FIRST STEP *FORWARD*

Transforming the Pretrial Period from Compliance to Support

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JSP
JUSTICE SYSTEM PARTNERS

Authors

Marijana Kotlaja
Rebecca Stone
Shannon Magnuson
Lore Joplin
Zach Dal Pra
Kimberly Richards

Foreword

In 2023, US jails recorded 7.6 million bookings[1] for 5.6 million individuals.[2]

Some of these individuals had their cases dismissed. Some experienced pretrial supervision or other pretrial release conditions. Others missed court hearings as scheduled and returned to jail. Some experienced the entirety of their case processing in pretrial detention. Many experienced a conviction. However, all 5.6 million individuals navigated the pretrial period.

Local judicial, county, and state policy and state statutes govern this period, making what people experience during pretrial vastly different place-to-place. Yet, what is not so different place-to-place is how often individuals on pretrial release struggle to meet all their pretrial obligations and attend court as scheduled.

We are certainly not the first group to acknowledge this concern or try and solve it.

Across the country, innovators are leading the way by taking a support-oriented approach to the pretrial period to improve court appearance and the administration of justice. We had the privilege of speaking to 18 leaders who are drastically changing how their site helps individuals on pretrial release.

Importantly, these leaders are changing the culture of their local courts from compliance to support.

It is this innovative approach and forward thinking which improves court appearance and public safety and importantly enhances due process and the administration of justice—regardless of place.

Acknowledgments

We wish to thank the following inspiring leaders who gave us insight into how they've incorporated a support-oriented approach into their agencies and courts and what it could look like for other sites, too.

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Assistant Division Director,
Santa Cruz County, CA

Chelsea Wittmann
Justice Initiatives Coordinator,
Community Justice Department,
Missoula County, MT

Doyle Morrison
Transition Center Program Manager,
Pima County, AZ

Elaine Borakove
President,
Justice Management Institute

Elizabeth Trosch
District County Judge,
Mecklenburg County, NC

Eric Rinehart
State Attorney,
Lake County, IL

Hillary Hartoin
Court & Pretrial Services Director,
Cass County, IN

Kayla Crossen
Program Manager,
Catalyst Community,
San Bernadino, Orange, Santa Clara and Riverside Counties, CA

Kim Lahiff
Program Manager,
Missoula County, MT

Mano Raju
Public Defender,
City and County of San Francisco, CA

Melissa Vawter
Program Manager,
Missoula County, MT

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We acknowledge the nearly 5.6 million individuals who experience the pretrial period each year.

They are at the center of why we authored this report.

Their pretrial experience tells an important story about how we can better support them, more fairly process their cases, more intentionally administer justice, and more thoughtfully reduce how often these individuals return to court for new cases.

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introduction

The period between charge and case disposition when an individual must navigate their case through the court system is the pretrial period.

During this period, judicial officers, prosecutors, defense attorneys, and court administrators are interested in 1) ensuring individuals appear in court as scheduled, 2) avoiding new arrests by individuals navigating their cases, and 3) administering justice.

As court partners, they are required to navigate these interests while also preserving individual liberty, as defendants are legally presumed innocent at this stage.

Informed by state and local statutes, historic practices, political conditions, and judicial discretion, the experience of the pretrial period varies broadly across the country. Organizations and agencies such as the National Institute of Corrections (NIC),[3] American Bar Association (ABA),[4] and the National Association of Pretrial Services Agencies (NAPSA)[5] have all published resources and standards guiding pretrial practices.

Many courts have incorporated these standards, or best practices, into operations to improve how court partners balance individual liberty and the administration of justice.

However, these best practices still reflect a strong compliance-centric approach, emphasizing rules and sanctions for individuals legally presumed innocent. In practice, this compliance-centric approach often undermines the court's ability to process cases expeditiously and imposes burdens on pretrial defendants that make it more likely for them to become further embroiled in the criminal legal system.

Fortunately, in recent years, sites across the country have begun to critically challenge the long-held belief that this compliance-centric approach to pretrial is necessary or effective. They have begun reshaping this period to focus on supporting individuals navigating their

cases, and in doing so they are experiencing measurable improvements to court attendance, case processing efficiency, and due process.

We conducted interviews with leaders reshaping the pretrial period across the country and synthesized their insights with the existing pretrial standards and emerging research. From this work, we offer a support-oriented pretrial framework for court partners. Throughout each section we provide more specific practice recommendations to operationalize the framework and offer case studies as proof of concept.

We organize this framework into five guiding principles to promote a support-centric orientation during the pretrial period.

1. **Release individuals exclusively on recognizance pre-arraignment as often and as soon as possible.**
2. **Create intentional access to defense attorneys pre-arraignment and at initial appearances.**
3. **Rely on the least expensive and least restrictive pretrial release conditions possible.**
4. **Reimagine pretrial supervision agencies as pretrial support services.**
5. **Create a support-oriented court ecosystem focused on enhancing fairness.**

The goal of the framework is to provide courtroom partners with guidance on how to create the fewest barriers for people to attend court and more effectively support individuals navigating the pretrial period.

At Justice System Partners (JSP), we recognize reporting on criminal legal systems requires a consistent and persistent evolution of language. This evolution of language reckons with the origins, implementation, and manifestations of power structures, and who benefits least from these power structures.

JSP is a blend of scholars, practitioners, technical assistance providers, and individuals directly impacted by the criminal legal system, who hold responsibility in shaping this language evolution.

With this responsibility, we pledge to use person-first language because it both prioritizes personhood over identity labels while showing dignity and respect for all people. We also pledge to avoid coded language, which refers to the process of substituting neutral terms to disguise explicit and implicit discrimination.

Throughout this report we have made intentional language choices and shifts from how scholars are talking about key pretrial concepts.

Enhanced Practices Instead of Best Practices

Practitioners commonly use the term best practices to mean a historic or standard practice, or a practice needing few resources or minimal infrastructure. Importantly, best practices may make sense on the surface but can include practices with unknown or unmeasured impacts on intended outcomes. In the pretrial context, these practices may not explicitly focus on the goal of enhancing fairness or the administration of justice.

We offer the term enhanced practices throughout this report to signal practices that are both informed by research, if not specifically evaluated, and operate in pursuit of enhancing fairness, specifically.

Throughout the report, we suggest several enhanced practices to supplement and operationalize the framework's key guiding principles.

Pretrial Support Services Instead of Pretrial Supervision or Monitoring Services

Across the country, judicial officers order individuals to locally operated agencies during case processing. These agencies, called *pretrial supervision* or *pretrial monitoring services*, might provide individuals support and community-based referrals but are principally guided by compliance-oriented policies and practices that respond to court-ordered conditions.

Our suggested framework emphasizes support in all aspects of the pretrial process and, as such, we offer a different term—***pretrial support services***—more aligned with the overall culture we recommend that courtroom partners adopt.

Pretrial Release Outcomes Instead of Bail Outcomes

Researchers and practitioners use the term *bail outcomes* to describe different phenomena. For some researchers and practitioners, terms exclusively describe monetary obligations to secure release from jail. Others use the term to describe the various types of release from jail (e.g., release on recognizance, pretrial supervision, and release with monetary obligation). While these definitions overlap (i.e., inclusion of monetary obligation for release), there are important differences.

Most importantly, as jurisdictions continue to eliminate cash bail or cash bail schedules, using the term bail outcomes to describe the larger list of pretrial release types is likely to create confusion.

Moving forward, we believe there is a need to instead use the language ***pretrial release outcomes***.

Arrest or Conviction History Instead of Criminal History

Typically, researchers and practitioners refer to an individual's previous justice-involvement as their *criminal history*. However, at JSP we acknowledge that structural racism exists across the criminal legal system, including where law enforcement patrol, who police arrest, who receives quality defense counsel, who experiences convictions, and the severity of sentences. Further, we understand that for many people navigating the criminal legal system, they are also navigating poverty and living in communities experiencing historic and ongoing disinvestment. The combination of these structural factors suggests that arrest and conviction may be as much related to social systems as they are to individual choices.

To acknowledge this in our language, we use the term *arrest record and conviction history* as neutral terms reflecting the focal events.

Recorded Court Absence Instead of Failure to Appear

Traditionally, researchers and practitioners use the term *failure to appear* to describe any situation where a person does not attend court. In practice though, court actors and researchers often infer from this behavior an intentionality to miss a court hearing, abscond, avoid accountability, or evade justice. Importantly, the term "failing" minimizes the structural obstacles an individual may face trying to get to court. Prior research conducted by JSP finds that even when individuals choose not to come to court, they do not make this decision in a vacuum.[6] In reality, people are making choices within interconnected resource constraints, including prioritizing shelter, personal obligations, or work over their court hearing.

For this reason, we shift the term from failure to appear to ***recorded court absence*** or ***missed court as scheduled***. We believe this more accurately reflects the court experience while relying on neutral terms to describe the phenomenon.

We recognize that as we continue to learn about language, particularly the use of language in the criminal legal system and court processes, the choices we have made today may change. We pledge to continue to update our language as needed.

Release individuals on recognizance pre-arraignment as often and as soon as possible.

In 2023, US jails recorded 7.6 million bookings and together held about 664,200 people on any given day.[7] Individuals who experience a jail booking must appear for their first hearing in court, usually within 24 to 72 hours, where they learn the charges against them. This is known as an arraignment hearing.

In most jurisdictions, the arraignment hearing is where judicial officers also make decisions about pretrial release, weighing the likelihood an individual will remain arrest-free while in the community and attend their court hearings as scheduled.

Across the country, state and local statutes and judicial orders allow jails to release individuals prior to this arraignment/pretrial release hearing. Local and state guidelines dictate who is eligible for this release type.

Generally, local sites may grant pre-arraignment release to individuals with no or limited conviction histories, individuals charged with misdemeanors or non-serious felonies, and individuals with limited court absence histories.

These pre-arraignment releases align with the National Institute of Corrections, American Bar Association, and the National Association of Pretrial Services Agencies standards to release individuals as soon as possible to limit the amount of time an individual experiences pretrial detention.

Further, NAPSA suggests individuals released on their own recognizance should have no other requirements as part of their pretrial release beyond the standard conditions to appear for all scheduled court dates and not commit new offenses.[8]

However, in some jurisdictions, even pre-arraignment releases may include conditions such as reporting to a pretrial services agency.

When judicial officers assign pretrial supervision to individuals who secure pre-arraignment release, they are doing so for a select group of the pretrial population **with the least concerning arrest, conviction, or court attendance history.**

Based upon the current form of pretrial services agencies and their emphasis on compliance monitoring, these additional conditions impose restrictions on an individual's liberty.

This means, at times, courts are assigning conditional release to a select group of the pretrial population with the least concerning arrest, conviction, or court attendance history.

Local jurisdictions should rely on pre-arraignment release as often as possible and exclusively use release on recognizance (without additional conditions) for these specific release types.

Enhanced Practice Recommendation

Evaluate pre-arraignment eligibility requirements to prevent racial and economic disparities among individuals detained until arraignment.

Pre-arraignment release eligibility requirements favor individuals with no or limited arrest/conviction histories and individuals with limited court absence histories. While these requirements are racially and economically neutral as written, in practice their impacts may be racialized or classist. Over-policing of Black and Brown[9] neighborhoods may result in greater arrest and conviction histories for these residents compared to their white counterparts. Individuals living in historically disinvested neighborhoods or with extremely limited resources are more likely to have had challenges getting to court as scheduled in the past. Combined, Black and Brown individuals and economically disadvantaged individuals may be disproportionately ineligible for pre-arraignment release.

As local sites consider expanding pre-arraignment release as much as possible, they must also evaluate the ways in which eligibility requirements may produce disparate releases early in case processing. As part of this analysis, local sites must also consider how these disparate pre-arraignment releases may contribute to compounding downstream disparities including pretrial release types, conviction, and sentencing outcomes.

Enhanced Practice Recommendation

At pre-arraignment release, enroll individuals in an automated court reminder system.

Extensive research details that all pretrial populations benefit when enrolled in an automated court reminder system (ACRS). Court reminder systems can include postcards, text messages, email reminders, automated calls, live calls, or a combination of any of these methods.

The most successful notification programs are those which notify individuals multiple times close to their court hearing, notify individuals multiple ways, provide the address and time of the hearing, encourage individuals to consider the arrangements they need to make to attend court, and explain the consequence for missing court.[10]

Studies consistently show that automated reminders reduce court absence rates by 13-37%, with text message programs being particularly cost-effective. For instance, a study of New York City's text reminder system indicated that it prevented 30,000 arrest warrants over three years at an annual program cost of $4,500, compared to over $700,000 in avoided warrant costs.[11]

Who manages the ACRS can vary by jurisdiction; however, all court partners should share a responsibility in educating defendants about the service and enrolling them into it.

Based upon research and guidelines provided by APPR and Ideas 42, we identify several important elements of the most effective ACRSs:

- Create protocols helping police enroll individuals who receive citations-in-lieu of arrest, or develop language on tickets/summons/citations which provide information for the individual to enroll in the service.
- Create an automatic enrollment with the option for defendants to opt out of the service.
- Enroll individuals at every touch point during case processing and use these touch points to update contact information, if needed.
- Send reminders to everyone with an open pretrial case before their hearing and send reminders immediately after every missed court date.
- Use text message reminders where possible, but incorporate other methods based upon available contact information.
- Send reminders 1 day, 3 days, and 7 days prior to a hearing.

- Use plain language in reminders and include the address and time of the hearing, encourage individuals to consider the arrangements they need to make to attend court, and explain the consequences for missing court.

- Consider accessibility needs including predominant local languages beyond English.

Enhanced Practice Recommendation

Implement peer navigators between pre-arraignment release and initial appearance to improve initial appearance attendance.

When individuals experience pre-arraignment release, they must navigate jail release and return to court, sometimes the same day, for their arraignment hearing.

Leaders across the country lament that the window of time between release and arraignment is often a vulnerable time for individuals, and many struggle to return to court for their arraignment hearing.

In response, courts often issue bench warrants for this court absence because missing an arraignment hearing can have serious implications for case processing. If an individual interacts with police for any reason and is determined to have a bench warrant, they can return to jail or police can bring them directly to court, where they may or may not secure pre-arraignment release again.

Jurisdictions should implement peer-navigator programs, especially immediately following release from jail.

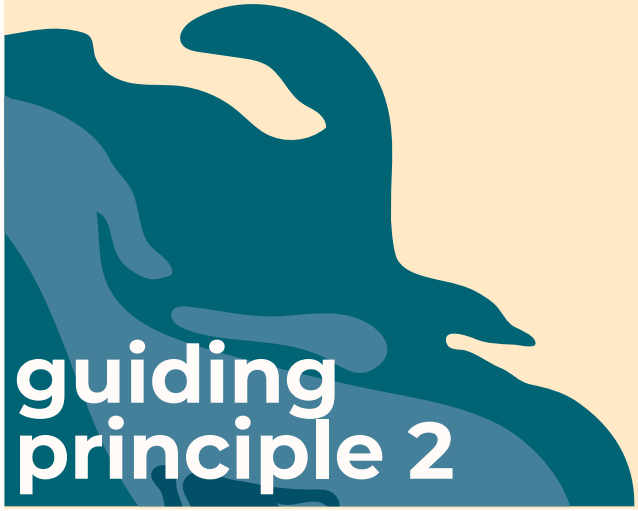
This will help individuals understand the importance of their arraignment hearing, could provide important connections to community programs and services, and offers a credible messenger who understands the challenges navigating the court process.

Case Study
Pre-Arraignment Peer Navigators

The Department of Justice Services in Pima County, Arizona (Tucson) launched its Transition Center in June 2023, connecting individuals released from jail with the resources they need to attend court, and in particular, arraignments. The Transition Center is physically located within the Pima County Adult Detention Complex but outside the jail gates, ensuring all individuals who exit jail walk by their front door. It is open from 8:00am to midnight, making it accessible for most individuals.[12] Engagement is not mandatory, but Justice Peer Navigators encourage individuals walking by to engage with staff and access air conditioning, water, hygiene kits, and snacks.

If an individual agrees, Justice Navigators will do an intake assessment and connect the individual with appropriate services, including cell phones to receive automated court reminders. If an individual declines other service referrals, the Justice Navigators will talk with them about their concerns. The Justice Navigators are individuals with lived expertise related to navigating houselessness, substance use, and case processing. They provide individuals a greater level of understanding and meaningful advice to overcome service barriers. Importantly, a key service the Center offers is providing rideshare vouchers and bus passes to help individuals attend their arraignment hearings.

Within the first six months of opening, 97% of individuals who engaged with the Transition Center accepted some form of assistance, including treatment referrals and housing assistance.[13] Their latest data suggests only 10% of individuals who engage with the Transition Center experience a subsequent new booking during case processing compared to 27% prior to the opening of the Transition Center, saving the county and residents $80,000 per month for a total cost savings of $940,000 in its first year of opening.[14]



Create intentional access to defense attorneys pre-arraignment and at initial appearances.

The Sixth Amendment guarantees the right to counsel for all individuals facing criminal charges at critical stages of their case processing. If individuals cannot afford their own attorney, courts will offer opportunities for indigent defense (e.g., public defender).

Unfortunately, the US Supreme Court does not recognize arraignment or pretrial release hearings (initial appearances) as a critical stage of prosecution. As a result, there is no federal constitutional right to counsel at these hearings.

For individuals booked across 50% of US jails, their local jurisdiction does not provide indigent defense at initial appearances.[15]

Without counsel at this early appearance, individuals more often experience pretrial detention,[16] higher amounts of cash bail, and more restrictive pretrial release conditions (e.g., GPS devices, pretrial services reporting).

Black and Brown individuals without defense counsel at initial appearances experience more restrictive and expensive pretrial release conditions.[17]

For individuals who remain detained between jail booking and the initial appearance (i.e., those who do not receive pre-arraignment release), the court partners must collaborate to allow defense attorneys access to individuals in custody prior to arraignment.

In many jurisdictions, individuals typically meet their attorney for the first time at the arraignment hearing and usually mere seconds before the arraignment and pretrial release arguments. This gives defense counsel an extremely restricted opportunity to collect useful information for a compelling pretrial release argument, and making whatever information is shared between the defendant and defense counsel public for the courtroom to hear (that is, not confidential between the attorney and client).

Providing access to defense attorneys prior to arraignment allows privileged information to remain confidential and gives defense attorneys ample time to construct compelling release arguments.

Additionally, court partners must ensure defense attorneys are present at the initial appearance.

Research suggests when counsel is present at initial appearances, they can help prevent individuals from incriminating themselves and can explain the arraignment and release process, immediately improving due process early in case processing.[18]

Emerging research suggests that when defense attorneys meet with individuals prior to arraignment and are present at initial appearance, those individuals are more likely to experience:

- No cash bail or less expensive cash bail.[19]
- Less time in pretrial detention.[20]
- More positive case outcomes including a decreased probability of conviction and an increased probability of an eventual case dismissal.[21]

Case Study Access to Attorneys Pre-Arraignment

In early 2020, the **Public Defender's Office in Santa Clara County, California** piloted pre-arraignment legal services to individuals in-custody who qualify for indigent defense. Defense attorneys met individuals in custody prior to arraignment and collected information about the alleged incident, family, connections to the community, and employment history.

Individuals who met with the defense counsel prior to the arraignment hearing experienced more and earlier releases from jail. Specifically, individuals experienced release, on average, 12 days earlier than individuals who did not meet with an attorney prior to arraignment. The same pilot found that meeting with an attorney prior to arraignment also improved case outcomes directly, including a decreased probability of a conviction and an increased likelihood of a case dismissal. These changes in dismissals and convictions resulted in a decreased likelihood that individuals accepted plea agreements.[22]

Enhanced Practice Recommendation

Create structures between prosecutors and defense attorneys to share information about cases not proceeding with charges, when possible.

When defense attorneys meet with individuals prior to arraignment, they can collect strength-based information about the individual (e.g., housing, employment, support networks) to make a compelling case for pretrial release to the court. They may also have time to collect contact information for the individual's support network and encourage the support system to appear at initial appearance, allowing the court to see the individual has a support system to get to court as scheduled and follow pretrial release conditions.

If the defense attorney is aware that the prosecutor is not moving forward with the charges (e.g., insufficient probable cause, inaccessible witnesses), the defense attorney can use this time to educate the individual about statutes of limitation and how to know if the prosecutor's office refiled charges.

These additional moments of information-sharing increase transparency and due process, even for individuals whose charges are not proceeding.

Enhanced Practice Recommendation

Intentionally connect defense attorneys with individuals who remain detained pretrial with cash bail.

Pretrial detention, either via preventive detention or unaffordable cash bail, leads to impacts on individuals' health, employment, income, housing, and access to government benefits.[23] It can also have cascading impacts on individuals' case processing outcomes including greater likelihood of conviction or receiving a jail/prison sentence.[24] Scholars, advocates, and policymakers alike have described the impacts of pretrial detention as long-lasting and as creating irreversible harms to people who are detained, their families, and their communities.

While the structure of courts varies substantially across the country, many courts rely on multiple initial appearance hearings early in case processing. This may include the first arraignment or pretrial release hearing (sometimes referred to as a bond hearing) and include subsequent initial appearance hearings such as preliminary hearings (sometimes also referred to as a bond modification hearing).

These follow-up hearings typically focus on arraigning individuals on formal indictments following grand jury proceedings or other prosecutorial reviews. Importantly, these follow-up hearings provide an opportunity for

defense counsel to argue for modifications to cash bail for individuals remaining in custody under considerable financial burdens.

The courtroom partners must collaborate and develop processes which grant defense attorneys continued and sustained access to individuals during and between initial appearances.

This may be particularly helpful for sites where coordinating pre-arraignment attorney-client meetings may be too challenging to implement at scale.

Importantly, creating this intentional access to defense attorneys and an emphasis on modifications at subsequent initial appearances provide another systematic opportunity to increase due process, improve the quality of defense provided, and reduce disparate pretrial release outcomes.

Case Study
Connecting Defense Attorneys with Individuals Remanded on Cash Bail

In January 2018, the **Toledo Legal Aid Society (Ohio) and the Lucas County Mental Health and Recovery Services** partnered to create the Opportunity Project. The Opportunity Project (OP) provides case management services to individuals who remain in jail on judicially ordered bail between arraignment and their second appearance in court.

To participate, individuals must: (1) be held on bail; (2) have a charge associated with behavioral health challenges or have a known behavioral health challenge, and; (3) agree to participate in the program. If an individual agrees to participate, OP case managers collect information about the individual, identify their immediate needs, and make a case plan with the individual with direct links to community-based organizations. Then, the Toledo Legal Aid Society (TLAS) defense attorney uses the case plan information to leverage release at the second appearance in lieu of the currently assigned bail, thereby securing the least expensive and restrictive release possible for the individual. At inception, the program recruited individuals with felony charges who remained in custody after first initial appearance but has since expanded to recruit individuals with misdemeanor charges.

Prior to the implementation of OP, judges modified cash bail to a less restrictive pretrial release type (i.e., supervised release or release on recognizance) at the preliminary hearing for 85% of individuals with felony cases. Following the implementation of OP, judges modified cash bail for 91% of individuals. Specifically, after the implementation of OP, Black men were 3.5 times more likely to have their cash bail removed at the second appearance, securing their release earlier and avoiding unnecessary pretrial detention simply because they could not afford the initial bail amount.[25]

Overall, OP reduced the proportion of people in pretrial detention and shortened their length of stay: on average, OP participants were released four days earlier than individuals who did not participate in OP.[26]

Rely on the least expensive and least restrictive pretrial release conditions possible.

In the last 40 years, state laws and constitutions have required judicial officers to prioritize pretrial release or releasing individuals to the community during case processing. However, in practice, courts have relied on expensive cash bail that is out of reach for economically marginalized people, effectively creating a culture of pretrial detention even when they are legally obligated to prioritize release. This has led to incredible growth in the total jail population, especially among individuals experiencing poverty, and Black and Brown individuals. The impact of pretrial detention on case outcomes[27] and on individual wellbeing[28] is well-documented by research.

With a renewed understanding of how expensive cash bail impacts both individuals and jail populations, judicial officers are now making decisions more aligned with state laws and legislative requirements. Collectively, judicial officers have returned to a culture of *presumptive pretrial release* but still feel the need to order specific conditions to ensure a person will appear in court as scheduled. This could include electronic monitoring (e.g., Global Positioning Systems) or alcohol monitoring (e.g., SCRAM), requiring individuals to submit to urinalysis testing, requiring regular reporting to traditional pretrial service agencies, or a combination of these conditions. Despite good intentions of releasing more individuals, these surveillance-oriented conditions create substantial barriers for people already navigating systemic challenges.

Judicial officers must operate on the *presumption of the least expensive, least restrictive pretrial release*, enhancing due process and eliminating the cascading consequences to individuals navigating multiple pretrial release conditions. Further, courts which prioritize access to defense attorneys prior to and at initial appearance will see limited returns on these practices if the court relies on expensive and restrictive release conditions. The combination of court

culture prioritizing least expensive and restrictive release and meaningful legal representation at initial appearance to argue for these pretrial release types offers the greatest promise for reducing disparities across pretrial release outcomes, achieving jail population reductions, improving court appearances, and enhancing fairness during case processing.

Enhanced Practice Recommendation

Eliminate court ordered urinalysis testing conditions and severely restrict monitoring device conditions.

Despite courts across the country relying on urinalysis testing as a pretrial release condition, overall research shows inconsistent evidence about the ability of urinalysis testing to improve court appearance and reduce pretrial rearrest.[29]

However, the research explicitly states that individuals with a known substance use disorder who receive this pretrial release condition are more likely to test positive, receive a pretrial technical violation, and return to jail during case processing.

Further, for many individuals who navigate an open pretrial case and substance use treatment, this additional testing is duplicative and onerously expensive. Courts should eliminate ordering urinalysis testing as a pretrial release condition, even among individuals with a known substance use disorder.

At times, due to the nature of the charges—regardless of an individual's conviction or court appearance history—judicial officers may need to order monitoring devices (i.e., EM/GPS, SCRAM) for victims' safety and to help enforce protective orders. These more restrictive conditions are appropriate. However, when possible, court partners should develop policies that allow defendants to "step down" from monitoring devices, especially alcohol monitoring, following periods of compliance.

To note, research suggests electronic monitoring for defendants of intimate partner violence does not improve court attendance nor does it reduce new arrests.[30]

Case Study Pretrial GPS Policy

In July 2025, **Kern County, California** implemented a GPS policy which severely restricted its use for defendants during the pretrial period. The policy states individuals are eligible for a step-down evaluation after 90-days of compliance with the device. If local staff find in their evaluation removing the device is appropriate, they will make this recommendation to the court.[31]

However, research does show it can offer victims a sense of safety[32] and provide the court with important information about an individual's whereabouts should they violate their protective order.

Enhanced Practice Recommendation

Create a global waiver of appearance process and encourage individuals at initial appearance to complete and submit it to the court.

With legal representation at initial appearance, defense attorneys can provide and secure a global waiver of appearance. This process will allow the courts to proceed on matters in the defendant's absence, especially for hearings which do not necessitate their attendance (e.g., discovery hearings), and delegate decisions to their attorney.

These waivers can reduce the number of hearings an individual must attend, allowing them to focus resources and energy on attending hearings which necessitate their appearance (e.g., pleas, sentencing). In turn, this can reduce delays in proceedings and reduce case processing times. It can also reduce the likelihood of bench warrants and returns to jail from court absences.

Implementing this global waiver process at initial appearances can improve efficiency for the court while reducing barriers for individuals.

Enhanced Practice Recommendation

At post-arraignment release, enroll individuals in the local automated court reminder system if not using automatic enrollment.

Local jurisdictions should rely on automatic enrollment into the local ACRS. This is the simplest and most cost-effective approach to increasing the number of defendants who benefit from the service. Previous research shows that among defendants who returned to jail on a bench warrant for missing court, 90% wanted court reminders and 97% were comfortable with automatic enrollment.[33]

However, if the local jurisdiction is not using automatic enrollment, then all court partners—judicial officers, pretrial agencies, and defense attorneys—must prioritize post-arraignment release as an opportunity to enroll the defendant in the service.

Without automatic enrollment into an ACRS, **court partners must take a no-wrong-door-approach** for enrollment.

Further, without automatic enrollment, court partners must take a no-wrong-door approach which allows defendants multiple entry points (e.g., jail booking, release, hearings, attorney meetings) for enrollment.

As part of enrollment, staff should explain to individuals how to properly update their contact information, specifically if their phone number should change during the pretrial period. Enrollment materials should include informational handouts, in multiple languages, and other easily accessible resources for individuals to reference when necessary.

To meet this need, courts can create user-friendly request systems with multiple access points including online forms, phone requests and in-person assistance. Defense attorneys must also educate their clients on these services and push the court to provide these services for clients who need them.

Enhanced Practice Recommendation

Create clear and transparent processes for how individuals can secure accessibility and translation services during the entirety of case processing.

Individuals with limited English proficiency or language processing disabilities face significant barriers in navigating pretrial processes, often resulting in unequal treatment and negative impacts to due process.

Court systems frequently lack clear procedures for requesting services, access to adequate interpreter networks, and comprehensive accessibility accommodations during case processing.

It is crucial to establish comprehensive, transparent accessibility and translation service systems to ensure communication and accessibility barriers are not impacting pretrial processes and creating potential civil rights violations.

Reimagine pretrial supervision agencies as pretrial support agencies.

Criminal courts across the country process millions of individuals each year. As part of case processing, individuals must attend several hearings including discovery hearings, status hearings, and plea or sentencing hearings.

This means individuals must meet their personal obligations while also navigating multiple court responsibilities, sometimes for years.

Impressively, most individuals attend their court hearings as scheduled. For some, they may miss court a few times, and for a smaller population of people, they may persistently miss court.

New research suggests that when individuals do miss court, they do so for three primary reasons.[34] First, they are navigating life responsibilities such as childcare, employment, mental health and substance use therapies. Second, they may miss court for logistical concerns such as lacking access to or means to afford personal transportation, rideshares (e.g., Uber, Lyft), or public transit. Lastly, individuals report missing court because of institutional barriers such as experiencing racism or ableism by court actors, receiving too much, too little, or conflicting information regarding court appearance instructions, or fearing going to jail on the day of the hearing.

Pretrial agencies are currently responsible for encouraging individuals to appear in court by supervising and monitoring individuals via regular check-ins—by phone, virtually, or in person, and monitoring whether individuals are compliant with other court ordered conditions (e.g., electronic devices, protective orders, UA testing).

Across agencies, the intensity of supervision and monitoring varies, but regularly includes more intensive monitoring for individuals deemed less likely to appear in court as scheduled. Research shows that individuals experiencing poverty, and Black and Brown individuals are more likely to

experience higher-intensity monitoring compared to their white or affluent peers.

Pretrial agencies also vary substantially in the services they offer to individuals to help them get to court. While some agencies may emphasize offering services, nearly all current pretrial agencies prioritize monitoring compliance with pretrial release conditions (e.g., check-ins, curfew).

> ***Individuals may be exhausting their capital meeting supervision requirements rather than using this capital to attend court hearings.***

Ironically, pretrial supervision agency check-in requirements themselves can complicate an individual's ability to get court as scheduled. Pretrial supervision in-person reporting or programming requirements may be scheduled more frequently than court hearings.

Individuals may be exhausting their social and financial capital getting to pretrial supervision appointments and no longer have the means to attend court hearings, the more important obligations.

Therefore, a pretrial supervision OR monitoring agency which demands compliance with check-in requirements may inadvertently create competing demands that make the primary goal—to get to court—more difficult to achieve.

Recent research shows mixed results on the effectiveness of the current model of pretrial supervision agencies.[35] Some research suggests that for individuals with limited resources, pretrial supervision does not improve court appearance and creates additional barriers because they do not have the resources to navigate both pretrial agency and court obligations.

Importantly, when individuals are non-compliant with pretrial supervision rules and accrue "technical violations," most pretrial agencies report this non-compliance to the court. The court may issue a failure-to-comply warrant and which may return the individual to jail or give police authority to bring the individual directly to court.

> Pretrial supervision agencies, in their current form, often create new pathways back to jail, **recasting pretrial supervision as simply *delayed pretrial detention.***

When they return to court, a judicial officer will revisit their pretrial release status and may decide to remand the individual to pretrial detention for the remainder of their case processing because of their pretrial non-compliant behavior—behavior that is not a new crime.

Further, some research explicitly states that when pretrial supervision does improve court appearance, it is unclear if it is from pretrial monitoring itself or because the individual returned and remained in jail from a pretrial technical violation.

Therefore, pretrial supervision/monitoring agencies, in their current form, often create new pathways back to jail, recasting pretrial supervision as simply delayed pretrial detention.

This does not mean we should abandon pretrial agencies. Rather, we must *reimagine* them.

Jurisdictions must be willing to reshape pretrial supervision agencies into pretrial support service (PSS) agencies.

Enhanced Practice Recommendation

Reserve referrals to PSS for individuals least likely to appear in court without support and most likely to experience a new arrest while on pretrial release.

Individuals who are deemed most likely to miss court are typically extremely under-resourced and live in historically disinvested communities. Therefore, they need more intensive *support* and resources to get to court as scheduled.

Judicial officers should prioritize ordering individuals to report to the Pretrial Support Service agency (1) who are least likely to appear in court without support and (2) most likely to experience a new arrest while on pretrial release.

Courts can rely on their local actuarial assessments to help triage individuals for PSS placement and avoid ordering individuals to PSS who score low on their risk of court absences and low on the likelihood of a new arrest during pretrial.

Enhanced Practice Recommendation

Allow PSS to operate as either a structurally or operationally independent agency, treat engagement with PSS as voluntary, and report compliance to the court in rare and select cases.

Pretrial support agencies should operate either as a structurally or operationally independent agency from the court.

As an independent agency, an extension of the court, or a local municipal or county government, PSS must be viewed by the court through a treatment lens.

This means courts should judicially order individuals to initial intake and assessment with PSS, but all other activities, including check-ins, should be voluntary. This eliminates contact standards, other onerous pretrial supervision conditions, and the need for compliance reporting to the court.

It allows PSS staff to focus energy and resources on providing targeted and

comprehensive support and service referrals, rather than monitoring compliance.

> ***This shift requires a fundamental rethinking of the relationship between courts and pretrial services.***

Rather than treating pretrial services as an extension of the court's reach, court partners must establish these agencies as separate support-centered entities, helping people navigate the complexities of court involvement.

This approach recognizes that getting people to court is the core mission of both PSS and the court, and that punitive responses to non-compliance often undermine rather than support this goal.

Structurally or operationally independent pretrial support agencies are better positioned to build relationships, respond flexibly to complex needs, and center care for the individual.

Work in two pretrial sites—Cass County, Indiana[36] and Missoula, Montana—shows individuals who engage in pretrial support services voluntarily are more likely to engage in and complete treatment during the pretrial period.

Understandably, for individuals assigned to device monitoring or subject to protection orders for victim safety, compliance reporting is necessary.

However, as standard practice, courts should only require PSS to report compliance with these specific conditions.

Enhanced Practice Recommendation

Implement effective warm handoffs following release from jail and immediate engagement.

The time immediately after pretrial release is a vulnerable time for individuals, many of whom may have experienced several days of detention in crowded conditions, may be without their medication, withdrawing from substances, or worrying about their housing and employment.

This level of overwhelm can interfere with individuals reporting to pretrial services as required, usually mandated within 24 hours of release.

To eliminate or significantly reduce the likelihood of missing the first appointment with pretrial services, PSS agencies can implement warm handoffs. This would look like staff meeting individuals immediately after arraignment or at the point of jail release.

This allows PSS staff to make a personal connection, reduces barriers to attending

the first pretrial services appointment, and creates greater understanding of the next steps in case processing, ultimately enhancing fairness and due process.

Case Study
Warm Handoffs to Pretrial Agencies

The **San Francisco Pretrial Diversion Project** staff pick up individuals identified as needing significant support to get to court directly from the jail and conduct an immediate assessment, avoiding the loss of engagement between jail release and reporting to pretrial services. Monica Perez, Senior Director of Programs, explains, "We've always operated on second chances and building rapport with the clients, so clients can continue to engage and come back."

Perez says that meeting clients at jail and walking them to their office has been helpful because "It's a way to immediately build rapport with them. We have snacks back at the office, a warm cup of coffee—a small gesture we can offer them. It does make a difference."

Enhanced Practice Recommendation

Rely on needs-based assessments to provide targeted services to individuals, focused on court attendance during the pretrial period.

While traditional pretrial supervision agencies may focus on predictors of new arrest, these predictors are often long-term needs that are not easy to address in the pretrial period. Instead, PSS must focus on helping individuals get to court as scheduled.

PSS staff should conduct a comprehensive needs assessment to identify the key areas which may complicate court attendance. This may include understanding basic needs (e.g., food and water, clothes, shelter), transportation challenges, caretaking responsibilities, and employment status.

The needs assessment should consider how traditional protective factors (e.g., employment or caregiving) may function as barriers to court appearance.

These need assessments should ask targeted questions about the help individuals perceive they need to navigate these important personal obligations with their court obligations.

Case Study
Treating Pretrial Services as Voluntary Engagements

The **Pretrial Assistance to Support Success (PASS) program is Missoula County's (MT)** pretrial support program which predominantly serves municipal court defendants. In response to the number of low-level misdemeanors seen in the Missoula City Court, the pretrial team and judges came together to create something new. Stephen Thompson, Court Programs Administrator, explains why they critically challenged the standard model of pretrial supervision, "In the research we've done, there was an overwhelming amount of information saying that [monitoring and giving violations], those things have not resulted in any significant improvement to court attendance, public safety, or victim safety. In some cases, it's actually shown to increase rates of recidivism because it just sets up more barriers for defendants that they're not able to achieve, so they get violated."

In response, Missoula City Court staff came together and created a court-ordered-but-voluntary program where judicial officers order individuals to PASS, but there is no penalty for not engaging with their services. As such, PASS does not report non-compliance or limited engagement with their program to the court, Instead, PASS defers to individuals to share their progress with PASS with the court. Thompson explains, "What we found is that the progress people are making is often highlighted during hearings by the defendants themselves or their defense attorneys because it's things they want the court to know that obviously will benefit their case...Everything we read was that the more you focus on addressing somebody's basic needs, the better success rate you'll get in terms of court appearance, lower recidivism, things like that. So that's what is focused on here in the program."

In this way, participation in PASS provides individuals with direct and targeted sources while eliminating rules or contact requirements which ultimately undermine court appearance and increase the likelihood of receiving a bench warrant and returning to jail.

Several pretrial support agencies across the country conduct comprehensive needs assessments (e.g., City and County of San Francisco, CA; Santa Cruz, CA; Missoula, MT) and develop case management plans with individuals.

These case management plans primarily identify the resource needs for court attendance but may also include referrals for longer-term needs such as substance use or behavioral health treatment. In these cases, these referrals are not reported to the court (e.g., Missoula, MT) and instead exclusively operate as a voluntary activity between the PSS agency and the individual.

Enhanced Practice Recommendation

Establish targeted services which explicitly help individuals struggling to secure basic needs.

A successful court appearance requires more than simply showing up. To meaningfully appear and participate in their own defense, people need their basic needs met, i.e., food and water, opportunities to bathe and groom themselves, and appropriate clothes to wear to court.

Meeting these basic needs is crucial, especially for individuals navigating court systems with explicit rules about dress and personal appearance.[37]

Pretrial support services can facilitate access to food, hygiene, and clothing by distributing resources like food and toiletries directly from their office.

In some jurisdictions, the pretrial service agencies pay for individuals to stay in a hotel the night before their hearing, allowing them to shower and rest before appearing in court.

Some pretrial service agencies partner with non-profit organizations like Dress for Success to help women access court-appropriate clothing.

Other pretrial agencies provide individuals with direct assistance with completing applications for public assistance programs like SNAP, WIC, Medicaid, or Medicare.

Enhanced Practice Recommendation

Establish targeted services which explicitly help individuals navigate transportation challenges.

Transportation is a significant and well-documented barrier to court appearances,[38] leading individuals to miss court and receive new bench warrants for court absence.

To help people get to court, some pretrial agencies offer transportation vouchers for public transit services, or collaborate with city officials to allow individuals to ride public transit for free by showing

court documents for the day's hearing. Where reliable public transit is not available or appropriate for the client, vouchers for ridesharing services like Uber and Lyft may be more useful.

Pretrial agencies have partnered with local companies to provide free rides (e.g., Hennepin County, MN).[39] For example, Hennepin County's Court Ride (later renamed Client Ride) program provided transportation to court hearings, as well as to attorney meetings and other appointments, like check-ins with social workers, work programs, or treatment programs.

Another option to help people navigate transportation issues is to allow and

Case Study Helping Indviduals Secure Basic Needs

Following a needs assessment with the **Santa Cruz County (CA) Probation Department Pretrial Division**, pretrial division staff provide survival kits to individuals who need help securing basic needs. This includes sleeping bags, food, and hygiene supplies.

Armando Baltazar, Assistant Division Director, explains it is important to their agency that individuals get their basic needs met, including feeling a sense of safety during the pretrial period, "We want to make sure the client is aware of all the resources and that we explain our program step-by-step. What do you need today to be successful and [feel] safe tonight?"

Enhanced Practice Recommendation

Establish targeted services which explicitly help individuals with disabilities and accessibility needs.

Individuals with disabilities are disproportionately represented in the pretrial period[40] and face significant challenges, often resulting from poor accommodation and support services that interfere with their ability to successfully navigate the justice system.[41]

The Americans with Disabilities Act (ADA) mandates that individuals with disabilities must be provided an equal opportunity to participate in programs and services offered by state and local governments, which includes court services and court proceedings.[42] Yet, inaccessibility remains a widespread problem throughout U.S. court systems.

Pretrial detention, even briefly, can exacerbate disabilities by creating sensory or cognitive overload,[43] preventing individuals from accessing established treatment services and interfering with their disability aides and management strategies (developed over time and highly specific to individual

needs and preferences).[44]

If released under a traditional model of pretrial supervision, individuals with disabilities may experience challenges understanding and complying with pretrial supervision rules, communicating with pretrial supervision officers and other authorities, getting to appointments, and engaging in court mandated programming (e.g., substance abuse treatment, behavioral health services).[45]

Courts or pretrial support services can partner with community organizations providing specialized disability services and can also rely on the networks of local crisis and mental health teams for additional support.[46]

These specialized disability services can improve court appearance rates, reduce rearrest during pretrial release, and enhance overall case outcomes training[47] and resources.[48]

> ***Pretrial detention, even briefly, can exacerbate disabilities by creating sensory or cognitive overload.***

Case Study Helping Indviduals with Disabilities

The needs assessment in the initial intake process in **Santa Cruz County (CA)** explicitly asks individuals if they need mobility assistance, translation services, or other accessibility services. With this information, staff collaborate with community resources to ensure these needs do not create additional barriers to court attendance.

Division Director Yolanda James-Sevilla shared a story about how the pretrial division collaborated with jail transportation staff to help an individual with mobility needs get to court, "Our pretrial staff got up at 7:30 that morning, met her at the hotel [we paid for], assisted her to court, stayed with her while the hearings took place. The case ended up being settled as a conditional sentence, so she was sentenced to no supervision by us at all."

James-Sevilla continued, "Then staff got her back to the hotel, where we paid for an additional night just so that she could have a bit of a transitional period, a little bit of stability."

Enhanced Practice Recommendation

Establish targeted services which explicitly help individuals navigating houselessness.

The significant challenges of getting to court (e.g., tracking court dates, meeting basic needs, and arranging for transportation) are even more daunting for people who are also experiencing houselessness. Around the country, several jurisdictions have launched innovative programs to help reduce housing as a challenge to attending court as scheduled.

Pretrial support service agencies have implemented programs which enroll individuals on local waitlists for permanent housing (Pima County, AZ and the City and County of San Francisco, CA) and provide temporary hotel rooms prior to court hearings (Santa Cruz County, CA). Some jurisdictions have also begun implementing shelter court dockets which explicitly create virtual spaces where individuals can attend court from their shelter (Missoula, MT).

Case Study Helping indviduals Navigating Houselessness

Missoula County's (MT) Pretrial Assistance to Support Success (PASS) program collaborates with the municipal court to host Shelter Court at the Johnson Street Shelter and the Poverello Center.

Program Manager Melissa Vawter explained PASS sets up laptops and iPads at the shelter and a public defender is present, while the prosecutor and judge appear virtually via Zoom. Vawter offers, "We have this program because our municipal court judges wanted this."

When asked about how other jurisdictions could create similar programs, Vawter emphasized the importance of having judicial champions, "I really do think it's the people that are involved in it, having a passion for it, working together as a team to do it. Hopefully it's the kind of thing that, if presented to other courts, even if not initially on board, they'll see that this can work, and here's why, and here's proof that it works in Missoula."

Enhanced Practice Recommendation

Establish targeted services which explicitly help individuals navigating substance use disorder.

For people experiencing substance use disorder (SUD), navigating the pretrial period can be especially challenging.

Substance use disorders are like other chronic diseases which require personalized treatment, ongoing management, and lifestyle changes, all of which require oversight from a medical professional, money, and resources.

Around the country, pretrial support agencies help individuals navigate substance use disorder by routinely making community-based referrals to in- and out-patient treatment (Pima County, AZ; City and County of San Francisco, CA; Santa Cruz County, CA; St. Louis County, MO) without mandating initiation or engagement.

Some agencies also connect individuals directly with providers which specialize in medications for substance use disorder, and opioid use disorder, specifically.

Other agencies provide naloxone and fentanyl testing strips as part of an overarching harm reduction strategy (Chesterfield County, NC).

Other pretrial support agencies rely on peer recovery specialists (City and County of San Francisco, CA; Chesterfield County, NC)—people with lived experience with SUD and the criminal legal system—to help individuals navigate both treatment initiation and court obligations. Pretrial service agencies report that pretrial peer recovery specialists are a particularly valuable resource because they can offer both in-the-moment support informed by their personal experience and a hopeful model of recovery.

Enhanced Practice Recommendation

Establish targeted services which explicitly help individuals navigating caregiving responsibilities.

For people who are caregivers for children or dependent adults, appearing in court requires additional effort to arrange alternative care. Asking people to rely on favors from others to provide care during every required court appearance accelerates the depletion of their social capital—that is, there may only be so many times an individual can ask their support network for favors to care for a loved one or pay for caregiving services while they attend court.

Courts across the country have implemented on-site free childcare centers with qualified staff, allowing parents and caretakers to attend court as scheduled without the financial or logistical burden of securing additional help.

Case Study
Pretrial Peer Recovery Specialists Supporting Individuals with Substance Use Disorder

Melody Force is a Forensic Peer Recovery Specialist with **Chesterfield Community Corrections Services (NC)** and provides peer support to any individual navigating the pretrial process. Guided by her own lived experience with SUD recovery from substance use disorder, she facilitates peer support groups twice a week.

She also connects people navigating pretrial with housing, food, insurance, transportation, income assistance, counseling, substance use treatment, employment, and harm reduction strategies. "I try to connect people immediately to the services they need, and I do that directly," she explained, "I don't give anyone a referral and send them out the door…When I first started, I was walking through the parking lot and I can't even tell you how many referral sheets, you know, some type of information was on the ground."

She explains that referrals to services without direct connections fail because individuals are navigating too much or feel overwhelmed with past experiences that they are unable to make connections independently. Force is clear that her role as a peer recovery specialist does not supplant that of full-time pretrial support services staff, "I'm here to support them, too… My job is to relate to your client and to show them that they can be successful, which makes your job easier and improves their chances of living a normal life – if they know it's possible. I build that rapport and I show them the ropes…it is showing proof of change."

She believes peer specialists are critical during the pretrial period, "When someone's incarcerated, it's traumatic." Force continues, "Things that happen there are traumatic. If someone's traumatized by that, and also has trauma and stigma around coming to a [pretrial] office, they may think 'This person wants me in trouble. They're going to tell on me.' A peer support person can come in saying, 'I understand why you feel this way, and I know it's really difficult to come up here and share your life with a stranger, but you don't have to go back to that.'"

Case Study
Helping indviduals Navigating Caregiving Responsibilities

In Southern California, **Catalyst Community** provides free, drop-in childcare at courthouse facilities.

Their 16 locations vary in size, but all operate within a separate room in the courthouse where they can set up a comforting and entertaining space for children with "games, toys, art, and all sorts of developmentally appropriate materials" to "help kids get away from the drama that's currently happening in their lives and give them a space to just be kids," explained Program Manager Kayla Crossen.

The program is staffed by qualified childcare workers, many of whom were previously teachers or other early childhood professionals.

"It is particularly important to have well-qualified staff," Crossen said, "because, in the courts, it's definitely different than working in a regular classroom. We have kids that have been removed from their homes or are just going through really rough situations. Our big purpose is having a trustworthy person that these kids can rely on."

Catalyst also offers a sense of stability through their courthouse locations by keeping children's art displayed. "We put kids' artwork up on the walls and we showcase that, so when kids come back and they remember, 'Oh, hey, I drew that picture. You actually did hang it on the wall, I thought you were just gonna throw it away.'"

Catalyst tries to provide a variety of activities to meet the needs of children of all ages and the rooms can be a therapeutic space where children can engage in play and creative activities and escape the stress of court.

Enhanced Practice Recommendation

Train PSS staff to engage with individuals with a coach-orientation rather than from a compliance-monitoring approach.

Traditionally, pretrial agency staff take a compliance or surveillance approach to individuals on their caseload. This includes focusing on compliance with check-in requirements and avoiding engaging individuals to understand the challenges for appearing in court.

In contrast, a coach-orientation reshapes pretrial agency staff to deeply invest in the success of individuals on their caseload.

This involves getting to know the strengths and challenges on individuals on their caseload, working with individuals to voluntarily connect with services and helping them follow through on those connections, and collaborating with them and their defense attorney to plan for court appearances.

PSS agencies should transform their staff's approach to a coach-orientation aimed at relationship building, identifying challenges before they occur, and ensuring individuals feel accountable to their required court hearings.

Case Study PSS Staff Taking a Coach-Orientation with Individuals

Cass County Court and Pretrial Services (IN) implemented a new training model for their staff. This model emphasized training agency staff as coaches, invested in the success of individuals on their caseload instead of staff who focus on compliance-monitoring.

This training approach emphasized staff as advocates for individuals who actively invest in individuals' immediate and long-term success. The training approach also focuses on compassionate accountability, allowing staff to provide firm but gentle guidance to individuals struggling to attend court.

Since implementing this coach-like training with staff combined with a voluntary approach to their pretrial services, Cass County, IN, has observed an increase in treatment initiation and engagement, including a 75% therapeutic program participation rate with 86% of individuals successfully completing treatment. They also secured 91 voluntary inpatient treatment beds, and have observed increased court attendance and decreased new arrests during the pretrial period.[49]

Enhanced Practice Recommendation

Evaluate effectiveness of PSS through court apeparance rates rather than blunt measures of court appearance.

Pretrial agencies around the country, particularly those doing the most innovative work, frequently emphasize the importance of having high-quality process and outcome data and of sharing information with court partners (Santa Cruz, CA; Cass County, IN; St. Louis, MO).

This includes data reports and share-outs which detail the

- Number of individuals assessed.
- Number and types of referrals provided.
- Number of individuals who enrolled in programming.
- Number of individuals who completed programming during pretrial period.
- Number of individuals who secured stable housing during pretrial period.
- Number of individuals who secured employment during pretrial period.
- Court attendance history for participants.
- New arrest rates for participants.

These metrics emphasize program success, encourage interest, and elicit buy-in from justice partners.

Pretrial service agency managers explained that this type of data allowed them to tell the story of their programs, especially to skeptical judges. Yolanda James-Sevilla, Pretrial Division Director in Santa Cruz County, California offered, "If they see the data, they may not just focus on those repeat people and see that, 'Hey, this program has a 92% success rate [overall].'"

Similarly, Sarah Phillips, Pretrial Services Supervisor in St. Louis, Missouri used data from her agency to show judges that her agency's supportive practices were increasing court appearance rates which helped to secure additional funding for her agency to show judges that her agency's supportive practices were increasing court appearance rates which helped to secure additional funding for her program. When you have high-quality data, Phillips says, "You prove to everybody else that this can be incredibly successful, that it's safe and has these really meaningful outcomes."

The best data collection and reporting practices are useful beyond simply tracking contacts and court appearances.

Sharing data with stakeholders and encouraging conversation and collaboration can lead to important questions and answers about pretrial support and its role in the broader

context of the court. James-Sevilla shared that sharing "data blasts" with judges, attorneys, and law enforcement has increased their court partners' understanding about who needs more support in the pretrial period.

Additional to traditional quantitative metrics, PSS agency leaders must also rely on success stories from participants to demonstrate their impact. "That's where [qualitative] data can be helpful," said Kim Lahiff, Pretrial Services Program Manager in Missoula County, MT. "I want the whole person talked about, not just the things—like, yes, he got arrested thisweekend, but up until this point, he had been reporting on time, he made it to his court appearances, and he was sober, right? All those things are true. You have to tell the whole story, not just the parts."

Storytelling supported by data can make a compelling case for court partners that the PSS agency is effectively helping individuals with the most complex needs and limited resources. PSS agencies can collect this data through surveys of participants which explicitly ask participants to release their answers for larger storytelling purposes.

Case Study
Measuring PSS Effectiveness and Using Data Thoughtfully

THE BAIL PROJECT

The Bail Project tracks the rate of court appearances instead of simply recording bench warrants for non-appearance. "We say how many court appearances that folks show up for," explained Tara Watford, Data Chief and Program Innovation Officer, "because some jurisdictions are an average of nine court appearances for a misdemeanor case."

This high number of required appearances places a significant burden on defendants and increases the likelihood of missed court appearances even for those who are making a concerted effort to get to court.

Create a support-oriented court ecosystem focused on reducing barriers to court attendance and enhancing fairness.

For individuals who consistently and persistently miss court, their absence is often not willful. In fact, research shows individuals who regularly miss court are making decisions to prioritize survival needs (e.g., income, shelter) over court appearance.[50] Individuals must navigate challenges for each scheduled court hearing, making chronic absence more likely for individuals who have multiple challenges and limited resources.

When individuals do not attend as scheduled, courts primarily rely on bench warrants to bring individuals back to court. Bench warrants are court orders directing law enforcement to arrest individuals and bring them to jail or directly to court, where judicial officers will make a new ruling on their pretrial release status.

Across most jurisdictions, courts automatically issue bench warrants for non-appearance regardless of whether an individual has a history of successfully appearing in court as scheduled. This means missing even one court hearing can result in a jail stay.

Recent research finds that 40% of all outstanding warrants were for court absences[51] and a warrant for missing court is often why individuals return to jail during case processing.[52]

The practice of issuing bench warrants for missed court appearances imposes a significant financial burden on taxpayers. This may include:

- The personnel cost needed to locate, arrest, and transport the individual to jail.
- The additional cost of booking the individual.
- The daily cost of detaining the individual.
- The additional personnel and court fees associated with processing bench warrants.

Especially within jurisdictions which rely on passive execution of bench warrants, it may take months or years before police encounter an individual and execute the warrant, creating extreme case processing times and delays to justice.

Some courts may charge a warrant reimbursement fee to individuals[53] and some research shows that courts often spend more money trying to collect warrant fees than the total they collect.[54]

Bench warrants increase law enforcement and court workloads, increase jail populations, and divert law enforcement and court resources from more serious offenses. Ultimately, bench warrants are an incredibly expensive strategy for courts and communities to rely on with no guarantee of improvements to court appearance rates.

However, defendants are not the only party to miss court.

> ***Research shows police, witnesses, victims, and lawyers miss court more often than defendants.[55]***

When these essential actors miss court, that, too, creates additional case processing delays, uses more court resources, and requires defendants and other parties to attend an additional hearing they had not anticipated.

These additional court requirements can further exhaust individuals' resources and impact their ability to get to future court hearings.

While other key players in court cases may miss court hearings, courts usually only punish defendants for their absence.

Unfortunately, receiving one or more bench warrants can have compounding consequences. This can include increased financial burdens, increased surveillance during pretrial release, increased time in pretrialdetention, and potential impacts on case outcomes.

Taken together, this research suggests jurisdictions must refrain from insisting that absence is due to willful non-compliance or evading accountability.

Courts must simultaneously understand that an individual may treat their criminal case as an important obligation and weigh a singular hearing or meeting's importance against other personal obligations.

Court partners must understand court absence, particularly persistent court

Courts must understand that an individual may treat their criminal case as an important obligation ***and*** weigh attendance at a singular hearing against other personal obligations.

absence, is largely rooted in poverty and disinvestment of community infrastructure.

With this understanding, it is clear the only path forward is for court partners to create an ecosystem of policies and practices which fundamentally reduce barriers to court attendance.

Enhanced Practice Recommendation

Reduce the number of required hearings

Many jurisdictions require defendants to attend numerous hearings; however, defendants may legally only need to attend arraignment, plea hearings or trial hearings, and sentencing.

Courts should review the hearings which require an individual's appearance in their jurisdiction and develop a process for defendants to waive their appearance at other hearings.

This can immediately reduce court absences, especially for non-essential hearings, by allowing individuals to focus their limited resources on attending the most important hearings.

This can immediately reduce court absences, especially for non-essential hearings, by allowing individuals to focus their limited resources on attending the most important hearings.

Enhanced Practice Recommendation

For court hearings which require attendance, allow virtual attendance as much as possible.

Virtual court options allow people to appear in court from their home, their attorney's office, or a nearby community location. Research shows virtual technologies (e.g., Zoom, WebEx) can help individuals attend court more easily without exhausting their personal resources like time off work, transit fares to get to court, or favors from support networks for rides.

When physical presence is not legally required, courts should permit virtual attendance.

However, previous research suggests that when offered, individuals sometimes avoid virtual options—even when it would be easier for them—because they perceive that judicial officers treat virtual appearances less favorably than in-person attendance and are more punitive towards individuals who appear virtually.[56]

> Research shows that some individuals believe judicial officers treat people who appear virtually more harshly than those who appear in person.

To counteract this issue, courts must also actively promote these options as alternatives to in-person attendance and

treat them as equal to in-person appearances.

To address this perceived bias, courts can:

- Establish clear policies that virtual appearances receive identical consideration as in-person appearances (and collect outcome data to confirm that there are no disparities due to modality alone).
- Train judicial officers on maintaining neutrality regardless of appearance type.
- Provide technical support ensuring individuals can sucessfully access virtual platforms.

Courts should also ensure virtual options include proper interpretation services, private communication channels between defendants and attorneys, and backup plans for technical difficulties.

Defense attorneys must explain these services are available for virtual appearances, and advocate for their use.

Enhanced Practice Recommendation

Consider individual availability.

Current court scheduling practices prioritize prosecutor and defense attorney availability and do not consider a defendant's schedule and availability.

This approach ignores the reality that many individuals work hourly jobs (where missing work means lost wages or outright dismissal) or have caregiving responsibilities that cannot be easily rearranged.

Courts can consider an individual's ability to attend court by:

- Asking about work schedules, caregiving needs, and transportation constraints during initial appearances or follow-up hearings prior to or during scheduling.
- Offering multiple hearing time options during standard hours, including early morning, lunch hour, late afternoon, and weekends if possible.
- Creating new open dockets, particularly at night or on weekends, to increase the available options for individuals.

Enhanced Practice Recommendation

Rely on ACRS to send notifications for missed court appearances.

Another generally beneficial practice is providing opportunities to clear warrants for missed court hearings without being rearrested.

Evaluations of notifications after missed appearances show that they increase prompt appearance to avoid warrants and reduce future missed appearances.[57]

The most effective strategy was pre-court date notifications combined with post-missed appearance messages.

Enhanced Practice Recommendation

Establish open dockets for "Make Up" appearance opportunities.

Courts can create regular opportunities for individuals to resolve missed appearances without experiencing arrest and jail booking. These "make-up" dockets may operate during evening or weekend hours at least monthly, with some jurisdictions with greater capacity offering biweekly or even weekly options.

Some courts have successfully implemented walk-in hours where individuals who previously missed their hearing can appear voluntarily to resolve their cases.

This approach reduces the cost to police and jails, while offering more flexibility to individuals.

Marketing these opportunities throughout the court building, community organizations, defense attorneys, and social media ensures individuals know about these opportunities and can take advantage of them when necessary.

Enhanced Practice Recommendation

Implement graduated response procedures for missed court appearances.

Rather than defaulting immediately to bench warrants, courts should adopt a graduated response system that escalates interventions based on individual circumstances and case history.

Step 1: Leverage Defense Counsel Relationships.

Defense attorneys are uniquely positioned to identify client-specific issues. When an individual misses their hearing, courts should rely on defense counsel to contact the individual. Following this contact, the defense attorney can coordinate with the court to reschedule the hearing at a time the individual is available.

Formalizing communication channels between defense counsel and court clerks can expedite scheduling. This would leverage the same processes and allowances used for witnesses and victims who miss court.

Step 2: Issue Cite-in-Lieu Warrants or Summonses.

If direct contact is not successful, courts can issue cite-in-lieu warrants or summonses that afford a fresh court date without a new jail booking. These court orders carry similar legal weight as bench warrants but allow individuals to retain their pretrial release status and resolve their missed appearances without a new arrest.

Step 3: Use Bench Warrants as a Last Resort.

Reserve bench warrants for individuals whose case charges or conviction history include violent offenses or for cases involving repeated missed appearances after all other interventions have been exhausted and unsuccessful.

Bench warrants are an incredibly expensive strategy for courts and communities with no guarantee of improvements to court appearance rates.

conclusion

Millions of Americans navigate the pretrial experience every year, but their experiences are individually shaped by their release type, their own resources and support systems, and the assistance they receive from court partners along the way.

Complying with pretrial release conditions and attending all required hearings imposes a significant burden on defendants and their social support networks.

When individuals miss court appearances due to these resource constraints, the court system experiences case processing delays and other disruptions, adding more work to an already overtaxed system, postponing justice for victims, and costing communities more money.

Research shows that lack of resources and historic community disinvestment are responsible for many of the outcomes considered "failures" in the pretrial period, like missed court hearings or pretrial monitoring check-ins.

Compliance-centric pretrial systems that emphasize strict adherence to the rules and respond to violations with warrants and reincarceration only exacerbate the existing challenges for defendants and all but ensure that they will continue to struggle.

In the worst-case scenarios, compliance-centric pretrial systems lead to people being further entangled in the court, worsening their outcomes for their current case and making it more likely that they will experience harsher treatment in the future – all because they lacked the resources to comply with burdensome conditions.

Improving the administration of justice requires all court partners to actively remove barriers to court appearance by adopting a support-oriented framework.

In this report, we have offered court partners five guiding principles for the implementation of a support-oriented pretrial system.

For each guiding principle, we have provided information about a current-day pretrial system that is implementing these practices to great success—reduced jail populations, shorter jail stays, better case outcomes, and more supported people.

We believe a new approach to justice is possible by transforming our response to court absence from punishment to support.

Our recommendations are the first steps forward.

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FIRST STEP *FORWARD*

Transforming the Pretrial Period from Compliance to Support

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JUSTICE SYSTEM PARTNERS