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Research 2 Results (R2R) - The Pretrial Services Experience

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Introduction

I have been asked to share my Research to Results (R2R) experience from the perspective of pretrial services. This is a distinct privilege and a humbling responsibility as the lone pretrial services chief contributing to this edition of *Federal Probation*. As a field, pretrial services is entering the domain of evidence-based practices equipped with limited research and many questions. Any hesitancy or appearance of caution by pretrial services in implementing the interventions and practices proven to work for the post-conviction population is not due to lack of cooperation or desire to fully embrace evidence-based principles. Rather, the simple explanation is that there is less known, less researched, and less field tested for pretrial services. As our system focuses on becoming results oriented, we have an obligation to define the precise results or outcomes that we seek to achieve. "What works" for post-conviction does not necessarily "work" for pretrial services, as the desired outcomes are not necessarily the same. This R2R grant has provided several pretrial services districts with the opportunity to become more informed about evidence-based practices, to seek answers to questions, and explore strategies and interventions that produce the intended results for which pretrial services will be held accountable.

Less than two years ago, the concept of "evidence-based practices (EBP)" was relatively foreign to me. I had read about the eight evidence-based principles for effective intervention [1] and I tried to reconcile them with my 25 years of criminal justice experience and "intuition" that had seemingly served me well. While the principles were persuasive for post-conviction offenders, they did not seem to be a perfect fit pre-conviction, and I wondered how defendants' rights would be protected in light of some of the suggested practices. Although a research-based and risk-centered approach made sense, I also questioned whether the "outcomes" of recidivism reduction and "long-term change" were appropriate and achievable for pretrial services. As I read more articles and further researched evidence-based practices, I found very little that addressed pretrial practices or outcomes. What research was available focused on risk assessment instruments for pretrial investigations which, admittedly, made me skeptical.

Not until April 2007, in an article published by the National Institute of Corrections (NIC) and the Crime and Justice Institute (CJI) [2], was attention focused on evidence-based principles in the context of pretrial services. This article analyzed the issues unique to pretrial services such as the presumption of innocence and other legal protections, and evaluated the eight principles of effective intervention and their applicability prior to conviction. While this article did not necessarily provide "answers" to all relevant questions, it created an opportunity for thoughtful dialogue and encouraged pretrial services to move forward as a field to become more strategic in

its approach. It also addressed the need to define pretrial specific outcomes which, in my opinion, is the most important next step in the development and implementation of evidence-based practices for pretrial services.

Although it would be easier and more expeditious to simply impose post-conviction evidence-based practices on pretrial defendants, these practices would not truly be "evidence based" without the corresponding research and validation to show they produce the precise outcomes for which they are intended to achieve. All 93 judicial districts that administer pretrial services have an opportunity, as well as a responsibility, to be pioneers for the pretrial services field and assume an instrumental role in the research and development of practices for pretrial defendants that are truly evidence-based.

Research to Results (R2R)

The R2R grant solicitations for fiscal years 2007 and 2008 cite the objective of "advancing the federal probation and pretrial services systems by encouraging the development and implementation of evidence-based and best practices." The grant application further notes the purpose of these practices as the "reduction of recidivism for offenders and defendants." The application includes four broad categories of services: (1) risk/needs assessment and case planning; (2) Motivational Interviewing; (3) manualized cognitive behavioral therapy; and (4) other offender intervention.

The sections below provide background information and note the questions and concerns that arose while formulating my R2R requests. The following sections also offer a sense of the complexities and distinctions to consider in moving pretrial services forward in the direction of research-supported and outcome-oriented practices. The final section shares some of the pretrial specific projects that have been supported through the R2R grants. Please note that this article is not intended to be a comprehensive and exhaustive review of all evidence-based and R2R pretrial services initiatives implemented throughout the 93 districts. Rather, this represents one district's experience and perspective with the hope that additional dialogue and participation will ensue.

Defining Outcomes for Pretrial Success

In April 2004 in a series of three articles, the National Institute of Corrections and the Crime and Justice Institute provided significant guidance on the implementation of evidence-based principles in community corrections [3]. The articles distinguished among three terms often used interchangeably: (1) "best practices," which are not scientifically tested or tied to outcomes but represent collective experience and wisdom; (2) "what works," which link practices to general but not specific outcomes; and (3) "evidence-based practices," which tie practices to specific results [4].

Evidence-based practice was further defined as a "trend throughout human services fields that emphasize outcomes. [5]" As explained by NIC, outcomes must be *definable*, *measurable*, and *consistent with practical realities* (recidivism, victim satisfaction, etc. [6]). For the field of corrections, NIC described effective interventions as those proven to "*reduce offender risk and subsequent recidivism and therefore make a positive long-term contribution to public safety*. [7]" (Emphasis added.)

For pretrial services, seeking specificity of outcomes that are definable, measureable, and consistent with pretrial realities appears to be the most important next step in the design, implementation, and evaluation of evidence-based practices that produce the intended results for defendants. Are these outcomes the same as those articulated by NIC for the corrections field? Or, is there a need to identify different ones for pretrial services? While this issue must ultimately be resolved on a national level, it is likely that the end result could incorporate elements of both. Pretrial services outcomes are sufficiently unique to warrant separate consideration: release/detention, non-appearance risk, and compliance with pretrial release are not addressed through any post-conviction practices. By the same token, under certain circumstances

and when not inconsistent with the mission of pretrial services, pretrial services may be able to effectively contribute to the reduction of recidivism and long-term change.

Looking at the objective of "reduction of risk," this outcome appears consistent with the statutory mandate of addressing the pretrial risks of non-appearance and safety to the community [8]. However, as noted in the statute, risk mitigation is to be through the imposition of the least restrictive condition or combination of conditions of release [9]. Unlike post-conviction, there is a balancing act that must take place at pretrial services when addressing risk that recognizes public safety and other concerns while simultaneously respecting the presumption of innocence and additional legal protections afforded to defendants [10]. While interventions that support risk reduction can be applied to the post-conviction population without any consideration of legal constraints, such interventions may not always be appropriate, or legal, for pretrial defendants. Likewise, conditions and programs implemented in an across-the-board manner may violate the principles of individualized risk and least restrictiveness which serve as cornerstones for the tenets of bail reform.

Defining the risk of non-appearance, which is statutorily unique to pretrial services, seems straightforward on its surface: it is the failure to appear for trial, sentencing, or any court hearing. Realistically, however, non-appearance risk can manifest itself through events unrelated to court hearings such as walking away from a halfway house or treatment program, being non-responsive to supervision, or even failing to voluntarily surrender to the Bureau of Prisons (BOP). Absconding supervision is also a concern for the post-conviction offender, yet there is currently no predictive measurement of non-appearance risk and no known research-supported intervention. Somewhat unique to pretrial services is non-appearance risk related to suicide for certain defendants following their arrest. Post-conviction best practices are silent on how to predict and prevent this risk issue, leaving detention, rather than release, as the plan of action in these cases.

Non-appearance is currently captured in two distinct pretrial data fields: AFTA (failure to appear) violations" [11] and "fugitive" rate [12]. The FTA rate is calculated using open supervision cases who commit a FTA violation during the preceding 12 months, although a precise definition of what events should be included is lacking. The general rule is that these violations involve missed court hearings, with a warrant issued by the judicial officer. The fugitive rate is based upon cases closed during a 12-month period; cases attain fugitive status if, after 90 days of the issuance of a bench warrant, no arrest has occurred. A fugitive need not have missed a court date and the outstanding warrant could have been issued for any reason or violation, most often upon the petition of the supervising officer. Fugitive status does not reflect what efforts, if any, were made by the U.S. Marshals Service to apprehend the defendants. Remaining consistently under two percent nationwide, the low "fugitive" rates have been touted as an indication of pretrial services' "success." Against the backdrop of high national detention rates [13], however, one wonders if the low fugitive and FTA numbers reflect the existence, or perhaps the absence, of best practices of pretrial services. Having the benefit of research to determine the acceptable level of risk inherent in the business of reducing unnecessary detention could assist our system in striking an appropriate risk aversion balance and help identify those who pose the highest non-appearance risk based on relevant factors.

"Community safety" risk, although not precisely defined, has been associated with re-arrest rates and violation statistics which provide insight on whether a defendant complied with the conditions of release during pretrial supervision [14]. While the re-arrest data provides a valid measurement of risk, technical violations may or may not denote community safety concerns, depending upon the type and nature of the non-compliance.

As illustrated above, the desired outcome of "defendant risk reduction" appears seemingly straightforward at first glance. However, it lacks specificity in both definition and measurement. How can we determine our effectiveness in reducing non-appearance and safety risk when we are not sure what we are measuring? Does our current data provide any insight into the characteristics and circumstances of the defendants who fail to appear for court or abscond supervision, or those who commit new offenses or violations? What research exists that

identifies the risk variables for both non-appearance and danger, and what evidence-based interventions have been proven to reduce said risk? Is the violation rate truly reflective of defendant risk or is it skewed by overly restrictive conditions, differing methods of interpreting and reporting violations, or merely a link between increased workload credit and the number of violations reported? Through dialogue and research, the specificity concerns can be resolved. However, the risk area of non-appearance must be explored further as the federal system has no predictive tools or evidence-based practices that address this outcome specifically.

With regard to the remaining two outcomes identified by NIC - recidivism reduction and long-term contribution to public safety - are these achievable results for pretrial services? While generally consistent with pretrial's mission (every judicial and criminal justice entity seeks to reduce future crime), there are certain inconsistencies with the "practical realities" of pretrial services. One reality is the defendant's legal status pending conviction which presumes him/her innocent and precludes programming and interventions that could lead to self-incrimination. Many of these legal protections continue through sentencing due to the adversarial nature of the process. Another reality is pretrial services' focus on the outcomes of court appearance and community safety which are more immediate and short-term in nature. Pretrial defendants must first address the "trauma" of the arrest, uncertainty regarding their future, and any imminent needs such as loss of employment, negative publicity, and family turmoil before they can begin to plan for the distant future. Pretrial services supervision may last for only months, providing limited opportunity to address long-term goals. Even if there were adequate time to take action at the pretrial stage to impact recidivism and contribute to long-term change, what interventions would be effective? Research is lacking. Evidence-based interventions outlined by NIC may or may not be effective when the intervening events of sentencing and incarceration have yet to occur. Finally, how would pretrial's impact on recidivism and long-term change be defined and measured? Pretrial services cannot control for the length of sentence the defendant receives notwithstanding satisfactory adjustment to pretrial supervision, and prison itself will play a role in shaping the defendant's experience.

Additionally, is there a correlation between pretrial detention/pretrial release and recidivism? With over 50 percent of pretrial defendants detained nationally, do we know if a detained defendant will be more or less likely to re-offend in the future than a released one? What are the factors that explain the results and what evidence-based interventions could be introduced to detained defendants to influence the outcome?

Assuming recidivism and long-term change can be positively impacted at the pretrial stage and assuming that legal protections can remain intact, are there currently pretrial practices that leave a lasting positive effect on defendants? As the "front door" of the system, pretrial services stands uniquely positioned to set the tone for all phases to come. What missed opportunities for intervention, if any, are not being pursued? Where should pretrial services focus its attention and resources in order to be the most effective in achieving the desired outcomes? Shouldn't pretrial outcomes related to release and reduction of non-appearance and pretrial failure be addressed first before looking to impact long-term change for which pretrial services practices may or may not be effective? What research exists and what research needs to be done to enhance the results?

Finally, given our focus on actual results, what does the research say about the impact on recidivism and long-term change of sentencing alternatives like diversion, deferred sentences, or probation that allow defendants to continue with interventions commenced while on pretrial release? Are defendants more motivated to change if they have the incentive of remaining out of prison as well as the consequences of supervision, community service, or other community-based sanctions? Does pretrial diversion or a sentence of probation yield better long-term results than incarceration for certain defendants? With sentencing guidelines advisory in nature, coupled with the opportunity to consider mitigating factors, can evidence-based pretrial interventions (as opposed to pretrial supervision status alone) become a legitimate reason for alternative sentences? If we as a system are committed to moving towards research-supported practices, why limit our research and attention to post-conviction interventions that impact recidivism? Why not have pre-conviction drug courts or expand pretrial diversion if research demonstrates a

correlation between these alternatives and future “success” (i.e., decreased recidivism)?

In summary, the desired outcomes for community corrections as articulated by NIC - risk reduction, recidivism, and long-term change - are not a perfect match for pretrial services. This does not mean they should be rejected outright, however, as these objectives and the corresponding evidence-based interventions can provide meaningful models for pretrial services. To apply these outcomes blindly, however, without consideration of the practical realities, the specific definitions, and the methods of measurement unique to pretrial services would be a short-sighted and non-scientific approach.

It is therefore critical that pretrial services first and foremost identify and define the desired outcomes that are consistent with, and promote the statutory mission of, reducing unnecessary detention and facilitating pretrial release, and subsequently implement practices that produce these desired results. Secondly, “pretrial success” requires a clear definition. Outcomes such as facilitating court appearance, mitigating community safety risk, and enhancing compliance with the conditions of release must be easily understood and measurable, with interventions linked to support these goals. Once this has been accomplished, pretrial services can explore ways to enhance its contributions to the objectives of recidivism reduction and long-term change through pretrial supervision, pretrial diversion and other alternative sentencing options, to the extent they are deemed effective and appropriate. Finally, all pretrial services outcomes must operate within the existing legal framework, be consistent with the principles of “least restrictive,” and honor the presumption of innocence.

Research - What Exists for Pretrial Services?

Three years after the National Institute of Corrections and the Crime and Justice Institute published their series of articles on the implementation of evidence-based principles for the field of corrections, the same entities published the article, *Legal and Evidence Based Practices: Application of Legal Principles, Laws, and Research to the Field of Pretrial Services* [15]. This article provides context to the discussion of pretrial services evidence-based practices and acknowledges that research related to pretrial services is significantly limited.

According to the article, pretrial relevant research conducted outside the federal system has demonstrated the following. Please note that it is not known to what extent federal data would yield the same results.

1. **Detention Pending Trial**
   Research demonstrates that detention pending trial can lead to negative implications for defendants. For one, pretrial detention can reduce a defendant’s ability to prepare an adequate defense. Detention before trial has also been shown to result in a higher frequency of guilty pleas and more severe sentences as compared with defendants who are released. Pretrial detention can also be disruptive to family, employment, and community ties and negatively stigmatize the defendant. Even after controlling for relevant factors such as the current charge, prior criminal history, family ties, and type of counsel, these disparate outcomes did not change [16].
2. **Risk Assessment**
   Research supports the use of a risk assessment instrument that uses research-based objective criteria to identify the likelihood of failure to appear for court appearance and danger to the community pending trial. Common factors have been identified as good predictors of court appearance and danger to the community including: current charge(s); outstanding warrants at time of arrest; pending charges at time of arrest; active supervision at time of arrest; history of criminal convictions; history of failures to appear; history of violence; residence stability; employment stability; community ties; and history of substance abuse [17].

   It should be noted that the Risk Prediction Index (RPI), currently utilized by the federal pretrial services system as a predictive tool for investigation and supervision does not include any of the above-noted risk factors in its instrument with the exception of

substance abuse history. The RPI does include criminal arrests (not convictions) and asks about current residence and employment status although it does not necessarily measure stability in these areas.

To be credible, risk assessment instruments should be validated for their ability to predict the likelihood of failure to appear and danger to the community to which it is applied; it should equitably classify defendants regardless of race, ethnicity, gender, or financial status; and must be consistent with the relevant statutory and legal authority [18]. Further, unless risk factors demonstrate a relationship to predicting pretrial risk (court appearance or danger to the community), they should not be included when related solely to predicting recidivism or criminogenic needs for post-conviction offenders [19].

3. **Bail Recommendation**
   Research affirms the importance of the bail recommendation, noting that when recommendations are based on explicit, objective, and consistent policy for identifying appropriate release conditions, they have the effect of reducing disparity [20].
4. **Financial Conditions**
   Historical studies of the bail system revealed that financial terms of release resulted in the disproportionate pretrial detention of the poor regardless of actual risk factors. This disparate outcome resulted in the de facto racial and ethnic discrimination of defendants, as Hispanic and black defendants were less likely to have the means to post the required monetary bail as compared with white defendants. Concern over this disparity gave rise to the bail reform movement and the creation of the field of pretrial services [21].
5. **Pretrial Supervision**
   There is a shortage of research on the most effective frequency and types of contact needed to monitor the conditions of pretrial release. However, studies have shown that overly frequent contact with defendants/offenders may be more detrimental than positive. Therefore, contacts should be required at a frequency that is reasonably necessary to monitor the conditions of release. Another study concluded that pretrial supervision generally made a positive contribution to minimizing pretrial failure, although variations in the frequency of contact seemed to have limited effect on success. Additional research is recommended to assess the impact of the type of frequency of defendant contact on effective pretrial supervision [22].
6. **Court Appearance**
   Research shows that defendants should be reminded of their court dates in order to reduce the incidence of failure to appear [23].

The article also cites six controlling legal principles unique to pretrial services: presumption of innocence, right to counsel, right against self-incrimination, due process, equal protection under the law, and right to bail that is not excessive [24].

Finally, the article opines that there are three primary distinctions between community corrections and the pretrial services field: (1) the legal status of a defendant vs. the convicted status of an offender; (2) pretrial outcomes should be limited to impacting criminal behavior and court appearance during the pretrial phase vs. emphasis on strategies to effectuate long-term change; and (3) pretrial services' evidence-based practices must be consistent with the legal foundation and defendants' rights. Coining the term "legal and evidence based practices (LEBP)," the article defines evidence-based practices for pretrial services as interventions and practices proven effective in decreasing failures to appear and danger to the community during the pretrial stage that are consistent with the pretrial legal foundation and applicable laws. [25]"

Eight Evidence-Based Principles for Effective Intervention in Community Corrections

Based upon the above analysis and definition of LEBP, the article considered the eight evidence-based principles of effective intervention proven to reduce recidivism for post-conviction offenders in the context of pretrial services. The article also made recommendations for their applicability to pretrial services as summarized below: [26]

Principle No.	Research Supported Intervention (Community Corrections)	Research Supported Intervention (Community Corrections)
1	Assess actuarial risk/needs	Develop a validated pretrial risk assessment instrument
2	Enhance intrinsic motivation, use motivational interviewing rather than persuasion tactics	Motivational interviewing may be effective to enhance motivation for compliance; however, exercise caution to honor presumption of innocence and avoid self-incriminating statements
3	Target interventions (prioritize risk, target criminogenic needs, be responsive, structure high-risk offenders' time for 3 - 9 months, integrate treatment)	Make modifications to target interventions (prioritize risk, target criminogenic needs only when related to pretrial failure, be responsive, structure time and impose treatment if related to identified risk)
4	Skill train with directed practices (use cognitive behavioral treatment methods)	Use cognitive behavioral treatment methods to the extent there is no requirement of an admission of guilt related to the current charge
5	Increase positive reinforcement (ratio of 4 positive to every 1 negative) and use appropriate graduated consequences	Positive reinforcement is okay but any modifications of conditions and imposition of any consequences should have approval of the Court
6	Engage ongoing pro-social support for offenders in natural communities	Confidentiality considerations preclude notification about arrest to community members without defendant's or Court's permission
7	Measure relevant processes and practices	Measure pretrial specific processes and practices
8	Provide measurement feedback	No special considerations required

In conclusion, the article states that the principles of effective intervention developed for community corrections can generally be applied to pretrial services with the appropriate modifications. In addition, the article recommends that additional research be conducted to determine if the practices, as applied or modified, produce the intended pretrial outcomes. To date, the information and discussion in Dr. Marie VanNostrand's article, *Legal and Evidence Based Practices: Application of Legal Principles, Law, and Research to the Field of Pretrial Services*, provides the most relevant, compelling, and helpful guidance to assist pretrial services in moving forward with the development and implementation of evidence-based practices.

District of Hawaii - Research to Results (R2R)

The District of Hawaii has actively pursued R2R funding in order to begin exploring and implementing those interventions that are relevant to the pretrial setting. The following describes the practices that were considered and/or implemented.

Risk Assessment Instrument

The process of risk assessment is one that is appropriate to pretrial services and should be

pursued. There is at least one instrument, the Virginia Pretrial Risk Assessment Instrument (VPRAI), known as the "Virginia Model," which has been developed on a pretrial population. The VPRAI is a research-based instrument that has been adopted by numerous pretrial programs nationwide. In addition to assisting the Court in the release/detention decision, the VPRAI assists in the determination of the appropriate level of supervision and defendant services. The District of Hawaii had originally proposed to field test this instrument on the federal level, however the Office of Probation and Pretrial Services (OPPS) has instead begun the process to create a pretrial services risk assessment instrument on a national level.

It should be noted that the topic of "risk assessment" and a description of the various types of available tools and instruments were outlined in the September 2006 edition of the *Federal Probation*. The issue discussed clinical vs. actuarial risk assessments; available research and evidence linking these tools to offender outcomes; and debated risk classification vs. risk reduction, short-term offender control and long-term offender change, and the appropriate definition of "risk." Although an informative overview of risk assessment was provided, there was no mention of pretrial services, pre-conviction, or "defendant" risk throughout the journal.

Motivational Interviewing (MI)

In fiscal years 2007 and 2008, the U.S. Pretrial Services Office and the U.S. Probation Office for the District of Hawaii submitted a joint funding request to train officers and staff on motivational interviewing (MI), which was granted. Training in MI requires adherence to certain fidelity requirements as established by OPPS, which are intended to ensure quality training and adoption of MI principles and strategies. One of these requirements is audio-taping of sessions between officers and defendants. Because of the nature of the pretrial setting, a special sensitivity is required when considering the audio-taping of defendants. The District of Hawaii has ensured the protection of pretrial defendants' legal rights by establishing a formal process for obtaining consent for audio-taping. First, officers are asked to identify the defendants to be taped. Next, telephone calls are placed to the respective defense attorneys in advance of any taping. Defense attorneys are individually informed of the purpose of the audio-taping (MI training) and reassured that the offense will not be discussed. In our experience, concerns expressed by the attorneys primarily related to the retention of the audio-tapes, to which assurances were provided that the tapes are erased once training is completed. Attorneys are allowed to decline participation for their defendants. For those attorneys who consent, a letter is provided which outlines information about MI and a copy of the required release form.

Because of our continued concern regarding the use of MI in the pretrial setting, in fiscal year 2008 the District of Hawaii requested and received R2R funding to develop a MI training curriculum customized for pretrial services which will take into consideration the legal principles and rights that apply to defendants prior to conviction. The project intends to produce a training guide that addresses pretrial-related issues such as the presumption of innocence, and training videos and exercises using pretrial specific scenarios.

Although post-conviction MI training appears to focus on increasing the offender's motivation to make long-term change in one or more of the six criminogenic risk areas, the use of MI at the pretrial stage appears effective at targeting more immediate needs such as increasing motivation to obtain employment, stabilize the defendant's living situation, or address risks related to non-appearance or danger. Increasing motivation to address substance use/abuse through MI appears to be an appropriate targeted risk for both defendants and offenders. Use of MI on pretrial defendants should never lead to the solicitation of information about the offense or related behavior.

Other Defendant Intervention - *Ho'okele* Pre-entry Services

The translation of the Hawaiian term, *Ho >okele*, means "to navigate your course." Developed in fiscal year 2007 with R2R funds, the *Ho >okele* program is designed as a pre-entry service to empower defendants pending sentencing or self-surrender to successfully "navigate" their journey from the community into the Bureau of Prisons (BOP). The program seeks to educate defendants about BOP so they can be proactive and transform their prison terms into constructive time. It also addresses stress and anxiety through counseling services to decrease relapse and acting out

behavior, thereby reducing the risks of nonappearance and danger.

The *Ho'okele* program consists of the following components:

a.a - Monthly information/education sessions open to convicted defendants (pending sentencing or self-surrender) and members of their support system such as attorneys, family members, etc. Attendance is on a voluntary basis.

a.b - Participation on a voluntary basis, but with the authorization of the Court, in stress/anxiety management counseling.

a.c - Enhanced effort by the supervising officer to counsel and prepare defendants for a prison sentence (when applicable) by sharing relevant information, gathering important documents, and referring them to other components of the *Ho >okele* program.

a.d - Tours of twelve BOP institutions where Hawaii defendants are most frequently designated in order to learn more about these facilities.

a.e - Development of an Internet website that provides information and links to relevant resources for defendants.

R2R funding was requested but not granted in fiscal year 2008, although the program has been continued through the use of local funds.

The components of the *Ho >okele* program are viewed as consistent with the mission of pretrial services. Focusing on outcome measures, the defendants who participate in *Ho >okele* are tracked to determine if their participation in the pre-entry program or counseling services impact the rates of violations and failures to appear/fugitive statistics.

Conclusion

In partnership with OPPS, it has been a privilege to be involved in the initial efforts to shape, develop, and implement evidence-based practices in the federal system, especially for pretrial services where no model exists. More research is needed, however, in order to achieve the desired results that comport with the mission, legal constraints, and realities of pretrial services. Through the focus on evidence-based practices and the R2R grants, a unique opportunity currently exists to identify and build specific practices based on research that are effective in enhancing pretrial services' success in reducing unnecessary detention, predicting and mitigating non-appearance risk, protecting the community through supervision strategies, and honoring the legal rights of defendants.

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example, they looked at post-conviction supervision information and were able to see supervision cases at the national level and B with a few clicks B could change the display to a circuit, district, office, and even to a single case. The working group members in March 2006 were Chief Probation Officer David Keeler (Michigan Eastern); Chief Probation Officer Christopher Maloney (New Jersey); Chief Pretrial Services Officer Timothy McTighe (Washington Eastern); Chief Probation Officer Richard Houck (DC). AO staff included Deputy Assistant Director Matthew Rowland; Senior Policy Analyst Dr. Barbara Meierhoefer; and DSS Project Manager Paul Halvorson

[40]. The Chiefs Advisory Group provides advice on all matters concerning the probation and pretrial services system; its members are elected by their peers and appointed for two-year terms by the AO Director. Other groups are appointed for specific purposes. Those appointed for purposes related to becoming an outcome-based system are the Decision Support Working Group; the Supervision of Federal Offenders Working Group; the Substance Abuse and Mental Health Working Group; the National PACTS Working Group; the PACTS Modification Working Group; the Technology Advisory Group; and the Treatment Expert Group.

[41]. At various times, we have consulted Faye Taxman, George Mason University (May 16, 2007; July 31, 2007), Christopher Lowenkamp, University of Cincinnati (May 16, 2007); Ed Latessa, University of Cincinnati (November 21, 2006).

[42]. In 2006, we held Chief and Deputy Chiefs Administrative Meetings in St. Augustine, Scottsdale, and Redondo Beach; in 2007 we held them in Chicago, Boston, and Las Vegas; the 2008 schedule includes San Antonio, White Fish (MT), and Fort Lauderdale; the 2009 schedule includes Myrtle Beach, Santa Fe, and New York City.

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Research 2 Results (R2R) - The Pretrial Services Experience

[1] See National Institute of Corrections and the Crime and Justice Institute, "*Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention*," April 30, 2004 .

[2] See Marie VanNostrand, Ph.D. "*Legal and Evidence Based Practices: Application of Legal Principles, Law, and Research to the Field of Pretrial Services*" (National Institute of Corrections and Crime and Justice Institute, 2007).

[3] The National Institute of Corrections and the Crime and Justice Institute published a series of three articles during April 2007; *Implementing Evidence-Based Principles in Community Corrections:* (1) *Leading Organizational Change and Development;* (2) *The Principles of Effective Intervention; and* (3) *Collaboration for Systemic Change in the Criminal Justice System.*

[4] National Institute of Corrections and the Crime and Justice Institute, "*Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention*," April 30, 2004, p. 2.

[5] Ibid., p. 1.

[6] Ibid.

[7] Ibid.

[8] See Title 18, United States Code, section 3142.

[9] Ibid.

[10] See Marie VanNostrand, Ph.D. "*Legal and Evidence Based Practices: Application of Legal*

Principles, Law, and Research to the Field of Pretrial Services" (National Institute of Corrections and Crime and Justice Institute, 2007), pp.1-8 for a thorough review of the applicable legal principles.

[11] The FTA violation statistics are compiled by the Administrative Office of the United States Courts, Office of Probation and Pretrial Services (OPPS), and are reported in the Probation and Pretrial Services Automated Case Tracking System (PACTS), Table H-13. For the 12-month period ending December 31, 2007, PACTS data reflects a total of 181,368 cases opened nationally, of which 77,939 cases were in release status. Of these cases in release status, 8,284 (10.6%) reported violations, including 561 FTA violations. The national FTA rate is less than 1% of the total cases released.

[12] Fugitive statistics are compiled by OPPS and are reflected in PACTS, Table H-13. For the 12-month period ending December 31, 2007, there were 95,537 cases closed. Of these, 689 cases were closed as fugitive cases. The national fugitive rate is less than 1% of the total cases closed.

[13] Release and detention statistics are compiled by OPPS and are reflected in PACTS, Tables H-14 (with immigration cases) and 14A (excludes immigration cases). For the 12-month period ending December 31, 2007, the national detention rate (excluding immigration cases) was 51.8% (35,986 cases out of 69,479).

[14] Pretrial Services violations are compiled by OPPS and are reflected in PACTS, Table H-15. For the 12-month period ending December 31, 2007, there were a total of 2,116 violations related to re-arrest activity (2,116 out of 77.939 cases released) and an additional 7,460 technical violations reported.

[15] Marie VanNostrand, Ph.D. "*Legal and Evidence Based Practices: Application of Legal Principles, Law, and Research to the Field of Pretrial Services*" (National Institute of Corrections and Crime and Justice Institute, 2007),

[16] Ibid., pp. 14-15.

[17] Ibid., pp. 11-12.

[18] Ibid.

[19] Ibid., p. 12.

[20] Ibid., p. 16.

[21] Ibid., pp. 1-2.

[22] Ibid., p. 17.

[23] Ibid.

[24] Ibid., pp. 3-8.

[25] Ibid., pp. 8-10.

[26] See Marie VanNostrand, Ph.D. "*Legal and Evidence Based Practices: Application of Legal Principles, Law, and Research to the Field of Pretrial Services*" (National Institute of Corrections and Crime and Justice Institute, 2007), pp. 18-22.

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Evidence-Based Practices in Federal Pretrial Services

[1]. The current pretrial services/post-conviction EBP debate brings to mind the kidnaping of John Augustus by students of probation history in referring to him as the first probation officer. In