

Promote Early Intervention and Effective Management of Court Cases

ESSENTIAL ELEMENT 4: First Appearance and Pretrial Practices

POLICY

Make use of pretrial risk and needs assessments to expedite pretrial release decisions and conditions of release within 24-48 hours of justice system contact. Provide proactive case management to ensure individuals are screened for risk and needs as early as possible in the case process, including monitoring for people in frequent contact with the justice system, and divert when possible. Ensure that first appearances are meaningful events and early efforts are made to connect individuals with community services providers and available services. Pretrial release decisions regarding those with behavioral health needs must be timely. Incarceration, even for a short period of time can have disproportionately negative impacts on individuals with behavioral health needs. Pretrial risk assessment tools are an important component of decision-making.

EVIDENCE-BASED PRACTICES

- Pretrial release decisions and re-entry plans must be tracked and well defined.
- Measure date of arrest and date of release as performance measures.
- Understand the use of the information gained in pretrial assessments (for that purpose only and not to be disclosed in other ways).

GETTING STARTED

- Encourage diversion to treatment, if possible and when appropriate.
- Connect resources and services to jails so individuals can make a smooth transition when released, if they are held even for a short period of time.
- Inventory community resources including treatment opportunities and beds.
- Courts, pretrial officers, jails, and community mental health providers should coordinate and collaborate on case management and transition plans and communicate with jails and other custodial facilities on plans and case management.
- Collect data and develop metrics to ensure incarceration is declining and treatment is increasing.
- Maintain awareness of what referrals are being made, to whom, and for what purpose.

ROLES AND RESPONSIBILITIES

- Embed community mental health resources in jails and custodial facilities.
- Courts should make expedient release decisions to ensure individuals do not languish. If individuals are not released, then the next step is a needs assessment to mitigate risk upon release, including coordination

of supervision and support services. Collaboration and cooperation are necessary between justice partners and behavioral health providers.

- Entities that provide pretrial release supervision should be informed and trained regarding mental illness and individuals under their supervision with mental health needs.
- Courts and behavioral health providers should share information regarding treatment and supervision to ensure continuity of care.

NEXT GENERATION

Innovation, Technology, New Practice

Connecting data between courts, treatment providers, and jails can facilitate the management of caseloads for individuals who are in custody.

Particular attention should be paid to the collaboration of courts, treatment providers, and jails to ensure that Medicaid treatment, where suspended upon incarceration, is automatically reinstated before release, if practicable. If automation is not permitted by law, coordination is essential to ensure that all partners are working together to minimize any gap.

Institutionalization, Sustainability, Funding

Develop data-sharing practices in your community between providers, jails, and courts.

RESOURCES

[Get out of jail free? Achieving racial equity in pretrial reform](#) (APA Journals Article Spotlight)

[New York's Amended Bail Statute: Pretrial Options](#) (Center for Court Innovation)

[Improving Responses to People with Mental Illnesses at the Pretrial Stage](#) (Justice Center, The Council of State Governments)

[Standards on Pretrial Release: Revised 2020](#) (Guiding Principles for Pretrial Decision Making; National Association of Pretrial Services Agencies)

[Advancing Pretrial Policy and Research \(APPR\)](#) (Center for Effective Public Policy)

[Where Pretrial Improvements are Happening](#) (January 2019; Pretrial Justice Institute)

[The Hidden Costs of Pretrial Detention](#) (LJAF)

[What If? 10 Questions for Sparking Local Pretrial Change](#) (Pretrial Justice Institute)

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