

COOK COUNTY CENTRAL BOND COURT

On December 15, 2008, the Circuit Court of Cook County implemented the recommendations of Chicago Appleseed Fund for Justice by replacing videoconferenced bond hearings with in-person proceedings and by implementing a pretrial services program. Subsequently, Chicago Appleseed utilized pro bono lawyers and law students from Winston & Strawn LLC to systemically observe Central Bond Court to see what changes had taken place. This report is the result of this court-watching and of the research being conducted by the staff of Chicago Appleseed. It contains our observations and recommendations.

*Observations and
Recommendations
from the Chicago
Appleseed Fund for
Justice*

November 2011

Cook County Central Bond Court: Observations and Recommendations from the Chicago Appleseed Fund for Justice

This report contains compiled data and observations regarding the Bond Court proceedings taking place at the Criminal Courts Building at 26th and California. During 2010, court-watchers completed 17 sessions in Bond Court. The observers assessed the courtrooms by marking “strongly agree”, “agree”, “neutral”, “disagree”, or “strongly disagree” in response to statements describing the courtroom and its personnel. The statements were a mix of positive statements (“the courtroom is well-lit”) and negative (“the courtroom is not clean”), regarding the condition and atmosphere of the facilities, the behavior of courtroom personnel (judges, lawyers, sheriffs, clerks, etc.), and the behavior of the defendant. Court-watchers had the option to select “don’t know/does not apply” for each statement and were encouraged to share general observations.

Subsequent to the court-watching at Central Bond Court, Chicago Appleseed staff continued its work into utilizing bond court as part of a Diversion/Deferral Section of the Criminal Division of the Circuit Court.

Court-watchers also provided their general observations and suggestions. The findings and general experiences of the court-watchers and Chicago Appleseed staff form the basis for recommendations for systemic change in Central Bond Court.

Section 1: Atmosphere and Facilities

Court-watchers responded to five statements related to the atmosphere and conditions of the facilities in Bond Court, and the results are summarized in the following table:

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Does not Apply
Courtroom is not clean	0%	6%	0%	94%	0%	0%
Courtroom is well-lit	35%	47%	12%	6%	0%	0%
Proceedings are not audible	41%	35%	18%	6%	0%	0%
Microphone is continually turned off*	67%	20%	0%	13%	0%	0%
Courtroom is accessible to everyone	18%	71%	6%	6%	0%	0%

*Only 15 responses were recorded

A majority of court-watchers reported that proceedings were not audible. They commented that ambient noise from the gallery observers and noise from the fax/printer made it difficult to hear. One court-watcher commented that it was very difficult to hear despite the judge’s obvious attempts to be audible. Only two court-watchers observed judges asking the attorneys to speak louder so that they could be heard by the audience. Microphones in use in the courtrooms tended to exacerbate the issues, either because they amplified typing and rustling papers or because they were repeatedly turned off. For the most part, court-watchers found the courtroom clean and well-lighted.

Section 2: Behavior of Courtroom Personnel (including Sheriffs)

Court-watchers responded to six statements related to the appearance, behavior and competence of courtroom personnel, such as clerks and sheriffs. The results are summarized in the following table.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Does not Apply
Is not prepared/knowledgeable about cases	12%	12%	12%	35%	12%	18%
Is wearing appropriate attire	29%	59%	0%	12%	0%	0%
Has a neat appearance	24%	65%	0%	12%	0%	0%
Is attentive	24%	35%	6%	24%	12%	0%
Is not respectful of Court	6%	18%	12%	59%	6%	0%
Is not respectful of defendant	18%	35%	18%	24%	6%	0%
Is not respectful of court attendees	12%	47%	6%	29%	6%	0%

Some court-watchers felt that courtroom personnel did not have much of a role but noted they were generally respectful of the court during Bond Court. One court-watcher thought that courtroom personnel helped maintain respect for the court. However, 24% of responses indicated that personnel were not respectful of the court and 53% of responses described personnel as not respectful toward defendants. Furthermore, 59% of the responses indicated that the disrespect extended to court attendees generally. One court-watcher said:

The bailiffs, in particular, essentially bully defendants and attendees. The bailiffs yelled at attendees to leave or be quiet for very minor things. They also yelled at defendants to ‘shut up,’ ‘get moving,’ or ‘get out.’

Court-watchers reported that the sheriffs’ engagement in the proceeding seemed limited to disparaging the dependants. In fact, some of the courtroom personnel appeared very demeaning towards both the defendants and their families. Defendants who spoke to the

judge or remained in front of the bench too long were yelled at to “step out” or “just go.” Behavior of the courtroom personnel was summed up as “generally rude and dismissive.”

Section 3: Behavior of Judge

Court-watchers responded to five statements related to the demeanor, behavior and preparedness of the judge. The results are summarized in the following table.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Does not Apply
Is not on time	0%	24%	0%	41%	35%	0%
Is distracted during proceedings	0%	0%	6%	71%	24%	0%
Is respectful to defendant	35%	35%	12%	12%	6%	0%
Did not exit courtroom frequently	53%	41%	0%	0%	6%	0%
Did not ensure defendant understood the proceedings	12%	12%	6%	29%	41%	0%
Maintained appropriate demeanor or level of professionalism	41%	41%	12%	6%	0%	0%

Commentary regarding the behavior of the judges in bond court was mixed. Some court-watchers noted that the judges were very respectful, making sure the defendants understood what they were being charged with and the consequences of their decisions in cases as well as allowing the defendants to speak with counsel during the hearing if they had any questions. In some cases, the judges even addressed family members and friends to inquire as to the bond amount they would be able to afford. For the most part, judges made sure to get interpreters for non-English speaking defendants and one judge “heavily emphasized pre-trial services for drug offenders.”

On the other hand, the observers noted that some of the judges spoke very quickly—at times so quickly that it was hard to understand them—and conducted the hearings very rapidly, although one judge did take varying amounts of time with each defendant depending on their particular circumstances. One court-watcher noted that a judge “did not look at the defendants or family members” and “laughed with courtroom personnel.” Another judge “was reading bonds before the defendants got up to the front and did not give one defendant an opportunity to ask the defense [counsel] a question before making him go back [to lockup].”

Section 4: Behavior of Prosecutors

Court-watchers responded to six statements related to the demeanor, behavior and preparedness of the state’s attorneys. The results are summarized in the following table.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Does not Apply
Is prepared/knowledgeable about cases	24%	65%	6%	6%	0%	0%
Is not wearing appropriate attire	0%	6%	12%	59%	24%	0%
Does not have a neat appearance	0%	0%	6%	65%	29%	0%
Is not attentive	0%	12%	6%	59%	24%	0%
Is respectful of court	29%	71%	0%	0%	0%	0%
Is respectful of defendant	18%	71%	12%	0%	0%	0%

Overall observations about the prosecutors were that they were prepared and respectful. However, observers noted that only some prosecutors went through the facts of the incident leading to the arrest while others simply stated the defendants' criminal histories. The prosecutors were also only attentive when their case was being called; "otherwise, their shuffling, standing up, and walking around was very distracting." Three court-watchers witnessed cases where defendants were identified incorrectly by prosecutors – the judge corrected the mistake.

Section 5: Behavior of the Public Defenders/Private Defense Attorneys

Court-watchers responded to six statements related to the demeanor, behavior and preparedness of the public defenders and private defense attorneys. The results are summarized in the following table.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Does not Apply
Is prepared/knowledgeable about cases	0%	18%	41%	41%	0%	0%
Is wearing appropriate attire	29%	71%	0%	0%	0%	0%
Does not have a neat appearance	0%	6%	0%	59%	35%	0%
Is attentive	18%	65%	18%	0%	0%	0%
Is not respectful of Court	0%	0%	0%	65%	35%	0%
Is respectful of defendant	24%	65%	12%	0%	0%	0%

One of the most common themes that emerged from the observations of the public defenders was that even though the attorneys seemed to recognize the importance of mitigating circumstances, the mitigating circumstances did not vary much between the defendants. One observer remarked, "[n]early all [the] public defenders had little to say other

than ‘lifelong resident and high school attended.’” Other factors that were sometimes mentioned were age, number of children (biological and those they were supporting), and any employment. Some observers noticed that at times the public defenders would make note of when a defendant’s family was present in the courtroom, and one public defender made the effort to speak with the family after the proceedings. Three observers said that the public defenders seemed overwhelmed. One public defender was observed on two instances making affirmative misstatements.

For the most part, the private defense attorneys were more familiar with their clients’ cases. The private defense attorneys also made a more thorough presentation of mitigation circumstances than the public defenders. In comparison to the public defenders, the private defense attorneys seemed more prepared and knowledgeable about cases than the public defenders.

Section 6: Behavior of Defendant

Court-watchers responded to three statements related to the observations concerning the defendant. The results are summarized in the following table.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Does not Apply
Understood proceedings	12%	24%	29%	24%	0%	12%
Was not able to speak with lawyer about case	6%	29%	18%	29%	6%	12%
Did ask attorney questions	0%	29%	29%	35%	6%	0%

The defendants generally appeared to not understand the proceedings and they “seemed bewildered and confused.” Generally, it seems as though the defendants’ proceedings were over before they had a chance to ask any questions of the judge or their lawyer. Court-watchers were unsure of whether the lack of defendants’ questions had more to do with the defendants being unwilling to ask questions or the defendants being quickly removed from the courtroom.

General Observations

Security

The court-watchers were often asked by security why they were present. When they relayed to the security guards that they were there to court-watch, most were asked to show their school identification. Even though some of the court-watchers set off the metal detector, they were generally waived through. Overall, the court-watchers listed their treatment as “fine,” but noticed that those individuals who appeared to be less affluent, particularly African-Americans attempting entry, were singled out by security for closer scrutiny.

Overall Pace of the Bond Court Hearings

Overall, the bond court hearings were very fast—observers noted that most hearings were completed in between 20 and 30 seconds. One observer said that there were about 75 hearings over the course of an hour-and-a-half, approximately 1.2 minutes per defendant. Bond court hearings slowed down when the cases were more complicated or involved a violent offense. The court also took more time with juvenile defendants and when a defendant’s family was present. The slowest step in the hearings was the State’s proffer and presentation of the case and the fastest steps in the hearings were the probable cause findings, the presentation of mitigating circumstances, and the actual bond ruling. Translators, multiple co-defendants, and the proximity of lunchtime all caused the bond hearings to move faster.

Defendant-related issues

Many defendants made no attempt to address the court. When they did, most defendants were directed by the judge to speak to counsel who would relay the information to the judge. However, sheriffs quieted defendants trying to speak with counsel while the judge was speaking. Translators—primarily Spanish and Polish—were used when needed, but in one observed case, bond was set at the end of the proceedings even though the necessary Polish translator never arrived. Defendants seemed to understand the proceedings when translators were used, except when asked whether or not they wanted the consulate to be notified.

Judge-related issues

Some judges did a good job of acknowledging the defendants and family members, while other judges simply took no notice. One court-watcher counted 75 hearings in 90 minutes and observed only five instances in which pretrial services were part of the order. Some judges did consider mitigating circumstances, especially for smaller narcotics cases. Court-watchers noted that seemingly identically-situated defendants faced drastically different outcomes, depending on which judge was presiding in Bond Court during his/her appearance. Court-watchers also noted that the quantity and quality of communication between the judge and the defendant varied widely. For example, some judges explained the proceedings to the defendants clearly and thoroughly. Others failed to address the defendants at all.

When asked how judges were utilizing pretrial services reports, most court-watchers noted that the judge did not look at the pretrial services report – that the paperwork was quickly placed in the file.

Lawyer-related issues

Public defenders sometimes made a general statement to the families before the proceedings began that any questions would be addressed afterwards. During one session observed by court-watchers, one public defender presented the case while the other remained in the gallery speaking with family members. The second public defender determined how much the family could afford to pay for bond and relayed that information to the judge. Court-watchers felt the public defenders actually had more contact with defendants' families than the defendants themselves. An observer noted that on one occasion a public defender offered a personal apology to the family of a defendant after making a misstatement about the defendant. Nonetheless, identity mistakes were common.

Overall, the private defense attorneys interacted the most with their clients and/or clients' families.

Other Court personnel-related issues

Generally, court-watchers found the sheriffs were rude to the defendants, yelling at them when they did not move fast enough and directing them to leave the bench before the hearing was completed. Only one observer noted that the sheriffs' behavior was in response to the defendants' misbehavior and failure to follow directions. Some sheriffs hit defendants with rolled up paper when giving directions. There were also several instances where individuals were dismissed for asking a question at the wrong time or displeasing the judge—oftentimes, these individuals were not being malicious or raucous, but simply had little to no understanding of how bond court worked. In some cases, sheriffs were enforcing court rules, such as removing people from the gallery when their cell phones rang and removing sleeping visitors.

Other court personnel interacted with each other which was distracting or made it hard to hear, but court personnel had little interaction with the defendants and families.

Conclusions and Recommendations for Improving Bond Court

Based upon the observations of court-watchers, the most pressing issue in bond court is the pace of hearings, which suggests that the hearings are not individualized. The atmosphere is one which emphasizes speed over accuracy and affords the defendant little attention. Court-watchers reported hearings which lasted less than a minute and noted that sheriffs yelled at defendants who did not move quickly enough and directed them away from the bench before the hearing was concluded. State's attorneys too often mistook the defendant or case before them, and public defenders seemed overwhelmed.

The courtrooms have a high level of background noise from the computer equipment and from the crowded galleries. The design and inaccessibility of the courtroom contribute to an overall sense of tension and disarray in the court.

Key Issues and Recommendations

Issue: Bond court cases proceed exceedingly fast and judges do not seem to consider defendants' background. The sum total of these deficiencies is devastating to an accused: the defendant is saddled with a de facto unreviewable result of a thirty second hearing wherein no effort was made to put forth evidence on his behalf or defend against evidence introduced by the prosecution.

Recommendations:

- Slow the pace of the hearings to ensure individualized hearings and accommodate meaningful involvement from pretrial services.
- Train judges to improve consistency in procedures in order to maintain a reasonable pace in bond hearings without compromising the integrity of the proceedings.
- Pretrial services should provide more verified information to bond court judges, which will allow the judges to make a more informed decision about bond.
- Bond Court judges should direct that the findings of the pretrial services investigation be entered into the record prior to the entry of any order.

Issue: Defendants and their families do not appear to have meaningful ways to present their cases.

Recommendations:

- Provide defendants or their families with meaningful access to public defenders prior to hearings.
- Provide defendants or their families with meaningful access to the court to present relevant mitigation evidence and financial information.
- Establish a more uniform code of conduct and attire for courtroom personnel to promote professionalism and smooth interactions between staff and the public.
- Train courtroom personnel to be more courteous towards defendants and their families.
- Bond Court judges should invite testimony from relatives and friends of defendants who are in the courtroom and who wish to testify.

Issue: The courtrooms are so crowded and noisy that it can be difficult for defendants to hear the judge and vice versa.

Recommendation:

- Control noise levels in the courtroom. Replace noisy printers/faxes. Waiting areas could reduce ambient noise from persons waiting for a particular hearing, but would require a

system to ensure family members and other observers know when the pertinent case was called, which is not likely given the current pace of proceedings.

Additional Recommendations:

- Slow the pace of the hearings to ensure individualized hearings and to accommodate meaningful involvement from pretrial services.
- Provide more research and training for all bond court personnel about the use of electronic monitoring for defendants awaiting trial. Efforts should be made to increase the use of electronic monitoring.
- Transfer the Central Bond Court to the Criminal Division. The Central Bond Court in Cook County can play a critical role in the process of diverting individuals away from the criminal justice system. Bond Court judges make the decisions that place defendants in jail awaiting trial, allow defendants to have the freedom necessary to prepare a defense, or have their cases diverted away from the criminal justice system. But for now these decisions are made by judges assigned from the First Municipal District of the Circuit Court, not from the Criminal Division. Yet it is the Criminal Division where the decisions will be made that will allow diversion of defendants away from the prison system. It will be Criminal Division judges who will be responsible for cases that proceed past the initial bond-release hearing. To facilitate a more seamless, efficient, and coordinated system of diversion, Central Bond Court judges should be made part of the Criminal Division.