

POSTER

Bond Decision-Making in Sex Offender Adjudication

Robert A. Beattey, J.D.
Elizabeth L. Jeglic, Ph.D.
Taki Matsuura, M.S., M.A.

There is some evidence that judges consciously treat sex offenders more harshly than other defendants (Nhan, Polzer, & Ferguson, 2012; Bumby & Maddox, 1999). Even beyond any conscious bias, judicial decision-making is known to show unsystematic variability. Dhimi (2005) found not only that different judges make different decisions on identical facts, but individual judges make different decisions when considering identical cases; i.e., they show unsystematic intra-rater variability. Part of this finding may be explained by the known impact of stereotypes on decision-making (Devine, 1989). These findings on judicial decision-making extend to bond-setting decisions where judges appear to unsystematically under-detain defendants with relatively higher likelihoods of offending pre-trial and over-detain those with lower likelihoods (Baradaran & McIntyre, 2012). Given unsystematic and stereotype-influenced judicial decision-making, a defendant charged with a socially reviled offense, such as a sex offense, might be at particularly increased risk of having a disproportionately high bond set, irrespective of the likelihood of his offending during adjudication or failing to appear for trial.

The bond-setting decision is no small matter. Pretrial detention is known to impact subsequent decisions in the adjudicative process (Nagel, 1983; Cavadino & Gibson, 1993), including increasing the likelihood of conviction and imposition of harsher sentences (Williams, 2003; Davies, 1971; Wald, 1964; Foote, 1954). Given the high cost of pretrial detention to both the state and the individual, rational bond setting decision-making by magistrates becomes both an equitable and fiscal imperative.

The purpose of the current study is to examine whether bond for criminal defendants charged with a sex offense is categorically higher than for offenders charged with non-sex offenses of equal statutory offense level. Our initial hypothesis is that bond is being set higher for sex offenders, categorically, than for offenders charged with non-sex offenses of equal statutory offense level.

To test this hypothesis, we are collecting publically available criminal case data in cooperation with the clerk of courts of a large Midwestern trial court. The Court has county-wide jurisdiction, and, with rare exceptions, all criminal defendants in the county of approximately 1.1 million people are arraigned in this court.

The study sample consists of all defendants arraigned in the year 2011. Data collected includes non-personally identifiable demographic data (e.g, race, home zip code, sex), case information (e.g, case number, bond amount), information on the offense-charged, and any prior offense information available. Our data analysis will include multiple and logistic regression analyses of the cases to allow us to investigate if sex offenders are, categorically, having higher bond set and/or are being remanded without bail more frequently than offenders charged with a non-sex offense of equal statutory offense level.

This project is part of a broader program of research seeking to develop and introduce evidence-based risk assessment strategies into judicial decision-making involving defendants charged with a sex offense. It is important to note that the bond-setting task is, inherently, an exercise in determining likelihoods: the goal of the task is to determine at what bond amount the chance of a defendant appearing for trial without offending in the interim is maximized. The nature of the task makes it particularly well-suited, theoretically, to the adoption of evidence-based decision strategies. If our initial hypothesis that bond is, without basis, being set higher for sex offenders than for offenders charged with non-sex offenses of equal statutory offense level is confirmed, a solid foundation for developing and introducing evidence-based risk assessment strategies into the judicial bond setting decision-making process will be established.