



County of Yolo

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Community Corrections

Marlon Yarber
Interim Chief Probation Officer

TO: The Little Hoover Commission

FROM: Marlon Yarber,
Interim Chief Probation Officer *MY/24*

DATE: November 21, 2012

SUBJECT: Yolo County Pre-Trial Services Unit

Thank you for the interest shown in the Yolo Pre-Trial Services Unit. Here is the written testimony in response to the information requested in the letter dated November 1, 2012.

How Yolo County's pre-trial alternative supervision works:

Through collaboration with the Sheriff's Department, District Attorney's Office, Public Defender's Office, and the Court, the Probation Department prepares reports investigating defendants' likelihood of appearing in court based upon the validated Ohio Pre-Trial Risk Assessment Tool. This evidence-based approach was coupled with basic demographic data unrelated to the alleged offense to aid the Court in making an informed decision in line with public safety and Penal Code section 1270.1(c).

The Court either denies or grants Own Recognizance [OR] release using the investigation report and Probable Cause Declaration as a guide. If supervised OR is granted, terms and conditions of release are imposed, and supervision is provided by Pre-Trial Services. Services rendered to insure compliance include GPS and SCRAM monitoring, drug and alcohol testing, program referral, and general supervision. Updates regarding each client's progress with Pre-Trial are provided at each subsequent court date, which varies per client.

During supervision, clients are directed to appear within 24 hours of release if they are not directly escorted from jail by Pre-Trial staff. They begin supervision with weekly office visits. These office visits are mandatory except in extenuating circumstances when a weekly office visit would be difficult or impossible.

Through application of Motivational Interviewing, each client is assessed for criminogenic needs or improvement areas, such as substance abuse, housing, transportation or employment.

Once a client's primary needs are established, the resources of the community are tapped to assist in their supervision. For example, should a client suffer from substance abuse, they are referred to appropriate local treatment programs, or are placed on a random testing schedule to provide accountability.

Pre-Trial regularly works with community services and programs, in addition to the Department of Alcohol, Drug, and Mental Health. These contacts help increase the efficiency of the delivery of services to clients.

While supervised, clients are given adaptive reinforcement based on their positive or negative behavior. Should a client demonstrate responsibility in appearing for office visits, following their terms of release and remaining free of negative law enforcement contact, they are no longer required to appear weekly, and their supervision level may decrease. They are also given additional aid, such as bus passes, and their behavior on supervision is documented with the court.

Should a violation occur, clients are swiftly given graduated sanctions to insure they understand the connection between their behavior and the consequence that follows. For example, should a drug test return as positive for a controlled substance, the client, who may not have been directed to attend treatment previously, may be given a referral to a community program. Other possible reactions to the positive test could include increased drug testing or additional office visits each week.

Should a client choose not to follow their terms of release, commit a new crime, or demonstrate a danger to the community, they are returned to custody.

Warrants are issued for clients whose whereabouts are unknown after all other location efforts have been exhausted.

Once a client's case has resolved, they are considered successful completions of supervised release. A note is then made in the client's file for future reference by probation or other agencies.

How the probation department assesses candidates for the program for risk and needs:

Each client is interviewed except in cases where an OR/Bail hearing is given before a magistrate. Clients are assessed by the following criteria for the Ohio Pre-Trial Risk Assessment Tool. Each of the criteria are not a sole decision-making factor, but are viewed in combination with the rest for an over-all picture.

Age: Age has been determined to have statistical significance as to whether a defendant is more or less likely to appear for court as directed. Clients younger than 33 receive a slightly higher rating on the risk tool.

Number of Failure to Appear Warrants in the past 24 Months: All failures to appear for court are considered in the recommendation, but the tool is primarily concerned with those that are recent.

Three or more prior jail incarcerations: There is a strong correlation between a lengthy prior record and failure to appear in court.

Employed at the time of arrest: Employment is a pro-social factor that weighs heavily in regard to likelihood of appearance.

Residential stability: Another statistically relevant element.

Illegal drug use during past six months: Drug abuse strongly impacts failure to appear in court.

Severe drug use problem: See above.

After the above factors are entered into the assessment tool, a risk score is assigned. Based upon the risk score and the totality of the circumstances (alleged offense, prior record, verified information, etc), a recommendation is made. Typically, with a low risk client, OR without supervision would be recommended, and moderate and high risk clients would be recommended for supervised release with GPS or SCRAM tailored to their individual cases.

Denial of release is recommended when the defendant falls under the categories specified in 1270.1 PC.

The goal of Pre-Trial Services' supervision is to utilize a format that has been supported by research. Each member of Pre-Trial Services has now been trained in Motivational Interviewing and impartial use of assessment tools such as the Ohio Risk Assessment to determine clients' risk factors. These risk factors are correlated with the likelihood of appearance in Court, and include self-reported drug use and addiction, employment, residence, age, criminal record and previous failures to appear.

Officers received at least eight training sessions in Motivational Interviewing, which has been shown to increase change and decrease recidivism in clients throughout the country. When appropriately utilized, Motivational Interviewing helps to accurately tailor the services provided to each client.

As only employment, addiction, and residence are dynamic factors, they are addressed during supervision without causing the client to self-incriminate. The other risk factors given above are static, in that the defendant cannot change their prior record or history of failing to appear. In cases where a risk factor would potentially violate the client's Fifth Amendment Rights, no questions are asked.

Each case is assessed and placed into one of three categories: Low, Moderate, and High Risk of failing to appear.

The cost of the program per candidate compared to the cost of detention:

According to jail records, the approximate cost for the housing of a subject is \$121 per day. To house that inmate for a year, the total becomes \$44,165.

That same client, if placed on supervised OR, costs \$5.36 per day. For a year, the total is \$1,957.10.

Per jail statistics, the average stay of an inmate is 15 days. At the rate given above, that is a total of \$1,815. The cost to house a single subject for one month is almost twice the cost to supervise him or her for a year.

What impact alternative supervision has on jail population:

The utilization of Pre-Trial supervision has helped change the make-up of the population of the jail. Due to the consent decree by federal mandate and the realignment under AB109, the Yolo County Jail is still operating near capacity and is forced to release clients before Pre-Trial has had an opportunity to interview them.

However, the Pre-Trial Services Unit has released lower risk pretrial defendants, which allows additional bed space for high risk and violent defendants to be housed. In short, the make-up of the population in custody has been changed.

What results the program shows for participants making court dates and trial appearances:

In May 2012, a report titled *Yolo County Probation Department Pre-Trial Unit Assessment Summary of Findings and Recommendations* was prepared by Marie VanNostrand, Ph.D., during an outside consultation and audit. Dr. VanNostrand prepared the report as a summary of her findings after evaluating Pre-Trial Services' statistics and practices.

She indicated that only 7% of supervised release clients failed to appear in court. At the time she evaluated Pre-Trial, there were 441 closed cases with over 100 still pending.

How well the program has protected the public for defendants not in custody:

According to the same report referenced above, over a one year period only 5.4% of all defendants released on supervision violated their terms of OR with a new charge.

An additional 10.4% of supervised defendants were returned to custody for violating terms that did not constitute new law violations.

In addition to providing services that are proactive in preventing recidivism, the Pre-Trial Services Unit has maintained vigilance in regard to client behavior. Should clients disregard their terms of release and remain unwilling to change their behavior, they are returned to custody by Pre-Trial Services and collaborating police agencies.

Pre-Trial Services has helped to prevent fugitive escapes, fresh felonies, and new charges of domestic violence by establishing rapport and supervising clients closely and regularly.

The characteristics and proportionate size of the county's pre-trial population the program can most successfully serve:

With the end of the grant in December 2012, the funding for pre-trial will decrease. The number of officers will likely decrease to 7.

During the lifetime of the Yolo County Pre-Trial Services Unit, from February 2010 to the present, over 1000 clients have been supervised. This does not include the number of people released on straight OR.

The original grant report proposed that each officer could handle a case load of up to 35 clients. Given the likelihood of seven officers, Pre-Trial Services can efficiently manage 245 clients. Pre-Trial currently supervises approximately 115-120 clients per month.

It is believed that Pre-Trial Services can continue to grow to approximately double its current size. Given that pre-trial supervision is intensive and specialized to each client, caseloads over 35 could possibly be detrimental, based upon previous studies on probation efficiency.

The Yolo County Jail can house up to 452 before having to release subjects on consent decree. Pre-Trial Services has the capacity to supervised approximately 53% of subjects who would otherwise be in custody.



Yolo County Probation Department Pretrial Services Unit Assessment

Dan Fruchtenicht
Supervising Probation Officer

Marie VanNostrand, Ph.D.
Luminosity, Inc.



Pretrial Services Unit

Unit Goal

Pretrial Core Concepts

Pretrial justice

Role of pretrial services

Legal and evidence based practices

Measuring and managing risk

Standard Assessment Measures

Findings and Recommendations



Pretrial Services Unit

Yolo County Pretrial Services Unit Goal

- ◆ **To responsibly reduce the jail population while maintaining public safety and the integrity of the judicial process**
 - **Jail population**
 - **Public safety (pretrial crime)**
 - **Integrity judicial process**
 - **Court appearance**
 - **Enforce conditions of release**



Pretrial Services Unit

Pre-Trial Core Concepts – Pretrial Justice

Pretrial Justice - the honoring of the presumption of innocence, the right to bail that is not excessive, and all other legal and constitutional rights afforded to accused persons awaiting trial while balancing these individual rights with the need to protect the community, maintain the integrity of the judicial process, and assure court appearance



Pretrial Services Unit

Pretrial Core Concepts – Pretrial Justice

The pretrial release decision is a reflection of pretrial justice; it is the primary attempt to balance the rights afforded to accused persons awaiting trial with the need to protect the community, maintain the integrity of the judicial process, and assure court appearance.



Pretrial Core Concepts - Role of Pretrial Services



Provide information to the Court to assist them with the pretrial release decision

Provide supervision and services as ordered by the Court



Pretrial Core Concepts - Role of Pretrial Services

Pretrial Investigations and Risk Assessments

Pretrial Release Recommendations

Supervision & Services



Pretrial Services Unit

Pre-Trial Core Concepts – LEBP

Legal & Evidence-Based Practices

Interventions and practices that are consistent with the legal and constitutional rights afforded to accused persons awaiting trial and methods research have proven to be effective in reducing unnecessary detention while assuring court appearance and the safety of the community during the pretrial stage



Pretrial Services Unit

Pre-Trial Core Concepts – LEBP



The term is intended to reinforce the uniqueness of the field of pretrial services and ensure that criminal justice professionals remain mindful that pretrial practices are often driven by law and when driven by research, they must be consistent with the rights afforded to defendants awaiting trial



Pretrial Services Unit

Core Concepts – Measuring and Managing Risk

- Legal and Evidence – Based Practices Requires
 - Shift from charge-based decisions to risk-based decisions
 - Charge only
 - Risk for FTA and danger to the community
 - Release and detention outcomes based on risk not resource
 - Resources (financial)
 - Risk of FTA and danger to the community
- Pre-Trial Release Decisions vs. Outcomes



Pretrial Services Unit

Core Concepts- Measuring and Managing Risk

- Risk is inherent in Pre-Trial Release
 - Our system of justice DEMANDS that we take risk for most pretrial defendants

“In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception” U.S. v. Salerno (1987)

- Question is not IF we take risk
- How well do we MEASURE risk and
How well do we MANAGE it



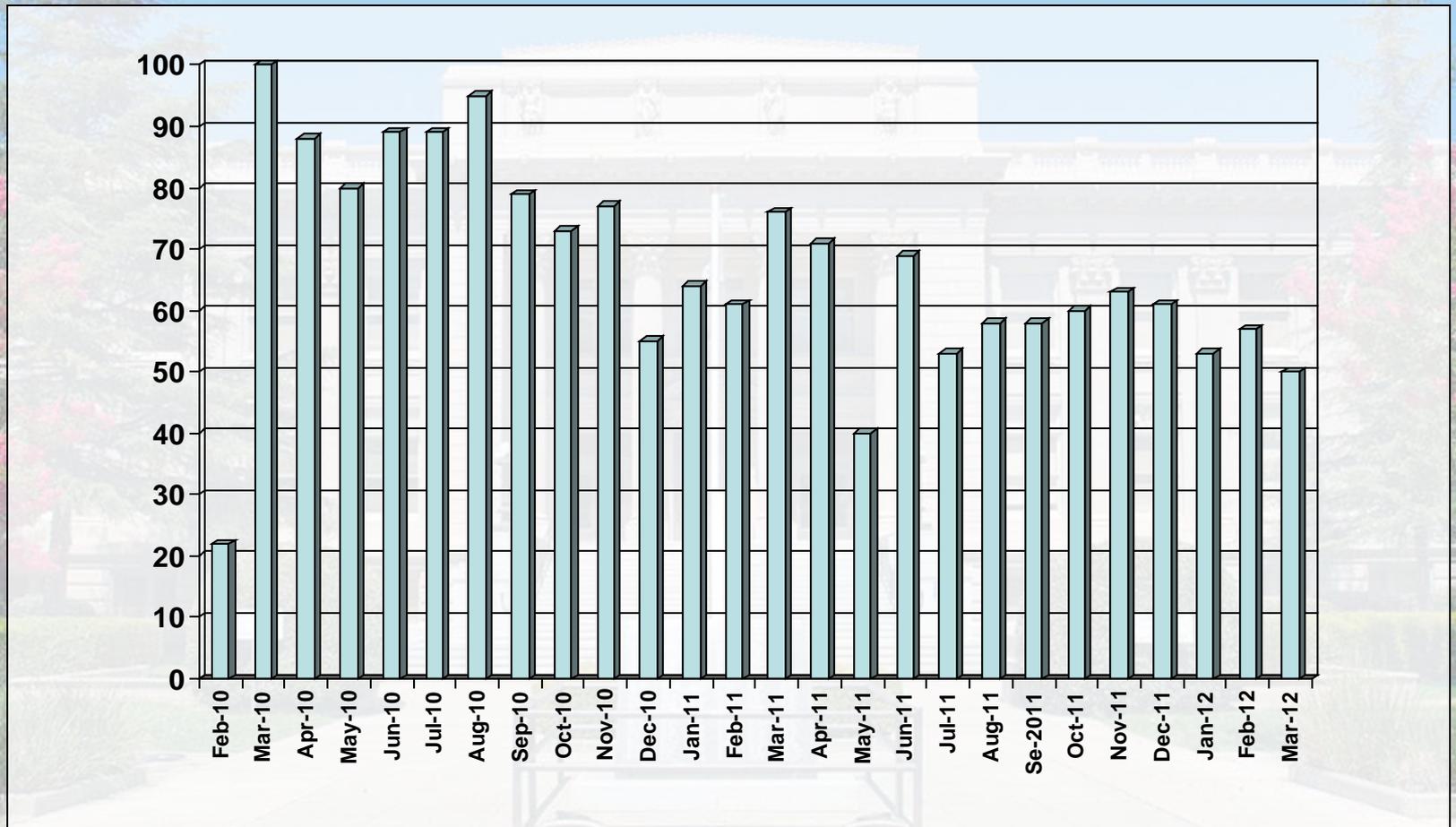
Pretrial Services Unit

Standard Assessment Measures

- ◆ **Pretrial Services Functions**
 - Investigations
 - Recommendations
 - Supervision & services
- ◆ **Supervision Outcomes**
 - Public safety
 - Court appearance
 - Condition enforcement
- ◆ **Jail Impact**
- ◆ **Overall Efficiency and Effectiveness of Operations**



Pre-Trial Services Functions - Investigations



Monthly Average Investigation = 67



Pretrial Services Unit

Supervision Outcomes – 441 cases closed since January 2011

- ◆ **Public Safety – 94.6% Public Safety Rate**
 - 5.4% of all defendants released to supervision had their pretrial release revoked due to a new offense
- ◆ **Court Appearance – 93% Court Appearance Rate**
 - 7% of released defendants failed to appear in court; 93% either appeared in court until case disposition or were returned to custody prior to the court date
- ◆ **Condition Enforcement – 10.4% of released defendants were returned to custody for technical violations prior to court or a new offense**



Report Process

- **Arraignment calendar**
 - **Who is eligible and who is not?**
 - **Not eligible**
 - **290 registrants**
 - **Serious/Violent offense (fresh offense)**
 - **Fel committed while out on OR/BBB**
 - **3056**
 - **ICE holds**
 - **No bail**
 - **PRCS (varies depending on case)**
 - **Eligible**
 - **Everyone else**



Report Process

Eligible Clients

- **OR status report**
 - **Information verified**
 - **ORAS (Ohio Risk Assessment Scale)**
 - **SRA**
 - **Recommendation**



OHIO RISK ASSESSMENT SYSTEM PRETRIAL ASSESSMENT TOOL

Name: _____ Date of Assessment: _____

Prob#: _____ PO: _____

| Pretrial Items: | Points | Verified |
|---|--------------------------|--------------------------|
| 1. Age at First Arrest: 0 points= Age 33 or older 1 point = Under age 33 | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Number of Failure to Appear Warrants in past 24 months: 0 points=None 1 point=One FTA Warrant 2 points=Two or more FTA Warrants | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Three or more prior jail incarcerations: 0 points = No 1 point = Yes | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Employed at the time of arrest: 0 points = Yes, Full-Time 1 point = Yes, Part-Time 2 points = Not Employed | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Residential Stability: 0 points = Lived at current residence past 6 months 1 point = Lived at residence less than 6 months | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Illegal Drug Use During Past 6 Months: 0 points = No 1 point = Yes | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Severe Drug Use Problem 0 points = No 1 point = Yes | <input type="checkbox"/> | <input type="checkbox"/> |
| Total Score | <input type="checkbox"/> | |

| | |
|---------------|----------------|
| Score: | Rating: |
| 0-2 | Low |
| 3-5 | Moderate |
| 6+ | High |

