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Some Tarrant felony defendants get out of jail on the cheap

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Topics: Texas

Tags: drunk drivers, diversion program, jail, drug possession, North Richland Hills

ARTICLE PHOTOS (3) COMMENTS

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BY YAMIL BERARD

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First of two parts

More than 8,800 criminal defendants in Tarrant County have walked out of jail in 21/2 years on a cut-rate bond that county officials say is reserved for the likes of the homemaker, the family man and the working stiff.

These defendants are unlikely to flee or pose a danger to others, the county says. So instead of lingering in jail until their court dates, the suspects are released on a personal bond that is a fraction of what they would have paid a bondsman. It can cost as little as \$20.

Tarrant County Pretrial Services, which runs the program, says that only those who commit minor offenses are eligible. Although the program costs \$1.2 million a year, mostly for personnel costs, pretrial release saves taxpayer money because fewer people are housed in jail, the county says.

"It's a good program because we're allowing individuals who need to be out of jail to be out of jail," said Michelle Brown, the program's director.

But a *Star-Telegram* investigation found that some suspects accused of felonies have been released under the program. Also approved for release have been defendants with criminal histories and those who have broken previous promises to appear in court, records show.

For some, pretrial release is a revolving door, the examination found.

Take the 22-year-old Fort Worth man arrested in April, accused of trying to steal a car and burglarize a home. Granted a personal bond under pretrial release, he paid almost nothing to get out of jail. Two months later, he was arrested and accused of stealing a firearm. He was released again on a personal bond and was quickly back on the streets.

Or consider the 26-year-old North Richland Hills woman who, after she jumped bail on charges of drug possession, was given a second chance through the pretrial program, paying a pittance to get out of jail. At the same time, she pleaded guilty to a charge of assault of a family member from a previous arrest. About three months later, she was behind bars again, this time on accusations of drug dealing.

A 19-year-old Lewisville man accused of assaulting a public servant



View photos

Criminal courts in Tarrant County

Tarrant County operates 20 county and criminal courts. County criminal courts handle misdemeanors, while the district criminal courts handle felonies. Here is a breakdown of the judges of each court:

Misdemeanor courts

- County Criminal Court No. 1: Judge Sherry Hill
- County Criminal Court No. 2: Judge Mike Mitchell
- County Criminal Court No. 3: Judge Billy Mills
- County Criminal Court No. 4: Judge Deborah Nekhom
- County Criminal Court No. 5: Judge Jamie Cummings
- County Criminal Court No. 6: Judge Molly Jones
- County Criminal Court No. 7: Judge Cheril Hardy
- County Criminal Court No. 8: Judge Daryl Coffey
- County Criminal Court No. 9: Judge Brent Carr
- County Criminal Court No. 10: Judge Phil Sorrells

Felony courts

- Criminal District Court No. 1: Judge Sharen Wilson

and assault with bodily injury of another person was released through the program. So was a 24-year-old Fort Worth woman accused of theft. A month after her release on personal bond, she was arrested and accused of aggravated assault with a deadly weapon. The two suspects, like the others, avoided having to pay a bondsman to guarantee they would show up in court.

All told, of the 8,814 defendants released through the program from 2010 through May this year, nearly 1 in 5 was arrested on a felony accusation, such as drugs, assault/injury crimes, burglary, fraud and thefts.

The other 80 percent were accused of misdemeanor crimes, which may include assault, drugs, theft and drunken driving, records show.

County pretrial officials distance themselves from any problems with the program, saying they don't have the authority to approve any pretrial releases. Criminal court judges call the shots, they say.

"Pretrial does not have the authority, nor do they attempt to exercise it to release anyone," County Administrator G.K. Maenius said. "That has to come from either a magistrate, which is a judge, or one of those county criminal judges or district judges."

Judges, however, say the county pretrial services department runs the program.

Their only input, the judges say, was to provide the pretrial department with an exclusion list as a guideline. The list delineates types of cases not to be considered for pretrial release - among them prostitution, burglary of a habitation with intent other than theft, aggravated robbery and assorted drug charges.

And, although release decisions are a judge's discretion, the judges said they rely on the county pretrial staff to dig into the defendants' criminal history and vet the case.

That's one way the program may be deeply flawed. The *Star-Telegram* found that Tarrant County does not use an objective risk-assessment report card to decide whether the defendant is likely to flee or pose a threat to public safety.

Without such a risk assessment tool, a judge has no way to evaluate whether a defendant should be released, said Cynthia Jones, former deputy director of Pretrial Services Agency in Washington, D.C., the nation's largest pretrial agency.

"If they don't know the risk to the community of releasing this defendant," she said, "then are they going to make that decision based on what you'd call their spidey sense?"

Maenius, who reports to the county Commissioners Court, says it's unnecessary, at best, to gauge risk for each defendant.

Murderers and rapists stay locked up in Tarrant or must pay a bondsman to secure their release, Maenius said. The majority of pretrial releases, he said, are for minor offenses.

"If this was a pretrial effort where anybody and everybody that committed any type of offense was released, that might cause us to want to look more at individual risk issue," he said. "But because of the type of offense that we're allowed to work, plus the criteria those individuals are required to meet, those risks are minimized."

"Frequent fliers" go free

If it's no big deal to have your mug shot taken, wear handcuffs and sleep in a cell, you likely have won the title of "frequent flier" at the Tarrant County courthouse.

Those are the people in and out of jail, as if it were a revolving door.

They include people like a 52-year-old Fort Worth man who got his fourth drunken-driving charge in April 2011.

And an Ennis 19-year-old with multiple drug charges, including possession and sales.

And a 34-year-old Fort Worth man accused in recent years of assault with bodily injury of a family member, possession of marijuana and drunken driving.

- Criminal District Court No. 2: Judge Wayne Salvant
- Criminal District Court No. 3: Judge Robb Catalano
- Criminal District Court No. 4: Judge Mike Thomas
- 213th District Court: Judge Louis Sturns
- 297th District Court: Judge Everett Young
- 371st District Court: Judge Mollee Westfall
- 372nd District Court: Judge Scott Wisch
- 396th District Court: Judge George Gallagher
- 432nd District Court: Judge Ruben Gonzalez

[Some say Tarrant pretrial release program has lost its way](#)

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and other crimes over the past 15 years, was handed a personal bond approved Dec. 8, 2010.

Brown, the program director, says the system the pretrial office uses to vet defendants works well. It requires a defendant to fill out a one-page questionnaire, known as a "data form," and send it to the office. Defendants can also be interviewed by telephone or at the jail.

The key, Brown said, is to call references listed by the defendant to verify that the submitted information is accurate.

"Basically, that's what we're looking for and making sure those things are in place, that they have a stable environment and they've been in this area for several years," Brown said.

But the *Star-Telegram* found that the vetting of defendants for the pretrial program is unreliable.

Some compare the data form to a job application form. It asks for name, address, phone number, references, an employer's name and prior arrests. To check criminal history, the office restricts its research to the computer system for the county's criminal justice system.

Pretrial staff members say they interview defendants who are booked in at the county jail. But that could amount to no more than handing the accused a clipboard with a data form.

For the most part, staff members don't even see defendants at the county's 32 suburban jails. In those cases, defendants are led through what is called a "fax interview."

It works like this: The defendant fills out the data form. It is faxed to the pretrial office. The office approves the defendant. A fax of the bond is sent back to the defendant. The defendant signs the bond and faxes it back to the office, and agrees to report to the office in 24 hours and pay the bond amount.

But there's nobody to make sure the defendant returns. In some cases, the district attorney may decide months later not to file a case.

That approach is different than methods used by pretrial programs elsewhere.

In those programs, the questions the defendant faces are an investigatory exercise. Are you a legal citizen? Do you have a history of substance abuse? Have you a mental illness? Do you have prior convictions of family assault or violence? Do you have a job? How long have you been at your job? Are you married? Do you pay child support? Are you behind in your child support payments?

"Our decisions are not like a job application," said Irma Guerrero, who works with the pretrial program in Travis County.

All interviews are conducted by staff members, and a number of jurisdictions require that they be done face to face.

The defendant's rap sheet includes an investigative checklist, affidavits and criminal histories based on state and national criminal databases.

After all the information is collected, the defendant is judged based on a point system. The more points, the riskier the defendant ranks on a scorecard and the more oversight is recommended.

A defendant, for example, who committed a crime before age 33 receives a point.

"The younger you are when you began committing crimes, the riskier you are going to be," Guerrero said.

She said it takes "a good year" for a pretrial staff member to gain the experience to make solid recommendations. It takes that long to feel at ease, she said.

"We do take a lot of data into account," she said. "We have training documents in our offices about what are the red flags."

But once the Travis County staff members make a recommendation, judges "have the appreciation that they are going to sign off on a good bond," she said. "No judge wants to hear the next day a story in the paper that they released the wrong person."

Dennis Potts, assistant director of Harris County Pretrial Services, said Tarrant's focus on the nature of the offense is the wrong way to make a determination.

"The charge isn't going to mess up," Potts said. "It's going to be the person."

Staffers have to dig into the person's background, warts and all, he said.

"If you're going to fulfill this role of giving the courts information of how someone would perform, you would gather as much information as you can to the extent that you can so you would want to characterize the risk this person presents to the community and to failing to appear," he said.

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"The judges regularly use risk assessment tools to good effect in supervising people on probation and in diversion programs," they wrote in response to *Star-Telegram* questions.

Brown and others running the county program say the judges have not asked for a special tool to evaluate risk.

"That's been talked about over the years, but it's not something we have done at this point," Brown said. "We've just followed judges' guidelines."

County officials also point out that Tarrant isn't the only jurisdiction in the nation that doesn't use a risk tool. They are also adamant that it's unfair to compare Tarrant's program with others, because every jurisdiction has different needs.

Who's to blame? Depends

So who decided to release the frequent fliers?

It was the judges, the county says.

The suspect accused of aggravated robbery?

It was the judges.

The one who was accused of aggravated assault of a family member? Escape? Drug dealing?

A judge, not the county's pretrial staff, makes the decision, Maenius said.

Although the county runs the program, county officials are quick to shift responsibility to the judges, emphasizing that the county has no power to bar the release of defendants who don't meet the eligibility standards.

Eligibility is supposed to be restricted to those who live within 50 miles of Tarrant County. But records show that pretrial release has been granted for suspects from places like Strawn; Littleton, Colo.; and New Llano, La.

Who is responsible for that?

That's the judges, too, the county says.

"If it is outside a 50-mile radius, most likely that bond is going to be ordered by the judge," Brown said.

County Commissioner J.D. Johnson added: "They are the ones who make the decision on who qualifies for pretrial release and who doesn't. It's not G.K. or the Commissioners Court or even pretrial release. It's the judges."

Judges, in turn, reiterate that since they don't run the pretrial program, they depend on the evaluations and recommendations by the county pretrial officers.

Tarrant judges would like to run it, though.

In their written response, the judges said the program would have better oversight if the judiciary controlled pretrial release.

"The Tarrant County judges have been leaders in using national best practices to improve the criminal justice system and have not been satisfied with the status quo," they wrote. "The judges have a history of research and thoughtful innovation and would address pretrial release in the same way."

With early access to the incarcerated, judges said, they could use risk assessment tools to identify defendants best-served by specialty programs and get better outcomes for low-level offenders.

Under the bench's control, they wrote, there would be faster access to indigents in jail, so a faster decision could be made on release.

"The courts believe that an efficiently operated pretrial bond office could also decrease the amount of money spent by the county on court-appointed attorneys," they wrote. "A defendant on pretrial release would have more funds to pay his own attorney."

Judges and county officials have discussed administrative control of the pretrial program. But the county is wary.

Years ago, when judges did control the process, Maenius said, the jails were flooded with inmates.

He said he approached the director of pretrial, who reported to the judges, to ask for an expansion of the program hours. He wanted the pretrial office to open on Saturdays and evenings.

But Maenius said he was rebuked.

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"We choose to keep it ourselves," Maenius said. "We're a player in this process, and we have an influence on that jail population."

County Judge Glenn Whitley would be OK with another program to serve those who would otherwise stay locked up if they can't afford bail. But there isn't an alternative, he said.

"When a second-degree felon gets out," he said, "it makes me just want to kill the program altogether."

Crimes the suspects were accused of

From 2010 through May this year, 8,814 suspects were freed from jail under Tarrant County's pretrial release program. Here are the types of accusations lodged against them.

Felonies

Charge category	Percentage
Assault/injury offense	1.6 percent
Sex crimes	< 1 percent
Burglary of a habitat	13 percent
Aggravated robbery	<1 percent
Arson	< 1 percent
Engaging in organized crime	< 1 percent
Other property crimes	< 1 percent
Thefts	13 percent
Drug sale/manufacture	4 percent
Drug possession	36 percent
Drug-free zone	2 percent
DWI	< 1 percent
Weapon offense	2 percent
Fraud	23 percent
Bribery	< 1 percent
Evading arrest/detection	< 1 percent
Unauthorized use of motor vehicle	> 1 percent
Harassment of a public servant	< 1 percent
Impersonation	< 1 percent
Illegal dumping 1,000 pounds-plus	< 1 percent
Obstruction/retaliation	< 1 percent
Other	< 1 percent

Source: Tarrant County records

Misdemeanors

Charge category	Percentage
Assault	14.3 percent
DWI	20 percent
Thefts	30.4 percent
Trespass	2.4 percent
Weapon offense	2.2 percent
Drug Offense	16 percent
Terrorist threat	< 1 percent

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Resisting/evading arrest/detention/fleeing	2.9 percent
Alcohol to minor	< 1 percent
Driving without license/traffic	1 percent
Failure to ID	3.6 percent
Other	2.8 percent

Source: Tarrant County records
 Yamil Berard, 817-390-7705

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