

PRETRIAL SERVICES: EXPLORING WHAT WORKS AND POLICY IMPLICATIONS

A Paper
Submitted to the Graduate Faculty
of the
North Dakota State University
of Agriculture and Applied Science

By

Vanessa Waller

In Partial Fulfillment of the Requirements
for the Degree of
MASTER OF SCIENCE

Major Department:
Criminal Justice

June 2022

Fargo, North Dakota

North Dakota State University
Graduate School

Title

PRETRIAL SERVICES: EXPLORING WHAT WORKS AND POLICY
IMPLICATIONS

By

Vanessa Waller

The Supervisory Committee certifies that this *disquisition* complies with North Dakota
State University's regulations and meets the accepted standards for the degree of

MASTER OF SCIENCE

SUPERVISORY COMMITTEE:

Dr. Amy Stichman

Chair

Dr. Andrew Myer

Dr. Dane Mataic

Approved:

7/6/2022

Date

Dr. Carol Archbold

Department Chair

ABSTRACT

As the view on mass incarceration around the United States is further explored, there has been a need for alternatives to jail. Specifically, pretrial services programs are an opportunity for recently charged defendants to be released from jail while being supervised in the community. Pretrial services programs find eligible defendants in local jails and collect information regarding the case to determine an appropriate release plan. Once the individual is released from jail, their risk assessment score is utilized to create a supervision plan along with the conditions imposed by the court during the bail hearing. This policy paper discusses previous literature regarding the effectiveness of pretrial services programs. Multiple policy recommendations are suggested, including assessing clients' risks and needs as well as utilizing assessment tools to determine supervision. Finally, a proposed program evaluation design is presented.

TABLE OF CONTENTS

ABSTRACT.....	iii
INTRODUCTION	1
LITERATURE REVIEW	7
History of Bail in the United States	7
Description of Pretrial Services Programs	9
Target Population and Procedures.....	12
Drug Testing.....	15
Pretrial Diversion	16
Critiques	17
THEORETICAL PERSPECTIVE	23
POLICY RECOMMENDATIONS	26
Policy Recommendation 1: Assesses Organizational Readiness	26
Policy Recommendation 2: Assesses Clients’ Risks and Needs.....	28
Policy Recommendation 3: Utilize the Assessment Tools to Determine Supervision.....	30
Policy Recommendation 4: Motivate Community and Staff Who Are Resistant to Change.....	33
PROGRAM EVALUATION.....	37
Research Questions/Hypothesis	37
Variables.....	37
Design.....	39
Sample.....	40
Data Collection.....	42
Conclusion.....	43
REFERENCES	45

INTRODUCTION

Prison and county jail populations have been on a decline in recent years; however, the incarcerated population remains high in the United States and costs taxpayers a large amount of money. In 2018, there were nearly 1.5 million individuals incarcerated in U.S. state and federal prisons and the U.S. was the leading country for rates of incarceration per capita (Criminal Justice Facts, 2020). In 2019, there was a slight decrease in incarceration rates to 1.3 million inmates, however, the United States still remains the leader in the world's incarceration numbers (Criminal Justice Facts, 2020). In 2018, over 700,000 inmates were housed in county and city jails across the U.S. with one third of those inmates being either sentenced or awaiting sentencing while two thirds were awaiting court action on a current charge (Zeng, 2020). Not only is mass incarceration a social problem that affects family life, employment, housing, and community stability, but it also impacts economic resources. According to the Federal Bureau of Prisons, in 2018 the daily cost of incarceration was about \$102 per person averaging \$37,449 per year, while housing inmates in community corrections centers averaged about \$94 per day and \$34,492 per year (Department, 2019). Community programs in the criminal justice system seek to lower incarcerated populations as well as save money especially for taxpayers. If community supervision programs are less expensive than the alternative of incarceration, there is a need for more community-based programs throughout the criminal justice system that also take into account the public's safety while these individuals are being supervised.

Specifically, there is a need for community supervision programs for pretrial defendants who have not yet been convicted of their alleged crimes as nearly two thirds of jail populations across the country include pretrial defendants (Zeng, 2020). To this date, there is limited research on the costs of operating pretrial services programs. However, a study conducted of pretrial

services in multiple counties in North Carolina indicates there is a monetary savings in having defendants on supervision in the community versus incarcerated in local jails. For this study conducted on ten different counties in North Carolina, the average cost per day to house defendants in jail is \$57.30 while having defendants on supervision in the community averages \$6.04 per day (Tanner, Wyatt, & Yearwood, 2008). With this research it is clear that there are monetary benefits associated with pretrial supervision programs in the community that reduces incarceration rates and saves taxpayers money. The average length of time a defendant might be on pretrial status depends on a number of factors and how the court case goes forward. There is a possibility that the defendant's case may be resolved in a few short weeks after being charged, however, some cases may go up to a year if the case goes to trial. In the previous study on pretrial services in North Carolina, the researchers found that the average length on pretrial supervision was 118 days (Tanner, Wyatt, & Yearwood, 2008). Regardless of the specific amount of time one might be on pretrial supervision, there can be possible benefits for defendants during this process such access to community resources, accountability when released from jail, as well as having support in the community by the pretrial officer to assist in navigating the court system while saving monetary resources for the community.

Pretrial detention is utilized in the court system by judges to increase court compliance while also addressing community safety issues. Judges are granted a large amount of power in setting defendant bail orders along with appropriate release conditions prior to defendants being released back into the community pending their charges. Bail reform and changes to the current system continue to be a social issue that needs addressed throughout the country. Initially, bail reform was established to respond to heightened fear of public crime, however, with new laws regarding cash bonds there was an increase in incarceration rates and inequality within the

criminal justice system (Goldkamp, 1985). Prior to the passing of bail reform laws in the 1980's, judges intended to keep dangerous people in jail by the use of large amounts of cash bond. This was a system response to the public's fear of crime and getting tough on defendants who committed crimes. The judicial branch believed that neither imposing stringent release conditions nor the prospect of revocation of release ensured community safety; as a result, they felt justified to assign large cash bonds as a way of denying release to certain defendants pending trial (Goldkamp, 1985). This system discriminated against those who were charged with a crime but not yet found guilty in a court of law and could not afford to post such monetary amounts. Monetary assets ensure release for wealthy defendants while indigents remain in local jails which allows bondsmen to become the deciding factor as to who will be released into the community (Makowiecki, 2012).

Many critics view the past bail system as discriminatory and disagree with the use of high monetary bonds to justify pretrial defendant detention. These critics cited several reasons why the current system was illegitimate based on it being arbitrary and chaotic, discriminatory based on wealth (or lack thereof), mishandling of judicial power specific to bail setting, utilization of bail to detain those defendants viewed as dangerous versus focus on assuring appearance at future court hearings, as well as punishing defendants in the system prior to adjudication (Goldkamp, 1985). Prior to pretrial services implementation, it was discovered that those who are detained awaiting trial versus released into the community are more likely to be convicted as well as more likely to receive harsher punishments indicating a disparity in the system (Makowiecki, 2012). The sixth amendment of the constitution guarantees the defendant to have the right to a speedy and public trial, by an impartial jury, with the ability to confront witnesses against them with the aid of legal counsel (Constitution Annotated, 2022). This constitutional

right includes the presumption of innocence until proven guilty by a court of law. If defendants are detained pending trial (prior to adjudication) for long periods of time, this detention may potentially cause them to lose jobs, housing, family, and community ties.

Pretrial services programs can help fill the gap in the system regarding community safety and court compliance. These programs can also be a service in communities to help defendants keep ties to the community and reduce problems created by pretrial detention. Changes in the federal system began a bail reform movement that eventually led to the creation of pretrial services programs in state and county court jurisdictions around the United States (Makowiecki, 2012). A uniform pretrial services program has existed in the federal court system for many years, which has allowed those defendants who qualify to remain in the community under supervision instead of spending limited resources on detaining them awaiting trial. However, each state's district court system runs its own pretrial services programs lacking a uniform system which creates additional challenges when certain tools are not utilized in programing, including but not limited to, risk-based assessments to determine appropriate release, evidence-based practices when supervising defendants, as well as addressing appropriate criminogenic risk factors. The Pretrial Services Act of 1982 was signed by Congress for the federal court system and aimed to correct inequities in bail-setting practices, release those who demonstrated ties to the community, while developing alternative conditions to cash and surety bonds (Makowiecki, 2012). This program eliminates unjustified and high cash bond amounts previously imposed by judges as well as the practice of setting bond amounts based solely on the severity of the charge instead of probability of future court compliance.

Even with pretrial services today, there are circumstances when judges utilize the bail order as a means to keep defendants incarcerated who pose a risk to the community by setting

cash bond amounts high which are unattainable for most defendants depending on socioeconomic status. However, if the defendant is able post that bond, then they are ultimately released into the community without any type of supervision and without assurance they are following their court ordered release conditions or will return for future court appearances. Therefore, the community safety risk still exists. Pretrial services programs seek to fill this gap in the current bail reform issues around the United States. Since the 1960's, pretrial services programs have provided judicial officers with information and release options or detention recommendations for defendants accused of criminal offenses (Clark & Henry, 2003). Pretrial service programs apply risk assessments as well as other tools to those arrested for a criminal offense and generate a report for the judicial officer to review prior to the initial appearance so that each defendant receives appropriate bail conditions. Pretrial service programs also assess defendants' risk of pretrial misconduct by using an objective risk assessment (Clark & Henry, 2003). Pretrial services programs as a whole are a means to supervise those who may pose a safety risk in the community while also helping to ensure they will return for future court appearances and follow through on required release conditions set by the court.

Finally, there are defendants who have specific needs that should be a part of the decision-making process regarding pretrial supervision. There is also a growing concern for types of defendants that have been growing in recent years in the criminal justice system which includes those with mental illness and those who are charged with domestic violence. Nearly three out of four established pretrial services programs in the United States inquire about mental health and treatment as part of the interview process (Clark & Henry, 2003). Growing concerns with mental health cases and drug and/or alcohol abuse in the criminal justice system is an area that pretrial services can expand upon to provide support to those charged with an alleged

offense who also have underlying chemical dependency issues or mental health needs. This paper will focus on the need of community pretrial services programs to supervise pretrial defendants as well as the pitfalls that exist within the programs and areas that can be improved upon. The final portion of this paper will demonstrate how the effectiveness of pretrial services can be further explored to help implement future programs.

LITERATURE REVIEW

Bail reform is happening throughout the United States, as stakeholders realize that the current cash bond practice is out of date, discriminatory, and largely unconstitutional (Makowiecki, 2012). The cash bond system discriminates against those who have been charged with a crime but not yet found guilty in a court of law and who cannot afford to post such monetary amounts. These monetary assets ensure release for wealthy defendants while indigents remain in local jails which allows bondsmen to become the deciding factor as to who will be released into the community (Makowiecki, 2012). This literature review will first discuss the history of bail in the United States, describe the new pretrial services programs, and how these programs will benefit defendants and the community.

History of Bail in the United States

Bail reform dates back to the 1800s with nearly 1,500 years of history that focused on the American right to bail (Schnacke, 2018). The focus of the bail system in the 1800s was on releasing all bailable defendants and detention of these bailable defendants was considered forbidden. Within the past 180 years, the courts shifted their view on bail and allowed for defendants to be held on bail with no release even though bail was traditionally used to release this population (Schnacke, 2018). The system then began to change in two fundamental ways. First, personal sureties were utilized to keep track of defendants while released on bail, however, the courts began running out of people who were responsible for said defendants because these sureties were paid no money. This forced judges to place secure monetary conditions on defendants who were then required to self-pay (Schnacke, 2018). Defendants then began to claim these monetary amounts were excessive and unconstitutional citing excessive bail per the constitution. However, the courts deemed the opposite conclusion stating that bail amounts were

not excessive simply because it was unattainable (Schnacke, 2018). It was further decided that if judges did not make a record of intentionally detaining defendants based solely on monetary means, then excessive bail amounts were not considered unconstitutional (Schnacke, 2018). Secondly, the bail system began to change in the 1960's and 1970's when judges found that defendants were fleeing and committing new crimes while out on bond. Prior to this, public safety was not an issue that was considered in regards to bail amounts, however, attitudes began to change and bail reform focused on boundaries and intentional detention for flight risk defendants (Schnacke, 2018).

Controversy extended for over two decades in regards to bail reform and pretrial defendant detention in the United States up until the Federal Bail Reform Act of 1984 was passed (Goldkamp, 1985). This controversy was due to the heightened fear of public crime and legislative response in reforming the bail system. This Bail Reform Act was considered landmark legislation for federal preventative detention and allowed for judicial officers to have more options regarding pretrial defendant detention and release in the criminal justice system. Critics questioned the constitutionality of pretrial detention and pointed out reasons why the current system was insufficient including the following: release being based on random choice rather than systematically, discrimination based on wealth, abuse of discretion when deciding bail, use of bail to detain those viewed as dangerous, and punishments occurring prior to adjudication when defendants were detained with bond (Goldkamp, 1985).

As critics pushed forward, issues related to discriminatory practices in the court system led to the creation of differing types of bonds to be applied in cases that were more universal and attainable for defendants. In the 1960's, there was an increase in the use of personal recognizance release, or ROR bonds, that were based on information regarding the defendant's

community ties and flight risk (Goldkamp, 1985). These bonds did not require a monetary amount posted prior to release, only a signature from the defendant promising to appear at future court hearings. Into the early 1970's, conditional release and deposit bail programs became popular which required the defendant to only post a percentage of the cash bond amount in order to be released from incarceration (Goldkamp, 1985). Another option available for defendants to release on bond included the use of commercial sureties or bondsman. If a defendant was unable to produce the cash amount for the court to release, they may pay a portion of that cost to a bondsman that posts the original bond amount to the court on the behalf of the defendant (Seibler & Snead, 2017). Then the bondsman is responsible for ensuring the defendant appears at all future court hearings and has the ability to detain this person if they fail to appear or the bondsman will be at risk of losing the bond amount paid to the court (Seibler & Snead, 2017). These bond options gave defendants different means in which they may be able to afford the bail amount depending on their individual circumstances as well as give them an opportunity to release from incarceration with an incentive to attend future court hearings prior to adjudication of the case.

Description of Pretrial Services Programs

With issues arising due to current bail practices, the need for pretrial services programs became an option giving defendants an opportunity to be out on bail with a supervision officer in order to protect public safety and increase court compliance while reducing incarceration rates. New pretrial services programs have focused on conditional release in lieu of pretrial detention in order to help mitigate concerns of public safety and future court compliance. On January 1, 2020, a new bail reform law went into effect in New York which focused on eliminating pretrial detention and cash bond in over 90% of new arrests (Rogers, 2020). Even though at first there

was abundant support for the implementation of this law, it began to diminish due to public misconceptions such as lack of education regarding public policy and law makers inability to inform the public of the new law and its components. Prosecutors and police chiefs have demanded rollbacks of the law due to a public poll no longer showing support for bail reform (Rogers, 2020). The lack of support may be due to public misconception of what the law entails and which populations it seeks to help within the criminal justice system. For example, the public may believe that any offender qualifies for pretrial release. Even with this new bail reform law in effect, however, there are only certain types of offenses that qualify for pretrial release. Judicial officials have discretion and may still set bond in some cases including violent felonies, some misdemeanor domestic violence, witness intimidation, and tampering cases (Rogers, 2020). The crimes that the bail reform law effect are non-violent drug offenders, theft, and unlicensed driving. A neighboring state, New Jersey, reformed its bail system in 2017 and is reaping benefits including reduction in crime rates as well as lower rates of pretrial detention (Rogers, 2020). Even though critics exist, there are still benefits of current bail reform and pretrial services programs that have been implemented over the past few years.

Pretrial services programs seek to reduce monetary costs associated with incarceration, give certain defendants the ability to return to the community to be productive, as well as ensure high risk defendants remain in jail for community safety. It has been determined by past research and exploration that there are several key elements of making pretrial services programs successful which include identification, supervision, management, and supplemental services. First, the program must identify those defendants who are more likely to fail to appear or be rearrested if released from jail (Henry, 1991). In order to identify this group, the target population should include all those who qualify for pretrial services and ensure the program does

not exclude those solely based off type of offense or arrest record. This interview process that is completed to identify these individuals must also be completed in a timely matter to gather all necessary information including the defendant's ties to the community. Secondly, the program must monitor the defendant upon release into the community by monitoring the defendant's behavior, notifying them of future court appearances, providing information on community resources, and locating defendants who fail to appear while on release (Henry, 1991). It is important that the pretrial officer not attempt to rehabilitate the defendant but be a support system to provide resources to the defendant while on pretrial release. The defendant must be the one to make decisions as to attending chemical dependency treatment or seeking mental health help in order to ensure they are fully invested in their recovery plan. Third, the program must have effective management in order to be successful meaning the pretrial services program manager must continue to track data within the court system in order for the program to make necessary changes based off outcomes specific to the program's success (Henry, 1991). Pretrial services must be adaptable in order to help support and target those defendants who will benefit from pretrial release. The program's resources must be well spent and targeted at specific populations that will be best served by its resources and programming.

Lastly, Pretrial Services may also provide supplemental information and assistance to other stakeholders such as the state's attorney's office, defense counsel, and the judges involved in the court process including gathering and distributing information on the defendant to the local jail for classification purposes, referrals to local diversion programs for certain populations, providing the court with information to determine indigency status for court appointed counsel, and assisting with pre-sentence investigations by either directly submitting a report to the court or working with the local probation office (Henry, 1991). The information that the pretrial officer

gathers during this time must be accurate and also verifiable along with being gathered in a timely manner to ensure the court has the most updated information on file. This collaboration with all stakeholders involved is important to help ensure the program remains successful and has the ability to adapt and change based on the needs of all parties involved in the implementation process.

Target Population and Procedures

Pretrial services programs throughout the United States have been studied specifically regarding their procedures utilized to select qualified defendants, provide information to the court, as well as supervising those individuals who are ultimately released. One issue surrounding these programs is whether or not prescreening is necessary in order for defendants to be successful on pretrial supervision. Prescreening involves interviewing the defendant prior to the initial appearance upon being charged with an offense and booked into the local jail. One study looked at a current program in Lake County, Illinois as to whether or not prescreening defendants was beneficial and if it increased future court compliance. Prescreening in this case was defined as being the process of pretrial services' staff interviewing, collecting, and verifying the defendant's information prior to the initial appearance and generating a report to submit for the judicial officer to refer to during the bail setting hearing. The study found that prescreening defendants did not lead to higher rates of future court compliance and that the evaluated versus non-evaluated group had similar success and failure rates (Coopride, Grey, & Dunne, 2003). One can conclude from this study that prescreening does not actually impact the success rates for this group of defendants. However, it is important to keep in mind that prescreening defendants may have other benefits when utilized in pretrial services programs and may be valuable in other ways. Coopride and colleagues (2003) also pointed out that prescreening individuals may actually help identify those defendants who are the most likely to violate and who should

ultimately remain in custody. Prescreening defendants prior to release is ideal because it can assist the court with making decisions on who to release and who should be detained for preventative detention reasons based off of community safety and risk. Even though there may not be a direct correlation between prescreened individuals and success rates in the future, prescreening defendants should not be overlooked when creating successful pretrial services programs.

Another process that pretrial services programs have implemented is the use of objective assessment tools to measure risk. When prescreening defendants for potential release, risk assessments are an important tool for officers to utilize in the decision-making process. Risk assessments help control internal bias on the behalf of the pretrial officer collecting information for the court and are also a neutral tool to use on every defendant even when different officers are involved in the screening and interview process. As long as the officer is consistent in collecting data and completing the risk assessment accurately, the process will remain neutral and fairly unbiased. To this date, there has been no research conducted to study biases associated with specific pretrial risk assessment tools. However, some factors related to risk in the assessment tools could create bias in the system. An example of this would be residential stability because if the individual moves a lot or is homeless, they will more likely be categorized as high risk. Another example might be the questions associated with drug and alcohol use because the pretrial officers will interpret the defendant's substance use history in different ways which could create bias during the assessment. It is important for pretrial services programs to acknowledge these potential biases when administering the assessment tools especially when interpreting the outcomes from any program evaluations. Risk assessments are also important tools to utilize when addressing potential risky behavior in the community. The

costs associated with housing offenders in prison in regards to housing, education, mental health, chemical dependency treatment, and medical expenses proves the need for economic measures for predicting offender recidivism (Guercio, 2015). Therefore, those who are identified as less risky are ideal candidates for supervision in the community versus in a locked facility. Risk assessments are useful tools specifically with the pretrial defendant population because they allow the judge to make release decisions based off the potential risk a defendant poses to the community as well as likelihood of showing up for future court appearances.

One specific risk assessment used in pretrial services programs is the Ohio Risk Assessment System Pretrial Assessment Tool (ORAS-PAT). This risk assessment is a tool that was developed at the University of Cincinnati School of Criminal Justice that seeks to aid the court system in determining if a defendant accused of a crime can be safely released into the community prior to trial (Guercio, 2015). Releasing defendants prior to trial reduces tax payer money that is being used to house defendants awaiting trial dates before the criminal case is resolved. The ORAS-PAT focuses on two outcomes: failure to appear and new arrests (Guercio, 2015). Measuring these outcomes helps establish risk and determine if a defendant is considered a flight risk or risk to the community upon release. The Ohio Risk Assessment was developed to improve consistency throughout the criminal justice system in Ohio in the differing stages of process including pretrial, community supervision, institutional intake, and community reentry (Latessa, Lemke, Makarios, Smith, & Lowenkamp, 2010). The Ohio Risk Assessment has multiple measures for risk; however, the ORAS-PAT is the best option for pretrial defendants as they are awaiting trial and have not been convicted of the alleged charges against them. Empirical data also exists that supports the use of the ORAS-PAT on pretrial defendants. The original instruments that collected data on pretrial defendants found that four domains best

predicted recidivism which include criminal history, employment, residential stability, and substance use. A study conducted on a sample population of 452 defendants utilizing the ORAS-PAT as the risk assessment tool revealed that only five percent of low-risk defendants were rearrested compared to thirty percent of high-risk defendants (Latessa et al., 2010). Overall, it is important for pretrial service programs to utilize risk assessments that have been validated on the pretrial defendant population in order to collect and report accurate information to the court when assessing for potential release.

Drug Testing

Drug testing is another domain of pretrial services that is a current practice for some programs around the United States. Many cases involved in the court system are simple non-violent drug offenses or the underlying alleged offense is related to substance use in some way. Drug testing can be a component to pretrial supervision in the community to help ensure the defendant is complying by the bail order conditions as well as aiding the supervision officer in helping motivate behavior change in defendants who are violating this particular part of their release conditions. Drug use itself has been shown to increase the probability of short-term violations of the law (Britt, Gottfredson, & Goldkamp, 1992). If officers are able to intervene when the drug use begins, they can help the defendant find resources in the community to address the substance use.

Drug testing is a good source to monitor compliance for pretrial defendants. Despite some programs using drug testing as a deterrent, evidence suggests that it does not keep pretrial defendants from using substances while on pretrial release. One study conducted on this topic found that in their first sample of participants there was no difference between the rate of pretrial violations for the group being monitored for substance use versus not being monitored. This study also monitored a second sample of participants, which indicated a higher rate of pretrial

failure for those participants who were being monitored for substance use (Britt et al., 1992). According to this study, there are mixed results as to whether monitoring pretrial defendants for drugs or alcohol actually deters noncompliant behavior, specifically substance use prohibited on bail orders. This study in particular did not find any significant data that could show that drug testing reduces pretrial misconduct (Britt et al., 1992). Other studies have found similar results that support the claim that drug testing does not increase success rates in pretrial defendants. One study specifically found that pretrial drug testing does not increase appearance rates or decrease pretrial arrest (VanNostrand, Rose, & Weibrecht, 2011). In another study conducted by VanNostrand and Keebler (2009), they found that for low-risk defendants, pretrial drug testing actually lowered pretrial success while for high-risk defendants, drug testing had no impact on success rates. In this study, drug testing did not have a deterrent effect on low-risk defendants which could have been due to this population having less risky behaviors associated with this group (VanNostrand et al., 2011). After taking into account the cost associated with drug testing, staffing to complete such tests, as well as the statistical impact drug testing has on pretrial defendant success rates, one might question if drug testing continues to be an efficient means to monitor pretrial compliance.

Pretrial Diversion

Another practice in some pretrial service programs is to incorporate Pretrial Diversion Programs (PTD) in with their practice. Pretrial diversion cases allow for qualified individuals to participate for a period of time under supervision and if successful, the charge will be dismissed from their criminal record. Federal Pretrial Services currently utilizes this option in some districts where the U.S. attorney's office administers the program (Zlatic, Wilkerson, & McAllister, 2010). Essentially, the qualifying defendant must be willing to participate and the

pretrial diversion program must meet eight basic requirements. These requirements include specific qualifying indicators for eligible participants; voluntary participation of the defendant; maintenance of confidential information; coordination with other resources for enrollment purposes; development of supervision plans; completed pretrial diversion agreements; dismissal of charges once the defendant completes a period of supervision; and lastly prosecution for defendants who fail to successfully complete PTD (Zlatic et al., 2010).

Pretrial diversion programs incorporated with pretrial services can help keep defendants accountable in the community while also helping their future chances at success if they complete the program and charges are formally dismissed. The eligibility requirements for the PTD must be clearly drawn out and specify its differences to the pretrial services supervision to ensure each party knows its expectations. Pretrial service officers are expected to supervise PTD participants to monitor their compliance especially in regards to restitution payments as well as community service requirements (Zlatic et al., 2010). The PTD participants have only a window of time they must complete all requirements of the program in order to be considered eligible for a dismissal of the charge. However, once the charges are dismissed, this gives the defendant an opportunity to move forward and better their life in the community without a formal conviction on their record.

Critiques

Of course, not all pretrial services programs are infallible. As the options for pretrial release conditions expand, there have been concerns that some conditions imposed may be harmful for defendants. Critics of these programs argue that pretrial release may be burdensome and ineffective when applied to defendants who would have been previously released without conditions. They further argue that participation in pretrial services prolongs defendant's participation in the criminal justice system, restricts liberty, creates future pretrial detention due

to technical violations, and imposes unaffordable debts (Hopkins, Bains, & Doyle, 2019). These critics fear that those defendants who are not in need of pretrial services will be restricted to participating and being more involved in the criminal justice system than they may have previously been involved without pretrial services. These areas of concern will be further broken down to describe the specific areas that future pretrial services programs can strive to improve upon.

The first area that has been explored regarding pretrial release involves the maximization of release based on recognizance, which does not entail the use of cash bonds. As previously mentioned, cash bonds tend to be problematic as this system keeps indigent defendants in jail based on monetary resources only, and ultimately judges should strive to release pretrial defendants with the use of personal recognizance as long as public safety is not compromised (Hopkins et al., 2019). Release based on personal recognizance allows the defendant to be released from custody without monetary bond imposed while promising to appear for all future court appearances. However, this may not be possible in certain circumstances such as in cases where an alleged victim's safety is a risk, community safety is at risk, or the defendant is considered a flight risk (Hopkins et al., 2019). Cash bail amounts may be set in these particular cases to detain high-risk individuals or utilize as an added precautionary measure for future court compliance. Conditional release, specific to bail orders, should be viewed as a restriction on pretrial liberty, and therefore should only be used if the prosecutor has clear evidence to prove that the defendant is a risk to prevent flight and secure public safety (Hopkins et al., 2019). With the use of risk assessments incorporated into pretrial service programs, this may help ensure the prosecutor has all information available on the defendant prior to making this determination.

Risk assessments are a tool that can be helpful to the court in order to determine pretrial release conditions on those defendants who are considered a flight risk or public safety factor.

A second area explored by critics pertains to pretrial release conditions that follow the principle of parsimony. Parsimony is the idea that penalties should be no more severe than necessary to serve the state's interests in regards to rehabilitation, retribution, deterrence, and incapacitation (Hopkins et al., 2019). If conditions are set more punitively than necessarily, then there would be reason to believe that a defendant's constitutional rights were being violated and the conditions are considered unwarranted. Criminologists have insisted that punishment must parallel the particular crime committed and should never exceed it (Hopkins et al., 2019). This aligns with the idea that judges must only assign pretrial release conditions within reason for defendants based on prior criminal history, type of offense, and community safety in mind. If the pretrial release conditions become burdensome on the individual, the court should question if the conditions set are appropriate in that case. It is particularly important to remember that pretrial defendants have not yet been convicted of their current allegations, thus, the conditions of release must reflect these ideals.

Another principle for guiding pretrial services programs should focus on supporting pretrial defendants rather than supervising them. If the sole focus of a pretrial service agency is to monitor defendants and report violations to the court, then the program will not be effective at accomplishing its goals. Instead, pretrial services programs should utilize tools and interventions in a way that supports defendants, increases court compliance, as well as promotes public safety (Hopkins et al., 2019). Programs that seek to support defendants rather than supervise them will have better overall outcomes with court compliance and community safety. These supportive tools include building rapport, referring to community resources, assisting in crisis situations, as

well as ensuring there is an open line of communication between both the defendant and the supervising officer. Officer response to technical violations while defendants are on supervision is another area that should be further considered. According to one study done, 96% of participants had 12.9 technical violations while participating in drug court. Technical violations were defined as failure to pay, failure to report, treatment absences, positive drug tests, and other non-criminal behavior (Zettler & Martin, 2020). While specific technical violations do not necessarily mean supervision will be revoked, the number of violations on supervision may be a factor. In this particular study, the researchers found that the higher number of violations increases the likelihood of revocation as well as jail sanctions (Zettler & Martin, 2020). The supervising officer should consider the necessary consequences when dealing with technical violations while also understanding the importance of their role within the department. Around 40% of pretrial services agencies are located within probation departments which makes the supportive role with clients challenging because traditional probation focuses heavily on a supervisory role (Hopkins et al., 2019). Perhaps, probation departments may be able to shift their supervision style as well as response to violations to mirror the ideas behind pretrial services programs to ensure that both pretrial and post-conviction can accomplish similar objectives with regards to supervising clients in the criminal justice system. A shift to new objectives may cause a disruption with the client and could impact success on supervision.

Another principle for pretrial services to consider implementing in programs is not charging supervision fees for services. The criminal justice system is a public good and benefits the community as a whole, therefore, the community should pay for its services (Hopkins et al., 2019). Since the defendants on pretrial supervision has not been convicted of their alleged crime, charging fees for services is not ideal. Some jurisdictions charge for urinalysis testing which

costs \$15-\$20 per test while other jurisdictions charge an administration fee for entry into the pretrial services program as well as a reoccurring monthly charge (Hopkins et al., 2019). Many defendants incarcerated have lost their employment after being arrested or detained for long periods of time, and so charging these fees only puts more economic stress and hardship on them in the community. If defendants cannot afford their rent or food to feed their children, the last thing they will commit to paying is fees for supervision costs. In some jurisdictions, if defendants fail to pay supervision fees, they can be subject to have bond revoked and detained for violating release conditions (Hopkins et al., 2019). Therefore, the program is back to the original issue of pretrial release being based on monetary bond and ability to pay which is unfair and discriminatory.

The final principle to take into account for a successful pretrial services program is relying on evidence-based practices to base conditions of release and restrictions on liberty. When public safety and the liberty of individuals are at stake, policy reform for pretrial services should be informed by data and research (Hopkins et al., 2019). Pretrial services programs can be most effective for the public when they are formed around evidence-based practices. When this is done, tax payer money is better spent and community resources are allocated appropriately to ensure the programs is running as effectively and efficiently as possible. Unfortunately, many pretrial programs in existence base their conditions of release on ineffective policy and procedures, and so policymakers should consider the research prior to implementing these conditions (Hopkins, et al., 2019). Going forward, pretrial services programs should seek to understand the specific research that has been conducted in regards to conditions for defendants on supervised release and attempt to modify their programs accordingly to ensure the best possible outcome is likely for both the defendant as well as the community. These programs

should include eliminating cash bonds for nonviolent offenses, utilizing risk assessments to establish client-centered treatment plans, as well as evaluating officer response to violations that may occur while on pretrial supervision.

THEORETICAL PERSPECTIVE

Pretrial Services in the court system attempts to address certain risk factors that are present in the defendant population including those with high-risk needs. In this section, the theoretical perspective used to help explain the practices in pretrial services programs is the Risk-Need-Responsivity (RNR) model. The RNR model is based on three principles. First, the risk principle asserts that treatment should focus on higher risk offenders because criminal behavior is more likely to reoccur in those individuals with higher risks and needs (Imm et al., 2020). The offenders with higher risks are more likely to commit future crimes and have more social needs that should be addressed in order for them to be successful. Second, the design and delivery of treatment is important when addressing the need principle for general responsivity purposes (Imm et al., 2020). Criminogenic needs for offenders include barriers that exist in their environment which impacts the likelihood of future criminal behavior. Targeting specific criminogenic needs such as employment, family relationships, peers, substance use, housing, mental health, and recreational activities of high-risk offenders reduces their chances of continuing to engaged in criminal behavior. Lastly, treatment should be provided according to the responsivity principle (Imm et al., 2020). Offenders should have the ability to engage and learn while receiving treatment in an appropriate setting that is inclusive of all learning abilities. The responsivity principle must focus on the offender's individual learning style, motivation, and strengths of the offender in order for them to engaged fully in treatment and learn behaviors to help reduce future criminal behavior.

The RNR model indicates that outcomes are most successful when the intensity of supervision is matched to the participants' risk and interventions focus on specific criminogenic needs (Imm et al., 2020). Studies have found that the RNR model is most effective when utilized as a way to help offenders learn new skills such as mood regulation, behavioral regulation,

distress tolerance, problem solving and communication skills (Polaschek, 2012). By helping these offenders learn new prosocial skills, it benefits the individual as well as the community. Andrews and Bonta point out that the rehabilitative component of the RNR model is most successful to get the offenders away from the criminal justice system and into pro-social community life (Polaschek, 2012). In addition, for the RNR model to be successful there must be a working relationship between the offender and correctional worker. Andrews found that there is substantial reduction in recidivism when probation officers are more empathetic, challenge anti-social thinking, and reward pro-social behavior (Polaschek, 2012). The RNR model continues to have strong empirical support that it is effective long term; however, the two areas that need further exploration are the assessment of offenders along with the assessment of program design and delivery (Polaschek, 2012).

The RNR approach is supported by research that indicates when treatment services are designed according to the RNR principles they are more effective than those programs that do not include these principles (Looman & Abracen, 2013). Multiple studies conducted by Andrews and Zinger et al. (1990) examined the effectiveness of correctional programming and found that treatments coded with RNR principles were associated with larger effect sizes than programs coded with criminal sanctions (Looman & Abracen, 2013). This indicates that RNR based programming is effective in the community when supervising the offender population. Another study by Dowden and Andrews (1999) focusing on female offenders found that the delivery of any treatment programming, regardless of RNR principles, produced a stronger effect than criminal sanctions alone. This study also found that when RNR principles were adhered to by the treatment programming, there was a large reduction in recidivism (Looman & Abracen, 2013).

Even though research has validated the RNR model, there are critiques regarding it that need addressed. Ward & Stewart argue that the RNR model neglects the personal needs of the offender and places too much emphasis on criminogenic needs only leaving gaps in the offenders' lives (Looman & Abracen, 2013). Critics also point out that the RNR model does not account for human agency and people's ability to make practical decisions. Proponents argue the role of responsibility is not addressed in the RNR model and too much emphasis on criminogenic needs neglects important issues such as motivation and ability to participate in treatment (Looman & Abracen, 2013). By only addressing the criminogenic needs of offenders, they are left with gaps in their lives regarding their personal needs. Proponents further argue that the RNR model is too negative with regards to treatment by focusing on the elimination of negative attitudes and reduction of cognitive distortions instead of enhancing the strengths, skills, and abilities of the offender (Looman & Abracen, 2013).

In order for pretrial services programs in the future to be successful, these programs would benefit by incorporating the RNR model in their policy implementation to understand the risks and needs involved in the defendants' supervision plans. Evidence based-practices must be implemented to ensure accountability in the program to produce favorable outcomes. Overall, pretrial services should focus on accountability of participants as well as ensure community safety in the process while attempting to reduce recidivism in the criminal justice system.

POLICY RECOMMENDATIONS

The Risk-Need-Responsivity model can be utilized to help assist pretrial services programs in implementing program policies in order to establish effective programs in the community. The RNR model can incorporate its main components, including addressing specific risk and needs, into pretrial services programs to create good policies for the organization.

Policy Recommendation 1: Assesses Organizational Readiness

A component of the RNR model is to assess the readiness and ability of the organization providing services to ensure the services they are providing meet standard expectations (Imm et al., 2020). The Readiness Building System may be utilized in the beginning stages of implementing pretrial programs to assess effectiveness by utilizing specific assessment tools, gathering feedback from stakeholders, and creating readiness building strategies to ensure the implementation of the program is successful. The key components of the RBS include initial engagement, deciding assessment options, gathering feedback, and planning and implementing change and readiness strategies (Imm et al., 2020). In order for new programs to be successful, members of the organization should understand the strengths and challenges they will face and plan to adapt to changes along the way. This can include educating the stakeholders on the current data trends involving crime, risk and protective factors that impact recidivism, as well as information gathered on previous community supervision strategies (Imm et al., 2020). This information relayed to stakeholders is important to ensure they are kept up to date in an evolving criminal justice system.

Next, the program should use readiness assessment tools to determine an appropriate time frame in implementing the program depending on feedback received from stakeholders. Two primary readiness assessment tools include the Readiness Diagnostic Scale and the Readiness

Thinking Tool (Imm et al., 2020). The purpose of these assessment tools is to assess readiness of the program prior to its implementation, and leadership must determine which assessment tool is most appropriate to apply for its organization. Lastly, the Readiness Building System can be used to improve practices related to the RNR model. In order to implement evidence-based practices, these programs must have the ability and willingness of members to recognize which factors will promote or detract from the organization's readiness in implementing RNR principles (Imm et al., 2020). These factors in the community include resources such as treatment programming, employment assistance, education classes, housing needs, and social assistance availability. Pretrial detention can impact defendants' ability to have access to these resources, and so it is beneficial to have defendants on pretrial supervision to give them an opportunity to make positive changes. Pretrial detention can cause damages such as loss of job, housing, and other supports and further places them at risk for criminogenic factors such as unemployment, homelessness, and stigma (Van Eijk, 2020).

Pretrial services programs should incorporate the practices within the RNR model in order to build a foundation and remain successful. The first step in this process is initially engaging stakeholders involved in the implementation of the program including but not limited to the state attorney's office, commission on indigent defense, local judges, community jails, and community-based resources. Utilizing the proper assessment tools, including the Readiness Diagnostic Scale and the Readiness Thinking Tool, is important to gauge readiness of the programs prior to its implementation (Imm et al., 2020). Next, it is important for pretrial services to gather feedback and prioritize readiness subcomponents or the program's integrity and ability to meet the needs of its intended participants. Similar to a focus group, programs should engage stakeholders in a facilitated discussion related to the strengths and challenges of each

subcomponent (Imm et al., 2020). Pretrial services must take into consideration the scores on each subcomponent to determine which are likely to impact implementation and discuss strategies to overcome any barriers. Then, planning and implementing change management of readiness strategies must be used after the readiness subcomponents have been prioritized. Having a written plan in place helps keep the team on the same page, monitor the plan's progress, and make adjustments accordingly (Imm et al., 2020). The pretrial services program manager must engage all stakeholders during the implementation process to ensure they have a desire to participate and willingness to adapt to change in order for the program to have long term success.

Policy Recommendation 2: Assesses Clients' Risks and Needs

Pretrial services programs have the ability to be successful by addressing certain risks and needs when supervising defendants in the community. The RNR model can be incorporated into these programs to ensure successful outcomes for pretrial services. As mentioned above, supervision must be matched to the participants' risk and interventions must focus on specific criminogenic needs in order for the programs to have successful outcomes (Imm et al., 2020). Pretrial supervision should be individualized and based on the risk level each defendant's circumstances because if blanket conditions are used for all, the courts may violate constitutional rights and undercut the goal of pretrial justice (Dean & Collins, 2018). Pretrial services should focus on the having a supervision plan tailored to the defendants' needs in order to produce successful outcomes. The supervision plan must be specific and tailored to meet particular criminogenic needs such as housing, employment, family, leisure, and substance use/mental health needs. Pretrial services must specify the target population when selecting defendants for participation based on higher risk offenders. Also, the programs should focus on individual specific needs when implementing the program and delivering the appropriate level of treatment

to the participant. The program's developmental process must also focus on responsivity factors such as age, race, gender, and ethnicity as well as consider barriers that exist for defendants such as language barriers, transportation issues, differing education levels, and mental health needs (Imm et al., 2020). Focus on responsivity factors will help each participant adequately receive the appropriate level of treatment needed to reduce recidivism and protect public safety. Pretrial services may also reduce supervision contact standards with defendants if the defendant shows a high level of compliance after starting the pretrial supervision process. After two months of reporting, if the defendant is in compliance, their reporting requirements may be reduced to reporting on court dates only which then allows the pretrial officer to devote more time to higher risk individuals (Dean & Collins, 2018).

With regards to the supervision planning and selection process of defendants participating in pretrial services programs, the RNR simulation tool may also be utilized to determine the participants' level of risk and criminogenic needs related to those in the community who will be selected for supervision (Imm et al., 2020). Utilizing this assessment tool while implementing the program helps reveal the resources needed by the programs in order to address the risks and needs principle. Pretrial services should recognize that supervision of defendants in the community alone does not measure successfulness of the program itself. There are other factors that play a role in measuring outcomes of the program and its ability to be successful. For example, programs must recognize the target population and supervision of low-risk individuals and as well as costs associated with revocation which impacts the program's outcomes (Imm et al., 2020). Over supervising low-risk offenders can be overbearing not only on the individual but also cost ineffective where resources should be used for supervising more intense cases or higher risk offenders. Exclusionary factors may also be considered when

selecting the target population for these programs. Previous research does not indicate that certain charges should be excluded when interviewing defendants for possible release, however, this is an area that future research should address. For example, individuals who score low risk on the assessment tool but are facing serious violent charges such as domestic violence, attempted murder, and murder may not be ideal candidates for pretrial release. Therefore, the pretrial services program must decide which criteria will be used to exclude potential violent offenders depending on how each program chooses to run.

Another factor that plays a role in program outcomes are the employees implementing the program itself (Imm et al., 2020). It is important for pretrial services to base employee selection on those who are motivated and open to new approaches in the criminal justice system. To ensure outcomes are successful with pretrial services, when implementing these programs, information must be disseminated that includes research on evidence-based practices focusing on the reduction of recidivism as well as improving the program's outcomes (Imm et al., 2020). The goal of pretrial services programs should be to engage all stakeholders in the process to ensure it is successful. There must be pre-planning meetings to discuss the components involved in the program as well as selecting the appropriate target population to participate.

Policy Recommendation 3: Utilize the Assessment Tools to Determine Supervision

Another policy recommendation for pretrial services programs includes the use of evidence-based risk assessments, specifically the ORAS-PAT, on defendants in order to provide consistent services for all participants, improve consistency throughout the court system, while also addressing the risks and needs of criminal behavior. The specific outcomes associated with the ORAS-PAT assessment tool include failure to appear and new arrests (Guercio, 2015). These outcomes are important when working with defendants in pretrial services because these tools

assist in determining if a defendant is considered a flight risk or risk to the community upon release. The risk assessment score can be utilized to determine a recommendation as to whether the defendant should be released to supervision or detained prior to adjudication of their criminal case. The ORAS-PAT assessment includes seven questions that address the following factors: criminal history, employment, residential stability, and substance use (Latessa et al., 2010). After the assessment is implemented, it generates percentage scores regarding failure to appear and likelihood of committing new offenses while on bail which is important when determining release planning for the target population. The stakeholders involved including the defense counsel, state's attorney, and judge should be notified prior to the initial appearance of what the defendant's risk assessment scores are and recommendations the pretrial officer has for the court regarding releasing or detaining the defendant in the particular case. Use of risk assessments in pretrial services programs is important to determine who should or should not be released from jail. Some researchers believe there is a relationship between community stability and number of days spent in jail especially for lower risk defendants because this destabilization leads to an increase in risk for new criminal offenses as well as failing to appear in court (Lowenkamp, VanNostrand, & Holsinger, 2013). Without the use of risk assessments when implementing pretrial services programs, the process can be arbitrary and inconsistent when delivering services to the pretrial defendant population.

Lastly, supervision planning is another policy recommendation and key component when implementing pretrial services programs to defendants in the court system as this guides the process for managing offender behavior based on risks and needs. As discussed in the theory section, the risk principle asserts that treatment should focus on higher risk offenders where criminal behavior is more likely to reoccur due to higher risks and needs (Imm et al., 2020). The

importance of risk assessments, specifically the ORAS-PAT, should be administered to indicate what level of supervision is appropriate for the defendant and base their individual supervision planning on this risk assessment score. Then the supervision plan should address the top risk factors for the individual who will be supervised, as addressing the risk factors helps reduce the probability of continued criminal behavior. The next component of supervision planning is the design and delivery of treatment when addressing the need principle (Imm et al., 2020). This treatment includes the supervision planning process with the defendant in order to have a roadmap and clear expectations that the defendant is expected to follow through with while on pretrial supervision.

After the supervision plan is created and mutually agreed upon by the defendant, the supervision process begins and outcomes can then be collected. According to the RNR model, outcomes are most successful when the intensity of supervision is matched to the participants' risk and interventions focus on the specific criminogenic needs (Imm et al., 2020). The higher risk the defendant is, the more intense the supervision planning should be for those individuals. Interventions on the supervision plan must address their top risk factors including but not limited to housing, employment, and substance use. The lower risk the defendant is, the less intense supervision planning is needed as the pretrial officer should avoid over supervising this target population with less risk and needs which could potentially create unintended negative consequences on this group. It should be noted that substance use treatment may not be a risk that needs immediate attention while defendants are being supervised in the community as defendants may only be on supervision for a few short weeks before the case is adjudicated. For example, in a study conducted on pretrial services in North Carolina counties, the shortest and longest amounts of time on pretrial supervision were 30 days to 186 days, respectively (Tanner,

Wyatt, & Yearwood, 2008). However, other needs that should be addressed during the supervision period include employment, housing, leisure activities, family/marital issues, and companion associations as these areas have correlation with engaging in future criminal behavior. When the defendant makes an effort to address other risk factors in their life, it could give the court an opportunity to work with the individual in lieu of prison or jail time depending on the severity of the offense.

With all research considered regarding risk and needs principles, these factors are important to include in pretrial services to ensure effective outcomes. The goal of pretrial services programs is to protect public safety while also reducing recidivism and lowering taxpayer dollars or spending this money more effectively. Defendants must be assessed appropriately when considered for pretrial release to ensure there is a clear plan in place to effectively monitor these individuals in the community. Pretrial services officers must also work closely with stakeholders and the judicial system to communicate information regarding these defendants appropriately, so that all parties involved can make educated decisions regarding placement of this population in the community until criminal cases have been adjudicated.

Policy Recommendation 4: Motivate Community and Staff Who Are Resistant to Change

Another issue to address in the criminal justice system regarding community programming is how to motivate communities to create pretrial programs and utilize them in communities to create change in the correctional system. Programs such as pretrial services must work with local stakeholders to present information regarding the benefits and the information should be passed to the community to help back the implementation of the program. Currently, there is a nation consensus that mass incarceration is unsustainable and low-risk offenders should no longer be placed in prisons (Thielo, Cullen, Cohen, & Chouhy, 2015). Pretrial services can help identify lower-risk offenders and supervise them in the community prior to adjudication

giving them an opportunity to return to work and home life to be productive citizens of the community. In an article specific to Texas corrections, there is clear support for policy agendas that include treatment, prison downsizing, alternatives to incarceration (Thielo et al., 2015). Pretrial services programs are an alternative to incarceration and gives an opportunity for defendants to engage in treatment and reduces prison populations if defendants are compliant with supervision while on pretrial status. Specific to the state of Texas, institutional crowding became the forefront to new legislation to reduce prison costs and invest in treatment facilities. Funds were budgeted for 10,000 new treatment slots and reforms provided prison alternatives to judges when sentencing low level offenders (Thielo et al., 2015). Pretrial services can attempt to work with this population in the community while they are navigating the court system to address rehabilitation and reduce local jail overcrowding. In order to implement pretrial services effectively, the mission of the program must be clearly communicated to the public in order to create community support.

Pretrial services programs also should work with training staff in correctional programs and help motivate those who may be resistant to new change. Pretrial services programs are a newer concept to the court system and these programs need time to grow and change in order to be successful in creating lasting changes and gain employee support. As the criminal justice system begins to shift towards evidence-based practices and interventions that reduce recidivism, the system must also focus on parole and probation officer attitudes and shaping their behavior to more effectively work with the offenders they supervise (Lowenkamp, Holsinger, Flores, Koutsenok, & Pearl, 2013). This shift should encompass other community correctional programs such as pretrial services as these programs are working with the same population in the community. To enhance positive outcomes when working with the offender population, the five

dimensions of core correctional practices should be implemented which include effective use of authority, anti-criminal modeling and reinforcement, problem solving, use of community resources, and quality of interpersonal relationships (Lowenkamp et al., 2013). Training probation officer in these evidence-based practices can help impact offender interactions as well as lower offender failure rates (Lowenkamp et al., 2013). This research can also be utilized in pretrial services programs to ensure pretrial officers are interacting with defendants appropriately and with a purpose that creates change in defendant behaviors to reduce incarceration and deter further criminal behavior. Research indicates that when officers are trained on the principles of effective intervention, they focus on the rehabilitative aspects of supervision and more time is dedicated to promoting behavior change (Lowenkamp et al., 2013).

While training staff adequately in using correctional interventions, training alone may not necessarily be enough. In order for long term change to occur, officers may need to get coaching, feedback, and follow up training. For example, motivational interviewing is utilized on offenders in the correctional field and is an empirically supported treatment tool used for addressing addictive behaviors while also promoting healthy behaviors (Moyers, Manuel, Wilson, Hendrickson, Talcott, & Durand, 2008). A study conducted by Moyers et al. (2008) utilized a group of behavioral health professionals who were randomly selected to participate in one of three different types of motivation interviewing trainings. The participants were then asked to submit follow up tapes for review on three different occasions while working in the field with clients. This study found that the two participant groups that completed the full training sessions were less likely to submit the follow up tapes, whereas the participant group that received less MI training initially were more likely to follow through with submitting the tapes. The researchers indicated that the third group of participants had to wait until all tapes were

submitted to participate in the full MI training, which was a possible motivational factor to complete all tapes in the timeframe (Moyers et al., 2008). This study is important to consider when implementing training for pretrial services programs, as officers need follow up training as well as coaching and feedback from training experts to ensure the quality review process is met and interventions in the field are implemented correctly. It may also be important for pretrial services programs to train officers in the same areas as post-conviction probation officers to help create this behavior change prior to defendants being adjudicated of their charges. If this behavior change can occur on the pretrial end of the corrections system, then perhaps fewer people may end up on probation and are prevented from committing future crimes, which improves public safety.

PROGRAM EVALUATION

In order to study the outcomes of pretrial services, a program evaluation should be completed to evaluate what is working and where improvements can be made. Program evaluations can help assess the program's worth and help stakeholders understand that the program is effective as well as finding ways to improve upon issues that may exist within the program. There are several areas that program managers should focus on when implementing a program, and the program evaluation can be used to assess if the programs is meeting these needs. First, the program must verify that resources would be devoted to meeting unmet needs and that the implemented program will address those needs and produce specific outcomes. Next, the outcomes must be examined to determine how successful the program was implemented and how it should be shaped going forward. The programs must also continue to provide information to maintain and improve its quality (Posavac & Carey, 2007).

Research Questions/Hypothesis

When studying pretrial services, the research questions that will be explored include the following: do pretrial service programs reduce failure to appears in court hearings and do pretrial services programs reduce new arrest while on supervision? When studying these research questions, it will be hypothesized that pretrial services programs do reduce failure to appear rates as well as reduce new arrests while defendants are being supervised on the program.

Variables

In order to study the hypotheses for this pretrial services study, the independent variables for this study are a group assignment including the group of defendants being monitored by pretrial supervision and the group that are not being monitored by the program. The individuals are then assigned to one or the other groups meaning they either receive pretrial services or are assigned the control group that does not receive services. The individuals for these two groups

will be selected based on daily arrest data from the local jail depending on type of offense and risk assessment score after the individual is interviewed by the pretrial officers. Next, the dependent variables for this specific study are failures to appear in court and new arrest data. The new arrest data includes any new arrest while participating in this study. This data will be individualized per court case that is being tracked for pretrial services purposes. Failure to appear will be determined by using the court website and well as information gathered by the pretrial officers to track whether or not defendants appear for future court appearances. If they fail to appear, a bench warrant will be issued by the judge and the court website shows the defendant did not appear for the scheduled court hearing. New arrests will also be tracked by the court website to see if defendants are charged with any new offense while on pretrial supervision. These arrests may also be tracked by the pretrial officers who have access to the jail booking information. These dependent variables will be operationalized by collecting data after their first court appearance date as well as tracking if the defendant is arrested for new crimes while on pretrial services.

Lastly, the control variables for this program evaluation will include demographic variables of the defendants including age, gender, and race as well as arrest and release dates, case number, type of offense(s) and crime level, bond amount if applied, and the date that initial cases are resolved. Many of these variables will be collected at the initial meeting with the defendant during the pre-screening process. Other control variables include length of time on pretrial supervision as well as risk assessment scores. Risk assessment scores will be collected by the use of the Ohio Risk Assessment System Pretrial Assessment Tool to ensure a risk level (low, moderate, high) is attained and utilized to determine the appropriate supervision level for the supervised defendant group (minimum, medium, maximum). Length of time on supervision

will be determined towards the end of the pretrial supervision period to get the number of days the defendant was actively being supervised.

In order to also incorporate a measure to study at least one of the proposed policy recommendations, officer motivation is a variable that will be addressed by utilizing a self-administered survey for the officers involved in the interviewing process of defendants. Although not strictly a control variable, this variable is important in order to see if there is any correlation between officer motivation and outcomes of the pretrial services program. Data collection of this variable will be described in more detail below.

Design

The proposed design for evaluating a pretrial services program is using a quasi-experimental, non-equivalent groups design. This evaluation is not a true experimental design because randomization is not implemented when selecting the population groups. For purposes of this evaluation, there will be two groups including a supervised group as well as non-supervised group, and the evaluator should attempt to ensure the groups have similar characteristics by using matching techniques to allow valid interpretation of the results. Both the supervised group and non-supervised group will be chosen based on the same target population requirements to ensure both groups have as similar characteristics as possible. The supervised group will receive the treatment of being supervised in the community while participating in the pretrial services program and be required to follow up with the pretrial officer per the programs policies and follow all requirements of the program. Defendants in both groups will be pre-screened to determine risk level in order to compare and contrast results and outcomes that occur after the evaluation is completed.

After prescreening is completed, propensity-score matching will be completed on the two groups to ensure they have as similar characteristics as possible when comparing them and to control for selection effects. In a previous study conducted in the court system on juvenile offenders, they utilized propensity-score matching based on the offenders' risk and offense before making any meaningful comparisons (Onifade, Wilkins, Davidson, Campbell, & Petersen, 2011). This study on juveniles utilized a risk assessment known as YLS/CMI which has been previously validated on the juvenile offender population. After the risk scores were produced, they were utilized to match the control group to the experimental group before making their comparisons (Onifade et al., 2011). This pretrial study can also match the participants in the supervised group and unsupervised group based on risk assessment scores, according to the ORAS-PAT, while also matching type of offenses they were initially charged with. This study will be longitudinal because the pre-screening and interview process is completed on defendants after they are arrested, and the same defendants will be monitored over time to track their behavior throughout the court case. This program evaluation on pretrial services is evaluating if these programs are effective in the community at reducing incarceration rates and new arrests while increasing court compliance for pretrial defendants. The intent of this evaluation is to examine if pretrial services supervision and program components can make a positive difference for pretrial defendants in the court system specific to reducing incarceration and new arrest rates as well as increasing court compliance.

Sample

This program evaluation will be conducted in Fargo, North Dakota on a new pretrial services program that was implemented two years ago. The anticipated sample size will aim for 1,000 participants with about 500 in each group to ensure the groups are large enough to produce

valid results. Within a year timeframe, this sample size should be able to be met as the Fargo area is more densely populated than the rest of North Dakota and arrest data from Cass County should be adequate in this area. In a previous study conducted on juvenile offenders with a similar research study design, the researchers utilized a sample size population of 1,354 juvenile offenders which produced results when the data was analyzed (Onifade et al., 2011).

With regards to participation in the research groups, participation in the program evaluation should be voluntary for the non-supervised group, however, the supervised group will be required to participate per the bail order signed by the judge which stipulates pretrial services as a requirement for the defendant to follow while in the community pending their charge. This group of participants are chosen by the pretrial officer prior to the initial court appearance when the judge sets the bail order conditions. Since the supervised group is not voluntary, this may be an issue that needs further addressed in future studies regarding pretrial services.

The sample for this study will be a non-probability sample because defendants chosen to participate will not be randomly selected prior to the interview process as the court system makes it difficult to have a randomized selection process. This program evaluation will be conducted for about one year, or more if needed to collect the sample size, in order for there to be ample time to collect data and have participants in both groups so that outcomes can be effectively compared. The program evaluation will have to account for shorter and longer periods of time that defendants will be placed on pretrial supervision because this will vary on a case-by-case basis.

The follow up period for defendants will be at one year to ensure all court related data has been collected on the case and is able to be analyzed. The data will be collected in one jurisdiction where there is an active pretrial services program, as all court systems are set up

different and judges differ depending on the area. If a study was conducted in multiple jurisdictions, it may make it difficult to interpret the data if court systems in different areas are operating differently. Therefore, collecting data for one jurisdiction allows for more valid results for that one area to make comparisons and suggest changes for that specific community. Regarding the year long timeline, follow up data will need to be collected on both groups regarding failure to appear in court as well as new arrests and this will allow time for the researchers to collect all data necessary to produce valid results.

Data Collection

The data collection instruments involved in this program evaluation of pretrial services will be interviews conducted by pretrial officers during the pre-screening process of the selected defendants as well as using collateral information in the court system to verify the information collected. The pretrial officers will ask questions specific to the ORAS-PAT tool which includes questions pertaining to the defendant's past criminal history, housing, employment, and substance use. The pretrial officer will also use collateral contact info such as court records, background checks, and collateral contact info involving current employers and family members who can verify the information given by the defendant. Court records data will need to be retrieved by the pretrial officers as they have special access to the court cases compared to the general public court website. Therefore, the data collector will have to rely on collaborating with the pretrial officers to ensure they have access to all data needed including failures to appear in court and new arrest data. The pretrial officers will have knowledge as to whether or not defendants have appeared in court as well as if the defendants have been booked into the local jail on new charges during the supervision period.

Officer motivation will be measured utilizing a self-administered survey assessing specific attitudes and beliefs towards criminogenic needs. The survey will be based off of a previous study conducted by Lowenkamp et al. (2013) that assessed officer motivation after completing a training involving evidence-based correctional intervention strategies. This study assessed the extent to which probation officers have influence over offenders by asking the true/false question of “We can predict how offenders will do based on how we as officers interact with them”. This study also utilized six true/false questions designed to address different aspects of behavioral change in the offender population. They also assessed officer-client interaction by asking three true/false questions (Lowenkamp et al., 2013). This program evaluation assessing outcomes for pretrial services can incorporate these same survey questions in this evaluation in order to assess pretrial officers’ motivation while working in this field with pretrial defendants. The survey questions would then be grouped into an additive scale assessing officer motivation.

Conclusion

This program evaluation completed on a pretrial services program will add to the current research on this topic and can help find areas in which pretrial services can expand upon. This evaluation can also help clarify if pretrial services programs can be a more feasible option for the court system when working with pretrial defendants who are lower risk and may not need to be incarcerated for long periods of time until their criminal case is resolved. Completing this program evaluation can help answer the research question as to whether pretrial services programs are able to specifically address reducing incarceration and new arrests as well as increasing court compliance to help court systems navigate more effectively. Another area that needs further exploration on this topic includes expanding the use and the evaluation of pretrial

services to other areas of the state, particularly rural areas, that may not have as many motivational factors or limited resources to implement the program. It should be acknowledged that stakeholders in these rural areas will change depending on the location the programs are being implemented. This is important for pretrial services programs to consider especially when starting the pre-planning process to implement a new program within communities. In conclusion, pretrial services programs have been successful throughout the United States, however, this topic is relatively new and still needs improved upon and expanded in many different county and court jurisdictions throughout the country to produce a more nationwide response to pretrial incarceration.

REFERENCES

- Britt, C.L. III, Gottfredson, M.R., & Goldkamp, J.S. (1992). 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(1):62-78.
- Clark, J. & Henry, D. A. (2003). Pretrial services programming at the start of the 21st century: A survey of pretrial services programs. *Bureau of Justice Assistance*. Retrieved from www.ojp.gov/pdffiles1/bja/199773.pdf
- Constitution Annotated: Analysis and Interpretation of the U.S. Constitution (2022). Retrieved from <https://constitution.congress.gov/constitution/amendment-6/>
- Coopridge, K.W., Grey, R., & Dunne, J. (2003). Pretrial services in Lake County, Illinois—Patterns of change over time, 1986-2000. *Federal Probation*. 67(3):33–41.
- Criminal Justice Facts (2020). Retrieved from https://www.sentencingproject.org/criminal-justicefacts/?gclid=Cj0KCQiA34OBBhCcARIsAG32uvMHdm5gIbkXsAV53oM9MMJiORdWp2RY8n8ZK2klYv9uTWxi4s5ZSekaAv0sEALw_wcB
- Dean, J. R., & Collins, K. (2018). Using Data to Inform Pretrial Supervision: Strategies from Allegheny County, Pennsylvania (pp. 19-23) (United States, Allegheny County, PA, Judicial District of Pennsylvania). Pittsburgh, PA: Judicial District of Pennsylvania.
- Department of Justice (2019). *Federal Registrar*. 84(223):63891-63892. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2019-11-19/pdf/2019-24942.pdf>
- Dowden, C. & Andrews, D. (1999). What works for female offenders: A meta-analytic review. *Crime & Delinquency* 45(4):438-452.

- Goldkamp, J. S. (1985). Danger and detention: A second generation of bail reform. *Criminal Law*. 76(1)
- Guercio, G.F. (2015). Offender risk assessment: Tools and methodologies. *Corrections Forum*. Retrieved from www.correctionsforum.net
- Henry, D.A. (1991). Pretrial services: Today and yesterday. *Federal Probation*. 55(2):54.
- Hopkins, B., Bains, C., & Doyle, C. (2019). Principles of pretrial release: Reforming bail without repeating its harms. *The Journal of Criminal Law & Criminology*. 108(4):679-700.
- Imm, P., Williams, A., Hyde, J. & Wandersman, A. (2020). An organizational readiness lens for implementing the risk-need-responsivity model. *Federal Probation*. 84(2):23-29.
- Latessa, E.J., Lemke, R., Makarios, M., Smith, P., & Lowenkamp, C.T. (2010). The creation and validation of the Ohio Risk Assessment System (ORAS). *Federal Probation*. 74(1):16-22.
- Looman, J. & Abracen, J. (2013). The risk need responsivity model of offender rehabilitation: Is there really a need for a paradigm shift? *International Journal of Behavioral Consultation and Therapy*. 8:3-4
- Lowenkamp, C.T., Holsinger, A.M., Flores, A.W., Koutsenok, I., & Pearl, N. (2013). Changing probation officer attitudes: Training experience, motivation, and knowledge. *Federal Probation*. 77(2):54-58.
- Lowenkamp, C.T., VanNostrand, M., Holsinger, A. (2013). The hidden costs of pretrial detention. Houston, TX: The Laura & John Arnold Foundation.
- Makowiecki, D. (2012). U.S. pretrial services: A place in history. *Federal Probation*. 76(2):10-12.

- Moyers, T.B., Manuel, J.K., Wilson, P.G., Hendrickson, S.M.L, Talcott, W., & Durand, P. (2007). A randomized trial investigating training in motivational interviewing for behavior health providers. *Behavioral and Cognitive Psychotherapy*. 36:149-162.
- Onifade, E., Wilkins, J., Davidson, W., Campbell, C., & Petersen, J. (2011). A comparative analysis of recidivism with propensity score matching of informal and formal juvenile probationers. *Journal of Offender Rehabilitation*, 50:531-546.
- Polaschek, D.L.L. (2012). An appraisal of the risk-need-responsivity (RNR) model of offender Rehabilitation and its application in correctional treatment. *Legal and Criminological Psychology*. 17:1-17.
- Posavac, E.J. & Carey, R.G. (2007). *Program evaluation: Methods and case studies (7th edition)*. New Jersey: Pearson Education Inc.
- Rogers, D. (2020). Bail reform: Supporters and critics. *Corrections Forum*. Retrieved from www.correctionsforum.net
- Schnacke, T.R. (2018). A brief history of bail. *The Judges' Journal*. 57(3):4-8.
- Seibler, J.M. & Snead, J. (2017). The History of Cash Bail. *The Heritage Foundation*. Retrieved from <https://www.heritage.org/courts/report/the-history-cash-bail>
- Tanner, M., Wyatt, D., & Yearwood, D.L. (2008). Evaluating pretrial services programs in North Carolina. *Federal Probation*. 72(1):18-27.
- Thielo, A.J., Cullen, F.T., Cohen, D.M., & Chouhy, C. (2015). Rehabilitation in a red state: Public support for correctional reform in Texas. *Criminology and Public Policy* 15(1):137-170.
- Van Eijk, G. (2020). Inclusion and exclusion through risk-based justice: Analysing combinations of risk assessment from pretrial detention to release. *Brit. J. Criminol*. 60:1080-1097.

VanNostrand, M., Rose, K.R., & Weibrecht, K. (2011). State of the science of pretrial release recommendations and supervision 20-24.

Zeng, Z. (2020). Jail inmates in 2018. *Bureau of Justice Statistics*. Retrieved from <https://bjs.ojp.gov/content/pub/pdf/ji18.pdf>

Zettler, H.R. & Martin, K.D. (2020). Exploring the impact of technical violations on probation revocations in the context of drug court. *American Journal of Criminal Justice* 45:1003-1023.

Zlatic, J.M., Wilkerson, D.C., & McAllister, S.M. (2010). Pretrial diversion: The overlooked pretrial services evidence-based practice. *Federal Probation* 74(1):28-33.