

Pretrial Justice and the State Courts Initiative

Estimating the Costs of Implementing Pretrial Assessment and Monitoring Services



This national Pretrial Justice and the State Courts Initiative is a joint project of the Pretrial Justice Institute and the National Center for State Courts, funded as a Strategic Initiatives grant of the State Justice Institute (SJI). The initiative helps courts implement legal and evidence-based pretrial practices through the development of national resources and the provision of technical assistance targeted specifically to state courts.

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INTRODUCTION

For more than five decades, many local criminal justice systems have relied on pretrial services to provide assessment and case management of arrested people whose cases are pending in the courts. Recently, national momentum away from money-based systems of pretrial release, including the for-profit bail bond industry, has stimulated a proliferation of these services. A 2015 survey of California counties found, for example, that 46 of 58 counties have a pretrial services program; of these, 70% had been established in the previous five years.¹ This guide provides jurisdictions that are considering implementing new pretrial services, or upgrading existing capacities, with guidance on both the investment and the savings that may be associated with realizing their expanded vision.

The use of pretrial services is an integral facet of a legal and evidence-based pretrial justice system. Effective pretrial services can lead to improved outcomes that offer both safety and cost benefits, including better court appearance rates, greater public safety, and reduced use of jail beds. There is, however, great variation in how pretrial services can be delivered.

Around the country, there are entities that provide pretrial services with fewer than five pretrial staff and those with more than 30. Budgets range from less than \$200,000 to as much as \$10 million. Some jurisdictions have stand-alone pretrial services programs, while others absorb the functions of pretrial services into existing organizations. Every jurisdiction is different in terms of the volume and type of cases, the timing and process for the initial bail hearing, the laws that govern pretrial release decision making, geography and demographics, technological capacity, the administrative locus of pretrial services functions, and many other factors.

Given this complexity, this guide does not assign costs specific to pretrial practices. Instead, it provides a framework of factors to consider when estimating the costs of providing effective pretrial services. This framework is based on best practice standards and the latest research. Readers are advised to refer to the pretrial release standards of the American Bar Association (ABA) and the National Association of Pretrial Services Agencies (NAPSA), as well as the National Institute of Corrections' document, *A Framework for Pretrial Justice: Essential Elements of an Effective Pretrial System and Agency*, when considering how the factors described here may come into play.

CONSIDER THE FUNCTIONS OF PRETRIAL SERVICES

The first step in shaping a pretrial services budget is to contemplate the framework of a legal- and evidence-based pretrial justice system and the associated functions of pretrial services within that framework. These functions may include administering pretrial assessments, sharing assessment reports and recommendations, tracking cases pending adjudication, and reporting on pretrial outcomes, process, and volume. Each of these functions, described below, will have a balance of costs associated with staff time, supporting technology, and infrastructure.

Administer an actuarial pretrial assessment tool. An individual's pretrial assessment indicates the degree to which others with similar scores have succeeded on pretrial release, by making all their court appearances and not being arrested for new criminal activity while the

¹ Californians for Safety and Justice and Crime and Justice Institute, [Pretrial Progress: A Survey of Pretrial Practices and Services in California](#) (2015).

case is pending. The extent of resources dedicated to this core function depend on the requirements of the tool, the use of any ancillary tools, and the volume of individuals assessed.

Requirements of the pretrial assessment. Most pretrial assessments contain 5 to 10 elements or factors. The amount of time it takes to compile and score a pretrial assessment depends on what the elements are and how readily they are available. To determine an average length of time, it is recommended that during planning, staff practice scoring a broad sample of cases (in addition, this is helpful to gauge inter-rater reliability – the consistency of scores regardless of who administers the assessment). The following should be considered.

- Availability of the information needed to complete the assessment. Pretrial assessments require access to historical criminal justice and court data on individuals, including items such as previous convictions and failures to appear.
- Automated vs. manual collection of factors. While automation is ideal, it requires a greater technology investment on the front end.
- Requirement for an interview. If the assessment includes an interview, pretrial staff with interview skills will be required and will need to coordinate with jail staff to meet individuals in a safe, secure area within a reasonable time after booking. Transportation time, logistics (e.g., security), and the interview should be incorporated into staff time budgets.
- Information verification. If information is to be verified, staff needs time and tools (phone, computer) to contact employers, friends, family, criminal justice agencies and others.

Use of additional tools. The pretrial interview is also an opportunity to administer mental health screens or other specialized assessments. If additional screens are to be administered, will they be universal or only for those with specific charges, observed behaviors, or histories? Consider the time and skills needed for any additional screens.

Volume of persons to be assessed. Review the number of bookings and anticipate any upcoming changes in volume (e.g., increase in citation/release). Determine whether the pretrial assessment will be universal for all bookings or administered to only a subset of bookings.

Present and distribute pretrial assessment reports and recommendations. After a pretrial assessment is completed, staff typically write a summary report. The report is distributed, at a minimum, to the judge, the defense attorney, and the prosecutor before the person's first appearance. The following should be taken into account when considering costs:

- Whether a paper or electronic copy will be distributed, and any logistical considerations associated with distribution;
- Whether a pretrial officer will attend first appearance to present the report and answer questions; and
- What office and IT supplies are needed to support distribution.

Pretrial supervision/case management. Pretrial services also provide supervision and case management to released individuals. The supervision can range from administrative, such as court date reminders and periodic checks for new criminal activity, to more intensive and specialized caseloads that require in-person check ins, service referrals, more frequent criminal checks, special conditions (such as electronic monitoring or substance use testing), and swift responses to compliance and violation. To make cost estimates of this function, consider both the volume of persons on supervision and the extent of available services and conditions.

- Estimate the number or proportion of persons that will be ordered to supervision.

- Develop a menu of services and supervision options that will be available to clients, and determine whether these services will be provided in-house or contracted through another agency.
- Determine what court date reminder processes and technologies will be used.²
- Consider pretrial staff time.
 - Estimate the frequency of administrative compliance monitoring (i.e., checking criminal database and court appearance records).
 - Estimate the frequency of supervision compliance monitoring (e.g., monitoring compliance with conditions such as employment, curfew, substance use, and restraining orders).
 - Estimate the volume of clients under technology-assisted surveillance (GPS, EM).

Reporting on outcomes through adjudication of case. As part of the supervision role, pretrial staff also provide ongoing reporting on clients' compliance with pretrial conditions. Be sure to factor in the following:

- Pretrial staff should normally appear in court for hearings addressing a person's compliance with release conditions.
- For those who are adjudicated guilty, a final report on pretrial compliance should be prepared for consideration in the sentencing decision.
- Pretrial staff may also be asked to review and facilitate release for individuals who have been given terms of release but remain in custody.

Support agency reporting on pretrial outcomes, process, volume. Pretrial services should report on process measures such as number of assessments provided or caseload volume, and on outcomes, such as court appearance and public safety rates.³ Develop a process for data collection with the following considerations in mind:

- Whether a case management system exists that can be modified to capture the appropriate pretrial data, or if one needs to be built or purchased;
- Whether outcomes are auto-populated from the case management system or manually entered;
- Whether a data analyst will be available to compile and analyze the data;
- How the data will be packaged and presented;
 - Will a dashboard (real time or regularly updated) be developed?
 - Will an annual report of process measures and outcomes be produced?
- The timing and costs of validating the assessment tool.
 - Estimate when there will be enough data to validate the tool.
 - Consider if pretrial services has in-house expertise or will need to contract with an outside provider.

² For pretrial services programs with limited resources, both Scott Taylor, director of Multnomah County Department of Community Justice, and Aaron Johnson, pretrial services director for Santa Clara County, California recommend emphasizing core strategies, such as court date notification. It's relatively inexpensive, has multiple studies indicating that it improves court appearance rates by 30-50%, and lends itself to a straightforward cost-benefit analysis comparing the cost of the court date notification to improvements in court appearance rates. For more information on court date reminders, see National Center for State Courts' Pretrial Justice Center for Courts, [Use of court date reminder notices to improve court appearance rate](#).

³ For details, see National Institute of Corrections, [Measuring What Matters: Outcomes and Performance Measures for the Pretrial Services Field \(2011\)](#).

Being able to answer and quantify the above items will help develop workloads and staff-to-client ratios for pretrial interview and supervision caseloads.

PLAN FOR THE ADMINISTRATIVE LOCUS AND PHYSICAL INFRASTRUCTURE/LOCATION

Pretrial services functions reside in a variety of administrative locations throughout the country. Kentucky and New Jersey have statewide pretrial services within the Administrative Office of the Courts; other locations include local or county government, probation, sheriff, non-profit or private agencies, and shared locations between multiple agencies. No placement is preferable or superior, as long as it can support the functions and professional standards of pretrial services and is independent of political or adversarial stakeholder offices. An office within another agency may derive the benefits of shared overhead costs and existing administrative and physical infrastructure. However, regardless of administrative location, a pretrial services office should have a distinct mission, policies, and procedures from that of the parent agency.⁴

Physical Infrastructure/Location. For a larger, independent pretrial services agency, a dedicated facility or portion of a facility is desirable, but a smaller pretrial services entity may reside within rented office space or facilities belonging to another agency. The following should be considered when locating office space:

- Whether 24/7 access is necessary and available, and if so, the associated security costs;
- Overhead costs associated with the location, including rent, utilities, office supplies, security, and maintenance;
- The proximity and access of the pretrial services office to the courthouse, detention facility, and booking area; and
- The size of the geographic area covered by pretrial services, and whether a satellite location is necessary.

Organizational Structure and Personnel

Policy Oversight. It is recommended that any entity providing pretrial services have an oversight or advisory board to provide accountability, evaluate outcomes, and advise on policy.⁵ The Board typically consists of stakeholders who donate their time as part of their professional commitments, so filling the positions incurs no personnel costs.

Personnel

Operations - Leadership. A pretrial services supervisor is often a director-level position, but smaller or multi-purpose entities may have staff supervised by a director or manager of an umbrella agency. Leadership tasks include managing and developing staff, compiling and preparing reports and budgets, training and quality control of the pretrial functions, coordinating with other criminal justice entities, and codifying policies and procedures. The minimum qualifications are typically a bachelor's or master's degree with relevant experience.

⁴ National Institute for Justice, [A Framework for Pretrial Justice: Essential Elements of an Effective Pretrial System and Agency \(2017\)](#).

⁵ Guidelines on structuring these boards can be found in, e.g. PJI's [Pretrial Services Program Implementation Starter Kit \(2010\)](#).

Operations - Staff. Pretrial services staff can span a range of education levels and skills, from technician through master's level, depending upon the specific role. However, pretrial services staff positions typically require at least a bachelor's degree. If staff are differentiated between intake and supervision, both roles need interview skills, and supervision staff also need case management skills. The supervision staff may be further differentiated into specialized caseloads, e.g. behavioral health or electronic monitoring, that require greater education and experience. To approximate workload and determine proper staffing levels, review the previous section *Consider the functions of pretrial services.*

Salaries and Benefits. There are several factors, typically guided by the jurisdiction's personnel and job classification policies, that should be considered in estimating salaries and benefits, including:

- The grade level(s) and pay range for leadership and staff in the jurisdiction
- The job classifications for interviewers, case managers, and specialized case managers⁶
- Any pay differential for staff working night shifts or staff who are bilingual
- Fringe benefits
- The use of uncompensated staff (e.g., volunteers or interns).⁷

Training.

- Travel and fees for specialized trainings or certifications (e.g., Peace Officer Standards and Training or motivational interviewing) and professional membership trainings (e.g., National Association of Pretrial Services Agencies meetings)
- New employee and in-service training

Travel.

- Whether staff will drive to the courthouse or to satellite offices
- Whether staff will do field work

DATA/TECHNOLOGY NEEDS

A high functioning pretrial services entity has the technology to support the accurate scoring of pretrial assessment, enhance supervision and case management, and track process and outcome data. These functions may reside in separate information systems or be integrated into one data system.

Technology to support pretrial assessment, defendant records, and outcomes.

The factors to consider include:

- The extent to which pretrial interviews will be technology assisted (e.g., via video or using a translator app);

⁶ For examples of pretrial-related job descriptions, see <http://www.ncsc.org/topics/human-resources/job-descriptions/probation/pretrial-services.aspx>.

⁷ There are a variety of strategies that pretrial services can use to expand its capabilities. Aaron Johnson, pretrial services director for Santa Clara County, California, enlists volunteers, interns and academic staff from nearby San Jose State University. Scott Taylor of Multnomah County advises taking advantage of the technical assistance community through grants and local universities.

- Whether there is an existing data system that pretrial services can “piggyback” on for recording and tracking pretrial clients’ demographics, conditions, and outcomes;
- The availability of in-house IT or analyst staff to develop the database; and
- If considering acquiring a standalone pretrial data management system, the start-up and ongoing (e.g., maintenance or support) costs.

Technology to support pretrial supervision compliance.

Such technology may include start up and ongoing costs for

- Electronic monitoring devices, and whether they are purchased, contracted, or leased;
- Phone/computer apps to provide court date reminders or to facilitate client check ins;
- Automatic flagging of non-compliance; and
- Drug testing supplies and technology.

For more information, refer to *Using Technology to Enhance Pretrial Services*.⁸

Getting Started and Being Creative in Yakima and St. Mary’s County

Both Yakima County, Washington and St. Mary’s County, Maryland recently implemented pretrial services programs. Yakima is a Smart Pretrial site and implemented a county-run pretrial services program. Harold Delia, the Smart Pretrial coordinator, advises jurisdictions to “know your data” when making appeals for funding. When presenting to Yakima’s county commissioners, the local pretrial justice collaborative made justice re-investment, marginal cost, and equal justice arguments. The commissioners agreed to fund a pilot project for three years. With limited resources, Delia reached out to a major data management system with an appeal for special pricing and was successful in acquiring a data management system at a deep discount. He encourages jurisdictions to “make a lot of deals.”

Major Mike Merican, the assistant sheriff in St. Mary’s County, recently started a pretrial services program in the Sheriff’s Office.⁹ Implementation of pretrial services reduced the jail population by 19%. Major Merican recommends leveraging, piggybacking on, or re-purposing existing staff, infrastructure and services. He also advises taking the long view when confronting short term start-up costs. In St. Mary’s County, in one year they spent \$300K on pretrial services but saved \$500K in jail bed days.

CONCLUSION

Pretrial services are a central component of transitioning from a money-based system of release to a system that uses a myriad of non-financial conditions. While developing a pretrial services budget, jurisdictions may also wish to explore justice system cost avoidances or reinvestment strategies. Cost-benefit analyses in numerous jurisdictions have demonstrated that

⁸ See, Pretrial Justice Institute, [Using Technology to Enhance Pretrial Services \(2012\)](#) and Pretrial Justice Center for Courts, [Use of Court Date Reminder Notices to Improve Court Appearance Rates \(2017\)](#).

⁹ Pretrial Justice Institute, [Improving pretrial justice with existing resources: A case study from St. Mary’s County, Maryland \(2017\)](#).

implementing legal and evidence-based pretrial policies can result in significant savings based on improvements in public safety, jail utilization, and court appearance rates.¹⁰ For example, daily pretrial supervision costs are a fraction—typically less than 10%—of the daily cost of pretrial detention.

To further inform the items discussed in this guide with real cost estimates, sites could complete a cost-benefit analysis themselves, as well as contact pretrial services in jurisdictions with similar population and demographics to your own. There may be federal, state, or foundation grants in the form of direct funding or technical assistance that can support planning and implementing pretrial services.

¹⁰ Pretrial Justice Institute, [Pretrial Justice: How much does it cost? \(2017\)](#) and Crime and Justice Institute, [The Cost of Pretrial Justice, Public Welfare Foundation \(2015\)](#).