

Pandemic Justice: A Grounded Theory Examination of Disparities in Virtual Bond Hearings

English Hills, Alyssa Powell, Ashley Rodriguez | Mentors: Christi Metcalfe, Avery Worrell, Philip Berry | *REU: Disparities in the Criminal Justice System*

Introduction and Background

The court literature provides a myriad of research studies focused on sentencing behaviors and decisions, yet bond hearings are understudied in comparison to these later phases of case processing (Steffensmeier et al., 1998; Kutateladze, 2014; Wooldredge et al., 2015). Among those studies that have looked at bond hearings, most of the research examines purely quantitative data (Donnelly & MacDonald, 2018). This literature typically finds disparities in bond decision-making across race, gender, and age, whereby those who are young, Black, and male often receive harsher bond outcomes (Demuth & Steffensmeier, 2004; Hissong & Wheeler, 2019; Peterson & Omori, 2020). These disparities can then create a cumulative disadvantage for certain types of defendants (Wooldredge et al., 2015). Existing theories suggest that these disparities can emerge from the use of attributions, attention to focal concerns (i.e., blameworthiness of the defendant, need to protect the community, and practical constraints of the court organization), and courtroom workgroup dynamics (Albonetti, 1991; Steffensmeier, 1998; Eisenstein & Jacob, 1977). However, there is limited qualitative data to add context to these quantitative findings, which can aid in further understanding the theoretical mechanisms that influence decision-making. Also, a recent phenomenon that has yet to be addressed in prior literature is how the pandemic, which has created a new virtual court setting for initial appearances across several states, has impacted the dynamics of these hearings. In this respect, the current study seeks to qualitatively assess virtual bond hearings in a single county as a means of further exploring decision-making at this phase, as well as potential sources of disparity.

Table 1. Descriptive Statistics

	Percentage/Mean	Min	Max
Race of Defendant			
White	28.86%	-	-
Black	49.66%	-	-
Hispanic	18.12%	-	-
Asian	1.35%	-	-
Unknown	2.01%	-	-
Sex of Defendant			
Male	69.80%	-	-
Female	30.20%	-	-
Offense Type			
Violent	47.65%	-	-
Property	14.77%	-	-
Drug	4.70%	-	-
Other	25.50%	-	-
Unknown	7.38%	-	-
Bond Decision			
Bond	39.60%	-	-
Bond and Community Supervision	12.75%	-	-
Community Supervision	5.37%	-	-
Detained	7.38%	-	-
ROR	21.48%	-	-
Other	5.37%	-	-
Unknown	8.05%	-	-
Bond Amount ^a	\$41,858.01	\$25	\$850,000

Notes. n = 149 cases. The reported statistics are preliminary.
^aThe mean bond amount represents the mean for only those that received the bond. The median amount is \$5,000.

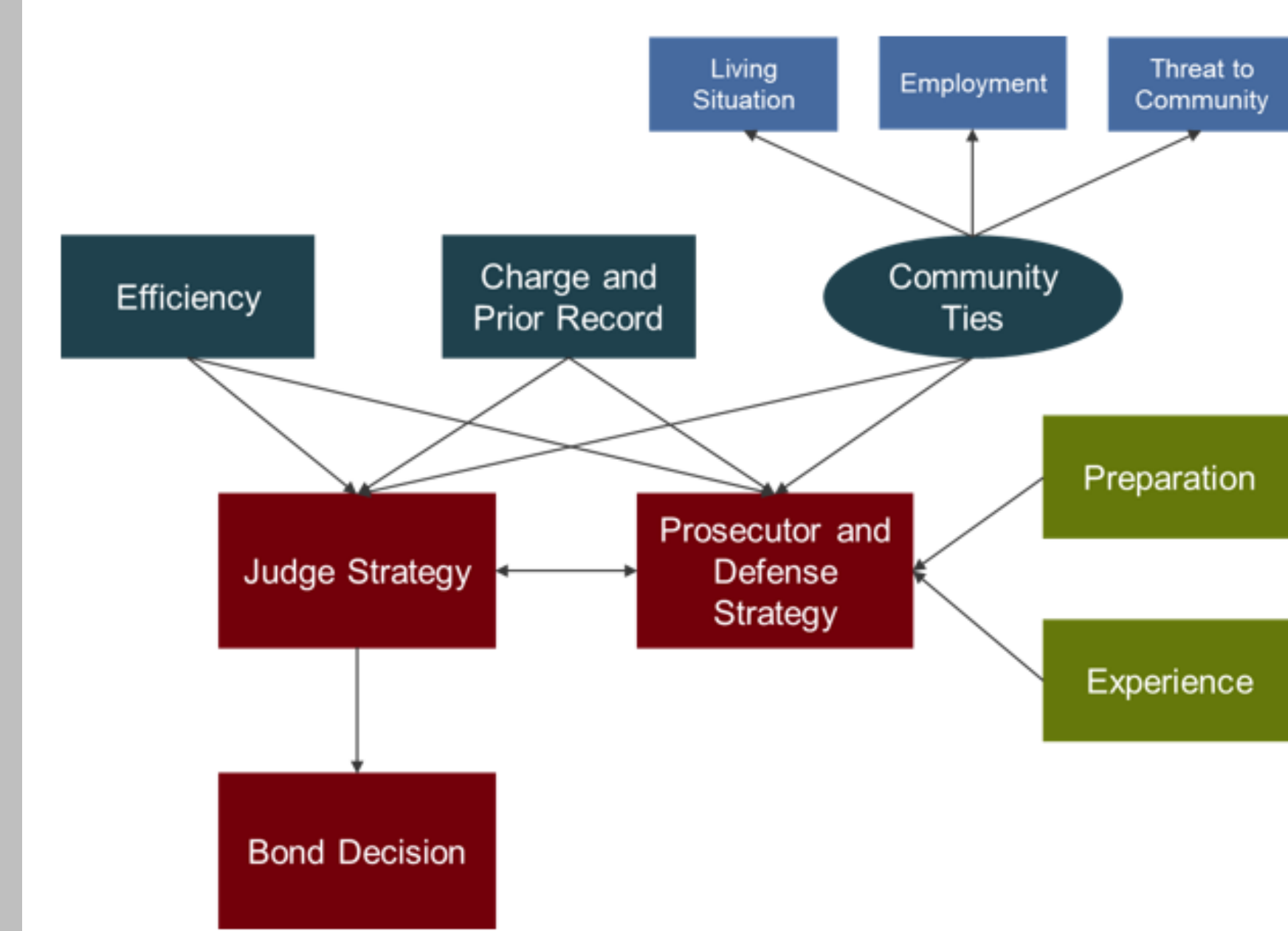
Table 2. Number of Workgroup Members Observed

	Total Number
Judges	3
Prosecutors	4
Defense Attorneys	27
Private Defense Attorneys	18
Public Defenders	7
Unknown	2

Notes. n = 149 cases. The reported statistics are preliminary.

Data, Tables, and Figures

Figure 1. Conceptual Diagram of Bond Decision-Making in Broward County Virtual Hearings



Notes. Each concept denoted represented a key focused code from the grounded theory analysis.

Methods

The current study relied on qualitative methods. The data was collected from virtual, publicly available livestream hearings on YouTube. Three undergraduate researchers observed a total of 149 cases simultaneously in order to ensure inter-rater reliability. The researchers viewed one hour a day, three times a week for four weeks, totaling up to twelve hours of data collection. The livestream viewings were of initial appearances in Broward County, Florida. Fieldnotes were recorded during each hearing, where the researchers captured verbal and nonverbal elements to explore disparities in decision-making at initial appearance hearings. Charmaz's (2014) grounded theory approach was used to analyze the fieldnotes, whereby the qualitative data was analyzed for the purpose of constructing theory. Incident-by-incident coding using gerunds was conducted first, followed by focused coding of the initial codes using NVIVO 12 programming. The focused codes were then organized and analyzed to identify dominant themes. The dominant themes were reviewed and diagrammed to cultivate common patterns and develop a theoretical explanation for disparities in bond decision-making. In this context, the following research questions were considered:

1. How does the contextual dynamic of the initial appearance setting contribute to variations in bond decision-making?
2. To what extent is this dynamic affected by the virtual nature of the hearings?

Key Findings

Research Question 1. The analysis of the fieldnotes revealed evidence of workgroup relationships between the judge, prosecutor, and defense attorney that affected bond decisions. More specifically, the judge's decision-making style affected the prosecutors' and defense attorneys' argument strategies, which in turn, affected the information conveyed to the judge to make the final bond decision. Efficiency played a key role in this dynamic, with favoritism given to attorneys that could craft a clear and concise argument. In this scenario, experience and preparation of the attorneys was key. Three focal concerns were also prevalent among the cases observed. The charge and prior record were dominant factors in the judge's decision-making. The prosecutor would emphasize this information to the judge, while the defense attorney often circumvented this information in favor of humanizing the defendant. Community ties were also consequential in decision-making. The prosecutor would recognize negative community ties, such as being a threat to the community, while the defense attorneys would emphasize positive community ties, such as having somewhere to live in the area and being employed. When introduced, these community ties then factored into the judge's final bond decision.

Research Question 2. A review of the developed codes revealed that the virtual nature of the initial hearings increased judicial power and control in the courtroom workgroup dynamic. The virtual atmosphere allowed for easy interruptions since only one court actor could clearly speak at a given time. Thus, the judge was able to interrupt court actors to control case speed, influencing which information was presented and the source of that information. Particular Zoom functions allowed the judge to mute and remove disruptive individuals, as well as place court actors in breakout rooms.

Discussion and Conclusion

The observational data collected pointed to three key focal concerns in bond decision-making, including charges, prior record, and community ties, while also highlighting the relevance of workgroup interaction. In addition, the virtual nature of the hearings seemed to shift more power and control to the judge. While these findings offer noteworthy theoretical insights, it is important that future research continues to examine pretrial decision-making in other ways. The cases observed could be quantitatively assessed to consider disparities across groups by race, gender, and age in bond decisions. Additional effort could also be made to quantitatively capture the courtroom workgroup dynamic that was observed qualitatively, especially considering that these relationships seemed to have a heavy consequence on decision-making and were not measured in existing quantitative studies. Future research might expand these types of observations into other counties to see if a similar courtroom dynamic emerges, and comparisons can be made between bond decision-making within the courtroom versus virtually. Finally, adding interview data to make further sense of the fieldwork gathered would be ideal.

As with the majority of studies on court processes, the design of the current study was not without limitations. One limitation which consistently impacts qualitative research on the topic is the ability to generalize the research findings. This can be seen in the current study, as the research was only conducted in one county in Florida. This limitation was compounded by the necessity to view the hearings over a virtual platform, which were not consistently available in multiple counties. To ensure inter-rater reliability, a viewing time was set each day for observation, which meant that we typically viewed the beginning of the docket, thereby impacting the types of cases we were seeing. In particular, the earlier cases in the docket seemed more serious in nature. Also, while the courtroom workgroup could be altered by visiting prosecutors or private attorneys, there were many consistent actors. This limited our ability to compare decision-making across workgroups. A final limitation of note was the length of observations, which occurred over a four-week window, as this project took course over a ten-week summer research program.

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