

## **Evidence-Based Practices in Pretrial Services Case Management**

Research is generally showing the need for assessing offender risk, and conditions of release, as they relate to the likelihood of a defendant's failure to appear. Need to have level of supervision appropriate for risk, so actuarial risk classifications/assessments are necessary. Need to develop an individualized supervision plan aimed at addressing root causes of the individual's criminal activity. Open-systems management styles, and collaboration of multiple agencies through the use of effective communication, have been found to be a key component of pretrial diversion program success. Communication, officer flexibility, and individualized supervision may constitute best practices for PTD program implementation and management.

Court notification procedures can be helpful to reduce FTAs. Electronic monitoring can reduce the risk of failure to appear, especially to meetings with pretrial services staff, helping case management.

Money bail is unconstitutional and often ineffective, with judges considering bail schedules and not ability of defendant to pay. Can result in loss of employment, housing, and community connections, which are difficult to restore. Defendants who are denied bail are more likely to plead guilty, and upon conviction, are more likely to be sentenced to incarceration, facing longer sentences than those released pending trial.

For defendants with mental health concerns, formal case finding procedures are important for the early identification of mentally ill offenders in need of services. Stable housing enhances the possibility that a divertee will remain in regular contact with a treatment provider. (Adams Co. has initiatives for diversion of individuals with mental health concerns through the MacArthur Foundation Safety and Justice Challenge.)

## **Pretrial Justice Institute-Outcomes from the Smart Pretrial Initiative**

- 3 Ms of Smart Pretrial-Maximize public safety, Maximize court appearance, and Maximize appropriate use of release, released conditions, detention, and public resources.
- City and County of Denver, CO
  - Increased % of defendants released on pretrial from 54% (2014) to 64% (2016).
  - Factoring costs of additional FTAs and arrests for recidivism expect through release of additional persons, still achieved a net savings of \$2Million/year.
  - Best Practices-Retired bond schedule, prosecutors present at felony hearings to represent government and victims, increased PR releases, intensity of supervision based on defendant risk, communicate with court (especially during sentencing), orient new staff (training videos), institutionalizing and broadening new policies (compare statewide).
- Yakima County, WA (rural/smaller jurisdiction)
  - Pretrial release rate rose from 53% to 73% with court appearance and arrest rates remaining steady.
  - Invested in pretrial justice by hiring a new prosecutor, public defender, and 3 assessment and supervision staff positions (used general funds). In 2017, judges supported a sales tax increase to permanently fund new pretrial functions and implement a continuum of care for individuals with serious mental health issues who are CJS involved.
  - Best Practices-Dedicated docket for first appearance hearings (reduces wait time in jail), quick actuarial assessment, defense representation at first appearance (and prosecutor; provide more info to judge), community based monitoring (electronic court reminders, intensive supervision for higher risk defendants), ongoing data analysis and reporting,

- engage public and media to be transparent, institutionalizing improvements (judge partnerships to prepare to rule on new policies/practices).
- State of Delaware
    - Unified court and correctional system, was using substantial secured money bail, no actuarial pretrial assessment, no differentiated monitoring of released individuals.
    - Best Practices-New legislation for pretrial provisions, top-level decision makers involved across agencies, cost-effective risk management (three-tiered supervision strategy based on defendant risk), data systems overhaul for data sharing, transparent information sharing.
  - Take away
    - No more money bail; Violates fairness/equal protection, but need lawful preventive detention to uphold safety so dangerous individuals can't purchase their freedom.
    - Need additional monitoring and supervision, tiered based on risk assessment.
    - Stakeholder relationships matter; emphasis on honesty and transparency. Educate stakeholders of legal and evidence-based practices (takes time), and small changes, evaluation. Manage communication and community outreach.
    - Victim representation and law enforcement participation in policymaking is necessary.
    - Need local staff to coordinate efforts.
    - Changing pretrial systems takes intensity and stamina. Focus on long-term goals.
    - Data is critical for evaluating pretrial reform.

### **Pretrial Justice Institute-3DaysCount Campaign**

- Launched in 2015, and named for how quickly pretrial detention can upend a person's life.
  - Follows examples of places such as Colorado, Kentucky, and New Jersey, where updated state laws empowered local jurisdictions to implement better pretrial policies/practices.
- Nationwide campaign to promote **holistic pretrial justice statues and court rules**:
  - Reduce unnecessary arrests that destabilize families and communities
  - Replace discriminatory money bail with practical, risk-based decision-making
  - Restrict detention (after due process) to the small number of people who pose unmanageable risks if released.
  - (Need to also define bail and a statement of general principles, involve defense counsel at initial bail hearing, collect and report data)
- States encouraged to:
  - Improve State Statutes and Court Rules — For example, by reducing severity for certain low-level offenses; encouraging “cite and release” practices instead of custodial arrest for low-level misdemeanors, guided by risk; and replacing the use of money bail with pretrial risk assessment
  - Improve State Constitutions — Where necessary, constitutional changes can allow for preventive detention based on assessed risk and with due process
  - Implement statewide evidence-based tools — Introducing or refining objective pretrial risk assessment and supervision guidelines lets courts make better informed decisions about pretrial release and conditions
  - Empower and Mobilize Community — Working to ensure all people—families, neighbors, community organizers, etc.—understand and are given the space to engage in the change process, and to have a voice in shaping the future of their pretrial justice systems