

record, family ties and employment status—are the same, those people who were detained were 41% more likely to be convicted and sentenced to prison than those who were released. Furthermore, in determining whether the accused will ultimately be convicted and given a prison sentence, his pre-trial status is more than three times as important as either the seriousness of the crime with which he was charged or his prior criminal record; in fact, his pre-trial status is more important in that respect than all those other factors combined. Thus, those factors which, considered alone, do not account for the different treatment of detained versus released persons do not explain it even when they are combined.³⁰

The study has shown that one factor—whether the accused is released or detained pending trial—above all others determines both the outcome of his case and the likelihood of his receiving a prison sentence. By examining seriousness of charge, type of crime, weight of the evidence, aggravated circumstances, prior criminal record, strength of family ties, employment status and the amount of bail, the study demonstrates that neither independently nor in combination does any of these factors account for the disparity in outcome and in severity of sentence between those detained and those released. The inescapable conclusion is that the fact of detention itself causes those detained to be convicted far more often and sentenced much more severely than those who are released. Thus, the present bail system creates two classes of accused distinguished by their wealth or lack of it: those who are released and are relatively more likely to have a favorable outcome in their cases, and those who are detained in lieu of bail and are therefore much more likely to be convicted and get a prison sentence.

A STUDY OF TRAFFIC COURT BOND LEVELS

In order to analyze whether or not bond levels had significantly increased in the Traffic Court in the period after what has become known as the ten percent bond decision, *Pressley v. Lucas*, 30 Mich. App. 300 (1971), Michigan Legal Services undertook a systematic analysis of bonds posted in that court. The study analyzed two months prior to the ten percent decision, November and March of 1970, and correspondingly March and November of 1971, after the ten percent decision. Bond amounts for every other bond were recorded from the cashier's deposit sheets. In addition, the manner in which the bond was posted as either a full cash deposit or 10% deposit was recorded. Each entry's file, with the exception of those files which were not able to be readily located was then checked to determine whether the defendant appeared as required on the next scheduled appearance day after he posted the bond. The entries were then sorted by offense. Bond levels and skip rates for seven categories were then analyzed by computer.

³⁰ Appendix C ("Effect of Pre-Trial Status On Likelihood of Prison Sentence") explains at length the manner in which the statistics presented in subsection (viii) were derived.

These seven categories were: (1) accosting and soliciting; (2) no operator's permit; (3) reckless driving; (4) speeding; (5) driving under the influence of liquor; (6) moving violations; and (7) parking.

The study revealed that the average bond for these seven offense groups increased from \$80 in 1970 to \$470 in 1971. In parking categories, defendants continue to post full cash bonds. Looking at the average bond where defendants posted 10% only, the average bond increased to \$625. The clear conclusion from an analysis of the total average bonds for the years 1970 and 1971 is that bonds increased in 1971 to a statistically significant extent.

The mean bonds on a month by month, offense by offense, basis were as follows:

	March 1970	November 1970	March 1971	November 1971
A. & S.....	\$91	\$191	\$692	\$719
Nop.....	78	106	455	709
RD.....	87	127	572	542
Speeding.....	35	52	240	333
DUIL.....	127	121	609	897
Moving V.....	56	50	230	357
Parking.....	25	42	88	180

These data also reveal that for each individual offense, bond levels increased in 1971 to a statistically significant extent.

The increase had been defended on the basis that it was in response to an increasing "skip rate." Therefore, these figures were also analyzed and three conclusions were drawn. First, the dramatic increase in bonds occurred within two weeks of the decision and thus were likely not a reaction to a change in the skip rate, but rather to the decision. Second, for 5 of 7 offenses there is no statistically significant variation in the skip rate at all. Third, in the accosting and soliciting of NOP categories, there appears to be statistically significant increase in skip rates between 1970 and 1971. However, a close analysis of these offenses indicate that the skip rate is not related to the bond level. In comparing the two months in 1971 for NOP's the mean bond increased to a statistically significant extent but the skip rate did not. Conversely, for accosting and soliciting, the skip rate significantly increased within 1971 and the mean bond levels remained the same. Thus, the bond level or change in bond, does not appear to be a significant factor in securing reappearance.

CONCLUSION

The data clearly indicate that the bond levels have increased significantly in each offense in response to the *Pressly* decision. Skip rates, however have not increased in most offenses. Further evidence indicates that the bond amount is not of significant importance in determining the appearance or non-appearance of an accused.