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Cook County Bond Court Overlooks Critical Information

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In less than the time it takes to make an ATM withdrawal, Cook County Bond Court judges make decisions affecting individual liberty and the public safety. This way of transacting justice exacts a dear convenience fee -- defendants' liberty, the community's safety, public funds -- all contrary to long-standing legislation.

It's not as if judges are provided [too little information](#) about defendants.

As mandated by the [Illinois Pre-Trial Services Act](#), Cook County's pre-trial services department produces a report for the purpose of identifying eligible defendants for release without bond. County staff interviews each defendant, assessing flight risk and public safety threats. When completed fully, the report includes employment, family, health, criminal history and substance abuse information.

But bond court judges are not utilizing this information in making critical decisions that affect defendants' liberty as well as public safety.

They couldn't be. According to [many reports](#), including a 2011 Chicago Appleseed court-watching initiative, bond court judges spend an average of 30 seconds contemplating each defendant's case. Court watchers reported that judges rarely looked at the paperwork provided to them, relying instead upon brief statements by the prosecutor and defender assigned to each case. Proceedings were often inaudible and defenders and prosecutors sometimes mistook the defendants' identity.

On the whole, court watchers found bond court personnel to be respectful and considerate. But no amount of courtesy can make up for the system's inherent shortcomings: too little time and preparation spent on decisions affecting defendants' liberty and public safety.

Cook County Board President Toni Preckwinkle [criticizes](#) the bond court system for sending too many defendants to the county's overflowing jail. The jail is so crowded that the United States 7th Circuit Court of Appeals last year ordered the sheriff to release 2500 defendants, bypassing bond court altogether.

Preckwinkle points out that even seemingly "low" bail amounts are often unaffordable. Unable to meet the 10% bond requirement of even a \$2,000 bail, defendants are jailed for weeks, at [an estimated](#) expense of \$143 per person, per day.

There is simply no demonstrable benefit to setting low bail rather than release on recognizance or electronic monitoring -- a form of non-monetary bail where the defendant wears a GPS bracelet during the pendency of his case. An informative [history of bail](#) explains that in the 1960s, a number of municipalities experimented with requiring nominal (\$1) or no monetary bail. In one study of 56 municipalities adopting these practices, the failure-to-appear rate was historically low: less than 1 percent.

The crime wave of the 70s and 80s led to a ratcheting-up of bail -- and, in turn, pre-trial detention. The failure-to-appear rate is no better, but the costs to taxpayers, society, and defendants are massive.

One of the leading authorities on criminal justice practices and procedures, the American Bar Association, unequivocally prefers release on recognizance and non-monetary bail in its report on [Criminal Justice Standards for Pre-Trial Release](#) (pdf).

"[E]ach jurisdiction should adopt procedures designed to promote the release of defendants on their own recognizance or, when necessary, unsecured bond... Release on financial conditions should be used **only when no other conditions will ensure appearance.**" (emphasis added)

The rationale for this position is straightforward and is grounded in history: defendants in bail hearings are presumed to be innocent. Unattainable monetary bail results in the jailing of unconvicted individuals for an average of *several weeks* (Cook County estimates range from 24 to 48 days). A great majority of these individuals either subsequently have their cases dismissed or are found to be innocent.

Surely this is not what the Illinois legislature had in mind when, in 1986 upon the passage of the Illinois Pre-Trial Services Act, it declared, "The functions of the [pretrial services] agency would be to interview detained person concerning their background and verify that background, and make recommendations to the court on possible conditions that can be imposed on a defendant prior to trial."

We've asked that Cook County Bond Court judges take each defendant's pre-trial services assessment into account when setting bail. We also ask the Cook County Judicial Advisory Council to urge this reform in its [forthcoming bond court study](#). The state legislature has required it for over 15 years. Meanwhile, the public pays for the delay.