Promoting Pretrial Success

A New Model for Pretrial Supervision

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Abstract

Pretrial supervision is a critical function of most pretrial services agencies. Unfortunately, most pretrial supervision strategies and conditions are not supported by research. Pretrial services agencies often recommend—and courts order—conditions that are inconsistent with the goals of promoting court appearance and arrest-free behavior. This can expose individuals who would otherwise comply with these goals to bail revocations due to technical violations.

This publication describes the elements of a "success-based" pretrial supervision protocol that emphasizes successful outcomes as a goal, encourages individualized conditions of supervision, and includes interventions to deal with court nonappearance. It also gives practical examples of how pretrial agencies can implement these elements.

INTRODUCTION

Supervision of persons with pending criminal cases is a recognized essential element of high-functioning pretrial services agencies. Originating from the first generation of pretrial services agencies in the 1960s,[1] pretrial supervision targets those who a court believes are inappropriate for release on their own recognizance but unsuitable (or ineligible) for secured financial bail or detention while awaiting trial. Conditions of supervision are meant to address factors believed to heighten an individual's risk to miss a scheduled court appearance or to have a new case filed against him or her before adjudication.[2] Besides mandating that an individual appear at all future court hearings and obey all laws, common release conditions enumerated in state and federal bail laws include regular contact with a supervising agency; restrictions on travel, association, or residence; and drug or alcohol testing. More recently, many pretrial services agencies have added electronic monitoring and global positioning surveillance to their supervision protocols. By one estimate, about 85 percent of jurisdictions nationwide employ some type of supervision of persons with pending cases.[3] However, the model of supervision employed by most agencies presents several persistent and significant shortcomings.

Pretrial Supervision and Most common Supervision Conditions Lack a Basis in Research

Research on pretrial supervision is mixed but generally not supportive of supervision as a whole or the conditions that courts impose most often.[4] While some studies show improvements in court appearance rates for supervised persons with pending cases,[5] most show only modest increases.[6] No study shows significant improvements in public safety rates.[7]

The research on pretrial supervision is, at best, mixed and generally not supportive of the conditions that courts impose most often. The literature also suggests that while supervision can "work" for medium- to higher-level risk people, it is not effective—and potentially detrimental—for lower- to moderate-level individuals.

Research does show that supervision increases the likelihood of successful outcomes among persons assessed as more likely to miss a court date or have new cases filed against them pending adjudication.[8] A study by Arnold Ventures, LLC (formerly known as the Laura and John Arnold Foundation) found that supervised moderate- and high-risk people were more likely to appear in court than similar people not under supervision. The effects of pretrial supervision on appearance rates were consistent over different time-to-disposition periods.[9] However, other research shows that imposing pretrial

interventions on people at low to moderate risk decreased their likelihood of pretrial success.[10] This point is particularly important since most people with pending cases assess as low to moderate risk to miss court dates or to be rearrested pretrial.[11]

There is no firm grounding in research for commonly imposed pretrial conditions. No research supports regular contact with a case manager,[12] drug testing,[13] or electronic surveillance.[14] As noted by Advancing Pretrial Policy and Research in 2021:

> *The most notable gap in pretrial monitoring literature is the absence of empirical evaluations regarding the effectiveness of common pretrial release conditions and practices on a person's likelihood of appearing in court or remaining arrest-free pretrial. Unevaluated conditions include, among others, no contact orders, curfews, and driving interlock devices. Additionally, how pretrial services agencies respond to people's compliance and noncompliance (or "technical violations") with court-ordered condition has not, to our knowledge, been studied in terms of impact on court appearance and pretrial arrest.*[15]

DIFFERENTIAL PRETRIAL SUPERVISION

A differentiated pretrial supervision model usually distinguishes levels of supervision by reporting requirements placed on individuals, with those at higher levels of risk requiring more frequent reporting. Below is an example of a differential supervision scheme.

Supervision Level	Reporting Requirements
Low	No reporting needed
Moderate	1 phone call monthly
Medium	1 phone call monthly, 1 in-person report monthly
High	2 phone calls monthly, 2 in person reports monthly

Supervision also can include other conditions such as drug testing, curfew checks, and electronic surveillance.

The dearth of research on regular reporting is significant since many pretrial services agencies use reporting frequency to distinguish among levels of supervision. For example, under the differential pretrial supervision model (see above), defendants assessed at a higher risk level have more frequent reporting requirements than lower risk individuals. However, without an empirical basis, it is unclear whether mandating reporting as a condition—or varying the level of reporting for individuals at different risk levels—improves the likelihood of court appearance or public safety.

Conditions Often Are Inconsistent with Individual Risk Levels and Factors

Courts may impose conditions based on an individual's status in a group rather than his or her specific risk factors. Conditions like these are called "blanket conditions" and include universal conditions that apply to all defendants placed on a pretrial agency's supervision, bond schedules that apply bail amounts by arrest charge types, and court orders that mandate

conditions based on certain offenses (for example, drug testing for those charged with drug crimes or firearm prohibitions for weapons offenses).

Blanket conditions impose interventions based on an individual's circumstances, not his or her assessed risk. This is counter to the principle of least restrictive individualized bail found in federal and state bail laws. For example, in *United States v. Salerno* (481 U.S. 739), the U.S. Supreme Court ruled that the Excessive Bail Clause guaranteed that release conditions "not be excessive in light of the perceived evil" the government sought to address.[16] Courts also have questioned release conditions tied to specific charges. For example, federal courts reviewing the Adam Walsh Act[17] have ruled the law's mandate of electronic surveillance and reporting conditions for defendants charged with child pornography as unconstitutional.[18] As one court noted:

> *The government interest in protecting society is valid. Its response in this particular case is not . . . The defendant poses no risk to society in general, or to children specifically . . . Under these circumstances, this court finds that electronic monitoring is excessive, as applied to this defendant, in light of the perceived evil.*[19]

Another court ruled that the Adam Walsh Act's prohibition on firearms possession violated "due process by requiring that, as a condition of release on bail, an accused person be required to surrender his Second Amendment right to possess a firearm without giving that person an opportunity to contest whether such a condition is reasonably necessary in his case to secure the safety of the community."[20] Courts also have struck down blanket policies that mandated pretrial supervision based solely on the nature of an offense[21] and provisions that mandated regular urinalysis in drug-related cases.[22]

Finally, most pretrial conditions do not effectively address the risk factors that research and literature link to pretrial misconduct. Most pretrial risk assessments rate static conditions (e.g., age, previous failures to appear, past criminal convictions or incarcerations, pending charges, and current status to the justice system) as more predictive of pretrial outcomes than dynamic factors (e.g., residence, employment, community ties).[23] Unlike dynamic factors, static predictors do not change during the supervision period and cannot be addressed well through interventions,[24] such as routine reporting, urinalysis, or location restrictions. Further, the dynamic factors identified in pretrial risk assessments point to only a narrow range of behaviors or circumstances (such as residence issues or behavioral health concerns) that can be addressed through conditions.

Most Defendants Require Minimal Supervision To Achieve Successful Pretrial Outcomes

Data suggest that most defendants require little supervision pretrial. For example:

- In fiscal year 2021, ninety-two percent (92%) of defendants released pretrial in Washington, D.C. made all scheduled court dates and 90 percent were not rearrested during the pretrial stage.[25] Ninety-eight percent (98%) of released defendants were not rearrested on a new violent criminal charge.[26]

- In Cook County (Chicago), Illinois, eighty-three percent (83%) of released felony-charged defendants made all scheduled court dates, and eighty percent (80%) were not rearrested pretrial.[27] Ninety-seven percent (97%) of felony-charged defendants were not rearrested on a new violent offense as they awaited trial.[28]

- Low pretrial misconduct rates correspond to the levels of predicted risk recorded by most empirical pretrial risk assessments. These instruments usually assess most defendants as low to moderate risk.[29]

Even higher-risk defendants typically succeed more often than they fail. Just under eighty-five percent (85%) of high-risk defendants in federal courts succeeded before trial.[30] Seventy-six percent (76%) of high-risk defendants in Allegheny County (Pittsburgh), Pennsylvania made all scheduled court appearances, remained arrest-free before trial, and complied with conditions of pretrial supervision.[31] Sixty-two percent (62%) of high-risk defendants in Riverside, California succeeded pretrial.[32]

Higher Risk Levels May Not Warrant More Intensive Supervision Conditions

Rates of court appearance and arrest-free behavior among individuals assessed at different risk levels may not differ by much. For example, fifty-three percent (53%) of high-risk defendants assessed under the Indiana Risk Assessment System (IRAS) made all scheduled court dates and did not have new criminal cases filed against them.[33] In New Orleans, individuals assessed at level 1, the lowest level on the Public Safety Assessment, made eighty-nine percent (89%) of scheduled court appearances compared with eighty-three percent (83%) of individuals assessed at level 5. While level 1 defendants had significantly higher rates of arrest-free behavior (ninety-three percent (93%) compared to seventy-three percent (73%) for those at level 5), the success rate for high-risk individuals did not suggest the need for higher level conditions such as electronic surveillance or regular reporting to the pretrial services agency. Similarly, in Allegheny County, Pennsylvania, individuals assessed as “low” have a success rate only three percentage points higher than individuals assessed as “low medium” and nine points better than defendants at “high medium.”[34]

These data suggests that—in some defendant populations—differences in risk levels alone may not be enough to determine meaningful differences in how to assign supervision levels and prescribe interventions. Instead, an appropriate supervision strategy may depend more on each individual's specific risk factors and the least restrictive interventions needed to address them.

THE SUCCESS-BASED SUPERVISION MODEL

The issues associated with current models of pretrial supervision highlight the need for a new strategy that:

- Ties the goal of supervision to the purposes of bail—reasonable assurance of future court appearance and public safety.
- Acknowledges that most defendants will succeed pretrial.
- Adopts measures that are individualized to the defendant and the least restrictive needed to address identified court appearance or public safety concerns.

Fortunately, a better model can be drawn through statutes governing bail practices,[35] emerging caselaw regarding bail,[36] standards for pretrial practices adopted by the National Association of Pretrial Services Agencies (NAPSA), standards from the American Bar Association, and NIC's *Essential Elements Framework* for pretrial systems and agencies. The hallmarks of this new model are the goal of promoting successful pretrial outcomes, using recommendations to help inform bail decisions, using mitigation strategies to address pretrial misconduct when it occurs, and employing interventions that address the dynamic nature of pretrial risk and individualized risk factors.

The Success-based Supervision Model

The Goal: Promote Successful Outcomes

Bail statutes and caselaw as well as NAPSA and ABA Standards define the purpose of bail as reasonably ensuring a defendant's future court appearances and minimizing a defendant's potential threat to public safety. Given the purposes of bail—and the reality that most individuals will make scheduled court dates and remain arrest-free as they await trial—the goal of pretrial supervision should be to promote successful outcomes for the greatest number of supervised individuals.

Recommendations Tied to Specific Risk Factors

At the initial appearance hearing, pretrial services agencies should provide recommendations to courts that outline what the agency believes is the best strategy to promote court appearance and public safety for each defendant. Recommendations should be informed by the results of a validated pretrial risk assessment tool and the mitigating and aggravating factors identified in an interview with the defendant, verification of interview information, and a criminal history check.

The goal of pretrial supervision is to promote success among the greatest number of supervised individuals.

Recommended conditions must be specific to an individual's identified risk factors and be the least restrictive means needed to address those factors. For example, verifying a defendant's ability to attend scheduled court dates could be addressed through a progressive series of options from court notification to contact with the defendant before scheduled court appearances to regular defendant reporting to a pretrial agency.[37] If the first option is sufficient to address the identified factor, the pretrial agency should not recommend any further conditions.

EXAMPLE OF AN INDIVIDUALIZED RISK-BASED RECOMMENDATION SCHEMA

	Assessed Risk Level			
Risk Factor	**Low**	**Moderate**	**Medium**	**High**
Missed court date within the past 2 years	Court notification	Case manager contact 2-3 days before the court date	Regular reporting to Pretrial Services	
Victim-related crime	Stay-away order	Temporary protection order		GPS-enforced stay-away order
Suspected substance use disorder	Treatment assessment, voluntary treatment placement		Treatment assessment, recommended treatment placement	

Recommended conditions must be within a defendant's ability to perform them. This directive usually applies to secured financial conditions,[38] fees for pretrial supervision, or behavioral health placements,[39] but it is also appropriate for conditions that require a

defendant to complete a regularly occurring activity, such as reporting, urinalysis, or adhering to curfews. Nonfinancial conditions should not impose unnecessary restrictions on a defendant's movements; conflict with a defendant's employment, education, or home schedules; or require defendants to expend limited transportation resources better used for scheduled court dates.

While an agency should not recommend against release, it should note when it cannot address a defendant's risk of court nonappearance and potential for new arrests. Instead, the agency's report to the court should identify the specific risk factors it believes cannot be addressed with current resources.

Defendant Supports

A success-oriented model includes supports that foster positive behaviors and identifies possible impediments to court appearance and public safety.

Court Notification

Notification to defendants of scheduled court dates is a recognized evidence-based practice in the pretrial field.[40] Pretrial agencies or the courts should notify all defendants of upcoming court dates. The pretrial agency should ask defendants during the interview or upon the start of supervision which forms of notification (i.e., text message, email, phone call, and/or letter) are best for them and then employ those methods for future notifications.

Designated Agency Contact

The agency should assign each supervised defendant a case manager or designated contact. This contact would assist the defendant in securing social or behavioral health services if needed or requested, help resolve issues that would affect the defendant's ability to make scheduled court appearances or provide support in meeting other conditions imposed by the court.

Behavioral Health Referrals

Defendants with behavioral health related risk factors (for example, substance use disorder) may require additional clinical assessments to determine the need for treatment and the appropriate level of care required. In these instances, the pretrial agency should consider referrals to treatment if appropriate. Agencies also should consider recommendations to the court for behavioral health diversion programming if these are available.

Agencies can offer referrals to behavioral health placement *independent of court orders* for defendants with an assessed treatment need. Agencies should consider these as complements to supervision and not report engagement or non-engagement to the court.

Response to Individual Conduct

If a court determines that conditions are needed to reasonably ensure court appearance or public safety, the pretrial services agency should monitor those conditions in a way that promotes successful outcomes. This requires a policy that identifies:

- Compliant and noncompliant defendant conduct and appropriate responses to each event.
- Conduct that the agency should address internally.
- Conduct that requires court action.

The agency should explain its response policy to defendants following their release to supervision. Agency responses to conduct should be swift and proportionate to that conduct (for example, there should be no request for supervision termination after a first infraction). Responses also should help identify barriers to an individual's compliance, if any, and provide solutions to these barriers. These steps not only promote successful behavior, but also enhance a defendant's sense that responses, when applied, are fair and balanced to his or her behavior.

The agency should notify the court whenever a defendant's conduct cannot be addressed through administrative responses. The agency's report should include recommendations for court action; however, agencies should not recommend supervision termination for any defendant who has not willfully missed a scheduled court appearance or has not had a new criminal case filed against them.

Mitigation Strategies

A growing body of literature suggests that many missed court dates are not willful acts of abscondence but rather the result of unforeseen or unavoidable events.[41] As assistance to defendants wishing to resolve unintended missed court appearances, pretrial services agencies should respond to missed court dates by adopting new procedures, including making policies to contact defendants after missed appearances, verifying the reasons for missed appearances, and encouraging the surrender of defendants to court.

Lessons from the Field

Several jurisdictions have implemented pretrial practices that exemplify what has been explained in this publication. Below are some examples of the practices that have been implemented.

Third Judicial District of New Mexico

In June 2020, New Mexico's Third Judicial District (Dona Ana County, Las Cruces) launched a pretrial services agency in partnership with the Administrative Office of the Courts. The stakeholder group overseeing the new agency committed to using legal and evidence-based practices, particularly in screening and supervising individuals pending adjudication. Taking a minimal approach, the Third District's pretrial services agency employs remote defendant reporting in nearly all cases, with the frequency of reporting at its highest supervision level set at two times a month. Individuals at the lowest monitoring level receive only court date reminders. The agency uses GPS minimally and does not perform drug testing.

Since implementation, the Third District's pretrial outcomes are promising. The District's overall pretrial release rate is 97 percent, with 92 percent of releases involving non-financial conditions of bail. Moreover, as shown in the table below, the supervision model is achieving outcomes comparable to other districts statewide where pretrial services agencies tend to employ more conditions of release.

Pretrial Outcome	3rd District	All Supervised Defendants Statewide
Appearance Rate	83%	79%
Safety Rate	85%	88%
No New Violent Criminal Charge	94%	95%
Source: New Mexico Administrative Office of the Court. Data are from supervision cases closed between October 1, 2021 and March 31, 2022.		

Monroe County (Bloomington), Indiana

The Monroe County Probation Department's supervision matrix assumes that most defendants will be placed on pretrial monitoring, which consists of notification of scheduled court appearances and specified reporting to a case manager. All other conditions are imposed by judicial officers through a hand-written release order. (The Department eliminated check-boxed conditions on the order to ensure that a judicial officer intended specific conditions to be set.) In 2021, 56.9 percent of individuals assessed by the department were placed on pretrial monitoring. All individuals received court notifications, but only 10.7 percent were ordered to drug testing, 6.7 percent to day reporting, 2.6 percent to home detention, and 1.2 percent to alcohol monitoring. Fewer than one percent of monitored individuals were ordered on electronic monitoring to enforce a location restriction and none were ordered to surveillance to enforce a curfew. The department also removes individuals from monitoring after 30 days for low-level monitoring, 60 days for medium-level

monitoring, or 90 days for high-level monitoring if they are compliant with court-ordered conditions, have appeared in court as required, and have no new arrests.

Initial research on Monroe County's adoption of the Indiana Risk Assessment—Pretrial Assessment Tool (IRAS-PAT) and supervision matrix appears to support the Department's approach of limited conditional supervision.[42] Data also showed that individuals ordered to drug testing were three times likelier to fail supervision due to a technical violation than those not receiving this condition. Receipt of an incentive for condition compliance also was a strong predictor of supervision success. Those receiving an incentive had a 23.8 percent higher success rate than those not receiving an incentive. Based on these findings, evaluators recommended that the courts:

- Minimize the use of electronic monitoring and drug testing as pretrial conditions.
- Decrease the use of financial bail in release decisions.
- Make greater use of incentives in pretrial supervision.

Conclusion

Though still evolving, the literature on pretrial supervision suggests that commonly ordered conditions address neither the level of pretrial risk nor the individual risk factors that most defendants present. Current pretrial supervision methods not only rely on these unproven conditions but often apply them as a way to distinguish between supervision levels, not necessarily to address individual risk factors. This publication presents an alternative supervision paradigm that recognizes the likelihood of successful outcomes for most defendants and uses conditions and supports to encourage this success. This means moving away from the use of blanket conditions based on assessed risk levels or criminal charge and towards a model that targets specific, affectable risk factors and includes services when needed that promote successful outcomes. This approach recognizes the individualized nature of bail—and therefore pretrial release requirements—and suggests that conditions not tied to risk may actually reduce success rates.

NOTES

[1] See Federal Public Law 89-465 , The Bail Reform Act of 1966, § 3146. Release in noncapital cases prior to trial: "(a) Any person charged with an offense, other than an offense punishable by death, shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the judicial officer shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions…" Public Law 91-358, District of Columbia Court Reform and Criminal Reform and Criminal Procedure Act of 1970, § 23-1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations, (h). National Association of Pretrial Services Agencies (1978). *Performance Standards and Goals for Pretrial Release and Diversion: Release.* Washington, D.C.: National Association of Pretrial Services Agencies. pp. 29-33. ABA Standards Relating to Pretrial Release, First Edition (New York: American Bar Association Project on Minimum Standards for Criminal Justice, 1968), Standard 5.4 (providing that "No person should be allowed to act as a surety for compensation").

[2] Given that any imposed requirements "will restrict the defendant's liberty to some extent," conditions should be the least restrictive needed to assure future court appearance and arrest-free behavior. See American Bar Association (2007). *ABA Standards for Criminal Justice: Pretrial Release (Third Edition)*. Standard 10-5.2(a). p. 108. Washington, D.C.: American Bar Association.

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[15] APPR (2021) at p. 5.

[16] *United States* v. *Salerno*, 481 U.S. 739 at 754.

[17] The Adam Walsh Child Protection and Safety Act (PL 109-248) established a national registry of persons convicted of sex offenses. The law also amended the Bail Reform Act to require all Federal defendant charged with receipt or possession of child pornography and released pretrial comply with mandatory conditions of electronic monitoring, curfew, restrictions on personal associations and travel, stay away orders from victims,

and regular reporting to a designated law enforcement or pretrial services agency. 18 U.S.C. § 3142(c)(1)(B)) (2006).

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[19] *United States* v. *Polouizzi*, 697 F. Supp. 2d 381, 395 (E.D.N.Y. 2010).

[20] *United States* v. *Arzberger*, 592 F. Supp. 2d 590 (S.D.N.Y. 2008) supra at 603.

[21] *State* v. *Wilcenski*, 2013 WI App 21, 346 Wis. 2d 145, 827 N.W.2d 642, 12-0142.

[22] *State* v. *Rose* 22 146 Wn. App. 439.

[23] Examples of commonly used pretrial risk assessments are the Public Safety Assessment, the Virginia Pretrial Risk Assessment Instrument, and the Ohio Risk Assessment Safety: Pretrial Assessment Tool. These can be found at:
https://www.insideprison.com/article_assessments_Ohio_Risk_Assessment_System_Pretrial_Assessment_Tool.asp.
https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/corrections/virginia-pretrial-risk-assessment-instrument-vprai_0.pdf#:~:text=Virginia%20Pretrial%20Risk%20Assessment%20Instrument%20%28VPRAI%29%20examines%20a,Section%2C%20beginning%20on%20page%2021%20of%20this%20manual.
https://advancingpretrial.org/psa/about/.

[24] Douglas, K.S. and Skeem, J.L. Violence risk assessment: getting specific about being dynamic. *Psychology, Public Policy, and Law*. 2005;11:347.

[25] Pretrial Services Agency for the District of Columbia (2022). *Congressional Budget Justification and Performance Budget Request Fiscal Year 2023* at p. 33. Washington, D.C.: Pretrial Services Agency for the District of Columbia. The "arrest-free" performance metric includes criminal traffic and local misdemeanor cases as well as criminal misdemeanor and felony offenses.

[26] Ibid.

[27] Stemen, D. and Olson, D. (2020). Dollars and Sense in Cook County: Examining the Impact of General Order 18.8A on Felony Bond Court Decisions, Pretrial Release, and Crime. Chicago, IL: John D. and Catherine T. MacArthur Foundation.

[28] Ibid.

[29] See note 4, supra.

[30] Van Nostrand, M. and Keebler, G. (2009).

[31] Collins, K. (2018). *Allegheny County Pretrial Services Outcome Reports: 2018*. Pittsburgh, PA: Allegheny County Pretrial Services.

[32] Lovins, B. and Lovins, L. (2016). *Riverside Pretrial Assistance to California Counties (PACC) Project Validation of a Pretrial Risk Assessment Tool Report*. Boston, MA: Crime and Justice Institute.

[33] Lowder and Grommon. (2017).

[34] Collins, K. (2018).

[35] Bail Reform Act of 1966, Pub. L. No. 89-465, 80 Stat. 214.New Jersey Criminal Justice Reform Act, P.L. 2014, 2014 N.J. ALS 31 (citing sec. 1 on the release or detention of a defendant pending trial). Conditions of Release, Kan. Stat. Ann. Kansas Statutes, § 22-801 (2019). Or. Rev. Stat. §§ 135.255, .260, .265 (2019). D.C. Code § 23-1321 (2019).

[36] *United States* v. *Salerno*, 481 U.S. 739 (1987). *Stack* v. *Boyle*, 342 U.S. 1 (1951). *Ex parte Milburn*, 34 U.S. 704 (1835). *Taylor* v. *Tainter*, 83 U.S. 366 (1872). *United States* v. *St. Clair*, 42 F.2d 26 (8th Cir. 1930).

[37] Defendants also could be required to contact the pretrial services agency and their attorney if an issue arises that effects their ability to make a scheduled court date.

[38] See *In re Humphrey*, 228 Cal. Rptr. 3d 513 (Cal. Ct. App. 2018) and *O'Donnell, et al. v. Harris County*, No. 17-20333 at 5 (5th Cir. Feb. 14, 2018).

[39] See Vermont Statute Title 13 : Crimes And Criminal Procedure, Chapter 229 : Bail And Recognizances. § 7554. Release prior to trial, (a)(1)(C) … The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

[40] Eckert, M. and Rouse, M. (1991). *The 1991 Court-Date Notification Study: A Preliminary Report on CJA Notification Procedures and Their Impact on Criminal Court Failure-to-Appear Rates, February 4, 1991 Through March 27, 1991*. New York, NY: New York City Criminal Justice Agency. Rouse, M. and Eckert, M. (1992). *Arraignment-Date Notification and Arraignment Appearance of Defendants Released on Desk Appearance Tickets: A Summary of Preliminary Findings.* New York, NY: New York City Criminal Justice Agency. Murray, C., Polissar, N., and Bell, M. (1998). *The Misdemeanant Study: Misdemeanors and Misdemeanor Defendants in King County, Washington, Seattle, WA.* Crozier, T.L. (2000). The Court Hearing Reminder Project: "If You Call Them, They Will Come," King County, WA: Institute for Court Management Court Executive Development Program. Nice, M. (2006). *Court Appearance Notification System: Process and Outcome Evaluation, A Report for the Local Public Safety Coordinating Council and the CANS Oversight Committee*. White, W. F. (2006). *Court Hearing Call Notification Project, Coconino County, AZ: Criminal Coordinating Council and Flagstaff Justice Court.* Jefferson County Criminal Justice Planning Unit (2006). *Jefferson County Court Notification Program Six Month Program Summary, Jefferson County, CO.* Herian, M.N. and Bornstein, B.H. (2010). "Reducing Failure to Appear in Nebraska: A Field Study," The Nebraska Lawyer, 13, no. 8. Kainu, M. (2014). *Automated Court Notifications.* Washington, D.C.: District of Columbia Pretrial Services Agency.

[41] See Corey, E. and Lo, P. (2019). "The 'Failure to Appear' Fallacy." *The Appeal*. https://theappeal.org/the-failure-to-appear-fallacy/. Bernal, D. (2017). "Taking the Court to the People: Real World Solutions for Nonappearance." 59 Ariz. L. Rev. 547, 547 (2017). Bierie, D.M. (2014). *Fugitives in the United States*, 42 J Crim Just 327, 330. U.S. Department of Justice, *Investigation of the Ferguson Police Department* *55 (Mar 4, 2015). Cohen and Reaves. (2007). Gouldin, L.P. "Defining Flight *Risk*, 85 U. of Chicago L. Rev. 677 (2018).

[42] See Research Findings on Pretrial Risk Assessment & Supervision Practices, Monroe County Local Pretrial Stakeholder Meeting, February 10, 2022.