

2010 Bail Policy Review

For Releases Occurring July 12 - Oct 31 , 2010



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Summary

This report examines arrests processed following implementation of the 2010 Bail Policy to determine what, if any, impact the policy has had on the volume and characteristics of pretrial releases. Of additional interest is the outcome of these releases – whether the defendants were re-arrested for new crimes or failed to appear prior to their case disposition.

The period of observation (July 12 – Oct 31, 2010) encompasses the initial three months of policy implementation. As with any policy implementation, the process –particularly at the earliest stages- is an evolving effort which often requires staff to adapt to markedly different strategies and tactics. Subsequently, observations may be mixed or less definitive than expected. This limitation notwithstanding, the value of the information following should not be underestimated. This report provides stakeholders an excellent benchmark which to initiate informed and meaningful discussions regarding current and desired future states.

Key Observations

1. Under the 2010 Bail Policy, the percentage of unsecure bonds has increased substantially while average bond amounts have declined resulting in an appreciable increase in the number of pre-booking releases.
2. Magistrate reconsideration of bonds has contributed to the increase in releases and opportunity exists to further multiply these numbers.
3. The new bail policy has not resulted in an increase in new arrests or failure to appear.
4. The Pretrial Risk Assessment appears to accurately classify the likelihood for release failure and opportunity exists to expand its application to other charge classes and at the various release decision points.

Overview of Findings

- **The rate of unsecured release terms has increased**
 - 75 percent of bonds were secured under the new policy vs. 90 percent in 2009
 - 1 in 4 reconsiderations of secured bond sought by Pretrial Release Services resulted in modification by the magistrate
- **Average bond amounts have decreased 30 percent**
 - When considering the most frequently occurring charges, median bond amounts fall within the suggested ranges
 - Median bond for non-violent misdemeanor and traffic offenses: \$500
 - Median bond for non-violent felonies: \$12,400
- **Pre-booking, non-Pretrial Services releases have increased 38 percent**
 - On average, pre-booking releases per 100 arrests increased by 11 per day
 - 60 percent of releases were for misdemeanor charges; 27 percent, traffic offenses
 - Unsecured bond comprised 21 percent of releases; up from 2 percent in 2009
- **Rate of re-arrest or failure to appear prior to case disposal unchanged**
 - 68 percent of releases were disposed or remained open without re-arrest or failure to appear (compare to 70 percent in 2009)
 - 17 percent of failure to appears were for *Driving While License Revoked*
 - Those released on felony charges were more likely to reach case disposal without failure (76 percent)
- **Re-arrest on more severe charges less likely under the new policy**
 - 20 percent of those released on a misdemeanor charge were subsequently re-arrested on a felony
 - 23 percent of those released on a traffic charge were re-arrested on a misdemeanor (down 7 points from 2009)
 - 18 percent of those released on a felony charges were re-arrested on a felony charge (unchanged)
 - Time to re-arrest did not change between policy periods
- **Pretrial Release Services risk scores consistent with failure rates**
 - The rates of re-arrest and failure increased with elevated risk scores
 - 82 percent of Pretrial Release Services releases were disposed or remained open (>99 days) without re-arrest or failure to appear
 - Two-thirds of defendants accepted to Pretrial supervision faced a single charge and median bond of \$500
- **Four in ten misdemeanor & traffic bonds are unsecured at First Appearance**
 - 63 percent of First Appearance defendants assessed by Pretrial Services were considered above average or high risks for re-offense or failure to appear
 - The Court's conditions for release agreed with the Pretrial Service recommendations in 36 percent of cases

Introduction

In July 2010, following a year-long collaboration with stakeholders and national experts (a.k.a. the “Bail Task Force”), the 26th Judicial District revised and ultimately adopted its most current iteration of local bail policy. The 21-page document establishes general policy for pretrial release decisions, establishes decision-making authority, considerations which to guide the release decision, and the methods by which an individual may be released.

Consulting with *Luminosity*, a nationally recognized firm of bail policy experts, the Bail Task Force sought to institutionalize within the bond decision process the concept of “pretrial justice.” Pretrial justice seeks to provide all legal rights afforded to accused persons awaiting trial, including the right to non-excessive bail, while balancing these individual rights with the need to protect the community and uphold integrity in the judicial process. A key element of pretrial justice is to ensure that low-risk defendants are not unnecessarily incarcerated pending trial and that high-risk defendants are assigned release conditions which mitigate the likelihood of re-offense or failure to appear in court.

An important component of the new policy –directly supporting the pretrial justice concept- is the introduction of a structured risk assessment interview. Applied properly, the interview provides decision-makers with an objective, statistically-supported indication of a defendant’s likelihood for re-arrest or failure to appear prior to their case’s final disposition. Based on the results of this evaluation, the judicial official can consistently apply the least restrictive bond terms which will guarantee court appearance and minimize the likelihood for re-arrest.

A second critical aspect of the 2010 policy is the introduction of bond *ranges*, as opposed to bond *minimums*. Under the previous (2001) bail policy, minimum standards ultimately resulted in a disparate application of bonds which, more often than not, resulted in unnecessarily high bond amounts. The range approach protects the discretion of judicial officials to set appropriate bond terms, allowing for consideration of the individual circumstances and history, while simultaneously promoting consistent and reasonable bond terms.

The stated goals for bail reform were 1) to reduce unnecessary pretrial detention, 2) reduce unnecessary justice system expenditures, 3) assure court appearance, and 4) assure community safety. This report seeks to determine the degree which these goals have been achieved; identify any shortfalls that may exist; and propose strategies with which to further policy implementation and ensure attainment of the desired results. The report is organized such that the reader progresses through the various decision points of the arrest and release process, including: bond setting, Pretrial Release Service interviews, and First Appearance. For comparison, data from the same time period of the previous year (i.e. the previous policy) is examined and contrasted.

At the time this report was assembled, the 2010 Bail Policy has been in effect for eight months. In order to maximize the number of disposed cases (and therein provide the most accurate picture of outcomes), only those arrests and releases occurring July 12 – Oct 31, 2011 are studied.

Methodology

Data Sources

Arrest and bond setting data was provided by Mecklenburg County Sheriff's Office (Arrest Processing Mainframe). Data samples were selected by determining the number of pre-booking releases within each time period, choosing a sample size that would ensure a representative division of the larger set, and randomly selecting the appropriate number of cases for analysis. Data for both policy periods was drawn from the interval July 12 – October 31. Data to support analysis of defendant outcomes was retrieved from the N.C. Administrative Office of the Courts' *Automated Criminal Infraction System*.

Pretrial Service data was obtained from interview logs kept by the program. The logs, used to track work volume within the Assessment section, contains summary information (e.g. risk scores) of those interviewed for by staff. Charge information and related outcome data was obtained from the Sheriff's Office Arrest Inquiry web interface.

First Appearance data, which is restricted to just those defendants interviewed by Pretrial Services was manually obtained from the handwritten notes of clerks on court dockets and matched with Pretrial Service interview logs.

The reader is asked to note that the period of analysis represents the first phase of policy implementation (there are five). As such, only those charged with a misdemeanor, traffic offense, or combination thereof are tracked in this report.

With the exception of arrest volume data, only visual- and warrant-based arrests are evaluated. Individuals arriving at the jail by *Order for Arrest* (OFA) would not receive unsecured bond terms and should this group be included, the rate which secured terms are applied would be overstated.

Re-Arrest and Failure

The time to post-release arrest was determined by selecting the date which the defendant was arrested for a new offense. The date of release was subtracted from the re-arrest date to determine time interval. Likewise, the date which a released defendant failed to appear for a court proceeding is subtracted from the release date to determine to the time to violation.

If the defendant is both re-arrested and records a failure to appear, the earlier date of the two determines the reason for failure. For example, if the defendant was re-arrested on July 1, but also failed to appear on June 28, then failure to appear is consider the basis of failure.

Overview of the 2010 Bail Process

Following arrest, defendants are brought before the magistrate to determine: 1) Probable Cause and if found, 2) the conditions of release. N.C.G.S §15A-534(a) and the 2010 Mecklenburg County Bail Policy stipulate the conditions which a defendant may be released including:

1. The defendant's written promise to appear;
2. Unsecured appearance bond in an amount determined by the judicial official;
3. In the custody of a designated person or organization agreeing to supervise him;
4. Execution of an appearance bond in specified amount secured by a cash deposit of the full amount of the bond; and
5. House arrest with electronic monitoring with the execution of a secured appearance bond.

In addition, N.C.G.S §15A-534(b) and Section V of the Mecklenburg County Bail Policy stipulate that "the judicial official granting pretrial release must impose condition (1), (2), or (3) above unless he determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any person; or is likely to result in the destruction of evidence, subordination of perjury, or intimidation of potential witnesses." The bail policy (Section V(b)) further requires that "in the event a magistrate determines that imposing condition (4) or (5) is necessary per statute, the magistrate must record the reason for doing so in writing on the AOC-CR-200AS form."

When the conditions for release are either (1), (2), or (3) above, the process redirects the defendant for release from the jail, rather than "booking" or housing.

If a secured bond is assigned, the defendant proceeds to Pretrial Services for a voluntary bail interview and risk assessment. During this stage, additional background is obtained about the defendant to further determine any risk posed to the community if the defendant were released and the likelihood of his timely participation in his judicial proceedings. This information is quantified and compared to a validated praxis which suggests the appropriate conditions of release. If the conditions do not comport with those set by the magistrate, Pretrial staff may present the additional information to the magistrate and seek reconsideration of the secured bond. At the magistrate's discretion, the bond may be unsecured or remain unchanged. If left unchanged, Pretrial Services may accept the defendant for supervision (assuming magistrate authorization of the alternate release) or the defendant will continue processing into the jail until the conditions of release are met.

Defendants who are unwilling or are unable to participate in the Pretrial Services program will continue in-processing to the jail and will ultimately receive a housing assignment (i.e. be "booked"). Absent posting of bond, a First Appearance Hearing before a district court judge follows.

The Bail Process Re-engineering Plan (2009) adopted by the Bail Task Force envisions a "meaningful first appearance"— which, in part, includes the provision of a written assessment of risk and related recommendations which to further inform the release decisions made by the first appearance court. The expectation is the court will take into consideration the information gathered by Pretrial Services (when available), the advice of the ADA, and reassess the conditions of release. The judge may also refer the defendant to Pretrial Services for supervision. Through Phase I, only those misdemeanor/traffic offenders interviewed by Pretrial Services have such information available.

Profile of Arrests Processed

In this section, the reader is introduced to the volume and characteristics of all arrests processed at the Mecklenburg County Jail during the study period. It is from these larger groups (pre- and post-policy periods) that initial bond setting trends and tracking samples are drawn. Most importantly, it is the first and most pivotal stage of the criminal process at which the concept of pretrial justice is applied and will have the most impact. The decisions made at this point determine the characteristics of the jail population. Federal detainees are excluded.

Volume

With 12,525 processed during the post- implementation period, arrest volume was 10 percent lower than the same period of the previous year. These individuals appeared before the magistrate on 23,944 charges (1.9 per individual). Charge counts ranged as high as 32 for a single arrest. Forty-one percent of defendants arrived on a single charge (64 percent of which were misdemeanors).

During the pre-implementation period, 13,765 were processed on a total of 27,333 charges (2 per individual). Charges counts ranged as high as 36 for a single arrest. Twenty-seven percent of defendants arrived a single charge (nearly two-thirds of which were misdemeanors). (Table 1).

Charge Class

Based on the most serious charge, 58 percent of arrests processed post-implementation were for a misdemeanor charge; 24 percent, a felony and 19 percent, traffic. As a whole, the distribution of all charges was similar, 55 percent misdemeanors; 23 percent felony; and 22 percent, traffic.

Pre-implementation distribution of charges was similar: 56 percent of arrests were for misdemeanors; 24 percent for felonies and 20 percent for traffic offenses. (Table 2).

Table 1. Arrest Type

	PRE	POST
Visual	63%	70%
Warrant	18%	18%
OFA	19%	12%

Table 2. Charge Class

	PRE	POST
Misdemeanor	55%	60%
Felony	12%	12%
Traffic	33%	27%
Infraction	-	<1%

Charge Description

The most frequently appearing charges during post-implementation were *Driving While License Revoked (DWLR)* and *Driving While Impaired*- accounting for 12 percent of all visual and warrant arrests – (6 percent each). *Possession of Drug Paraphernalia* and *Resisting Arrest* were the next most frequent, each accounting for 5 percent of all charges.

During the pre-implementation period, *DWLR* and *Driving While Impaired* also led in charge frequency (9 and 8 percent, respectively). *Misdemeanor Possession of Marijuana* was the third most frequent charge (5 percent). *Possess Drug Paraphernalia* represented 3 percent of charges.

Probable Cause

Probable cause was found in 97 percent of the post-implementation visual arrest charges presented compared to nearly 100 percent during the previous policy period.

Set Bonds

Secured bonds were the dominate terms of release for visual- and warrant-based arrests. Nearly nine of every ten felonies were secured, as were 69 percent of misdemeanors and 78 percent of traffic offenses. (Figure 1; Table 3).

Approximately 4 percent of charges (n= 1,004) did not have a bond type recorded; 70 percent of such charges were based on an order for arrest and 23 percent upon a warrant. *IV- Non-Support of Child* was the most frequent OFA charge (nearly a third) in this case suggesting the offender was held until a financial obligation was met or the court authorized release. Similarly, probation violators (18 percent) and *Driving While License Revoked* OFAs (14 percent) were held without a designated bond. For unassigned warrants, *False Pretense* (12 percent), *Worthless Check- Simple* (8 percent), and *Forgery* (7 percent) were the most common charges. (Tables 4 and 5).

Figure 1. Set Bond Distribution
Visual / Warrant Arrests Only

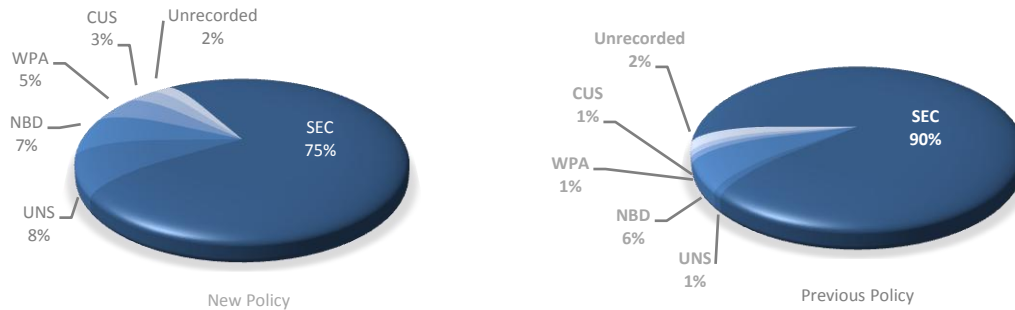


Table 3. Assigned Bond Type (Visual and Warrant Arrest Charges)

	NBD	SEC	CUS	UNS	WPA
Felony	4%	87%	1%	3%	<1%
Misdemeanor	11%	69%	4%	9%	6%
Traffic	<1%	78%	4%	12%	7%

Table 4. New Policy: Bond Type Distribution- Most Frequent Charges (Visual / Warrant Arrests Only)

	Freq	Not Recorded	CUS	NBD	SEC	UNS	WPA
DRIVING WHILE LICENSE REVOKED	1200	-	<1%	<1%	82%	11%	7%
DRIVING WHILE IMPAIRED	1157	-	8%	<1%	69%	16%	8%
DRUG PARAPHERNALIA - POSSESSION OF	950	<1%	2%	-	85%	9%	4%
RESISTING PUBLIC OFFICER	933	<1%	5%	<1%	83%	9%	4%
C/S-SCH VI- POSSESS MARIJUANA - MISDEMEANOR	769	<1%	4%	<1%	75%	14%	8%
TRESPASS - SECOND DEGREE - NOTIFIED NOT TO ENTER	518	1%	2%	-	80%	11%	7%
COMMUNICATING THREATS	484	2%	3%	37%	48%	8%	3%
ASSAULT ON A FEMALE - NON.AGG.PHYS.FORCE	464	<1%	<1%	68%	26%	5%	1%
NO OPERATOR'S LICENSE	378	-	2%	-	86%	8%	5%
ASSAULT ON A FEMALE - AGG.PHYS.FORCE	342	1%	1%	70%	27%	2%	<1%

Table 5. Previous Policy Bond Type Distribution- Most Frequent Charges (Visual / Warrant Arrests Only)

	Freq	Not Recorded	CUS	NBD	SEC	UNS	WPA
DRIVING WHILE LICENSE REVOKED	1561	<1%	-	-	99%	<1%	1%
DRIVING WHILE IMPAIRED	1217	<1%	-	<1%	95%	2%	2%
DRUG PARAPHERNALIA - POSSESSION OF	962	<1%	<1%	-	99%	<1%	<1%
RESISTING PUBLIC OFFICER	1005	<1%	1%	-	97%	<1%	1%
C/S-SCH VI- POSSESS MARIJUANA - MISDEMEANOR	844	<1%	1%	<1%	98%	1%	1%
TRESPASS - SECOND DEGREE - NOTIFIED NOT TO ENTER	580	1%	1%	<1%	97%	1%	<1%
COMMUNICATING THREATS	538	1%	1%	34%	63%	<1%	2%
ASSAULT ON A FEMALE - NON.AGG.PHYS.FORCE	500	-	<1%	68%	32%	-	-
NO OPERATOR'S LICENSE	508	<1%	<1%	-	98%	1%	1%
ASSAULT ON A FEMALE - AGG.PHYS.FORCE	361	1%	1%	68%	31%	-	-

Consistent with the Bail Task Force’s concept of pretrial justice -to decrease the excessive reliance on financial bonds for low risk defendants- the frequency of secured terms declined following implementation of the 2010 bail policy.

Under the previous policy, 90 percent of bonds assigned to visual and warrant arrests were secured, while only 1 percent was unsecured. Under the new bail policy, the frequency of secured bonds declined to 75 percent of all assigned, while unsecured bonds increased to 8 percent. Meanwhile, the percentage of Written Promises to Appear and Custody releases also increased.

As a result of the increase in unsecured bonds, pre-booking, non-Pretrial Service releases increased 38 percent from 29 to 40 per 100 arrests (roughly an additional 11 releases per average day). The profile and distribution of incoming charges was comparable between the observed periods.

Bond Amounts

The previous bail policy provided suggested *minimum* amounts to guide the assignment of bonds for various charges. Examination of average bond amounts assigned to the ten most frequently occurring charges reveals the average bond exceeded the suggested minimum between 1 and 6 times. For example, the average bond for *Possess Marijuana* was \$600 – six times the recommended minimum of \$100. Similarly, *Assault on a Female- Non. Agg. Phys. Force* recorded an average bond of \$2,300, or five times the minimum. (Table 6).

In contrast, the 2010 Bail Policy establishes suggested bond ranges, to achieve, in part, more consistent bond assignments. Analysis of the most frequent charges reveals that average bond amounts were between 9 and 30 percent *less* than those recorded under the previous policy. (Table 7).

Additional evidence of lower bonds is evident when looking more broadly at charge classes. The suggested non-violent, misdemeanor bond range, for example, is \$100 - \$2,500. A review of the most frequently occurring misdemeanors reveals the average post-implementation bond was \$700 (median= \$500). The average traffic bond (which shares the suggested misdemeanor bond range), was \$800 (median= \$500). Seventy-five percent of assigned traffic bonds were \$1,000 or less. Finally, non-violent felony bonds (suggested range: \$2,500 - \$25,000) averaged \$12,400 (median= \$5,000). Tables 7 - 9 provide additional information regarding bond setting trends. Quartile data is presented to assist the reader in determining the distribution of bonds. In Table 7, for example, the bond amount at the 50th quartile for non-violent felonies is \$7,500. This means that 50 percent of bonds in this category were at or less \$7,500; similarly, 25 percent of bonds were \$3,500 and less. (Table 8).

Table 6. Previous Policy: Distribution of Bond- Most Frequent Charges (Visual / Warrant Arrests Only)

	Quartile						Suggested Minimum
	Avg	25 th	50 th	75 th	Min	Max	
DRIVING WHILE LICENSE REVOKED	1,200	600	1,000	1,000	250	10,500	500
DRIVING WHILE IMPAIRED	1,400	1,000	1,000	1,500	100	70,000	1000 – 5,000
DRUG PARAPHERNALIA - POSSESSION OF	600	500	500	500	100	5,000	250 – 500
RESISTING PUBLIC OFFICER	800	500	500	1,000	50	10,000	500
C/S-SCH VI- POSSESS MARIJUANA - MISDEMEANOR	600	500	500	500	100	5,000	100
TRESPASS - SECOND DEGREE - NOTIFIED NOT TO ENTER	600	500	500	700	100	10,000	200
COMMUNICATING THREATS	1,300	500	700	1,000	250	50,000	500
ASSAULT ON A FEMALE - NON.AGG.PHYS.FORCE	2,300	1,500	2,500	2,500	1,500	2,500	500
NO OPERATOR'S LICENSE	400	300	400	500	200	2,000	100
ASSAULT ON A FEMALE - AGG.PHYS.FORCE	3,100	1,400	2,500	2,600	400	25,000	2,500

Probation violations and bond terminations are excluded.

Table 7. New Policy: Bond Amount- Most Frequent Charges (Visual / Warrant Arrests Only)

	Quartile						Suggested Range
	Avg	25 th	50 th	75 th	Min	Max	
DRIVING WHILE LICENSE REVOKED	900	500	800	1,000	100	4,000	100 – 2,500
DRIVING WHILE IMPAIRED	1,200	1,000	1,000	1,500	100	8,000	100 – 2,500
DRUG PARAPHERNALIA - POSSESSION OF	500	300	500	500	100	10,000	100 – 2,500
RESISTING PUBLIC OFFICER	600	500	500	650	100	5,000	100 – 2,500
C/S-SCH VI- POSSESS MARIJUANA - MISDEMEANOR	600	500	500	500	100	2,500	100 – 2,500
TRESPASS - SECOND DEGREE - NOTIFIED NOT TO ENTER	500	375	500	500	100	3,000	100 – 2,500
COMMUNICATING THREATS	1,000	500	600	1,000	200	10,000	1,000 – 5,000
ASSAULT ON A FEMALE - NON.AGG.PHYS.FORCE	2,100	1,000	2,500	2,500	250	5,500	1,000 – 5,000
NO OPERATOR'S LICENSE	400	250	300	500	100	1,000	100 – 2,500
ASSAULT ON A FEMALE - AGG.PHYS.FORCE	2,200	1,000	2,500	2,500	400	10,000	1,000 – 5,000

Probation violations and bond terminations are excluded.

Table 8. Bond Amount by Charge Class (Visual / Warrant Arrests Only)

Previous Policy	Quartile						Suggested Range
	Avg	25 th	50 th	75 th	Min	Max	
Non-Violent Felony	18,800	3,500	7,500	15,000	200	999,999	-
Violent Felony	40,800	20,000	25,000	50,000	1,000	500,000	-
Non-Violent Misdemeanor	900	500	500	1,000	50	50,000	-
Violent Misdemeanor	2,040	500	1000	2,500	150	75,000	-
Traffic	900	500	750	1,000	70	70,000	-
New Policy							
Non-Violent Felony	12,400	2,500	5,000	10,000	300	500,000	2,500 – 25,000
Violent Felony	34,100	12,500	25,000	50,000	500	500,000	10,000 – 100,000
Non-Violent Misdemeanor	700	400	500	700	100	50,000	100 - 2,500
Violent Misdemeanor	1,600	500	1,000	2,500	100	50,000	1,000 - 5,000
Traffic	800	500	500	1,000	100	10,000	100 – 2,500

Average bond is rounded. Probation violation and fugitive/extradition charges excluded.

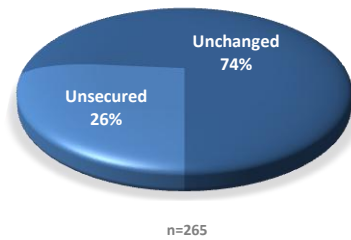
Reconsideration of Secured Bond

A crucial aspect of the pretrial justice concept is fulfilled through the Pretrial Risk Assessment Interview, which the reader may recall occurs following the magistrate’s setting of bond. Conducted by Pretrial Services, the risk assessment can significantly expand the judicial official’s understanding of a defendant’s risk to the community and likelihood to appear for court proceedings. In certain cases, it is expected the additional information might reasonably permit a reduction of the release terms limiting or preventing unnecessary incarceration.

Consistent with Recommendation (3) of the 2009 Mecklenburg County Bail Process Re-engineering Plan (adopted by the Bail Task Force) the 2010 Bail Policy delegates to magistrates’ authority to modify an order for release prior to the first appearance before the District Court Judge. If, following the risk assessment interview, Pretrial Release Services determines a defendant is an average or lower risk to reoffend or fail to appear prior to case disposition, they may request the magistrate consider an alternative bond.

Based on the findings of risk assessment interviews, Pretrial Release Services sought the magistrate’s reconsideration for 245 average to low risk defendants. Magistrates agreed to unsecure bonds in only 26 percent of the requests. Those with a risk score of 0 or 1 (low) were most likely to be unsecured (34 percent). (Figure 2).

Figure 2. Magistrate Reconsiderations
Risk Score: Average to Low



Release Outcomes

The following examines the characteristics of those released via secured or unsecured bond prior to being “booked” into the jail (i.e. assigned housing). As described earlier, arrestees may be released prior to booking via the following methods: unsecured bond (including custody and written promises to appear), satisfying the terms of a secured or cash bond, or by voluntary participation and acceptance to the Pretrial Services program.

Self-Release- Unsecured & Secured Bonds

Overall, the new bond policy does not appear to negatively impact the rate at which defendants fail to appear for court or are rearrested prior to case disposal. The failure rates for disposed cases were consistent across periods; no statistically significant difference was observed.

Charge Class

Based on defendants' most serious charge, 60 percent of releases were for a misdemeanor. Traffic offenders comprised the second largest group (27 percent) of releases, followed by felony offenders (12 percent).

Under the new bail policy, a five percentage point increase in misdemeanor releases was observed. Felony releases remained constant, while traffic releases declined by six points.

Arrest Type

Seven of every ten defendants released arrived at jail as the result of a visual arrest (63 percent during the previous policy period). The volume of defendants incarcerated and released on an Order for Arrest declined one-third to 12 percent. Warrant-based releases remained constant at 18 percent.

OUTCOMES

Overall, 68 percent of releases were disposed or remained open (>99 days) without failure during both policy periods.

Release Bond

It was observed under the new policy that those released on a cash basis were the most successful (78 percent), followed by secured (70 percent), unsecured (66 percent), and custody (58 percent). Those released on a Written Promise to Appear were the least successful (48 percent). However, when tested, these outcomes were not found to be statistically significant ($p > .05$), suggesting the outcomes may not be fully related to the bond types. (Table 9).

Similarly, under the previous policy, cash-based releases were also the most successful (100 percent); however, secured releases were the least successful (58 percent). Statistical significance was not found between periods, indicating that overall outcomes were unchanged.

Manner of Failure

Under the new policy, re-arrest for new crime accounted for 67 percent of failures; 70 percent under the preceding. (Figure 3). The most common re-arrest charge was *Possess Marijuana* (12 percent); followed by *Driving While License Revoked* (11 percent); and *Resisting Public Officer* (10 percent). Eighty percent of re-arrests were visual.

The most frequent basis for re-arrest under the prior policy was *Driving While License Revoked* (24 percent) and *Possess Marijuana* (12 percent). Similarly, *Driving While License Revoked* (DWLR) was the most frequent charge to result in an OFA (26 percent); followed by misdemeanor possession of marijuana (11 percent).

Under the new policy, the charges underlying OFAs were more varied; though the largest group, 17 percent, remained connected to *DWLR*. Likewise, misdemeanor possession of marijuana accounted for 16 percent of OFAs and *Driving While Impaired*, 11 percent.

Figure 3. Self Release Outcomes



Table 9. Release Outcomes by Release Bond

	CSH		CUS		SEC		UNS		WPA		Overall	
	PRE	POST	PRE	POST	PRE	POST	PRE	POST	PRE	POST	PRE	POST
No Failure	88%	86%	75%	58%	61%	70%	63%	66%	77%	48%	68%	68%
Re-arrest	6%	7%	25%	26%	28%	23%	26%	20%	15%	43%	23%	21%
OFA	7%	7%	0	16%	11%	8%	11%	14%	8%	10%	10%	11%

Charge Class

Those whose most serious charge was a felony were the least likely to fail prior to disposal or at the time of review (76 percent success); traffic offenders were similarly successful (75 percent success) and misdemeanor slightly less so (64 percent). Similar outcomes were observed under the previous policy, with the exception of traffic offenders, whose success rate stood at 63 percent. (Table 10).

Table 10. Survival Rate by Charge Class
(Open & Disposed Cases)

PRE/POST %	MISD	FELONY	TRAFFIC
No Failure	68 / 64	76 / 76	63 / 75
Re-arrest	21 / 26	21 / 18	26 / 13
OFA	11 / 10	3 / 7	12 / 13

Re-arrest Trends

Defendants re-arrested for a new crime following release were less likely to face a charge more severe than their original. Under the new policy, 20 percent of misdemeanor defendants were re-arrested on a felony (2 percentage points less than previously observed). Likewise, the percentage of traffic offenders re-arrested on a misdemeanor charge fell seven points to 23 percent. The rate which felony defendants were re-arrested on another felony was unchanged at 18 percent.

Time to Failure

No statistically significant difference was found in the time to re-arrest between policy periods. Median days to re-arrest ranged 35 – 38. Time to failure to appear was found to differ between periods. Under the 2010 policy, failure to appear occurred on average at 71 days (versus 132 days under the previous policy).

Pretrial Services

Data reviewed in the following section was obtained from hand-recorded interview logs maintained by the Pretrial Services Assessment section.

Risk Assessment & Releases

Pretrial Services serves a crucial role in the pretrial justice process by conducting risk assessments of defendants whose conditions of release have been secured by the magistrate. Through a structured interview process, staff assigns each defendant a risk score (0 – 9) denoting the likelihood of re-offense and/or failure to appear for court proceedings following release. Consulting a risk matrix, staff determines the recommended bond type and amount that has been shown by national research to reasonably assure appearance and reduced incidence of re-offense.

When the assessment suggests a defendant is an average or low risk to fail on release, Pretrial Service staff will provide this additional information to the magistrate and request reconsideration of the secured bond. The magistrate may, at their discretion, choose to reduce the conditions of release (by un-securing and/or reducing the bond amount) or authorize an alternative release option to Pretrial Services.

Consenting defendants assigned a secured bond and meeting eligibility criteria may be selected for pretrial supervision by Pretrial Services (PTS).

Following implementation of the 2010 Bail Policy, PTS interviewed 3,401 defendants charged with a misdemeanor, traffic violation, or combination thereof. Approximately 10 percent were subsequently accepted to pretrial supervision. This analysis examines the outcomes of 324 of those releases.

Overview of Pretrial Participants

Two-thirds of defendants accepted for pretrial supervision faced a single charge. Just over 1 in every 5 defendants (22 percent) were charged with *Driving While License Revoked*. Bond amounts for those with a single charge ranged from \$200 to \$5000, with a median of \$500. Assigned risk scores ranged 0 – 7 (median= 3).

Average time to case disposition was 92 days (range: 7 – 188 days). At the time of review, 48 percent of cases remained open. Average time of participation within the open group (not including those rearrested or failing to appear) was 129 days (median= 125, min=86, max=194).

Outcomes

When considering only those defendants whose cases have been disposed, 90 percent exited the program without re-arrest or failing to appear. If all cases are considered, the success rate declines to 82 percent. (Figure 4).

Figure 4. Pretrial Services Release Outcomes



Manner of Failure

Nearly three-quarters (71 percent) of failures were the result of arrest on a new charge; the balance (29 percent), failure to appear. Fifty-three percent of failures occurred through a visual arrest; 36 percent returned to custody for failing to appear on another charge; and 12 percent, warrants.

Charge Class

No difference was found in the success rate between charge classes. Misdemeanants were as successful (81 percent) as traffic offenders.

Risk Score

Overall, failure rates were consistent with assigned risk scores. As risk scores increased, so did the respective failure rates. All defendants assigned a “0” were in good standing at the time of review (5 of 8 cases remained open). Success rates declined through risk level 4, at which 75 percent were successful. Further review reveals that success rates unexpectedly increase between levels 5 and 7; however, because the defendant count within these three groups is small (n= 10), a confident assumption of accuracy cannot be made. It is likely that as the number of participants increase within the higher risk levels success rates at these ranges will decline. The higher risk variance notwithstanding, the risk assessment instrument appears to accurately predict likelihood for failure. (Table 11).

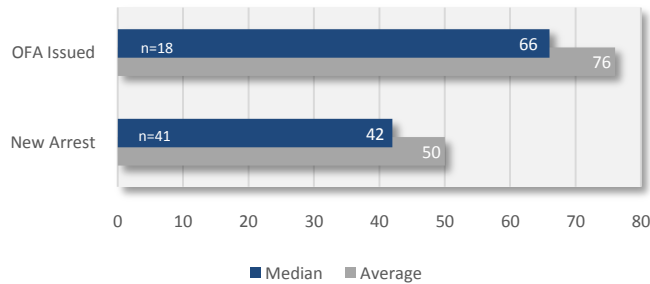
Table 11. Outcomes by Risk Score

OUTCOME	RISK SCORE								Total (n= 324)
	0 (n=8)	1 (n=71)	2 (n=66)	3 (n=85)	4 (n=84)	5 (n=7)	6 (n=2)	7 (n=1)	
Success	100%	92%	80%	79%	75%	86%	100%	100%	82%
Failure	-	8%	20%	21%	25%	14%	-	-	18%

Time to Failure

Median time to re-arrest was 42 days (range: 4 – 163 days). Failure to appear occurred at a median time of 66 days (range: 38 – 135 days). No statistically significant difference was found in the length of time to failure between groups or risk scores. (Figure 5).

Figure 5. Pretrial -Days to Violation



Re-Arrest Charges

Driving While License Revoked was the most frequently occurring charge (22 percent) among those re-arrested while under pretrial supervision, more than double the next most frequent, *Resisting Public Officer* (9 percent). (Table 12).

Table 12. Most Frequent Post-Release Re-Arrest Charges

	FREQ	PERCENT
DRIVING WHILE LICENSE REVOKED	13	22.0
RESISTING PUBLIC OFFICER	5	8.5
INTOXICATED AND DISRUPTIVE	3	5.1
ASSAULT ON A FEMALE - NON.AGG.PHYS.FORCE	2	3.4
C/S-SCH II- POSSESS COCAINE	2	3.4
DRUG PARAPHERNALIA - POSSESSION OF	2	3.4
LARCENY (MISDEMEANOR) - \$200 & UP	2	3.4
TRESPASS – 2nd DEGREE - NNTE	2	3.4
WORTHLESS CHECK - SIMPLE	2	3.4
ASSAULT OR SIMPLE ASSAULT & BATTERY - NON-AGG.PHYS.	1	1.7

First Appearance

Between July 14 and October 31, Pretrial Services interviewed 545 defendants who, as a result of not meeting the originally established conditions for release, subsequently stood before the First Appearance court. In the evolution of the pretrial justice concept, first appearance serves as the last opportunity for the least restrictive release conditions to be applied. To this end, the Pretrial Services risk assessment, which follows the defendants, provides the court additional information which to evaluate the conditions of release previously established by the magistrate.

As the review period only encompasses Phase I of the Re-engineering Plan, only those whose most serious charge was a misdemeanor, traffic offense, or combination thereof were evaluated and followed through this stage.

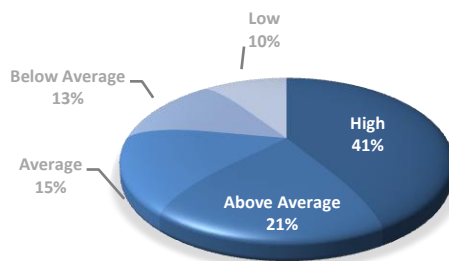
Charge Description

The largest group (9 percent) to appear faced a *Driving While License Revoked* charge. The next most frequent charges were *Misdemeanor Larceny*, *Second Degree Trespass*, and *Resisting Public Officer* (7 percent each).

Risk Score

The majority (63 percent) of defendants proceeding to First Appearance was classified above average or high risk for re-arrest or failure to appear; 22 percent were considered below average to low risk. (Figure 6)

Figure 6. Risk Score- Pretrial Interviewed Defendants at First Appearance



Modification of Bonds

The presiding official unsecured 43 percent of misdemeanor and traffic charges. The highest rates occurred within *Misdemeanor Larceny* (58 percent), *Intoxicated & Disruptive* (56 percent), and *Possession of Drug Paraphernalia* (52 percent). The most frequently appearing charge, *DWLR*, was unsecured 30 percent of the time. (Table 13).

When considering modifications from the perspective of the defendant’s risk score, just over half (54 percent) of those determined to be an average to low-risk saw their bond unsecured.

Modification of bond amounts occurred in only 10 percent of cases. Two-thirds of modifications took the form of a bond reduction; the most common reduction amounts were \$250, \$500, and \$1000.

Table 13. Rate Bonds Unsecured: Non-Assaultive Misdemeanor and Traffic Charges

	Freq	% Unsecured
Driving While License Revoked	58	30%
Second Degree Trespass- NTE	41	29%
Misdemeanor Larceny	36	58%
Resisting Public Officer	33	36%
Possess Marijuana	33	42%
Possess Drug Paraphernalia	29	52%
Intoxicated & Disruptive	16	56%
Unlawful Concealment	16	44%
Communicating Threats	14	43%
Driving While Impaired	12	42%

Praxis Agreement

First Appearance orders were consistent with the recommendations of the Pretrial Release Services praxis 36 percent of the time. Deviation from the praxis was evenly spread between changes in the bond type (22 percent), amount (20 percent), or both (22 percent). In two-thirds of cases, the First Appearance recommended bond amount was within the range suggested by the praxis. (Figure 7).

Figure 7. Agreement of First Appearance Order and Praxis Recommendation

