



Mental Health and Justice in Cook County Bond Courts

An Examination of the Management of Persons with Mental Illness in Felony Bond Court



Prepared for the Administrative Office of the Illinois Courts

Behavioral Health Innovations

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**“This country will not be a good place for any of us to live in unless we
make it a good place for all of us to live in.”**

Theodore Roosevelt

Executive Summary

The trajectory of increasing numbers of persons with mental illness into the criminal justice system has been called a ‘national disgrace’. And the numbers of individuals with mental illness in Cook County jail has been reported to be as high as 30%, exceeding the national average. Behavioral Health Innovations, LLC (BHI) was commissioned by the Administrative Office of the Illinois Courts (AOIC) to examine opportunities to impact this trajectory in the pretrial phase of a defendant’s adjudication process. It is part of a larger initiative to reform pretrial services in this state and bond court reform more generally. The specific scope of this project involved: (1) documenting the current post-arrest, pretrial processes impacting persons with mental illness at Central Felony Bond Court in the First Municipal Court District and the five suburban municipal court districts; (2) examining national best practices in this area, and; (3) offering recommendations for improving the pretrial process for this population in felony bond in Cook County.

During the evaluation phase of this project, bond court was observed in all 6 municipal court districts in the county. In addition, BHI interviewed over thirty-five (35) key informants in the system including judges, public defenders, assistant state’s attorneys, Sheriff’s staff and Pretrial Services staff. A number of national experts were consulted throughout the course of the project.

Findings from the evaluation indicate significant differences in process and judicial ‘style’ in the large urban court (Leighton Courthouse-First Municipal District) as compared with the suburban courts. Notably, the volume of cases at Leighton makes it very difficult for the bond court judges to spend the amount of time hearing the facts of a case and questioning witnesses as observed in the suburban courts. This also held true when the detainees presented with a mental illness. Judges in suburban bond court as compared with Central Bond Court were observed, on multiple occasions, asking the attorneys, Pretrial officers, witnesses and sometimes the detainee him/herself about mental health history and treatment. Mental health background was rarely raised at Central Bond Court, even if mental health history had been self-reported by the detainee. Verification of self-reported mental health history has also been cited as a limitation.

There is variability among the judges in their perceptions of the role that either Pretrial Services should have in sharing a detainee’s mental health information directly to the court, or that judges should assume in inquiring about mental health background, particularly if defense counsel has not put this information into the court record. Some judges and defense counsel expressed concerns that the disclosure of mental health background in felony bond court would most often work against low risk detainees and suggested that defense counsel should determine what, or if mental health information should be shared with the court. Other judges felt strongly that they wanted this information shared with the court at all times. These divergent viewpoints have been the subject of debate in Cook County and around the nation.

The Cook County Sheriff reports that the numbers of persons with mental illness in Cook County jail have been reported on some days to be as high as 30%, exceeding the national average by over 10%.

It was also noted that currently mental health screenings are conducted by three separate agencies, and none of the information collected is routinely shared with other agencies or the court. This 'silo-ed' approach to information gathering is inefficient, burdensome and confusing to the detainee. This has led to inconsistent representations by the detainees to the agencies gathering the information and may jeopardize opportunities to afford the individual access to proper treatment and/or due process in their legal proceedings.

Other highlights of evaluation findings include limitations in the data collection and tracking systems, lack of role clarity for Pretrial Services in rendering release recommendations, resource issues in Pretrial Services for monitoring special release conditions for this population and a general lack of knowledge among stakeholders concerning the nature of mental illness and its relationship to the prediction of risk.

The central themes summarized above provided the framework for the recommendations that follow. It is important to note that additional consideration must be given to the management of this population in misdemeanor court. While observation and evaluation of bond court processes in Chicago's misdemeanor courts were beyond the scope of this project, focusing attention on opportunities for diversion and linkage into services in these courts show great promise for keeping these individuals from penetrating deeper into the system. There is considerable innovation taking place at this initial "intercept" that clearly warrants consideration for this system.

On a final note, the description of the assessment process, including the conduct of the risk assessment by Pretrial Services has been modified since the writing of this report in late June, 2015. A new risk assessment has been piloted effective July 1, 2015. Although the assessment tool has been changed and the process has been modified slightly to accommodate the use of the new instrument, the overarching themes and findings remain relevant for describing the management of persons of mental illness in this phase of their adjudication.

The following recommendations are presented for consideration:

Pretrial Interview and Assessment

Recommendations:

- 1. Encourage all police departments to consistently indicate mental health issues/concerns regarding the arrestee on the arrest report. Suburban courts should be encouraged to develop a plan, similar to Central Bond Court, to routinely disseminate arrest reports to the Sheriff and Pretrial Services before the arrestees are transported.¹**

¹ The recommendation comports with a recommendation cited in the Circuit Court of Cook County Pretrial Operational Review, Illinois Supreme Court Administrative Office of the Illinois Courts, in consultation with The National Center of State Courts, March, 2014.

2. Pilot an 'official' Mental Health Unit (MHU) in the courthouses to conduct targeted mental health screenings/evaluations. These evaluations may be used to inform judicial release/detention decisions, provide recommendations for special release conditions, facilitate linkages to community based providers as appropriate, and share information to facilitate treatment planning in detention, as necessary. To the extent possible, services of the MHU should be made available to the Domestic Violence bond court. The volume of cases anticipated will inform the size of the unit. For example, one full time staff (FTE) may be sufficient to provide coverage in the suburban courts, however at Central Bond Court, four or more staff may be necessary to provide adequate coverage at the Chicago Leighton Courthouse. (See Appendix 8 for proposed program and staffing plan)
3. Assess the feasibility of developing a process for the Mental Health Unit to obtain consents to secure medical/clinical information regarding prior mental health treatment of detainees.²
4. Develop a stakeholder process to gain consensus on what information concerning a detainee's mental health status shall be shared between agencies and with the Court. This may begin with a small group that includes Office of the Public Defender and the State's Attorney's office with leadership from the judiciary.
5. Review questions in the PSA-COURT supplemental interview to assure they are adequate to generate a referral to the MHU. Consider, for example, use of the Brief Jail Mental Health Screen, a validated instrument that takes two to three minutes to administer.
6. Given the number of cases involving persons with mental illness in Domestic Violence Court, investigate the feasibility of engaging Pretrial Services and or the Mental Health Unit, consistently, in Domestic Violence Court.

Pretrial/Bond Court Process

Recommendations:

7. In collaboration with expert consultants on the Model Bond Court Reform Initiative and/or an academic setting, develop empirically based protocols for consideration by the court, as necessary, on: (1) appropriate use of special conditions of bond for persons with mental

² Ibid.

illness;³(2) appropriate use of I-bonds with or without conditions but with referrals for treatment, and (3) develop an infrastructure and process for re-evaluating bond decisions for non-violent detainees with mental illness.

8. Investigate the feasibility of involving Pretrial Services and the Mental Health Unit in making recommendations for the Deferred Prosecution and other Diversion programs as well as the Problem Solving Courts for persons with mental illness.

9. Investigate and develop a plan to share mental health information between agencies in the interest of rapid information transfer to inform clinical interventions and/or the judicial process.

10. Expand the capacity of Pretrial Services to monitor special conditions of bond involving persons with serious mental illness. This may involve special hires and/or additional training. The MHU could have a role serving this function.

Bond Court Governance and Infrastructure Enhancements

Recommendations:

11. Develop a comprehensive training plan for judges, Pretrial Services staff and other stakeholders to educate them on issues related to mental illness, in general, the prediction of risk with this population and treatment options that could be considered as special release conditions.

12. Establish a process to cross reference the County/Court's Information Management System with the State Mental Health (IDHS-DMH) database in order to identify newly processed detainees with prior or current involvement in the public mental health system. This may begin with investigating the possibilities with expanding the use of Jail Data Link⁴ to include the pretrial process.

13. Examine feasibility of developing a plan to improve the Court's capacity to track defendants with mental health concerns through the system. This has typically been accomplished by including mental health 'flags' in the County/Court's Information

³ This is critical given the scientific evidence that overreliance on special bond conditions with low risk detainees is associated with pretrial misconduct. Consistent with the Risk-Need-Responsivity (R-N-R) models, those individuals classified as moderate to high risk are more positively impacted by special conditions of bond and have lower failure-to-appear (FTA) and re-arrest rates. As noted previously, the impact of mental illness as a moderating variable in predicting response to conditions of release warrants further examination, particularly with low level (misdemeanor) crimes. Additional jurisdiction/system specific data and analysis would be beneficial.

⁴ Jail Data Link is a database that links three sources of information: Division of Mental Health (DMH) Community Services Outpatient System, DMH Inpatient Admission Data and daily census files provided by the jails in participating counties in Illinois.

Management Systems allowing for quantifying detainees with mental illness and tracking cases through disposition. If executed, new data elements should be created in consultation with academic researchers who will design jurisdiction specific analyses on a variety of process and outcome variables. This should be done in collaboration with the Measures for Justice Initiative.

14. Develop a relationship with an academic institution to plan and conduct a program evaluation of the pilot Mental Health Unit. Program evaluation should be planned concurrently with the implementation plan.

15. Educate stakeholders on best practices including program innovations and legislative remedies that promote the rapid community re-integration of persons with mental illness interfacing with the criminal justice system.

Table of Contents

Introduction	9
Purpose, Scope and Method	12
Current Status of the System	15
National Best Practices	31
Recommendations	38
References	43
Appendices	46
Appendix 1 - First Municipal District.....	47
Appendix 2 - Second Municipal District	57
Appendix 3 - Third Municipal District	60
Appendix 4 - Fourth Municipal District	63
Appendix 5 - Fifth Municipal District	66
Appendix 6 - Sixth Municipal District	69
Appendix 7 - Texas Code of Criminal Procedure.....	72
Appendix 8 - Proposed Mental Health Unit (MHU).....	99

Introduction

It is estimated that 20-25% of the nation's jail population are persons suffering from a serious mental illness (Council of State Governments Justice Center, 2015). Locally, the Cook County Sheriff has suggested that these figures are even higher in the Cook County jail system reporting up to 30% of the jail population having a serious mental illness with the prevalence for female detainees being even higher (Chicago Tribune, 2014). The Treatment Advocacy Center, a national advocacy organization dedicated to timely and effective treatment of severe mental illness, released an article citing that ten times more individuals with serious mental illness are residing in jails than being treated in state hospitals. Further, they report that in 44 states, the largest institutions housing people with severe psychiatric disturbance are prisons or jails. These alarming statistics, both here in Illinois and across our nation have been called a 'national disgrace'. Most policymakers agree that a number of factors have played a role in creating this circumstance including de-institutionalization efforts dating back over 30 years, an under-resourced community mental health and social service system and a populous that has been conditioned to stigmatize and fear persons suffering from these illnesses. Despite the consensus on the abhorrent nature of this practice, real solutions have been slow to evolve.

In 44 states, the largest institutions housing people with severe psychiatric disturbance is a prison or jail.

Recently, however, a national spotlight has been directed on this issue. In the fall of 2014, U.S. Senators Al Franken (D-Minnesota) and John Cornyn (R-Texas) held a press conference in Washington, D.C. with the Council of State Governments Justice Center and National Association of County Officials to announce a 'call to action' to reduce the numbers of persons with mental illnesses in our county's jails, halting the practice of needlessly criminalizing this population. These efforts would not only result in better outcomes for the individuals but would also have the benefit of reducing the high costs associated with incarcerating these individuals better served by the healthcare system. The 'call to action' has led the way to the development of the Bureau of Justice Programs supported "Stepping Up" project with states and counties signing on to lead change in their jurisdictions. With technical support from the federal government and policy think tanks, these jurisdictions will be poised to be ambassadors for change for the rest of the nation.

In Cook County, elected officials have been extremely visible and vocal on the issue of 'criminalizing' persons with mental illness. The Sheriff, the County Board President, and the Chief Judge have all been recently cited in the press acknowledging the sheer gravity and often prejudicial nature of this practice. The Cook County Sheriff has been quoted as saying that it is an "embarrassment" that jails are the largest mental health providers, and decisive action is being taken. In May 2015, the Sheriff announced that a mental health professional would be the executive in charge of Cook County jail, drawing national headlines. Concurrently, the Cook County Board President nominated a new Public Defender who is described as an experienced public defender and a 'mental health professional' and the Cook County State's Attorney announced a new program to cease the prosecution of individuals in possession of small amounts of marijuana, an action that would directly impact this population.

The landscape in Cook County is poised for significant advancement on this issue. And the recent awarding of a planning grant by the MacArthur Foundation to reduce the jail population in Cook County further signals that the county leadership is prepared to work collaboratively in the interest of creating real change.

The opportunities for diverting persons with serious mental illness can occur across the criminal justice continuum beginning with pre-arrest, to arrest and detention, bond court, arraignment, trial and sentencing. Over the past several years, there have been considerable advances in pre-arrest diversion and post detention linkage through the proliferation of crisis intervention training (CIT) with police and diverting individuals with mental illness in the pre-arrest phase, and the post detention programs designed to link individuals to public benefits and then to appropriate clinical services. Post-arrest, initial detention, presentation before the judge at bond court, often referred to as the pretrial process, present additional opportunities for diversion and are the focus of this report.

One of the major decision points in the pretrial process is the decision by the courts either to allow the detainee to remain in the community while awaiting trial for criminal charges or be detained in the jail throughout the criminal proceedings. This 'bond court' decision is exclusively about predicting the likelihood that the defendant will return to court for trial and will not engage in criminal activity while awaiting trial. The amount of the bail is designed to be commensurate with the gravity of the alleged offense. In Illinois, on occasion the amount of the bail is defined in statute, however most often it remains the discretion of the bond court judge.

The process of predicting which individuals are likely to return to court as directed, and not re-offend prior to the proceedings is complicated and remains an inexact science. That notwithstanding, a few jurisdictions have begun to adopt validated instruments to better predict a defendant's risk of failing to appear in court and re-offending. Cook County has been using an un-validated risk assessment for many years but, effective July, 2015, it is piloting a new instrument at the Leighton Courthouse. The instrument called the Public Safety Assessment-Court (PSA-Court) is also being piloted in two additional Illinois pilot sites; one in a collar county and one in central Illinois, and in other jurisdictions across the nation.

The prediction of risk in persons with mental illness is even more complicated and the science validating instruments that fully incorporate an individual's psychiatric history into the prediction of this risk is limited. That stated, many judges do want knowledge of the defendant's mental health history before rendering a decision in bond court, creating a great source of tension between defense counsel who are concerned that disclosure of this type of information to the courts may not always be in the best interest of the defendant, and the courts who want all 'relevant' information disclosed. This 'tension' is at the center of a debate that is occurring not only in this jurisdiction, but also around the nation.

The bond court process has also been criticized because it appears to be biased against poor people and people with mental illness. In fact, some jurisdictions have begun to eliminate the requirement of a defendant to pay bail to demonstrate his or her commitment to return to court. Persons with mental illness often have both the issue of poverty and stigma working

against them as they first appear in court and face their initial judicial decision. The Council of State Governments has reported that the number of persons with mental illness who remain in detention at Bond court is disproportionately high and the effects are devastating. Recent studies have reported that the length of an individual's detention prior to trial is predictive of re-arrest and re-incarceration. This is true even for the types of non-violent low level offenses typically associated with persons with mental illness.

These issues are highlighted simply to exemplify the complexity of the issues at hand. And while the challenges are great, the opportunities are greater. With the current leadership alignment on these issues and the passion for change demonstrated by these leaders in all sectors of the criminal justice system, Cook County is poised to be a national leader, leveraging and even spearheading the zeitgeist and creating a justice system that is fair and deliberate in its treatment of persons with mental illness. This report will hopefully contribute to the dialogue and to the solutions.

Purpose, Scope and Method

The Administrative Office of the Illinois Courts (AOIC), under the leadership of Michael Tardy, is responsible for coordinating and guiding the operations of its six Administrative Office Divisions including Administrative Services, Civil Justice, Court Services, Judicial Education, Judicial Management Information Services and Probation Services. The AOIC also serves as a central resource for the myriad of operational issues that impact the administration of the judicial branch of government in Illinois. In advancing the work of the Supreme Court's Pretrial Services and Bond Court Project, the AOIC retained the services of Illinois based Behavioral Health Innovations, LLC to conduct the following scope of work:

1. Conduct a review and document current processes in bond court at the First Municipal District, referred to as Central Bond Court at the Leighton Criminal Courthouse at 2600 South California Avenue in Chicago, and the 5 suburban municipal court districts (Skokie- District 2, Rolling Meadows- District 3, Maywood- District 4, Bridgeview- District 5, Markham- District 6) with a focus on the management of detainees with mental illness. It is important to note that misdemeanor cases are not heard at the First Municipal District Felony Bond Court on weekdays, but are heard before bond court judges in the suburban locations. As such, reviewing the misdemeanor bond court process of persons with mental illness in the First Municipal District is beyond the scope of this project.

2. Conduct a scan of national best practices to inform insights and recommendations on improving pretrial processes for this population in Cook County; and

3. Offer recommendations for improvements in the Bond court process for persons with mental illness with the goal of rapidly re-integrating these individuals back to their communities for treatment and other services, reducing the burden on the system's jails while ensuring the public's safety.

The method was as follows:

Direct observation of operational proceedings:

- Direct observation of pretrial intake processes and bond court at Central Bond Court (Felony Bond Court at the Leighton Courthouse- Chicago), and at the five suburban courthouses. Pretrial officers were observed conducting interviews with detainees at the holding cells in each courthouse. The pretrial intake teams were observed organizing the work for the day and both staff and supervisors were interviewed.
- Direct observation of the screening process by the Sheriff's Office of Mental Health team at Division 5 Intake.
- Direct observation of the mental health interview process by designees of the Law Office of the Public Defender. This included interviews with the Safer Foundation staff and the Thresholds team.
- Direct observation of the bond court proceedings at Central Bond Court and the five suburban municipal district courts.

- Case tracking of several detainees self-reporting mental illness during the pretrial interview through first appearance in court.

Local key informant interviews of professionals currently operating in the system:

- Interviews with 10 pretrial services staff in the six municipal districts
- Interviews with 3 public defenders (Markham, Leighton courthouse) and 4 members of the Thresholds and Safer Foundation staffs
- Interviews with 2 assistant state's attorneys (Leighton courthouse)
- Interviews with 10 judges in Chicago and the five suburban Municipal Court Districts
- Interviews with 2 members of the Sheriff's staff
- Interviews with 4 members of the AOIC staff

The following local and national experts were interviewed and consulted:

National Experts

- Council of State Governments Justice Center, New York, New York
 - Fred Osher, M.D.
 - Hallie Fader-Towe, J.D.

Consulted on national best practices in pretrial services and Bond Court reform for persons with mental illness; BHI worked collaboratively with CSG as they worked with national stakeholders to develop a white paper on Pretrial Mental Health Essential Elements, previewed at the 2015 NASPA conference. Discussed pretrial risk assessment and jail assessment with Dr. Osher, co-author of the Brief Jail Mental Health Screen.

- Alex Holsinger, Ph.D., University of Missouri-Kansas City, Kansas City, Missouri
Consulted on a local pretrial risk assessment and pretrial reform in Johnson County, Kansas.
- George Rickman, Esq., Private Defense Bar, District of Columbia
Consulted on D.C. Court system, pretrial services and court based mental health assessment from perspective of the defense bar.
- John Volpe, LCSW, New York City Department of Health and Mental Hygiene, New York
Consulted on New York City's innovations in pretrial diversion and the Brooklyn Red Hook Community Justice Center.
- Aiesha Murphy, J.D., Assistant Public Defender, Office of the Public Defender, District of Columbia
Consulted on D.C. Court system, pretrial services and court based mental health assessment from perspective of the defense bar.

- Michael Lozito, Office of the County Manager, Bexar County, Texas
Consulted on reforms in pretrial justice in Bexar County and the legislation that facilitated those reforms.
- Steve Baron, Mental Health Consultant, Washington, D.C.
Consulted on the urgent care clinic within D.C. Superior Court.
- Brian Hepburn, M.D. Commissioner of Mental Health, Baltimore, Maryland
Consulted on the SMART web-based tool for providing real-time client information to the Courts.

Local Experts

- Mark Heyrman, J.D., Mandel Legal Aid Clinic, University of Chicago Law School
Consulted on mental health and law and current relevant statutes.
- Anderson Freeman, Ph.D., Forensic Clinical Services, Division of Mental Health, Illinois Department of Human Services
Consulted on the Jail Data Link project and data sharing between criminal justice and mental health agencies.
- Theodora Binion, Director, Divisions of Mental Health and Alcohol and Substance Abuse, Illinois Department of Human Services
Consulted on mental health and substance abuse policy, and workforce and service capacity in Cook County.

Current Status of the System

There are several agencies involved in the adjudication of criminal defendants beginning with arrest and culminating with disposition of the case through the judicial process resulting in either release to the community or detention in the Department of Corrections. This report is limited in focus to the pretrial phase of the adjudication process and is based on a review of the felony bond court process in Chicago and all bond courts in the suburban municipal districts. The review of misdemeanor bond courts in Chicago, though beyond the scope of this project, is critical to advancing a strategy to reduce the needless incarceration of low risk persons with mental illness. Further, there is general consensus that investment in approaches that target the earliest ‘intercepts’⁵ show the most promise for averting the practice of ‘criminalizing’ this population and attenuating the impact of overcrowded jail populations on already constrained county budgets.

This section will start with brief descriptions of the relevant governmental entities and proceed to highlighting the process and experience of a detainee following arrest through initial detention and subsequent ‘first appearance’ in court. Particular attention is given to the process as experienced by detainees with mental illness. Brief mention is made of the procedures that may ensue following bond court and prior to the case assignment to the trial courtroom. Detailed flow charts depicting these operational processes at felony Central Bond Court in Chicago as well as the suburban municipal courthouses are referenced and appended (See Appendices 1-6).

Police Agencies

Under the jurisdiction of the Mayor of Chicago, The Chicago Police Department (CPD) is the principal law enforcement agency of Chicago. It is clearly the largest police agency in Cook County and in fact, is the second largest non-federal law enforcement agency in the United States behind the New York City Police Department. Under the leadership of Superintendent Garry McCarthy, the CPD has 22 districts across the city and structures operations through four bureaus: Bureau of Patrol, Bureau of Detectives, Bureau of Organized Crime, and Bureau of Support Services. The CPD has approximately 12,000 officers and 1900 employees.

In 2012 by special order, the CPD established the Crisis Intervention Team Program (CIT) in recognition of the role police officers could play in assuring the ‘dignified treatment and safety of arrestees in need of mental health evaluation and treatment.’ The highly acclaimed citywide program affords officers crisis intervention training on mental health issues and facilitates district-level responses to mental health-related incidents.

⁵ The Sequential Intercept Model is a framework for understanding how persons with mental illness interface with the criminal justice system. First developed by Mark Munetz and Patricia Griffin in 2006, the model highlights a series of points, or intercepts, where interventions can occur to prevent individuals from entering and moving through the criminal justice system.

The five suburban municipal court districts service over 100 local cities and villages in their respective districts. Many cities and villages have distinct local police departments that interface with the municipal courthouse on a daily basis.

Cook County Sheriff's Office

The Cook County Sheriff's Office, under the leadership of Sheriff Thomas Dart, has fourteen (14) administrative departments including the Cook County Department of Corrections (CCDOC), Courts, Office of Mental Health Policy and Advocacy, Reentry and Diversion, and the Sheriff's Police to name a few. The CCDOC is one of the largest single site county pre-detention facilities in the United States. Primarily holding pretrial detainees, the Department admits approximately 100,000 detainees annually and, according to the CCDOC website, averages a daily population of 9000. While in recent months the jail population has decreased, the Sheriff continues to report high percentages of detainees with mental illness. Through screenings conducted of detainees prior to their court appearance, the Sheriff estimates that on any given day, 25-30 percent of the inmates at Cook County Jail suffer from mental illness. It is noteworthy that there is no robust means for collecting and tracking persons with mental illness from the point of arrest and throughout their adjudication process. The majority of detainees with mental illness are detained for nonviolent offenses related to their illness and would be better served by being linked to an appropriate treatment setting rather than 'criminalized' and detained in the county jail.⁶ Sheriff Dart recently received national attention for his recent appointment of a clinical psychologist to lead the CCDOC.⁷

Cook County State's Attorney's Office

The Cook County State's Attorney's Office, under the leadership of Anita Alvarez, is the second largest prosecutor's office in the nation, second only to Los Angeles. The Office is responsible for the prosecution of all misdemeanor and felony crimes committed in Cook County. The Office employs over 900 attorneys and is divided into seven bureaus including Criminal Prosecutions, Juvenile Justice, Narcotics, Special Prosecutions, Civil Actions and Investigations and Administrative Services. The Criminal Prosecutions Bureau has several divisions including Felony Trial, Sex Assault, Domestic Violence and Community Justice to name a few. The Narcotics Bureau consists of units such as Preliminary Hearings/Grand Jury, Felony Trial, Narcotics Courtrooms, and Drug Treatment Programs to name a few. The Investigations Bureau has more than 120 sworn officers who provide investigative and logistical support to Assistant State's Attorneys.

⁶ See <http://www.cookcountysheriff.com>

⁷ Nneka Jones Tapia, Psy.D., a clinical psychologist, was appointed Executive Director of Cook County Department of Corrections making national headlines. Dr. Jones Tapia previously served as 1st Assistant Executive Director at the jail.

Law Office of the Cook County Public Defender

An office under the President of the Cook County Board, the Law Office of the Public Defender ‘defends poor people in one of the largest unified court systems in the world.’ Under the leadership of recently appointed Public Defender, Amy Campanelli, the Office has several divisions including Felony Trial, Civil, Investigations, Juvenile Justice, Legal Resources (Appeals and Post-conviction). The Law Office of the Public Defender has approximately 500 attorneys.

Office of the Chief Judge

The Office of the Chief Judge, under the leadership of Judge Timothy Evans, oversees the Circuit Court of Cook County, the largest of the 24 judicial circuits in the State of Illinois and one of the largest unified court systems in the world. The court system is made up of more than 400 judges and 2000 employees including probation officers, court reporters, interpreters, social workers, and others. Organized into three functional departments, County, Municipal, and Juvenile Justice and Child Protection, more than 1.2 million cases are filed in these county courts each year. The court has divided Cook County into six geographic sub-districts allowing the court to better serve the county’s large population. The Circuits six districts and the areas they serve are:

Six Circuit Court Districts and the Areas Served

First Municipal District	City of Chicago	Leighton Criminal Courthouse and Branch Courts
Second Municipal District	Northern suburban Cook County	Skokie Courthouse
Third Municipal District	Northwestern suburban Cook County	Rolling Meadows Courthouse
Fourth Municipal District	Western suburban Cook County	Maywood Courthouse
Fifth Municipal District	Southwestern suburban Cook County	Bridgeview Courthouse
Sixth Municipal District	Southern Cook County	Markham Courthouse

The First Municipal District, operating its primary Criminal Court location at 2600 South California Avenue, also serves the residents of Chicago at 14 branch court locations throughout the city. Each of the six districts has a presiding judge responsible for the operations and court calls in that district. There are also presiding judges over the divisions that include Chancery, County, Criminal, Domestic Relations, Domestic Violence, Law, Elder Law and Miscellaneous Remedies, Probate, Juvenile Justice, Child Protection and Juvenile Justice and Child Protection Resource Center.

Pretrial Services, a division of the Adult Probation Department, was established, in 1990, in response to a need to reduce the rate at which defendants were failing to appear in court and to create alternatives for consideration by the courts for the thousands of pretrial defendants in jail. Pretrial Services officers conduct voluntary interviews prior to a defendants’ bond hearing

to gather information that will assist the court in making more informed decisions about bond, and if applicable, the conditions of pretrial supervision. This is done to mitigate the risk of failure to appear in court proceedings and safety to the community. Pretrial supervision allows defendants to be monitored in the community while awaiting trial. Officers will monitor defendant's compliance with conditions of bond and through guidance, surveillance and referrals to appropriate service providers, assist defendants in meeting these conditions.

Selecting from a variety of sanctions, the court can impose conditions that address the particular risks and needs of each defendant as informed by the use of a pretrial risk assessment tool. In addition to being required to report to a pretrial officer, defendants can be required to:

- Comply with home confinement or curfews;
- Submit to drug testing;
- Undergo alcohol/substance abuse treatment;
- Avoid contact with victims and complaining witnesses;
- Maintain employment;
- Attend psychiatric counseling;
- Provide verification of residence;
- Refrain from possessing a firearm;
- Participate in educational or vocational programs.

Pretrial Services officers keep the court apprised of the defendant's compliance by providing status reports at each court hearing.

The First Municipal District - Leighton Criminal Courthouse (See Appendix I depicting operational flow for the suburban courts in Municipal Districts 2-6)

The First Municipal District processes thousands of criminal defendants on a weekly basis. It is the largest of the six municipal districts in Cook County. This district is the home of seven Problem Solving Courts including the following: RAP/WRAP Drug Court Program, Youth Offender Drug Court Program, Men's Mental Health Court, Women's Mental Health Court, Women's Co-Occurring Mental Health Court, WINGS (Prostitution) Court and Veteran's Court. It is also the pilot site for a Felony Deferred Prosecution Program.

It is important to note that the felony bond court operates out of the Leighton Courthouse. Misdemeanor and domestic violence bond courts, however, occur at the local branch courts in the district with the exception of weekends and court holidays. This is the only municipal court district in the county that has structured its operations in this way. The remaining and considerably smaller municipal court districts all operate misdemeanor, felony and domestic violence courts out of a single courthouse.

Intake:

Individuals who have been arrested by the Chicago Police Department are transported to Division 5 of the Cook County Jail by approximately 8:00 am each weekday where they are processed and placed into holding cells. A range of 65-100 individuals are booked into the holding cells on a daily basis. During the Sheriff's intake process, the detainees are separated by gender and then subsequently triaged again, based on severity of the alleged offense and clinical status. For example alleged perpetrators of specific violent crimes (murder, felony sex offences, high profile crimes) are placed into single cells. In addition, individuals who may be aggressive or actively psychotic may be placed into single cells. The remaining detainees are placed into large congregate cells to await assessments by Pretrial Services and interviews with the Public Defenders. Most also receive a mental health screening by Sheriff's staff however, due to scheduling and time constraints, this is not assured for every detainee.

On occasion, a detainee with an acute medical issue, including those experiencing acute psychiatric emergencies may require immediate medical attention. In these instances, 911 is contacted and the Sheriff's staff will accompany the detainee to the hospital and remain there until the individual is stabilized and is able to continue with his/her legal proceedings. Rarely bond may have to be established in the absence of the individual in these circumstances to meet the constitutionally required timelines for setting bail.

Arrest packets including the arrest report and complaint, the CLEAR⁸ report, criminal history and arrest warrants, as applicable, are prepared by the Chicago Police Department and accompany the detainee to Division 5. Packets are subsequently distributed to the Circuit's Clerk's office and the State's Attorney's office. The Sheriff's staff makes copies of the arrest report for dissemination to Pretrial Services and the Public Defender's Office. On occasion, arrest reports will indicate that a mental illness is suspected, but it is unclear how often this occurs, and if or how the information is subsequently used.

Assessment/Interviews:

Pretrial Services

Pretrial Services officers are the first professionals to see the detainees following intake by the Sheriff's staff. The triage team, comprised of three officers assigned on a rotating basis, organizes the workload each day using the reports from the Sheriff's office. A transmittal document from the Chicago Police Department (CPD) provides the names of detainees for Central Bond Court to Pretrial Services up to one day before the hearing. This Pretrial Services team prepares a log that is used to track officer assignments and the status of each case from assignment to disposition in bond court.

⁸ CLEAR (Citizen Law Enforcement Analysis and Reporting) is the criminal data collection and reporting system used by the Chicago Police Department and other Cook County municipalities.

Sheriff's officers bring each detainee as called to a central interviewing location in the Intake section of the holding area. Males and females are interviewed in separate areas. Using a structured interview form, pretrial officers conduct these voluntary interviews with each detainee. The Sheriff's officers escort males to a large glass enclosed booth with Pretrial Service officers seated on the inside and the detainees seated on the opposite side. At the time of this report, the interview took approximately 6-10 minutes and two sections of the interview were dedicated to mental health and substance use history directly. (Note, this process has changed since the implementation of the pilot using the PSA-COURT). The nine mental health questions inquired about current and past mental health history and current medication use; the seventeen questions dedicated to substance use history inquired about drug and alcohol use, arrest history related to use, and treatment history. Inconsistently, some pretrial officers may share the reporting of mental health history with staff of the Sheriff's Office of Mental Health Policy and Advocacy who are located proximately to the intake area designated for Pretrial Services and who are next to interview the detainees.

The Sheriff

The Cook County Sheriff's Office of Mental Health Policy and Advocacy has detailed clinical staff and interns from local professional schools of psychology to the intake area to screen detainees for symptoms and history of mental illness. The screenings take place at a counter located centrally in the general intake area. Each inmate's name is called and they stand at the counter where staff, located on the opposite side of the counter stand and conduct the screenings. The brief screening takes approximately two minutes and a more detailed interview follows if mental illness is self-reported. Although not directly observed, according to the Sheriff's staff, this information is subsequently shared with the Public Defender who has the discretion to disclose this information to the courts. Sheriff's staff assert that another equally important reason for collecting this information is to retain data on the numbers of individuals coming into the jail with mental health issues and to begin the planning process for their treatment should detention occur.

It is important to note that the Sheriff started this practice as part of a pilot in partnership with *Be Well Partners*, a care coordination entity that also provides crisis beds in Specialized Mental Health Rehabilitation Facilities (SMHRFs). The pilot project, that was never fully actualized, was to provide a structured treatment environment in the community for persons with mental illness released on bond. The Sheriff is now considering ending the pilot and the screening activities currently conducted in the intake area.

The Public Defender

Designees from the Public Defenders office are often the next to interview the detainees. The Public Defender has entered into a contract with the Safer Foundation⁹ to conduct these interviews along with several investigators on staff in the office. The interviews are conducted in a separate room with booths and chairs on either side. The detainees are seated on one side of the booth and the interviewer on the other side. Interviews are short in tenure and focus primarily on social and criminal history. If a mental illness is reported, the detainee is referred to Thresholds¹⁰, a community mental health provider contracted by the Public Defender to conduct brief clinical interviews with these individuals. These interviews are voluntary and at times occur without the defendant having a clear understanding of the reason/purpose of the interview. They also represent the **third time** some information is collected about the detainee's mental health and/or substance abuses history. In one observed instance, a detainee self-reporting a mental illness with the Pretrial Services officer gave more details about his mental illness when interviewed by the Sheriff's staff but chose not to disclose any mental health information to the Thresholds interviewer. When detainees do disclose mental health information to the Thresholds worker, the worker attempts to create a linkage plan to assure continued treatment either in the jail or upon return to the community. Information collected by all designees, including mental health information gathered by the Threshold's staff is made available to the public defender assigned to bond court for that day.

Case Preparation:

Pretrial Services

Pretrial Service officers, public defenders and assistant state's attorneys all prepare cases for the felony bond court call that commences at 1:30 pm each weekday afternoon. Judges are assigned to bond court on a rotating basis with six judges covering the court calls during each rotation. Pretrial officers take the information garnered during the interview and return to their workstations to collect the criminal history by accessing a number of databases including the CLEAR reports, the LEADS¹¹, and the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. With very limited time allotted to the task, they are also charged with

⁹ The Safer Foundation is one of the largest not-for-profit providers committed to addressing the needs of individuals with criminal records. Their major focus is to assist individuals in securing employment. Other primary services include case management and prevention education.

¹⁰ Thresholds is a non-for-profit providing mental health care and housing for persons with mental illness offering 30 programs including outreach, case management, employment, psychiatry, primary care, and substance abuse treatment.

¹¹ The LEADS is the Illinois State Police database that contains statewide criminal history information, including data from the CLEAR system.

verifying information collected during the interview. This would include living arrangement, employment status and past treatment for mental health and substance abuse issues. Pretrial officers note that it is difficult to verify mental health and substance abuse treatment histories in the absence of signed releases of information by the detainees. Currently there is not a provision for securing signatures authorizing these releases electronically or otherwise. Typically verification of treatment can only be derived by interviews with significant others. Finally, it is unclear how much time is available for any significant information verification due to the volume of cases for each officer and the short window of time allotted to prepare the cases. Following all data collection and information verification, officers complete and score the risk assessment that is presented to the judge in bond court.

The risk assessment as of the date of this report is comprised of nine items that are used to predict an individual's risk for 'failure to appear' (FTA) at subsequent court appearances and risk for re-offending. Items are scored and totaled with risk levels associated with scores between 0-2 at the 'low risk' level to 10+ at the high end. Additional 'qualifying' information is captured in nine additional questions not tallied in the risk score. Two items (one each) are dedicated to mental health and substance abuse history. Pretrial Services is in the process of piloting a new risk assessment tool in Central Bond Court at the Leighton Courthouse. The new proprietary instrument, the PSA-Court, has been piloted in other jurisdictions (e.g., Kentucky, Arizona, New Jersey) and will produce a risk score reportedly relying heavily on criminal history as a 'static risk' factor in predicting recidivism.¹² The score itself does not consider mental health diagnosis. An Illinois statute does allow for a supplemental interview with the detainee, with his/her consent. This information can go into a supplemental report to be appended to the risk assessment. The proposed mental health section in the supplemental interview format is quite limited and has been the focus of considerable discussion. The literature is fairly consistent in describing mental health diagnosis as a weak predictor of recidivism, although most studies have focused on correctional populations (Bona, Blais and Wilson, 2013). Based on recent experience in Community Courts, others, however, have questioned whether the "Big Four" best predict re-offending on the misdemeanor level. Further it has been stipulated that "when it comes to low-level and quality of life crime, it is quite plausible that substance use and mental illness are much more predictive of re-offending than, say, anti-social cognitions."¹³ It is clear, however, that more jurisdiction specific, and intervention and offense specific research is needed to shed further light on these issues.

¹² 'Static' criminogenic risk factors are those immutable factors associated with recidivism such as criminal history or history of substance abuse. Dynamic factors are factors that can change such as antisocial cognitions, antisocial associations, antisocial personality, also referred to as the "Big Four", and in accordance with the Risk-Need-Responsivity (R-N-R) paradigm, should be the target of interventions (See Andrews and Bonta, 2010).

¹³ Adler at http://www.courtinnovations.org/sites/default/files/documents/Community_Courts_Misdemeanor_Offenders.pdf

When mental health issues are self reported by the detainee during the interview, pretrial officers are charged with completing a referral form for Mental Health Court which is faxed to the presiding judge of this problem solving court. Cook County has post adjudication mental health courts (one Male and two Female MH courts at Leighton courthouse- Municipal District 1; mental health courts in Municipal Districts 2, 3, 4 and 6, with Bridgeview- Municipal District 5 noted as the only municipal district without a mental health court). These courts offer a treatment supportive alternative focus to the traditional court proceedings and for the past decade have been heralded as a best practice in judicial proceedings. They have limited eligibility to non-violent offenders posing a barrier for many persons with mental illness who have been involved in an incident where some level of violence occurred while in an acute psychiatric state. This was raised as a concern by several judges and pretrial staff. The referral process to mental health court by entities other than Pretrial Services is unclear to many and the Pretrial Services staff have expressed concern that they have no knowledge of what transpires after their referrals are sent.

The State's Attorney

The Felony Review Unit in the State's Attorney's Office reviews most of the cases to determine if there is sufficient evidence to support the charges. In most cases where there has been no harm to a victim, this felony review process can be conducted on the telephone with the police officer. In more serious cases, the Assistant State's Attorney (ASA) must appear for the review. The Felony Review Unit does not approve charges in cases involving possession of controlled substances. In these cases, police have the authority to "approve the charges" and advance the case. All investigations are completed before cases are sent to the ASA.

The ASA is also, at this point, attempting to identify good candidates for diversion programs such as the Deferred Prosecution Programs. There are currently three such programs: (1) Misdemeanor Deferred Prosecution (MDPP) operating at Branches 23 and 29 in Municipal District 1 and Skokie and Bridgeview. Markham and Bridgeview are also slated to begin this program; (2) Felony Deferred Prosecution Program that operates only at Central Bond Court; and (3) Drug Deferred Prosecution, also operated only at Central Bond Court.

The Felony Deferred Prosecution Program diverts selected non-violent felony defendants without a prior felony conviction into a pre-indictment program, offering services to defendants with the goal of addressing their treatment and service needs and avoiding future criminal behavior. The tenure of this program is 9-12 months after which successful completion results in dismissal of the felony charge. This program requires the consensus of the complaining witness and the arresting officer and restitution that must be satisfied. Defendant's compliance with the requirements of the program is monitored by Pretrial Services post-release supervision unit and is reported to the court.

The Drug Deferred Prosecution Program is designed for defendants with limited criminal history and no previous drug convictions. This program is operated in collaboration with TASC¹⁴ and Gateway¹⁵ who must approve the defendant for participation in a 90-day program that involves drug education.

Both programs are designed to afford the defendant an opportunity to participate in drug treatment or other rehabilitative activities under the supervision of the courts and at the end of the treatment course, the charges may be dropped. Recommendations for participation in the Deferred Prosecution Program are made at the preliminary hearing. None of the current deferred prosecution programs specifically target persons with mental illness.

Once initial processing of the detainee is complete, the Sheriff forwards the arrest package to the State's Attorney's LEADS Unit, a specific unit housed in the courthouse charged with the responsibility of preparing a complete criminal history report that includes the criminal history, the arrest report, the complaint, supplemental and line up reports from the Chicago Police Department. This information is forwarded to the ASAs assigned to felony bond court who prepare the case for presentation in bond court. The LEADS unit report is supposed to be available for dissemination to defense counsel prior to bond court, however, the public defenders most often do not access the LEADS information on their clients until immediately before bond court. This practice may be somewhat discrepant from the practices of the private defense counsel who tend to get the LEADS data earlier in the day. The ASAs proceed with preparing cases for presentation to the bond court judge.

The Public Defender

The Public Defender's (PD) Office also assigns specific attorneys to felony bond court. These attorneys receive information from their designees (Safer Foundation, investigators, Thresholds) who conduct the intake interviews and they begin to prepare the cases for court. The PDs, as defense counsel, are often made aware of a mental illness history by the Thresholds team and based on a number of considerations, will determine if they want to disclose this information to the court. It is interesting to note, they are not made aware of any mental health history of detainees by Pretrial Services and it is unclear whether they use information concerning mental health status that is purportedly shared by the Sheriff's Office of Mental Health staff. This was not directly observed. Public defenders report that they may refer the individual for treatment

¹⁴ TASC is a national not-for-profit committed to responding to an increase in addiction-driven crime. TASC programs have helped relieve the burden on the courts by diverting people with non-violent offenses into supervised drug treatment programs in the community. TASC-IL, founded in 1976, is the largest of the TASC programs in the country and operates several important programs and initiatives in the Cook County court system and criminal justice system, at large.

¹⁵ Gateway Foundation operates alcohol and drug treatment centers in Illinois and Missouri. With over 40 years of experience in substance abuse treatment, Gateway centers employ a series of evidence based practices in the field including dual diagnosis treatment, motivational interviewing to name a few. They are also currently under contract to provide assessment/interviewing services at jail intake for the Public Defender's Office.

even if they decide not to disclose the mental health history to the courts. Their overriding concern is that the stigmatization of this population may result in longer, more restrictive bail decisions when this information is disclosed. The tension concerning this disclosure decision is not unique to this jurisdiction but one that has started a national debate on the issue.

Court Process:

The felony bond court call is efficient and rapid paced. The call begins at 1:30 pm and typically ends at approximately 3:00 -3:30 pm. On weekdays, it is not uncommon for 60-80 cases to be heard. The typical course of events is for the detainee to be called before the judge, ASA reads the case by the state, the public defender is asked for 'mitigation' in defense of the detainee and the Pretrial Services reads the risk assessment score, most often without further clarification. This process usually takes very few minutes per defendant, although it is reported that some judges will spend more time on each case. The judge may also review the risk assessment form from the bench. At times, the comments section of the risk assessment form may indicate a mental health history. The judge has the discretion to ask for more information concerning the detainee's mental health history and current clinical status. It is reported that bond court judges differ in their use of mental health information if presented during bond court. In fact, despite the fact that several defendants reported a mental health history during the pretrial interviews observed during this project, that information was never observed to be presented in open court.....by defense counsel or by Pretrial Services. Many public defenders expressed that they often believe that they will be more effective in getting defendants released on their own recognizance (ROR) if they do not present the court with mental health information. They assert that because of the confidential nature of this "medical" information and the unfortunate fact that this population is highly stigmatized, they want to retain the discretion to provide that information to the courts citing a number of factors including the past pattern of rulings specific to this population by the presiding judge. These divergent views are ones that need resolution before major systemic change can occur for this population in this setting. It is a tension that is not uncommon throughout bond courts in this country and remains a challenge for change agents of bond court reform.

Most bail decisions fall into the following categories: I-Bond, D-Bond, C-Bond,¹⁶ with or without special conditions such as electronic monitoring, or detention, including detention and evaluation at Cermak Hospital in Cook County jail. On occasion, judges will order treatment as a special condition of bond for persons requiring mental health treatment. If ordered to treatment as a special condition, often Pretrial Services may be asked to monitor the special conditions. Although using special conditions of bond to facilitate linkage to treatment to

¹⁶ There are three types of bonds in Illinois: I-Bond, C-Bond & D-Bond; D-Bond requires the payment of 10% of the bail amount set by the judge for "bond out"/ release. C-Bond requires full payment of bail to be released pre-trial. I-Bond "Personal recognized bonds" does not require payment however, Sheriff can collect the full bail if the defendant fails to appear for court and the judge orders a forfeiture of bail.

persons with mental illness is permissible, it appears that this practice is not used frequently and was not observed during the felony bond court calls observed at Leighton Courthouse. If the detainee appears more acutely ill, the judge may order evaluation at Cermak Hospital.

Weekend and Holiday Bond Court

On weekends and holidays, all detainees (including Municipal Districts) charged with felony and misdemeanor offenses are transported to the Leighton Courthouse for Felony Bond Court. This court call begins at noon for misdemeanors and 1:30 pm for felony cases and proceeds until all cases are completed at approximately 4:00 pm. Judges, PDs, and ASAs cover weekend bond court on a rotating basis. The volume of cases ranges from 90-130 on weekends and holidays as opposed to 60-80 during weekdays.

Suburban Courts (See Appendices 2-6 depicting operational flow for the suburban courts in Municipal Districts 2-6)

All of the suburban courthouses have very similar foundational structures, however the operationalization of the bond court process in the suburban courts is vastly different from the process observed at Central Bond Court. One primary distinction lies simply in the volume of cases processed at Central Bond Court. Another difference lies in the fact that the suburban bond courts manage both misdemeanor, felony, and domestic violence cases in the single courthouses often with the same judges presiding over multiple court calls (e.g., felony and misdemeanor bond court) and on occasion also presiding over the problem solving courts and the preliminary hearings. Several suburban bond court judges noted that this varied exposure afforded in their court calls has increased their knowledge of and sensitivity to some defendant issues, and has allowed them to appreciate the value of referring individuals to problem solving courts. This is particularly the case when a judge has also presided over a specialty court. As previously noted, in the First Municipal District, with the exception of weekends and court holidays, only the felony bond court call transpires at the Leighton courthouse with judges assigned on a rotating schedule. Domestic violence and misdemeanor bond courts typically occur in the Branch courts with different judges.

Intake, Assessment and Case Preparation:

The intake process by the Sheriff is very similar in all the suburban courthouses. Detainees are transported by the local police agencies and placed into the holding cells at the courthouses beginning at approximately 7:30 am. Once they arrive, they are processed by the Sheriff and placed into holding cells to await their interviews. Pretrial Service officers in the suburban courts differ in their access to information concerning the numbers of detainees and the nature of their respective charges. For example, Maywood and Markham will have arrest information prior to the pretrial services interview, however Bridgeview and Skokie typically have no information about the numbers of detainees prior to being called for the interviews nor information on the nature of the offenses. Rolling Meadows, at the other end of the spectrum, has leveraged personal relationships with local police agencies and receives emails from the police departments in their district each morning with information concerning arrestees being

transported to the courthouse. Information includes the name of the detainee and the charge and an identifier. This allows the officers to begin the process of collecting information on the detainees using the various databases.

The suburban courts differ in their expectations of the contributions to the bond court process by Pretrial Services. Pretrial officers in all of the suburban courts are responsible for interviewing felony cases including felony domestic violence cases. In Skokie, Rolling Meadows and Bridgeview, however, interviews are conducted with both felony and misdemeanor domestic violence cases. Further, in Rolling Meadows the judges have requested all notes from the interview verification in addition to the risk assessments scored at each location.

There appears to be more time available for verifying information at the suburban locations, who report an average of 8-12 cases a day, as compared with the First Municipal District. With an average of 3-5 staff available, this may mean a caseload of 3-4 per officer, lower than the caseload ratios in Chicago. The volume is slightly higher at those locations that are also interviewing misdemeanor domestic violence cases. Pretrial officers have limited ability to verify mental health information unless information is obtained from a family member. They cite confidentiality statutes and an inability to arrange for the detainee to sign a release of information as causative. The districts differ somewhat in reporting the percentage of individuals interviewed who 'self-report' a mental health issue. On the high end, districts estimate approximately 20-25% of the cases reporting a mental health issue or approximately three a day. Maywood and Markham courthouses, at the other extreme, report that it is a relatively rare occurrence that a detainee self reports a mental health concern, stating occurrences in the range of 2-3 per month.

Public defenders typically interview their clients before court and if there is a mental health history, make the determination whether this information will be highlighted before the court. As a matter of course, if the attorney believes he/she can be successful securing an I-bond without disclosing mental health background, that is the course they will take. They will raise the issue of mental health history if the detainee is in need of immediate treatment, or if they believe it would be a mitigating factor if a deposit bond is the likely outcome based on criminal background and risk factors. In any event, if mental health information is written on the risk assessment, or if the judge suspects a mental health concern, he/she has been observed raising the issue in court directly. This practice was observed several times during the bond court observations. Several judges took the time to ask the defendant questions about his mental health condition and treatment history, or in the event of domestic violence cases, heard testimony from the complaining party about the mental history of the defendant. Often times, the time spent on a case of this nature may have taken up to 10-12 minutes to resolve. Several cases observed during the bond court observations involved a person with a mental illness with a domestic violence charge, either misdemeanor or felony. This speaks to the need to assure that resources to address this issue are made available for this court call also.

Court Process:

All suburban courts adhere to similar schedules for bond court calls. Misdemeanor and domestic violence bond court calls are typically scheduled in the a.m. and felony bond court generally begins at 1:30 p.m. in the afternoon. In some instances, the same judge may preside over the domestic violence court call and the felony bond court call.

Several of the domestic violence cases observed in bond court had defendants with a mental illness. On occasion in those courts where Pretrial Service officers evaluated the detainees, the Pretrial officer when presenting their report and risk assessment score shared this information with the court. More often, the judge detected a mental health issue in hearing the facts of the case and/or observing the defendant and solicited more information from witnesses present. In some instances, the judge ordered special conditions of bond to include assessment and treatment compliance, occasionally with electronic monitoring (EMI)¹⁷ or supervision by Pretrial Services with curfew. In several cases observed or discussed by judges, the defendant had been charged with a violent act against a family member such as the case of a 37 year old man who hit a family member in the head with a book or a 23 year old man who ‘punched’ his parents. Several judges commented that the ‘narrow’ eligibility criteria for Mental Health Court prohibits referrals of cases such as these to specific diversion courts. In their opinion, allowing for exceptions to this strict eligibility would be of great benefit to many of the defendants they see in the Domestic Violence Court calls.

In general, and certainly during the felony bond court calls, the judges spend significantly more time on each case as compared with the First Municipal District court felony bond court call where the volume of cases for each call is significantly greater. Unfortunately, the Chicago experience is more typical of other large urban court systems where it has been reported that the average time spent on a case at the first appearance was 30 seconds. Suburban court judges were observed more routinely asking detailed questions of witnesses when a mental illness was suspected and appeared very interested in treatment options that may be available. Several expressed concern about the viability of the community mental health system in Cook County and the state, and its ability to manage a seemingly increased burden associated with this population in the face of diminishing resources.

Suburban judges expressed significant regard for the value of the contributions of Pretrial Services, in general. As stated previously, the Rolling Meadows judges require the notes from Pretrial Services on their criminal and social history verification and their risk assessment calculations. All Pretrial Service officers, with the exception of 4th Municipal District (Maywood) routinely testify in court in presenting the risk score and on occasion, other mental health

¹⁷ Electronic monitoring program is a pretrial monitoring program to ease overcrowding in the Cook County Department of Corrections (CCDOC). The CCDOC program is used as a community based alternative incarceration concept that allows non-violent detainees to remain in the community in lieu of incarceration.

information. In Maywood, the felony bond court judge reads the risk assessment into the record.

Suburban court districts appear to more readily order special conditions of bond (I-bond) for the detainees presenting with a significant mental illness. This was directly witnessed to have occurred in multiple cases throughout the suburban court districts. Most often the special conditions required the detainee to continue with a pre-existing treatment regimen or to make an immediate connection with a mental health provider. Pretrial Services was often required to monitor compliance with the special conditions for treatment participation. For those individuals with co-morbid substance use conditions, the special conditions could require participation in drug treatment programs and routine drug screens. On at least one occasion, a judge was observed ordering a defendant to return to treatment, however Pretrial Services was not ordered to monitor compliance with the conditions. Later the judge discussed that he believed that order itself could serve as a motivator for the individual, even in the absence of an official monitoring function by Pretrial Services. Finally, in several domestic violence cases, electronic monitoring was ordered in addition to the mental health treatment as a special condition of bond.

Unique Initiatives:

The 6th Municipal District (Markham) is the home to several innovations designed to facilitate the rapid movement of low risk persons with mental illness into community treatment settings. The first of these innovations is the Adler Pilot, a pilot program initiated by the Sheriff's office and involves a collaboration with the Adler School of Professional Psychology. The six (6) month pilot program involves the screening of misdemeanor cases using the same instrument used by the Sheriff's staff at Division 5 in Chicago. After screening an average of 4 to 20 cases a day, the Adler clinical team is prepared to make recommendations to the Misdemeanor Bond Court judge about the detainee's readiness and appropriateness for treatment (sometimes continued treatment) in an outpatient setting, often leading to an order of a special condition of bond. The program is not an officially sanctioned by the State's Attorney as a diversion program, and cases currently proceed to a different courtroom, not staying under the jurisdiction of the bond court. There is some possibility, however, that it could become part of an anticipated Misdemeanor Diversion Program for this court.

Another practice that was recently launched and is unique to Markham occurs prior to bond court at the invitation of the bond court judge. Using a team approach that includes Pretrial Services, the public defender and the assistant state's attorney, the bond court judge conducts a staffing at approximately 11:00 am in the morning after low risk defendants charged with non-violent offenses have been flagged due primarily to their behavioral health issues. Once flagged, these cases are referred for more intensive follow up by a court social worker who further assesses the case for the defendant's appropriateness for special conditions of bond that would include treatment orders and pretrial services. The members of the team essentially come to consensus, prior to court, about preferred treatment recommendations, referrals to Mental Health or Drug Court or recommendations for special conditions of bond.

At Markham, the bond court judge also presides over the problem solving courts such as the mental health court that is in session twice monthly. By presiding over the misdemeanor and felony bond courts and convening his daily staffings, the judge has become keenly aware of potential candidates for his mental health, drug and veteran's courts. Eligible candidates are rapidly referred and the judge notes that his mental health court is amongst the fastest growing in the system. It also has further strengthened this judge's sensitivity and response to mental health and substance use issues early in the judicial process. This would be considered a commendable practice in that detainees with mental health issues routinely have an opportunity to have their issues addressed at this pre-adjudication phase.

National Best Practices

The discussion of national best practices in the management of persons with mental illness in the pretrial phase of the adjudication of their charges is intricately linked to advances in “Pretrial Justice” and new best practices in pretrial services and bond court reform.

The year 2014 is celebrated as the 50th year anniversary of U.S. Attorney General Robert Kennedy’s convening of the National Conference on Bail and Criminal Justice, launching the first major movement to reform bail in this country this century. While this landmark is noted, the resurgence of attention on the need for reforms in pretrial justice was crystalized at U.S. Attorney General Eric Holder’s convening of the 2011 National Symposium on Pretrial Justice. This symposium conducted in partnership with the Pretrial Justice Institute (PJI) brought together federal leaders, researchers and lead policymakers to create a sense of urgency for the need to build upon (and expand) the existing knowledge base while formulating a national agenda to effect meaningful and proliferated change in pretrial justice in this country.

Symposium participants identified a set of core recommendations that PJI continues to track and summarize in annual reports.¹⁸ These core recommendations include:

- Using citation releases by law enforcement in lieu of custodial arrests for non-violent offenses when the individual’s identity is confirmed and no reasonable cause exists to suggest the individual may be at risk to the community or to miss court appointments.
- Eliminating the use of bond schedules that allow a defendant to bond out of jail before appearing in front of a judge for a bail-setting hearing.
- Screening of criminal cases by an experienced prosecutor before the initial court appearance to make sure that the charge that goes before the court at that hearing is the charge on which the prosecutor is moving forward.
- Ensuring the presence of defense counsel at the initial appearance who is prepared to make representations on the defendant’s behalf regarding pretrial release.
- Training and supporting judicial officers presiding and making pretrial decisions at the initial court appearance.
- Guaranteeing the universal existence of a pretrial services program or similar entity that conducts a risk assessment on all defendants in custody awaiting the initial appearance in court, provides supervision of defendants released by the court with conditions of pretrial release; reminds defendants of their upcoming court dates, and regularly reviews the pretrial detainee population in the jail to see if circumstances may have changed that could allow for pretrial release.
- Requiring detention without bail for defendants who pose unmanageable risks to public safety or appearance in court.

¹⁸ See <http://www.pretrial.org>

Illinois has joined with other states such as Pennsylvania, New York, Ohio and others to reform the pretrial and bond court processes in their jurisdictions. Following a 2013 meeting of the leaders of criminal justice agencies by the justices of the Illinois Supreme Court, the Administrative Office of the Illinois Courts (AOIC) in consultation with the National Center of State Courts conducted an operational review of the Pretrial Services Program in the Circuit Court of Cook County. Forty discrete recommendations were proffered following approximately 147 stakeholder interviews and reviews of an extensive array of operational protocols. These recommendations, many of which have direct relevance for the management of persons with mental illness in the pretrial process, are in the process of being implemented.

Reform efforts for addressing the ‘misuse of jails’ that are disproportionately detaining people too impoverished to post bail including those with mental illness have intensified in the past year. In December 2014, Congressional leaders committed to improving mental health services and public safety joined the Council of State Governments Justice Center (CSG) and the National Association of Counties (NACO) for a briefing on a ‘new wave of national efforts to reduce the overwhelming number of people with mental disorders cycling through U.S. jails’ (CSG, 2014). This gave way to a call-to-action launched in the Spring 2015, challenging the leadership in counties across the nation to commit to a strategic planning process, with measurable goals, to reduce the number of incarcerated persons with mental illness. The initiative, called “Stepping Up”, is a collaboration between CSG, NACO, Bureau of Justice of Assistance (BJA) and the American Psychiatric Foundation (APF).

In May 2015, the U.S. Senate passed out of the Senate Judiciary Committee, the bi-partisan Comprehensive Justice and Mental Health Act. The Act, co-sponsored by Senator Al Franken (D-Minnesota) and Senator John Cornyn (R-Texas), includes measures that would fund alternatives to jail and prison admissions for those in need and expand training for law enforcement personnel responding to mental health crises.

Finally, in May 2015, the MacArthur Foundation announced the recipients of \$150K grants to twenty (20) counties as part of the foundation’s Safety and Justice Challenge. This challenge represents MacArthur’s \$75M investment over several years to reduce the ‘over-incarceration’ in America’s jails. Cook County was one of the twenty (20) grant recipients.

The remainder of this section will offer brief descriptions of programs or initiatives in jurisdictions around the nation that have been effective or hold promise for changing the trajectory into incarceration for persons with mental illness at the pretrial phase of adjudication.

Court-Based Mental Health Services

Many jurisdictions have pointed to the success associated with co-locating mental health assessment, and sometimes treatment programs within the courts. A few model programs are described below.

Colorado

Larimer County, Colorado has developed a pretrial services program that identifies and provides services to individuals arrested for a crime that is connected to mental health issues. The “Wellness Court”, started in 2014, seeks to provide an alternative to pre-trial incarceration and provide services to offenders with mental illness. It also serves to decrease the time it takes to get individuals with a mental health need into treatment.

The vehicle for achieving this most often is setting special conditions of bond at the first court appearance. Thereafter case managers provide monitoring and supervision as defined by the conditions of the bond and the defendant’s needs. The program includes diversion, crisis intervention and short-term therapy, medication monitoring, drop-ins, and face-to-face meetings with a case manager. The program offers referrals to community services that include mental health counseling, substance use counseling, medication, housing, employment and supports for basic needs. The program provides structure for defendants and assures continuity of care.

Washington, D.C.

Washington, D.C. has created an urgent care clinic within the DC Superior Courthouse to immediately assess individuals with mental illnesses or substance use services. The Clinic provides direct mental health services to defendants who need them and also provides referrals to community services for ongoing care if necessary. A psychiatrist, social workers and other mental health professionals staff the clinic during business hours. Treatment can be obtained on-site for up to 90 days or until a long-term care provider has been established. Uniquely, the Clinic is operated in partnership with Pathways to Housing D.C., the DC Department of Behavioral Health, DC Addiction Prevention and Recovery Administration, as well as the DC Superior Court. This ensures that individuals referred to the Clinic have access to immediate support services and referrals to long-term providers to ensure effective treatment alternatives. The Clinic is one of the first in the country to provide immediate substance use and short-term mental health treatment to arrestees.

Ohio

Cleveland, Ohio operates a Court Psychiatric Clinic that provides the Cleveland Municipal Court with impartial forensic evaluations and clinic screening assessments. The Psychiatric Clinic was established in 1983 and was operated as a separate department in service to the court. In 1999, the clinic was placed under the Cleveland Municipal Court-Probation Department. The Clinic team includes psychiatrists, psychologists and social workers. The Clinic can assist the court with crisis intervention services, in-court triage, liaison services between the court and state mental health hospitals, and facilitation of hospital admissions for defendants who require hospitalization and outpatient services, and screening assessments. Defendants can be referred to the clinic by judges and probation officers.

Connecticut

Finally, In Connecticut, a mental health screening is conducted on all new arrestees by the court. Anyone identified as having a mental illness will then be scheduled for an immediate follow-up assessment that is conducted by a mental health professional. The results of these assessments are shared with the judge, as well as recommendations for pretrial release or deferred prosecution.

Information Management

Many jurisdictions have invested in information management systems that allow for systematic tracking of the movement of individuals throughout the adjudication process, for general system performance measurement, and for outcome measurement and model testing. This is critically important for advancing our knowledge of the predictive validity of risk assessment tools, especially when mental illness is present, and of evidence based interventions that serve to manage and mitigate risk and recidivism.

Kentucky

Kentucky has created a cutting-edge information technology system that includes a case management system for the trial courts and a system that provides a summary of cases statewide. They also developed a case information management system for Pretrial Services called 'PRIM' (Pretrial Release Information Management), that is used by pretrial officers in the collection, assessment and monitoring of information about a defendant. All aspects of the pretrial process, including interactions between a pretrial officer and a defendant are input into this system. Pretrial officers have access to information on the charge, a defendant's interview answers, the risk assessment and any release information. The system also maintains supervision records, including any compliance issues. This system can be used to track performance and outcome measurement data. The system captures over 250 variables, creating a wealth of available data.

Kansas

Johnson County, Kansas built a data-collection system in order to develop an intervention program for individuals with mental illnesses. Stakeholders involved in the planning process used the Sequential Intercept Model, to track how individuals moved through the justice system and how to identify those with a mental illness. In this jurisdiction, data was used to inform systems changes. Specifically, review of the data yielded recommendations including adopting new screening protocols at jail intake; ensuring risk assessment scores get entered into the local criminal justice database; conducting joint case planning between the jail and the individual's mental health provider, community mental health center, or a family member; creating a screening tool that addresses women and women of color; and expanding CIT training.

Maryland

Maryland uses a web-based tool that provides real-time client information to the courts, treatment providers and state agencies. The system, known as the Statewide Maryland Automated Record Tracking System (“SMART”) was created in 2003 based upon the national Web Infrastructure for Treatment Services (WITS) platform built in collaboration with state and local governments. It is used by treatment providers and drug courts as a management information system. The system collects substance use treatment data, tracks drug court client services, and can provide data and reporting on the performance of treatment providers and drug courts throughout the state.

Diversion Programs

Many states have pretrial diversion programs. Most are classified as misdemeanor diversion programs and fewer are felony programs. Some programs are specific for persons with mental illness and several states, including Illinois, have enacted statewide standards for their programs and given authority to local jurisdictions to operate them. Although most felony diversion programs, including deferred prosecution programs, are implemented after the first appearance but before the case is assigned to a trial court, it remains an effective means of attempting to address the health and social factors that may have contributed to the individual’s interaction with the criminal justice system. The more salient opportunities for diversion should occur at earlier intercepts, pre-or post-arrest and ideally before any formal interactions with the courts. In addition to the more traditional pre-arrest models of diversion, often involving police crisis intervention training coupled with easy access to urgent care venues for persons experiencing high acuity levels associated with their mental illness, many jurisdictions have focused on community courts as an effective way to reduce crime and incarceration. Though beyond the scope of this project, it is important to note the advent of community courts as a best practice for low level, misdemeanor offenses. Community courts are neighborhood focused courts and are challenging the traditional approach to adjudication of low-level crimes by emphasizing alternatives to incarceration when feasible and engaging local residents in the meting out of justice. Emphasis is placed on treating individuals with respect and dignity, affording them access to mental health and drug treatment programs, job training, housing supports and other social services while assuring an appropriate level of restitution.

The New York Times recently cited the success of the Red Hook Community Justice Center, the first multi-jurisdictional community court operating in Brooklyn, New York. At Red Hook, a single judge hears neighborhood cases that would ordinarily go to the three different courts—Civil, Family and Criminal and addresses a number of offenses, including misdemeanor and some felony offenses. The judge has an array of sanctions and services at his disposal including trauma-informed treatment services, social services and restitution projects. The Center reports reduced use of jail at arraignment by 50%, 75% compliance rate with court orders and high approval ratings of police, prosecutors and judges. Ninety-four percent (94%) of the local residents support the community court.

The Center for Court Innovation in partnership with the Bureau of Justice Assistance have awarded grants to four 'mentor community courts' in their efforts to proliferate this model beyond the approximately 40 courts in 15 states.

There are many examples of best practices in diversion programs including several programs here in Illinois.

Illinois Diversion Programs

In Cook County, the Drug School Deferred Prosecution Program has been in operation since 1972 and was established to give simple drug possession offenders a 'second chance'. The goal of the program is to reduce the number of new felons coming into the county system. The primary intercept point is the preliminary hearing and program eligibility has to be approved by the State's Attorney's Office. If the individual accepts the program, they are required to attend drug education classes after which the case is dismissed. Although there has not been a formal evaluation of the program, a dramatic reduction in re-arrests has been reported by graduates as compared with non-graduates (Center for Health and Justice at TASC, 2013).

In 2011, Cook County initiated its first Felony Deferred Prosecution Program operating out of the First Municipal District. The program's goal is to divert first time non-violent felony arrestees out of the criminal justice system. The primary intercept point is the preliminary hearing and program eligibility has to be approved by the State's Attorney's Office. Participants are monitored by Pretrial Services and services include GED, work training, drug education and community service. Successful participants may have charges dismissed, while non-compliance results in conviction (Center for Health and Justice at TASC, 2013).

Several other diversion programs are operating in other counties across the state including Jefferson, Macon, McLean, Peoria, and St. Clair counties. These programs are designed to target jail overcrowding and promote linkages to services and treatment. Participants are either selected by court referrals or attorney referral and most require the approval of the State's Attorney's Office. Access to services is the hallmark of these initiatives and compliance with services is expected. Often program compliance results in case dismissal.

Winnebago County initiated a new initiative in 2014 called the Pretrial Expedited Assessment and Service Project (PEAS) to identify low risk offenders in custody with health issues including behavioral health issues. The program goal is to release these individuals to the community with case management and services and to link them with needed primary care and behavioral health services.

Legislation

Several states have passed legislation to undergird and/or promote justice reform in their states. Very often it is legislation that serves to ignite reform that has been slow to advance and supports the 'culture change' that must take place to institutionalize new norms and practices. Many states have passed legislation in support of bond court reform and reforms in pretrial justice, in general. Very few have specific relevance for persons with mental illness in this adjudication phase, however Texas is the exception.

Texas

Texas began diverting individuals with mental illness from the criminal justice system in 1993 with the enactment of Articles 16.22 and 17.032 of the Texas Code of Criminal Procedure (See Appendix 7). The articles encourage early identification of mental illness and therefore the diversion of defendants away from jail and into mental health treatment. These articles can assist judges in finding the best treatment for defendants and ultimately benefitting the criminal justice system.

Article 16.22 is aimed at obtaining an appropriate diagnosis and initiation of mental health services by requiring a sheriff to notify a magistrate within 72 hours of receiving credible evidence that the defendant has a mental illness. If there is reasonable cause to believe the individual has a mental illness then the magistrate must order a local mental health expert to collect information on whether the defendant has a mental illness and provide the magistrate with a written assessment within 30 days of the initial order. The assessment should include information on whether the defendant has a mental illness, whether the defendant is competent to stand trial, and the recommended treatment. A magistrate can order an examination if the defendant refuses.

Article 17.032 requires magistrates to release an alleged offender with mental illness on personal bond if the charge does not involve a violent crime, the defendant has not been previously convicted of a violent crime, and if the defendant was examined by a mental health expert and it was concluded that the defendant has a mental illness, and the defendant is competent to stand trial and can participate in recommended treatment. If the defendant is released on personal bond, there is no requirement for sureties or other security.

If the magistrate finds that the defendant's mental illness is chronic in nature or the defendant's ability to function independently will continue to deteriorate without treatment the magistrate can require the defendant to obtain inpatient or outpatient treatment.

Recommendations

While this section of the report will identify challenges/barriers and opportunities for improvement in the system, it is important not to lose sight of the considerable strengths noted during the course of this work. As one of the largest county court systems in the country, this system is generally efficient in processing an extraordinarily large number of cases on a daily basis...from arrest and intake through release or detention. As indicated previously, the system's greatest asset is inarguably its workforce... from its leadership to on-line staff throughout the system. This includes members of the judiciary, attorneys, court services staff, the Sheriff's staff, staff associated with contracted vendors and students. As observed, these individuals, with few exceptions, appeared to be hardworking, well meaning, dedicated and often innovative. For many, their commitment to this work appeared to be 'mission driven', likely modeling the extraordinary commitment and visionary leadership by officials at the highest levels of county government. All change efforts must approach change by first taking inventory of the systems' strengths and opportunities and subsequently embarking on a strategy that builds or 'leverages' those strengths to affect and in fact, undergird change going forward. A strong and viable workforce is singularly the most critical 'leverage factor' that will enable the system to advance in its reform efforts.

The following recommendations are offered for consideration as the system advances its reform agenda for bond courts in Cook County. They are not to be considered in final format, but are rather offered in the hopes that a healthy discourse on these issues will continue and lead to real change. While the recommendations are specific in focus and designed to improve processes and outcomes for detainees with mental illness, the 'models' offered also have relevance for other special populations in the early phases of their judicial process, such as persons with substance use disorders, and veterans to name a few.

There is clear recognition that to implement the recommendations additional resources would be necessary. That stated, several improvements could be made with little financial investment, or by leveraging existing resources. It will be noted when incremental steps can be taken until a more comprehensive strategy is possible.

System Challenges/Barriers

- Mental health information is collected by multiple sources resulting in inefficiencies and redundancy in effort and placing an unnecessary burden on the defendant often leading to his/her confusion and willingness to disclose health information.
- Mental health information is not shared between agencies to facilitate judicial decisions, service linkage in the community and treatment planning in detention.
- There are no apparent standards or consistency regarding the qualifications of the clinical staff conducting the initial clinical interviews across the three agencies.

- There is little to no verification of self-reported mental health information by Pretrial Service officers.
- Verified and clinically robust information concerning a detainee's mental health information including past mental health treatment, is inconsistently used to inform the court in general, or special release conditions, specifically.
- Some people with mental illness leave (bond out) without referrals and/or linkages to care contributing to the likelihood of re-arrest and failure to appear.
- Pretrial Services is not adequately staffed with clinicians to assist with post-release monitoring and supervision support.
- Many domestic violence cases involve persons with mental illnesses and the involvement of Pretrial Services in these cases is inconsistent across the system.
- Mental health data is not recorded in databases for tracking, monitoring and research purposes.
- The 405 ILCS 5/ Mental Health and Developmental Disabilities Code, the 740 ILCS 110/ Mental Health and Developmental Disabilities Confidentiality Act and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) may create challenges in sharing clinical information between agencies to support activities that may benefit the detainee.
- There is a wide variance across the system, particularly with members of the judiciary in the acceptance of and value for Pretrial Services as a contributor to judicial release and detention decisions.
- There is variability across the system in individuals' knowledge of mental illness, particularly in the context of predicting risk for re-offending and for violence.
- There are divergent perspectives concerning the potential role of Pretrial Services in sharing information concerning a defendant's mental health history directly to the court. Defense counsel have expressed concerns that this direct disclosure may jeopardize the defendant's case and impinge on his/her constitutional rights.

Pretrial Interview and Assessment

Recommendations:

1. Encourage all police departments to consistently indicate mental health issues/concerns regarding the arrestee on the arrest report. Suburban courts should be encouraged to develop a plan, similar to Central Bond Court, to routinely disseminate arrest reports to the Sheriff and Pretrial Services before the arrestees are transported.¹⁹

¹⁹ The recommendation comports with a recommendation cited in the Circuit Court of Cook County Pretrial Operational Review, Illinois Supreme Court Administrative Office of the Illinois Courts, in consultation with The National Center of State Courts, March, 2014.

2. Pilot an 'official' Mental Health Unit (MHU) in the courthouses to conduct targeted mental health screenings/evaluations. These evaluations may be used to inform judicial release/detention decisions, provide recommendations for special release conditions, facilitate linkages to community based providers as appropriate, and share information to facilitate treatment planning in detention, as necessary. To the extent possible, services of the MHU should be made available to the Domestic Violence bond court. The volume of cases anticipated will inform the size of the unit. For example, one full time staff (FTE) may be sufficient to provide coverage in the suburban courts, however at Central Bond Court, four or more staff may be necessary to provide adequate coverage at the Chicago Leighton Courthouse. (See Appendix 8 for proposed program and staffing plan)
3. Assess the feasibility of developing a process for the Mental Health Unit to obtain consents to secure medical/clinical information regarding prior mental health treatment of detainees.²⁰
4. Develop a stakeholder process to gain consensus on what information concerning a detainee's mental health status shall be shared between agencies and with the Court. This may begin with a small group that includes Office of the Public Defender and the State's Attorney's office with leadership from the judiciary.
5. Review questions in the PSA-COURT supplemental interview to assure they are adequate to generate a referral to the MHU. Consider, for example, use of the Brief Jail Mental Health Screen, a validated instrument that takes 2 -3 minutes to administer.
6. Given the number of cases involving persons with mental illness in Domestic Violence Court, investigate the feasibility of engaging Pretrial Services and or the Mental Health Unit, consistently, in Domestic Violence Court.

Pretrial/Bond Court Process

Recommendations:

7. In collaboration with expert consultants on the Model Bond Court Reform Initiative and/or an academic setting, develop empirically based protocols for consideration by the court, as necessary, on: (1) appropriate use of special conditions of bond for persons with mental illness;²¹(2) appropriate use of I-bonds with or without conditions but with referrals for

²⁰ Ibid.

²¹ This is critical given the scientific evidence that overreliance on special bond conditions with low risk detainees is associated with pretrial misconduct. Consistent with the Risk-Need-Responsivity (R-N-R) models, those individuals classified as moderate to high risk are more positively impacted by special conditions of bond and have lower FTA and re-arrest rates. As noted previously, the impact of mental illness as a moderating variable in predicting response to conditions of release warrants further examination, particularly with low level (misdemeanor) crimes. Additional jurisdiction/system specific data and analysis would be beneficial.

treatment, and (3) develop an infrastructure and process for re-evaluating bond decisions for non-violent detainees with mental illness.

8. Investigate the feasibility of involving Pretrial Services and the Mental Health Unit in making recommendations for the Deferred Prosecution and other Diversion programs as well as the Problem Solving Courts for persons with mental illness.

9. Investigate and develop a plan to share mental health information between agencies in the interest of rapid information transfer to inform clinical interventions and/or the judicial process.

10. Expand the capacity of Pretrial Services to monitor special conditions of bond involving persons with serious mental illness. This may involve special hires and/or additional training. The MHU could have a role serving this function.

Bond Court Governance and Infrastructure Enhancements

Recommendations:

11. Develop a comprehensive training plan for judges, Pretrial Services staff and other stakeholders to educate them on issues related to mental illness, in general, the prediction of risk with this population and treatment options that could be considered as special release conditions.

12. Establish a process to cross reference the County/Court's Information Management System with the State Mental Health (IDHS-DMH) database in order to identify newly processed detainees with prior or current involvement in the public mental health system. This may begin with investigating the possibilities with expanding the use of Jail Data Link²² to include the pretrial process.

13. Examine feasibility of developing a plan to improve the Court's capacity to track defendants with mental health concerns through the system. This has typically been accomplished by including mental health 'flags' in the County/Court's Information Management Systems allowing for quantifying detainees with mental illness and tracking cases through disposition. If executed, new data elements should be created in consultation with academic researchers who will design jurisdiction specific analyses on a variety of process and outcome variables. This should be done in collaboration with the Measures for Justice Initiative.

²² Jail Data Link is a database that links three sources of information: Division of Mental Health (DMH) Community Services Outpatient System, DMH Inpatient Admission Data and daily census files provided by the jails in participating counties in Illinois.

- 14. Develop a relationship with an academic institution to plan and conduct a program evaluation of the pilot Mental Health Unit. Program evaluation should be planned concurrently with the implementation plan.**
- 15. Educate stakeholders on best practices including program innovations and legislative remedies that promote the rapid community re-integration of persons with mental illness interfacing with the criminal justice system.**

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Appendices

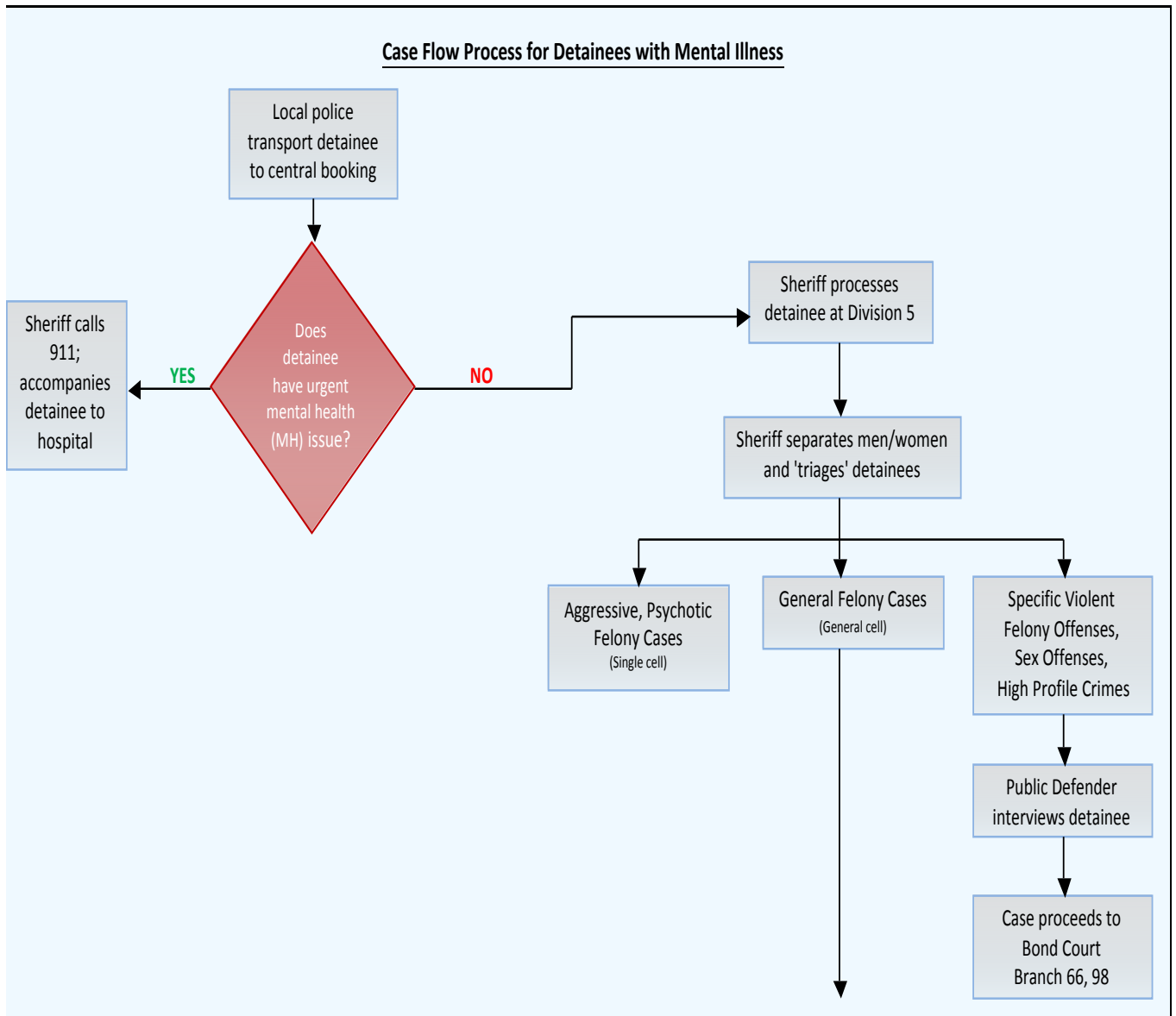


Appendix 1- First Municipal District

Central Bond Court

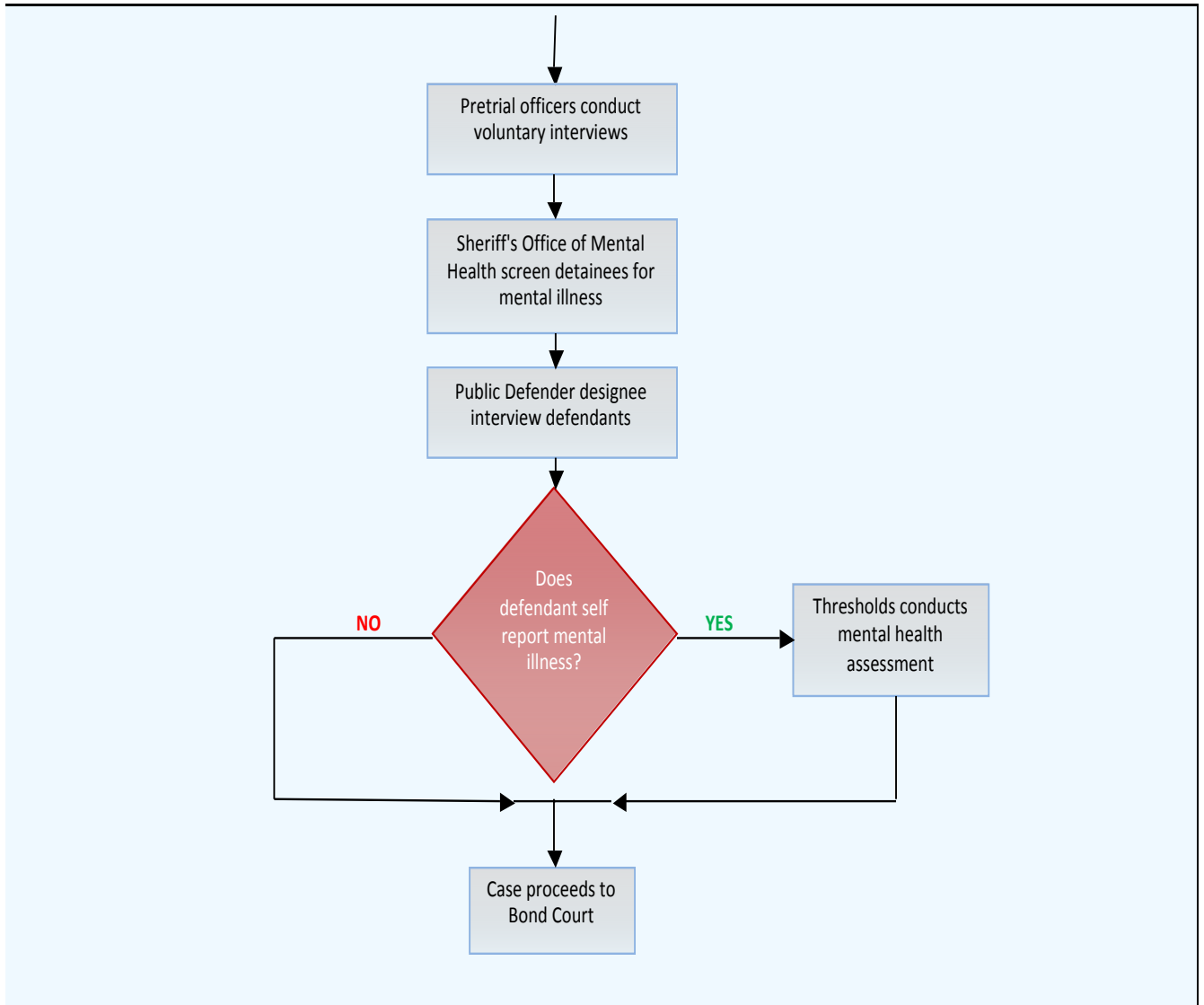


Circuit Court of Cook County
 First Municipal District: Leighton Criminal Courthouse
 Felony Bond Court



Felony Bond Court
 1st Municipal Court –Chart 1A

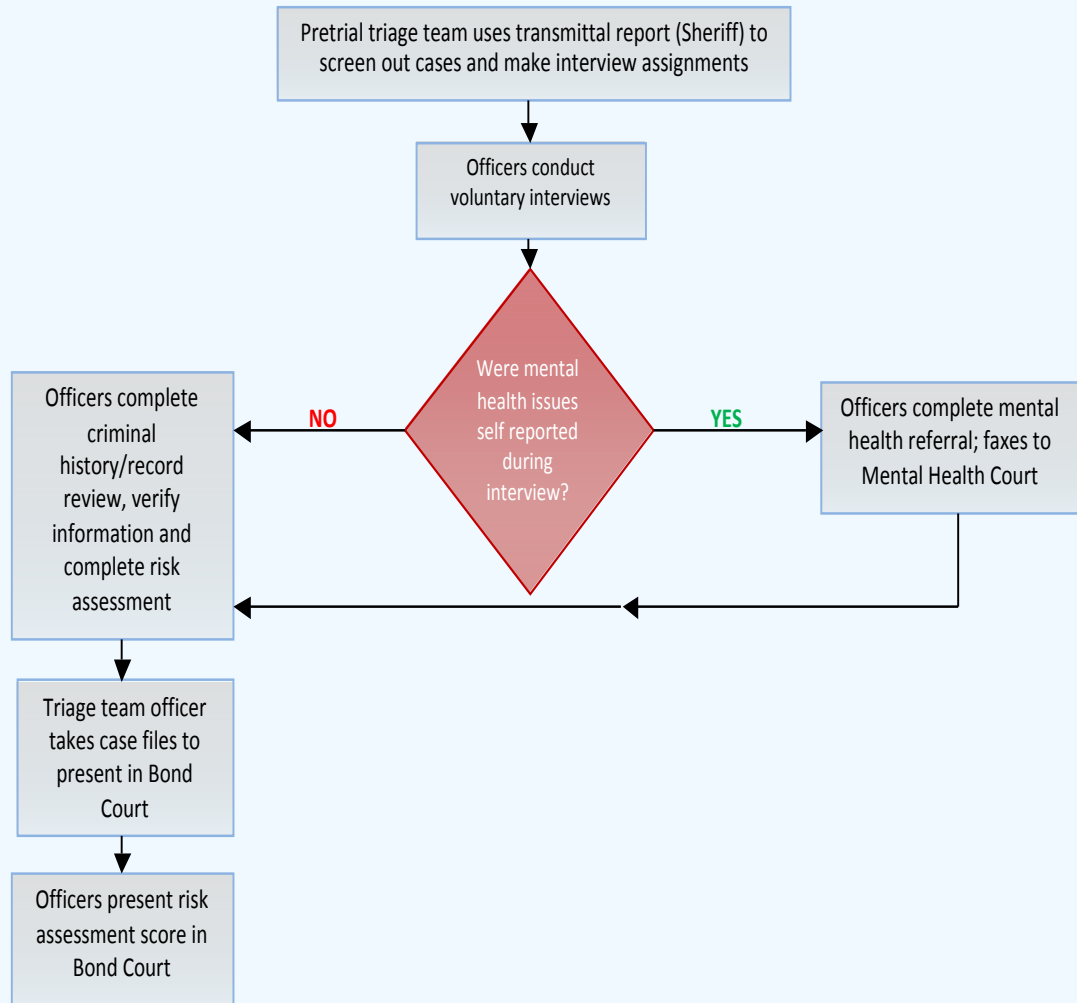
Circuit Court of Cook County
First Municipal District: Leighton Criminal Courthouse
Felony Bond Court



Felony Bond Court
1st Municipal Court –Chart 1B

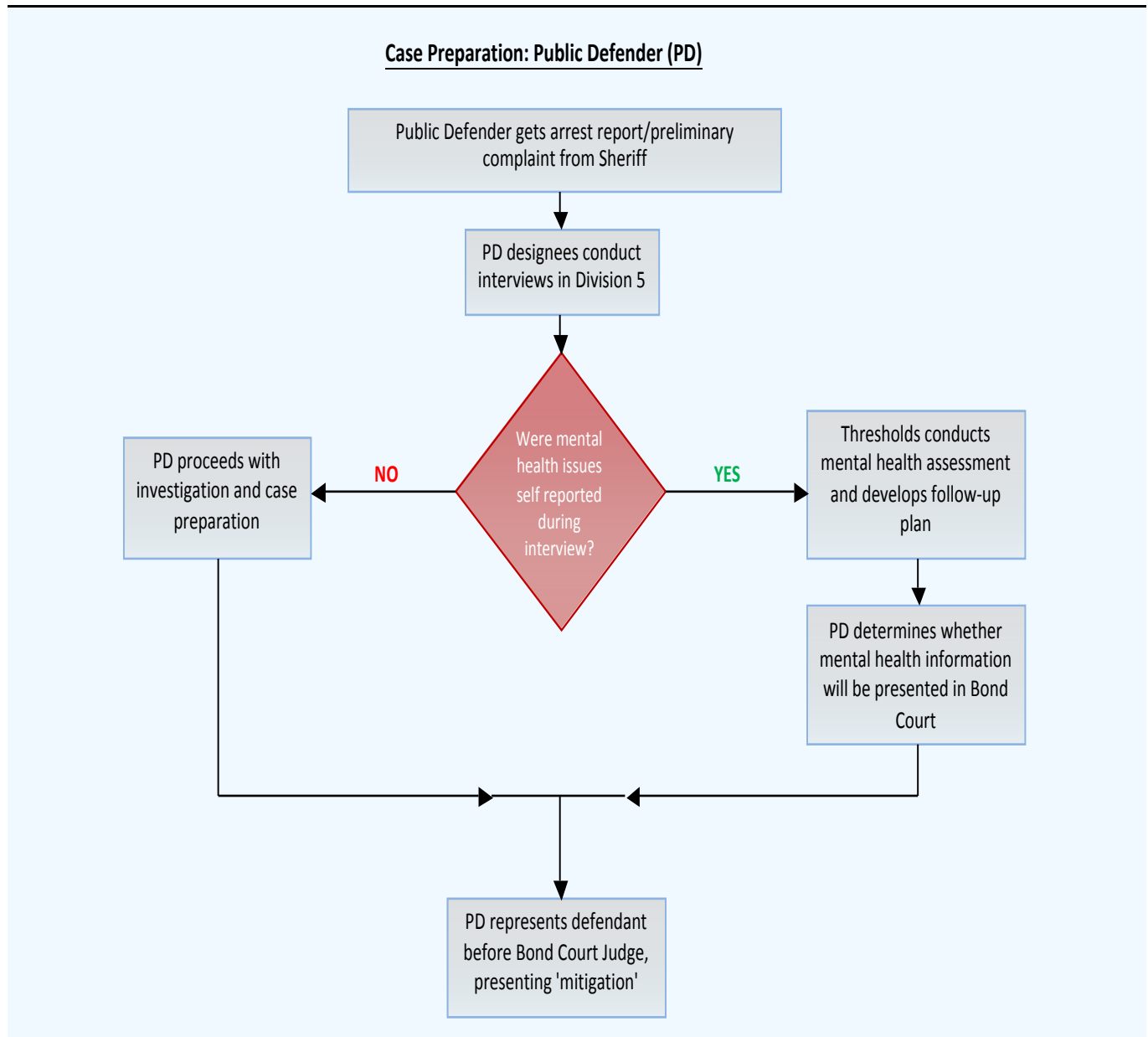
Circuit Court of Cook County
First Municipal District: Leighton Criminal Courthouse
Felony Bond Court

Case Preparation: Pretrial Services



Felony Bond Court
1st Municipal Court –Chart 2

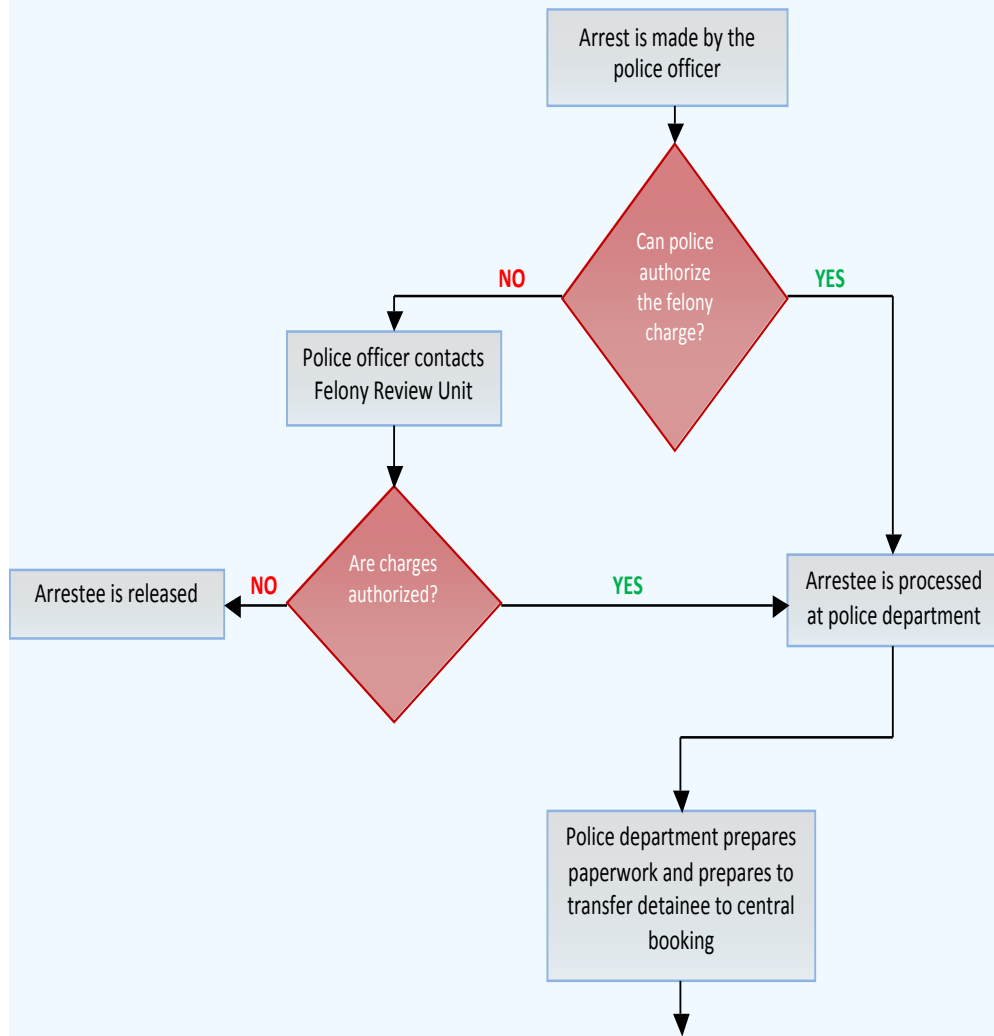
Circuit Court of Cook County
 First Municipal District: Leighton Criminal Courthouse
 Felony Bond Court



Felony Bond Court
 1st Municipal Court –Chart 3

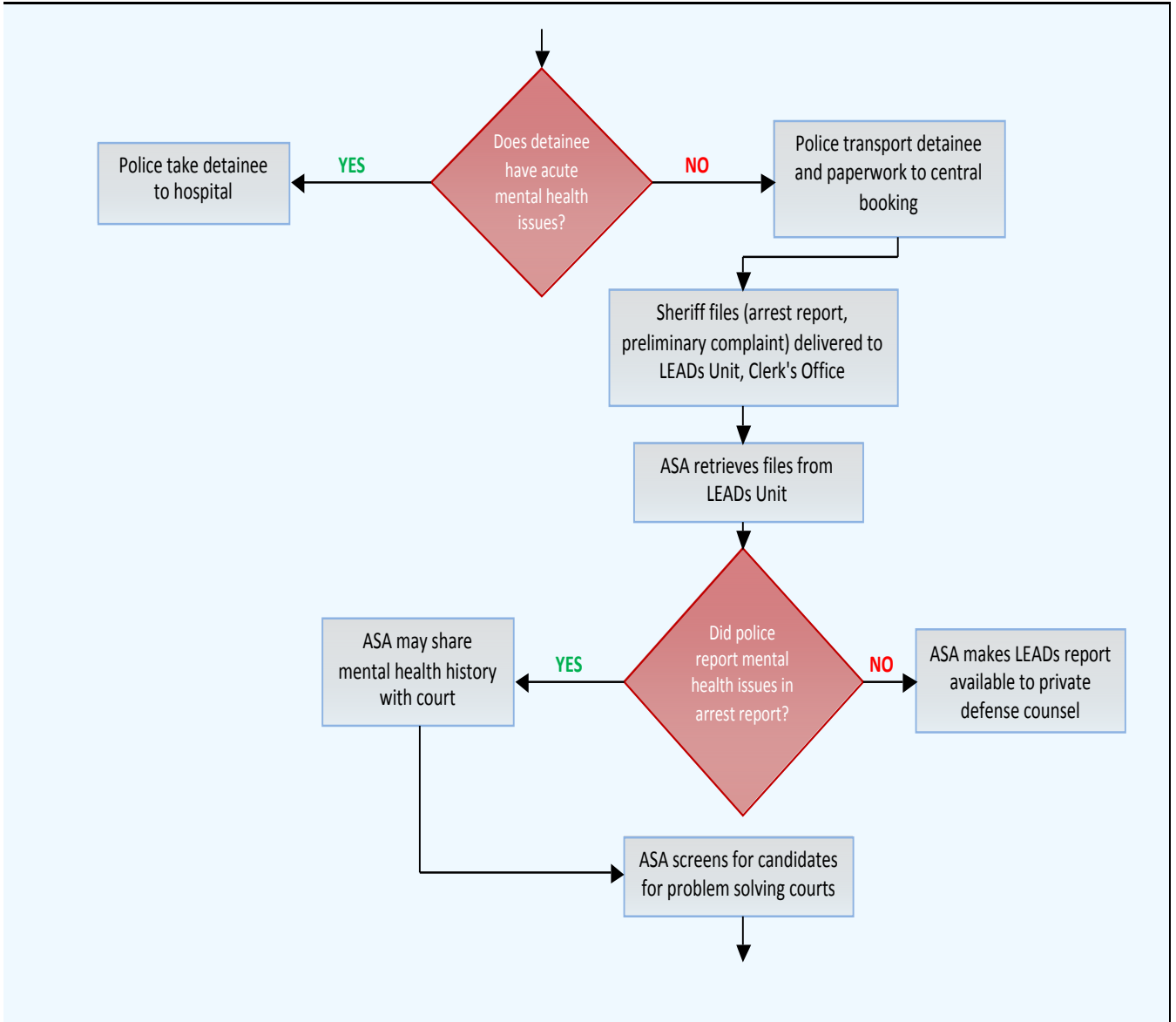
Circuit Court of Cook County
First Municipal District: Leighton Criminal Courthouse
Felony Bond Court

Case Flow and Preparation: Police Department / Sheriff / States Attorney (ASA)



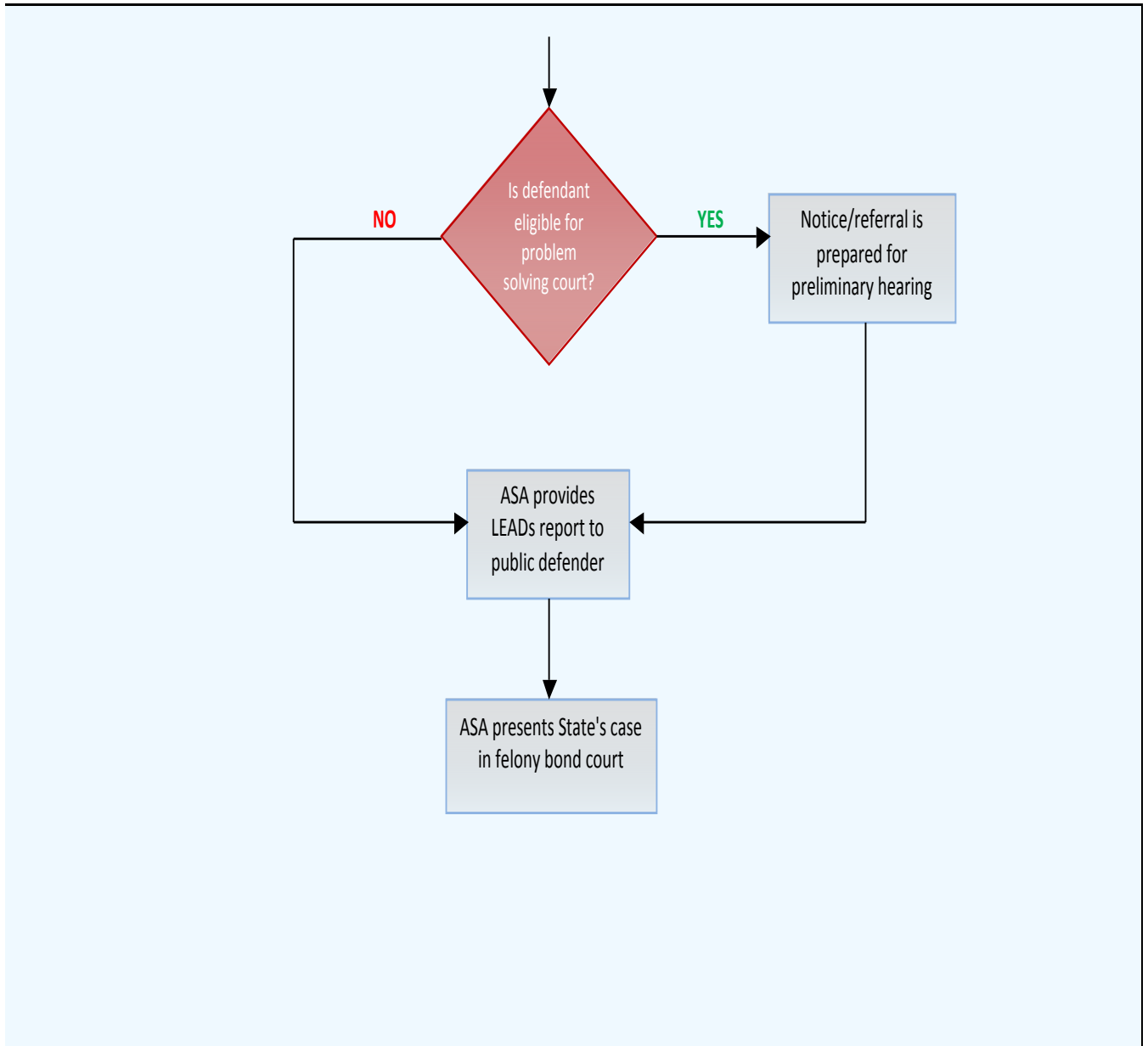
Felony Bond Court
1st Municipal Court –Chart 4A

Circuit Court of Cook County
 First Municipal District: Leighton Criminal Courthouse
 Felony Bond Court



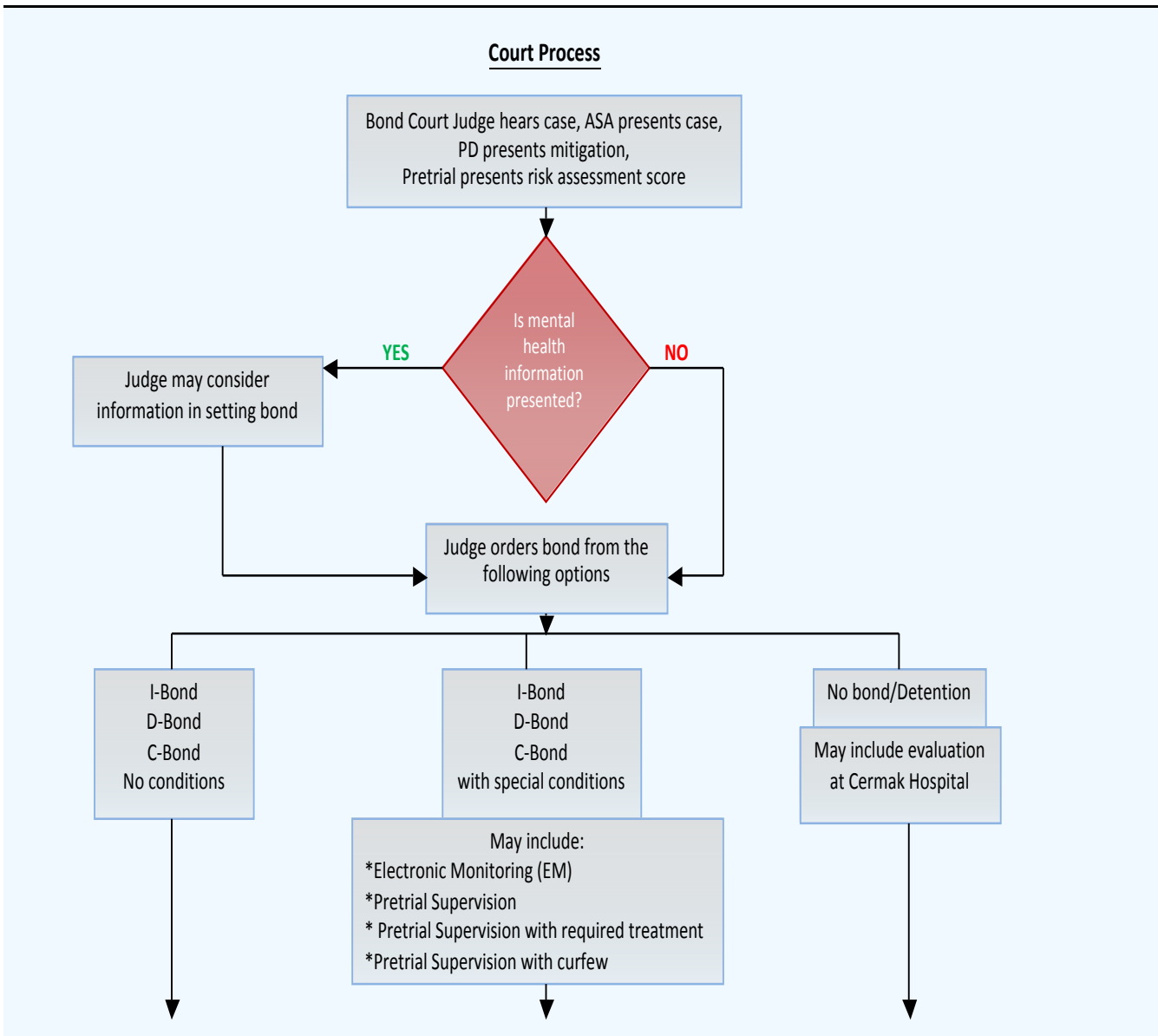
Felony Bond Court
 1st Municipal Court –Chart 4B

Circuit Court of Cook County
First Municipal District: Leighton Criminal Courthouse
Felony Bond Court



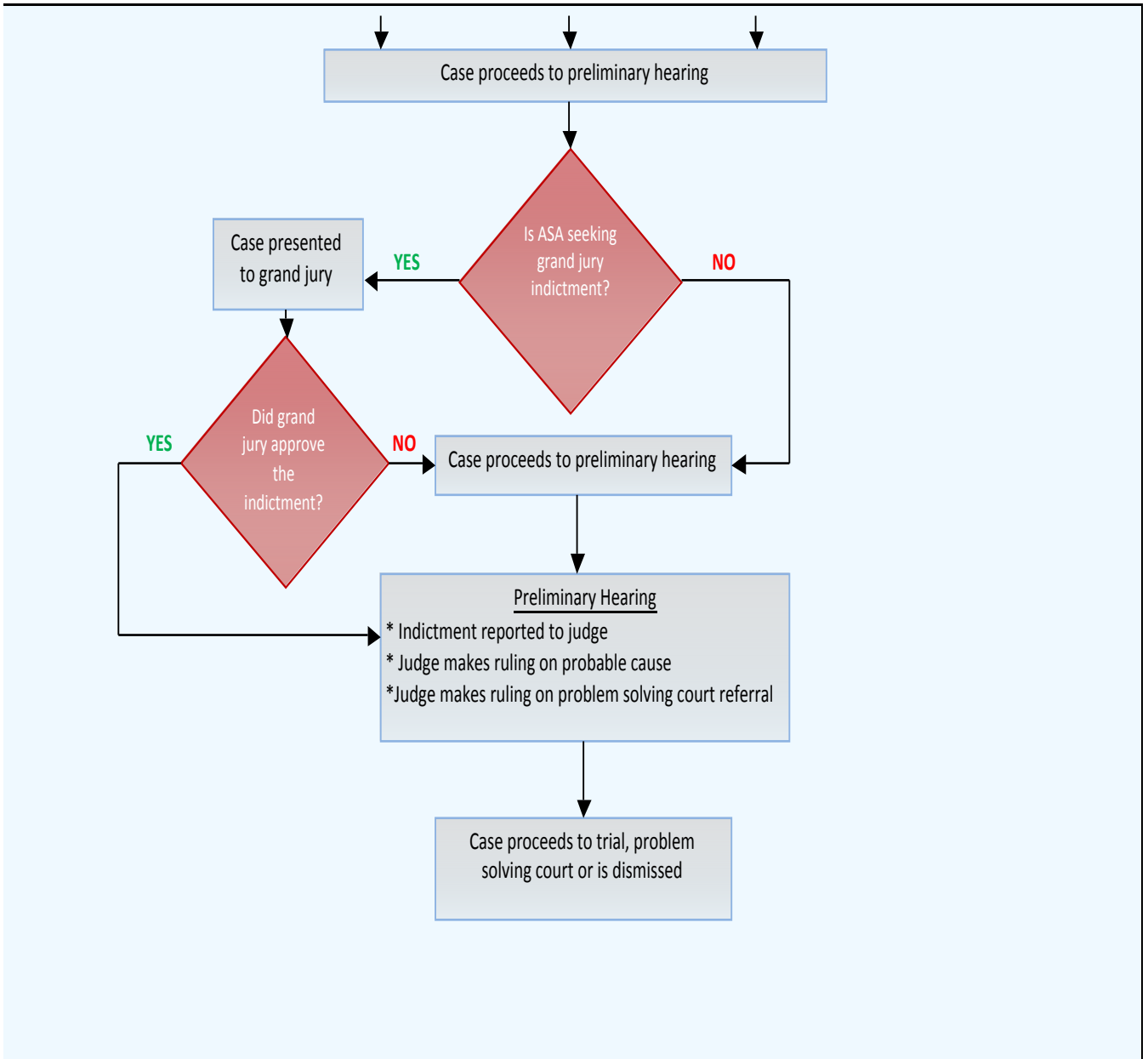
Felony Bond Court
1st Municipal Court –Chart 4C

Circuit Court of Cook County
 First Municipal District: Leighton Criminal Courthouse
 Felony Bond Court



Felony Bond Court
 1st Municipal Court –Chart 5A

Circuit Court of Cook County
 First Municipal District: Leighton Criminal Courthouse
 Felony Bond Court

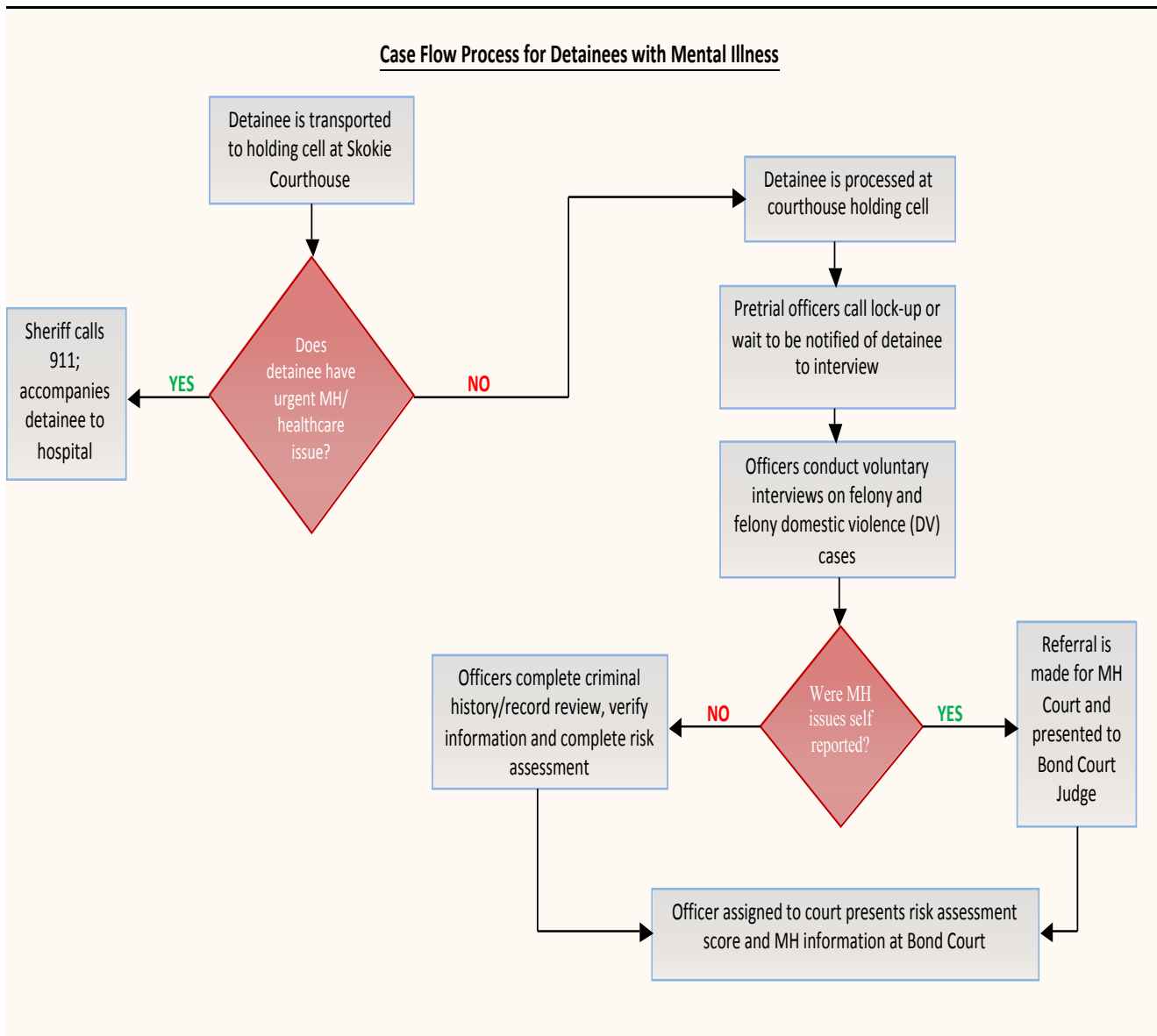


Felony Bond Court
 1st Municipal Court –Chart 5B

Appendix 2- Second Municipal District



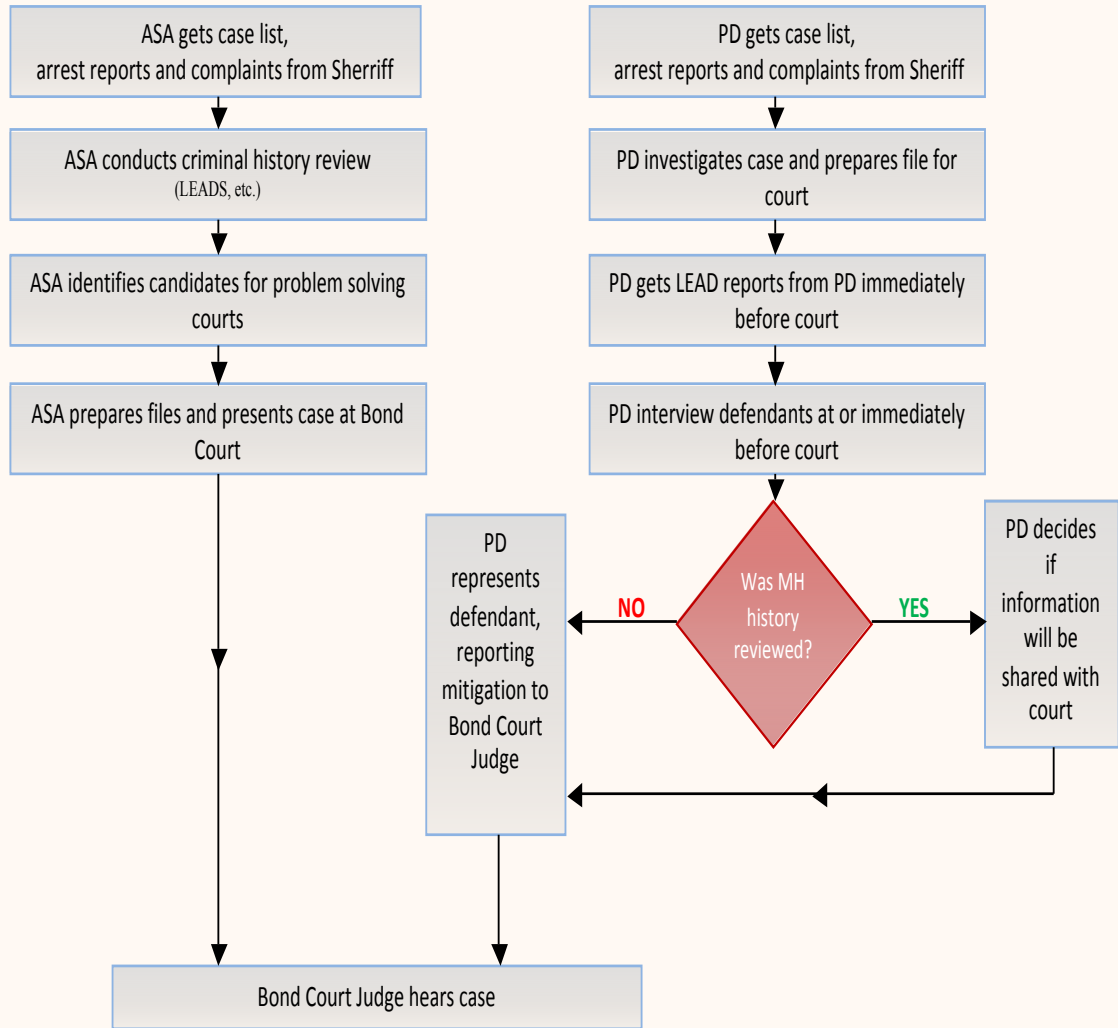
Circuit Court of Cook County
 Second Municipal District: Skokie Courthouse
 Felony Bond Court



Felony Bond Court
 2nd Municipal Court –Chart 1

Circuit Court of Cook County
 Second Municipal District: Skokie Courthouse
 Felony Bond Court

Case Preparation: State's Attorney (ASA) and Public Defender (PD)

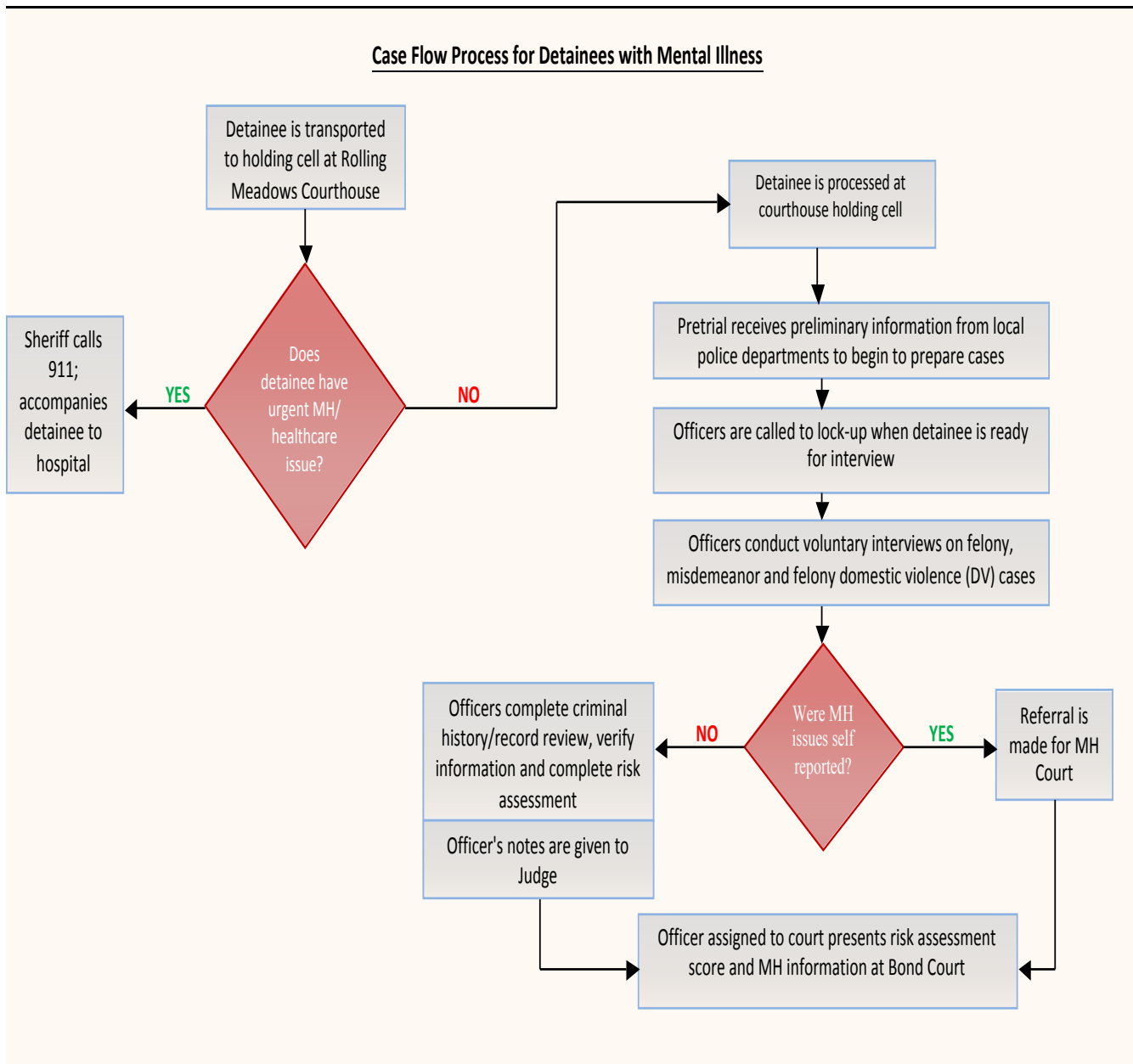


Felony Bond Court
 2nd Municipal Court –Chart 2

Appendix 3- Third Municipal District

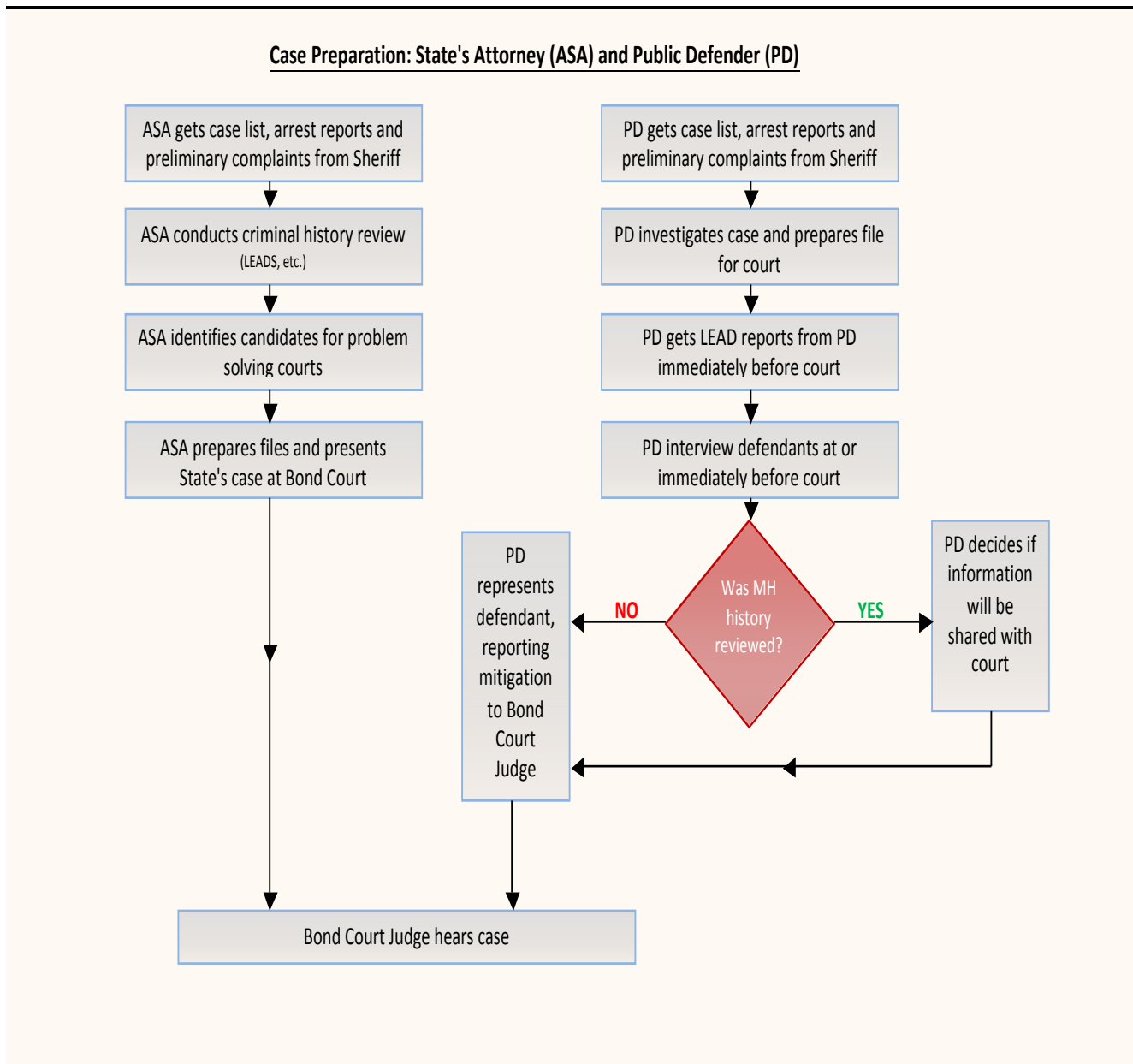


Circuit Court of Cook County
 Third Municipal District: Rolling Meadows Courthouse
 Felony Bond Court



Felony Bond Court
 3rd Municipal Court –Chart 1

Circuit Court of Cook County
 Third Municipal District: Rolling Meadows Courthouse
 Felony Bond Court

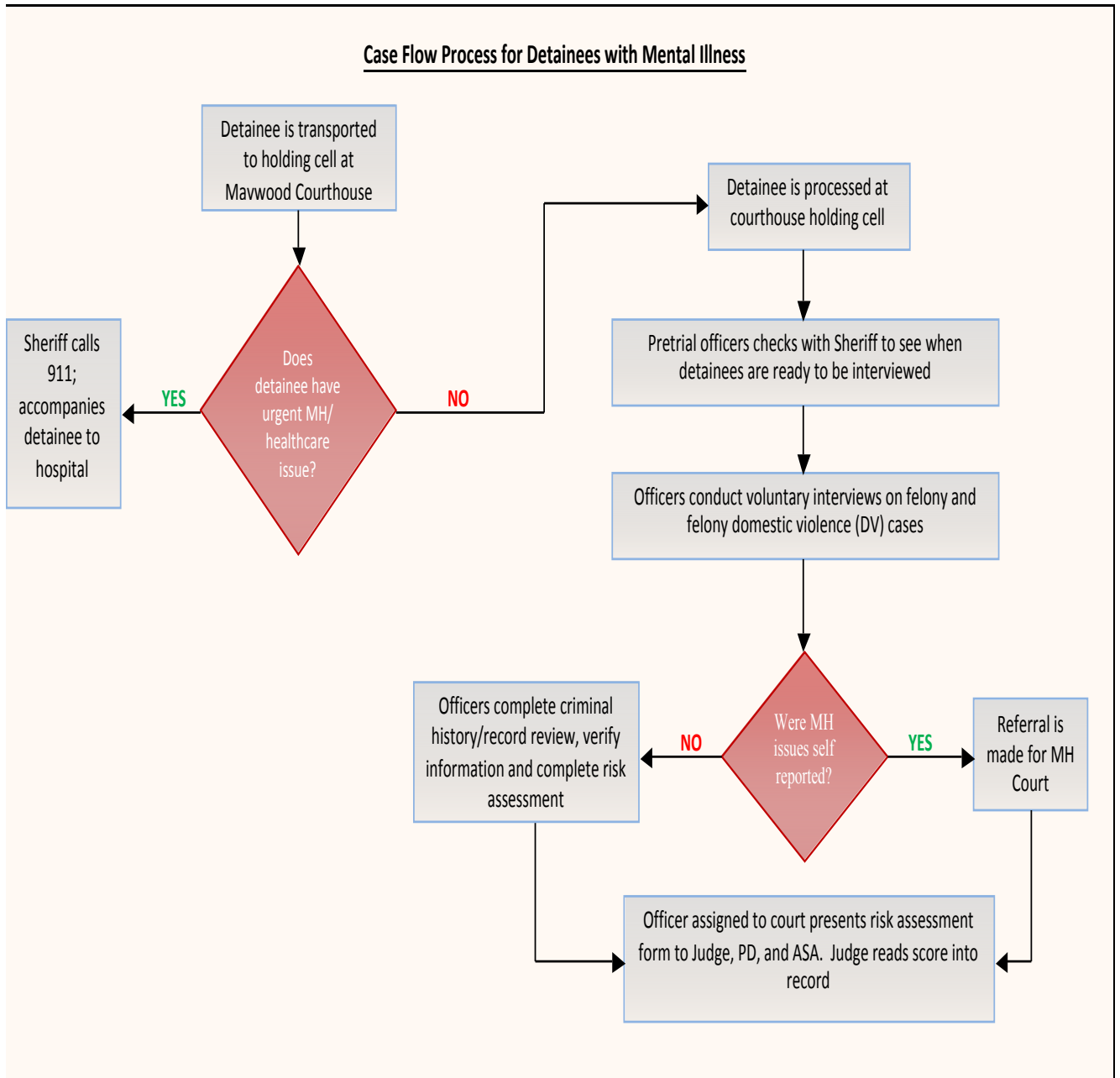


Felony Bond Court
 3rd Municipal Court –Chart 2

Appendix 4-Fourth Municipal District

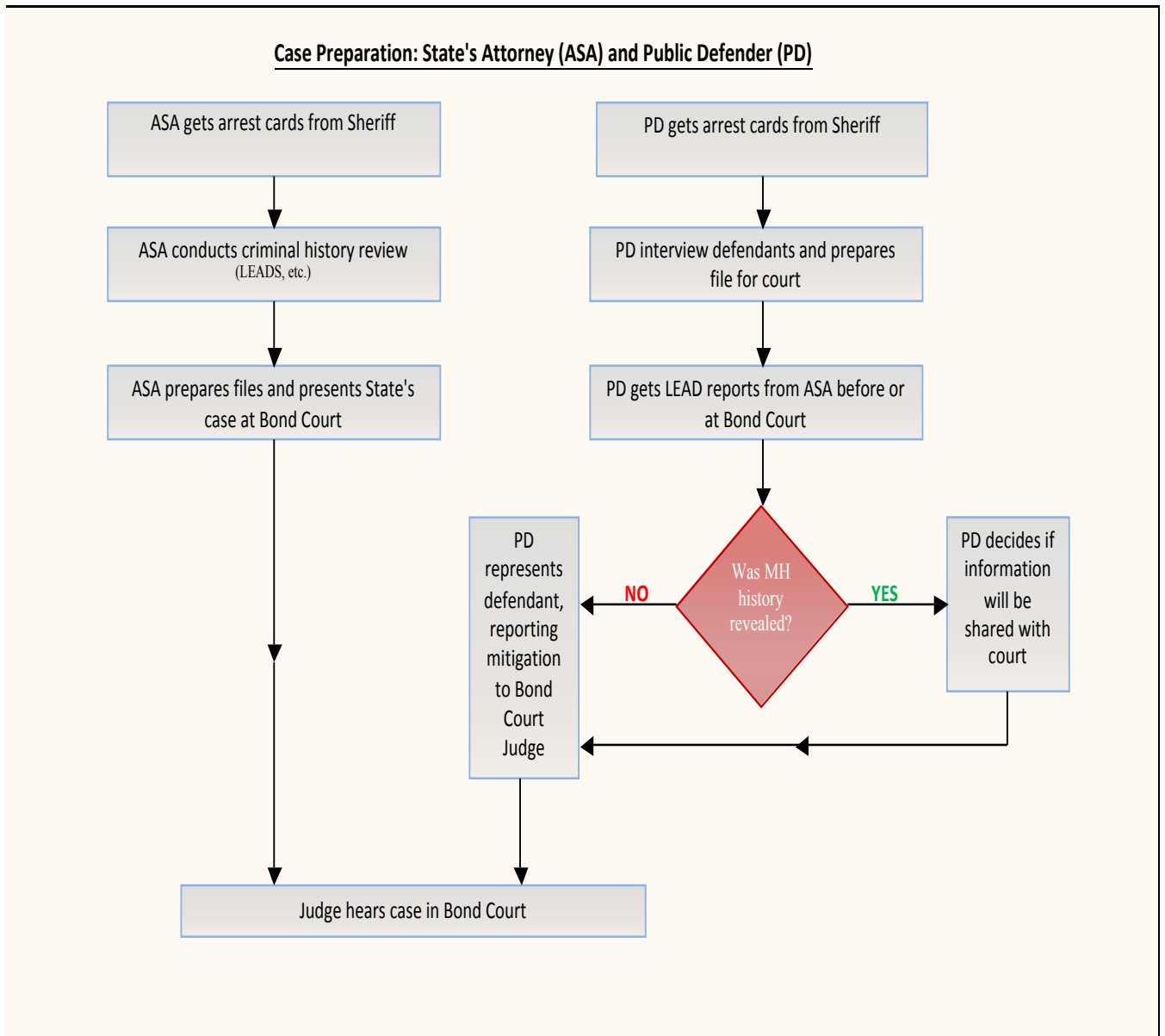


Circuit Court of Cook County
 Fourth Municipal District: Maywood Courthouse
 Felony Bond Court



Felony Bond Court
 4th Municipal Court –Chart 1

Circuit Court of Cook County
 Fourth Municipal District: Maywood Courthouse
 Felony Bond Court

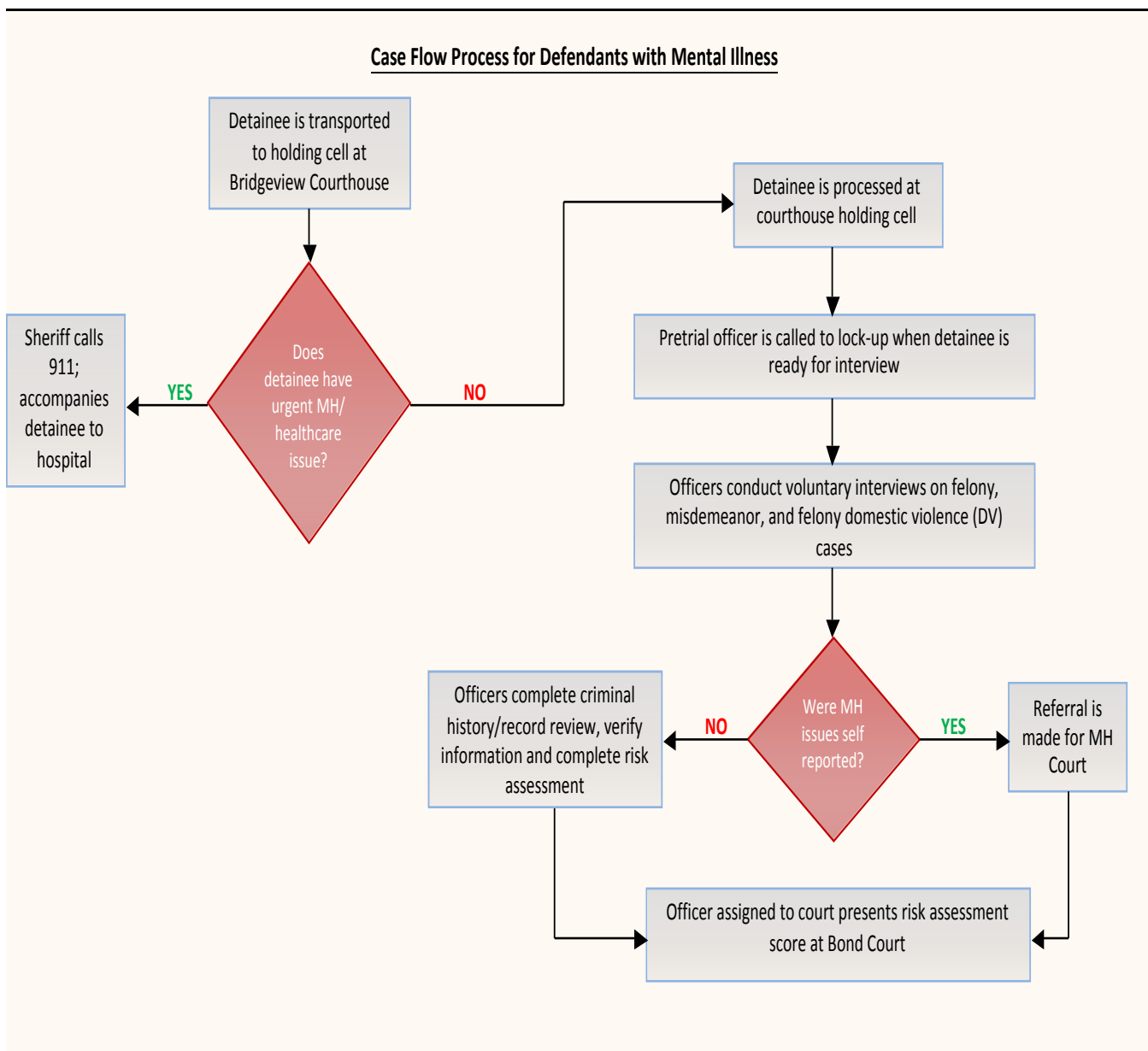


Felony Bond Court
 4th Municipal Court –Chart 2

Appendix 5 - Fifth Municipal District

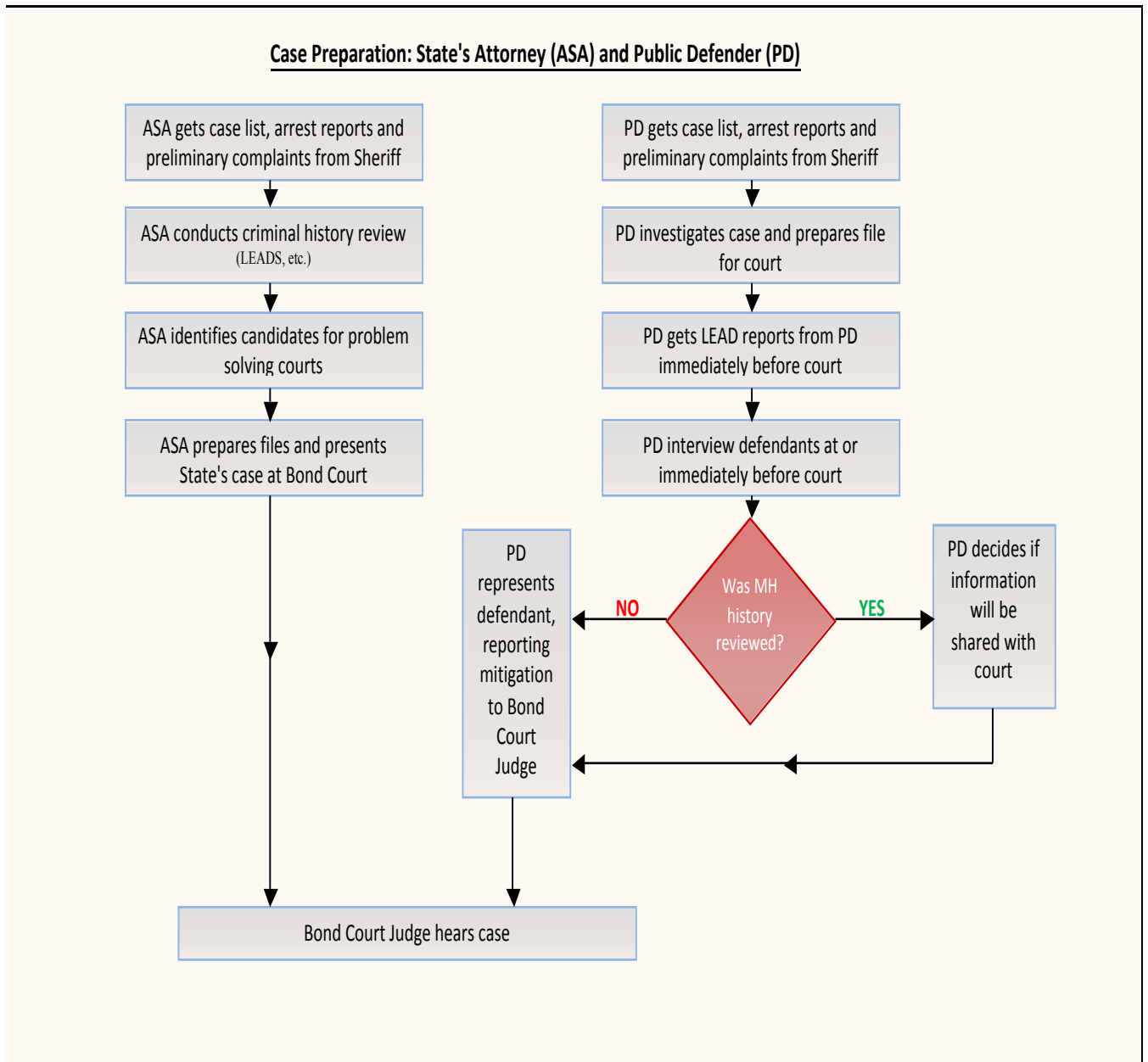


Circuit Court of Cook County
 Fifth Municipal District: Bridgeview Courthouse
 Felony Bond Court



Felony Bond Court
 5th Municipal Court –Chart 1

Circuit Court of Cook County
 Fifth Municipal District: Bridgeview Courthouse
 Felony Bond Court

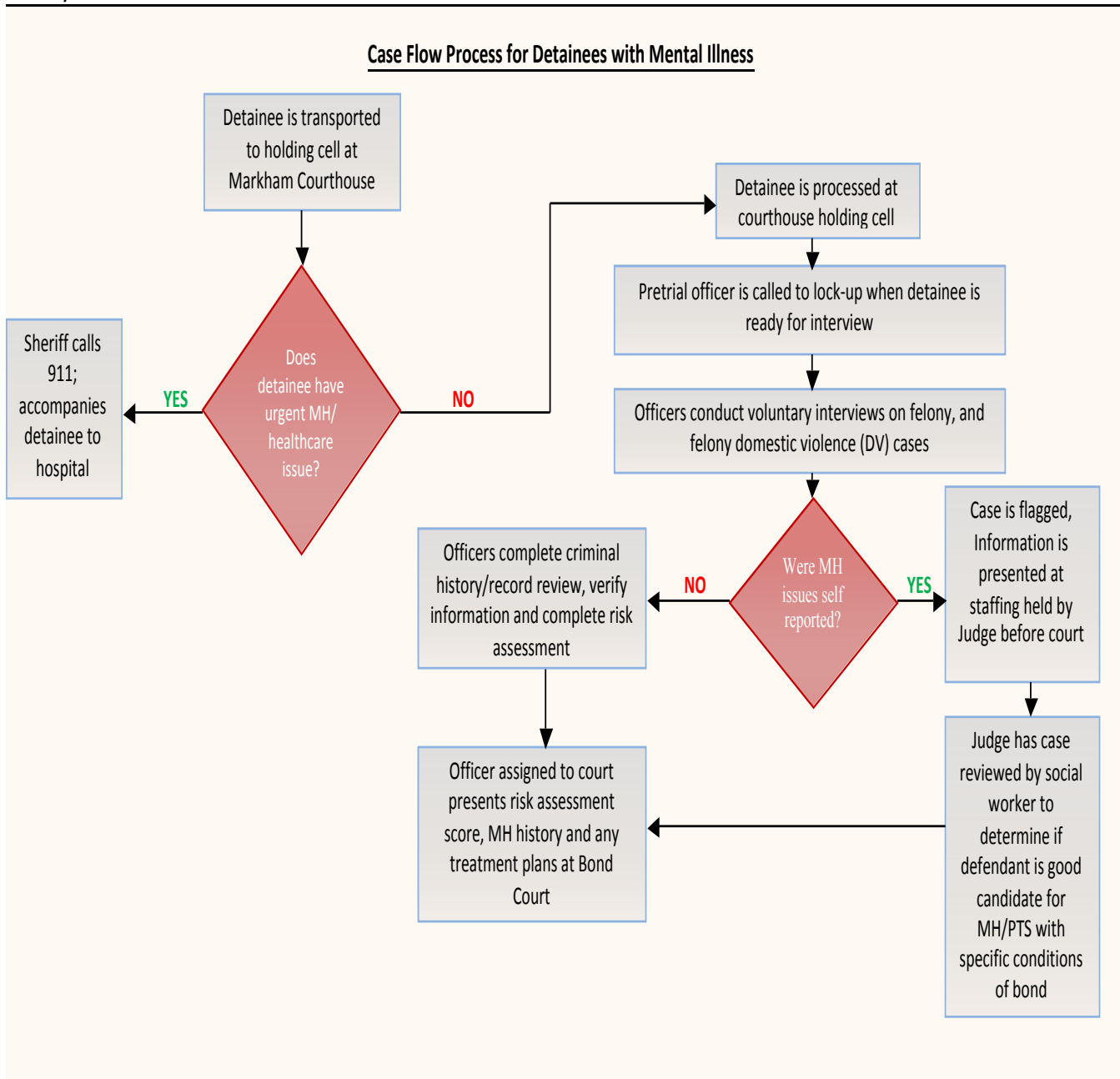


Felony Bond Court
 5th Municipal Court –Chart 2

Appendix 6 - Sixth Municipal District



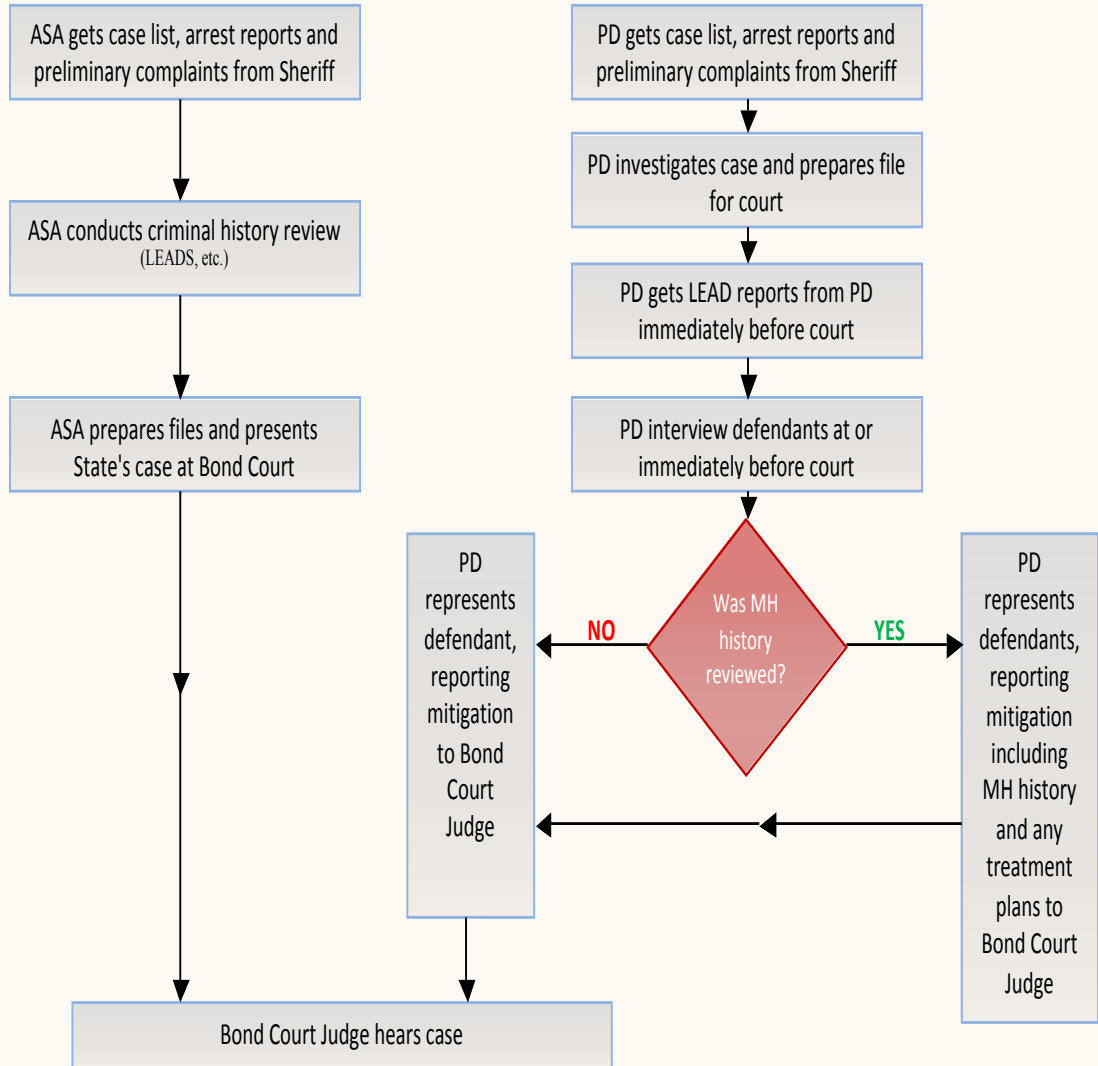
Sixth Municipal District: Markham Courthouse
 Felony Bond Court



Felony Bond Court
 6th Municipal Court –Chart 1

Circuit Court of Cook County
 Sixth Municipal District: Markham Courthouse
 Felony Bond Court

Case Preparation: State's Attorney (ASA) and Public Defender (PD)



Felony Bond Court
 6th Municipal Court –Chart 2

Appendix 7 – Texas Code of Criminal Procedure



CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 17. BAIL

Art. 17.01. DEFINITION OF "BAIL". "Bail" is the security given by the accused that he will appear and answer before the proper court the accusation brought against him, and includes a bail bond or a personal bond.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [2182](#), 84th Legislature, Regular Session, for amendments affecting this section.

Art. 17.02. DEFINITION OF "BAIL BOND". A "bail bond" is a written undertaking entered into by the defendant and the defendant's sureties for the appearance of the principal therein before a court or magistrate to answer a criminal accusation; provided, however, that the defendant on execution of the bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond in lieu of having sureties signing the same. Any cash funds deposited under this article shall be receipted for by the officer receiving the funds and, on order of the court, be refunded, after the defendant complies with the conditions of the defendant's bond, to:

- (1) any person in the name of whom a receipt was issued, in the amount reflected on the face of the receipt, including the defendant if a receipt was issued to the defendant; or
- (2) the defendant, if no other person is able to produce a receipt for the funds.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 978 (H.B. [1658](#)), Sec. 1, eff. September 1, 2011.

Art. 17.025. OFFICERS TAKING BAIL BOND. A jailer licensed under Chapter 1701, Occupations Code, is considered to be an officer for the purposes of taking a bail bond and discharging any other related powers and duties under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 736 (H.B. [1070](#)), Sec. 1, eff. June 17, 2011.

Art. 17.03. PERSONAL BOND. (a) Except as provided by Subsection (b) of this article, a magistrate may, in the magistrate's discretion, release the defendant on his personal bond without sureties or other security.

(b) Only the court before whom the case is pending may release on personal bond a defendant who:

(1) is charged with an offense under the following sections of the Penal Code:

(A) Section 19.03 (Capital Murder);

(B) Section 20.04 (Aggravated Kidnapping);

(C) Section 22.021 (Aggravated Sexual Assault);

(D) Section 22.03 (Deadly Assault on Law Enforcement or Corrections Officer, Member or

- Employee of Board of Pardons and Paroles, or Court Participant);
- (E) Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual);
- (F) Section 29.03 (Aggravated Robbery);
- (G) Section 30.02 (Burglary);
- (H) Section 71.02 (Engaging in Organized Criminal Activity);
- (I) Section 21.02 (Continuous Sexual Abuse of Young Child or Children); or
- (J) Section 20A.03 (Continuous Trafficking of Persons);
- (2) is charged with a felony under Chapter 481, Health and Safety Code, or Section 485.033, Health and Safety Code, punishable by imprisonment for a minimum term or by a maximum fine that is more than a minimum term or maximum fine for a first degree felony; or
- (3) does not submit to testing for the presence of a controlled substance in the defendant's body as requested by the court or magistrate under Subsection (c) of this article or submits to testing and the test shows evidence of the presence of a controlled substance in the defendant's body.
- (c) When setting a personal bond under this chapter, on reasonable belief by the investigating or arresting law enforcement agent or magistrate of the presence of a controlled substance in the defendant's body or on the finding of drug or alcohol abuse related to the offense for which the defendant is charged, the court or a magistrate shall require as a condition of personal bond that the defendant submit to testing for alcohol or a controlled substance in the defendant's body and participate in an alcohol or drug abuse treatment or education program if such a condition will serve to reasonably assure the appearance of the defendant for trial.
- (d) The state may not use the results of any test conducted under this chapter in any criminal proceeding arising out of the offense for which the defendant is charged.
- (e) Costs of testing may be assessed as court costs or ordered paid directly by the defendant as a condition of bond.
- (f) In this article, "controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.
- (g) The court may order that a personal bond fee assessed under Section 17.42 be:
- (1) paid before the defendant is released;
 - (2) paid as a condition of bond;
 - (3) paid as court costs;
 - (4) reduced as otherwise provided for by statute; or
 - (5) waived.
- Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1989, 71st Leg., ch. 374, Sec. 1, eff. Sept. 1, 1989; Sec. (b)(2) amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(57), eff. Sept. 1, 1991; Subsec. (f) amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(45), eff. Sept. 1, 1991; Subsec. (b) amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.19, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. [8](#)), Sec. 3.08, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. [3000](#)), Sec. 3, eff. September 1, 2011.

Art. 17.031. RELEASE ON PERSONAL BOND. (a) Any magistrate in this state may release a defendant eligible for release on personal bond under Article 17.03 of this code on his personal bond where the complaint and warrant for arrest does not originate in the county wherein the accused is arrested if the magistrate would have had jurisdiction over the matter had the

complaint arisen within the county wherein the magistrate presides. The personal bond may not be revoked by the judge of the court issuing the warrant for arrest except for good cause shown.

(b) If there is a personal bond office in the county from which the warrant for arrest was issued, the court releasing a defendant on his personal bond will forward a copy of the personal bond to the personal bond office in that county.

Added by Acts 1971, 62nd Leg., p. 2445, ch. 787, Sec. 1, eff. June 8, 1971.

Amended by Acts 1989, 71st Leg., ch. 374, Sec. 2, eff. Sept. 1, 1989.

Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN MENTALLY ILL DEFENDANTS. (a) In this article, "violent offense" means an offense under the following sections of the Penal Code:

- (1) Section 19.02 (murder);
- (2) Section 19.03 (capital murder);
- (3) Section 20.03 (kidnapping);
- (4) Section 20.04 (aggravated kidnapping);
- (5) Section 21.11 (indecenty with a child);
- (6) Section 22.01(a)(1) (assault);
- (7) Section 22.011 (sexual assault);
- (8) Section 22.02 (aggravated assault);
- (9) Section 22.021 (aggravated sexual assault);
- (10) Section 22.04 (injury to a child, elderly individual, or disabled individual);
- (11) Section 29.03 (aggravated robbery);
- (12) Section 21.02 (continuous sexual abuse of young child or children); or
- (13) Section 20A.03 (continuous trafficking of persons).

(b) A magistrate shall release a defendant on personal bond unless good cause is shown otherwise if the:

- (1) defendant is not charged with and has not been previously convicted of a violent offense;
- (2) defendant is examined by the local mental health or mental retardation authority or another mental health expert under Article 16.22 of this code;
- (3) applicable expert, in a written assessment submitted to the magistrate under Article 16.22:
 - (A) concludes that the defendant has a mental illness or is a person with mental retardation and is nonetheless competent to stand trial; and
 - (B) recommends mental health treatment for the defendant; and
- (4) magistrate determines, in consultation with the local mental health or mental retardation authority, that appropriate community-based mental health or mental retardation services for the defendant are available through the Texas Department of Mental Health and Mental Retardation under Section 534.053, Health and Safety Code, or through another mental health or mental retardation services provider.

(c) The magistrate, unless good cause is shown for not requiring treatment, shall require as a condition of release on personal bond under this article that the defendant submit to outpatient or inpatient mental health or mental retardation treatment as recommended by the local mental health or mental retardation authority if the defendant's:

- (1) mental illness or mental retardation is chronic in nature; or
- (2) ability to function independently will continue to deteriorate if the defendant is not treated.

(d) In addition to a condition of release imposed under Subsection (c) of this article, the magistrate may require the defendant to comply with other conditions that are reasonably

necessary to protect the community.

(e) In this article, a person is considered to have been convicted of an offense if:

(1) a sentence is imposed;

(2) the person is placed on community supervision or receives deferred adjudication; or

(3) the court defers final disposition of the case.

Added by Acts 1993, 73rd Leg., ch. 900, Sec. 3.06, eff. Sept. 1, 1994. Subsec. (a) amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.20, eff. Sept. 1, 1995; Subsecs. (b), (c) amended by Acts 1997, 75th Leg., ch. 312, Sec. 2, eff. Sept. 1, 1997; Subsecs. (b), (c) amended by Acts 2001, 77th Leg., ch. 828, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. [8](#)), Sec. 3.09, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1228 (S.B. [1557](#)), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. [3000](#)), Sec. 4, eff. September 1, 2011.

Art. 17.033. RELEASE ON BOND OF CERTAIN PERSONS ARRESTED WITHOUT A WARRANT. (a) Except as provided by Subsection (c), a person who is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed \$5,000, not later than the 24th hour after the person's arrest if the person was arrested for a misdemeanor and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in the amount of the bond, the person must be released on personal bond.

(a-1) Expired.

(b) Except as provided by Subsection (c), a person who is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed \$10,000, not later than the 48th hour after the person's arrest if the person was arrested for a felony and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in the amount of the bond, the person must be released on personal bond.

(c) On the filing of an application by the attorney representing the state, a magistrate may postpone the release of a person under Subsection (a), (a-1), or (b) for not more than 72 hours after the person's arrest. An application filed under this subsection must state the reason a magistrate has not determined whether probable cause exists to believe that the person committed the offense for which the person was arrested.

(d) The time limits imposed by Subsections (a), (a-1), and (b) do not apply to a person arrested without a warrant who is taken to a hospital, clinic, or other medical facility before being taken before a magistrate under Article 15.17. For a person described by this subsection, the time limits imposed by Subsections (a), (a-1), and (b) begin to run at the time, as documented in the records of the hospital, clinic, or other medical facility, that a physician or other medical professional releases the person from the hospital, clinic, or other medical facility.

(e) Expired.

Added by Acts 2001, 77th Leg., ch. 906, Sec. 5(a), eff. Jan. 1, 2002. Subsec. (d) added by Acts 2003, 78th Leg., ch. 298, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1350 (H.B. [1173](#)), Sec. 1, eff. September 1, 2011.

Art. 17.04. REQUISITES OF A PERSONAL BOND. A personal bond is sufficient if it includes the requisites of a bail bond as set out in Article 17.08, except that no sureties are required. In

addition, a personal bond shall contain:

- (1) the defendant's name, address, and place of employment;
- (2) identification information, including the defendant's:
 - (A) date and place of birth;
 - (B) height, weight, and color of hair and eyes;
 - (C) driver's license number and state of issuance, if any; and
 - (D) nearest relative's name and address, if any; and
- (3) the following oath sworn and signed by the defendant:

"I swear that I will appear before (the court or magistrate) at (address, city, county) Texas, on the (date), at the hour of (time, a.m. or p.m.) or upon notice by the court, or pay to the court the principal sum of (amount) plus all necessary and reasonable expenses incurred in any arrest for failure to appear."

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1987, 70th Leg., ch. 623, Sec. 1, eff. Sept. 1, 1987.

Art. 17.045. BAIL BOND CERTIFICATES. A bail bond certificate with respect to which a fidelity and surety company has become surety as provided in the Automobile Club Services Act, or for any truck and bus association incorporated in this state, when posted by the person whose signature appears thereon, shall be accepted as bail bond in an amount not to exceed \$200 to guarantee the appearance of such person in any court in this state when the person is arrested for violation of any motor vehicle law of this state or ordinance of any municipality in this state, except for the offense of driving while intoxicated or for any felony, and the alleged violation was committed prior to the date of expiration shown on such bail bond certificate.

Added by Acts 1969, 61st Leg., p. 2033, ch. 697, Sec. 2, eff. Sept. 1, 1969.

Art. 17.05. WHEN A BAIL BOND IS GIVEN. A bail bond is entered into either before a magistrate, upon an examination of a criminal accusation, or before a judge upon an application under habeas corpus; or it is taken from the defendant by a peace officer or jailer if authorized by Article 17.20, 17.21, or 17.22.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 3045, ch. 1006, Sec. 1, eff. Aug. 30, 1971.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 736 (H.B. [1070](#)), Sec. 2, eff. June 17, 2011.

Art. 17.06. CORPORATION AS SURETY. Wherever in this Chapter, any person is required or authorized to give or execute any bail bond, such bail bond may be given or executed by such principal and any corporation authorized by law to act as surety, subject to all the provisions of this Chapter regulating and governing the giving of bail bonds by personal surety insofar as the same is applicable.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.07. CORPORATION TO FILE WITH COUNTY CLERK POWER OF ATTORNEY DESIGNATING AGENT. (a) Any corporation authorized by the law of this State to act as a surety, shall before

executing any bail bond as authorized in the preceding Article, first file in the office of the county clerk of the county where such bail bond is given, a power of attorney designating and authorizing the named agent, agents or attorney of such corporation to execute such bail bonds and thereafter the execution of such bail bonds by such agent, agents or attorney, shall be a valid and binding obligation of such corporation.

(b) A corporation may limit the authority of an agent designated under Subsection (a) by specifying the limitation in the power of attorney that is filed with the county clerk.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 769 (H.B. [1823](#)), Sec. 1, eff. September 1, 2011.

Art. 17.08. REQUISITES OF A BAIL BOND. A bail bond must contain the following requisites:

1. That it be made payable to "The State of Texas";
2. That the defendant and his sureties, if any, bind themselves that the defendant will appear before the proper court or magistrate to answer the accusation against him;
3. If the defendant is charged with a felony, that it state that he is charged with a felony. If the defendant is charged with a misdemeanor, that it state that he is charged with a misdemeanor;
4. That the bond be signed by name or mark by the principal and sureties, if any, each of whom shall write thereon his mailing address;
5. That the bond state the time and place, when and where the accused binds himself to appear, and the court or magistrate before whom he is to appear. The bond shall also bind the defendant to appear before any court or magistrate before whom the cause may thereafter be pending at any time when, and place where, his presence may be required under this Code or by any court or magistrate, but in no event shall the sureties be bound after such time as the defendant receives an order of deferred adjudication or is acquitted, sentenced, placed on community supervision, or dismissed from the charge;
6. The bond shall also be conditioned that the principal and sureties, if any, will pay all necessary and reasonable expenses incurred by any and all sheriffs or other peace officers in rearresting the principal in the event he fails to appear before the court or magistrate named in the bond at the time stated therein. The amount of such expense shall be in addition to the principal amount specified in the bond. The failure of any bail bond to contain the conditions specified in this paragraph shall in no manner affect the legality of any such bond, but it is intended that the sheriff or other peace officer shall look to the defendant and his sureties, if any, for expenses incurred by him, and not to the State for any fees earned by him in connection with the rearresting of an accused who has violated the conditions of his bond.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1999, 76th Leg., ch. 1506, Sec. 1, eff. Sept. 1, 1999.

Art. 17.085. NOTICE OF APPEARANCE DATE. The clerk of a court that does not provide online Internet access to that court's criminal case records shall post in a designated public place in the courthouse notice of a prospective criminal court docket setting as soon as the court notifies the clerk of the setting.

Added by Acts 2007, 80th Leg., R.S., Ch. 1038 (H.B. [1801](#)), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 278 (H.B. [1573](#)), Sec. 1, eff. September 1, 2011.

Art. 17.09. DURATION; ORIGINAL AND SUBSEQUENT PROCEEDINGS; NEW BAIL

Sec. 1. Where a defendant, in the course of a criminal action, gives bail before any court or person authorized by law to take same, for his personal appearance before a court or magistrate, to answer a charge against him, the said bond shall be valid and binding upon the defendant and his sureties, if any, thereon, for the defendant's personal appearance before the court or magistrate designated therein, as well as before any other court to which same may be transferred, and for any and all subsequent proceedings had relative to the charge, and each such bond shall be so conditioned except as hereinafter provided.

Sec. 2. When a defendant has once given bail for his appearance in answer to a criminal charge, he shall not be required to give another bond in the course of the same criminal action except as herein provided.

Sec. 3. Provided that whenever, during the course of the action, the judge or magistrate in whose court such action is pending finds that the bond is defective, excessive or insufficient in amount, or that the sureties, if any, are not acceptable, or for any other good and sufficient cause, such judge or magistrate may, either in term-time or in vacation, order the accused to be rearrested, and require the accused to give another bond in such amount as the judge or magistrate may deem proper. When such bond is so given and approved, the defendant shall be released from custody.

Sec. 4. Notwithstanding any other provision of this article, the judge or magistrate in whose court a criminal action is pending may not order the accused to be rearrested or require the accused to give another bond in a higher amount because the accused:

- (1) withdraws a waiver of the right to counsel; or
- (2) requests the assistance of counsel, appointed or retained.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 463 (H.B. [1178](#)), Sec. 2, eff. September 1, 2007.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [2299](#), 84th Legislature, Regular Session, for amendments affecting this section.

Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED. Before a judge or magistrate reduces the amount of bail set for a defendant charged with an offense listed in Section 3g, Article 42.12, an offense described by Article 62.001(5), or an offense under Section 20A.03, Penal Code, the judge or magistrate shall provide:

- (1) to the attorney representing the state, reasonable notice of the proposed bail reduction; and
- (2) on request of the attorney representing the state or the defendant or the defendant's counsel, an opportunity for a hearing concerning the proposed bail reduction.

Added by Acts 2005, 79th Leg., Ch. 671 (S.B. [56](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. [8](#)), Sec. 3.10, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. [3000](#)), Sec. 5, eff. September 1, 2011.

Art. 17.10. DISQUALIFIED SURETIES. (a) A minor may not be surety on a bail bond, but the accused party may sign as principal.

(b) A person, for compensation, may not be a surety on a bail bond written in a county in which a county bail bond board regulated under Chapter 1704, Occupations Code, does not exist unless the person, within two years before the bail bond is given, completed in person at least eight hours of continuing legal education in criminal law courses or bail bond law courses that are:

(1) approved by the State Bar of Texas; and

(2) offered by an accredited institution of higher education in this state.

(c) A person, for compensation, may not act as a surety on a bail bond if the person has been finally convicted of:

(1) a misdemeanor involving moral turpitude; or

(2) a felony.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by:

Acts 2005, 79th Leg., Ch. 743 (H.B. [2767](#)), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 769 (H.B. [1823](#)), Sec. 2, eff. September 1, 2011.

Art. 17.11. HOW BAIL BOND IS TAKEN.

Sec. 1. Every court, judge, magistrate or other officer taking a bail bond shall require evidence of the sufficiency of the security offered; but in every case, one surety shall be sufficient, if it be made to appear that such surety is worth at least double the amount of the sum for which he is bound, exclusive of all property exempted by law from execution, and of debts or other encumbrances; and that he is a resident of this state, and has property therein liable to execution worth the sum for which he is bound.

Sec. 2. Provided, however, any person who has signed as a surety on a bail bond and is in default thereon shall thereafter be disqualified to sign as a surety so long as the person is in default on the bond. It shall be the duty of the clerk of the court where the surety is in default on a bail bond to notify in writing the sheriff, chief of police, or other peace officer of the default. If a bail bond is taken for an offense other than a Class C misdemeanor, the clerk of the court where the surety is in default on the bond shall send notice of the default by certified mail to the last known address of the surety.

Sec. 3. A surety is considered to be in default from the time execution may be issued on a final judgment in a bond forfeiture proceeding under the Texas Rules of Civil Procedure, unless the final judgment is superseded by the posting of a supersedeas bond.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1736, ch. 659, Sec. 14, eff. Aug. 28, 1967.

Sec. 2 amended by Acts 1999, 76th Leg., ch. 1506, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 930 (H.B. [1562](#)), Sec. 1, eff. September 1, 2013.

Art. 17.12. EXEMPT PROPERTY. The property secured by the Constitution and laws from forced sale shall not, in any case, be held liable for the satisfaction of bail, either as to principal or sureties, if any.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.13. SUFFICIENCY OF SURETIES ASCERTAINED. To test the sufficiency of the security offered to any bail bond, unless the court or officer taking the same is fully satisfied as to its sufficiency, the following oath shall be made in writing and subscribed by the sureties: "I, do swear that I am worth, in my own right, at least the sum of (here insert the amount in which the surety is bound), after deducting from my property all that which is exempt by the Constitution and Laws of the State from forced sale, and after the payment of all my debts of every description, whether individual or security debts, and after satisfying all encumbrances upon my property which are known to me; that I reside in County, and have property in this State liable to execution worth said amount or more.

(Dated, and attested by the judge of the court, clerk, magistrate or sheriff.)"

Such affidavit shall be filed with the papers of the proceedings.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.14. AFFIDAVIT NOT CONCLUSIVE. Such affidavit shall not be conclusive as to the sufficiency of the security; and if the court or officer taking the bail bond is not fully satisfied as to the sufficiency of the security offered, further evidence shall be required before approving the same.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.141. ELIGIBLE BAIL BOND SURETIES IN CERTAIN COUNTIES. In a county in which a county bail bond board regulated under Chapter 1704, Occupations Code, does not exist, the sheriff may post a list of eligible bail bond sureties whose security has been determined to be sufficient. Each surety listed under this article must file annually a sworn financial statement with the sheriff.

Added by Acts 2005, 79th Leg., Ch. 743 (H.B. [2767](#)), Sec. 2, eff. September 1, 2005.

Art. 17.15. RULES FOR FIXING AMOUNT OF BAIL. The amount of bail to be required in any case is to be regulated by the court, judge, magistrate or officer taking the bail; they are to be governed in the exercise of this discretion by the Constitution and by the following rules:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
2. The power to require bail is not to be so used as to make it an instrument of oppression.
3. The nature of the offense and the circumstances under which it was committed are to be considered.
4. The ability to make bail is to be regarded, and proof may be taken upon this point.
5. The future safety of a victim of the alleged offense and the community shall be considered.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1985, 69th Leg., ch. 588, Sec. 2, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 396, Sec. 1, eff. Sept. 1, 1993.

Art. 17.151. RELEASE BECAUSE OF DELAY.

Sec. 1. A defendant who is detained in jail pending trial of an accusation against him must be released either on personal bond or by reducing the amount of bail required, if the state is not

ready for trial of the criminal action for which he is being detained within:

- (1) 90 days from the commencement of his detention if he is accused of a felony;
- (2) 30 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment in jail for more than 180 days;
- (3) 15 days from the commencement of his detention if he is accused of a misdemeanor punishable by a sentence of imprisonment for 180 days or less; or
- (4) five days from the commencement of his detention if he is accused of a misdemeanor punishable by a fine only.

Sec. 2. The provisions of this article do not apply to a defendant who is:

- (1) serving a sentence of imprisonment for another offense while the defendant is serving that sentence;
- (2) being detained pending trial of another accusation against the defendant as to which the applicable period has not yet elapsed;
- (3) incompetent to stand trial, during the period of the defendant's incompetence; or
- (4) being detained for a violation of the conditions of a previous release related to the safety of a victim of the alleged offense or to the safety of the community under this article.

Sec. 3. Repealed by Acts 2005, 79th Leg., Ch. 110, Sec. 2, eff. September 1, 2005.

Added by Acts 1977, 65th Leg., p. 1972, ch. 787, Sec. 2, eff. July 1, 1978.

Amended by:

Acts 2005, 79th Leg., Ch. 110 (S.B. [599](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 110 (S.B. [599](#)), Sec. 2, eff. September 1, 2005.

Art. 17.152. DENIAL OF BAIL FOR VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE CASE. (a) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

(b) Except as otherwise provided by Subsection (d), a person who commits an offense under Section 25.07, Penal Code, related to a violation of a condition of bond set in a family violence case and whose bail in the case under Section 25.07, Penal Code, or in the family violence case is revoked or forfeited for a violation of a condition of bond may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate determines by a preponderance of the evidence that the person violated a condition of bond related to:

- (1) the safety of the victim of the offense under Section 25.07, Penal Code, or the family violence case, as applicable; or
- (2) the safety of the community.

(c) Except as otherwise provided by Subsection (d), a person who commits an offense under Section 25.07, Penal Code, other than an offense related to a violation of a condition of bond set in a family violence case, may be taken into custody and, pending trial or other court proceedings, denied release on bail if following a hearing a judge or magistrate determines by a preponderance of the evidence that the person committed the offense.

(d) A person who commits an offense under Section 25.07(a)(3), Penal Code, may be held without bail under Subsection (b) or (c), as applicable, only if following a hearing the judge or magistrate determines by a preponderance of the evidence that the person went to or near the place described in the order or condition of bond with the intent to commit or threaten to commit:

- (1) family violence; or
- (2) an act in furtherance of an offense under Section 42.072, Penal Code.

(e) In determining whether to deny release on bail under this article, the judge or magistrate

may consider:

- (1) the order or condition of bond;
 - (2) the nature and circumstances of the alleged offense;
 - (3) the relationship between the accused and the victim, including the history of that relationship;
 - (4) any criminal history of the accused; and
 - (5) any other facts or circumstances relevant to a determination of whether the accused poses an imminent threat of future family violence.
- (f) A person arrested for committing an offense under Section 25.07, Penal Code, shall without unnecessary delay and after reasonable notice is given to the attorney representing the state, but not later than 48 hours after the person is arrested, be taken before a magistrate in accordance with Article 15.17. At that time, the magistrate shall conduct the hearing and make the determination required by this article.

Added by Acts 2007, 80th Leg., R.S., Ch. 1113 (H.B. [3692](#)), Sec. 3, eff. January 1, 2008.

Art. 17.153. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF BOND WHERE CHILD ALLEGED VICTIM. (a) This article applies to a defendant charged with a felony offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 years of age:

- (1) Chapter 21 (Sexual Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct);
- (3) Section 43.25 (Sexual Performance by a Child);
- (4) Section 20A.02 (Trafficking of Persons), if the defendant is alleged to have:
 - (A) trafficked the child with the intent or knowledge that the child would engage in sexual conduct, as defined by Section 43.25, Penal Code; or
 - (B) benefited from participating in a venture that involved a trafficked child engaging in sexual conduct, as defined by Section 43.25, Penal Code; or
- (5) Section 43.05(a)(2) (Compelling Prostitution).

(b) A defendant described by Subsection (a) who violates a condition of bond set under Article 17.41 and whose bail in the case is revoked for the violation may be taken into custody and denied release on bail pending trial if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim of the offense or the safety of the community. If the magistrate finds that the violation occurred, the magistrate may revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

Added by Acts 2009, 81st Leg., R.S., Ch. 982 (H.B. [3751](#)), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. [2014](#)), Sec. 2.01, eff. September 1, 2011.

Art. 17.16. DISCHARGE OF LIABILITY; SURRENDER OR INCARCERATION OF PRINCIPAL BEFORE FORFEITURE; VERIFICATION OF INCARCERATION. (a) A surety may before forfeiture relieve the surety of the surety's undertaking by:

- (1) surrendering the accused into the custody of the sheriff of the county where the prosecution is pending; or

(2) delivering to the sheriff of the county in which the prosecution is pending and to the office of the prosecuting attorney an affidavit stating that the accused is incarcerated in federal custody, in the custody of any state, or in any county of this state.

(b) On receipt of an affidavit described by Subsection (a)(2), the sheriff of the county in which the prosecution is pending shall verify whether the accused is incarcerated as stated in the affidavit. If the sheriff verifies the statement in the affidavit, the sheriff shall notify the magistrate before which the prosecution is pending of the verification.

(c) On a verification described by this article, the sheriff shall place a detainer against the accused with the appropriate officials in the jurisdiction in which the accused is incarcerated. On receipt of notice of a verification described by this article, the magistrate before which the prosecution is pending shall direct the clerk of the court to issue a *capias* for the arrest of the accused, except as provided by Subsection (d).

(d) A *capias* for the arrest of the accused is not required if:

(1) a warrant has been issued for the accused's arrest and remains outstanding; or

(2) the issuance of a *capias* would otherwise be unnecessary for the purpose of taking the accused into custody.

(e) For the purposes of Subsection (a)(2) of this article, the bond is discharged and the surety is absolved of liability on the bond on the verification of the incarceration of the accused.

(f) An affidavit described by Subsection (a)(2) and the documentation of any verification obtained under Subsection (b) must be:

(1) filed in the court record of the underlying criminal case in the court in which the prosecution is pending or, if the court record does not exist, in a general file maintained by the clerk of the court; and

(2) delivered to the office of the prosecuting attorney.

(g) A surety is liable for all reasonable and necessary expenses incurred in returning the accused into the custody of the sheriff of the county in which the prosecution is pending.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1987, 70th Leg., ch. 1047, Sec. 1, eff. June 20, 1987.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 87 (S.B. [877](#)), Sec. 1, eff. May 19, 2011.

Art. 17.17. WHEN SURRENDER IS MADE DURING TERM. If a surrender of the accused be made during a term of the court to which he has bound himself to appear, the sheriff shall take him before the court; and if he is willing to give other bail, the court shall forthwith require him to do so. If he fails or refuses to give bail, the court shall make an order that he be committed to jail until the bail is given, and this shall be a sufficient commitment without any written order to the sheriff.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.18. SURRENDER IN VACATION. When the surrender is made at any other time than during the session of the court, the sheriff may take the necessary bail bond, but if the defendant fails or refuses to give other bail, the sheriff shall take him before the nearest magistrate; and such magistrate shall issue a warrant of commitment, reciting the fact that the accused has been once admitted to bail, has been surrendered, and now fails or refuses to give other bail.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.19. SURETY MAY OBTAIN A WARRANT. (a) Any surety, desiring to surrender his principal and after notifying the principal's attorney, if the principal is represented by an attorney, in a manner provided by Rule 21a, Texas Rules of Civil Procedure, of the surety's intention to surrender the principal, may file an affidavit of such intention before the court or magistrate before which the prosecution is pending. The affidavit must state:

- (1) the court and cause number of the case;
- (2) the name of the defendant;
- (3) the offense with which the defendant is charged;
- (4) the date of the bond;
- (5) the cause for the surrender; and
- (6) that notice of the surety's intention to surrender the principal has been given as required by this subsection.

(b) In a prosecution pending before a court, if the court finds that there is cause for the surety to surrender the surety's principal, the court shall issue a *capias* for the principal. In a prosecution pending before a magistrate, if the magistrate finds that there is cause for the surety to surrender the surety's principal, the magistrate shall issue a warrant of arrest for the principal. It is an affirmative defense to any liability on the bond that:

- (1) the court or magistrate refused to issue a *capias* or warrant of arrest for the principal; and
- (2) after the refusal to issue the *capias* or warrant of arrest, the principal failed to appear.

(c) If the court or magistrate before whom the prosecution is pending is not available, the surety may deliver the affidavit to any other magistrate in the county and that magistrate, on a finding of cause for the surety to surrender the surety's principal, shall issue a warrant of arrest for the principal.

(d) An arrest warrant or *capias* issued under this article shall be issued to the sheriff of the county in which the case is pending, and a copy of the warrant or *capias* shall be issued to the surety or his agent.

(e) An arrest warrant or *capias* issued under this article may be executed by a peace officer, a security officer, or a private investigator licensed in this state.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1987, 70th Leg., ch. 1047, Sec. 2, eff. June 20, 1987; Subsec. (b) amended by Acts 1989, 71st Leg., ch. 374, Sec. 3, eff. Sept. 1, 1989; Subsec. (a) amended by Acts 1999, 76th Leg., ch. 1506, Sec. 3, eff. Sept. 1, 1999; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 942, Sec. 4, eff. June 20, 2003; Subsec. (c) amended by Acts 2003, 78th Leg., ch. 942, Sec. 4, eff. June 20, 2003; Subsec. (d) amended by Acts 2003, 78th Leg., ch. 942, Sec. 4, eff. June 20, 2003; Subsec. (e) amended by Acts 2003, 78th Leg., ch. 942, Sec. 4, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1263 (H.B. [3060](#)), Sec. 2, eff. September 1, 2007.

Art. 17.20. BAIL IN MISDEMEANOR. In cases of misdemeanor, the sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, may, whether during the term of the court or in vacation, where the officer has a defendant in custody, take of the defendant a bail bond.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 3046, ch.

1006, Sec. 1, eff. Aug. 30, 1971.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 736 (H.B. [1070](#)), Sec. 3, eff. June 17, 2011.

Art. 17.21. BAIL IN FELONY. In cases of felony, when the accused is in custody of the sheriff or other officer, and the court before which the prosecution is pending is in session in the county where the accused is in custody, the court shall fix the amount of bail, if it is aailable case and determine if the accused is eligible for a personal bond; and the sheriff or other peace officer, unless it be the police of a city, or a jailer licensed under Chapter 1701, Occupations Code, is authorized to take a bail bond of the accused in the amount as fixed by the court, to be approved by such officer taking the same, and will thereupon discharge the accused from custody. The defendant and the defendant's sureties are not required to appear in court.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 736 (H.B. [1070](#)), Sec. 4, eff. June 17, 2011.

Art. 17.22. MAY TAKE BAIL IN FELONY. In a felony case, if the court before which the same is pending is not in session in the county where the defendant is in custody, the sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, who has the defendant in custody may take the defendant's bail bond in such amount as may have been fixed by the court or magistrate, or if no amount has been fixed, then in such amount as such officer may consider reasonable.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 736 (H.B. [1070](#)), Sec. 5, eff. June 17, 2011.

Art. 17.23. SURETIES SEVERALLY BOUND. In all bail bonds taken under any provision of this Code, the sureties shall be severally bound. Where a surrender of the principal is made by one or more of them, all the sureties shall be considered discharged.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.24. GENERAL RULES APPLICABLE. All general rules in the Chapter are applicable to bail defendant before an examining court.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.25. PROCEEDINGS WHEN BAIL IS GRANTED. After a full examination of the testimony, the magistrate shall, if the case be one where bail may properly be granted and ought to be required, proceed to make an order that the accused execute a bail bond with sufficient security, conditioned for his appearance before the proper court.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.26. TIME GIVEN TO PROCURE BAIL. Reasonable time shall be given the accused to procure security.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.27. WHEN BAIL IS NOT GIVEN. If, after the allowance of a reasonable time, the security be not given, the magistrate shall make an order committing the accused to jail to be kept safely until legally discharged; and he shall issue a commitment accordingly.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.28. WHEN READY TO GIVE BAIL. If the party be ready to give bail, the magistrate shall cause to be prepared a bond, which shall be signed by the accused and his surety or sureties, if any.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.29. ACCUSED LIBERATED. (a) When the accused has given the required bond, either to the magistrate or the officer having him in custody, he shall at once be set at liberty.

(b) Before releasing on bail a person arrested for an offense under Section 42.072, Penal Code, or a person arrested or held without warrant in the prevention of family violence, the law enforcement agency holding the person shall make a reasonable attempt to give personal notice of the imminent release to the victim of the alleged offense or to another person designated by the victim to receive the notice. An attempt by an agency to give notice to the victim or the person designated by the victim at the victim's or person's last known telephone number or address, as shown on the records of the agency, constitutes a reasonable attempt to give notice under this subsection. If possible, the arresting officer shall collect the address and telephone number of the victim at the time the arrest is made and shall communicate that information to the agency holding the person.

(c) A law enforcement agency or an employee of a law enforcement agency is not liable for damages arising from complying or failing to comply with Subsection (b) of this article.

(d) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1995, 74th Leg., ch. 656, Sec. 1, eff. June 14, 1995; Acts 1995, 74th Leg., ch. 661, Sec. 1, eff. Aug. 28, 1995; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1, Sec. 3, eff. Jan. 28, 1997; Subsec. (d) amended by Acts 2003, 78th Leg., ch. 1276, Sec. 7.002(e), eff. Sept. 1, 2003.

Art. 17.291. FURTHER DETENTION OF CERTAIN PERSONS. (a) In this article:

(1) "family violence" has the meaning assigned to that phrase by Section 71.004, Family Code; and

(2) "magistrate" has the meaning assigned to it by Article 2.09 of this code.

(b) Article 17.29 does not apply when a person has been arrested or held without a warrant in the prevention of family violence if there is probable cause to believe the violence will continue if the person is immediately released. The head of the agency arresting or holding such a person may hold the person for a period of not more than four hours after bond has been posted. This detention period may be extended for an additional period not to exceed 48 hours, but only if authorized in a writing directed to the person having custody of the detained person by a

magistrate who concludes that:

- (1) the violence would continue if the person is released; and
- (2) if the additional period exceeds 24 hours, probable cause exists to believe that the person committed the instant offense and that, during the 10-year period preceding the date of the instant offense, the person has been arrested:
 - (A) on more than one occasion for an offense involving family violence; or
 - (B) for any other offense, if a deadly weapon, as defined by Section 1.07, Penal Code, was used or exhibited during commission of the offense or during immediate flight after commission of the offense.

Added by Acts 1991, 72nd Leg., ch. 552, Sec. 2, eff. June 16, 1991. Subsec. (b) amended by Acts 1999, 76th Leg., ch. 1341, Sec. 1, eff. Sept. 1, 1999. Subsec. (a) amended by Acts 2003, 78th Leg., ch. 1276, Sec. 7.002(f), eff. Sept. 1, 2003.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [737](#), S.B. [112](#) and H.B. [910](#), 84th Legislature, Regular Session, for amendments affecting this section.

Art. 17.292. MAGISTRATE'S ORDER FOR EMERGENCY PROTECTION. (a) At a defendant's appearance before a magistrate after arrest for an offense involving family violence or an offense under Section 22.011, 22.021, or 42.072, Penal Code, the magistrate may issue an order for emergency protection on the magistrate's own motion or on the request of:

- (1) the victim of the offense;
- (2) the guardian of the victim;
- (3) a peace officer; or
- (4) the attorney representing the state.

(b) At a defendant's appearance before a magistrate after arrest for an offense involving family violence, the magistrate shall issue an order for emergency protection if the arrest is for an offense that also involves:

- (1) serious bodily injury to the victim; or
- (2) the use or exhibition of a deadly weapon during the commission of an assault.

(c) The magistrate in the order for emergency protection may prohibit the arrested party from:

(1) committing:

- (A) family violence or an assault on the person protected under the order; or
- (B) an act in furtherance of an offense under Section 42.072, Penal Code;

(2) communicating:

(A) directly with a member of the family or household or with the person protected under the order in a threatening or harassing manner; or

(B) a threat through any person to a member of the family or household or to the person protected under the order;

(3) going to or near:

(A) the residence, place of employment, or business of a member of the family or household or of the person protected under the order; or

(B) the residence, child care facility, or school where a child protected under the order resides or attends; or

(4) possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

(c-1) In addition to the conditions described by Subsection (c), the magistrate in the order for

emergency protection may impose a condition described by Article 17.49(b) in the manner provided by that article, including ordering a defendant's participation in a global positioning monitoring system or allowing participation in the system by an alleged victim or other person protected under the order.

(d) The victim of the offense need not be present when the order for emergency protection is issued.

(e) In the order for emergency protection the magistrate shall specifically describe the prohibited locations and the minimum distances, if any, that the party must maintain, unless the magistrate determines for the safety of the person or persons protected by the order that specific descriptions of the locations should be omitted.

(f) To the extent that a condition imposed by an order for emergency protection issued under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for the duration of the order for emergency protection.

(f-1) To the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 85, Subtitle B, Title 4, Family Code, or under Title 1 or Title 5, Family Code, the condition imposed by the order issued under the Family Code prevails.

(f-2) To the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 83, Subtitle B, Title 4, Family Code, the condition imposed by the order issued under this article prevails unless the court issuing the order under Chapter 83, Family Code:

(1) is informed of the existence of the order issued under this article; and

(2) makes a finding in the order issued under Chapter 83, Family Code, that the court is superseding the order issued under this article.

(g) An order for emergency protection issued under this article must contain the following statements printed in bold-face type or in capital letters:

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE OR A STALKING OFFENSE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS. THE POSSESSION OF A FIREARM BY A PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR IMPRISONMENT.

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

(h) The magistrate issuing an order for emergency protection under this article shall send a copy of the order to the chief of police in the municipality where the member of the family or household or individual protected by the order resides, if the person resides in a municipality, or to the sheriff of the county where the person resides, if the person does not reside in a municipality. If the victim of the offense is not present when the order is issued, the magistrate issuing the order shall order an appropriate peace officer to make a good faith effort to notify, within 24 hours, the victim that the order has been issued by calling the victim's residence and place of employment. The clerk of the court shall send a copy of the order to the victim.

(i) If an order for emergency protection issued under this article prohibits a person from going to or near a child care facility or school, the magistrate shall send a copy of the order to the child care facility or school.

(j) An order for emergency protection issued under this article is effective on issuance, and the defendant shall be served a copy of the order by the magistrate or the magistrate's designee in person or electronically. The magistrate shall make a separate record of the service in written or electronic format. An order for emergency protection issued under Subsection (a) or (b)(1) of this article remains in effect up to the 61st day but not less than 31 days after the date of issuance. An order for emergency protection issued under Subsection (b)(2) of this article remains in effect up to the 91st day but not less than 61 days after the date of issuance. After notice to each affected party and a hearing, the issuing court may modify all or part of an order issued under this article if the court finds that:

(1) the order as originally issued is unworkable;

(2) the modification will not place the victim of the offense at greater risk than did the original order; and

(3) the modification will not in any way endanger a person protected under the order.

(k) To ensure that an officer responding to a call is aware of the existence and terms of an order for emergency protection issued under this article, each municipal police department and sheriff shall establish a procedure within the department or office to provide adequate information or access to information for peace officers of the names of persons protected by an order for emergency protection issued under this article and of persons to whom the order is directed. The police department or sheriff may enter an order for emergency protection issued under this article in the department's or office's record of outstanding warrants as notice that the order has been issued and is in effect.

(l) In the order for emergency protection, the magistrate shall suspend a license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code, that is held by the defendant.

(m) In this article:

(1) "Family," "family violence," and "household" have the meanings assigned by Chapter 71, Family Code.

(2) "Firearm" has the meaning assigned by Chapter 46, Penal Code.

(n) On motion, notice, and hearing, or on agreement of the parties, an order for emergency protection issued under this article may be transferred to the court assuming jurisdiction over the criminal act giving rise to the issuance of the emergency order for protection. On transfer, the criminal court may modify all or part of an order issued under this subsection in the same manner and under the same standards as the issuing court under Subsection (j).

Added by Acts 1995, 74th Leg., ch. 658, Sec. 1, eff. June 14, 1995. Subsecs. (a), (b) amended by Acts 1997, 75th Leg., ch. 1, Sec. 4, eff. Jan. 28, 1997. Amended by Acts 1997, 75th Leg., ch. 610, Sec. 1, eff. Sept. 1, 1997; Subsec. (i) amended by Acts 1999, 76th Leg., ch. 514, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1412, Sec. 1, eff. Sept. 1, 1999; Subsecs. (c), (g), (m) amended by Acts 2001, 77th Leg., ch. 23, Sec. 4, eff. Sept. 1, 2001; Subsecs. (f-1), (f-2), (n) added and Subsec. (j) amended by Acts 2003, 78th Leg., ch. 424, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 361 (S.B. [1275](#)), Sec. 1, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 66 (S.B. [584](#)), Sec. 1, eff. May 11, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 11.20, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1276 (H.B. [1506](#)), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 255 (H.B. [570](#)), Sec. 1, eff. June 14, 2013.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see H.B. [910](#), 84th Legislature, Regular Session, for amendments affecting this section.

Art. 17.293. DELIVERY OF ORDER FOR EMERGENCY PROTECTION TO OTHER PERSONS. The magistrate or the clerk of the magistrate's court issuing an order for emergency protection under Article 17.292 that suspends a license to carry a concealed handgun shall immediately send a copy of the order to the appropriate division of the Department of Public Safety at its Austin headquarters. On receipt of the order suspending the license, the department shall:

- (1) record the suspension of the license in the records of the department;
- (2) report the suspension to local law enforcement agencies, as appropriate; and
- (3) demand surrender of the suspended license from the license holder.

Added by Acts 1999, 76th Leg., ch. 1412, Sec. 2, eff. Sept. 1, 1999.

Art. 17.30. SHALL CERTIFY PROCEEDINGS. The magistrate, before whom an examination has taken place upon a criminal accusation, shall certify to all the proceedings had before him, as well as where he discharges, holds to bail or commits, and transmit them, sealed up, to the court before which the defendant may be tried, writing his name across the seals of the envelope. The voluntary statement of the defendant, the testimony, bail bonds, and every other proceeding in the case, shall be thus delivered to the clerk of the proper court, without delay.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.31. DUTY OF CLERKS WHO RECEIVE SUCH PROCEEDINGS. If the proceedings be delivered to a district clerk, he shall keep them safely and deliver the same to the next grand jury. If the proceedings are delivered to a county clerk, he shall without delay deliver them to the district or county attorney of his county.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.32. IN CASE OF NO ARREST. Upon failure from any cause to arrest the accused the magistrate shall file with the proper clerk the complaint, warrant of arrest, and a list of the witnesses.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.33. REQUEST SETTING OF BAIL. The accused may at any time after being confined request a magistrate to review the written statements of the witnesses for the State as well as all other evidence available at that time in determining the amount of bail. This setting of the amount of bail does not waive the defendant's right to an examining trial as provided in Article 16.01.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.34. WITNESSES TO GIVE BOND. Witnesses for the State or defendant may be required by the magistrate, upon the examination of any criminal accusation before him, to give bail for their appearance to testify before the proper court. A personal bond may be taken of a witness

by the court before whom the case is pending.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.35. SECURITY OF WITNESS. The amount of security to be required of a witness is to be regulated by his pecuniary condition, character and the nature of the offense with respect to which he is a witness.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.36. EFFECT OF WITNESS BOND. The bond given by a witness for his appearance has the same effect as a bond of the accused and may be forfeited and recovered upon in the same manner.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.37. WITNESS MAY BE COMMITTED. A witness required to give bail who fails or refuses to do so shall be committed to jail as in other cases of a failure to give bail when required, but shall be released from custody upon giving such bail.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.38. RULES APPLICABLE TO ALL CASES OF BAIL. The rules in this Chapter respecting bail are applicable to all such undertakings when entered into in the course of a criminal action, whether before or after an indictment, in every case where authority is given to any court, judge, magistrate, or other officer, to require bail of a person accused of an offense, or of a witness in a criminal action.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 17.39. RECORDS OF BAIL. A magistrate or other officer who sets the amount of bail or who takes bail shall record in a well-bound book the name of the person whose appearance the bail secures, the amount of bail, the date bail is set, the magistrate or officer who sets bail, the offense or other cause for which the appearance is secured, the magistrate or other officer who takes bail, the date the person is released, and the name of the bondsman, if any.
Added by Acts 1977, 65th Leg., p. 1525, ch. 618, Sec. 1, eff. Aug. 29, 1977.

Art. 17.40. CONDITIONS RELATED TO VICTIM OR COMMUNITY SAFETY. (a) To secure a defendant's attendance at trial, a magistrate may impose any reasonable condition of bond related to the safety of a victim of the alleged offense or to the safety of the community. (b) At a hearing limited to determining whether the defendant violated a condition of bond imposed under Subsection (a), the magistrate may revoke the defendant's bond only if the magistrate finds by a preponderance of the evidence that the violation occurred. If the magistrate finds that the violation occurred, the magistrate shall revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the

bond.

Added by Acts 1999, 76th Leg., ch. 768, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1113 (H.B. [3692](#)), Sec. 4, eff. January 1, 2008.

Art. 17.41. CONDITION WHERE CHILD ALLEGED VICTIM. (a) This article applies to a defendant charged with an offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 years of age:

- (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct); or
- (3) Section 43.25 (Sexual Performance by a Child).

(b) Subject to Subsections (c) and (d), a magistrate shall require as a condition of bond for a defendant charged with an offense described by Subsection (a) that the defendant not:

- (1) directly communicate with the alleged victim of the offense; or
- (2) go near a residence, school, or other location, as specifically described in the bond, frequented by the alleged victim.

(c) A magistrate who imposes a condition of bond under this article may grant the defendant supervised access to the alleged victim.

(d) To the extent that a condition imposed under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for a period specified by the magistrate, not to exceed 90 days.

Added by Acts 1985, 69th Leg., ch. 595, Sec. 1, eff. Sept. 1, 1985. Subsec. (a) amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.21, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 982 (H.B. [3751](#)), Sec. 1, eff. September 1, 2009.

This article was amended by the 84th Legislature. Pending publication of the current statutes, see S.B. [965](#), 84th Legislature, Regular Session, for amendments affecting this section.

Art. 17.42. PERSONAL BOND OFFICE.

Sec. 1. Any county, or any judicial district with jurisdiction in more than one county, with the approval of the commissioners court of each county in the district, may establish a personal bond office to gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond and report its findings to the court before which the case is pending.

Sec. 2. (a) The commissioners court of a county that establishes the office or the district and county judges of a judicial district that establishes the office may employ a director of the office.

(b) The director may employ the staff authorized by the commissioners court of the county or the commissioners court of each county in the judicial district.

Sec. 3. If a judicial district establishes an office, each county in the district shall pay its pro rata share of the costs of administering the office according to its population.

Sec. 4. (a) If a court releases an accused on personal bond on the recommendation of a personal bond office, the court shall assess a personal bond fee of \$20 or three percent of the amount of the bail fixed for the accused, whichever is greater. The court may waive the fee or assess a lesser fee if good cause is shown.

(b) Fees collected under this article may be used solely to defray expenses of the personal bond office, including defraying the expenses of extradition.

(c) Fees collected under this article shall be deposited in the county treasury, or if the office serves more than one county, the fees shall be apportioned to each county in the district according to each county's pro rata share of the costs of the office.

Sec. 5. (a) A personal bond pretrial release office established under this article shall:

- (1) prepare a record containing information about any accused person identified by case number only who, after review by the office, is released by a court on personal bond;
- (2) update the record on a monthly basis; and
- (3) file a copy of the record in the office of the clerk of the county court in any county served by the office.

(b) In preparing a record under Subsection (a), the office shall include in the record a statement of:

- (1) the offense with which the person is charged;
- (2) the dates of any court appearances scheduled in the matter that were previously unattended by the person;
- (3) whether a warrant has been issued for the person's arrest for failure to appear in accordance with the terms of the person's release;
- (4) whether the person has failed to comply with conditions of release on personal bond; and
- (5) the presiding judge or magistrate who authorized the personal bond.

(c) This section does not apply to a personal bond pretrial release office that on January 1, 1995, was operated by a community corrections and supervision department.

Sec. 6. (a) Not later than April 1 of each year, a personal bond office established under this article shall submit to the commissioners court or district and county judges that established the office an annual report containing information about the operations of the office during the preceding year.

(b) In preparing an annual report under Subsection (a), the office shall include in the report a statement of:

- (1) the office's operating budget;
- (2) the number of positions maintained for office staff;
- (3) the number of accused persons who, after review by the office, were released by a court on personal bond; and
- (4) the number of persons described by Subdivision (3):
 - (A) who were convicted of the same offense or of any felony within the six years preceding the date on which charges were filed in the matter pending during the person's release;
 - (B) who failed to attend a scheduled court appearance;
 - (C) for whom a warrant was issued for the person's arrest for failure to appear in accordance with the terms of the person's release; or
 - (D) who were arrested for any other offense while on the personal bond.

(c) This section does not apply to a personal bond pretrial release office that on January 1, 1995, was operated by a community corrections and supervision department.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 5.01(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1080, Sec. 1, eff. Sept. 1, 1989. Secs. 5, 6 added by Acts 1995, 74th Leg., ch. 318, Sec. 44, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 420 (S.B. [882](#)), Sec. 1, eff. June 17, 2011.

Art. 17.43. HOME CURFEW AND ELECTRONIC MONITORING AS CONDITION. (a) A magistrate may require as a condition of release on personal bond that the defendant submit to home curfew and electronic monitoring under the supervision of an agency designated by the

magistrate.

(b) Cost of monitoring may be assessed as court costs or ordered paid directly by the defendant as a condition of bond.

Added by Acts 1989, 71st Leg., ch. 374, Sec. 4, eff. Sept. 1, 1989.

Art. 17.44. HOME CONFINEMENT, ELECTRONIC MONITORING, AND DRUG TESTING AS CONDITION. (a) A magistrate may require as a condition of release on bond that the defendant submit to:

(1) home confinement and electronic monitoring under the supervision of an agency designated by the magistrate; or

(2) testing on a weekly basis for the presence of a controlled substance in the defendant's body.

(b) In this article, "controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(c) The magistrate may revoke the bond and order the defendant arrested if the defendant:

(1) violates a condition of home confinement and electronic monitoring;

(2) refuses to submit to a test for controlled substances or submits to a test for controlled substances and the test indicates the presence of a controlled substance in the defendant's body; or

(3) fails to pay the costs of monitoring or testing for controlled substances, if payment is ordered under Subsection (e) as a condition of bond and the magistrate determines that the defendant is not indigent and is financially able to make the payments as ordered.

(d) The community justice assistance division of the Texas Department of Criminal Justice may provide grants to counties to implement electronic monitoring programs authorized by this article.

(e) The cost of electronic monitoring or testing for controlled substances under this article may be assessed as court costs or ordered paid directly by the defendant as a condition of bond.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 4.03, eff. Sept. 1, 1989. Renumbered from art. 17.42 by Acts 1991, 72nd Leg., ch. 16, Sec. 19.01(3), eff. Aug. 26, 1991. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(46), eff. Sept. 1, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 163 (S.B. [1506](#)), Sec. 1, eff. September 1, 2009.

Art. 17.441. CONDITIONS REQUIRING MOTOR VEHICLE IGNITION INTERLOCK. (a) Except as provided by Subsection (b), a magistrate shall require on release that a defendant charged with a subsequent offense under Sections 49.04-49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code:

(1) have installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, a device that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator; and

(2) not operate any motor vehicle unless the vehicle is equipped with that device.

(b) The magistrate may not require the installation of the device if the magistrate finds that to require the device would not be in the best interest of justice.

(c) If the defendant is required to have the device installed, the magistrate shall require that the defendant have the device installed on the appropriate motor vehicle, at the defendant's expense, before the 30th day after the date the defendant is released on bond.

(d) The magistrate may designate an appropriate agency to verify the installation of the device

and to monitor the device. If the magistrate designates an agency under this subsection, in each month during which the agency verifies the installation of the device or provides a monitoring service the defendant shall pay a fee to the designated agency in the amount set by the magistrate. The defendant shall pay the initial fee at the time the agency verifies the installation of the device. In each subsequent month during which the defendant is required to pay a fee the defendant shall pay the fee on the first occasion in that month that the agency provides a monitoring service. The magistrate shall set the fee in an amount not to exceed \$10 as determined by the county auditor, or by the commissioners court of the county if the county does not have a county auditor, to be sufficient to cover the cost incurred by the designated agency in conducting the verification or providing the monitoring service, as applicable in that county.

Added by Acts 1995, 74th Leg., ch. 318, Sec. 45, eff. Sept. 1, 1995. Subsec. (d) amended by Acts 1999, 76th Leg., ch. 537, Sec. 1, eff. Sept. 1, 1999.

Art. 17.45. CONDITIONS REQUIRING AIDS AND HIV INSTRUCTION. A magistrate may require as a condition of bond that a defendant charged with an offense under Section 43.02, Penal Code, receive counseling or education, or both, relating to acquired immune deficiency syndrome or human immunodeficiency virus.

Added by Acts 1989, 71st Leg., ch. 1195, Sec. 8, eff. Sept. 1, 1989. Renumbered from art. 17.42 by Acts 1991, 72nd Leg., ch. 16, Sec. 19.01(4), eff. Aug. 26, 1991.

Art. 17.46. CONDITIONS FOR A DEFENDANT CHARGED WITH STALKING. (a) A magistrate may require as a condition of release on bond that a defendant charged with an offense under Section 42.072, Penal Code, may not:

(1) communicate directly or indirectly with the victim; or
(2) go to or near the residence, place of employment, or business of the victim or to or near a school, day-care facility, or similar facility where a dependent child of the victim is in attendance.

(b) If the magistrate requires the prohibition contained in Subsection (a)(2) of this article as a condition of release on bond, the magistrate shall specifically describe the prohibited locations and the minimum distances, if any, that the defendant must maintain from the locations.

Added by Acts 1993, 73rd Leg., ch. 10, Sec. 2, eff. March 19, 1993. Subsec. (a) amended by Acts 1995, 74th Leg., ch. 657, Sec. 3, eff. June 14, 1995; amended by Acts 1997, 75th Leg., ch. 1, Sec. 5, eff. Jan. 28, 1997.

Art. 17.47. CONDITIONS REQUIRING SUBMISSION OF SPECIMEN. (a) A magistrate may require as a condition of release on bail or bond of a defendant that the defendant provide to a local law enforcement agency one or more specimens for the purpose of creating a DNA record under Subchapter G, Chapter 411, Government Code.

(b) A magistrate shall require as a condition of release on bail or bond of a defendant described by Section 411.1471(a), Government Code, that the defendant provide to a local law enforcement agency one or more specimens for the purpose of creating a DNA record under Subchapter G, Chapter 411, Government Code.

Added by Acts 2001, 77th Leg., ch. 1490, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1224 (H.B. [1068](#)), Sec. 17, eff. September 1, 2005.

Art. 17.48. POSTTRIAL ACTIONS. A convicting court on entering a finding favorable to a convicted person under Article 64.04, after a hearing at which the attorney representing the state and the counsel for the defendant are entitled to appear, may release the convicted person on bail under this chapter pending the conclusion of court proceedings or proceedings under Section 11, Article IV, Texas Constitution, and Article 48.01.

Added by Acts 2001, 77th Leg., ch. 2, Sec. 3, eff. April 5, 2001. Renumbered from Vernon's Ann.C.C.P. art. 17.47 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(6), eff. Sept. 1, 2003.

Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE. (a) In this article:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or operates global positioning system technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) A magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

(1) refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;

(2) carry or wear a global positioning monitoring system device and, except as provided by Subsection (h), pay the costs associated with operating that system in relation to the defendant;

(3) except as provided by Subsection (h), if the alleged victim of the offense consents after receiving the information described by Subsection (d), pay the costs associated with providing the victim with an electronic receptor device that:

(A) is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under Subdivision (1).

(c) Before imposing a condition described by Subsection (b)(1), a magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by Subsection (b)(1), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(d) Before imposing a condition described by Subsection (b)(3), a magistrate must provide to an alleged victim information regarding:

(1) the victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

(2) the manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

(3) any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

- (4) any sanctions that the court may impose on the defendant for violating a condition of bond imposed under this article;
 - (5) the procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;
 - (6) community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of family violence; and
 - (7) the fact that the victim's communications with the court concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.
- (e) In addition to the information described by Subsection (d), a magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this article the name and telephone number of an appropriate person employed by a local law enforcement agency whom the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this article.
- (f) In determining whether to order a defendant's participation in a global positioning monitoring system under this article, the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.
- (g) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this article.
- (h) If the magistrate determines that a defendant is indigent, the magistrate may, based on a sliding scale established by local rule, require the defendant to pay costs under Subsection (b)(2) or (3) in an amount that is less than the full amount of the costs associated with operating the global positioning monitoring system in relation to the defendant or providing the victim with an electronic receptor device.
- (i) If an indigent defendant pays to an entity that operates a global positioning monitoring system the partial amount ordered by a magistrate under Subsection (h), the entity shall accept the partial amount as payment in full. The county in which the magistrate who enters an order under Subsection (h) is located is not responsible for payment of any costs associated with operating the global positioning monitoring system in relation to an indigent defendant.
- (j) A magistrate that imposes a condition described by Subsection (b)(1) or (2) shall order the entity that operates the global positioning monitoring system to notify the court and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this article.
- (k) A magistrate that imposes a condition described by Subsection (b) may only allow or require the defendant to execute or be released under a type of bond that is authorized by this chapter.
- (l) This article does not limit the authority of a magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.
- Added by Acts 2009, 81st Leg., R.S., Ch. 1276 (H.B. [1506](#)), Sec. 2, eff. September 1, 2009.

Appendix 8

Proposed Mental Health Unit



BRIEF DESCRIPTION OF THE PROPOSED MENTAL HEALTH UNIT

MISSION

The mission of the Mental Health Unit (MHU) is to provide rapid assessment of the mental health status of detainees upon admission to Cook County Jail. Information can be shared with the courts to inform bond court decisions and/or conditions of bond, and facilitate linkage to community based care upon release. Information will also be shared with the jail to facilitate treatment of the detainee while incarcerated.

Guiding principles:

- “In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” (U.S. v. Salerno, 1987) Conditions on that liberty should only be imposed after an individualized determination of pretrial risk, and should be the minimum necessary to ensure appearance in court and protect the public. (Stack v. Bole, 1951).
- Persons with mental illness pose no more risk of flight or danger to the community than those without mental illness. (Council of State Governments Justice Center, 2015).
- Due to disproportionately high incarceration rates for this population, often due to an inability to post bond, efforts should be made to divert this population that poses low to moderate risk into community based treatment to break the cycle of re-incarceration.
- Linkages to community based behavioral health service providers with intensive outreach programs offer the best opportunity to meet the needs of this population once returned to the community.
- Information sharing between the Sheriff’s Department, the judges, the Public Defender and the State’s Attorney should be limited to what is necessary for appropriate release decisions by the court and treatment decisions while incarcerated and/or following return to the community. Appropriate consents must always be in place.

PROPOSED PROCESS

Once a detainee has been identified during the pretrial ‘supplemental interview’ as potentially having a mental health history, staff in the MHU will conduct a more detailed psychiatric assessment that will further clarify the nature and acuity of the mental health concerns. This information shall have multiple potential uses:

1. The information can be used by defense attorneys for presentation in Bond Court

Under some circumstances, a detainee’s mental health status, including symptoms that affect organizational skills, delusions, etc., may affect his/her risk of failure to appear (FTA) simply because the individual lacks the cognitive clarity and/or organizational skills and resources to keep appointments. In these circumstances, a detainee’s risk level may be consistent with special conditions of release that will mitigate this risk. Special conditions of bond may also be

appropriate when an individual's crime-related behavioral health needs could be addressed through treatment and supervision strategies. Special conditions of bond warrant careful consideration, as there is a body of literature that asserts that placing too many conditions on this population may be setting the stage for failure. The MHU can offer recommendations on the nature of the special conditions of bond as it regards involvement in mental health treatment for that specific detainee. While the special conditions of bond provide a structure for accountability for the detainee within the court system, on occasion a strong encouragement from the judge to participate in treatment may be sufficient to gain the desired outcome of engagement in treatment.

2. The information can be used to begin the linkage process to community-based care.

Very often individuals with serious mental health issues entering the jail and court have a treatment history with community-based mental health providers. Details of this treatment history can be ascertained from the detainee, his/her family with consent, or possibly from accessing records via Jail Data Link. With the detainee's consent, the MHU will then be able to contact that provider to facilitate re-engagement and outreach to the detainee upon release.

When a detainee does not have a previous treatment history but is in need of mental health follow up and treatment, the MHU can identify a treatment provider for the detainee based on current insurance status and residence. If the detainee does not have insurance, he/she can be referred to TASC for follow up to facilitate health plan enrollment. If a health plan has been identified, the MHU can contact the Care Coordination unit of the health plan to facilitate outreach and follow up with the detainee.

3. The information can be used to inform Cermak Hospital to facilitate treatment of the individual while incarcerated.

Information obtained from the pretrial mental health assessment shall be shared with the jail to assist the jail in planning for the individual's care while incarcerated. Information shared shall include findings from the assessment as well as information concerning previous mental health treatment. Additionally, any information concerning health plans of the detainee will be shared to facilitate linkage to the plans' care coordination services following release from jail.

To the extent feasible, the MHU shall work collaboratively with Pretrial Services, serving as a support for the Probation Department that is charged with monitoring special conditions of bond. They will also work collaboratively with the Cermak and jail clinical staff to assure information that could inform treatment and placement of the detainee is shared in a timely manner.

PROPOSED STAFFING:

As a pilot program, it is recommended that the services of the MHU are contracted to a qualified vendor. A designated agency shall establish specific contractual requirements and monitor contract compliance with these specifications.

The following staffing compliment is recommended for each pilot site, based on the volume of cases to be assessed. Listed below are proposed positions and salaries for consideration.

Supervisor:

Licensed Professional of the Healing Arts (LPHA) at a ratio of 1 for 4-5 staff

Major Duties: Manage direct service staff; organize workload; interface with PDs, Court, ASA

Proposed salary: \$68,000-\$75,000 annually

Direct service:

Licensed Professional of the Healing Arts (LPHA) or Qualified Mental Health Professional (QMHP) under the supervision of a LPHA at a ratio of 1/8 cases to be assessed

Major Duties: Perform clinical assessments of detainees including gathering information from family and other supports; identify community based providers for linkage; formulate preliminary service recommendations

Proposed salary: average salary for either position is \$48,000-\$55,000 annually

Support staff:

Data/Clerical Assistant

Major Duties: Perform Jail Data Link services to identify detainees with history of treatment in the public mental health system; tracking and reporting data from MHU

Proposed salary: \$32,000-\$36,000 annually

SAMPLE BUDGET: The budget described below is a sample budget for a Mental Health Unit operated at Central Bond Court. Fewer staff would be required to operate the MHU at the suburban courts locations. The fringe and indirect costs are estimates based on usual and customary charges in the private non-profit sector and would be negotiated with the selected vendor.

Position	Salary	#FTEs	Fringes	Indirect	Total
Supervisor LPHA	\$68,000	1.5 (assuming supervision of 4-7 staff) 7 days/week	\$17,000 (FTE) \$8500 (.5FTE) @(25%)	\$16,048 1 FTE; \$8024 (.5FTE) @ (23.6%)	\$151,572
LPHA/QMHP	\$50,000	4 (assuming 3 FTEs and 2	\$50,000 (25%)	\$47,200 (23.6%)	\$297,200

		(.5) FTEs to provide coverage 7 days/week for average of 80 cases on weekdays and 100 cases/day on weekends and 17% rate of MH referrals to the MHU)			
Data/Clerical Assistant	\$33,000	1.5 FTE for 7 days/week coverage	\$12,375 (25%)	\$11,682 (23.6%)	\$73,557
				TOTAL	\$522,329

Budget Assumptions include provision of space within the court buildings.