



# Pretrial Release and Bail-Setting Practices in Montgomery County, Pennsylvania: Findings and Recommendations

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OF JUSTICE

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# Foreword

The Reuniting Family Bail Fund is a grassroots nonprofit based in Montgomery County, Pennsylvania, led by and in partnership with impacted communities to transform the criminal legal system. We post money bail up to \$5,000 per case, provide court support, and share collective knowledge with families navigating the criminal court process.

Vital to our work is court watching. The Sixth Amendment of the United States Constitution guarantees those accused of crimes the right to a speedy and public trial.<sup>1</sup> We believe that the right to a public trial also carries with it a responsibility for the community to bear witness.

This report is the first of its kind in Montgomery County. It presents critical statistical and demographic insights into our criminal legal system but also underscores the need for more reform. For more than a decade, our team has observed hundreds of hearings and trials in Montgomery County. This sustained presence supports neighbors who otherwise face court proceedings alone, promotes transparency and accountability, and allows us to gather vital information about legal system outcomes. This report, based on the Vera Institute of Justice's court observation and analysis of four months of hearings,

provides a complementary, more statistical look at outcomes related to money bail and pretrial detention.

Independent court observation matters. When people are hidden from view, their suffering is easily dismissed, and official narratives go unchallenged. Through court watching, we have witnessed the callousness and cruelty that can stem from “justice as usual.” From inconsistent money bail assignments, unnecessary fines and fees levied against those already struggling to feed themselves and their families, to clear racial disparities in treatment and sentencing, time and time again we observed unfairness without explanation.

We hope this report sparks a public conversation led by directly impacted people about the policy changes necessary to restore humanity to our criminal justice system. By showing up, bearing witness, and centering the voices of those most affected, we can strengthen public trust and move toward a criminal justice system that reflects our shared commitment to fairness, dignity, and justice.

—Reuniting Family Bail Fund

# Executive Summary

Pretrial decisions shape the trajectory of criminal cases and profoundly affect the lives of the approximately 660,000 people detained in county jails on any given day, most of whom are legally innocent.<sup>2</sup> Even short periods of pretrial detention can cause long-term harm, including job loss, housing instability, and increased likelihood of conviction or future justice-system involvement.<sup>3</sup> Too often, wealth, rather than risk or fairness, determines who has to face pretrial detention: people who can pay money bail return home, while people facing similar charges who cannot pay bail remain in jail. These consequences fall disproportionately on people living in poverty and on communities of color.<sup>4</sup>

In Pennsylvania, the state’s legal framework is designed to make pretrial liberty the default by requiring judges to consider ten factors such as a defendant’s community ties, prior record, and financial condition—including setting money bail at a “reasonable” amount if it is imposed.<sup>5</sup> In 2021, the ACLU of Pennsylvania released a groundbreaking report which found that about half of people with money bail set in their case remained in jail because they could not pay it, rather than because they posed a flight or safety risk.<sup>6</sup> It further concluded that money bail remains the default in many counties. However, it did not investigate how or why judges were making these decisions.

Montgomery County offers a meaningful case study for understanding how pretrial decisions—and how attempts to shape these decisions through policy—unfold in practice.<sup>7</sup> Since 2022, Montgomery County has made significant changes to improve its pretrial system: creating a pretrial services department, instituting an expedited bail review process for all people remaining in detention on money bail the day after arraignment, and providing public defense counsel at all preliminary arraignments.

To understand the dynamics of pretrial release and bail decisions in daily courtroom practice in Montgomery County, the Vera Institute of Justice (Vera) conducted structured observation of approximately 800 preliminary arraignments and more than 100 bail review hearings from December 2024 through March 2025. This project was prompted by a

partnership between Vera and the Reuniting Family Bail Fund, which has provided crucial support for people in Montgomery County who cannot post bond since 2020.

Highlights from the court observation data include:

- 1. County reforms have created a more coordinated pretrial system with more detailed information available to judges, and defense counsel present at all arraignments:** Montgomery County’s key reforms—implemented in 2022 when the county introduced the pretrial services department, defense counsel at all preliminary arraignments, and next-day bail review hearings—appear to have expanded the information available to judges and led to swifter scheduling in pretrial decisions. These changes have also contributed to a more standardized and timely review of decisions that keep people in detention.
- 2. Bail amounts remain high, with no clear grounding in a defendant’s economic situation:** Although money bail amounts have declined since 2016, they are still more than what many defendants may realistically be able to afford, and judges often assign them in standard amounts of \$1,000, \$5,000, and \$10,000.<sup>8</sup> This risks turning a “secured release” decision into de facto detention for lower-income people. The fact that the median amount of secured bail that the Reuniting Family Bail Fund has posted for clients over the past five years is about \$500 underscores this economic reality.<sup>9</sup>
- 3. Judges are making broader use of unsecured bail decisions:** Judges opted for unsecured bail—a decision taken so that the person does not have to pay money up front—in more than half of cases, which is an increase from prior years.<sup>10</sup>
- 4. Judges are making frequent use of pretrial supervision, often alongside money bail.** Judges assigned people facing charges to pretrial supervision in 55 percent of decisions in hearings observed by Vera. Pretrial supervision was more common for cases when the judge set secured bail (73 percent) than unsecured bail (43 percent). Money bail does not improve court appearance rates or reduce rearrest during pretrial release.<sup>11</sup>

Therefore, there is an opportunity to expand pretrial supervision *in lieu* of secured money bail, including the use of more intensive conditions where appropriate, rather than higher money bail.

**5. Bail review hearings function as a meaningful corrective.**

The county's next-day bail review process is distinct because it allows all defendants who remain in detention on money bail to have a review—rather than only being provided with one when defense counsel requests a modification, as in other parts of the state. This process plays a vital role in recalibrating decisions. Although only a minority of bail review hearings observed by Vera resulted in modifications to bail type or amount, nearly all adjustments were to make the terms of release more lenient—typically reducing bail amounts by 50 to 95 percent or converting secured or partially secured bail to unsecured bail.<sup>12</sup> These outcomes suggest that initial determinations may sometimes err on the side of excessive restriction and that more oversight and guidance for lower-court judges could be beneficial.

Montgomery County has made deliberate and substantial investments to strengthen its pretrial justice system. At the same time, courtroom practice reveals an implementation gap: monetary and secured bail are still imposed in cases where individualized, nonfinancial conditions or intensive pretrial supervision could adequately address concerns about court appearance and public safety. Next-day bail review serves as an important backstop, but it cannot fully substitute for consistent decision-making at the initial hearing. Addressing this gap through clearer guidance, more transparent explanations at arraignment, stronger ability-to-pay practices, and systematic tracking of key metrics would meaningfully reduce unnecessary pretrial detention while preserving public safety and court integrity. Although these findings are rooted in Montgomery County, they reflect a broader challenge facing jurisdictions that invest in pretrial reform—structural change does not automatically translate into consistent courtroom practice. For counties across the state and beyond, this analysis highlights the importance of pairing new pretrial infrastructure with clear guidance, accountability, and performance tracking to ensure that reforms meaningfully reduce reliance on money bail and pretrial detention.

## A PRETRIAL PRIMER: GLOSSARY OF TERMS AND DEFINITIONS

### **Bail: Release options at preliminary arraignment**

Bail is a mechanism intended to secure a person's appearance at future court dates. At a preliminary arraignment, a magisterial district judge (MDJ) considering a person's pretrial release has five statutory options:

- › Unsecured bail: The person facing charges pays no money up front but becomes liable for the stated amount if they fail to appear in court or violate other release conditions.
- › Partially secured bail: The person facing charges must post a percentage—typically 10 percent—of the total bail amount to secure release. Sometimes called “10 percent bail” or “discounted bail.”
- › Secured bail: The person must post the full bail amount to be released. Sometimes called “cash bail” or “straight bail.”
- › Release on recognizance (ROR): The person is released without posting money and agrees to appear for future court proceedings.

- › Bail denial: The court does not give the person facing charges an option for release and they must remain in detention. Sometimes called “remand.”

Judges may also impose non-monetary conditions—such as participation in pretrial supervision or treatment programs—for all release types except ROR. In some cases, MDJs may set “nominal bail amounts,” a small amount intended to signify minimal risk, often paired with supervision or other release conditions.<sup>a</sup>

It is important to note that people facing secured bail may obtain release through a private bail bonds company, to which the defendant or their family pays a non-refundable 10 percent premium; the company then posts the full bond amount to the court. These fees are not recoverable even if the defendant complies fully with their release conditions.<sup>b</sup>

### **Bail review hearing**

In Pennsylvania, when someone remains detained after arraignment—usually because they cannot afford bail—they are entitled to a bail review

hearing. In Montgomery County, these hearings are typically held within one business day of the preliminary arraignment.<sup>c</sup> This is automatic for people in detention with money bail in Montgomery County, whereas in other counties, a defense attorney must request this hearing. At this hearing, a Common Pleas Court judge reviews the original bail decision and may modify, reduce, or eliminate monetary conditions. The process serves as a corrective safeguard to prevent unnecessary detention.

### **Common Pleas Court judge**

Common Pleas Court judges preside over bail review hearings (as well as many other parts of the case process), revisiting earlier bail decisions to ensure they comply with standards and financial realities.

### **Detainer**

A detainer (also called a “hold”) is an order preventing someone’s release from custody, often issued when a person is already on probation, parole, or facing charges in another case or jurisdiction. Even if a judge orders release on the new charge, the detainer keeps the person in jail until it is lifted by the relevant authority—usually probation.<sup>d</sup> In Montgomery County, the court system uses a \$77 bond amount as a flag in the

system to indicate a detainer—which is useful given the difficulties of integrating court data and probation data quickly. It also functions as a real money bail, so in order to be released from jail, a person must either have the probation detainer lifted (through a probation detainer hearing, see “Violation or detainer hearings” in this section) or have a judge convert the \$77 secured bail amount to unsecured bail.

### **Level of care assessment (LOCA)**

Montgomery County Pretrial Services conducts (sometimes via contracted partner entities) a level of care assessment of the needs of people with substance use disorders or mental health challenges. This must be ordered by the court. A judge may order a LOCA and compliance with its terms as a non-monetary condition of release at preliminary arraignment.

### **Magisterial district judge (MDJ)**

Magisterial district judges preside over arraignments, review pretrial services reports, hear arguments from both parties, and set conditions of release.

### **Preliminary arraignment**

The preliminary arraignment (sometimes called initial arraignment) is a person’s first court appearance

after arrest. At this hearing, a magisterial district judge informs the person of the charges they are facing and their rights, hears arguments and requests from the prosecution and the defense, and then decides the release conditions and bail amount (if any).<sup>e</sup>

### **Preliminary hearing**

The preliminary hearing is a separate proceeding held after arraignment where the prosecution must demonstrate that enough evidence exists for the case to move forward to the next stage.<sup>f</sup> The judge may revisit bail conditions at this stage if circumstances change or new information emerges.

### **Pretrial release**

Pretrial release refers to the period between a person’s arrest and the resolution of their case if they are allowed to remain in the community rather than being detained in jail. Release can occur on recognizance (a written promise to return to court), through non-monetary conditions (such as check-ins or supervision), and/or by posting monetary bond.<sup>g</sup> The guiding principle under Pennsylvania law is that release should be the norm and detention the exception, with conditions set to ensure appearance in court and public safety.<sup>h</sup>

### **Pretrial services**

Pretrial services refers to an entity that supports people facing charges in attending court hearings and avoiding re-arrest while they await their trial or case disposition.<sup>i</sup> In Montgomery County, the pretrial services department—established in 2022—conducts interviews before arraignment, prepares standardized reports, and provides monitoring and services for people assigned to pretrial supervision.<sup>j</sup>

### **Pretrial monitoring levels (PML)**

Pretrial monitoring levels (also called pretrial supervision levels) range from minimal (telephone check-ins) to intensive (frequent contact or electronic monitoring). Montgomery County assigns five pretrial monitoring levels:<sup>k</sup>

- › No monitoring—the person is released without further conditions;
- › Level 1—the released person has a monthly check-in (often by phone);
- › Level 2—the released person checks in biweekly or alternates in-person and phone contact;
- › Level 3—the released person checks in weekly with in-person reporting; and

- › Level 3+—the highest level of monitoring, including electronic monitoring when deemed necessary.

These levels are intended to be calibrated to match a person’s assessed risk and needs, balancing supervision and liberty. The supervision levels refer only to the type and frequency of check-ins. Both court-ordered and voluntary referrals to other services may occur at any supervision level.<sup>l</sup>

### **Risk assessment**

Risk assessment instruments are actuarial (probability-based) tools that provide information about the likelihood of certain outcomes. In the context of the criminal legal system, risk assessment tools have been designed to provide information to judges and attorneys, including for setting bail and other conditions of release. Montgomery County uses the Public Safety Assessment (PSA), which estimates the likelihood of three events during pretrial release: failure to appear, new criminal arrest, and new violent criminal arrest. The PSA has been nationally validated.<sup>m</sup>

### **Virtual arraignment**

Virtual arraignments are preliminary arraignments held using an online

video meeting platform, such as Zoom. Starting during the COVID-19 pandemic, Montgomery County holds nearly all preliminary arraignments for detained people via Zoom.<sup>n</sup>

Virtual hearings have pros and cons. Their benefits include increased accessibility for counsel, scheduling predictability, and the ability for family or community observers to attend remotely. However, video court settings can limit defendants’ ability to engage meaningfully—for example, by reducing opportunities for private consultation with counsel. Nonverbal cues (body language, eye contact, courtroom presence)—important in communicating credibility—may be obscured when participants appear on small screens. Technical problems can also occur, especially with language interpretation.<sup>o</sup>

### **Violation or detainer hearings**

These occur when someone already on probation or parole is charged with a new offense or allegedly violates the conditions of their probation (and a new charge constitutes a violation). In a detainer hearing, a judge or (in some cases) a probation officer determines whether the person remains in custody while the alleged violation is resolved.<sup>p</sup> Even if bail is granted on a new charge, the detainer can keep the person incarcerated until lifted by the supervising court or agency.

- a 234 Pa. Code § 523–524, C(4).
- b 234 Pa. Code § 529.
- c Ibid.
- d ACLU-PA, *Broken Rules*, 17.
- e 234 Pa. Code § 540.
- f 234 Pa. Code § 542.
- g 234 Pa. Code § 523, 528.
- h Ibid.
- i Vera Institute of Justice, *Successful Pretrial Systems Rely on Supportive Pretrial Services* (New York: Vera Institute of Justice, 2024), <https://vera-advocacy-and-partnerships.s3.amazonaws.com/Supportive%20Pretrial%20Services%20fact%20sheet.pdf>.
- j Montgomery County Pretrial Services, *2022 Annual Report* (Norristown, PA: Montgomery County, 2023), <https://www.montgomerycountypa.gov/4383/Annual-Reports>.
- k Montgomery County Pretrial Services, *2023 Annual Report* (Norristown, PA: Montgomery County, 2024), 6, <https://www.montgomerycountypa.gov/4383/Annual-Reports>. Additional information provided by email from Michael Kehs, Montgomery County District Court administrator, to Jennifer Peirce, associate director of research, Vera Institute of Justice, January 8, 2026.
- l Email from Michael Kehs, Montgomery County District Court administrator, January 8, 2026.
- m Advancing Pretrial Research & Policy, “About the Public Safety Assessment,” <https://perma.cc/CT57-TBUZ>.
- n Montgomery County, PA, “Frequently Asked Questions: Will the Hearing Be Held Via Zoom or in Person?,” <https://perma.cc/JLY4-5DDF>.
- o Alicia Bannon and Janna Adelstein, *The Impact of Video Proceedings on Fairness and Access to Justice in Court* (New York: Brennan Center for Justice, 2020), <https://www.brennancenter.org/our-work/research-reports/impact-video-proceedings-fairness-and-access-justice-court?> Recommended practices include ensuring private, confidential attorney–client communication before and during proceedings; providing clear instructions to the public about how to observe virtual hearings; offering in-person alternatives for people without reliable internet or devices; and systematically monitoring outcomes (for example, bond amounts, release rates, appearance rates) by hearing format to detect and correct potential inequities. For a discussion on how New Jersey adapted to online hearings post-pandemic, see Luis C. Torres, Elizabeth M. Lyne, and Ashley M. Appleby, “On the (Zoom) Record: The Role of Videoconferencing in Detention Hearing Proceedings,” *Journal of Crime and Justice* 47, no. 5 (2024), 613–630, <https://doi.org/10.1080/0735648X.2024.2321588>.
- p ACLU-PA, *Broken Rules*, 2021, 17. On probation detainers and hearings generally and in Pennsylvania, see also Alison Frankel, *Revoked: How Probation and Parole Feed Mass Incarceration in the United States* (Washington, DC: ACLU and Human Rights Watch, 2020), 5, 16, 61–62, and on Montgomery County detainer hearings specifically, 90–91, <https://perma.cc/QQ3Q-HVKT>.

# Introduction

Pennsylvania’s legal framework is ahead of many states as it aims to mitigate the harms of being needlessly detained and ensure that liberty while awaiting case resolution is the default. To these ends, pretrial release and bail decisions in the state are framed by a set of statutory and procedural rules designed to ensure individualized assessment and to avoid wealth-based detention. Rule 523 of the Pennsylvania Rules of Criminal Procedure requires judges to consider a broad range of factors when deciding whether someone should be released and under what conditions (monetary or non-monetary).<sup>13</sup> Judges may opt to release a person on recognizance (with the sole condition of appearing at court hearings), on unsecured bail (the person does not owe money up front but must pay if they do not comply with release conditions), on partially secured bail (the person must pay 10 percent of the amount to be released), or on secured bail (the person must pay the full bail amount to be released). In making their decisions, judges must look not only at the nature of the charge, but also at a person’s community ties, job stability, financial circumstances, prior record, and risk of missing future court dates. Further, any bail amount set must be “reasonable” in light of those criteria—which includes a meaningful inquiry into whether the person can actually afford to pay.<sup>14</sup>

Despite these requirements, research shows that practice often diverges from principle. The ACLU of Pennsylvania’s 2021 report, *Broken Rules: How Pennsylvania Courts Use Cash Bail to Incarcerate People Before Trial*, found that money bail remains the default in many counties, often at unaffordable amounts, and recommends that judges do more to assess a person’s ability to pay.<sup>15</sup> The report found that, during 2016 and 2017, slightly more than half of all people with bail set did not pay and therefore remained in jail.<sup>16</sup>

Montgomery County has taken action to address these issues in recent years. In February 2022, Montgomery County launched a countywide

**In making their decisions, judges must look not only at the nature of the charge, but also at a person’s community ties, job stability, financial circumstances, prior record, and risk of missing future court dates.**

pretrial services department tasked with interviewing defendants before arraignment, preparing reports for judges, and offering structured levels of monitoring for those released under supervision.<sup>17</sup> The county also transformed how it runs initial arraignments—now holding most of them online and ensuring defense counsel for all defendants—and implemented both an expedited bail review process and an expedited probation detainer hearing program. Together, these reforms create a stronger pretrial “infrastructure” than exists in many counties across Pennsylvania and the United States. The Montgomery County pretrial system is intended to produce earlier, more individualized decisions; to expand alternatives to detention; and to provide a prompt second look when an initial release condition results in continued confinement.

These investments appear to be working. The pre-sentenced population at the Montgomery County Correctional Facility has decreased from close to 1,200 people in 2019 to between 826 and 979 people in 2024.<sup>18</sup> In 2024, most people facing charges (72 percent) were released during the pretrial phase (though not necessarily immediately).<sup>19</sup> Among released people, 68 percent appeared for all scheduled court hearings and a similar proportion (74 percent) were not charged with a new offense during pretrial release.<sup>20</sup> Still, almost half of the people in the county jail in 2024 were there due to money bail.<sup>21</sup>

The central problem with money bail—that a substantial proportion of people cannot afford their release—remains stark. National surveys show that 37 percent of Americans cannot cover a \$400 emergency expense.<sup>22</sup> For many people appearing in court—who are often facing unemployment, housing insecurity, or untreated mental health and substance use issues—even \$100 is likely unaffordable.<sup>23</sup> In this context, the assumptions and information underpinning judges’ decisions about money bail matter: “standard” amounts that may appear modest and achievable in the abstract can function as an insurmountable barrier to release for many people.

Courts make thousands of pretrial decisions each year, yet public records only capture the outcomes of these decisions—not the reasoning, negotiations, influence of reforms, or courtroom dynamics that shape them. To understand how pretrial release and bail decisions reflect

Pennsylvania law and Montgomery County policies in practice, the Vera Institute of Justice (Vera), in partnership with the Reuniting Family Bail Fund, conducted a court observation project. From December 2024 through March 2025, the Vera team observed hundreds of preliminary arraignments in magisterial district courts and bail hearings in the Common Pleas Court. Vera supplemented this with an analysis of administrative court data for Montgomery County for the years prior to and after the 2022 reforms.

Informed by these observations, this report examines the arguments and decisions in preliminary arraignments in Montgomery County, describes how judges refer to the factors set out in the court rules in explaining their decisions, identifies opportunities to improve day-to-day implementation of policies and principles in Montgomery County, and highlights positive practices that could be adopted by other counties.

## Court Observation Approach

To understand how pretrial decisions unfold in practice in Montgomery County, Vera observed nearly 800 preliminary arraignments and more than 100 bail review hearings.

Vera selected court observation as a research method to document the details of pretrial release and bail decisions and to understand how the prosecution, defense, and judges speak about salient factors in pretrial release decisions. This approach reveals nuances of courtroom practice that are not captured in administrative data or written policy.<sup>24</sup>

This project aimed to answer three sets of questions:

1. How frequently and in what types of cases do Montgomery County judges set unsecured, partially secured, or secured bail? What money bail amounts do judges set? And what are the features of cases in which judges set higher bail amounts?

2. How frequently and in what types of cases do judges set pretrial supervision and other non-monetary conditions?
3. What reasons do judges, prosecutors, and defense attorneys give for their arguments and decisions related to pretrial release, bail amounts, and other conditions of release? How do these align with the ten factors that judges may consider in preliminary arraignment decisions (according to the Pennsylvania Court Rules)? How do attorneys and judges use information from the pretrial risk assessment and about defendants' ability to pay to explain their arguments and decisions?

In developing the methods and instruments used in this study, Vera staff adapted protocols and tools used in other court observation projects from Pennsylvania and elsewhere.<sup>25</sup> In 2024, Vera staff pilot tested and refined their data collection tools to fit Montgomery County's context by observing several days of arraignments and other hearings online and in-person, and based on conversations with court staff, attorneys, judges, and local organizations. Vera hired a team of court observers, trained them, and supervised their data collection. (See [Appendix](#) for details.)

## **DATA COLLECTION**

Court observers attended and documented information from preliminary arraignments (three daily sessions, online), in-person hearings (one or two days a week), and bail review hearings (one session per weekday, online) from early December 2024 through the end of March 2025. Court observers documented what was said by participants in the hearings (judges, attorneys, and the people facing charges), noting attorneys' release and money bail requests, judges' decisions, conditions set, and the reasons that attorneys and judges provided. The observers recorded additional context or comments not captured in the structured fields.

This report presents Vera’s analysis of close to a thousand hearings across three categories:

- › **Virtual arraignments:** 785 preliminary arraignments for people in custody at the Montgomery County Correctional Facility (MCCF). All participants appeared virtually (via the Zoom video-conferencing application).<sup>26</sup>
- › **In-person arraignments:** 25 preliminary arraignments held during in-person criminal court sessions, mostly for defendants not in custody.<sup>27</sup>
- › **Bail review hearings:** 108 bail review hearings, held in Common Pleas Court and streamed virtually (via the Zoom video-conferencing application).

Vera estimates that this sample amounts to about 50 percent of virtual preliminary arraignments and roughly 27 percent of bail review hearings conducted during the four-month study period, based on numbers provided by the court.<sup>28</sup> (The proportion of in-person arraignments that Vera observed is much lower, and therefore the findings focus mostly on the virtual arraignments.)

This approach has several limitations. First, the data reflects only what was spoken aloud in hearings or noted in the docket. Court observation cannot capture private deliberations or written communications. The observers did not have access to information available to judges or attorneys, such as history of criminal justice system involvement, economic interviews, or risk assessments. At times, observers could not record certain key variables when court actors did not mention them or when audio clarity prevented comprehension. People may have more than one charge in a case, for example both a theft and simple assault charge; Vera included only the most serious charge per arraignment for analysis. Second, the timeframe is only a portion of the year (16 weeks). Third, observers documented perceived gender, age, race, and ethnicity, based on their best guess. This may not reflect accurate or complete demographic information and could misclassify people, particularly Latino people.<sup>29</sup> Despite these limitations, the resulting data provides a firsthand picture of courtroom decision-making.

# Findings

The following sections highlight the key patterns that emerged from the court observation data. The first section describes the practicalities of the preliminary arraignments, the demographics of people facing charges, and the types of charges they faced. The second section describes the outcomes of these preliminary arraignments. The third section describes the reasons offered by magisterial district judges in reaching their decisions and the arguments put forth by attorneys on each side. The fourth section outlines the arguments and decisions observed by Vera in the bail review hearings held in Common Pleas Court.

## **CHARACTERISTICS OF PRELIMINARY ARRAIGNMENTS, THE PEOPLE FACING CHARGES, AND THEIR CASES**

### **All defendants in virtual preliminary arraignments had a defense attorney**

The preliminary arraignments held online from the jail had full attendance by all participants, including the judge, prosecutor, defense attorney, defendant, and pretrial services staff (who coordinate logistics from the jail). Since Montgomery County implemented the virtual arraignments at three set times per day, held on a videoconferencing platform, the Public Defender's Office assigns a staff attorney to attend all sessions. People charged with a crime can bring a private attorney if they wish. Thus, all people facing charges have access to an attorney at arraignment, which is rare in Pennsylvania at this stage in case proceedings.<sup>30</sup>

A judge, prosecutor, and defense attorney participated in every virtual arraignment observed by Vera. Each arraignment had only one person facing charges, almost always with only one case.

- › *Judges:* 25 different magisterial district judges (MDJ) were represented in the observed virtual arraignments. Of these judges, a small number appeared more frequently—each covering roughly 10

percent of hearings—while others presided over fewer than 5 percent of hearings.

- › *Attorneys:* A defense attorney from the Public Defender’s Office and an assistant district attorney were present for all virtual arraignments. Two or three public defense attorneys from each office covered most of the hearings. In about 4 percent of hearings, the person facing charges had a private defense attorney; the public defense attorney remained online but silent during hearings with a private attorney.
- › *People facing charges:* People appearing in virtual arraignments were predominantly men (74 percent). Using visual and contextual cues, observers estimated that 52 percent of people facing charges were Black, 35 percent white, and 8 percent Latino. Approximately 5 percent of hearings required an interpreter—70 percent of these consisting of Spanish translation. These demographic patterns resemble those reported in other reports about Montgomery County’s courts.<sup>31</sup>

In contrast, in the smaller number of in-person arraignments observed by Vera (25), there was less participation from both prosecutors and public defenders. Public defenders appeared in 40 percent of the hearings (10 cases), while private defense attorneys represented defendants in 48 percent (12 cases); this means that in the remaining 12 percent of cases, the person facing charges did not have legal counsel during the arraignment. In a few cases, a public defender was present initially but did not represent the client once private counsel appeared in person. Assistant district attorneys did not appear in any of the in-person hearings. In all but one of the 25 in-person hearings, a police officer presented information to the judge related to the complaint and charges. This procedural difference—substituting police officers for prosecutors—illustrates a key difference from the standardized virtual format.

The virtual arraignments lasted for a median of five minutes, with the shortest hearings lasting one minute and the longest lasting 29 minutes. About 90 percent of arraignments concluded in under 10 minutes. (Vera’s court observers did not collect time data for in-person arraignments.)

Hearings typically followed a fixed sequence: a presentation of charges, arguments by both attorneys, and a judicial ruling on release or bail. Observers noted that the predictable structure promoted greater consistency in the virtual arraignments than in those held in-person. This was because, in the virtual arraignments, the judge and both attorneys had the same information (from Pretrial Services) in hand, and the specific attorneys work together on virtual preliminary arraignments on a daily basis. In-person hearings involved more variation in information and process, due in part to the lack of prosecuting attorney presence, uneven defense counsel presence, and decreased familiarity with the process among counsel. Technical and comprehension problems were relatively infrequent.<sup>32</sup>

### **Theft and assault were the most common types of charges in virtual arraignments**

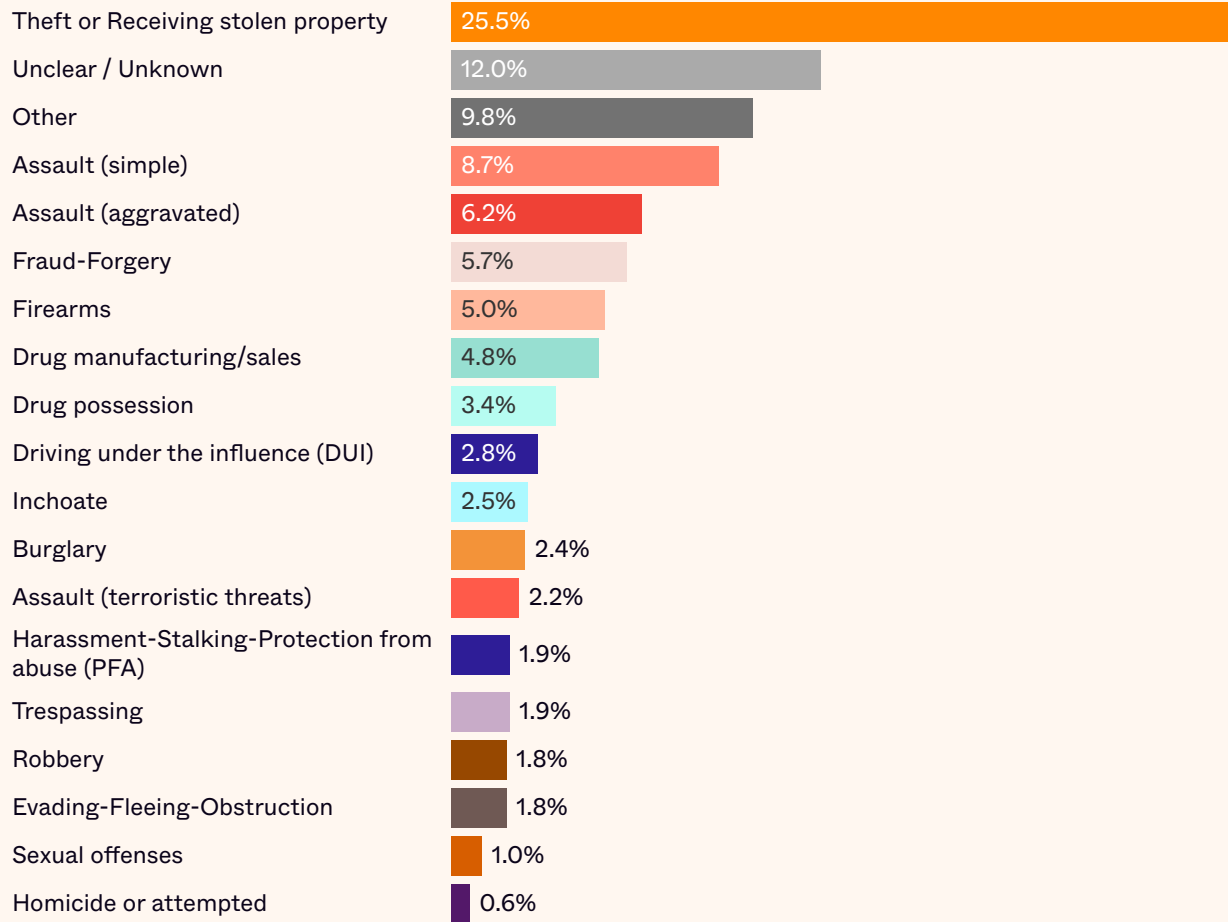
Court observers documented the most serious charge in each case (if a case had more than one charge).<sup>33</sup> For the virtual arraignments, the top charges were felonies in about half of all cases (50 percent); most others were misdemeanors (41 percent). Observers were unable to determine charges in 12 percent of cases.<sup>34</sup>

Across virtual arraignments, as shown in Figure 1, theft was the most common charge (about 26 percent), followed by assault (simple and aggravated assault combined, 15 percent), and fraud or forgery (6 percent). Firearms and drug sales each accounted for roughly 5 percent. Cases involving more serious charges—including robbery, sex offenses, and homicide—were observed less frequently.<sup>35</sup>

FIGURE 1

### Virtual arraignments: Charge categories

Based on only the most serious charge per case.



Based on 785 virtual arraignments. Categorization does not account for "violent charge" designation. "Other" includes charges related to extradition, accidents, device crime, mischief, dealing in unlawful proceeds, failure to appear (FTA), warrants, disorderly conduct, kidnapping, and others.

Chart: Vera Institute of Justice • Source: Court observation of Montgomery County virtual arraignments (December 2024 to March 2025)

### DUIs and theft, mostly misdemeanors, were the most common charges among in-person arraignments

Among in-person arraignments, the charge patterns were different and less serious: nearly half (48 percent) were first-offense charges of driving under the influence (DUIs) and 24 percent were theft. Nearly all (92 percent) were misdemeanors. (The sample of observed in-person

arraignments was relatively small, just 25 hearings.) This reflects the reality that people appearing from detention typically had been arrested, while people appearing in person may have received a notice to appear in court.

## **JUDGES' DECISIONS: RELEASE TYPES, BAIL AMOUNTS, AND OTHER CONDITIONS**

This section examines how judges interpret and apply Pennsylvania's bail framework in practice during preliminary arraignments, focusing on the content of judges' decisions, where these align with arguments made by attorneys, and the reasoning that judges express verbally.

### **Judges mostly set unsecured bail, sometimes secured (“cash”) bail, in virtual arraignments**

In the preliminary arraignment, the judge must decide on one of the following: release on recognizance (no conditions other than to reappear in court), unsecured bail (money only due if they fail to comply with conditions of release), partially secured bail (10 percent due now), secured bail (100 percent due now), or deny bail (remain in detention) (see [A Pretrial Primer: Glossary of Terms and Definitions](#) for details). In Pennsylvania, if the person facing charges is already on probation for a previous conviction, the new charges may result in them being held in custody on a probation detainer, which requires resolution in a probation detainer hearing. In these situations, defense attorneys often request a secured bail decision (with a bail amount of exactly \$77) for reasons related to pretrial credit, and the judge typically grants this regardless of the ten factors in the Court Rules (see [A Pretrial Primer: Glossary of Terms and Definitions](#) and Text Box: [Probation Detainers](#) for details).

## PROBATION DETAINERS AND \$77 BAIL AMOUNTS AS A FACTOR IN DETENTION PATTERNS

Probation detainers were a defining feature of many observed hearings. The presence of a detainer—administrative holds placed on people for whom the new criminal charge constitutes a violation of their existing probation status—means that a person must remain in detention until a probation judge or officer decides whether the detainer is lifted or not, regardless of the judge’s bail decision related to the new charge.<sup>36</sup> (See [A Pretrial Primer: Glossary of Terms and Definitions](#).)

Overall, 19 percent of observed virtual arraignments included a bail amount ending in \$77, which in Montgomery County is an internal system flag that signifies a detainer hold (which may be local or for another county). Approximately 41 percent of the arraignments with a probation detainer (8 percent of all arraignments) involved a \$77 amount alone, with no additional bail set for the new charge(s).

Defense attorneys may request secured bail in cases with detainers to allow their clients to accrue time-served credit on new charges while awaiting resolution—especially for clients likely to remain incarcerated due to the detainer. However, if the detainer is lifted and the courts do not swiftly modify this \$77 bond amount to be unsecured, a person may remain in detention if they cannot pay the \$77 (an amount that many indigent defendants would struggle to come up with).

This study did not assess the implementation or effectiveness of the county’s probation detainer hearing program.<sup>a</sup> Future research should examine whether hearings occur within the required timeframe, how frequently courts lift detainers and subsequently modify bail, and how these events influence the length of jail detention.

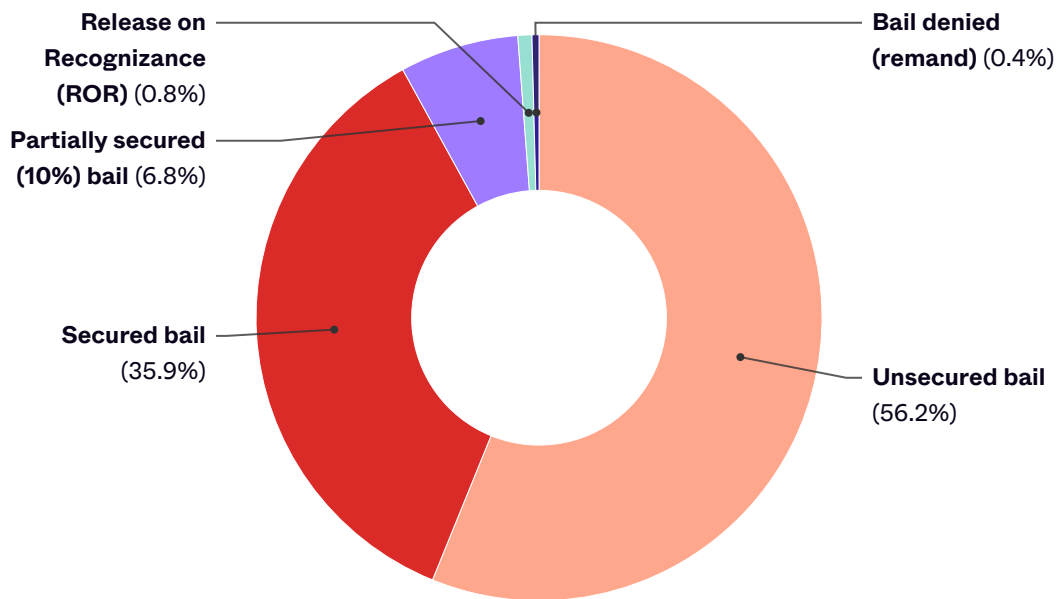
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<sup>a</sup> Montgomery County, “Detention/Gagnon Hearing Officer Program,” May 2024, <https://per-ma.cc/4L7Z-KF3A>.

Among virtual arraignments, as shown in Figure 2, judges opted for unsecured bail in 56 percent of cases, for secured bail in 36 percent of cases, and partially secured bail in 7 percent of cases. Only in rare cases did judges deny bail (three cases, or 0.4 percent of Vera’s sample); these cases involved homicide or attempted homicide charges. And judges rarely assigned release on recognizance (ROR) (six cases or 0.6 percent).<sup>37</sup> Excluding detainer-only cases (in which the bond amount is exactly \$77—see Text Box: [Probation Detainers](#) for details), the share of hearings in which the judge set secured bail falls slightly to 29 percent.

**FIGURE 2**

**Virtual Arraignments: Judges' decisions, by type of bail**



Includes 785 arraignments conducted on Zoom for defendants in custody. Excludes in-person arraignments.  
 Chart: Vera Institute of Justice • Source: Observation of preliminary arraignments in Montgomery County (December 2024 to March 2025)

Secured bail decisions were more common for felonies (42 percent) than misdemeanors (30 percent). However, even among felony cases, unsecured bail remained the most frequent outcome (49 percent). Judges favored unsecured bail in lower-level charge categories such as fraud, drug possession, and theft, and used secured bail more often for aggravated assault, firearms, or drug sale cases.

For the 25 observed in-person hearings, the most common outcomes were either unsecured bail or ROR: judges assigned unsecured bail in 60 percent of cases and ROR in 32 percent of cases, and the decision was unclear or unknown in the remaining 8 percent of cases.

Local county administrative data shows similar patterns in the types of bail assigned in preliminary arraignments in 2024.<sup>38</sup> Notably, judges in 2024 and 2025 set unsecured bail decisions in a higher proportion of arraignments (55 percent) than they did in 2018 (40 percent of cases), prior to the reforms.<sup>39</sup> While cross-county comparisons are difficult, it is worth noting that, according to a court observation analysis of six months in 2022 to 2023, magisterial district judges in Allegheny County applied secured bail in fewer cases (16 to 29 percent) and relied more on nonmonetary release (39 to 57 percent) than Vera found in Montgomery County.<sup>40</sup>

### **Magisterial district judges often set bail at potentially unaffordable amounts**

Across the virtual arraignments, the median bond amount set was \$5,000. Breaking this down by type of bail, the median bond amounts set were as follows:

- › \$5,000 for unsecured bail decisions, with a range from \$77 to \$500,000;<sup>41</sup>
- › \$10,000 for partially secured bail decisions, with a range from \$500 to \$100,000;<sup>42</sup>
- › \$5,077 for secured bail decisions, with a range from \$77 to \$2,000,077.
  - ↳ A secured bail amount of only \$77 signifies that a probation detainer, not risk factors, is the reason for the money bail. The person facing charges must still pay \$77 for release, unless a judge converts the bail to unsecured. When these cases (accounting for 21 percent of secure bail decision) are excluded, the median secured bail amount rises to \$10,000. (See Text Box: [Probation Detainers](#) for details.)

The median bond amounts in arraignments Vera observed in Montgomery County were lower, overall, than prior to the pandemic, and lower than many other counties in the state.<sup>43</sup> A publicly available breakdown of initial bail amounts by charge type currently exists only in Philadelphia and Allegheny counties, both of which generally have lower average amounts than Montgomery.<sup>44</sup>

Nonetheless, the median bond amounts outlined here—\$5,000 or \$10,000—are not “low” or “affordable” for many people detained in Montgomery County, even if they (or their family) only has to pay 10 percent of these amounts to earn their release. As noted in section II, a family living below the federal poverty line in the county has a monthly income of less than \$2,000 per month. Although the specific income of the people facing charges in the hearings Vera observed is unknown, based on comments during the hearings, many were living in economic precarity. Many people facing charges (or their attorneys on their behalf) reported that they were homeless, struggling with substance use disorder or mental health problems, and already facing various debts and family financial responsibilities.

## THE REUNITING FAMILY BAIL FUND

Greater insight into the economic realities of people facing charges in Montgomery County comes from the Reuniting Family Bail Fund. Between 2020 and 2025, the fund posted bail for 174 people. Among this group, most needed help with “low” amounts; the median bond amount for people needing aid to pay secured (cash) bail was \$538. The median bond amount for people needing aid to pay 10 percent of the bail (partially secured bail) was \$5,000, which means they needed help paying \$500 (10 percent of \$5,000). Further, 17 percent needed help posting a bail amount of exactly \$77 for a probation detainer. The vast majority of the bail fund clients succeeded after being released on bail: only 8 percent missed a court hearing, and the District Attorney’s Office filed

for forfeiture of bail (typically due to non-compliance) in only four cases out of 174 (2 percent).<sup>a</sup>

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<sup>a</sup> Reuniting Family Bail Fund client data, 2020 to 2025, provided to and on file with Vera.

### **Judges repeatedly set bond amounts of \$1,000, \$5,000, and \$10,000**

Across the virtual arraignments in which judges set secured bail (281 cases), judges repeatedly set certain bail amounts. The following amounts appeared in about 42 percent of decisions (Vera counted any amount ending in \$77, indicating a probation detainer, as the primary bail amount without the \$77):

- › \$1,000 in 8 percent of arraignments,
- › \$5,000 in 17 percent,
- › \$10,000 in 11 percent, and
- › \$99,000 in 6 percent (notably just below the \$100,000 threshold that triggers mandatory maximum-security housing in the jail).

**FIGURE 3****Common bond amounts by charge type**

Select charge types; includes only cases with secured bail decisions. Virtual arraignments only.

	\$77	\$1,000	\$5,000	\$10,000	\$25,000	\$50,000	\$99,000	Other amounts
Assault, aggravated (23 cases)	17%	9%	9%	4%	13%	4%	4%	39%
Assault, simple (20 cases)	25%		45%	5%	10%			15%
Drug distr/sales (20 cases)		10%	15%		5%		35%	35%
DUI (all) (18 cases)		11%	44%	17%	11%	6%		11%
Firearm charges (18 cases)	6%		22%		11%	11%	22%	28%
Theft (56 cases)	29%	13%	18%	13%	7%	2%		20%

Cases that have a \$77 probation flag bond amount added are included with the primary bond amount (example: \$5,000 column includes cases with \$5,077).

Table: Vera Institute of Justice • Source: Observation of 785 virtual arraignments in Montgomery County (December 2024 to March 2025)

As shown in Figure 3, judges set the same amount of bail in a notable proportion of secured-bail decisions for certain charge categories.

For example,

- › in 45 percent of simple assault cases, 44 percent of DUI cases, 22 percent of firearms cases, and 18 percent of theft cases, judges set bail amounts at exactly \$5,000;
- › in 17 percent of DUI cases, judges set bail amounts at exactly \$10,000; and,
- › in 35 percent of drug distribution cases, judges set bail amounts at exactly \$99,000.

What is clear in this sample of arraignments is that judges set specific bail amounts frequently, especially within certain charge categories, and that these amounts are much more than “nominal” or “affordable.” These patterns suggest habitual or default bail levels based at least in part on charge type, rather than individualized assessments based on court non-appearance risk or ability to pay.

### **Judges set non-monetary conditions—primarily pretrial supervision—in most cases**

Montgomery County expanded its pretrial supervision department in 2022 (see [Pretrial Primer: A Glossary of Terms and Definitions](#)). In the sample of preliminary arraignments observed by Vera, judges assigned pretrial supervision (monitoring) as a non-monetary condition of release in 55 percent of cases.

- › Pretrial supervision was more common for secured bail decisions (73 percent) and partially secured bail (67 percent) than for unsecured bail decisions (43 percent).<sup>45</sup>
- › Judges can assign three levels of supervision from least to most intensive, and used each at similar rates in Vera’s sample: level one (least intensive, 39 percent), level two (30 percent), and level three (30 percent).<sup>46</sup> Defendants frequently asked judges to explain what pretrial monitoring “levels” meant, suggesting that more clarity around the requirements and expectations may be helpful.

The other non-monetary conditions that judges commonly assigned in the virtual arraignments were stay-away orders related to the specific alleged incident—staying away from a particular place (43 percent) or person (29 percent). In about one in five cases, judges asked about the defendant’s level of care assessment (for mental health and substance use needs) or their current treatment situation (see [A Pretrial Primer: A Glossary of Terms and Definitions](#)).<sup>47</sup> In a smaller portion of cases (about 4 percent), the judge then set a non-monetary condition related to obtaining or complying with this assessment. Among the in-person hearings, non-monetary conditions were typically related to not driving (for DUI cases) and stay-away orders (for theft cases).

## JUDGES' COMMENTS ABOUT THEIR DECISIONS

### **Judges' decisions often, but not always, aligned with attorneys' arguments**

Judges' decisions aligned more often with prosecution on more restrictive decisions and more often with defense on less restrictive decisions. However, there were occasions when they departed from what each side requested.

- › When assigning unsecured bail, judges aligned with defense requests in 91 percent of cases and with prosecution requests in 65 percent.
- › When assigning secured bail, alignment with prosecution occurred in 94 percent of cases. Notably, defense attorneys also requested secured bail in 54 percent of cases—often for detainer-related reasons (typically requesting the \$77 amount so their client could accrue credit while detained).

In some hearings, the prosecutor and defense attorney came to an agreement about their bail type, amount, and non-monetary condition requests ahead of the arraignment. The prosecution mentioned this type of agreement in 8 percent of hearings and the defense mentioned it in 6 percent of hearings. The judge cited such an agreement as the reason for their final decision in only 2 percent of hearings (though presumably judges took both attorneys' comments into account even when not stated aloud).

### **Judges only sometimes explained their decisions out loud—and rarely referred to the economic situation of the person facing charges**

In about three quarters of virtual arraignments (74 percent), judges offered no verbal rationale for their decisions. They provided explanations somewhat more often for secured bail (35 percent) than unsecured (20 percent) cases. Among the 201 cases in which they did comment on their reasoning, certain topics were more common.

- › When judges commented on the reasons for their pretrial decisions, they most often referenced charge severity (26 percent of cases with a verbal rationale), prior history of criminal justice system involvement (21 percent cases with a verbal rationale), history of non-compliance with conditions of release (12 percent of cases with a verbal rationale), or mental health or substance use issues (12 percent of cases with a verbal rationale). Some reasons related to holds from other agencies, including probation detainers (16 percent of cases with a verbal rationale) or holds, warrants, or extradition requests from other jurisdictions (10 percent of cases with verbal rationales).<sup>48</sup>
- › Judges did not explicitly mention the person’s ability to pay or risk assessment results in any of the hearings observed by Vera, despite these being salient considerations in the Pennsylvania Court Rules and in local policy.

Prosecutors and defense attorneys, by contrast, consistently articulated their reasoning when making requests to the court for a specific type of pretrial decision.

- › Prosecutors emphasized conviction history (36 percent of all hearings), charge severity (22 percent), failure to appear (12 percent), flight risk (6 percent), and past supervision violations (5 percent).
- › Defense attorneys focused on factors that could mitigate risk of failure to appear or offending—limited or no conviction record (18 percent of all hearings), employment (16 percent), family responsibilities (14 percent), community ties (12 percent), first-time charges (9 percent), detainer issues (9 percent), and ability to pay (4 percent).

It is common across court systems—particularly at fast-moving initial hearings—for judges not to articulate their full reasoning on the record. Although judges are not required to explain every justification for a decision, Pennsylvania court rules direct magisterial district judges to consider a person’s financial circumstances when setting bail at the preliminary arraignment.<sup>49</sup> When that consideration is not evident on the record, the bail decision itself often becomes the only signal of whether and how judges weighed the relevant factors—especially ability to pay. The absence of explanation can leave people

facing charges and the public with the impression that required considerations are being deferred, minimized, or overlooked.

Court observers documented several instances illustrating how the absence of explanation shaped the reactions of the person facing charges. Some declared their inability to pay even modest amounts. One stated, “I can’t pay \$500. How can I go to treatment if I’m in jail?” Another woman began to cry and said she would lose her house; the judge replied sharply, “[you] need to comply and it’s time for you to take responsibility.”

In some hearings, judges referred defendants to the following day’s bail review session as the proper venue to revisit bail concerns—telling defendants, “You’ll have bail review tomorrow,” when they mentioned inability to pay. Such moments underscore how the absence of detailed reasoning can heighten perceptions of unfairness. Arraignments are inherently stressful occasions for people facing charges. This stress is likely only heightened when a judge does not explain whether they selected a bail amount with the intention that it be an affordable pathway to release or, due to its unaffordability, a means for securing a person’s detention.

## **BAIL REVIEW HEARINGS**

Montgomery County’s next-day bail review hearings—implemented in 2022—function as a critical safeguard for people detained after arraignment. These hearings allow for a judge from the higher-level court, the Common Pleas Court, to reconsider initial bail decisions when a person remains in detention with money bail or on electronic monitoring the next business day after booking.<sup>50</sup>

During the study period, observers attended (virtually) the bail review hearing sessions held most weekdays and documented 108 hearings between December 2024 and March 2025. This is a relatively modest sample size, about 27 percent of bail review hearings during this period. As a result, the patterns described below may not match data from a larger sample and some of Vera’s findings diverge from metrics reported in the county’s annual report from pretrial services.<sup>51</sup>

## **Bail review hearings were relatively brief**

Prosecutors and defense attorneys appeared at all bail review hearings observed by Vera. The demographics of defendants were similar to the patterns of initial arraignments discussed above.<sup>52</sup> Bail review hearings were typically brief, lasting between one and twenty minutes, with a median duration of three minutes; about 94 percent were shorter than ten minutes.<sup>53</sup>

Charge types at bail review hearings were broadly similar to those at arraignment but skewed toward more serious offenses, as many lower-level cases were resolved earlier through release on unsecured bail.

- › The most common charges were theft (23 percent), assault (12 percent), firearms-related offenses (9 percent), drug-related charges (8 percent)—split evenly between possession and sales—and robbery (7 percent).
- › More than half of hearings (57 percent) involved felonies as the most serious charge, and roughly 71 percent of cases included multiple charges. Nearly 30 percent of people had open cases in other counties.<sup>54</sup>

Most cases originally involved secured bail (78 percent), with another 19 percent stemming from partially secured bail.<sup>55</sup> Preliminary bail amounts ranged from \$100 to \$200,000, with a median of \$10,000. Roughly one-third of all cases had bail amounts set at exactly \$5,000 or \$10,000.

## **Usually, prosecutors requested no changes and defense counsel requested less restrictive terms**

In 84 percent of hearings, the prosecution requested no change in the type of bail—most often supporting continued use of secured bail. With respect to the bail amount, prosecutors asked that it remain the same in 72 percent of cases and took no position in 15 percent.<sup>56</sup>

In contrast, the defense requested modifications in most hearings. In 57 percent of cases, defense attorneys sought to convert fully or partially

secured bail to unsecured bail, and in 11 percent, they requested a shift from fully to partially secured bail.<sup>57</sup> Defense counsel also requested a lower bail amount in 40 percent of hearings and explicitly raised the defendant's inability to pay in 11 percent.

The reasons that each side cited in their arguments reflect the patterns in the preliminary arraignments. The prosecution leaned on the person's conviction history, charge severity, and history of failure to appear for court; defense attorneys emphasized mitigating factors such as employment, family responsibilities, housing stability, and community ties.

### **Judges usually did not modify bail—and when they did, most modifications were in a less restrictive direction**

Based on the modest sample included in this study, the most common outcome of a bail review hearing was no change to the type of bail (secured or partially secured) or the amount of money set. In 56 percent of bail review hearings observed by Vera, judges modified neither the type of bail nor the money bail amount; in the remaining 44 percent of hearings, they modified either the bail type, the money bail amount, or both. The county's 2024 report shows a roughly similar pattern: judges modified bail (bail type and/or monetary amount and/or non-monetary conditions) in 51 percent of review hearings.<sup>58</sup> County data shows that 34 percent of people with a bail review hearing were released from detention immediately after the review.<sup>59</sup>

In the 108 bail review hearings observed by Vera, judges maintained the original bail type in 74 percent of cases. When judges made modifications to the *type* of bail, they did so to make the terms of bail less restrictive.

- › In about 15 percent of observed bail review hearings, the judge changed the bail to unsecured and in about 13 percent of cases the judge changed the bail to partially secured.

In the observed bail review hearings, judges modified the money bail amount in 26 percent of cases—decreasing the amount in the majority of these cases. (The county's 2024 report shows a higher rate of judges modifying the money bail amount (about 58 percent of cases);

this discrepancy is likely due to the small sample size of observed hearings.<sup>60</sup>)

- › Among the bail review hearings observed by Vera in which the judge modified the money bail amount, they decreased it in nearly nine out of 10 cases.<sup>61</sup> (According to the county’s 2024 data, when judges did modify the money bail amount, they decreased it in three out of four cases.<sup>62</sup>)
- › Thus, the median amount among these cases dropped from \$10,000 to \$5,000, after the bail review decision.
- › The reductions were usually substantial, between 50 to 95 percent of the original amount.
- › In two hearings, the judge decreased the amount from \$100,000 to \$99,000 to allow the defendant to leave the maximum-security section of the jail.

## **JUDGES GAVE REASONS FOR THEIR DECISION IN ONE OUT OF THREE HEARINGS**

In the majority of bail review hearings observed by Vera—two out of three (66 percent)—the judge did not express any reasons for their decision out loud. Among the hearings in which the judge mentioned a reason, the most common ones involved charge severity (27 percent of cases with verbal rationale), conviction history (22 percent of cases with a verbal rationale), or prior track record with the terms of release (8 percent citing compliance and another 8 percent citing non-compliance). The judge mentioned ability to pay in only one hearing. Judges provided reasons relating to holds or warrants from other jurisdictions or to probation detainers in (respectively) 14 percent and 8 percent of cases with a verbal rationale.

As in preliminary arraignments, the lack of verbal explanation for the judge’s decision can generate confusion and a sense of unfairness among defendants and their families. One defendant expressed frustration at being detained on secured bail, saying, “I never miss a hearing. I did go to anger management. I don’t know why I’m here. I can’t get any of my paperwork.” Given this, judges’ explanations for their decision to modify

bail—or not—at the bail review hearing could address this sense of frustration among people facing charges.

Overall, the bail review hearings put an important guardrail on the initial arraignment decisions that led to ongoing detention. More research is needed to document and analyze the reasons that judges draw on to alter the terms of release or not. The nature of the modifications suggests that there is an opportunity for MDJs to make less restrictive decisions in the first place.

## Implications

Montgomery County has made clear progress in building a fairer and more transparent system; as noted, the proportion of cases in which judges set unsecured bail increased 15 percentage points following the reforms (going from 40 percent of cases in 2018 to 55 percent by the end of 2024 and start of 2025). At the same time, Vera’s court observation data highlights several areas where improvements could be made to strengthen the system even further. The sections that follow outline key strengths, opportunities for enhancement, and broader system-level considerations informed by the findings in this report.

### **STRENGTHS IN MONTGOMERY COUNTY’S PRETRIAL PRACTICES**

#### **People facing charges have consistent access to counsel at first appearance.**

All people with cases observed in this study were represented by defense counsel at their first arraignment, with most (96 percent) represented by the Public Defender’s Office (PDO) and the remainder represented by private attorneys. This remains rare in Pennsylvania, especially outside of the two major cities, so it is a notable accomplishment by the courts and the PDO in Montgomery County.<sup>63</sup> Comprehensive access to defense

counsel at arraignment ensures that people understand their rights and the process and that they have the opportunity to share critical information about their employment, family obligations, and ability to pay with judges. Research shows that early representation reduces both unnecessarily high bail amounts and pretrial detention rates.<sup>64</sup>

**Standardized defendant information is available ahead of arraignment.**

The Montgomery County Pretrial Services Department (PTS) staff conducts structured interviews to collect demographic and financial information and compiles a risk assessment using administrative records. Prior to this practice, judges had only the criminal complaint and any details noted during the arraignment to use as a basis for their decision. These reports can offer key support to arguments from both prosecution and defense and can assist judges in making more thorough and individualized determinations. As detailed in the [Pretrial Primer: A Glossary of Terms and Definitions](#), PTS also recommends supervision levels that tailor monitoring intensity to assessed needs. This creates the opportunity to apply resources efficiently and appropriately. Pretrial supervision provides a way to support people facing charges in attending court hearings and complying with other conditions of their release.<sup>65</sup> To the extent that judges meaningfully incorporate information about risk level, ability to pay, and pretrial monitoring recommendations in their decisions, this practice is likely to reduce unnecessary pretrial detention.

**Bail review hearings are a meaningful safeguard against unnecessary detention.**

The automatic scheduling of next-day bail reviews provides an important safeguard for people who remain detained after arraignment, ensuring that every person in custody has an opportunity for prompt reconsideration. The consistency of this process and the observed frequency of downward modifications demonstrate that bail review hearings function as an important corrective mechanism—at least for a portion of cases. Future research should examine bail review hearing decisions and subsequent detention trajectories in more detail.

## **The county has lowered bail amounts and makes wider use of pretrial monitoring options.**

Comparing currently available county data with pre-2020 practices, Montgomery County has reduced both the frequency of secured bail and the median bail amounts.<sup>66</sup> Judges make use of non-monetary conditions, like stay-away orders, and when they assign pretrial supervision, this now includes more support services. These patterns reflect progress toward a system based on risk, not wealth, where liberty (often with conditions and support) is the norm and detention the exception.

## **OPPORTUNITIES FOR CONTINUED IMPROVEMENT**

### **Expand non-monetary release pathways, including pretrial supervision and support services without money bail, where appropriate.**

Release on recognizance (ROR) is a common outcome of arraignments for people not in custody, but it remains rare at the virtual arraignments for those in custody.<sup>67</sup> For these people, the more common pathway to release is on unsecured bail (more than half of cases), with about half of these also assigned to pretrial supervision services at varying levels of intensity. Most people on pretrial monitoring attend their court hearings and avoid rearrest while on supervision.<sup>68</sup>

Montgomery County judges can do more to ensure that the terms of people's release align with the principle of least-restrictive conditions outlined in Pennsylvania's pretrial framework. For people who are deemed low-risk, judges should release them without conditions while still ensuring access to important support services, such as court reminders and referrals to social services. For people who need some level of monitoring or other conditions, according to the person's individualized risk assessment, judges should opt for pretrial monitoring at the appropriate level, with an emphasis placed on support services. Montgomery County should explore options for assigning pretrial monitoring without a corresponding unsecured bail amount, where possible. This approach would ensure that supervision and related support services remain available without creating economic burdens that have no effect on court appearance or re-arrest outcomes.

**When opting for money bail, ensure the bail amount is based on a clear consideration of mitigating factors and a robust ability to pay assessment.**

Montgomery County has created a more structured pretrial process—which now includes economic interviews of people facing charges. However, Vera’s observations suggest that judges’ bail-setting decisions continue to rely disproportionately on certain factors—particularly conviction history. As a result, bail-setting decisions do not always clearly reflect a consideration of the full range of factors outlined in the court rules, including mitigating factors related to community responsibilities and economic status.

In observed arraignments, bond amounts of \$5,000 and \$10,000—figures that appeared in nearly 40 percent of observed hearings that ended in a secured bail decision—indicate that certain amounts may have become default figures, particularly for mid-level charges such as theft, assault, or drug-related offenses. Although these tiers may reflect institutional consistency and efficiency, they may not represent a full, individualized assessment of people’s risk levels and community responsibilities. As a result, people are at risk of remaining in detention for no other reason than their economic circumstances.

To address this, the county’s economic interview could go further and provide clear guidance on what amount a person can pay, if any. Existing ability-to-pay assessments, such as one developed by Vera and Duke University’s Common Cents Lab, estimate the amount a defendant can afford without undue hardship, based on itemized financial questions rather than general self-reports.<sup>69</sup> For people with no ability to pay any amount, this assessment will make clear that setting any secured bail is “tantamount to remand.”<sup>70</sup> Integrating such a mechanism into Montgomery County’s process would provide judges with a concrete “affordable amount” and encourage them to explain any decision to set bail above that threshold.

Further, to provide judges with more generalized information, Montgomery County could develop guidelines about the economic circumstances of typical people facing charges, drawing on PTS economic interviews and Census or American Community Survey data

on the lower-income residents in the county. This assessment would provide an understanding of what constitutes an “affordable” bail locally for the people who cycle through courts—rather than relying on assumptions or county income metrics for the entire population.

### **Increase tracking and analysis of key outcome metrics.**

Montgomery County has made major strides in implementing new practices in its pretrial systems. And while the county now publishes some information about arraignment outcomes—such as the annual reports from PTS—more can be done.<sup>71</sup> To this end, the county could track, analyze, and publish key metrics of interest to county policymakers, court actors, and residents: the number of people in pretrial detention, the length of pretrial detention, and compliance with conditions of release (especially court appearance and rearrest rates). The county could do this analysis in-house or collaborate with local universities and research entities.

Several Pennsylvania counties, including Philadelphia and Allegheny, have developed public dashboards that display up-to-date data on detention rates, release conditions, demographics, and charge types.<sup>72</sup> While dashboards enhance transparency, they cannot by themselves explain how specific practices or policies influence outcomes.

As a step forward, the county could track how often preliminary arraignment release decisions align with people’s assessed risk levels and ability to pay, how many bail-review decisions lead to release from detention, and the reasons why people remain in detention after bail modification or probation detainer hearings. Similarly, studies could examine factors associated with court nonappearance and rearrest as a basis for improving support services for people who are not held in custody. These analyses could serve as a resource for judicial training and oversight, helping magisterial district judges and other court personnel reflect on trends and integrate evidence-based practices more consistently.

# Conclusion

Montgomery County has made progress toward a fairer approach to pretrial decision-making, and the jail population has decreased notably in recent years. Vera’s analysis of nearly 1,000 observations of court hearings underscores that implementation is the most challenging part of system transformation and that there remains wide variation in pretrial release and bail decisions across cases. Even though unsecured bail is now more common and bail amounts are lower than they were prior to 2020, many people remain in detention in Montgomery County because they cannot pay the bail amount set in their case. More robust guidance on aligning release decisions with assessed risk levels and amounts of bail that are truly affordable would likely reduce unnecessary and ineffective pretrial detention.

Montgomery County’s experience demonstrates that progress in pretrial reform is possible but requires sustained attention to implementation details. Ongoing evaluation—looking at how changes in practice affect release and detention rates—will be essential to translating policy intent into sustainable and equitable results. Ultimately, fairness in justice must be measured not only by law and procedure, but also by the substance and rationale of daily judicial decisions.

**Montgomery County’s experience demonstrates that progress in pretrial reform is possible but requires sustained attention to implementation details.**

## **APPENDIX: DETAILS ON COURT OBSERVATION METHODS AND DATA ANALYSIS**

### **COURT OBSERVATION METHODS**

#### **Overview**

Vera developed and implemented a structured court-observation protocol to document real-time judicial decision-making during pretrial hearings in Montgomery County. The goal of this approach was to collect standardized, high-quality data on courtroom practices, participant demographics, hearing logistics, and judicial reasoning related to bail decisions. Vera selected court observation because it captures procedural and behavioral factors that administrative data alone cannot capture, such as verbal reasoning, tone, and interactions between court actors.

#### **Court observer recruitment and training**

Vera recruited and hired court observers through targeted outreach to universities and community networks in Montgomery County and surrounding areas. The onboarding process included a multi-day training program that introduced observers to court-watching principles, Montgomery County's court processes, and the project's data collection tools. Training consisted of two components: a) classroom-style orientation covering pretrial justice fundamentals, the data collection protocols, confidentiality protocols, and ethical observation practices; and b) in-person shadowing sessions, where observers accompanied Vera staff to observe both magisterial district and virtual arraignments. These sessions ensured observers understood local court procedures and were proficient in collecting, entering, and cross-checking data.

#### **Data collection and review process**

Vera created customized data collection instruments to capture both quantitative and qualitative information for each hearing. Observers used a template to take notes during hearings (virtual and in-person) and then entered all observations into an online survey form developed by Vera.

## Data fields included

- › court actor details and names: magisterial district judges, assistant district attorneys, public defender attorneys, private defense attorneys, police, interpreters, and other courtroom participants;
- › information and demographics of the person facing charges: name (based on verbal reading) and perceived gender, age, and race/ethnicity;
- › hearing characteristics: type of hearing, start and end times, courtroom setting, technical problems, and interpreter language;
- › indicators of comprehension challenges: observable intoxication, mental health symptoms, or emotional distress;
- › observed reasoning from judges and attorneys (or police officers if they substituted for an assistant district attorney during in-person arraignments) when making release or bail requests: selected topics and themes as well as verbatim commentary (Researchers later coded these for alignment with the factors from the Pennsylvania Court Rules and other common factors.<sup>73</sup>);
- › case details: docket number, charge date, statute, top charge and description, total number of charges, and presence of probation detainers or concurrent cases (Note: If the defendant's name was unclear or docket unavailable, it was difficult to confirm many of these details following the data validation process described below.);
- › release decision and bail details: type of release and amount of bail set, percentage owed;
- › request for or requirement for a Nebbia hearing (which requires defendants to show that the money they are using for bail comes from legitimate sources);
- › non-monetary conditions: pretrial supervision and other conditions (from a list and verbatim commentary later coded into topics);
- › arguments and reasons mentioned by prosecution and defense attorneys (from a list and verbatim commentary later coded into topics);

- › questions and reasons mentioned by the judge (from a list and verbatim commentary later coded into topics);
- › references by any court participant to risk assessments, diversion programs (including Accelerated Rehabilitative Disposition, a pretrial intervention for people facing non-violent charges with no prior charges), and specialty court eligibility.
- › next court dates and continuances; and
- › any other commentary during or between hearings.

The instrument used during bail review hearings captured the following additional elements:

- › initial bail type and amount and other conditions set in the case;
- › requests, agreement, objections, or neutrality by either party regarding modification to the release conditions (monetary and non-monetary);
- › reasons offered by prosecution and defense attorneys for their positions;
- › judges' decisions with regard to modifying the type of bail, the amount of bail, or non-monetary conditions;
- › questions posed and reasons mentioned by the judge; and
- › requests or requirements for a Nebbia hearing.

Vera staff and court observers cross-checked the observation data in the following ways. First, Vera staff reconciled discrepancies between observers' notes, entries, and court docket data when available on the Pennsylvania docket search portal.<sup>74</sup> Next, Vera staff reviewed the observers' submissions for incomplete or inconsistent entries and added or corrected fields based on docket information in the search portal or the observers' original notes (especially charge details). Vera staff then excluded hearings missing more than one key variable (charge information, requests from each side, or judicial decision information).

Finally, Vera staff confirmed information for cases that appeared to be notable outliers.

The Court Observation Approach section of this report presents a description of the limitations of court observation in general and of this study in particular. More detailed tables that include the proportion of missing variables for the cross-tabulations included in this report are available upon request.

## **ANALYSIS OF PENNSYLVANIA COURT DATA**

Vera analyzed data obtained from the Administrative Office of Pennsylvania Courts (AOPC). The data analyzed for this report covers cases filed in 2024, excluding any cases that may have been removed from the dataset due to Pennsylvania’s Clean Slate law, which first went into effect on June 28, 2019.<sup>75</sup> Data analyzed for this report includes only cases that originated and remained in Montgomery County during this period. Cases that originated in Montgomery County and were transferred to another county, or vice versa, are excluded from the data. The analysis in this report consists of 7,985 cases, of which 7,106 (or 89 percent) had bail records in the data. A person may have multiple cases in the dataset, but this analysis reflects number of cases, not people.

The analysis only looked at the initial bail set in each case. The data includes information about seven different types of bail: unsecured, monetary, monetary–cash percentage, ROR, ROR–common pleas, nominal, and nonmonetary. Cases with bail type “monetary-cash percentage” also include a “bail percentage,” which is always listed as 10 percent. In some cases, the initial bail type was listed as “monetary” but there was a 10 percent bail percentage listed; Vera assumed these instances to be errors and modified the bail type to “monetary–cash percentage” for these cases.

As noted in this report (see Text Box: [Probation Detainers](#)), the Montgomery County court system uses a \$77 bond amount as a flag in the system to indicate a probation detainer. To differentiate cases with monetary bond with and without a probation detainer, Vera staff flagged cases where the initial bail set was \$77 or an amount ending in \$77 as those with probation detainers.

## NOTES

- 1 Library of Congress, “Constitution of the United States: Sixth Amendment,” <https://constitution.congress.gov/constitution/amendment-6>.
- 2 Wendy Sawyer and Peter Wagner, *Mass Incarceration: The Whole Pie 2025* (Easthampton, MA: Prison Policy Initiative, 2025), 2, <https://perma.cc/CJ5R-X8YM>; and Zhen Zeng, *Jail Inmates in 2022 — Statistical Tables* (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2023), 2, table 1, <https://perma.cc/44QG-Z54H>.
- 3 Christopher T. Lowenkamp, *The Hidden Costs of Pretrial Detention Revisited* (New York: Laura and John Arnold Foundation, 2022), 2, <https://perma.cc/AX4H-WZRS>.
- 4 Ellen A. Donnelly and John M. MacDonald, “The Downstream Effects of Bail and Pretrial Detention on Racial Disparities in Incarceration,” *Journal of Criminal Law and Criminology* 108, no. 4 (2018), 775–814, <https://scholarlycommons.law.northwestern.edu/jclc/vol108/iss4/4>.
- 5 234 Pa. Code § 523–529.
- 6 American Civil Liberties Union of Pennsylvania (ACLU-PA), *Broken Rules: How Pennsylvania Courts Use Cash Bail to Incarcerate People Before Trial* (Philadelphia: ACLU-PA, 2021), 8, <https://perma.cc/6BKT-3NQ8>.
- 7 Montgomery County, Pennsylvania, has been among the leading counties across the state in pretrial practices for many years: It is one of four counties with lawyers from the public defender’s office representing defendants at arraignment, and judges were setting money bail less often (on average) compared to other counties, even in 2016. For discussion of the public defender’s office, see ACLU-PA, *Broken Rules*, 2021, 7.
- 8 Based on Vera’s analysis of data from the Administrative Office of Pennsylvania Courts (AOPC) about court cases filed in Montgomery County, the median bond amount for secured bail decisions in each year from 2016 to 2021 was \$10,000, while from 2022 to 2024 and the first quarter of 2025, it was \$5,000. (Data on file with Vera.) According to the ACLU-PA data (covering 2016 through 2017), the average cash bond amount in Montgomery County was \$33,857. Because this figure reflects only cases where cash bail was assigned, it likely overstates typical bail conditions across all cases; data on median bail, or including nonmonetary/noncash release decisions, is not publicly available. ACLU-PA, *Broken Rules*, 2021, 3–5.
- 9 According to the Reuniting Family Bail Fund’s own data for 174 clients since 2020, the median amount of bail that the Fund posted was \$1077. For cases with secured bail only (88), the median amount posted was \$538. Data on file with Vera.
- 10 According to Vera’s analysis of AOPC data for cases filed in Montgomery County, judges set unsecured bail in 39 to 47 percent of cases with bail set from 2015 to 2019, and in more than 50 percent of cases in 2022 through 2024. On file with Vera.
- 11 Aurélie Ouss and Megan Stevenson, “Does Cash Bail Deter Misconduct?,” *American Economic Journal: Applied Economics* 15, no. 3 (2023), 150–182, <https://www.aeaweb.org/articles?id=10.1257/app.20210349>.
- 12 See “Findings” for a more detailed discussion. It is important to note that the Montgomery County Pretrial Services’ *Annual Report 2024* found a higher proportion of modifications of bail in bail review hearings (73 percent). Montgomery County Pretrial Services, *Annual Report 2024* (Norristown, PA: Montgomery County, 2025), 28, <https://www.montgomerycountypa.gov/DocumentCenter/View/51728/Montco-DAOs-Annual-Report-2024>. On file with Vera.

- 13 234 Pa. Code § 523–529.
- 14 234 Pa. Code § 528, B.
- 15 ACLU-PA, *Broken Rules*, 2021, 8, 15.
- 16 *Ibid.*, 8.
- 17 Montgomery County Pretrial Services, *2023 Annual Report*, 2024, 18. The Pretrial Services report recommends a level of pretrial monitoring, but it does not make recommendations regarding money bail or other conditions of release. Email from Michael Kehs, Montgomery County District Court administrator, January 8, 2026.
- 18 Commonwealth of Pennsylvania, Office of County Inspections and Services, “Inspections and Statistics,” 2024, <https://www.pa.gov/agencies/cor/about-us/offices-and-bureaus/office-of-county-inspections-and-services/inspections-and-statistics>. The 2019 inspection reports show an average daily population ranging from 1,083 to 1,265 at the Montgomery County Correctional Facility.
- 19 Montgomery County Pretrial Services, *Annual Report 2024* (Norristown, PA: Montgomery County, 2025), 19, on file with Vera.
- 20 *Ibid.*, 20–21.
- 21 Montgomery County Pretrial Services, *Annual Report 2024*, 2025, 19. Note: People may be in detention for multiple reasons, including other open cases, probation detainers, and other administrative reasons; the Pretrial Services report does not break these out in detail.
- 22 Federal Reserve, “Report on the Economic Well-Being of U.S. Households: Unexpected Expenses,” updated May 28, 2025, <https://www.federalreserve.gov/consumerscommunities/sheddataviz/unexpectedexpenses.html>.
- 23 Bernadette Rabuy and Daniel Kopf, *Detaining the Poor: How Money Bail Perpetuates an Endless Cycle of Poverty and Jail Time* (Northampton, MA: Prison Policy Initiative, 2016), <https://www.prisonpolicy.org/reports/incomejails.html>. The Appendix shows that the median monthly income for people in jail is about \$1,000 for men and about \$700 for women—meaning that it would be difficult to come up with \$100 for bail while also covering basic expenses.
- 24 Court observation, or “court watching,” has its roots in grassroots advocacy. Early documented efforts include the Illinois League of Women Voters during the Civil Rights Movement, which monitored court hearings to assess procedural fairness. By the mid-2000s, court watching had evolved as both a tool for research and a mechanism to increase accountability in judicial systems. See Sofia Tagkaloglou, “Court-Watching for Accountability: Lessons from Chicago,” *Fair and Just Prosecution*, February 19, 2025, <https://perma.cc/3D5Y-YA4X>. For a broader survey of court watching projects across the United States, see Grace Reinke and Natalie Marx, “Court Watching’s Promise: A Preliminary Survey,” *Law & Social Inquiry* 50, no. 3 (2025), 823–864, <https://doi.org/10.1017/lsi.2025.28>. This study takes a systematic approach, capturing as many hearings as possible in a given timeframe, rather than certain types of cases.
- 25 In New York, see Jaeok Kim, Will McKeithen, Christopher Gernon, et al., *Putting Bail Reform into Practice: How Courts and Criminal-Legal Actors in Upstate New York Implemented Bail Reform, 2021–2022* (New York: Vera Institute of Justice, 2025), <https://vera-institute.files.svdcdn.com/production/downloads/publications/Putting-Bail-Reform-into-Practice-Report-Jan-2025.pdf?dm=1739999195>. In Pennsylvania, see ALC Court Watch, “Welcome to ALC Court Watch,” <https://perma.cc/7JYD-YBYV>; and Arjun Malik, Cal Barnett-Mayotte, Christina Matthias, et al., *Philadelphia Bail Watch Report* (Philadelphia: Philadelphia Bail Fund and Pennsylvanians for Modern Courts, 2018), <https://perma.cc/7FCK-JBWP>. In New Jersey, see Andres F. Rengifo, Sofia

G. Flores, and Ashley N. Jackson, “From Bright Plots to Blind Spots: Mapping Departures in Case Review Post-Bail Reform in Two New Jersey Courts,” *Criminal Justice & Behavior* 48, no. 1 (2020), <https://doi.org/10.1177/0093854820960504>; and Luis C. Torres, Paige E. Vaughn, and Joshua H. Williams, “Detention or Dissent: Judicial Utilization of Public Safety Assessments During Pretrial Detention Hearings in a New Jersey Courtroom,” *Criminal Justice Policy Review* 36, no. 4 (2025), <https://doi.org/10.1177/08874034251317700>. For examples from outside the United States, see Amy Pisani, Sara Rahman, Madeleine Griffiths, and Suzanne Poynton, *Understanding Bail Decision-Making: An Observation and Interview Study* (New South Wales: Crime and Justice Bulletin, 2024), <https://perma.cc/QND8-J5RD>; and Rachel Schumann and Carolyn Yule, “Unbreaking Bail?: Post-Antic Trends in Bail Outcomes,” *Canadian Journal of Law and Society* 37, no. 1 (2022), 1–28, <https://doi.org/10.1017/cls.2021.43>.

- 26 Montgomery County refers to these arraignments as “remote” arraignments. “Virtual” is used here for external audiences to understand that these hearings are held virtually via Zoom.
- 27 Court observers documented information from approximately 150 in-person hearings in total over the course of the study. Since in-person Magisterial District Court sessions include other types of hearings, not just arraignments, the team observed these as well. Out of the 150 hearings, 25 were preliminary arraignments, and the rest were mostly preliminary hearings.
- 28 According to the Montgomery District Court, the county held 1,575 virtual arraignments and 399 bail review hearings between December 1, 2024, and March 31, 2025. Based on this number, Vera observed 50 percent of virtual arraignments and 27 percent of bail review hearings during this period. Email from Michael Kehs, District Court administrator, to Jennifer Peirce, January 29, 2026. According to the same report, the County held 1,129 bail review hearings in 2024. Assuming the same number of cases for later years and based on a third of this (covering four months in 2024–2025), that is 376 hearings, meaning Vera’s sample of 108 cases is approximately 29 percent of bail review hearings. Montgomery County Pretrial Services, *Annual Report 2024, 2025*, on file with Vera.
- 29 Nancy Rodriguez, “Why Are Jails Still Failing to Accurately Track Race and Ethnicity?,” Safety and Justice Challenge, October 15, 2021, <https://perma.cc/DC9D-V8S4>; and Amelia Vorpahl, “How Are Hispanic Individuals Represented in the Criminal Justice System?,” Council of State Governments Justice Center, October 12, 2021, <https://perma.cc/N8MA-YL6C>.
- 30 Pennsylvania has no state-wide indigent defense system. According to a 2020 report, most county-level public defender’s offices do not provide defense counsel at preliminary arraignment; Philadelphia was an exception at that time. See Michael Mrozinski and Claire Buetow, *Access to Counsel at First Appearance: A Key Component of Pretrial Justice* (Chicago: National Legal Aid and Defender Association, Safety and Justice Challenge, 2020), 24, <https://perma.cc/89C7-JL5D>.
- 31 Montgomery County Pretrial Services, *Annual Report 2024, 2025*, 18. The 2024 report tracks race and Hispanic ethnicity separately; it reports that 6 percent of people facing charges were Hispanic (mostly white Hispanic).
- 32 During observed arraignments, technical problems were infrequent. Only 2 percent of hearings involved difficulty with audio, connectivity, or other issues related to the video platform. In a small number of cases, the person facing charges appeared to struggle to comprehend proceedings, but these instances were due to issues other than technology: observers noted that people struggled to understand proceedings due to apparent intoxication in 2 percent of hearings, observable symptoms of mental illness in 4 percent, and emotional or disruptive behavior affecting comprehension in 3 percent.

- 33** Vera observers identified the lead charge based on information in the docket and discussion during the arraignment. The categories set out here describe the substantive type of offense, based on Pennsylvania statutes. Although Pennsylvania statutes and sentencing guidelines designate certain charges such as homicide, assault, weapons charges, robbery, trafficking, and others, as “violent,” this is a broad label and encompasses situations of direct interpersonal violence and as well as other situations. Therefore, this report categorizes charges based on the substantive type of incident, generally using layperson terms. (The Philadelphia District Attorney’s Office, for example, uses broad categories of violent, property, drug, firearm, and other offenses, with sub-categories within each of these. Philadelphia District Attorney’s Office, “Public Data Dashboard: Charges,” database (Philadelphia: District Attorney’s Office, updated February 25, 2026), [https://data.philadao.com/Charge\\_Report.html](https://data.philadao.com/Charge_Report.html).)
- 34** Some charge information is missing or partial if the observer did not hear the charges clearly or if it was not possible to link the docket for that case.
- 35** Theft charges include receiving stolen property, drug possession charges include drug paraphernalia charges, DUI charges include first and second offenses, and inchoate charges refer to conspiracy charges.
- 36** American Civil Liberties Union of Pennsylvania, “Overview: Probation and Parole in PA,” <https://perma.cc/Y3QK-KWVJ>.
- 37** The cases that were arraigned virtually and resulted in an ROR decision involved top charges of fraud/forgery (three), drug possession (one), DUI first offense (one), and theft (one). For the eight cases (out of 25 observed) that were arraigned in person and resulted in an ROR decision, the top charges were DUI first offense (six) and drug possession (two).
- 38** Administrative court records from AOPC for 2024, analyzed by Vera, show a similar pattern. It is important to note that these records combine virtual and in-person arraignments. For cases with bail set during 2024, Montgomery County MDJs set money bail in 31 percent of cases, and this was fully secured bail most of the time. The median bond amount set was \$5,000 for both fully secured and partially secured bail. However, when cases with probation detainers (that is, those ending in \$77) are removed, the median bond amount for cases with fully secured bail was \$10,000 (the median bond amount remained at \$5,000 for cases with partially secured bail). MDJs set unsecured bail in 54 percent of cases, with a median bond amount of \$5,000. MDJs set ROR bond in 14 percent of cases. In a small number of cases (less than 1 percent), ROR bond was set at the common pleas court level.
- 39** According to AOPC data for Montgomery County, analyzed by Vera, the proportions for types of bail set in 2021 through 2023 were similar to those set in 2024 and the first three months of 2025. However, prior to COVID-19, MDJs were setting cash bail more frequently (in around 40 percent of cases) and bond amounts were higher, even before removing cases with probation detainers.
- 40** Abolitionist Law Center, “ALC Bail Dashboard,” table “Bail Type by Race and Gender” (all charge types), <https://public.tableau.com/app/profile/abolitionist.law.center/viz/ALCBailDashboard/ALCBailDashboard>. This report does not provide details on the basis or criteria for “non-monetary release,” but it appears to involve pretrial supervision without a monetary bond amount attached. As noted in endnote 38, in 2024, Montgomery County judges set secured bail in 31 percent of cases and unsecured bail in 54 percent of cases.
- 41** The amount of an unsecured bail is often of limited practical significance, because defendants are rarely required to pay the stated sum—even in the event of a violation of release conditions. In practice, courts more typically respond to noncompliance by modifying or adding conditions of release, or by revoking release altogether, rather than ordering payment of the unsecured amount.

- 42 It is important to note that the partially secured bail cases are a small portion of the sample, only 53 cases (7 percent).
- 43 According to the ACLU-PA, from 2016 through 2017, the average bond amount in Montgomery County was \$33,857; the average in the dataset in this study is \$28,000. Many reports publish average amounts rather than medians, which can be skewed by a few very large amounts. ACLU-PA, *Broken Rules*, 2021. The median bond amount for secured bail decisions in 2018, per AOPC data provided to and analyzed by Vera, was \$10,000.
- 44 Philadelphia District Attorney's Office, "Public Data Dashboard," <https://data.philadao.com>; and ALC Court Watch, "ALC Bail Dashboard Launch," 2023. The ALC court watch project publishes bond amounts for Allegheny County, but this only publishes averages, not medians.
- 45 According to the Pretrial Services annual report for 2023, about 66 percent of arraignments led to pretrial monitoring. Montgomery County Pretrial Services, *Annual Report 2023*, 2024, 6.
- 46 This likely corresponds to the recommended level provided by Pretrial Services' risk assessment, but court observers were unable to document this because the judge rarely noted this point out loud.
- 47 According to the Pretrial Services annual report for 2023, the department conducted 273 Level of Care Assessments that year, out of 4,958 arraignments (that is, approximately 5.5 percent of cases)—and it notes that there is a need to expand capacity for such assessments. Montgomery County Pretrial Services, *Annual Report 2023*, 2024, 5, 18.
- 48 Judges cited additional reasons beyond those listed here and named more than one reason in 7 percent of cases overall, so this list does not add up to 100 percent.
- 49 234 Pa. Code § 524.
- 50 Bail Review Memo, Montgomery County Common Pleas Court, 2022, on file with Vera. Email from Judge Wendy G. Rothstein to Jennifer Peirce, February 14, 2025. According to Montgomery County Pretrial Services' 2024 annual report, 98 percent of bail review hearings were for people detained on money bail and 2 percent were for people on electronic monitoring. Montgomery County Pretrial Services, *Annual Report 2024*, 2025, 26.
- 51 According to Montgomery County District Court, it conducted 399 bail review hearings between December 1, 2024 and March 31, 2025. Email from Michael Kehs, Montgomery County District Court administrator, January 28, 2026. See endnote 43 for further details. Montgomery County Pretrial Services, *Annual Report 2024*, 2025.
- 52 Six judges presided regularly over the observed hearings. Three judges handled between 17 and 19 percent of cases each, while the remainder presided over 10 percent or fewer. Two attorneys from the public defender's office represented defendants in 93 percent of cases. Nine assistant district attorneys appeared throughout the study period, with one covering 11 percent of hearings. Private defense counsel participated in 4 percent of cases, and a police officer appeared in approximately 11 percent of sessions. Most defendants were in their 20s to 40s. Observers perceived that 45 percent of defendants appeared to be Black, 26 percent white, and 18 percent Latino—a somewhat higher proportion of Latino defendants than in arraignments, though Latino identity was perhaps the least reliable based on visual perception. Interpretation services were required in 12 percent of hearings (primarily for Spanish speakers), and comprehension issues appeared in a small subset of cases.
- 53 Approximately 54 percent of bail review hearings lasted between one and three minutes, 27 percent between four and five minutes, and 14 percent between six and 10 minutes. Only six hearings (6 percent) exceeded 10 minutes.
- 54 Four cases involved Protection from Abuse (PFA) orders, and about 9 percent included probation detainers from other jurisdictions.

- 55 In the remaining cases (3 percent), observers were unable to determine the prior bail decision.
- 56 In only a handful of cases (four) did prosecutors request changes: they sought a higher bail in two hearings and a Nebbia hearing (to verify source of funds) in two others. In the remaining 9 percent of hearings, the prosecutor's request regarding bail amount was unknown or unclear.
- 57 In a smaller portion of cases (7 percent), attorneys did not request any changes, while 5 percent of cases involved a request to move from partially to fully secured bail—typically when a probation detainer made detention unavoidable and counsel sought to ensure that jail time would count as credit.
- 58 Montgomery County Pretrial Services, *Annual Report 2024, 2025*, 26. (Clarification on the definition of “bail modified” including both type of bail and/or monetary amount and/or nonmonetary conditions in an email from Douglas Coppin, chief of pretrial services, to Jennifer Peirce, February 11, 2026, on file with Vera.) The discrepancy between the portion of bail review hearings resulting in any modification in the county's report (51 percent) and Vera's observed sample (44 percent) is likely due to the relatively small sample of hearings that Vera observed.
- 59 This is based on 523 bail review hearings in 2024 that occurred the next business day after booking into the jail. The portion of people released (34 percent) does not include people who may have been released later, for example by posting bail at a later date. Montgomery County Pretrial Services, *Annual Report 2024, 2025*, 29.
- 60 The county's data shows that among the 51 percent of all bail review hearings in 2024 that resulted in a bail modification—including a modification of bail type and/or in bail amount—they changed the money bail amount in the vast majority of these (91 percent of 577 hearings). Montgomery County Pretrial Services, *Annual Report 2024, 2025*, 26 (bail modification), 28 (change in monetary amount, 91 percent confirmed by Michael Kehs, district court administrator, email to Jennifer Peirce, February 6, 2026). This discrepancy between this portion tracked by the County in 2024 (91 percent) and the equivalent portion in the hearings observed by Vera (58 percent, or 28 hearings out of 48, that had any modification) is likely due to the small sample size of observed hearings and possibly different ways of documenting hearing outcomes.
- 61 Among the 108 observed bail review hearings, the judges modified the money bail amount in 28 cases. Twenty-five of these (89 percent) were a decrease in amount, and three of these (11 percent) were increases.
- 62 According to county data, among the 523 cases in 2024 in which the judge modified the money bail amount in bail review, judges decreased money bail in 73 percent of cases and increased it in 27 percent of cases. Montgomery County Pretrial Services, *Annual Report 2024, 2025*, 28.
- 63 Mrozinski and Buetow, *Access to Counsel at First Appearance*, 2020, 25.
- 64 *Ibid.*, 13.
- 65 Barry Mahoney, Bruce D. Beaudin, John A. Carver III, et al., *Pretrial Services Programs: Responsibilities and Potential*, (Washington, DC: U.S. Department of Justice, National Institute of Justice, 2001), <https://perma.cc/GLN7-4JP2>.
- 66 As noted in endnotes 10 and 38, based on AOPC data analyzed by Vera, Montgomery County judges set unsecured bail in 39 to 47 percent of cases with bail set from 2015 to 2019, and in more than 50 percent of cases in 2022 through 2024.
- 67 The sample size for in-person hearings in this study is very small (25). However, AOPC data for 2024 provided to and analyzed by Vera shows that about 14 percent of release decisions were ROR.

- 68 In 2024, 74 percent of people who were released pretrial were not charged with any new offense, and 68 percent appeared for all scheduled hearings. Montgomery County Pretrial Services, *Annual Report 2024, 2025*, 20–21.
- 69 Sandra van den Heuvel, Anton Robinson, and Insha Rahman, *A Means to an End: Assessing the Ability to Pay Bail* (New York: Vera Institute of Justice, 2019), <https://vera-institute.files.svdcdn.com/production/downloads/publications/a-means-to-an-end-assessing-the-ability-to-pay-bail.pdf?dm=1576353073>.
- 70 Van den Heuvel et al, *A Means to an End*, 2018, 5.
- 71 Montgomery County Pretrial Services, *Annual Report 2023, 2024*, 6–7.
- 72 Philadelphia District Attorney’s Office, “Public Data Dashboard.” Allegheny County dashboards are published intermittently at Abolitionist Law Center, “ALC Bail Dashboard.”
- 73 234 Pa. Code § 523–529.
- 74 The Unified Judicial System of Pennsylvania, “Case Search,” <https://ujportal.pacourts.us/case-search>.
- 75 18 Pa. C.S. § 9122.2.

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## About citations

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