What’s Happening in Pretrial Justice?

First Friday Forum, December 6, 2019
CHANGES IN PRACTICE
2019 Election

• Opportunities to fulfill campaign promises on pretrial reform
• Shifts in state leadership could move stalled efforts
Local Efforts Showing Impact

Philadelphia, Pennsylvania implemented a range of jail reduction strategies, including:

- expanding diversion programs
- alternatives to money bail
- relying on civil rather than criminal code to respond to low-level nonviolent offenses.

The Result:

The city reduced its jail population by more than 40% and plans to close its oldest facility by 2020.
Local Efforts Showing Impact

Orleans Parish, Louisiana implemented a range of jail reduction strategies, including:

- releasing more people on their own recognizance instead of making them post money bail
- increasing the availability of public defense at first court appearance
- increasing the frequency of second bail review for people who couldn’t initially post bail.

The Result:

- 3,400 people in 2010
- 1,200 people today

The city reduced its jail population from 3,400 in 2010 to fewer than 1,200 today.
CA Prepares for SB10

The Judicial Council of California has identified 16 counties to act as pilot sites to improve pretrial justice practices.
North Carolina

University of North Carolina

School of Government

Criminal Justice Innovation Lab
North Carolina

Bail Reform for Local North Carolina Jurisdictions—Options for Each Stage of the Pretrial Process
Jessica Smith, UNC School of Government, May 2019

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<tr>
<th>ARREST</th>
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<tr>
<td>Citation in lieu of arrest policies</td>
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<td>Summons in lieu of arrest policies</td>
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<td>Pre-charge diversion (e.g., mental health, substance use, youth, etc.)</td>
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<td>Data collection &amp; reporting</td>
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<th>INITIAL APPEARANCE</th>
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<td>Adhere to statutory preference for nonfinancial conditions</td>
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<tr>
<td>Implement better risk assessment tools and provide a structure for pretrial conditions decision</td>
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<tr>
<td>Require reasons for secured bond</td>
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<td>Set first court date prior to officer’s next court date</td>
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<th>FIRST APPEARANCE</th>
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<td>Timely first appearances for all defendants, including those charged with misdemeanors</td>
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<td>Early involvement of public defender or appointed counsel in release determinations, including counsel’s access to defendant in jail &amp; to prior history record</td>
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<td>Require counsel (or waiver after opportunity to consult with counsel) for time served pleas</td>
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<td>Hold detention bond hearings for those detained on detention bonds</td>
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<td>Data collection &amp; reporting</td>
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<th>SUBSEQUENT COURT PROCEEDINGS</th>
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<td>Enhanced court date reminder systems</td>
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<td>Offer appropriate pretrial services (e.g., mental health, transportation) and supervision (e.g., check-in) with no up-front costs to defendants</td>
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<td>Align procedures for DPA after FTA, with goals (e.g., check-on-detention before issuing DPA) (judge sets conditions in DPA to avoid mandatory bond doubling when appropriate)</td>
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<td>Regular review of jail rolls by jail administrator or judicial official, with court hearings scheduled as needed</td>
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<tr>
<td>Require counsel (or waiver after opportunity to consult with counsel) for time served pleas</td>
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<td>Expedited trials for detained defendants</td>
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LOCAL BOND POLICY

LOCAL CULTURE
Judicial District 30B

Results from a rural area:

- Increasing the number of people given non-financial conditions by 34% (Haywood) and 64% (Jackson).
- Early involvement of counsel and bond modifications.
- Use of summons in lieu of warrant increased 84%.
COMMUNITY AND GRASSROOTS-LED
Colorado

ACLU of Colorado and the Colorado Freedom Fund launched a 10-week court watching project in the Denver-metro area.
In September 2017, Cook County’s Chief Judge issued General Order 18.8a, designed to limit the use of money bond.

The Coalition to End Money Bond, with the assistance of over 100 volunteers, gathered data to understand the impact of the order and create accountability.
Rhetoric, Not Reform
Prosecutors & Pretrial Practices in Suffolk, Middlesex, and Berkshire Counties
CourtWatch MA
OCTOBER 2019
Brooklyn Community Bail Fund announced it will cease operations as a revolving bail fund.
Rikers Island to be replaced with Borough Jails

Making Sense of the Fight over NYC Jails

The New York Times

N.Y.C. Votes to Close Rikers. Now Comes the Hard Part.

The City Council approved a sweeping $8 billion plan to close the troubled jail complex and replace it with four smaller jails by 2026, an aggressive timeline that will prove challenging.
California

Los Angeles Board of Supervisors cancels a $1.7 billion contract to replace the men’s downtown jail.
LEGISLATION

PRETRIAL JUSTICE INSTITUTE
Alaska

HB49 took out many provisions of SB91:

- Presumption of release based on assessment score is removed.
- Removes ‘clear and convincing’ standard for pretrial detention.
- Inability to pay showing.
- Eliminates 30-day grace period for people who fail to appear.
SB394, the Primary Caregiver Pretrial Diversion Act, allows courts to create diversion courts for caregivers of children under age 18.
LITIGATION
Electronic Monitoring

Arizona Court of Appeals rules that people cannot be forced to pay for their own electronic monitoring before they have been convicted. (Hiskett v. Lambert)
Challenging E-carceration

New “No More Shackles” Report Argues Against Pretrial Electronic Monitoring
Montana

Federal court declares that provisions of a form bail contract used by AIA, one of the nation’s largest bail insurers, are void against public policy.
Settlements

- Buffin v. San Francisco
- ODonnell v. Harris County
What’s UP at PJI?
Trying to reduce disparity without learning about racial equity and then examining structural and institutional barriers to it. (We should know, we've been trying it for decades.)

Racially disparate impacts in the criminal justice system are insidious and complex. They persist because they are built into policies and practices and reinforced through the decisions that individuals make every day. There isn't a simple fix, be it a “race-neutral” assessment, implicit bias training, or a community engagement strategy. Advancing equity is difficult work that requires deep personal reflection and education, as well as organizational and systemic change. If people and communities aren't willing to do that work, to commit to the value of racial equity and the practice of looking at things through a racial equity lens, they may actually increase disparities despite a commitment to reform.