



Implementing the
Recommendations of the
2011 National Symposium
on Pretrial Justice:
A Progress Report

January 2013

Acknowledgements

At the closing of the Attorney General's National Symposium on Pretrial Justice, the attendees were challenged to place pretrial justice reform into the hands of policy makers and practitioners nationally. No one who attended the symposium only a year and a half ago could have possibly imagined the success with which that challenge has been met.

As you will read in this report, an astonishing array of stakeholders has moved the symposium's recommendations into action. Our chief difficulty in preparing this summary has been knowing when to stop updating it, as new pretrial justice initiatives, reports and policy statements come forth weekly.

Our sincerest thanks go to our many partners and allies whose work appears in this report. You have truly turned this work into a national movement. Thanks, too, to the "unsung" individuals who work tirelessly at the local level to expose the inequities and dangers of our current system. Together, we will create safe, effective and fair pretrial justice systems across the land.

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Implementing the Recommendations of the 2011 National Symposium on Pretrial Justice: A Progress Report

On May 31 and June 1, 2011, the Office of Justice Programs (OJP) of the U.S. Department of Justice, together with the Pretrial Justice Institute (PJI), held a National Symposium on Pretrial Justice. The Symposium brought together representatives of associations of key stakeholder groups, including law enforcement, judges, prosecutors, defense attorneys, jail administrators, pretrial services, victims, and county and state elected and appointed officials. This was the first national gathering on such a scale on the issue of pretrial justice since then-U.S. Attorney General Robert F. Kennedy convened the National Conference on Bail and Criminal Justice in 1964 – an event that launched a Bail Reform Movement.

While great strides have been made in improving pretrial justice since 1964, the Bail Reform Movement soon stalled, leaving a deeply flawed system in which a defendant's access to money, rather than risks posed, more often than not determines whether the defendant is released pending trial. The purpose of the 2011 Symposium was to highlight the major shortcomings in current pretrial release decision making practices and identify ways to transform those practices to make them safe, fair and effective.

At the Symposium, participants produced a list of recommendations for enhancing pretrial justice. Among the recommendations was that jurisdictions across the country move toward developing a system of pretrial justice that would have the following elements:

- Use of citation releases by law enforcement in lieu of custodial arrests for non-violent offenses when the individual's identity is confirmed and no reasonable cause exists to suggest the individual may be a risk to the community or to miss court appointments.
- Elimination of the use of bond schedules that allow a defendant to bond out of jail before appearing in front of a judge for a bail-setting hearing.
- Screening of criminal cases by an experienced prosecutor before the initial court appearance to make sure that the charge that goes before the court at that hearing is the charge on which the prosecutor is moving forward.
- Presence of defense counsel at the initial appearance who is prepared to make representations on the defendant's behalf on the issue of pretrial release.
- Existence of a pretrial services program or similar entity that conducts a risk assessment on all defendants in custody awaiting the initial appearance in court; provides supervision of defendants released by the court with conditions of pretrial release; reminds defendants of their upcoming court dates; and regularly reviews the pretrial detainee population in the jail to see if circumstances may have changed that could allow for pretrial release.
- Availability and use of detention without bail for defendants who pose unmanageable risks to public safety or appearance in court.

Symposium participants also issued recommendations for specific groups, including the Office of Justice Programs, federal, state and local legislators, key stakeholder groups, the philanthropic community, and the academic community.¹

One of the recommendations was to establish a multidisciplinary Pretrial Justice Working Group (PJWG) to meet regularly to review and synthesize the efforts underway to advance all the recommendations of the Symposium. The PJWG met for the first time in October 2011. At that meeting, the PJWG established three subcommittees – Research, Communications, and Criminal Justice System – to expand participation of stakeholder groups beyond those represented on the Working Group and to coordinate the pretrial justice initiatives undertaken by members.

The charge for the Research Subcommittee is to advance a research agenda in support of pretrial justice reform through the pursuit of the following goals: stimulate detailed pretrial justice data collection at the local, state, and federal level; stimulate quantitative and qualitative research within the government and academic research communities; support existing OJP initiatives on county justice systems with evaluations to produce and document evidence-based practices; and stimulate pretrial justice courses in undergraduate and graduate programs and law schools.

The Communications Subcommittee is responsible for advancing pretrial justice policymaking through public discourse, public opinion and media coverage. Its goals are to create a media campaign for public education purposes; promote pretrial justice “best practice” as an integral element of reform among the growing number of states that are seeking cost-effective means of enhancing public safety; and replicate parts of the National Symposium at state and regional levels to inform criminal justice practitioners and policy makers about pretrial justice and pretrial release based on risk.

The Criminal Justice System Subcommittee is responsible for advancing legal and evidence-based practices among criminal justice system stakeholders. Its goals are to engage constituent resources such as national, state and local professional associations to develop appropriate standards of practice and policy positions on pretrial justice; stimulate the incorporation of pretrial justice “best practice” in appropriate training and educational venues; and establish fellowship opportunities and a mentoring network for state and local practitioners.

In his remarks to the Symposium participants, United States Attorney General Eric Holder noted, “By competently assessing risk of release, weighing community safety alongside relevant court considerations, and engaging with pretrial service providers – in private agencies, as well as in courts, probation departments, and sheriff’s offices – we can design reforms to make the current system more equitable, while balancing the concerns of judges, prosecutors, defendants, and advocacy organizations. We can help those serving on the bench make informed decisions that improve cost-effectiveness and preserve safety needs, as well as due process. And we can spark, as Robert Kennedy did, not only a vital discussion – but unprecedented progress.”

This report summarizes the progress made to date toward achieving the Symposium recommendations, most through the direct or indirect efforts of the PJWG or its subcommittees. As this report shows, the progress has been significant.

¹ Click [here](#) to read the Summary Report of Proceedings of the National Symposium on Pretrial Justice.

Recommendations for Policy and Practice Enhancement

Recommendation 1: Expand the use of citation releases.

PROGRESS:

- A law was passed in Maryland that requires law enforcement officers to issue citations in lieu of custodial arrests in many instances involving misdemeanors.
- The New York City Criminal Justice Agency (NYCCJA), the organization that provides pretrial services in the City, is conducting a study on the historical trends in the use of Desk Appearance Tickets (DAT, known elsewhere as citation releases). There has been a dramatic increase in DAT volume in recent years. To better understand the historical trends in their use and to provide some insight into how they might be used more widely and more effectively, NYCCJA will examine changes in DAT volume and concomitant FTA (failure to appear) rates from the early 1980s to the present.
- Officials in Kentucky are working to track the impact of a law that was passed in that state in 2011 requiring the issuance of citations by law enforcement in many instances involving misdemeanors.
- As part of its participation in the National Institute of Correction (NIC) Evidence-Based Decision Making Initiative, Eau Claire County, Wisconsin coupled a citation release effort with a pretrial diversion effort. Under Wisconsin law, all arrests must be recorded on a statewide system that is available to the public. As a result, many persons arrested for minor offenses, even when those charges did not result in convictions, were being denied employment and other opportunities. Under the new arrangement, law enforcement officers apply a proxy risk assessment to identify low risk persons who can be issued a citation in lieu of custodial arrest and referred directly to the pretrial diversion program for an eligibility determination rather than being given a court date. If they are accepted into the diversion program and successfully complete it, there is no public record of their involvement in the criminal justice system.
- Mesa County, Colorado is also engaged (under their NIC Evidence-Based Decision Making Initiative) in the pilot testing of a field-based risk assessment proxy to aid sheriffs' deputies when using their discretion in issuing a citation or making a custodial arrest.

Recommendation 2: Eliminate the use of bond schedules and require all arrestees to undergo a risk assessment.

PROGRESS:

- The Conference of State Court Administrators (COSCA) issued a Policy Paper on Evidence-Based Pre-trial Release that “advocates that court leaders promote, collaborate toward, and accomplish the adoption of evidence-based assessment of risk in setting pretrial release conditions. COSCA further advocated the presumptive use of non-financial release conditions to the greatest degree consistent with evidence-based assessment of flight risk and threat to public safety and to victims of crime.” While COSCA did not call for the complete elimination of bond schedules, it did call for reduced reliance on them.
- Legislation was passed in three states requiring the use of pretrial risk assessment. Kentucky passed a law requiring the use of a validated risk assessment for all defendants before their initial bail-setting hearing, and establishing a presumption for release on recognizance for all defendants scoring as lower risks. Hawaii passed legislation that requires that a pretrial risk assessment be conducted on all defendants within three days of booking into jail. Delaware passed a law requiring the implementation of a pretrial risk assessment instrument in all of that state's courts by December 31, 2013. While none of these new laws eliminate the use of bond schedules, they represent a significant step in that direction.

- With funding from the MacArthur Foundation, PJI released a White Paper, [Rational and Transparent Bail Decision Making: Moving from a Cash-Based to a Risk-Based Process](#), which presents a case for why bond schedules endanger the public and calls for the use of validated risk assessment tools in every case.
- With funding from the Public Welfare Foundation, the Justice Policy Institute (JPI) issued three reports outlining the many shortcomings of the use of money bond, including commercial bail bonding for profit, and called for the elimination of money bonds. The three reports are: [Bail Fail: Why the U.S. Should End the Practice of Using Money for Bail](#); [For Better or for Profit: How the Bail Bonding Industry Stands in the Way of Fair and Effective Pretrial Justice](#); and [Bailing on Baltimore: Voices on the Front Lines of the Justice System](#). JPI has employed an extensive strategy to assure a widespread distribution of the documents and declared September “Bail Month.”
- In a study by the Public Policy Research Institute at Texas A&M University on the Wichita County, Texas Public Defender Office for the Texas Indigent Defense Commission, researchers found a close connection between personal assets and pretrial release. The study found that defendants’ ability to pay is a stronger predictor of whether they will make bond than more objective measures of risk. Defendants who make bond experience 86% fewer pretrial jail days, a 30% higher chance of having all charges dismissed, a 24% lower chance of being found guilty, and a 54% shorter jail sentence. For instance, non-indigent people who are charged with a first-degree felony or who have up to four prior felony arrests have a better chance of making bond than do indigent defendants.

Recommendation 3: Assign an experienced prosecutor to review all cases before the initial appearance and have a prosecutor present at the initial appearance.

PROGRESS:

- At the annual conference of the Association of Prosecuting Attorneys, Philadelphia District Attorney Seth Williams discussed the transformation of his charging unit, resulting in early reviews of cases and early referrals to diversion programming, and how those efforts have helped reduce the jail population.
- PJI presented at the National District Attorneys Association Conference on how prosecutors can benefit from the use of empirically validated pretrial risk assessment tools.
- PJI presented to nearly 350 attendees of a webinar on evidence-based approaches to pretrial justice hosted by the Association of Prosecuting Attorneys.
- The National Institute of Corrections and the National Association of Pretrial Services Agencies hosted a National Symposium on Pretrial Diversion. The Symposium convened diversion practitioners, public officials, funders, and organizations for a day and a half long discussion on ways to promote and improve pretrial diversion for the individual and the community.

Recommendation 4: Ensure that indigent defendants have a defense counsel at initial appearance making representations on the defendant’s behalf regarding pretrial release.

PROGRESS:

- The American Bar Association’s Pretrial Reform Task Force developed and published a [Frequently Asked Questions](#) document that answers questions lawyers often have about bail and pretrial release to help them be better advocates for their clients.

- The Maryland legislature passed a law requiring the presence of counsel for indigent defendants at the bond review hearing, held before a judge within five days of the arrest. Prior to this law, indigent defendants had no representation at this hearing.
- To comply with this ruling, Maryland hired 35 assistant public defenders specifically to provide representation at this hearing. As part of the American Bar Association's State Policy Implementation Project, a training session was held for these new assistant public defenders.
- Public defenders in Kentucky have been filing appeals to ensure that provisions of a Kentucky law, passed in 2011, are being followed. Those provisions require that defendants found by the validated pretrial risk assessment to be low or moderate risk be given a non-financial release unless the court states a finding on the record that the defendant poses a greater risk. Those appeals have been succeeding about a third of the time. The Kentucky public defenders office is attempting to develop a body of case law that will firmly support the new provisions.
- The National Legal Aid and Defender Association received a grant from the Open Society Fund to address three areas of indigent defense, including pretrial justice. Under the grant, the American Council of Chief Defenders is working with three sites to help the Council better understand pretrial justice from the defenders' perspective.
- PJI presented a plenary session on pretrial justice to the Utah Association of Criminal Defense Attorneys at their annual training conference. The session, which was attended by both Public Defenders as well as a private defense counsel, included a discussion of the challenges pretrial justice reform faces in Utah and the role of the defense bar in overcoming those challenges.
- PJI presented a similar session to the South Carolina Public Defender Association. Attended by almost every Public Defender in South Carolina, the session served as an introduction to pretrial justice reform in a state which has no formal pretrial release program to date.

Recommendation 5: Judicial officers presiding at the initial appearance in court should be thoroughly trained in pretrial release decision-making.

PROGRESS:

- The National Judicial College and PJI conducted a webinar on pretrial justice for the College's Judicial Leadership Initiative.
- The National Judicial College and PJI are working to develop a curriculum for use in training judges on pretrial release decision-making either at the College or through state judicial education organizations. Part of this effort involved sending a survey to general and limited jurisdiction judges around the country inquiring about the information and options they have when making pretrial release decisions. Among the findings of the survey was that 62 percent of the judges reported that no pretrial risk assessment is conducted in their jurisdiction. A total of 656 judges were included in the survey sample.

Recommendation 6: Existence of a pretrial services program that interviews all defendants in custody awaiting their initial bond hearing; compiles the information that the court is required to consider in the pretrial release decision; assesses each defendant's level of risk to the safety of the community and appearance in court using validated tools; recommends to the court the least restrictive conditions needed to address the identified risks; supervises conditions of release imposed by the court; and provides crime victims and others with mechanisms to report possible violations of pretrial release conditions.

PROGRESS:

- The National Association of Pretrial Services Agencies has completed development of an accreditation process for pretrial services programs. Pretrial services programs seeking accreditation would undergo a rigorous audit to ensure that they are following national standards. The program, which compliments individual professional staff certification, will begin in 2013.
- The National Institute of Corrections continues to run an intensive four-day training session for pretrial services program executives. Two sessions were held in 2012, with the last session involving 38 trainees.
- PJI published two documents providing information to pretrial services programs: Risk Assessment 101 and Using Technology to Enhance Pretrial Services. PJI, in partnership with the National Association of Counties, is also drafting a guide for rural county elected officials on implementing pretrial services in rural areas.
- Multi-county risk assessment studies were completed in Colorado and Florida. These studies will allow all counties in those states to implement a risk assessment tool that has been validated for their respective states. Several counties within those states are beginning to use these instruments.
- Single-jurisdiction pretrial risk assessment studies were completed in the District of Columbia; Wayne County, MI; Santa Clara County, CA and Allegheny County, PA. Another study is getting underway in New York City.
- The Administrative Office of the U.S. Courts will soon be releasing a study on the re-validated Federal Pretrial Services Risk Assessment, and in the next few months will be releasing a study on its new supervision methodology based on risk assessment.
- The Urban Institute conducted A Case Study on the Practice of Pretrial Services and Risk Assessment in Three Cities, comparing pretrial operations in the District of Columbia, New York City (NYC), and Baltimore, MD, with a particular focus on their use of risk assessment. The report discusses different features of pretrial operations as well as the differences in the history, structure, and functions of pretrial agencies.
- A National Institute of Justice-funded study was released that looked at the implementation of Global Positioning System (GPS) monitoring technology to enforce “no contact” orders in domestic violence cases. The study, GPS Monitoring Technologies and Domestic Violence, found that domestic violence defendants who were supervised during the pretrial period with GPS had fewer program violations than those placed in tradition electronic monitoring.
- PJI released the document, Dispelling the Myths: What Policy Makers Need to Know About Pretrial Research, which describes the limitations of the research used by the bail bonding industry to make unsubstantiated claims about the effectiveness of bail bonding for profit over other types of pretrial release. The document points out that the studies were not designed to answer questions about effectiveness. The Executive Summary can be found here.

- PJI is developing a webinar for pretrial services program administrators on how to put together a proposal for the expected release of a BJA solicitation on Encouraging Innovation: Field Initiated Programs. The webinar is planned for February 2013.

Recommendation 7: State statutes should make available the use of detention without bail for defendants who pose substantial risks.

PROGRESS:

- The Urban Institute completed a study of the extent to which the passage of a new provision to the DC detention law – making it easier to detain certain defendants – increased pretrial detention. The study, Pretrial Detention of Dangerous and Violent Defendants Following Passage of the Omnibus Public Safety Justice Amendment Act of 2009, found that defendants charged with dangerous or violent offenses were more likely to be detained than was the case before these new provisions took effect.
- New Jersey is considering legislation to make detention without bail an option for defendants for whom it is found that no conditions or combinations of conditions can reasonably ensure community safety or court appearance.
- The National Association of Criminal Defense Lawyers issued a Policy Statement in July that reads, in part, “Consistent with the current ABA Standards on Pretrial Release, these guidelines permit the denial of bail only when the judicial officer finds clear and convincing evidence the accused represents a significant risk of flight or imminent physical harm to others.”

Recommendations for the Office of Justice Programs (OJP)

Recommendation 1: Establish a multidisciplinary Pretrial Justice Working Group.

PROGRESS:

- The Working Group was established in late 2011. In 2012, PJI hosted the Working Group Subcommittee meetings and a full Working Group meeting in December.

Recommendation 2: Provide state and regional pretrial justice symposia through efforts such as state or local data collection or analysis, legal analysis of state bail laws, and roadmaps for achieving pretrial justice reform.

PROGRESS:

- PJI participated in an American Bar Association Roundtable on Pretrial Detention in Florida, co-hosted by the Florida State University College of Law and Florida Tax Watch. “Pretrial Detention in Florida: Strategies for Saving Taxpayer Money While Improving Public Safety” was the first in a series of events to assemble state and local leaders in pretrial justice to consider ways in which Florida law, policy, and practice might be improved, resulting in enhanced outcomes and budgetary savings. The goal of the initiative is to investigate the potential for Florida to increase evidence-based pretrial services-proven to reduce the criminal justice system’s traditional reliance on pretrial detention practices and improve public safety. A second Roundtable on pretrial issues is scheduled for January.

- PJI participated in a Texas Roundtable sponsored by the Criminal Justice Section of the American Bar Association and the Criminal Justice Institute of the University of Houston Law Center. “Pretrial Detention in Texas: Strategies for Saving Taxpayer Money While Improving Public Safety” was the first in a series of events to assemble state and national leaders in pretrial justice to consider ways in which Texas law, policy, and practice might be improved, resulting in enhanced outcomes and budgetary savings. The goal of the event is to investigate the potential for Texas to increase evidence-based pretrial services proven to reduce the criminal justice system’s traditional reliance on pretrial detention practices and improve public safety.
- Similar ABA-sponsored roundtables were held in Utah and Maryland.

Recommendation 3: Convene a judicial roundtable to develop a strategic approach to training and educating judges.

PROGRESS:

- PJI formed the National Judicial Council on Pretrial Justice, which met for the first time in April 2012. Fifteen judges from around the country attended the day-long meeting to discuss the opportunities and challenges for pretrial justice from the perspective of judges. The goal of the Council is to inform judicial pretrial decision-making throughout the country by developing effective strategies for providing judges with information on pretrial laws, effective risk assessment, and safe pretrial supervision; drawing upon judicial resources to develop appropriate standards of practice and policy positions; identifying a national strategy to engage the judiciary at every level on pretrial justice issues; and, educating members of the judicial field on pretrial justice issues through conferences, publications, and trainings.

Recommendation 4: Take full advantage of OJP’s communications assets by highlighting the need for pretrial justice reform while showcasing best practices.

PROGRESS:

- The National Institute of Justice released a research solicitation on pretrial diversion and awarded a grant to the Association of Prosecuting Attorneys, the Center for Court Innovation, and the RAND Corporation to look at effective pretrial diversion practices.

Recommendation 5: Demonstrate the effectiveness of pretrial justice best practices through a dedicated Bureau of Justice Assistance grant program.

PROGRESS:

- The Bureau of Justice Assistance continued a cooperative agreement with PJI to provide training and technical assistance in the area of pretrial justice.

Recommendation 6: Collect a comprehensive set of pretrial data needed to support analysis, research, and reform through the Bureau of Justice Statistics.

PROGRESS:

- The Bureau of Justice Statistics released a report examining pretrial release and detention in the federal district courts. The report documents the extensive use of pretrial detention in federal courts.

- The Urban Institute and PJI have been awarded a grant from the Bureau of Justice Statistics to design a data collection series on the processing of cases during the pretrial period.

Recommendation 7: Embark upon a comprehensive research strategy that results in the identification of proven best pretrial justice practices through the National Institute of Justice.

PROGRESS:

- Under the direction of Professor Cynthia Lum of George Mason University, a pretrial justice bibliography has been developed so that all research and other publications relevant to the field of pretrial justice can be found in one location.

Recommendations for Legislators

Recommendation 1: Review proposed pretrial bills for their compatibility with the policies and practices for pretrial release decision-making outlined by the American Bar Association in its Standards on Pretrial Release.

PROGRESS:

The Colorado Bail Committee, a group established by the legislature to study the bail process in Colorado, has recently made its recommendations to the legislature for enhanced pretrial justice. The committee is comprised of representatives from key stakeholder groups around the state and is chaired by a district court judge and a county sheriff.

Recommendation 2: County legislative bodies should ensure that any local ordinances pertaining to pretrial release decision-making are compatible with the state law.

PROGRESS:

PJI presented a panel: “The Cost Effectiveness of Implementing Sophisticated Instruments to Determine Risk and Danger for Pretrial Adult and Juvenile Populations,” at a National Association of Counties symposium on lowering jail populations.

Recommendations for Stakeholder Groups

Recommendation 1: Stakeholder groups and constituent organizations should maintain a policy statement or resolution calling for the reform of pretrial justice practices.

PROGRESS:

- The International Association of Chiefs of Police (IACP) issued a resolution calling for a national law enforcement summit “to address the need for bail reform and in particular the urgent need for more robust pretrial services that conduct dangerousness assessments for use by the judiciary when considering pretrial release.” IACP then held a focus group of law enforcement executives to map out a strategy for bringing the Policy Statement to fulfillment.
- The National Sheriffs’ Association passed a resolution recognizing “the value of high-functioning pretrial services agencies to enhance public safety; promote a fair and efficient justice system; provide assistance to sheriffs in the administering of a safe jail and reducing jail crowding; and help relieve the financial burden on tax payers.”

- The National Association of Criminal Defense Lawyers (NACDL) issued a Policy Statement that states, in part, that judges should not “use bail schedules that tie the amount of bail to any specific factor, such as the nature or the characteristic of the offense(s) charged, that is not predicated on an evidence-based determination of the individual risk of flight or the risk of imminent physical harm to others.” Another part of the statement reads: “NACDL supports the creation of an independent pretrial services agency to conduct a pretrial investigation and make an evidence-based recommendation to the court on the advisability of release and bail conditions. The availability of a pretrial agency’s verified information and recommendation allows for more accurate decision-making. Should the court determine pretrial supervision is appropriate, the independent pretrial services agency shall supervise, monitor and assist the accused.”
- The Conference of State Court Administrators (COSCA) issued a Policy Paper in December (see page 3 of this report for link).

Recommendation 2: Stakeholder groups and constituent organizations should educate their members regarding pretrial justice through conferences, publications, and trainings.

- PJI, together with the Bureau of Justice Assistance (BJA) and the Office for Victims of Crime, convened a Victims’ Focus Group to discuss pretrial justice from the perspective of victims. The discussion focused on several points:
 - There is concern among victims that making timely pretrial release decisions, while beneficial for justice system efficiency, may not give victims the time they need to plan for their safety and may not be enough time to do a complete risk assessment.
 - There is a general lack of understanding among victims about how the system currently works, including what goes into assessing risks of danger to victims and the community, what supervision is provided by pretrial services, the role that victims can play in assisting with supervision, and how effective supervision is in protecting victim and community safety. Pretrial services advocates need to work with victims in this education process.
 - » There is a lack of information exchange between pretrial services and victims. Despite the existence of victim rights laws in many jurisdictions that require that victims be notified and heard, there are still problems in getting victim input. It is not clear how to best ensure this, whether through the police, prosecutor, or pretrial.
 - » There is the feeling that victim input into the risk assessment is crucial and should be sought.
 - » There is acknowledgement that obtaining all the data needed for an ideal risk assessment is problematic.

Discussions are underway to set up a Victim’s Council on Pretrial Justice to continue to discuss these issues.

- PJI conducted a webinar for victim advocates on the pretrial release decision-making process. The purpose of the webinar was to educate victim advocates about how pretrial release and detention decisions are made, so that they, in turn, can educate victims. The discussion focused on the legal bases for the decision, who the decision maker is, where the decision is made, and the information and options that are available to the decision maker.
- PJI hosted a webinar for sheriffs and jail administrators that provided an introduction to strategies that can be used to decrease jail crowding without compromising public safety or the integrity of the law.
- PJI and BJA are convening the first meeting of the Sheriff’s Council on Pretrial Justice to discuss pretrial justice issues from the perspective of sheriffs.

- As part of the Justice Reinvestment Initiative (JRI) funded by the Bureau of Justice Assistance (BJA), The Urban Institute works with state and local jurisdictions to identify significant cost drivers in their justice systems and develop strategies to cut down those cost drivers, thus allowing the saved funds to be reallocated to evidence-based practices. As the high rate of pretrial detention is one of the cost drivers in several of the JRI sites, the initiative places an emphasis on the effective management of pretrial populations.

Recommendations for the Philanthropic Community

Recommendation 1: Convene a comprehensive philanthropic roundtable to identify areas that federal support cannot address.

PROGRESS:

- The Public Welfare Foundation held a meeting with other foundations to share what the philanthropic community is doing on pretrial justice.
- With funding from the Public Welfare Foundation, this year, for the first time in history, national public opinion research was undertaken to assess the public’s knowledge of and interest in bail reform. Lake Research Partners is a national public opinion and political strategy research firm founded in 1995. Their principals are leading information and political campaign strategists, serving as tacticians and senior advisors to a wide range of advocacy groups, non-profits, government agencies, companies and foundations, as well as dozens of elected officials at all levels of the electoral process.

The poll results will be published later this year, but highlights include:

- Using risk-based screening tools, supervision, and monitoring—instead of cash bail bonds—to determine whether defendants should be released from jail before trial is not a controversial proposition. In fact, many believe it is part of the system now.
- Initial support for this reform is broad and intense, traversing partisan, regional, racial, and other demographic lines. A 53% majority of voters nationwide call themselves “strong supporters” of this reform, unusual for a subject with which most voters are admittedly unfamiliar.
- Support remains robust even in the face of withering criticism about reform. There is no group of voters among whom support falls short of a majority at any point in the survey. Opposition to this proposal stands at just 9%, and only 14% of voters are undecided.
 - » Several arguments in favor of reform act as powerful motivators, although the Maurice Clemmons story (in which a dangerous man got out on money bond and subsequently killed four officers) is by far the most compelling.
 - » A second tier of messages that prove highly persuasive emphasizes the cost differential between the risk assessment system and the for-profit system, as well as the toll the system takes on those who are not threats, but cannot afford bail.
 - » Additionally, it is important to convey the proven effectiveness of risk assessment in jurisdictions where it has been implemented.
 - » Validators of reform such as judges, law enforcement officials, and crime victims’ groups can help to convey the message.
- Opposition messages have little impact on support and barely register. None of these arguments prompt a high level of intense doubts.

- With support from the Public Welfare Foundation, the John Jay College of Criminal Justice hosted a two-day meeting in New Orleans of over 20 journalists who had competed to be selected as John Jay Fellows. The purpose of the fellowship was to educate these journalists on pretrial justice issues, so that they can provide more effective coverage of these issues for their news organizations. Below are links to articles prepared by these journalists to date.
 - » [Bail-bond system changes greeted with cautious optimism in New Orleans](#)
John Simerman, The Times Picayune
 - » [Judges say Tarrant County DA's office will prepare final judgments in bond forfeitures](#)
Yamil Berard, Star Telegram
 - » [Some Tarrant felony defendants get out of jail on the cheap](#)
Yamil Berard, Fort Worth Star Telegram
 - » [Pretrial release program uses discredited gauge of success](#)
Yamil Berard, Fort Worth Star Telegram
 - » [The freedom test](#)
Maura O'Connor, The New York World
 - » [Locked up without a key in New Orleans](#)
Karen Houppert, The Nation
 - » [Your word is your bond](#)
Jordon Smith, The Austin Chronicle
 - » [Pretrial programs push no-bail release](#)
Marisa Lagos, San Francisco Chronicle
 - » [Bail bondsman protests six-month suspension by county board](#)
Yamil Berard, Fort Worth Telegram
 - » [Defendants in program pay less to get out of jail](#)
Yamil Berard, Fort Worth Telegram
 - » [Bail bond system ripe with controversy about preferential treatment](#)
Yamil Berard, Fort Worth Telegram
 - » [Bondsmen dread the day they're told to pay](#)
Yamil Berard, Fort Worth Telegram
 - » [Defendants, bondsmen sometimes get off the hook in Tarrant County](#)
Yamil Berard, Fort Worth Telegram
 - » [Statewide bail bondsmen rules needed, state auditor finds](#)
Zac Taylor
 - » [Jailed without conviction: behind bars for lack of money](#)
Katy Reckdahl, Christian Science Monitor
 - » [New Orleans tries reform of pretrial detention and bail](#)
Katy Reckdahl, Christian Science Monitor

Recommendation 2: Examine state statutes relating to pretrial release decision-making and develop a Model Code.

PROGRESS:

- The National Conference of State Legislatures (NCSL), with funding from the Laura and John Arnold Foundation (LJAF), released a 50-state survey of legislation affecting key aspects of the pretrial justice system titled [2012 Pretrial Release Legislation Overview](#). The report represents the first stage of a

yearlong project that will culminate in the 2013 release of an interactive, web-based database of statutes and significant pending legislation in all 50 states regarding pretrial justice. The 2012 report identifies 395 bills and resolutions related to pretrial justice that were acted on in state legislatures from January through September 2012. Of these measures, 115 were enacted or adopted, 198 failed or were vetoed, and 82 were still pending. The majority of these bills addressed eligibility for pretrial release and pretrial services programs.

- With support from the Public Welfare Foundation, PJI convened a legislative affairs meeting to discuss with key stakeholder groups the legislative initiatives underway in states around the country.

Recommendations for the Academic Community

Recommendation 1: Develop and seek funding for research proposals relating to pretrial justice.

PROGRESS:

- Shima Baradaran and Frank McIntyre authored a law review article, Predicting Violence, that reviews factors that determine “dangerousness” and what percentage of defendants can safely be released pre-trial. Using an empirical data model and fifteen years of data to help predict who will commit a pretrial crime, their study suggested that (1) judges often detain the wrong people; and (2) judges could safely release 25% more defendants while decreasing violent crime and total pretrial crime rates.
- The Administrative Office of the U.S. Courts is conducting a study on how pretrial release and detention decisions impact sentencing.
- With support from the Public Welfare Foundation, the National Council on Crime and Delinquency is conducting an analysis of data to examine racial disparities in decisions made at the pretrial stage and how they affect pretrial and trial outcomes.
- The Justice Policy Center of the Urban Institute has established a District of Columbia Crime Policy Institute to develop and implement a mathematical model to predict the costs and benefits of new justice policies proposed for the District of Columbia; create a publicly accessible research library of crime and justice research in the District of Columbia; and identify and implement research projects of interest. A report comparing DC with Baltimore and New York City is available at [here](#).
- PJI staff, in cooperation with two other social scientists with pretrial expertise (Kristin Bechtel and David Levin), published a review of recent pretrial research that the for-profit bail bond industry has misused in an attempt to promote the increased use of surety bonding nationwide. The paper describes why each study’s limitations do not support the commercial surety industry’s claims that continue to be made even after the Bureau of Justice Statistics issued an advisory to the contrary. Local and state justice system stakeholders can use the publication to inform their decisions about implementing the most cost-effective pretrial justice approaches in their jurisdiction.

Recommendation 2: Prepare future practitioners and leaders to effectively address pretrial justice issues in a fair, safe, and effective manner.

PROGRESS:

- PJI authored two entries for the Encyclopedia of Criminology: one on pretrial release decision-making and the other on pretrial services programs. The two entries were accepted for publication and will be included in the encyclopedia when it is released in early 2013.

APPENDIX

Members of the Subcommittees of the Pretrial Justice Working Group

NAME

ORGANIZATION NAME

Research Subcommittee

| | |
|-----------------------|--|
| Alissa Huntoon | Bureau of Justice Assistance |
| Angela Moore | National Institute of Justice |
| Anne Milgram | Arnold Foundation |
| Bryan Taylor | Pretrial Justice Institute |
| Carrie Williamson | Justice Research and Statistics Association |
| Cherise Fanno Burdeen | Pretrial Justice Institute |
| Chris Innes | National Institute of Corrections |
| Chris Lowenkamp | Luminosity Inc |
| Christian Henrichson | Vera Cost Benefit Analysis Unit |
| Cynthia Jones | American University Washington College of Law |
| Cynthia Lum | George Mason University |
| Doug Marlowe | National Association of Drug Court Professionals |
| Edward Banks | Department of Justice |
| Ezekiel Edwards | American Civil Liberties Union |
| Faye Taxman | George Mason University |
| Hallie Fader-Towe | Council of State Governments |
| Herb Sturz | Open Society Foundation |
| Inimai Chettiar | Brennan Law Center |
| Isami Arifuku | National Council on Crime and Delinquency |
| Jennifer Bradford | Metropolitan State University - Denver |
| Jerry McElroy | NY Criminal Justice Agency |
| Jesse Janetta | Urban Institute |
| Jim Austin | JFA Institute |
| Joan Weiss | Justice Research and Statistics Association |
| John Clark | Pretrial Justice Institute |
| John Firman | International Association of Chiefs of Police |
| Katherine Schmitt | Office of Justice Programs |
| KiDeuk Kim | Urban Institute |
| Kim Ball | Bureau of Justice Assistance |

NAME

Laura House
 Marie VanNostrand
 Marlene Beckman
 Matt Alsdorf
 Meg Egan
 Melissa Neal
 Mike Jones
 Nancy LaVigne
 Nathan Lowe
 Pamela Rodriguez
 Richard Jerome
 Thomas Cohen
 Tim Cadigan
 Tim Murray
 Tina Chiu
 Tracy Velazquez
 Whitner Tymas

ORGANIZATION NAME

DC Pretrial Services Agency
 Luminosity Inc.
 Office of Justice Programs
 Arnold Foundation
 Cook County IL Sheriff's Office
 Justice Policy Institute
 Pretrial Justice Institute
 Urban Institute
 American Probation and Parole Association
 National TASC
 Pew's Public Safety Performance Project
 Bureau of Justice Statistics
 Administrative Office of the US Courts
 Pretrial Justice Institute
 Vera Cost Benefit Analysis Unit
 Justice Policy Institute
 Vera Institute of Justice

Communications Subcommittee

Alex Busansky
 Alissa Huntoon
 Allison DeFoor
 Anne Milgram
 Aubry Fox
 Burke Fitzpatrick
 Cherise Fanno Burdeen
 Donna Lyons
 Chris Rodgers
 Craig Wacker
 Dalen Harris
 Daniel Gotoff
 Deborah Brodsky
 Greg Berman
 Hallie Fader-Towe
 Heather Hogsett
 Jerry Madden

National Council on Crime and Delinquency
 Bureau of Justice Assistance
 Florida TaxWatch
 Arnold Foundation
 Center for Court Innovation
 National Criminal Justice Association
 Pretrial Justice Institute
 National Conference of State Legislatures
 National Association of Counties
 MacArthur Foundation
 National Association of Counties
 Lake Research
 Florida TaxWatch
 Center for Court Innovation
 Council of State Governments
 National Governor's Association
 American Legislative Exchange Council

| NAME | ORGANIZATION NAME |
|---------------------|---|
| Joe Fuld | Campaign Workshop |
| John Clark | Pretrial Justice Institute |
| Kim Ball | Bureau of Justice Assistance |
| Kristin Levingston | Ford Foundation |
| Laurie Garduque | MacArthur Foundation |
| Lenny Noisette | Open Society Foundation |
| Lizzie Kendrick | The Campaign Workshop |
| Maddy Delon | Innocence Project |
| Maeghan Gilmore | National Association of Counties |
| Marc Levin | Right on Crime |
| Marc Mauer | The Sentencing Project |
| Mary McClymont | Public Welfare Foundation |
| Matt Alsdorf | Arnold Foundation |
| Maurice Possley | John Jay College |
| Michael Jones | Pretrial Justice Institute |
| Seema Gajwani | Public Welfare Foundation |
| Stephen Handelman | John Jay College |
| Tim Murray | Pretrial Justice Institute |
| Tracy Velazquez | Justice Policy Institute |
| Truman Morrison III | Judge, DC Superior Court, PJI Board Chair |

Criminal Justice System Subcommittee

| | |
|-----------------------|---|
| Alisa Huntoon | Bureau of Justice Assistance |
| Art Wallenstein | Montgomery County, MD Department of Corrections |
| Bill Dressell | National Judicial College |
| Cabell Cropper | National Criminal Justice Association |
| Carl Wicklund | American Probation and Parole Association |
| Cherise Fanno Burdeen | Pretrial Justice Institute |
| Bernadette DiPino | Chief, Ocean City, MD Police Department |
| David Tevlin | Consultant |
| David Carroll | Sixth Amendment Center |
| David LeBahn | Association of Prosecuting Attorneys |
| David Tevlin | Consultant |
| Deborah Leff | Department of Justice Access to Justice Office |
| Doug Colbert | University of Maryland School of Law |
| Ed Burnette | National Legal Aid and Defenders Association |

| NAME | ORGANIZATION NAME |
|-----------------------|--|
| Ed Monahan | Kentucky Public Defender |
| Elaine Borokove | Justice Management Institute |
| Eric Washington | Chief Judge, DC Court of Appeals |
| Ezekiel Edwards | American Civil Liberties Union |
| Frank Hecht | American Jail Association |
| Greg Mize | National Center for State Courts |
| Hallie Fader-Towe | Council of State Governments |
| Inimai Chettiar | Brennan Center - Justice Program |
| Jack Hanna | American Bar Association |
| Jason Lamb | National Association of Prosecutor Coordinators |
| Jim Cosby | National Institute of Corrections |
| JoAnne Wallace | National Legal Aid and Defenders Association |
| Jodi Lobel | Philadelphia District Attorney's Office |
| John Clark | Pretrial Justice Institute |
| Kevin Bowling | National Association for Court Management |
| Kevin Burke | American Judges Association |
| Kim Ball | Bureau of Justice Assistance |
| Kim Kelberg | Office for Victims of Crime |
| Lisa Wayne | National Association of Criminal Defense Lawyers |
| Lori Eville | National Institute of Corrections |
| Marlene Beckman | Office of Justice Programs |
| Mary Ann Mowatt | American Probation and Parole Association |
| Mary McQueen | National Center for State Courts |
| Mia Fernandez | National Center for Victims of Crime |
| Michael Jones | Pretrial Justice Institute |
| Norm Reiner | National Association of Criminal Defense Lawyers |
| Peter Kiers | National Association of Pretrial Services Agencies |
| Richard Wintory | Pima County Deputy Attorney & ABA |
| Robin Wosje | National Judicial College |
| Scott Burns | National District Attorneys Association |
| Sheriff Stanley Glanz | National Sheriffs Association |
| Shima Baradaran | ABA Task Force on Pretrial Reform |
| Stan Hilkey | Sheriff, Mesa County, CO |
| Steve Jansen | Association of Prosecuting Attorneys |
| Susie Shaffer | National Institute of Corrections Board |
| Tim Murray | Pretrial Justice Institute |
| Truman Morrison III | Judge, DC Superior Court, PJI Board Chair |
| Will Marling | National Organization for Victim Assistance |