

In its 2012 policy paper on evidence-based pretrial release, endorsed by the Conference of Chief Justices, the Conference of State Court Administrators (COSCA) recommends that state court leaders join the chorus of other national justice-oriented groups calling for reform of the pretrial release decision.¹ A look at the “get involved” page of the Pretrial Justice Institute’s website identifies many of these national groups,



including COSCA, calling for reform; and these are just a sample of the numerous and diverse organizations that have participated in the Office of Justice Programs’ Pretrial Justice Working Group (PJWG).² The PJWG is a collaborative of over fifty organizations engaged in efforts to advance a safe, fair, and effective pretrial justice system.³

These national organizations support an array of efforts by state and local jurisdictions to advance pretrial reform. For example:

- The City and County of Denver, Colorado; Yakima County, Washington; and the state of Delaware are working to improve pretrial policies and practices with assistance from the Bureau of Justice Assistance’s Smart Pretrial Demonstration project.⁴
- Grant County, Indiana; Mesa County, Colorado; Milwaukee County, Wisconsin; Ramsey County, Minnesota; Eau Claire County, Wisconsin; Charlottesville, Virginia; and Yamhill County, Oregon are seeking to improve system outcomes at each stage of the criminal justice system, including pretrial release, as part of the National Institute of Corrections’ Evidence Based Decision Making (EBDM) Initiative. In March of 2015, three of these states (Indiana, Virginia, and Wisconsin) expanded their EBDM work, establishing state-level policy teams to engage with local criminal justice policy teams in multiple jurisdictions on EBDM planning activities.⁵
- More than twenty sites have adopted or are in the process of implementing the Public Safety Assessment (PSA) pretrial risk assessment tool with assistance from the Laura and John Arnold Foundation. Sites using or adopting the PSA include the states of Arizona, Kentucky, and New Jersey, as well as local jurisdictions in California, Florida, Illinois, North Carolina, Ohio, Pennsylvania, Washington, and Wisconsin.⁶

* This Brief was prepared by Pamela Casey and Jennifer Elek of the National Center for State Courts’ Pretrial Justice Center for Courts (www.ncsc.org/pjcc). The Pretrial Justice Center provides information and tools, offers education and technical assistance, facilitates cross-state learning and collaboration, and promotes the use of evidence-based pretrial practices for courts across the country. It works closely with the Conference of Chief Justices, the Conference of State Court Administrators and other national court organizations to implement pretrial justice reform. The Center is supported by the Public Welfare Foundation (PWF). Points of view or opinions expressed in the Brief are those of the author and do not necessarily represent the official position of the NCSC or PWF.

- Teams from Arizona, Idaho, Indiana, and Wisconsin are working on action plans they developed during the Pretrial Justice Policy Forum, convened by the National Center for State Courts and funded by the Public Welfare Foundation.⁷
 - St. Louis County, Minnesota and Halifax County, North Carolina are examining racial and ethnic fairness issues in pretrial release decisions in collaboration with the American Bar Association’s Racial Justice Improvement Project.⁸
 - With funding from the Public Welfare Foundation, the Crime and Justice Institute (CJI) is assisting Humboldt and Riverside Counties in California to improve their pretrial systems as part of California’s Public Safety Realignment Act.⁹ CJI also works or worked with Contra Costa, Monterey, and San Joaquin Counties in California and with the states of South Dakota and New York on pretrial justice reforms.¹⁰
 - Pretrial justice reforms are a component of the Justice Reinvestment Initiatives of several states (e.g., Hawaii, Washington, and West Virginia) and local jurisdictions (e.g., San Francisco, Yolo, and Santa Cruz Counties in California, Alachua County, Florida; Grant County, Indiana; Johnson County, Kansas; New York City, New York; Mecklenburg County, North Carolina; Lane and Yamhill Counties, Oregon; Allegheny County, Pennsylvania; Charlottesville/Abermarle County, Virginia; King County, Washington; and Milwaukee County, Wisconsin). Justice Reinvestment Initiatives focus on developing and implementing data-driven policies and practices that protect public safety, hold offenders accountable and control corrections costs.¹¹
 - The Council of State Governments’ Justice Center is working with several jurisdictions (e.g., Johnson County, Kansas; Hillsborough County, New Hampshire; New York City, New York; Franklin County, Ohio; Bexar County, Texas; Richmond, Virginia and the state of Hawaii) to identify and address behavioral health issues of individuals entering jails at pretrial.¹²
 - Court leaders in New York are implementing several new initiatives to promote bail system reform. These measures include the automatic judicial review of bail for misdemeanor cases in which the defendant is unable to post bail; the periodic judicial review of felony cases for case viability, readiness for trial, and corresponding modifications to the defendant’s bail status, as appropriate, to ensure that “defendants do not languish in pretrial detention”; a pilot program in Manhattan Criminal Court designed to study electronic supervision as an alternative to bail in certain misdemeanor cases; and other efforts to promote the use of alternative forms of bail.¹³
 - Utah’s Judicial Council created a multidisciplinary committee to assess pretrial release and supervision practices in Utah’s courts and to identify possible alternatives. Among its activities, the committee studied best practices in pretrial release across the country and explored how to improve information available to judges in making pretrial release decisions, including the use of evidence-based risk assessment tools. In November 2015 the committee submitted its report, which contains 12 recommendations to improve pretrial practices in Utah.¹⁴
- In addition, the MacArthur Foundation launched the Safety and Justice Challenge in 2015. This major new initiative provides 20 jurisdictions from across the country, selected from a pool of 194 applicants, with assistance in developing and implementing

strategies to reduce jail populations while maintaining public safety. Pretrial release is one of the decision points that is a focus of the initiative.¹⁵

State legislatures have been busy, too. According to the National Conference of State Legislatures, as of the writing of this brief, a total of 344 bills related to pretrial release (e.g., requiring risk assessment), services and supervision (e.g., monitoring for alcohol or drug abuse, use of GPS monitoring), and victim services (e.g., providing protections for victims, especially victims of domestic violence, sexual assault, and stalking) have been enacted across all 50 states since 2012.¹⁶ For example, the California Budget Act of 2014 allocated \$15M to the state's Judicial Council for the purpose of developing and administering what is now known as the Recidivism Reduction Fund (RRF) Court Grant Program. The RRF Court Grant Program supports the efforts of state trial courts in implementing practices known to "reduce offender recidivism and enhance public safety, including the use of validated risk and needs assessments, other evidence-based practices, and programs that specifically address the needs of mentally ill and drug-addicted offenders."¹⁷ The Judicial Council recently granted courts in 12 counties approximately \$5.5M in RRF awards for the purpose of establishing pretrial programs.

The voting public is also showing support for pretrial reforms. For example, in New Jersey, the state judiciary created a Joint Committee on Criminal Justice, chaired by Chief Justice Stuart Rabner and comprised of representatives from all three branches of government as well as other stakeholder groups, which issued a report in March 2014 recommending that the state transition from a "resource-based" system to a "risk-based" method for determining pretrial release. Following this report, the legislature passed and the Governor

signed into law a bill that adopted many of the Committee's recommendations. Voters in New Jersey then approved a constitutional amendment restricting the use of pretrial detention to limited cases in which the defendant has been identified as a serious public safety and/or flight risk in the community.¹⁸ The new law will go into effect January 1, 2017.¹⁹ The New Mexico Judiciary has also endorsed a proposal for a similar constitutional amendment that, if approved in the legislature, would be placed on the general election ballot next November.²⁰

This snapshot provides only a brief summary of the many efforts underway to reform pretrial justice policies and practices consistent with the recommendations supported by the Conference of Chief Justices and the Conference of State Court Administrators. No doubt, there are many additional state and local reform efforts underway, and the Pretrial Justice Center for Courts would appreciate hearing about them and adding them to the current list of programs described in this brief.²¹

The snapshot, however, provides many examples of different types of reforms from a diversity of jurisdictions, providing a wealth of resources for all jurisdictions undertaking reform of some aspect of their pretrial release decisions. In addition, it highlights the multitude of national organizations supporting pretrial reform.

In 2011, the Attorney General said:

By competently assessing risk of release, weighing community safety alongside relevant court considerations, and engaging with pretrial service providers – in private agencies, as well as in courts, probation departments, and sheriff's offices – we can design reforms to make the current system more equitable, while balancing the concerns of judges, prosecutors, defendants,



and advocacy organizations. We can help those serving on the bench make informed decisions that improve cost-effectiveness and preserve safety needs, as well as due process. And we can spark, as Robert Kennedy did, not only a vital discussion – but unprecedented progress.²²

This snapshot demonstrates the robust activity underway to achieve safe, fair, and effective

pretrial release systems across the country and the significant progress on the Conference of Chief Justices' resolution promoting collaboration and adoption of such reforms. The NCSC's Pretrial Justice Center for Courts looks forward to following these ongoing and new developments for the court community.

Endnotes

¹ See Conference of State Court Administrators. (2012). *2012-2013 Policy Paper: Evidence-Based Pretrial Release*. Williamsburg, VA: National Center for State Courts (available <http://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/Evidence%20Based%20Pre-Trial%20Release%20-Final.ashx>). Also see Conference of Chief Justices. (2013). *Resolution 3: Endorsing the Conference of State Court Administrators Policy Paper on Evidence-Based Pretrial Release*. Williamsburg, VA: National Center for State Courts (available <http://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/01302013-pretrial-release-Endorsing-COSCA-Paper-EvidenceBased-Pretrial-Release.ashx>).

² See <http://www.pretrial.org/get-involved/pretrial-national-coalition/> for the National Pretrial Justice Coalition members.

³ See <http://www.pretrial.org/pjwg/> for information on the Pretrial Justice Working Group (PJWG) and a list of organizations that have participated in PJWG meetings.

⁴ See <http://www.pretrial.org/smartpretrial/>.

⁵ See <http://nicic.gov/ebdm> for a description of the Evidence Based Decision Making initiative.

⁶ See the Laura and John Arnold Foundation (2015, June). *More than 20 cities and states adopt risk assessment tool to help judges decide which defendants to detain prior to trial [Press release]*. Houston: Author. Retrieved from <http://www.arnoldfoundation.org/more-than-20-cities-and-states-adopt-risk-assessment-tool-to-help-judges-decide-which-defendants-to-detain-prior-to-trial/>.

⁷ See <http://www.ncsc.org/Microsites/PJCC/Home/Workshop-Information.aspx> for information about the Forum.

⁸ Information on Minnesota's project is available at <http://racialjusticeproject.weebly.com/minnesota.html>, and information on North Carolina's project is available at <http://racialjusticeproject.weebly.com/north-carolina.html>.

⁹ See the Crime and Justice Institute's description of the Humboldt and Riverside Counties at http://www.cri.org/cji/entry/project_pacc.

¹⁰ See the Crime and Justice Institute's descriptions of the Contra Costa project at <http://www.cri.org/cji/entry/pretrial-contra-costa> and the New York project at <http://www.cri.org/cji/entry/pretrial-ny>. Also see CJJ's slides from the Pretrial Justice Working Group's 2014 Summit available at <http://www.pretrial.org/download/infostop/2014%20PJWG%20Summit%20Slides.pdf>.

¹¹ See the Council of State Governments' Justice Center for a summary of Hawaii's initiative at <http://csgjusticecenter.org/jr/hi/>; Washington's initiative at <http://csgjusticecenter.org/jr/wa/>; and West Virginia's initiative at <http://csgjusticecenter.org/jr/wv/>. See the Center for Effective Public Policy Justice Reinvestment Initiative at the local level site summary for Grant County, Indiana at <http://qualsdatabase.com/Documents.aspx?f=GrantCounty,Indiana2014.pdf>; Mecklenburg County, North Carolina at <http://cepp.com/documents/MecklenburgCounty.pdf>; Yamhill, Oregon at <http://qualsdatabase.com/Documents.aspx?f=YamhillCounty,Oregon.pdf>; Charlottesville, Virginia at <http://qualsdatabase.com/Documents.aspx?f=Charlottesville,Virginia2014.pdf>; King County, Washington at <http://www.cepp.com/documents/King%20County,%20Washington.pdf>; and Milwaukee, Wisconsin at <http://qualsdatabase.com/Documents.aspx?f=MilwaukeeCounty,Wisconsin2014.pdf>. See Crime and Justice Institute for summary of the Johnson County, Kansas initiative at http://b.3cdn.net/crjustice/f142882a7f492cfd08_33m6bn2xa.pdf; the New York City, New York initiative at http://b.3cdn.net/crjustice/65fb77ce39a74bec10_tnm6b9n2f.pdf; the Lane County, Oregon initiative at



http://b.3cdn.net/crjustice/5d8af7aba383115418_ucm6b5bxq.pdf; the Allegheny County, Pennsylvania initiative at http://b.3cdn.net/crjustice/9f4b3ea41dd8e4b229_rgm6bnvt.pdf; the San Francisco, California initiative at http://b.3cdn.net/crjustice/281ed7bfcac95011c3_54m6bnlv.pdf; the Yolo County, California initiative at ; http://b.3cdn.net/crjustice/281ed7bfcac95011c3_54m6bnlv.pdf; the Santa Cruz, California initiative at http://b.3cdn.net/crjustice/afbba44a25489ceec4_g5m6bnl0v.pdf; and the Alachua, Florida initiative at http://b.3cdn.net/crjustice/ad96fe3b39e060de24_ivm6bnraa.pdf. Also see CJJ's slides from the Pretrial Justice Working Group's 2014 Summit available at <http://www.pretrial.org/download/infostop/2014%20PJWG%20Summit%20Slides.pdf>.

¹² See the Council of State Governments' slides from the Pretrial Justice Working Group's 2014 Summit available at <http://www.pretrial.org/download/infostop/2014%20PJWG%20Summit%20Slides.pdf>.

¹³ See New York State Unified Court System (2015, October). *Chief Judge Jonathan Lippman announces series of reforms to address injustices of NY's current bail system [Press release]*. New York, NY: Author. Retrieved from http://www.courts.state.ny.us/press/PDFs/PR15_13.pdf

¹⁴ See *Report to the Utah Judicial Council on Pretrial Release and Supervision Practices* (November 23, 2015), available at <http://www.utcourts.gov/resources/reports/docs/Pretrial%20Release%20and%20Supervision%20Practices%20Final%20Report.pdf>.

¹⁵ More information about the MacArthur Safety and Justice Challenge is available at <http://www.safetyandjusticechallenge.org/>.

¹⁶ The National Conference of State Legislatures (NCSL) (<http://www.ncsl.org/>) maintains searchable databases of bills related to pretrial release (<http://www.ncsl.org/research/civil-and-criminal-justice/state-pretrial-release-legislation.aspx>) and pretrial policy (<http://www.ncsl.org/research/civil-and-criminal-justice/pretrial-policy.aspx>).

¹⁷ For information about this and other Recidivism Reduction Fund projects underway in counties across the state of California, see <http://www.courts.ca.gov/RecidivismReduction/htm>.

¹⁸ See New Jersey's Report of the Joint Committee on Criminal Justice, available at http://www.judiciary.state.nj.us/pressrel/2014/FinalReport_3_20_2014.pdf.

¹⁹ Carlson, J. (2015, October 18). New system eliminates bail, speeds up trials. *New Jersey Herald*. Retrieved from <http://www.njherald.com/story/30288043/2015/10/18/new-system-eliminates-bail-speeds-up-trials>

²⁰ Gallagher, M. (2015, August 27). New Mexico Supreme Court to support preventive detention amendment. *Albuquerque Journal*. Retrieved from <http://www.abqjournal.com/635053/news>

²¹ If your jurisdiction is working on pretrial justice reform, please contact Pamela Casey at pcasey@ncsc.org and Susan Keilitz at skeilitz@ncsc.org who staff the NCSC's Pretrial Justice Center for Courts.

²² See p. 2 in Pretrial Justice Institute. (2013). *Implementing the recommendations of the 2011 National Symposium on Pretrial Justice: A progress report*. Washington, DC: Author.

