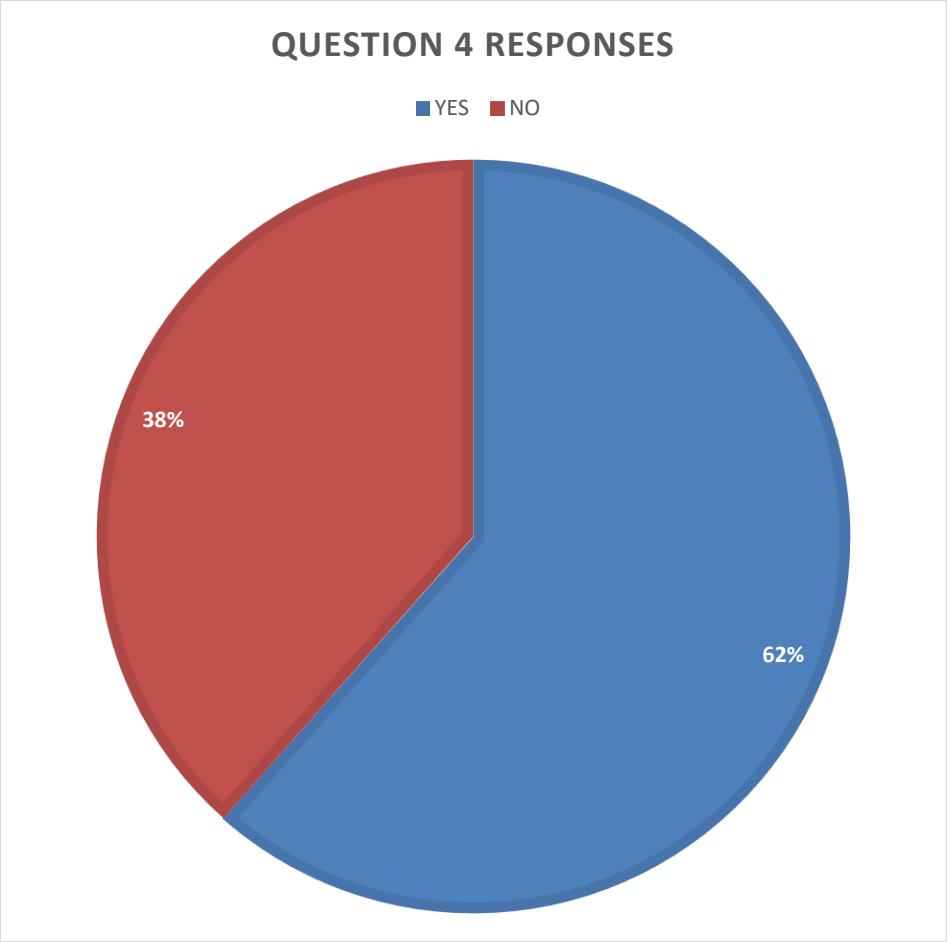
Question 3: Does your agency or partnering agency conduct pretrial assessments on detainees before first appearance?

Yes responses: 12
No responses: 1



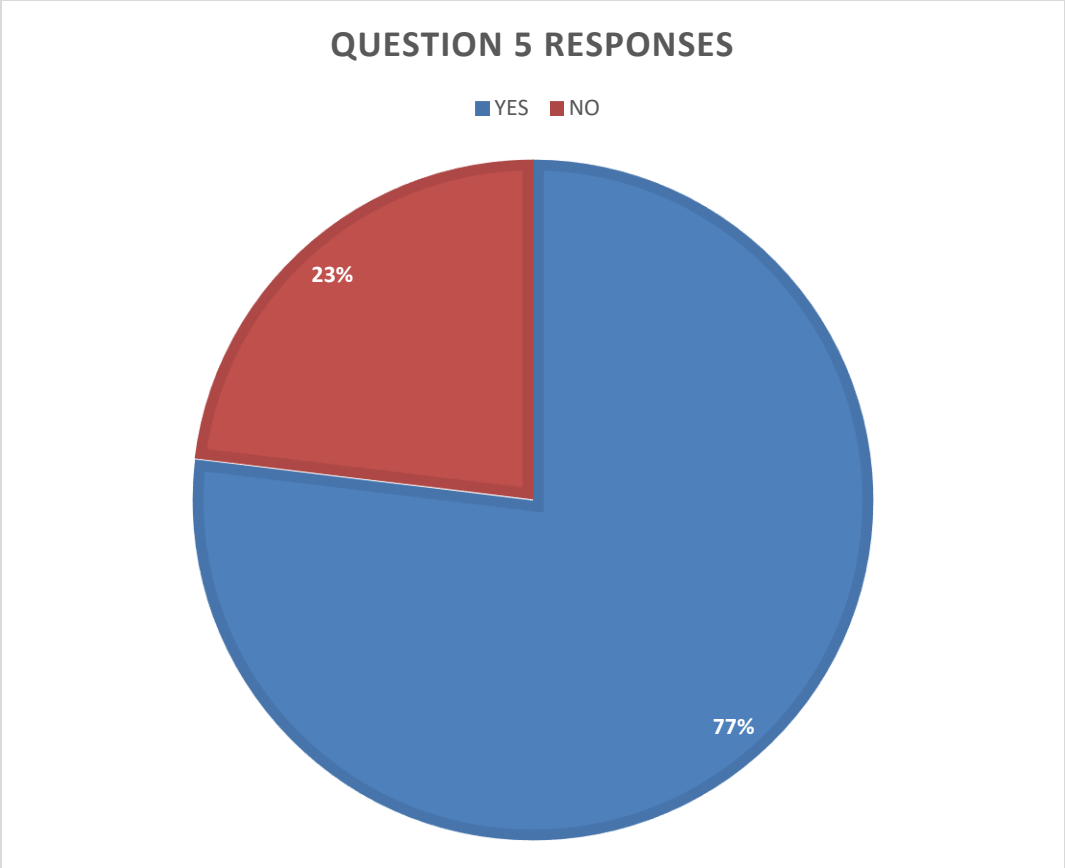
Question 4: Does your agency or partnering agency conduct pretrial assessment on detainees after first appearance?

Yes responses: 8
No responses: 5



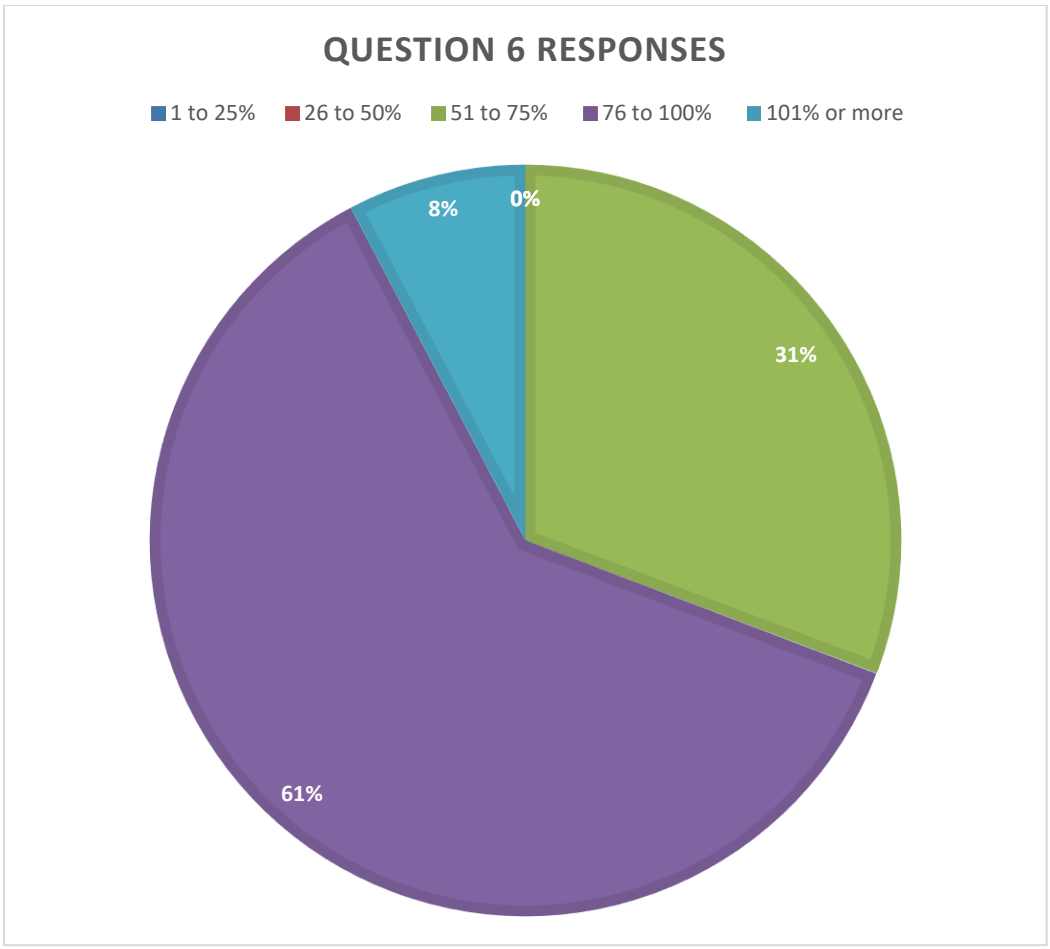
Question 5: Is there a set bond schedule for misdemeanor charges prior to first appearance?

Yes responses: 10
No responses: 3



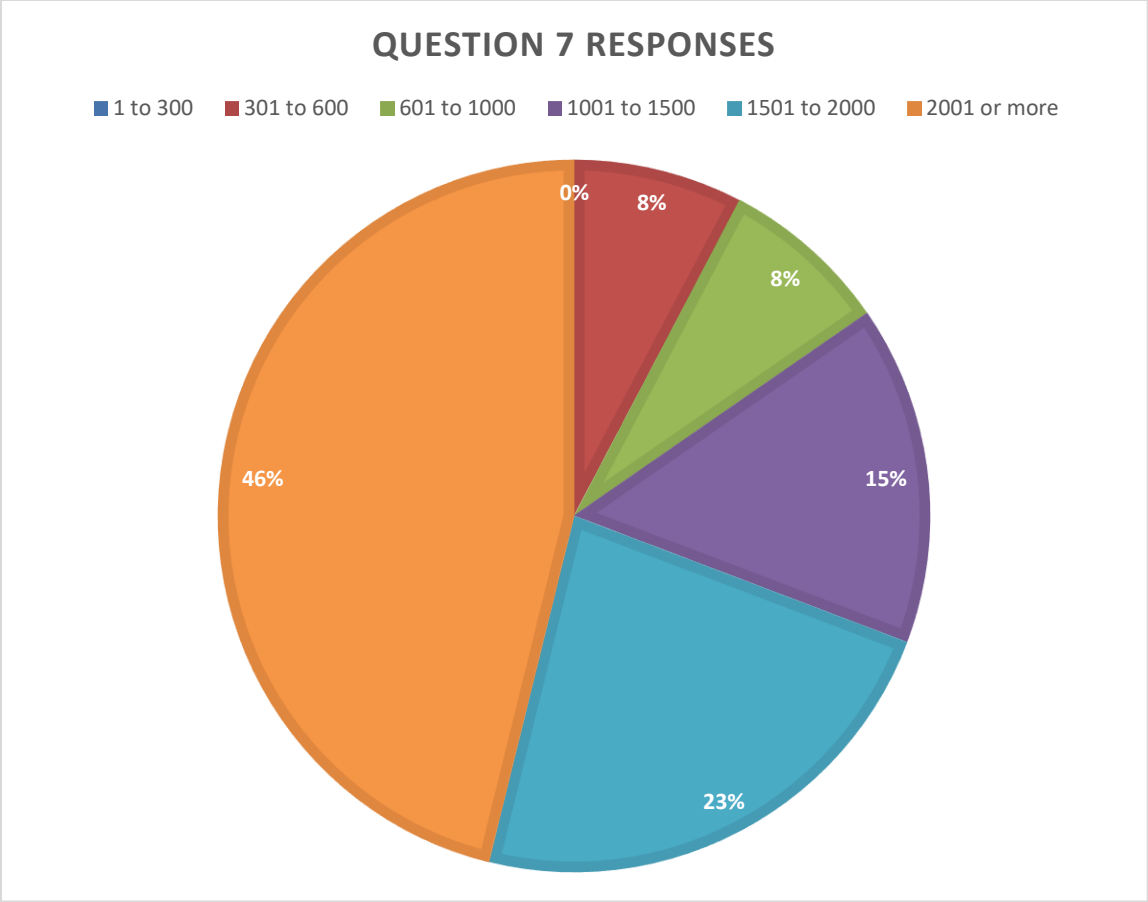
Question 6: Is your facility close to capacity? (Percent % of capacity)

Responses	
1 to 25% capacity:	0
26 to 50% capacity:	0
51 to 75% capacity:	4
76 to 100% capacity:	8
101% or higher capacity:	1



Question 7: What is your average daily population for inmates?

Responses	
1 to 300 inmates:	0
301 to 600 inmates:	1
601 to 1000 inmates:	1
1001 to 1500 inmates:	2
1501 to 2000 inmates:	3
2001 or More:	6



Question 8: Do you feel the longer someone stays incarcerated the more institutionalized they become?

Yes responses: 13
No responses: 0

Discussion

The surveys distributed showed many different correlations between jail counts and use of bond schedules. Due to the targeted group being small there was a high number of responses from both groups surveyed. The public defender surveys were all yes or no answers, and there was not a whole lot of differentiation of their answers. For the most part the public defenders almost leaned one direction or another, except for specific questions regarding bond schedules. The eight questions asked of the Public Defenders were purposely driven towards seeing if there were other tools or the belief of other tools being used to mitigate jail population sizes, along with opinion input whether they thought bond schedules for set charge types would work no not.

The surveys distributed to Jail Administrators were targeted to each of the corresponding judicial circuits, and while it was not a huge number of responses there were some counties that responded where Public Defenders did not and vice versa. Jail administrators were also asked eight specific questions pointing towards topics of pretrial release, jail counts, and percent of capacity of facilities as a whole. One opinionated question at the end of the Jail Administrators survey was directed to see if they believed

in the overall institutionalization of an individual the longer, they were incarcerated. That question was responded 100% yes, that all responding Jail Administrators believe it was the case.

Questions 1 and 2 from the Public Defender survey were specific to pretrial services operations and pretrial assessments. Both questions yielded similar results showing that there is a positive belief that programs such as pretrial services and pretrial assessment tools are effective for defendants. For another option, question three dove into the alternative to set bond which provides options for additional monitored release requiring either Global Positioning Monitors, alcohol monitors, drug patches, etc. Question three also yielded a positive result showing that a majority of Public Defenders believed that these alternatives to bond options were good for defendants in such that the defendants are more likely to return for their day in court. Questions four and five both review the options of set bond schedules for either misdemeanor charges or non-violent offenders. Both questions yielded the same result that a majority of circuits have set bond schedules for first appearance regarding both subsets of charges (misdemeanors and non-violent felonies). With a low percent (20%) responding that they do not have a set bond schedule, this will need to see if there is a correlating spike in inmate pretrial population versus jail capacity too. Question six for the Public Defenders showed an overwhelming belief (67%) that defendants receiving a higher bond will not increase the likelihood that said defendant will return for their court hearing. Questions seven and eight both deal with set bond schedules but differentiate for firs time officers and non-violent drug offenses. Question seven showed a distinct response of 80% belief that first time offenders having a set bond schedule would return for their day in court. Question eight though showed a different response of only 60% belief for all non-violent drug offenses having a set bond and returning for their day in court. While both are in the positive majority of belief, there seems to be a difference of opinion when drugs charges are part of that equation of evaluation. Limitations of all the Public Defender questions are the simplicity of yes or no answers, and opinions that are derived from this type of law practice. A flaw in this is that only one side of the law room is represented, and without the insight from the State Attorney involved the Public Defenders answers may seem myopic.

Question one for the Jail Administrators specifically addresses their current inmate count that are housed inside their facilities and are awaiting trial. The answers varied depending on each counties size. Question one will be relevant for discussion when addressing question six. Questions two, three, and four all are related to pretrial services programs and inmate assessments being done. Question two had a 100% response rate from the Jail Administrators who responded to the survey. This shows that at least all those who responded have an active pretrial services program either inside of their agency, or with a partnering department in their county. Question three had a 92% positive return rate showing that almost all of the agencies are conducting pretrial assessments on their inmates before they go to first appearance. While pretrial assessments were discovered to be essential before first appearance, pretrial assessments post first appearance do not seem to be as common as pre-first appearance as there were 38% of departments that do not complete assessments after the defendants have gone to court. Question five asks the Jail Administrators if they have a set bond schedule for misdemeanors prior to first appearance, which a majority of them

do at 77%. Question six asks what percentage of capacity the Jail Administrators facilities are at during the surveyed period. The answers vary between 51% to 101% capacity, with a large percent of the agencies being between 76% to 100% at capacity. This percent of capacity information can be related to the same number of pretrial inmates that are still in custody asked on question one. When correlating that data by agency response, it shows that the larger the county population of inmates the larger number of inmates in custody causing a higher percentage of capacity overall for the county. Question seven furthermore confirms the average daily population of inmates within each county showing the same trend as before, that the bigger the county the larger the daily inmate population will be. Question eight is the only subjective question in the bunch due to it being purely reference to option than numbers. Question eight asks the respondents if they believe that the longer someone stays incarcerated the more institutionalized, they become. While this is a weakness in the survey due to it being opinion based, one can determine from years' experience that the longer someone stays behind bars the more they become accustomed to that microcosm society thus becoming more institutionalized.

Moreover, the correlation data collected shows that the larger the county, the larger the inmate population. As well, the departments that have tools set up to assist with pre-trial overcrowding seem to be doing their job as most facilities are within a less than 100% capacity range.

Recommendations

Specific recommendations for departments would be to incorporate pretrial services and pretrial screening tools as proverbial weapons to combat the issue of jail overcrowding. The respondents in the surveys showed that counties have some type of pretrial services program in operation. The secondary purpose of said pretrial service programs are to truly allow the confidence of the judiciary to know that the defendant is a low risk to society, and that the defendant will return for their day in court. Where the data does lead the reader is to the belief that set bond schedules for all charges except for violence involved charges should be established. Even the larger jurisdictions throughout the state that were surveyed showed they used a set bond schedule before first appearance hearings. This set bond schedule will allow defendants who have the financial means to be released before having to see a judge. Next steps to evaluate all of said bond schedules to determine price structures that are standardized throughout the state to determine a fair option for bond schedule for those agencies who do not have one set up. Duval county is a glaring outlier in the data collected, showing that they are well over 100% of their capacity of inmate housing. When reviewing the other data collected too for Duval it shows they do not have a bond schedule established. Since all counties operate a pretrial service program, most complete pretrial assessments and almost all have a bond schedule I decided to compare all the counties to Duval's responded data. This clearly shows that Duval is among the larger agencies (inmate population wise) in the state, and also employees the same tools as comparable agencies throughout the state. The one missing item from their toolbox is a set bond schedule prior to first appearance. While exploring the large volume of inmates incarcerated in Duval County it is evident that without a set standard of bond schedule, those making the

assigned bonds daily at first appearance are doing so without possible consideration of consistency. To see if there are any trends in such that are causing Duval County to have a higher percent capacity when compared to other comparable agencies, I reviewed first appearance calendars and associated bond assignments for four randomly selected days in the month of December 2021 to see what the bond amount trends would be. To compare them to a comparable agency that has a set bond schedule, I reviewed the Duval first appearance bond numbers compared to Pinellas Counties bond schedule. The correlating data used from first appearance bond issuance in Duval County when compared to the set bond schedule in Pinellas County that there is a large discrepancy of higher bonds in Duval when compared to Pinellas. Duval Counties population is listed at 999,935, and Pinellas Counties population is listed at 956,615 (US Census quick reference report, 2021). Duval Counties median household income is $56,769 while Pinellas Counties median household income is $56,419 (US Census quick reference report, 2021). Due to similar numbers in population size and income size it is alarming that Duval County bonds are set so much higher when compared to Pinellas Counties bond schedule prior to first appearance. Thus more, Duval Counties person in poverty rate is 15.2% while Pinellas Counties persons in poverty rate is 11.1% (US Census quick reference report, 2021). The correlated population, median income, and higher poverty rate in Duval County shows that there is change needed for a set bond review, and moreover a wholesale change on how first appearance bonds are set.

Moreover, the evidence clearly shows that most agencies are doing their part in trying to keep jail population counts down while defendants are awaiting trial. Yet, there are additional tools that can be used to combat this issue such as dedicated pre-first appearance bond schedules. I originally hypothesized that it seemed like bail bond reform was needed to reduce pre-trial detainee population in local jails, however this has been determined to be a local problem for Duval County not a statewide epidemic.

Assistant Division Chief John Verwey has worked for the Jacksonville Sheriff's Office since 2002. Starting at the young age of 18, he began his career as a Police Emergency Communication Officer, transferring to the Corrections Division in 2004. Since then, he has advanced through the ranks of Officer, Sergeant, Lieutenant, and now Assistant Division Chief. During his career he has served as a Field Training Officer, Gang Investigations Specialist, mentor, and delegated immigration officer. He has commanded the training unit, intelligence & gang unit, and the Immigrations and Customs Enforcement 287(g) unit to name a few. Assistant Chief Verwey has a Bachelor of Arts degree from the University of Florida, and a Master of Business Administration from Indiana Wesleyan University. Assistant Chief Verwey is a graduate of the Department of Homeland Security Immigrations and Customs Enforcement 287(g) Immigration Officer Academy.

References

Bechtel, K., Holsinger, A., Lowenkamp, C., & Warren, M. (2016, March 06). A meta-analytic review of pretrial research: Risk Assessment, bond type, and interventions. *The Social Science Research Network. SSRN.com* Retrieved October 18, 2021, from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2741635

Dabney, D., Page, J., & Topalli, V. (2017, July 31). American bail and the tinting of criminal justice. *The Howard Journal of Crime and Justice, 56*(4), 397-418. Retrieved October 18, 2021, from https://onlinelibrary.wiley.com/doi/abs/10.1111/hojo.12212

Hawk, J. (2016, September 11). No money, no freedom: The need for bail reform. Bail position paper - ACLU of Washington*. ACLU of Washington Research*. Retrieved November 21, 2021, from https://www.aclu-wa.org/sites/default/files/media-legacy/attachments/Bail%20Position%20Paper%2C%20Final%20II.pdf

Koepke, J.L. & Robinson, D.G. (2018, December 1). Danger ahead: Risk assessment and the future of Bail Reform*. Washington Law Review, 93*(4), 1725-1807. Retrieved November 21, 2021, from https://digitalcommons.law.uw.edu/cgi/viewcontent.cgi?article=4079&context=wlr

Stevenson, M. & Mayson, S.G. (2017, March 3). Bail reform: New directions for pretrial detention and release. *University of Pennsylvania Carey Law School*. Retrieved November 21, 2021, from https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=2747&context=faculty_scholarship

Suffet, F. (1967). Bail setting: A study of courtroom interaction. *Crime & Delinquency, 12, 318-331*.

United States Census. (n.d.). *U.S. Census Bureau quick facts: Duval County, Florida*. U.S. Census Bureau. Retrieved January 1, 2022, from https://www.census.gov/quickfacts/duvalcountyflorida

United States Census. (n.d.). *U.S. Census Bureau quick facts: Pinellas County, Florida*. U.S. Census Bureau. Retrieved January 1, 2022, from https://www.census.gov/quickfacts/pinellascountyflorida

Williams, M. R. (2015). From bail to jail: The effect of jail capacity on bail decisions. *American Journal of Criminal Justice, 41*(3), 2nd ser., 484-497. doi:10.1007/s12103-015-9305-7

Woog, A. & Fennell, N. (2021). Power and procedure in Texas bail-setting. *SMU Law Review, 74*(3), 475-499. https://scholar.smu.edu/smulr/vol74/iss3/5

Wooldredge, J., Frank, J., & Goulette, N. (2016). Ecological contributors to disparities in bond amounts and pretrial detention. *Crime & Delinquency, 63*(13), 1st ser., 1682-1711. doi:10.1177/0011128716659636

Wright, W. L. (2021). Bail, reform, and Foucault's dangerous individual. *Journal of Working-Class Studies, 6*(2), 21–35. https://doi.org/10.13001/jwcs.v6i2.6831

Appendix 1

Public Defenders Survey (Select from drop box your circuit number)

Instructions: Please review the below questions, and answer "yes" or "no" without skipping each question. The questions are directed towards an overall review of statewide practices of bail bond issuance, bail mitigation measures, and alternatives to bail bond.

1. Do you think Pretrial Services Programs are effective? (Yes or no)

2. Do you think pretrial assessment tools are effective? (Yes or no)

3. Do you believe alternatives to traditional bond (GPS monitor/alcohol monitor/drug patch/pretrial services) are effective in making sure detainees return for their day in court? (Yes or no)

4. Do you have a set bond schedule recommendation for misdemeanor charges? (Yes or no)

5. Do you have a set bond schedule recommendation for non-violent felony charges? (Yes or no)

6. Do you feel the higher a bond, the more likely the defendant is to return for their day in court? (Yes or no)

7. Do you think a set bond schedule for first time offenders, low risk to reoffend defendants, or non-violent charges will provide an option for those of less financial means to bail out and return for their day in court? (Yes or no)

8. Do you think a set bond schedule for any drug related charge that does not involve violence will provide an option for those of less financial means to bail out and return for their day in court? (Yes or no)

Appendix 2

Jail Administrators Survey (Select from drop box your county)

Instructions: Please review the below questions, and answer "yes" or "no" without skipping each question. As well, please answer the inmate population questions to the best of your knowledge selecting the applicable number size matching your current inmate population at the time of this survey. The questions are directed towards an overall review of statewide practices of bail bond issuance, bail mitigation measures, and alternatives to bail bond.

1. What is your jail population who are awaiting trial?
   1 to 300 inmates
   301 to 600 inmates
   601 to 1000 inmates
   1001 to 1500 inmates
   1501 to 2000 inmates
   2001 or <

2. Does your agency (or other entity in your county) operate a Pretrial Services Unit? Yes or No

3. Do your agency or partnering agency conduct pretrial assessments on detainees before first appearance? Yes or No

4. Does your agency or partnering agency conduct pretrial assessment on detainees after first appearance? Yes or No

5. Is there a set bond schedule for misdemeanors charges prior to first appearance? Yes or No

6. Is your facility close to capacity? (Percent % of capacity)
   1 to 25 % capacity
   26 to 50 % capacity
   51 to 75 % capacity
   76 to 100% capacity
   101 % or higher capacity

7. Average Daily Population for inmates?
   1 to 300 inmates
   301 to 600 inmates
   601 to 1000 inmates
   1001 to 1500 inmates
   1501 to 2000 inmates
   2001 or <

8. Do you feel the longer someone stays incarcerated the more institutionalized they become? Yes or No

Appendix 3

Pinellas County Bond Schedule Review (PDF file embedded in document/click to open)

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA

ADMINISTRATIVE ORDER NO. 2021-016 PI-CIR

RE: UNIFORM BOND SCHEDULE – PINELLAS COUNTY

The uniform bond schedule is being amended in Pinellas County in response to CS/HB 1, Chapter No. 2021-6, Laws of Florida. The bill creates statutes relating to riots and amends existing statutes with new language regarding riots. Several of those statutes now require that a person arrested under that statute, or arrested under that statute during a riot, shall be held in custody until they are brought before the court. In accordance with Article V, section 2, Florida Constitution, Rule of Judicial Administration 2.215, and § 43.26, Florida Statutes,

IT IS ORDERED:

1. All law enforcement agencies in Pinellas County are urged to use a Notice to Appear (NTA), pursuant to Rule of Criminal Procedure 3.125, where permitted by law.

2. The Sheriff is hereby authorized to release any person on his or her own recognizance (ROR) who is in pre-trial status on a warrant from another jurisdiction and charged with an ordinance violation, misdemeanor, or an offense specified in Attachment A provided:

A. the Sheriff has sent written notice to the other jurisdiction that the inmate will be released pursuant to this Administrative Order if the inmate is not picked up within 72 hours from notification, excluding weekends and holidays,

B. the other jurisdiction has not picked up the inmate in accordance with the notification, and

C. the inmate is not subject to the provisions of § 903.0351, Fla. Stat., or is not otherwise required by law to be held.

3. The Sheriff is hereby authorized to release any person on pre-trial status who is a member of the United States Armed Forces to the custody of MacDill Air Force Base unless the inmate is subject to the provisions of § 903.0351, Fla. Stat., or unless the inmate is otherwise required by law to be held.

4. The following procedures are implemented for setting bond for defendants at those Pinellas Counties receiving facility(ies) housing defendants.

A. Arresting Officer – Function at Booking Desk

1. The arresting officer shall complete all information on the complaint affidavit, setting forth the statute number and the degree of the crime for which the defendant is charged, together with a short statement of the facts involved in the alleged crime.

2. The arresting officer shall specifically ask the defendant for his or her current residence address. The arresting officer shall not rely upon any identification furnished by the defendant, unless the defendant is unable to verbally advise the officer of the