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Instructor's Guide and Test Questions
Pretrial Bond, Bail, and Diversion

ABSTRACT

Pretrial has been identified as one of the most important decision points in the criminal justice system. The decision to release an offender from jail prior to their trial has been linked with the likelihood that a defendant will be found guilty, be sentenced to prison, and receive a longer prison sentence controlling for legal variables. Pretrial decisions are not easy. Judges and magistrates have a significant number of factors to consider in a short period of time. This chapter will first examine the history of pretrial services and discuss how the system has come to rely heavily on money bail. From there, the chapter will provide a review of pretrial risk assessments and the intersection of seriousness and risk. A discussion of ways in which the defendant can be released follows and then the chapter ends with a discussion of pretrial supervision and pretrial diversion programs.

KEYWORDS

Actuarial assessment
Bond
Bail
Commercial bonds
Failure-to-appear
Manhattan Bail Project
Money bonds
Pretrial diversion
Pre-arrest diversion
Post-arrest diversion
Post-conviction diversion
Release conditions

TEST QUESTIONS

1. What is the underlying reason defendants are offered pretrial release?
*a. presumed innocent
b. cost too much
c. not enough jail beds
d. none of the above
2. Which of the following reasons makes pretrial release decisions important?
a. defendants who remain in jail get harsher sentences
b. defendants who remain in jail get convicted at higher rates
c. defendants who remain in jail are likely to get less time in prison
*d. a & b
3. What are the two key services offered by pretrial agencies?
a. fee collection and supervision

- b. employment placement and assessment
 - *c. supervision and assessment
 - d. housing and supervision
4. _____ bond is a type of release in which the defendant puts up his or her own money to ensure appearance in court.
- a. commercial
 - b. personal recognizance
 - *c. money/cash
 - d. surety
5. The Manhattan Project was designed to ensure that defendants received a fair trial.
- a. True
 - *b. False
6. Prior to the Vera Institute's findings in 1964, the only way a defendant was able to be released from jail was through cash or commercial bonds.
- *a. True
 - b. False
7. With the "Get Tough on Crime" era, release decisions were now concerned about failing to appear and _____.
- a. Guilt versus innocence
 - *b. risk of harm to the community
 - c. Ability to pay
 - d. rights of the defendant
8. Preventative detention is defined as "denying release to a defendant because they are considered a harm to others".
- *a. True
 - b. False
9. Pretrial release can occur at which of the following decision points
- a. arrest
 - b. jail booking
 - c. sentencing
 - *d. a & b
 - e. all of the above
10. Check all that apply. Pretrial assessments generally take into consideration the following:
- *a. number of prior arrests
 - *b. seriousness of offense
 - *c. history of appearance in court
 - d. gender
 - e. race



- f. ability to pay
- *g. employment status
- e. age

11. What are the two primary ways to get out of jail on pretrial status?

- a. personal recognizance and limited probable cause
- b. probable cause and money bond
- *c. personal recognizance and money bond
- d. money bond and sentencing

12. The purpose of pretrial services is to help defendants with long-term needs and provide reentry services.

- a. True
- *b. False

13. Pretrial diversion programs are offered because the person is not guilty?

- a. True
- *b. False

14. Pretrial diversion are usually offered in lieu of a conviction or result in a reduced sentence?

- *a. True
- b. False

CRITICAL THINKING QUESTIONS

1. Why is the pretrial release decision an important component of the criminal justice system?
2. Discuss the pros and cons of money bonds as a determination of pretrial release.
3. How would you create a fair pretrial release system?
4. Should states allow commercial bonds and why?
5. What should be the purpose of pretrial release? To protect the community, ensure return to court, both, or neither?
6. Should defendants be required to go to treatment while on pretrial status? What if they are not guilty?
7. Should the system offer pretrial diversion programs? Who should be eligible?



8. If a person commits a crime, should they be given an opportunity to avoid a conviction and why?

OTHER TEACHING AIDS

Case Review #1: Reggie is 23 years old. He was pulled over for driving a car with expired tags. When the police pulled him over it was discovered that he did not have a valid driver's license. He was arrested and booked into jail. He has no prior arrests and is employed at a local electronics store.

Case Analysis: Should Reggie be released pretrial? Should he be offered a pretrial diversion program? Pay a fine? Defend your answer.

Case Review #2: Cindy is 37 years old and has two children. She is a single mom and is looking for work. She had a job interview scheduled at 8:30 a.m. and did not have childcare. Cindy took her two young children with her to the interview and left them in the car. A police officer discovered the two children and Cindy was arrested for endangering her children. Cindy has two prior misdemeanor convictions for drug possession and a theft conviction.

Case Analysis: If you were the judge, what would you do with Cindy at the pretrial release decision? Describe your decision and justify why you made that decision over other possible decisions.

Use PowerPoint slides for Chapter 2 to foster classroom discussion.

