

LEADING THE WAY ON PRETRIAL REFORM: DAVIDSON COUNTY'S JOURNEY

September 2018

The Crime and Justice Institute (CJI), a division of Community Resources for Justice, works to improve public safety and the delivery of justice by providing nonpartisan technical assistance, research, and other services to improve outcomes across the spectrum of the adult and juvenile justice systems, from policing and pretrial through reentry. CJI provides direct technical assistance, assessment, implementation, research, data analysis, training, facilitation, and more. We take pride in our ability to improve evidence-based practices in public safety agencies and gain organizational acceptance of those practices. We create realistic implementation plans, put them into practice, and evaluate their effectiveness to enhance the sustainability of policies, practices, and interventions.

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The pretrial period is critical as the decision to release or detain defendants can affect their constitutional right to a presumption of innocence, contribute to jail overcrowding, and strain local budgets. In addition, research shows that unnecessarily detaining defendants pretrial can lead to negative outcomes such as higher incarceration rates, higher recidivism rates, and lower stability in the community.¹

In many jurisdictions across the country—including Davidson County, Tennessee, until recently—pretrial decisions have traditionally been made without a robust foundation of evidence-based practice. This has led to inefficient use of taxpayer dollars and poor results. To improve outcomes for defendants and protect public safety, Davidson County embarked upon a journey over the past two years to implement a data-driven, risk-based process to inform pretrial decision making.

Davidson County stakeholders understand the importance of an effective and objective pretrial system, and wanted to evaluate areas in which to improve court appearance and public safety rates. In 2015, the sheriff, district attorney general, judiciary, and public defender applied for a Tennessee Office of Criminal Justice Programs (OCJP) grant to work with the Crime and Justice Institute (CJI) on comprehensive pretrial reform. Together, these stakeholders decided to use their data to create a risk assessment and negotiated and developed sound policies to effectively reduce poor outcomes and use community supervision and detention appropriately. These actions have resulted in Davidson County becoming a national leader in pretrial practices.

IMPACT OF PRETRIAL DETENTION²

Increased chance of being sentenced to incarceration

Longer incarceration sentences

Higher likelihood of recidivism

Unemployment

Housing and childcare issues

¹ Lowenkamp, C. T., VanNostrand, M., Holsinger, A. (2013). The hidden costs of pretrial detention. Houston, TX: The Laura & John Arnold Foundation; Lowenkamp, C.T., VanNostrand, M., Holsinger, A. (2013). Investigating the impact of pretrial detention on sentencing outcomes. Houston, TX: The Laura & John Arnold Foundation; Holsinger, A. (2016). Analyzing bond supervision survey data: The effects of pretrial detention on self-reported outcomes. Boston, MA: Crime and Justice Institute.

² *ibid.*

The Need for Reform

Davidson County stakeholders recognized they were detaining people who were charged with low-level crimes and did not necessarily pose a threat to the community. To begin to address this issue, the county partnered with the Office of Criminal Justice Programs for help in improving the pretrial justice system.

Historically, when county bail commissioners were deciding to detain or release a defendant, they used information gathered by Pretrial Services to determine if the individual was eligible for the program. Eligibility criteria included factors such as the defendant's charges, community ties, and history of failure to appear. However, this process did not provide a standardized, objective, and data-driven risk assessment to determine the likelihood for a new criminal arrest or failure to appear for the defendant. As a result, commissioners and judges had to try to predict a defendant's risk using limited information that is subjectively interpreted by the decision makers. To find a solution to this problem, Davidson County partnered with CJI to evaluate its pretrial system.

CJI's analysis of county data showed that the majority of defendants were low risk for pretrial failure. In addition, the majority of defendants detained during the pretrial period (a group that is mostly comprised of defendants charged with misdemeanors only) were low risk for failing to appear for court and nearly half were low risk for a new criminal arrest. This system made inefficient use of limited county resources by housing low-risk defendants in jail who are very likely to appear in court and not get arrested awaiting trial.

The Davidson County Pretrial Risk Assessment

Pretrial risk assessments use standardized and objective information about a defendant to assign a statistical likelihood, or prediction, of pretrial failure. Risk is inherent in all pretrial release decisions, and the commissioner or judge has to determine how to effectively manage that risk. To better inform the release decision, Davidson County asked CJI to create a predictive assessment based on the county's own data. The county's new, data-driven risk assessment delivers two distinct scores – one for the likelihood of failure to appear and one for the likelihood of acquiring a new criminal arrest pending case disposition. Unlike most pretrial risk assessments that combine the two outcomes, this assessment provides more information to assist with release decisions, supervision requirements, and resource allocation based on an individual's specific risk for each outcome. For example, supervision of a defendant who is low risk for a new criminal arrest but high risk of failure to appear should look different than supervision for a defendant who is high risk for a new criminal arrest but low risk for failure to appear.

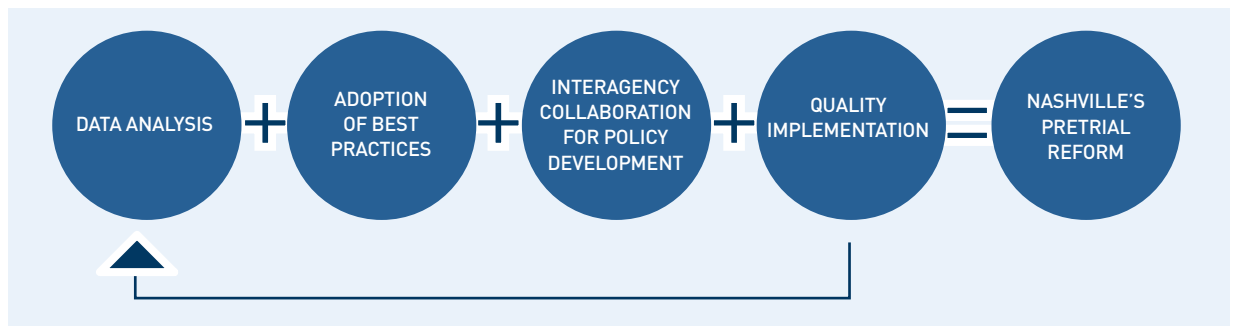
An empirically developed risk assessment adds objectivity to traditional pretrial decision making, while reducing unintentional bias in the release decision and leading to greater pretrial success. The risk scores aid commissioners and judges in making informed bail and release decisions without replacing judicial discretion. The scores are considered alongside other factors a judicial official evaluates when making decisions.

Pretrial Supervision

As of April 1, 2018, Davidson County officials not only make pretrial release decisions with an empirically developed risk assessment, but also determine release conditions and supervision intensity based on a defendant's risk. The recommendations adhere to the evidence-based risk principle: better outcomes for both defendants and the community will result from targeting resources and interventions to moderate- and high-risk defendants and applying the least restrictive conditions to low-risk defendants.³

Defendants released prior to trial are monitored by a pretrial case manager who checks in with defendants at regular intervals, sends court date reminders, and connects defendants with community resources. The pretrial case managers also report to the court if defendants are not complying with their release conditions, which are specific to each defendant's needs and circumstances.

A Model for Effective Pretrial Reform



The process used in Davidson County can be a model for others seeking to improve their pretrial justice systems. County stakeholders took the time to comprehensively consider what their data showed, reviewed best practices, got all pretrial stakeholders together to determine which policies best fit their local circumstances, and carefully rolled out a new pretrial process. It will take time to fully implement the new policies, but Davidson County is dedicated to collecting data and regularly evaluating practices to ensure its pretrial justice system leads to more successful outcomes for defendants while maintaining public safety.

³ Crime and Justice Institute and Department of Justice, National Institute of Justice. (2004). Implementing evidence-based practices in community corrections: The principle of effective interventions.

VanNostrand, M., & Keebler, G. (2009). Pretrial risk assessment in the federal court. Report for the Office of the Federal Detention Trustee (OFDT), Washington, DC.



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THIS PROJECT IS FUNDED UNDER AN AGREEMENT WITH THE STATE OF TENNESSEE, DEPARTMENT OF FINANCE AND ADMINISTRATION, OFFICE OF CRIMINAL JUSTICE PROGRAMS AND IS SUPPORTED BY AWARD # 2015-MU-BX-0442 AWARDED BY THE BUREAU OF JUSTICE ASSISTANCE, OFFICE OF JUSTICE PROGRAMS, USDOJ.

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