

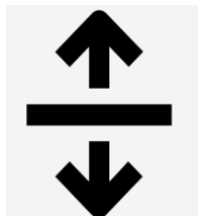
Successful Pretrial Systems Rely on Supportive Pretrial Services

Pillars of Supportive Pretrial Services

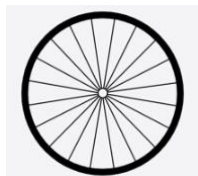
Pretrial services are a key resource in safely reducing both the use of money bail and incarceration. Their main purpose is to ensure that people released pretrial return to court and do not get rearrested. Not all pretrial services models are equally effective, however. In places that have studied their use of pretrial services, upwards of 75 percent of programs are operated by probation departments—essentially serving as an arm of law enforcement and operating under their direction.¹ Research across the nation finds that pretrial service agencies with the following four organizational principles are the most successful: they rely on supportive services, operate with independence, collaborate with community agencies, and regularly evaluate their approach.² There are several examples of pretrial services agencies across the country that follow this model—including New Jersey, New York, and several agencies in California. This fact sheet provides an overview of the key components of a successful pretrial services model and offers guidance on effective implementation.



Support, not supervision: Pretrial services that focus only on supervision—for example, using electronic monitoring, mandatory drug testing, and reporting as their main activities—expose people to more court scrutiny without improving pretrial court appearances and rearrest outcomes.³ In contrast, supportive pretrial services focus on strengths-based counseling and address underlying circumstances, like needs for housing, treatment, and employment.⁴



Independence: Pretrial services are most effective when they are a separate agency or nonprofit organization that operates independently from the courts or probation.⁵ These models of pretrial services hire professionals who are specially trained in supportive case management and counseling and are better positioned to determine what specific support and supervision a person needs. Courts and probation, on the other hand, are organized around different core principles and were not designed to make clinical assessments or provide supportive services.⁶



Hub-and-spoke: Pretrial services operate most effectively when they have a presence in the courts as well as the community. The court-based staff serve as the “hub” by interviewing and accepting people into the pretrial services program at a bail hearing or first court appearance. They make voluntary referrals to “spoke” agencies—community organizations—that can provide services near people’s homes and in their neighborhoods.

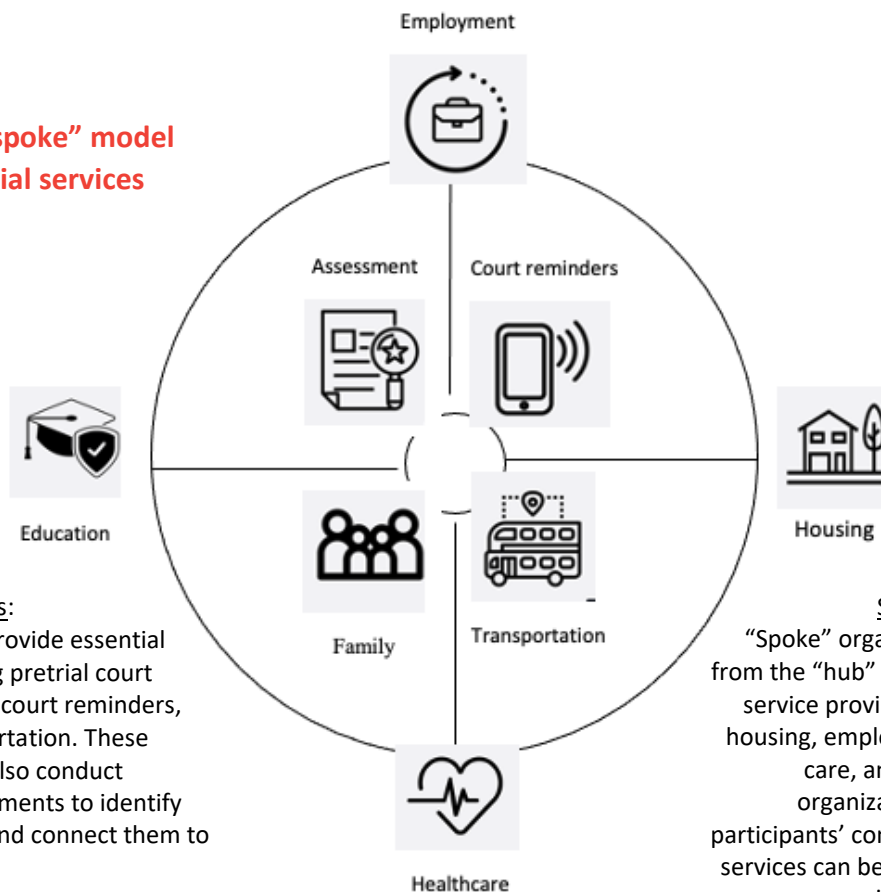


Evaluation: The vast majority of probation- and law enforcement-led pretrial services agencies do not report basic evaluation data, such as court appearance and pretrial rearrest rates of people in their programs. Nor do they report the number of people who have successfully gained housing, employment, and been connected to services and treatment as a result of their participation in pretrial services. Effective pretrial services programs document and publicly share these results, seek feedback from people participating in the programs as well as partners, and implement responsive changes.

Supportive Pretrial Services Deliver High Court Appearance Rates and Protect Public Safety

In jurisdictions that have implemented a supportive services model, the primary mandated pretrial release conditions are to appear for court and avoid new arrests during the pretrial period. Programs that take this approach boast both high court appearance rates and low rearrest rates, especially for violent offenses.⁷ Onerous conditions of pretrial release, however, such as electronic monitoring, drug testing, and extensive programming are strenuously avoided under supportive programs.⁸ Research on whether electronic monitoring and drug testing improve pretrial court appearance or public safety is inconclusive at best. What is conclusive from the research, however, is that these onerous conditions carry harmful collateral consequences and expose people to more, not less, pretrial failure.⁹

“Hub and spoke” model for pretrial services



Hub of pretrial services:
 “Hub” organizations provide essential services for supporting pretrial court appearance, including court reminders, childcare, and transportation. These organizations should also conduct comprehensive assessments to identify each person’s needs and connect them to supportive services.

Spokes of pretrial services:
 “Spoke” organizations receive referrals from the “hub” and are community-based service providers that address people’s housing, employment, treatment, health care, and education needs. These organizations should be located in participants’ communities so that ongoing services can be provided, if needed, after a person’s criminal case is resolved.

Examples of Successful Supportive Pretrial Services

Some jurisdictions are increasingly adopting a supportive pretrial services model and, unlike traditional probation- or court-based pretrial services agencies, are reporting on their results.

San Francisco, CA¹⁰
 San Francisco County operates the independent nonprofit Pretrial Diversion Project that provides a variety of release programs. These programs involve the creation of treatment plans tailored to individual needs assessments and offer a wide range of other supports—including case management, referrals to stable housing, and connections to health care resources.

Santa Clara County, CA¹³
 Santa Clara County’s independent Office of Pretrial Services provides connections to community organizations that offer transportation and other assistance through its community-sponsored release program. The office also provides people on supervision with an app that offers court reminders, information on resources, and options for remote check-ins.

New Jersey¹⁶
 New Jersey established a statewide independent pretrial services program within the judiciary in 2017. It provides five different levels of pretrial supervision, offers court reminders and community referrals to services, requires robust data reporting, and requires annual evaluation by an independent board that includes stakeholders and advocacy organizations.

New York City¹⁹
 New York City’s pretrial Supervised Release Program incorporates therapeutic interventions, hires staff who have lived experience in the criminal legal system, incorporates neighborhood-based organizations to build capacity within communities, and provides individualized supports. Only cases with established risk are assigned to Supervised Release.

Return to court rate: 92%¹¹
Rearrest rate: 6%¹²

Return to court rate: 73%¹⁴
Rearrest rate: 4%¹⁵

Return to court rate: 90%¹⁷
Felony rearrest rate: 14%¹⁸

Return to court rate: 87%²⁰
Felony rearrest rate: 13%²¹

Steps to Successful Implementation of Supportive Pretrial Services

Successful jurisdictions ground their implementation in a comprehensive understanding of community resources, a supportive mission, judicial buy-in, partnerships, and continued evaluation.



Step 1: Map services and needs.

Asset mapping identifies the “spoke” organizations and resources available in the community as well as any gaps in service availability that should be addressed as a supportive pretrial services model is implemented.



Step 2: Establish pretrial services mission and structure.

Identify a clear mission for pretrial services, grounded in independence from the courts with a supportive approach and staffed by trained case managers and counselors. One policy to ensure independence in practice, for example, is to leave the decision about the level of pretrial services to agency staff, not judges.



Step 3: Secure judicial system buy-in.

Ongoing trainings, feedback, and sharing examples of supportive pretrial services with judges, prosecutors, and attorneys are key to winning buy-in and ensuring that stakeholders have confidence in the supportive pretrial services model.



Step 4: Create partnerships with community providers and identify roles.

Strong partnerships with community-based organizations that serve as spokes are key to success. Coordinating meetings, such as a weekly roundtable of all spoke organizations, are important opportunities for feedback and course correction.



Step 5: Evaluate and modify.

Meaningful implementation depends on regular feedback from stakeholders, including people served by pretrial services, community partners, and judicial actors. Jurisdictions should establish feedback mechanisms as well as systems for implementing responsive changes.

About

This fact sheet was written by the Vera Institute of Justice. For more information, contact Aiden Cotter, senior program associate, at acotter@vera.org, and Madeline Bailey, senior program associate, at m Bailey@vera.org.

The Vera Institute of Justice is powered by hundreds of advocates, researchers, and policy experts working to transform the criminal legal and immigration systems until they’re fair for all. Founded in 1961 to advocate for alternatives to money bail in New York City, Vera is now a national organization that partners with impacted communities and government leaders for change. We develop just, antiracist solutions so that money doesn’t determine freedom; fewer people are in jails, prisons, and immigration detention; and everyone is treated with dignity. Vera’s headquarters is in Brooklyn, New York, with offices in Washington, DC, New Orleans, and Los Angeles.

Endnotes

¹ According to the New York state courts, pretrial services in 43 out of the 57 upstate New York counties are run by probation departments. New York State Unified Court System, “Pretrial Services Information – List of Agencies,” accessed May 9, 2022, <https://ww2.nycourts.gov/court-research/ListOfAgencies.shtml>. A *Los Angeles Times* article reported that according to public records data “probation [in LA County] imposed intensive monitoring instead of providing actual services. Fully 97% of those charged with misdemeanors and on supervised release were subjected to invasive electronic monitoring. The program had an extraordinarily high 70% rearrest rate, largely because intensive surveillance and monitoring traps people with violations. A battery problem with an ankle monitor, a missed appointment due to transportation, child care, or health issues, or dozens of other ‘technical violations’ could land someone in jail as a pretrial release violator, without their having been convicted of a crime.” Scott Roberts, “Op-Ed: Gov. Newsom Tackles the Big Pretrial Detention Problem—but Finds the Wrong Solution,” *Los Angeles Times*, June 11, 2021, <https://www.latimes.com/opinion/story/2021-06-11/pretrial-detention-jails-probation-monitoring-gavin-newsom>.

² For an evaluation of New York City’s Supervised Release Program, see Melanie Skemer, Cindy Redcross, and Howard Bloom, *Pursuing Pretrial Justice Through an Alternative to Bail: Findings from an Evaluation of New York City’s Supervised Release Program* (New York: MDRC, 2020), https://www.mdrc.org/sites/default/files/Supervised_Release_Final_Report.pdf. For an evaluation of New Jersey’s pretrial justice system, including detailed information on its robust pretrial services program, see Chloe Anderson Golub, Cindy Redcross, and Erin Jacobs Valentine, *Evaluation of Pretrial Justice System Reforms that Use the Public Safety Assessment: Effects of New Jersey’s Criminal Justice Reform* (New York: MDRC, 2019), <https://www.mdrc.org/publication/evaluation-pretrial-justice-system-reforms-use-public-safety-assessment-0>.

³ The “risk-need-responsivity” model centers the principle that services should be individually tailored based on specific risk, should match individual needs to be most effective, and should be responsive to a person’s approaches and learning styles. See generally Stephanie Pyle, “The Risk-Need-Responsivity Model: Empirically Based Treatment For Criminal Offenders,” Casat on Demand, October 21, 2020, <https://casatondemand.org/2020/10/21/the-risk-need-responsibility-model-empirically-based-treatment-for-criminal-offenders/>.

⁴ See for example Center for Court Innovation, “Supervised Release Program,” accessed on May 9, 2022, <https://www.courtinnovation.org/programs/supervised-release/more-info>.

⁵ In many communities, the national nonprofit The Bail Project provides “community release with support,” which includes court notifications, transportation assistance to and from court, and an individualized needs assessment to facilitate connections to voluntary services such as behavioral health, housing, and employment. See The Bail Project, “Our Work,” 2022, <https://bailproject.org/our-work>. Other local nonprofit bail funds also provide community support, including paired intake specialists who refer people to services such as housing, employment, education, treatment, and transportation. See Community Justice Exchange, “National Bail Fund Network,” accessed on May 9, 2022, <https://www.communityjusticeexchange.org/en/nbnfn-directory>.

⁶ See San Francisco Pretrial Diversion Project, *Bail Reform and the San Francisco Pretrial Diversion Project: Preserve Independence and the Presumption of Innocence Until Proven Guilty* (San Francisco: San Francisco Pretrial Diversion Project, 2019), 1-2, <http://sfpretrial.org/wp-content/uploads/2019/02/Innocent-Until-Proven-Guilty-Preserve-SF-Pretrial-2.pdf>.

⁷ See court appearance and rearrest rates under program examples on page 2 of this fact sheet.

⁸ For research establishing that drug testing has not been proven to be effective at deterring or reducing pretrial failure, see Marie VanNostrand, Kenneth J. Rose, and Kimberly Weibrecht, *In Pursuit of Legal and Evidence-Based Pretrial Release Recommendations and Supervision* (Richmond: Virginia Department of Criminal Justice Services, 2011), 27, <https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/corrections/pursuit-legal-and-evidence-based-pretrial-release-recommendations-and-supervision.pdf>; and Jessica Reichert, *Drug Testing in Community Corrections: A Review of the Literature* (Chicago: Illinois Criminal Justice Information Authority, 2020), <https://icjia.illinois.gov/researchhub/articles/drug-testing-in-community-corrections-a-review-of-the-literature>. Research also found that the “use of bond and electronic monitoring had little impact on pretrial misconduct. However, more frequent pretrial monitoring was associated with higher rates of pretrial misconduct across all risk levels. Reducing supervision conditions and monitoring for low-risk defendants, in particular, may help reduce rates of misconduct in pretrial populations.” Evan M. Lowder and Chelsea M. A. Foudray, “Use of Risk Assessments in Pretrial Supervision Decision-Making and Associated Outcomes,” *Crime & Delinquency* 67, no. 11 (October 2021), 1765-1791, 1765, <https://journals.sagepub.com/doi/10.1177/00111287211022642>.

⁹ In Los Angeles County, when the use of electronic monitoring increased, so did violations. An overwhelming proportion of these were for technical rules violations only. See Alicia Virani, *Pretrial Electronic Monitoring in Los Angeles County 2015 through 2021* (Los Angeles: UCLA School of Law Criminal Justice Program, 2021), 8, 12, https://law.ucla.edu/sites/default/files/PDFs/Criminal_Justice_Program/Electronic_Monitoring_in_Los_Angeles_Report-FINAL.pdf. Research has also shown that drug testing can increase pretrial failure to appear and incidents of rearrest. See Chester L. Britt, Michael R. Gottfredson, and John S. Goldkamp, “Drug Testing and Pretrial Misconduct: An Experiment on the Specific Deterrent Effects of Drug

Monitoring Defendants on Pretrial Release,” *Journal of Research in Crime and Delinquency* 29, no. 1 (1992), 62-78, 76, <https://doi.org/10.1177/0022427892029001004>.

¹⁰ See generally San Francisco Pretrial Diversion Project, “San Francisco Pretrial Diversion Project,” accessed May 9, 2022, <https://sfpretrial.org/>.

¹¹ San Francisco Pretrial Diversion Project, *Annual Report July 2019 - June 2020* (San Francisco: San Francisco Pretrial Diversion Project, 2021), 26, <https://sfpretrial.org/wp-content/uploads/2020/12/Annual-Report-v10-Dec-21.pdf>.

¹² *Ibid.*, 25.

¹³ See generally County of Santa Clara Office of Pretrial Services, “Office of Pretrial Services Overview,” <https://pretrialservices.sccgov.org/about-us/office-pretrial-services-overview>.

¹⁴ San Francisco Pretrial Diversion Project, *Annual Report July 2019 - June 2020*, 2021, 26.

¹⁵ *Ibid.*, 25.

¹⁶ See generally New Jersey Judiciary, “Pretrial Services Program,” https://www.njcourts.gov/forms/12088_cjr_pretrial_svcs_brochure.pdf.

¹⁷ New Jersey Courts, *Annual Report to the Governor and the Legislature Jan–Dec 2020* (Trenton: New Jersey Courts, 2020), 10, <https://www.njcourts.gov/courts/assets/criminal/2020cjannual.pdf>.

¹⁸ *Ibid.*, 8.

¹⁹ See generally Center for Court Innovation, “Supervised Release Program,” accessed May 9, 2022, <https://www.courtinnovation.org/programs/supervised-release/more-info>.

²⁰ NYC Mayor’s Office of Criminal Justice, *Supervised Release Annual Scorecard 2020* (New York: NYC Criminal Justice, 2021), 2, https://criminaljustice.cityofnewyork.us/wp-content/uploads/2021/07/Supervised-Release_Annual-2020-Scorecard.pdf.

²¹ *Ibid.*