

Texas Association of Pretrial Services

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Disclaimer

- ▶ We are not attorneys
- ▶ We don't want to be attorneys
- ▶ We don't play attorneys on TV
- ▶ We don't have a PHD
- ▶ We don't have any new theories on crime or punishment
- ▶ We DO know a little bit about the Texas Criminal Justice System
- ▶ STAY IN THIS PRESENTATION AT YOUR OWN RISK!!!!

Workshop Objectives

- ▶ Discuss Texas statutory authority for pretrial supervision and implications for forming a department under each structure
- ▶ Discuss examples of various governance structures for pretrial services in Texas
- ▶ Address strengths and limitations of the various statutory structures
- ▶ Discuss how SB6/HB 766 changes may impact the organization of pretrial services, particularly in rural and suburban counties

What are your biggest local challenges?



Background on Bonds in Texas

- ▶ Two forms of bond in Texas:
 - ▶ Personal Bond
 - ▶ Cash bond
 - ▶ Surety
 - ▶ Pure cash
- ▶ 254 Counties in Texas - Judges set bond every day
- ▶ 2016 Texas Judicial Council Study: most judges do not have access to criminal history or risk assessment information - go by bond schedule, offense report (PC affidavit) only, or “gut feeling” when setting bond.
- ▶ No uniform bond conditions or bond supervision methods
- ▶ Currently, 83% of jail population in Texas are those awaiting trial (no conviction); This is up from 33% in 1994.

What is Bond Supervision?

- ▶ Supervision of conditions of bond before a case is disposed.
- ▶ Process is complicated due to many stakeholders involved.
- ▶ Assessments and other fact-gathering before bond is set.
- ▶ Municipal Judge, Magistrate, or Sitting Judge can issue the bond order.
- ▶ If case is filed, the bond supervision goes to the court where the case is filed.
- ▶ Bond violation notices go to the court with jurisdiction.
- ▶ Magistrate or judge can hold the bond insufficient and revoke the bond on filed or unfiled case.

Why is Bond Supervision an Issue?

- ▶ 2016 Texas Judicial Council Criminal Justice Committee Report and Recommendations Findings:
 - ▶ “Current system of pre-trial bail void of evidence-based pretrial risk assessment” *(who is going to do this?)*
 - ▶ “Risk of flight or danger mitigated through nonmonetary conditions of release” *(who is going to supervise this?)*
 - ▶ “Lack of supervision in place to monitor the defendant’s compliance with nonmonetary conditions.”

Who is best equipped to hand bond supervision?

- ▶ Is it the County pretrial bond department?
- ▶ Is it CSCD?
- ▶ Is it the Courts?
- ▶ Is it the Sheriff's office?
- ▶ Hybrid?

Texas Constitution Article I

- ▶ Sec. 11. BAIL. All prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law.
- ▶ Sec. 11a. DENIAL OF BAIL AFTER MULTIPLE FELONIES.
- ▶ Sec. 11b. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF RELEASE. Any person who is accused in this state of a felony or an offense involving family violence, who is released on bail pending trial, and whose bail is subsequently revoked or forfeited for a violation of a condition of release may be denied bail pending trial if a judge or magistrate in this state determines by a preponderance of the evidence at a subsequent hearing that the person violated a condition of release related to the safety of a victim of the alleged offense or to the safety of the community.

Texas Statutes - CCP Chapter 17

- ▶ CCP 17.42 Personal Bond Office
- ▶ Sec. 1 “Any county, or any judicial district with jurisdiction in more than one county, with the approval of the commissioners court of each county in the district, may establish a personal bond office...”
- ▶ Sec. 2(a) “The commissioners court of a county that establishes the office or the district and county court judges of a judicial district that establishes the office may employ a director of the office.”
- ▶ Sec. 2(b) “The director may employ the staff authorized by the commissioners court of the county or the commissioners court of each county in the judicial district.”
- ▶ Sec. 6(a) “Not later than April 1 of each year, a personal bond office established under this article shall submit to the commissioners court or district and county judges that established the office an annual report...”

Texas Statutes - Government Code Ch. 76

- ▶ Establishment of CSCDs
- ▶ Sec. 76.002(a) “The district judge or district judges trying criminal cases in each judicial district and the statutory county court judges trying criminal cases in the county or counties served by the judicial district shall (1) establish a community supervision and corrections department; and (2) approve the department's budget and strategic plan.
- ▶ Sec. 76.004(a) “...the judges described by Section 76.002 shall appoint a department director...”
 - ▶ (a-1) “The department director shall perform or delegate the responsibility for performing the following duties: (1) overseeing the daily operations of the department...”

Texas Statutes Government Code Ch. 76

- ▶ Sec. 76.004(b) “The department director shall employ a sufficient number of officers and other employees...A person employed under this subsection is an employee of the department and not of the judges or the judicial districts.”
- ▶ Sec. 76.011(a) “The department may operate programs for:
 - ▶ (1) the supervision and rehabilitation of persons in pretrial intervention programs;
 - ▶ (2) the supervision of persons released on bail under:
 - ▶ (A) Chapter 11, Code of Criminal Procedure;
 - ▶ (B) Chapter 17, Code of Criminal Procedure;
 - ▶ (C) Article 44.04, Code of Criminal Procedure; or
 - ▶ (D) any other law;”

Look at Possible Org. Structures

- ▶ County-Run Bond Office with no CSCD involvement
- ▶ County-Run Bond Office with CSCD Director as the department director
- ▶ CSCD-run Bond Office where the County provides funds for operation
- ▶ Who conducts risk assessments, PSRS data, other duties required by SB 6?

Governance Question

- ▶ If CSCD is involved in pretrial bond supervision, is the department operating under CCP Chapter 17 or Gov Code Chapter 76?
- ▶ Implications:
- ▶ Legal authority for supervision
- ▶ Fee collections/funding
- ▶ Employee status-County or CSCD, including benefits, grievance procedures, ability to transfer/ promote to other CSCD positions
- ▶ Judicial Oversight or Commissioners Court?
- ▶ Contracting Authority-CSCD or County?

CSCD Bond Supervision- Funding

- ▶ No State Aid for CSCDs
 - ▶ TDCJ-CJAD Policy Letter CJAD-PS-09, September 1, 2011
 - ▶ Cannot commingle State Aid and bond program funds
- ▶ Monthly reimbursement fee collections from defendants who are being supervised
- ▶ Depending on the size/scale of the bond supervision program, the County would have to supplement and provide funds

Issue - Governance

County-Run Bond Office (No CSCD Involvement)	County-Run Bond Office with CSCD Director in Charge	CSCD-Run Bond Office with County Funding
Employees are County Employees	Employees are County employees	Employees are CSCD Employees
County Funding	County Funding	County Funding/Fee Funding
County Health Insurance	County Health Insurance	State Health Insurance
Follow County policies and procedures (PFP, raises, lateral movement, etc.)	Follow County policies and procedures (PFP, raises, lateral movement, etc.)	Follow CSCD policies and procedures
Civil Service protection?	Civil Service protection?	Not subject to Civil Service

Issue - Fee Collections

- ▶ CCP Chapter 17
 - ▶ CCP 17.02 administrative fee taken out by clerk of from the posted bond amount
 - ▶ CCP 17.42 personal bond fee of \$20 or 3% of the amount of fixed bail, whichever is greater
 - ▶ CCP 17.03 personal bond fee assessed under CCP 17.42 as condition of bond, paid before release, paid as court costs, reduced or waived
 - ▶ CCP 17.43 cost of ELM and House Arrest may be assessed as a reimbursement fee against defendant as a condition of bond
 - ▶ CCP 17.441 cost of monitoring IID is \$10
 - ▶ CCP 17.49 for FV cases, reimbursement fee for costs associated with GPS device

Issue - Fee Collections

- ▶ Government Code Chapter 76
- ▶ Sec. 76.015. REIMBURSEMENT FEE. (a) A department may collect money from an individual as ordered by a court served by the department regardless of whether the individual is under the department's supervision.
- ▶ (a-1) This section does not apply to an individual ordered to pay an administrative fee to a personal bond office under Section 521.2462(a-3), Transportation Code.
- ▶ (c) A department may assess a reasonable reimbursement fee of not less than \$25 and not more than \$60 per month on an individual who participates in a program operated by the department or receives services from the department and who is not paying a monthly reimbursement fee under Article 42A.652, Code of Criminal Procedure.

Issues - Authority in Specific Cases

- ▶ GPS
- ▶ Ignition Interlock
- ▶ Drug Testing
- ▶ Other conditions of release

Pretrial funding limitations

- ▶ CSCDs have broad statutory authority to supervise pretrial cases
- ▶ CSCDs cannot use state aide or fee collections from probation budgets to support pretrial BOND supervision
- ▶ Pretrial fee collections and County contributions are the only funding methods to finance BOND supervision
- ▶ CSCDs may use state funding for pretrial DIVERSION
- ▶ Other duties such as pretrial assessments, notification of bond conditions, support for magistration, civil probation, etc...must be paid for by designated fees, county funds or a source other than state aide

Texas Pretrial Structure

- ▶ Urban Counties have had processes in place for decades-regular changes ongoing
- ▶ Approximately 15 County Personal Bond Offices established
- ▶ HB 766/SB 6 made numerous changes
- ▶ Suburban/rural counties-most default to CSCD bond supervision

SB 6-Impact on CSCDs

- ▶ No significant changes to bond supervision requirements
- ▶ CSCDs will be impacted to the extent CSCD staff are locally recruited or charged with assisting in county related responsibilities
- ▶ Suburban and rural CSCDs will likely be approached to assist with SB 6 requirements beyond bond supervision
- ▶ Generally, we expect an increase in bond supervision orders in the future since CCHs and Public Safety reports will be required before setting bond

Your County's Structure

- ▶ All county process?
- ▶ All CSCD process?
- ▶ Who completes Public Safety Reports?
- ▶ Do you do separate pretrial risk assessments?
- ▶ Who does reporting to Sheriff's department for HB 766?
- ▶ Which programs have no county funding?

Parker County (Weatherford, Texas)

- ▶ Medium size department with a County population of 148,000 people
- ▶ 4 Bond Caseworkers & 1 Indigent Defense Intake Coordinator
- ▶ Supervise 496 bond cases (307 Felony/189 Misdemeanor)
- ▶ Supervise 62 pre-trial diversion cases (26 Felony/36 Misdemeanor)
- ▶ Serve 2 District Courts & 2 Statutory County Courts at Law
- ▶ 4 JP and 3 Municipal Judges magistrate bond cases

History: Bond

- ▶ *Began monitoring interlock compliance of bond cases (about 2001);
- ▶
- ▶ *Monitor Felony bond cases at request of the DA, with District Judge approval;
- ▶
- ▶ *Charge \$60/month supervision fee to support program;
- ▶
- ▶ *Hired 2 Bond Caseworkers and received \$50K from the County Judge as a 1 time payment to get the program started;
- ▶
- ▶ *Monitor Misdemeanor bond cases at request of CA, with CCL Judge approval;
- ▶

Bond History Continued:

- ▶ Caseload ratio became 250-1, sought help from the Criminal Court Judges;
- ▶ Informed Commissioners Court that the CSCD would halt bond supervision unless they funded the program. Requested \$300K and received \$250K plus supervision fees. (October 2021);
- ▶ Added 2 new Bond Caseworkers;
- ▶ Added the Indigent Defense Intake Coordinator at the request of Criminal Court Judges;
- ▶ Work with other CSCDs to supervision our bond cases and let them collect the supervision fee.

Bond Supervision Duties:

- ▶ In office visits (many on a weekly basis);
- ▶ Drug testing (U/A and hair testing);
- ▶ Monitor EM reports and compliance;
- ▶ Virtual visits conducted if defendants are working out of the area;
- ▶ Report violations to the appropriate prosecutor;
- ▶ Safety report currently not completed by CSCD Caseworkers.

Pre-trial Diversion:

- ▶ Began program in 2021 with both prosecutors' offices;
- ▶ 1st time offenders, young offenders, low level drug offenses, family violence (victims don't want to prosecute) and veterans make up the caseload;
- ▶ Must present a clean drug test, through the CSCD, before being accepted;
- ▶ ANY non-compliance with conditions and defendant is "kicked out" of the Pre-Trial Diversion Program;
- ▶ Supervised by CSO

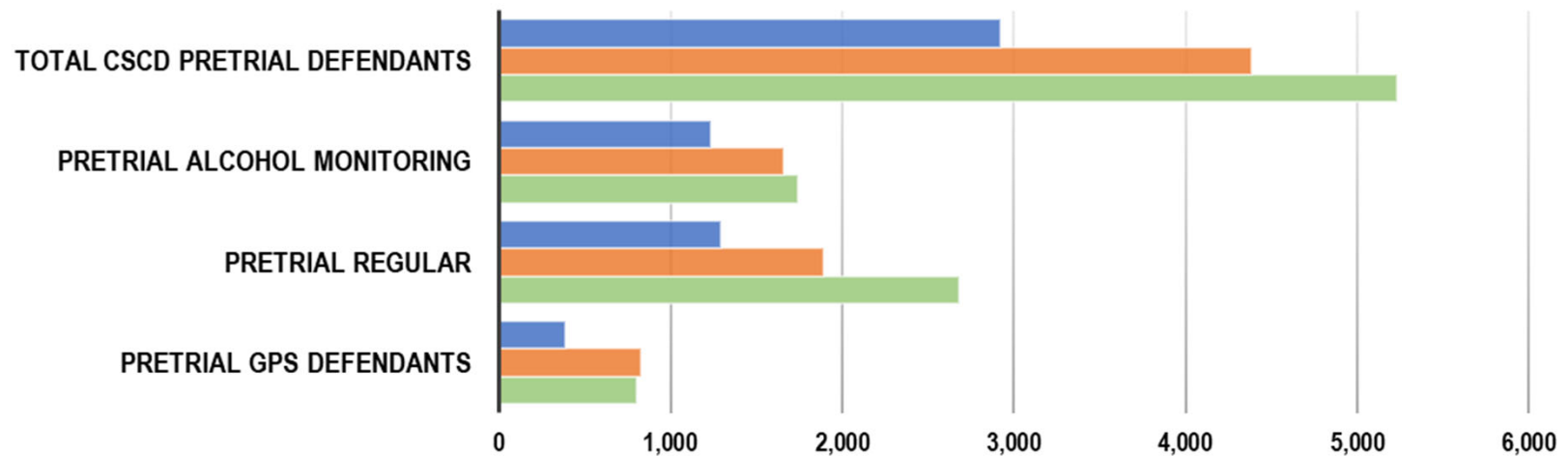
Tarrant County Pretrial Process

- ▶ Historical De-centralized magistration
- ▶ County started centralized magistration beginning 2019
- ▶ Criminal Courts Administration-Indigent defense processing, risk assessments, PSR beginning 4/2022
- ▶ CSCD oversees pretrial bond supervision pursuant to Gov Code 76
- ▶ Tarrant County Personal Bond Office was eliminated in 2019

By the numbers...

- ▶ 48,000 bonds set on approximately 37,000 offenders annually
- ▶ County Magistrates-5 Full time + 6 part-time
- ▶ CCA-28 FTEs+9 Temporary FTEs
- ▶ CSCD-55 FTEs + 20 Temporary FTEs (not filled)
- ▶ TCSO-8 Temporary FTEs to comply with HB 766/SB 6 requirements
- ▶ 43,000+ felony and misdemeanor cases pending as of 4/25/22

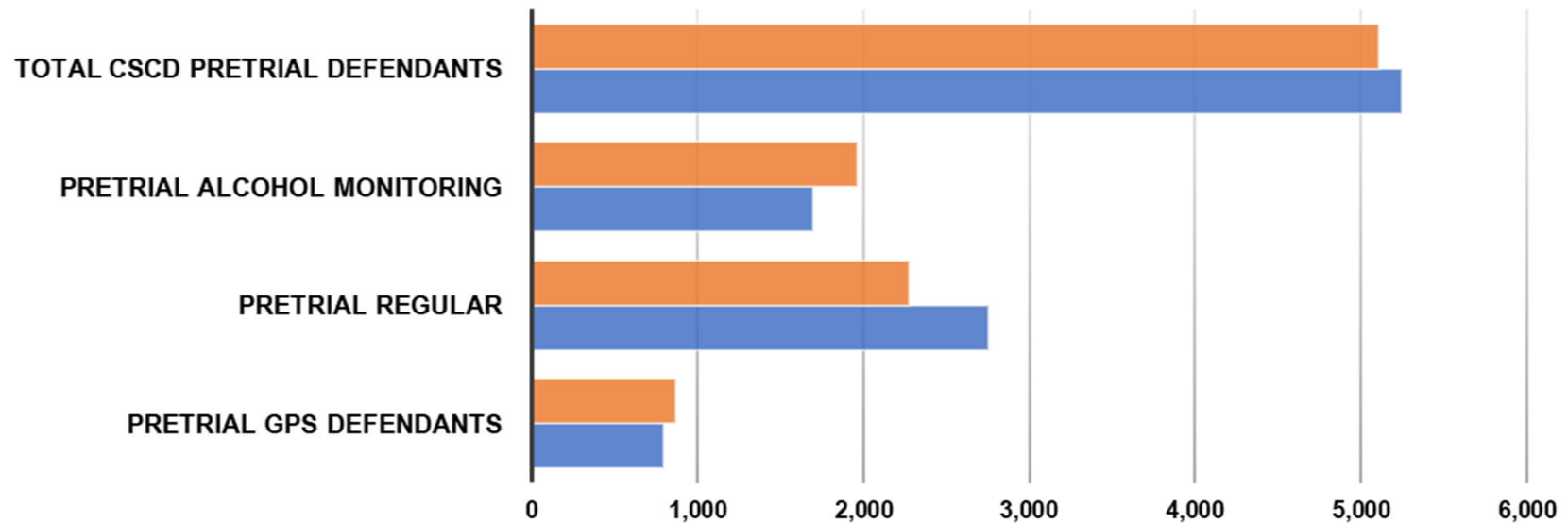
Tarrant County CSCD Pretrial 3 Year Comparison



	Pretrial GPS Defendants	Pretrial Regular	Pretrial Alcohol Monitoring	Total CSCD Pretrial Defendants
■ Jan 2020	391	1,293	1,239	2,923
■ Jan 2021	832	1,892	1,661	4,385
■ Jan 2022	804	2,685	1,745	5,234

■ Jan 2020 ■ Jan 2021 ■ Jan 2022

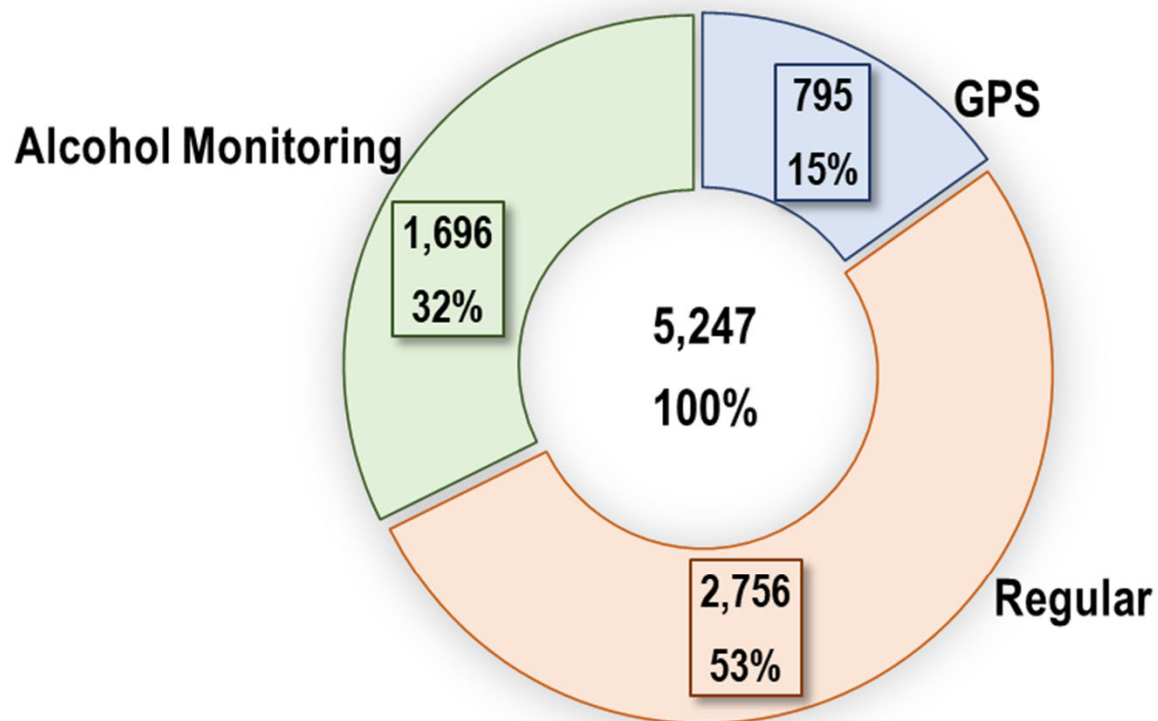
Tarrant County CSCD Pretrial April 2021 and April 2022 Comparison



	Pretrial GPS Defendants	Pretrial Regular	Pretrial Alcohol Monitoring	Total CSCD Pretrial Defendants
April 2021	867	2,275	1,962	5,104
April 2022	795	2,756	1,696	5,247

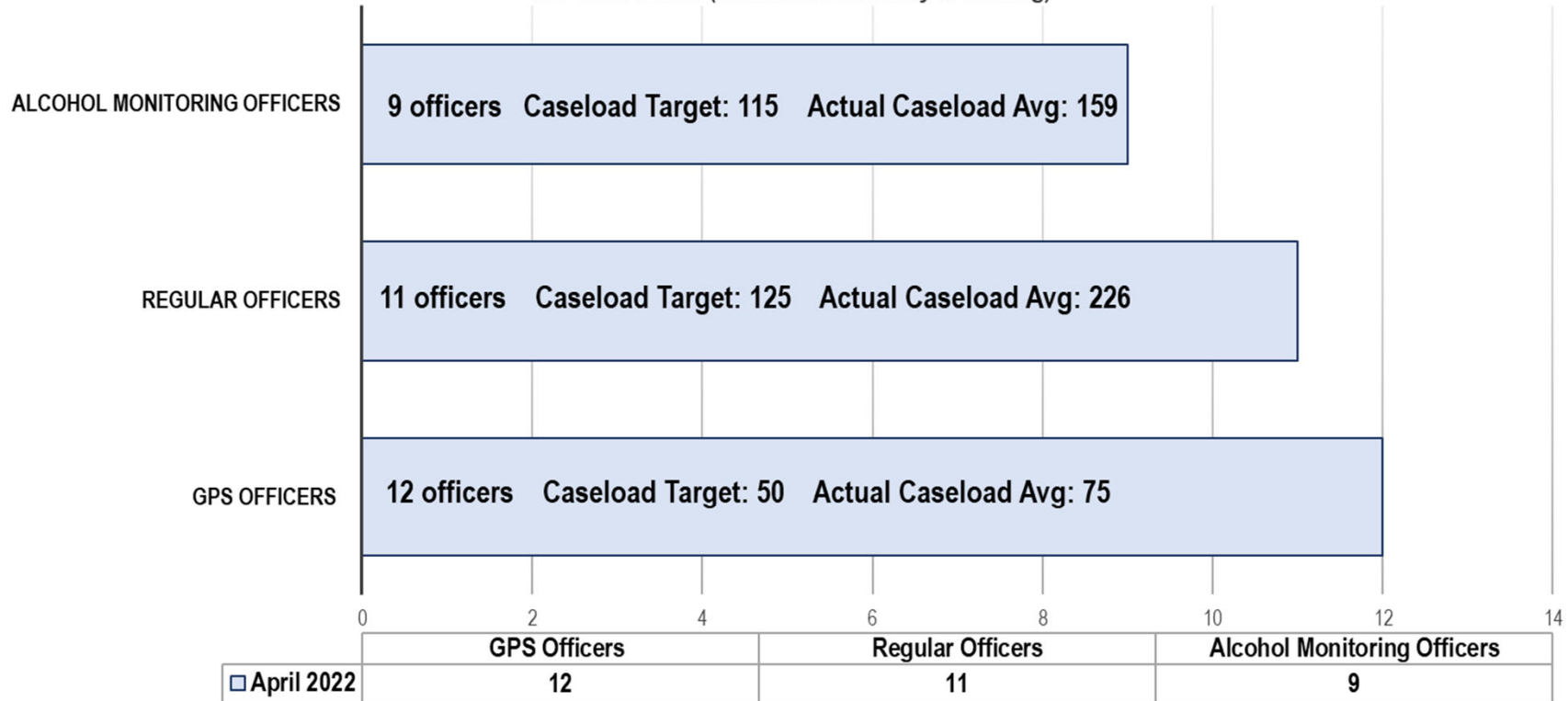
■ April 2021 ■ April 2022

Tarrant County CSCD Pretrial Caseload Types April 2022



Tarrant County CSCD Pretrial Supervision Officers / Caseloads

32 Officers (excludes 2 currently in training)



Future Legislation

- ▶ Constitution Amendment-Preventative Detention in certain cases?
- ▶ Texas Probation Association will request changes to CCP Chapter 17 and Gov Code 76:
 - ▶ Clarify a Personal Bond Office operated by a County has full authority to supervise surety bonds, cash bonds, or personal bonds
 - ▶ Clarify a CSCD may supervise pretrial bond cases WITH FINANCIAL ASSISTANCE PROVIDED BY COUNTY

Discussion

- ▶ How is your county system designed?
- ▶ Advantages/challenges?
- ▶ How will your county meet the demands imposed by SB 6/HB 766?
- ▶ Are your local officials and/or judges contemplating changes?



► Questions?

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