

## **Assessment Of The Second Judicial District Court Pretrial Services Office**

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## TABLE OF CONTENTS

<b>INTRODUCTION .....</b>	<b>3</b>
<b>Research Questions.....</b>	<b>6</b>
<b>STUDY DESIGN AND METHODOLOGY.....</b>	<b>7</b>
<b>Data Sampling .....</b>	<b>7</b>
<b>Comparison of Key Functions to National Standards .....</b>	<b>9</b>
<b>Sources of Information .....</b>	<b>11</b>
<b>Description of Current SJDC-PTS Division Processes .....</b>	<b>11</b>
<b>ANALYSIS .....</b>	<b>14</b>
<b>Research Question Analysis and Results .....</b>	<b>14</b>
<b>CONCLUSION and RECOMMENDATIONS.....</b>	<b>41</b>
<b>WORKS CITED .....</b>	<b>46</b>
<b>APPENDICES .....</b>	<b>49</b>
<b>APPENDIX A. LITERATURE REVIEW .....</b>	<b>49</b>
<b>APPENDIX B. ABA PRETRIAL STANDARDS.....</b>	<b>73</b>
<b>APPENDIX C. 2004 NATIONAL ASSOCIATION OF PRETRIAL SERVICES AGENCIES STANDARDS ON PRETRIAL RELEASE 3<sup>rd</sup> Edition .....</b>	<b>75</b>
<b>APPENDIX D. MOU SCOPE OF SERVICES .....</b>	<b>76</b>
<b>APPENDIX E. SJDC-PTS PERSONNEL .....</b>	<b>78</b>
<b>APPENDIX F. AGENCY COMMENTS .....</b>	<b>780</b>

## INTRODUCTION

According to the American Probation and Parole Association and the Pretrial Justice Institute, in perhaps no more than 15% (460) of the nation's 3,065 counties, judicial officers are aided by pretrial services programs in the balancing act between the presumption of innocence and public safety (APPA, 2010). At midyear 2011, about 6 in 10 jail inmates were not convicted, but were in jail awaiting court action on a current charge—a rate unchanged since 2005 (Minton, 2012). U.S. jails over the past two decades have become largely occupied by individuals awaiting trial, with only a minority of inmates serving out convictions. Before the mid-1990s, jail populations historically were evenly split between pretrial and sentenced prisoners. Since 1996, however, pretrial inmates have grown in numbers and at a faster rate than sentenced inmates, even though crime rates have been falling (Bechtel, et al, 2012).

During the 2012 regular session of the New Mexico State Legislative session, the Legislature passed House Joint Memorial 20 (HJM 20) “Bernalillo Case Management Pilot Project.” HJM 20 lists a series of conditions justifying the passage of the memorial; a shortage of incarceration options; \$30 million to house felony arrestees; the Bernalillo County Metropolitan Detention Center (MDC) has exceeded its design capacity for years; opportunities to alleviate burdens on county jails, but the opportunities were too difficult to implement; and the old Bernalillo County Detention Center could be renovated into a treatment center. HJM 20 resolves that the Bernalillo County Commissioners create a *pilot project that will streamline case management, evaluate and expand treatment and diversion programs, create an alternative incarceration facility, as well as start new mental health and substance abuse treatment options, alternative incarceration, transitional living, and reintegration programs*. The major stakeholders of the Bernalillo County criminal justice system should be represented in the pilot project. Additionally, HJM20 requests the NM Sentencing Commission (NMSC) collect jail population data, research case management practices, and evaluate the viability and effectiveness of the proposed pilot project.

In response to HJM 20, NMSC entered into a memorandum of understanding (MOU) with Bernalillo County. The scope of work was, “...evaluate the effectiveness of the expanded pretrial services program operated by the [Second Judicial District Court (SJDC)]...[also evaluate] new or expanded treatment programs and diversionary programs [if time and budget allow].”

Since fiscal year 2007 (FY07), Bernalillo County has contracted with the SJDC to supplement the cost associated with the SJDC Pretrial Services Division (PTS). As resolved in HJM 20, during fiscal year 2013, Bernalillo County increased the SJDC-PTS contract by an additional \$1.5 million making the total amount from the County \$2,052,590 for FY13. The division expansion included staff to assist the SJDC in setting the most appropriate bond to ensure community safety and the client's appearance at all hearings. According to the SJDC 2012 Independent Audit Report, with the expansion funding, SJDC expected to double the number of defendants being supervised by PTS and waiting trial to approximately 1,300.

As stated in the MOU, the present study was undertaken to evaluate the implementation of the expanded SJDC pretrial services division. To accomplish this task, NMSC performed a process evaluation in two related parts. The first part of the evaluation was a review of the SJDC-PTS and comparing division processes during FY13 to best practices found in the literature. The second part of the evaluation was an analysis of the type and amount of services provided to PTS clients before and during FY13, along with an examination of the PTS division expenditures. Work began on the study in late 2012 with a literature review, data collection and analyses concluded at the end of 2013, and this report was completed in early February 2014. During this period SJDC-PTS has made changes to the office location, the staff, data collection, the management and supervision, as well as procedural changes. Because these changes were being made as the study was occurring and this report was being written, our description of the SJDC-PTS division does not always concur with recent and on-going SJDC-PTS policies and procedures. This fact does not effect our study to a great degree or alter our conclusions. For example, in February 2014 the division began using a risk instrument when it was made available for the division to use in its screening process on February 13, 2014, as indicated by County and SJDC-PTS division staff. For the large majority of our study period and for the existence of the SJDC-PTS division a risk assessment has not been used. For this reason we could not measure the use of the risk assessment instrument and how this impacts the division. It will be important to track the implementation of the risk instrument as well as other division pieces including the timing of division referrals, a court hearing notification program, and differentiated services for clients.

The study design was bound by the assumptions in HJM 20, i.e., a shortage of treatment options, stakeholders in the Bernalillo County criminal justice system had the ability to create a pilot project, and data would be available to evaluate the viability and effectiveness of the pilot project.

Testing the effectiveness of the pilot program was focused to a process evaluation and comparison to known best practices. A significant finding was that neither the MDC nor the SJDC-PTS through January 2014 had implemented a risk assessment tool. This is discussed in more detail later. This finding meant that a number of routine output and performance measures -- recognized as best practices and PTS guidelines -- could not be completed for this study.

Our study included the following parts: (1) a literature review of current best practices in the field of pretrial services, (2) review of SJDC-PTS policies and procedures, (3) collection of client level information, (4) collection of PTS expenditure data, (5) a comparison of published policies/procedures and information from our formal and informal observations and discussions to best practices, and (6) report results of the best practices comparison and the client data analysis.

We provided a draft of this report to the Bernalillo County Public Safety and the NM Second Judicial District Court for review and comment. On March 17, 2014, we received written comments on the draft report from SJDC, which are reproduced in full in appendix F. SJDC also provided technical comments, which we incorporated as appropriate. On March 24, 2014, we received written comments from the Bernalillo County Public Safety staff, which are reproduced in full and are in appendix F.

## Research Questions

We created a list of research questions using HJM 20 as a guide as well as best practices indicated in the literature review, the scope of services in the Bernalillo County/SJDC contracts, and input from County and division staff. These questions included a list of outcome measures of PTS's effectiveness in achieving their mission and goals; quantitative characterizations of performance; and measures linked to tracking progress and trends. Table 1 shows the research questions created for this study.

<b>Table 1 Study Research Questions</b>		
<b>1. What are the stated mission, goals, and objectives of the division?</b>		
<b>2. Do the SJDC-PTS Business Practices align with Best Practices (i.e., American Bar Association and National Association of Pretrial Services Agencies Standards)?</b>		
<b>3. What resources have been or are being expended?</b>		
<b>4. Can SJDC-PTS meet outcome, performance, and mission critical measures promoted by the Department of Justice's National Institute of Corrections and best practice literature?</b>		
	a. Outcome (i.e., Output) Measures	<ul style="list-style-type: none"> <li>• Appearance Rate</li> <li>• Compliance Rate</li> <li>• Success Rate</li> <li>• Concurrence Rate</li> </ul>
	b. Performance Measures	<ul style="list-style-type: none"> <li>• Universal Screening</li> <li>• Recommendation Rate</li> <li>• Pretrial Intervention Rate</li> <li>• Pretrial Detainee Length of Stay</li> <li>• Employment</li> </ul>
	c. Mission Critical Data	<ul style="list-style-type: none"> <li>• Number of Defendants Released by Release Type and Condition</li> <li>• Caseload Ratio</li> <li>• Time from Court's Order of Release to Start of PTS</li> <li>• Time on PTS Supervision</li> <li>• PTS Detention Rate</li> </ul>
<b>5. Does SJDC-PTS use a validated risk assessment tool in making decisions?</b>		
<b>6. Does SJDC-PTS monitor client's compliance with the conditions of release requirements?</b>		
<b>7. What clients are put on electronic monitoring?</b>		
<b>8. How are clients selected to go to a specialty treatment program?</b>		
<b>9. What statutes govern local pretrial decision-making?</b>		
<b>10. What is the level of client services Pre and Post Expansion?</b>		

## **STUDY DESIGN AND METHODOLOGY**

Knowledge of the extent that a program has been implemented successfully and the degree to which the program meets the desired outcome is indispensable information to program managers, stakeholders, and policy-makers (Rossi & Freeman, 1990). This portion of the report describes the methods used to study the expanded pretrial services division operated by the Second Judicial District Court. Staff from the SJDC-PTS, SJDC Administration, Bernalillo County, and the MDC assisted throughout the project. These staff provided data and expertise and helped NMSC through the subtleties of the SJDC-PTS, the MDC data, and SJDC-PTS division structure.

Our methodology was two fold. One, to gather client data to compare differences before and after the funding increase, and two, to compare SJDC-PTS division policies and processes before and following the funding increase and expansion to best practices. Importantly, and as noted earlier, we recognize that during our study time period the division continued to develop and change for a variety of reasons. Many of these changes and developments will help the division move to becoming a best practice program.

To determine the policies and processes we held discussions with SJDC administration and several meetings with the SJDC-PTS Director. These talks were insightful, as the new Director told us his view of the past and future of the PTS division. We were also given a copy of the 2011 and 2013 versions of the SJDC-PTS Business Practices (Marshall & Sandoval, 2013). From these documents and discussions with PTS personnel we then compared procedures and policies to six core functions standards advocated by the NIC, Pretrial Justice Institute, American Bar Association, and National Association of Pretrial Services Agencies (PJI, 2010).

We began this project by conducting a literature review of the evidence based best practices, which included standards, outcome and performance measurements, and specific elements of pretrial risk assessment, and supervision divisions. We also collected information from other pretrial services programs. The literature was used to guide the study within the parameters set by HJM 20.

### **Data Sampling**

We collected data from a 25-month period between July 1 2011 and August 31, 2013. This included the study period of FY13. This also provided a sample of clients in the SJDC-PTS division prior to the division expansion and clients in the division during the expenditure of

County expansion funds. Of the possible 4,528 referrals to SJDC-PTS we created a random sample of 812 study group members. Based on our past experience we understood we would not be able to collect information on every study group member. Consequently, we over-sampled in the hopes we would be able to collect 50-75% of the sample or about 400-600 clients, which would provide enough statistical power for our analyses. Indeed, we were able to collect information from 675 (83.1%) study group members. Since there were more months before the SJDC-PTS division expansion than months after the expansion, we oversampled clients from those months after the expansion.

To collect client data, we designed a codebook to collect the information we wanted from the sample of SJDC-PTS client files. The form included: demographic information, supervision completion information, employment, treatment, family support, alcohol history, condition of release information, noncompliance information, and client contact information. We pilot tested the instrument on a sample of 32 SJDC-PTS client files. From our test, we edited the instrument to ensure we included data variables necessary to address as many research questions as possible. Testing gave us the opportunity to see how our data collection methods worked, to review the data for completeness and accuracy, and allowed us to adapt the data collection process. We provided our random sample of 812 clients to PTS staff and they pulled the client files. The files were available either as scanned electronic files or as hardcopy paper files depending on whether the files were closed or still open. A number of files in the sample that were closed were still in a hardcopy format and SJDC-PTS quickly scanned the folders they could find and gave us the scanned copies. Of the 812 clients in the sample, 157 client files (19.3%) were never located by PTS staff and could not be used in the study.

We also utilized court data provided by the NM Judicial Information Division (JID). We matched the JID data to our overall sample of referrals on client name, court case number, and age. Due to errors in case numbers and the use of age instead of date of birth (the PTS referral databases only contained age, not date of birth) we were not able to match all cases between the two data sources. We then matched those individuals for whom we had court data to the data collected from the PTS files on name and court case number. Unfortunately, the names and court case numbers from the PTS files included errors, which prevented a perfect match between the two data sources, but we were able to match 440 individuals out of 675 for an attrition rate of 34.8%. The JID data gave us two datasets to compare SJDC-PTS activities.



## **Comparison of Key Functions to National Standards**

SJDC-PTS provided a copy of the Pretrial Services Division Business Practices Final Draft dated March 2013 and the Pretrial Services Division Business Practices Revised version dated July 2011. The SJDC Accounting Office provided copies of Intergovernmental Grant Agreement (#2012-0555) for FY2013 and Intergovernmental Agreement (#2012-0437) for FY2013. NMSC used this information as background and context for the present study.

Extracting and compiling needed information took time. A good deal of time was also spent gathering policy decisions and current agency protocol information. This was difficult to accomplish for several reasons. First, SJDC-PTS had recently moved into new offices in the Bernalillo County Public Safety Building and files were difficult to locate. Second, the longtime director had recently been replaced by an interim and a permanent director replaced the interim in March 2013. Third, electronic data was stored in four different formats with the fourth being a database created in-house by a PTS employee and brought online in March 2013. The new database was a positive move and it allows the division to more quickly and completely collect information. Additionally, closed case files were mostly available in a scanned format, but some closed files had not been scanned or could not be found by PTS staff.

The SJDC-PTS Division Business Practices describe the office procedures and policies. However, the SJDC-PTS Director advised that the PTS Division might not strictly follow the Business Practices documents because he is in the midst of improving on the PTS procedures. Since changes were being made as NMSC staff was collecting data and policy material, the SJDC-PTS procedures we were given do not always concur with the actual current SJDC-PTS procedures. We distilled the SJDC-PTS policies and procedures into a description of the division, and then compared the SJDC-PTS division to six core functions derived from national standards by the Pretrial Justice Institute (PJI). The national standards referred to are advocated by the American Bar Association, the National Association of Pretrial Services Agencies, and the PJI.

Because the comparison was important, we focused a significant effort to make the comparison as detailed as possible. Our comparison method was modeled from a design used in a PJI program implementation manual (PJI, 2010). The manual describes the six core functions of a pretrial service program and includes research findings on the most effective approaches to those functions. Table 2 lists the six core functions. In the analysis, the ideal or best practice for

performing the core function is described then compared to the core function as practiced by the SJDC-PTS.

<b>Table 2 Six Core Functions of a Pretrial Services Program</b>	
1.	Impartial universal screening of all defendants, regardless of charge;
2.	Verification of interview information and criminal history checks;
3.	Assessment of risk of pretrial misconduct through objective means and presentation of recommendations to the court based upon the risk level;
4.	Follow up reviews of defendants unable to meet the conditions of release; and
5.	Accountable and appropriate supervision of those released, to include proactive court date reminders.
6.	Reporting on process and outcome measures to stakeholders.

The six core functions used by PJI are derived from the national standards set by the ABA and the National Association of Pretrial Services Agencies (NAPSA). The ABA Standards are intended for use by any local pretrial service program as a guide for establishing business practices, policies, and procedures. The ABA Standards assist pretrial release programs by striking a balance between society's interest in personal liberty and public safety, while safeguarding the due process of law (ABA, 2007). See the Appendices for an abbreviated version of both the ABA Pretrial Release Standards and the NAPSA Standards.

The NAPSA Standards incorporate evidence-based practices and the best practices in the field of pretrial services. The NAPSA Standards are more reflective of the best practices within the context of today's criminal justice systems, i.e., growth of the internet, the rise of collateral consequences preventing defendants from getting employment and education, and the rise of problem solving courts (NAPSA, 2008). Together these two national standards and six core functions -- based on best practices and the latest evidence -- served as our touchstone to judge the practices and policies of the SJDC-PTS.

Finally, we collected SJDC-PTS expenditure data from SJDC. These expenditures were outlays from the two contracts between Bernalillo County and the SJDC supporting the SJDC-PTS Division. We tracked the additional FTE positions that were one of the primary expenditures of the County funding. Our review of the expenditures describes the expenditures by month compared to the total number of individuals referred to PTS each month, the number of new clients, and the increase in PTS staff each month.

## Sources of Information

Table 3 describes the sources of data available for this study. Expenditure data was acquired from the SJDC. The data was in the form of scanned monthly invoices associated with each of the Intergovernmental Agreements between SJDC and Bernalillo County during FY13. The data was translated into a spreadsheet for review and analysis. Policies and procedure documents were acquired from the SJDC-PTS Director. The PTS Business Practices Revised version dated July 2011 was in hardcopy format and the version dated March 2013 was provided in an electronic form. Client files, as described earlier in this section, were provided as scanned and hardcopy materials. Client files had limitations, e.g., different versions of forms were used over time, handwritten notes by the officers were indecipherable, division and client level documentation was incomplete, and file data did not match automated Microsoft Excel client data resulting in our staff manually reviewing 655 client files. Finally, we utilized court data provided by the NM Judicial Information Division (JID). We matched the JID data to our overall sample of referrals as provided by PTS on client name, court case number, and age.

<b>Table 3 Sources of Information for Study</b>		
Document	Description	Source
<ul style="list-style-type: none"> <li>Expenditures</li> </ul>	<ul style="list-style-type: none"> <li>Intergovernmental Grant Agreement (#2012-0555) \$1,500,000</li> <li>Intergovernmental Agreement (#2012-0437) \$552,951</li> </ul>	<ul style="list-style-type: none"> <li>SJDC Accounting Office</li> </ul>
<ul style="list-style-type: none"> <li>Policies and Procedures</li> </ul>	<ul style="list-style-type: none"> <li>Final Draft Pretrial Services Division Business Practices dated March 2013</li> <li>Pretrial Services Division Business Practices Revised version dated July 2011</li> <li>Conversations between NMSC staff and SJDC-PTS administration</li> </ul>	<ul style="list-style-type: none"> <li>SJDC-PTS</li> </ul>
<ul style="list-style-type: none"> <li>Client files &amp; data</li> </ul>	<ul style="list-style-type: none"> <li>Scanned document files and hardcopy files</li> <li>State Judiciary Odyssey Docket files</li> </ul>	<ul style="list-style-type: none"> <li>SJDC-PTS</li> <li>NM Judicial Information Div.</li> </ul>
<ul style="list-style-type: none"> <li>PTS Standards &amp; Best Practices</li> </ul>	<ul style="list-style-type: none"> <li>American Bar Association: Pretrial Release: ABA Standards for Criminal Justice Third Edition.</li> <li>National Association of Pretrial Services Agencies: Performance Standards and Goals for Pretrial Diversion/Intervention</li> </ul>	<ul style="list-style-type: none"> <li>ABA Website</li> <li>NAPSA Website</li> </ul>

## Description of Current SJDC-PTS Division Processes

This portion of our study presents a brief summary of key services, procedures, and policies conducted by the SJDC-PTS. We reviewed these business practices of the PTS Division in the

2011 and 2013 SJDC-PTS Business Practices we were given. According to the Final Draft (pending Judicial approval) of the 2013 SJDC-PTS Division Business Practices, the purpose of the Division is to:

“...provide a comprehensive continuum of services and supervision to adult defendants charged with felony offenses based on NMSA Rules of Criminal Procedure for the District Courts, Article 4 Release Provisions, Rule 5401 and the Northpointe COMPAS risk and needs assessment in order to reduce involvement with the criminal justice system, reduce recidivism, protect the community, and ensure court appearances.”

The COMPAS risk assessment is mentioned in the 2013 Business Practices purpose statement. For the majority of our study the SJDC-PTS was not using a risk assessment in their presentations to the court. Not until February 13, 2014 did the SJDC-PTS begin using the COMPAS 15-question risk assessment to assess defendants in jail awaiting arraignment in District Court.

The SJDC-PTS Division includes: a component intended to receive referrals at the Bernalillo County Metropolitan Court felony first appearance; background investigators; PTS supervision; and four jail diversion programs (i.e., Judicial Supervision Program, Intensive Outpatient Substance Abuse Treatment, Veterans Court, and Electronic Monitoring).

The primary target population for SJDC-PTS are adults indicted by the grand jury on a felony charge and awaiting arraignment in the District Court. These individuals typically are first contacted by the Metro Court Background Investigators at MDC before their Metro felony first appearance hearing. After an individual is indicted by the grand jury – between 10 and 60 days later, depending if they are held in custody or not -- the SJDC-PTS may interview the defendant prior to the felony arraignment in district court, which is typically the defendant's second hearing on the formal charges and conditions of release. Metro Court PTS makes condition of release recommendations on felony defendants to the Metro judge during Metro Court felony first appearance hearings. ABA and NAPSA are clear that pretrial services programs should interview all defendants who are in custody before the initial court appearance. The SJDC background investigators search for criminal history information on the individual and make a recommendation for conditions of release to the District Judge at arraignment. At arraignment, the judge imposes conditions of release and may order the defendant to SJDC-PTS as a condition. SJDC-PTS conducts jail video interviews or face-to-face interviews at the PTS offices, using a paper interview form called a “triage/intake form.” Later some information from the form is

transferred to the PTS database. The PTS Business practices states community ties are verified but community ties is only one of many points that should be verified. New PTS workers are given an overview of PTS, including some training on the triage form.

A risk assessment instrument has historically not been used in the referral and eligibility process. Referrals are assessed based on the initial interview and the background investigation. According to SJDC-PTS Director and SJDC Court Administrators, they plan to use a risk assessment instrument.

Information at the District Court arraignment is presented by the SJDC-PTS Background Investigators and consists of a recommendation for the conditions of release. The recommendation is based on the defendant's criminal history, which includes: criminal activity, violence, drug history, convictions, prior supervision history, failure to appear history, incarceration history, community ties, and competency issues.

The 2011 version of the Business Practices contain a section that discusses four graduated levels of supervision, but based on our pilot data of 32 cases it appeared clients were supervised at one level. Thus we did not extensively search the client files for changes in changes in supervision status levels. The 2013 version of the Business Practices describes the use of the COMPAS risk assessment instrument to place clients at varying levels of supervision.

During our review of the SJDC-PTS process, the Division did not have a proactive notification system. The SJDC-PTS did not send out court date reminders or notify the client by phone. The client report form asked the client if they had heard about their next court hearing date. Client files do not contain a quantitative list of times the client was notified of a court hearing by the PTS Officer. Subsequent to our review and suggestion that a proactive system be instituted, we were advised that a written notification system has been added to the database. The system allows the PTS Officers to enter hearing dates from the Court's docketing system and notify the clients when the client reports prior to the next hearing. This system was put into place during October 2013.

Currently, SJDC-PTS has a procedure manual in place that was revised in July 2011. This is the procedure manual we used during our review of the division. On June 26, 2013, we were given another version dated 2013, and we were advised in a memorandum that the 2013 version would,

“...not be finalized until the COMPAS configurations are completed and the practices approved by the Criminal Bench.” The copy of the 2011 version we received did not contain amendments since June 2011. The 2013 version of the Procedures manual is reliant on the use of the COMPAS risk assessment. During our review SJDC-PTS staff advised that the COMPAS instrument had been tested in a limited way recently but the results of the test were not available.

There is a 2-day formal training for new PTS workers. Different staff are used to present overviews of various topics related to SJDC-PTS (e.g., Client files, Triage, Levels of Supervision, Conditions of Release).

As noted earlier an electronic database was implemented in March 2013. The database contains client demographics, client assignments to PTS diversions, remand information, important dates in the client’s case, and recently the developer added a feature for entering case notes. At the time of our data collection process the new database did not contain the cases in our pre/post random sample and we could not rely on the Excel spreadsheets in place before the new database. Each spreadsheet was missing data and contained conflicting data.

## **ANALYSIS**

### **Research Question Analysis and Results**

#### **What are the stated mission, goals, and objectives of SJDC-PTS?**

NAPSA Standard 3.7 calls for the establishment of goals for effectively assisting in decision-making and the operations of the program. We searched the literature available to us and were not able to find a statement of the goal(s) or objectives of the SJDC-PTS Division. The mission of the Division is: “...to contribute to the orderly administration of justice and the safety of the community.” We also found one statement in the 2012 SJDC Independent Audit Report, “...with the expansion funding, SJDC expected to double the number of defendants being supervised by PTS and waiting trial to approximately 1,300.” This statement could serve as a measureable objective for the work done during the contract with the County. The division should consider developing goals and objectives as recommended by the NAPSA Standard and best practices.

#### **Do the PTS Business Practices align with Best Practices (i.e., ABA and NAPSA Standards)?**

In this portion of the analysis we are interested in comparing actual practices of SJDC-PTS in six core function areas. These six core functions are used by the PJI in an implementation model

designed to help jurisdictions just starting a pretrial program and the model is also beneficial for jurisdictions that have a program, and are seeking to enhance the program (PJI, 2010). The six core functions originate from the ABA and NAPSA pretrial services standards.

Our comparison method was modeled from a design developed and used in a PJI program implementation guide (PJI, 2010). In the analysis, the core function as practiced by the SJDC-PTS is described then compared to the ideal or best practices for performing the core function.

Table 4 summarizes the findings of the comparison of SJDC-PTS to the ABA and NAPSA Standards.

<b>Table 4 Summary Comparison of SJDC-PTS Practices to Six Core Functions</b>		
Core Function	SJDC-PTS	National Standards/Best Practices
<b>1.</b> Impartial universal screening of all defendants, regardless of charge.	Practice is to interview defendants after the felony first appearance and grand jury indictment.	Programs should interview defendants prior to an initial appearance before a judge.
<b>2.</b> Verification of interview information and criminal history checks.	Background Investigator “turn around” time to verify defendant’s information before arraignment is limited.	Collecting, verifying, and documenting information about the defendant’s background and current circumstances are important to the court’s decision concerning release or detention for the defendant.
<b>3.</b> Assessment of risk of pretrial misconduct through objective means and presentation of recommendations to the court based upon the risk level.	In February 2014 SJDC-PTS began using a risk assessment instrument in the eligibility process.	Pretrial services programs should continue to use a risk assessment scheme that in a consistent and equitable fashion assesses the defendant’s risks of failing to appear at future court hearings and posing a risk to community safety.
<b>4.</b> Follow up reviews of defendants unable to meet the conditions of release.	Three SJDC-PTS Background Investigators prioritize their investigation efforts on targets of the grand jury. Since February 2014, they are beginning to focus some investigative resources on potential clients who were not able to pay to get out of jail.	A pretrial services program should review the case of each pretrial detainee periodically to determine if factors associated with the initial detention decision still apply and report new findings to the court.
<b>5.</b> Accountable and appropriate supervision of those released, to include proactive court date reminders.	In our test sample it appeared clients were routinely categorized at the Intensive Supervision Level and there was no form in the files describing any change in the client’s supervision level. SJDC-PTS staff advised that clients are supervised at one level. Via our review of client files we were unable to determine if clients are supervised using a graduated level of supervision, but it appeared they were not.	Conditions of release and supervision should be related to the risk identified by the risk assessment tool in each individual case, and should be the least restrictive necessary to reasonably assure the defendant’s appearance and community safety. A pretrial program should proactively remind client’s of their court hearing dates a day or two before the hearing.
<b>6.</b> Reporting on process and outcome measures to stakeholders.	Client files and division databases do not contain all of the data variables necessary to calculate process and outcome measures.	Establish procedures for regularly measuring the performance of the division. Performance and outcome or output measures and also data that is deemed critical to the mission of any pretrial program.

#### ***SJDC-PTS Procedures Compared to Best Practices in Six Core PTS Functions***

##### **1. Impartial universal screening of all defendants, regardless of charge**

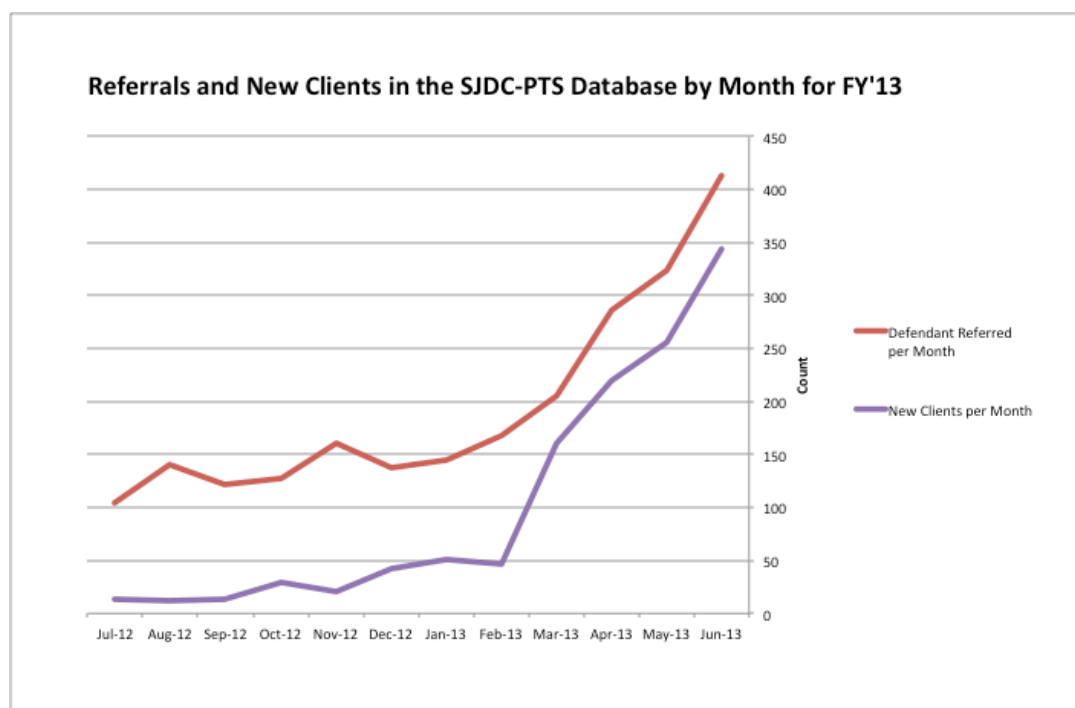
The best practice in this function area recommends that pretrial service programs interview defendants prior to an initial appearance before a judge. According to NAPSA Standard 3.3 and ABA Standard 10.4-2, all defendants in jail and charged with a crime should be investigated by



the pretrial services agency prior to a first appearance to assist the judge concerning pretrial release. Pretrial programs that are expanding are urged to conduct full investigations in all cases where a bail decision can be made. Some agencies take the approach to target some defendants and incrementally expand to target all cases. According to available literature incremental expansion rarely occurs (PJI, 2010).

Figure 1 shows the number of clients in the SJDC-PTS data that were referred to the division each month from July 2012 to August 2013. Beginning in February 2013 the number of referrals to the division show a large increase each month.

**Figure 1 Referrals and New Clients in the SJDC-PTS Database**



As of the writing of this report the current SJDC-PTS practice is to interview defendants after the Metro felony first appearance and grand jury indictment. SJDC-PTS interviews adults indicted by the grand jury and waiting arraignment in the District Court. PTS started a program to obtain referrals earlier at the Metro felony first appearance hearing. This initiative has met with limited success. SJDC-PTS staff stated, it appears Metro Judges are hesitant to refer felony arrestees to the SJDC-PTS and would rather order a financial bond. Indeed, a 2013 study by the National Judicial College describes Judges' "hesitancy." The study concludes there are obstacles facing judges in making effective pretrial decisions. Among the obstacles are: a lack of objective criteria

for setting release conditions; lack of an evidence-based risk assessment tool; lack of counsel at first-appearance; lack of options for release under supervision in the community; push-back from bail bond agencies and insurance companies; docket management pressures; a legal culture that is comfortable with long-standing practices; and funding concerns (Dressel & Mahoney, 2013).

In 2006, researchers evaluated the risk assessment instrument that was put in place after the 1992 Hennepin County study. Three factors were identified as being significant in predicting both pretrial crime and FTA: having higher number of prior convictions; having a history of failure to appear; and being unemployed or employed less than 20 hours a week. One factor – being charged with a felony – decreased the odds of a defendant committing pretrial crime and of failing to appear in court (Podkopacz, 2006). Additionally, the original charges may be reduced when reviewed by a prosecutor. According to PJI, while judges hesitate to trust local pretrial systems and legacy systems, such as bail bondsmen and the legal culture, are traditional, the Hennepin study makes the point that pretrial misconduct is not directly related to the seriousness of the offense.

## **2. Verification of interview information and criminal history checks**

Collecting, verifying, and documenting information about the defendant's background and current circumstances are important to the court's decision concerning release or detention for the defendant (NAPSA Standard 3.2 (a)). The ABA standard recommends the PTS investigation should include information on the defendant's criminal history, history of appearing in court, probation and parole history, and other pertinent information (ABA Standard 10-4.2). Of course, the information must be verified rapidly to be available during the initial release hearing. If the defendant provided inaccurate information or the contacts are difficult to locate, the PTS investigator must use valuable time to verify the information and have it ready for the judge. At times, the defendant cannot be released and must remain in jail until the PTS investigator verifies the information. It is important that verification efforts continue after the initial appearance.

SJDC-PTS typically investigates the criminal history of potential clients only if the person is the target of the grand jury. Investigations earlier than this are not routinely conducted. However, the SJDC-PTS states they are accelerating a program to take clients at the Metro Felony First Appearance hearing (MFFA).

### 3. Assessment of risk of pretrial misconduct through objective means and presentation of recommendations to the court based upon the risk level

Historically, across the nation the purpose of pretrial service programs has been to ensure the appearance of the defendant, and a financial bail was the preferred method for ensuring appearance. Pretrial programs have changed and now help the courts distinguish high-risk defendants from low-risk ones. Pretrial service programs should use a risk assessment scheme that in a consistent and equitable fashion assesses the defendant's risks of failing to appear at future court hearings and posing a risk to community safety. Results of the pretrial services investigation and recommendations should be promptly presented to the judge before or during the initial hearing. The assessment scheme should be the product of local research and validated through a methodologically rigorous study every five to seven years (ABA Standard 10-4.2; PJI, 2010).

Pretrial services provides for the due process of the defendant, maintaining the integrity of the judicial process by securing defendants for trial, and protecting victims, witnesses, and the community from threat, danger or interference. The judge's responsibility goes further, deciding whether to release a defendant on personal recognizance or unsecured appearance bond, release a defendant on a condition or combination of conditions, temporarily detain a defendant, or detain a defendant according to pretrial procedures (ABA Standard 10-1.1). The assessment should place the defendant in a risk level and should identify any condition or combination of conditions designed to address the identified risks. A range of options should be available, such as release on own recognizance, restrictive non-financial conditions, and as the last resort, financial conditions (financial conditions are only recommended to ensure appearance). Conditions should be recommended on a graduated basis from least restrictive to most restrictive. Research has shown that unsecured bonds are as effective at achieving public safety and the defendant's appearance in court as are secured bonds (Jones, 2013). Both the ABA and NAPSA recommend the court should first consider releasing the defendant on their own recognizance or when necessary on an unsecured bond (ABA Standard 10-1.4; NAPSA Standard 1.4(c)).

Using information collected from the Order Setting Conditions of Release (OSCOR) found in the PTS files, we found that judges are not using the unsecured bond option on the OSCOR. Table 5 shows that one in five individuals in the sample were released on their own recognizance, one in six were released to pretrial services as a third party, and less than 1% of our sample were ordered to be released with an unsecured bond. The majority of individuals were required to post some

form of financial bond to be released from custody. The use of PTS after meeting a financial bond is unusual. Under section (g) of NAPSA Standard 1.4, courts should ensure that responsibility for supervision of defendants released on bond posted by a bondsman lies with the bondsman. A judicial officer should not direct a pretrial services agency to provide supervision for a defendant released on commercial bond. The effect of such practice subsidizes the bondsman by helping to reduce the risk to the bondsman that the defendant will return for scheduled court appearances.

<b>Table 5. Counts and Frequencies of Release Types from the OSCOR Files</b>		
Release Type	Count	Percent
ROR	139	21.2
Unsecured Bond	1	0.2
Bond	431	65.8
Surety Bond	354	54.0
Cash	5	0.8
Property Bond	2	0.3
Third Party To PTS	113	16.7
Secured Bond	54	8.2

Note: Categories do not sum to 100% because clients could have been released with multiple types of conditions.

The problem for a pretrial program that is not using a risk assessment instrument is to know what risk factors are valid in that jurisdiction. There are two options for addressing this problem. The PTS program can delay the implementation of an objective risk assessment instrument until the instrument is validated. The disadvantage of this approach is that no risk assessment instrument would be in place until a validation study was completed, a process that would take more than 12 months.

Another approach is to implement an interim pretrial risk assessment tool that has been validated elsewhere, and begin collecting the data necessary to validate the tool locally in the future. The advantage of this approach is the instrument can be implemented relatively quickly. Jurisdictions taking this approach must be committed to seeing that the validation is ultimately conducted. In recent years, as the need for evidence-based practices has grown in the field of pretrial services, more programs have conducted rigorous validation studies on risk assessment instruments.

Among the local judiciary in Bernalillo County, validated risk assessment instruments have not historically been used in the referral and eligibility process. The Metro Court uses a risk tool that is not scored and has not been validated. Referrals are assessed based on the initial interview and the background investigation.

Because the SJDC-PTS did not use a risk assessment tool during the expansion funding period, which was the study period, we were not able to perform process and output or outcome measures, which rely on risk assessment data. These measures were to be a significant part of our analysis. Regretfully, we could not execute these measures but even more concerning is the fact that SJDC-PTS cannot perform standard routine measures that assess the impact the SJDC-PTS division has on, PTS clients, the MDC population, the criminal justice system, or the safety of the community. As SJDC-PTS uses the COMPAS tool in the future, they should be able to perform recognized measures.

#### **4. Follow up reviews of defendants unable to meet the conditions of release**

A pretrial services program should review the case of each pretrial detainee periodically to determine if factors associated with the initial detention decision still apply and report new findings to the court (ABA Standard 10-1.10 (h); NAPSA Standard 3.6).

Defendants who were not released because information was not available or not verified are still potentially good pretrial release candidates. Best practice pretrial programs, as a matter of policy, conduct follow ups on defendants who remain in jail after the pretrial program was unable to reach references to verify the information provided by the defendant in the interview. When appropriate the PTS should submit an amended recommendation to the court for reconsideration of the conditions of release.

The three SJDC-PTS Background Investigators prioritize their investigation efforts on targets of the grand jury. They do not concentrate their investigative time on potential clients who were not able to pay to get out of jail. At the end of our study, the SJDC-PTS Director reported that one PTS employee gathers additional information on defendants in custody who have been arraigned in District Court and whose OSCOR includes a financial bond and third party release. The results of the PTS employees' information gathering are provided to the defendant's attorney in the hopes the attorney will ask the court for a hearing to reconsider the conditions of release. The SJDC-PTS Director advised that SJDC-PTS cannot ask the Court for a hearing as the motion must be initiated by counsel.

#### **5. Accountable and appropriate supervision of those released, to include proactive court date reminders**

Client supervision includes the PTS caseworker contacting the client and providing supervision. The client's compliance while under supervision should be monitored. Also, supervision should

be individualized and based on a scheme of graduated contacts and level of supervision dependent on conditions imposed. According to national standards, conditions of release and supervision should be related to the risk identified by the risk assessment tool in each individual case, and should be the least restrictive necessary to reasonably assure the defendant's appearance and community safety. Additionally, a pretrial program should proactively remind client's of their court hearing dates a day or two before the hearing.

From our sample of closed cases it appeared that clients were routinely categorized at the Intensive Supervision Level and there was no form in the files describing any change in the client's supervision level. SJDC-PTS staff advised that clients are supervised at one level. The 2011 version of the Business Practices contain a section that discusses four graduated levels of supervision. The 2013 version of the Business Practices uses the COMPAS risk assessment instrument to place clients at varying levels of supervision. Our analysis of SJDC-PTS data showed clients report and meet with the PTS officer, (i.e., client contact), more often than reporting and not meeting the officer (i.e., self-report) (see Table 6 for counts and frequencies). We found that clients averaged 26 client contacts and 11 self-reported contacts while under supervision. The contacts per week had a mean of 1.4 and a median of 1, while self-reports per week had a mean of 0.2 and a median of 0.1.

<b>Table 6. Number of Client Contacts &amp; Self-Report Contacts</b>					
Number of Client Contacts	Count	Percent	Number of Self-Report Contacts	Count	Percent
0-10	153	37.4	0-5	179	43.8
11-20	77	18.8	6-10	74	18.1
21-30	69	16.9	11-15	50	12.2
31+	110	26.9	16+	106	25.9
Total	409	100.0	Total	409	100.0

NAPSA and ABA standards also recommend that PTS caseworkers assist clients in securing employment and in obtaining medical services, drug or mental health treatment, legal services, or social services (NAPSA Standard 3.5; ABA Standard 10-1.10(e-g)). SJDC-PTS has three specialty programs for clients (Veterans court, Mental Health program, and GPS program). We found little evidence in the client files of participation in these programs. Table 7 shows that only 5.6% of individuals in our sample had the treatment court program referral form in their file. Furthermore, Table 8 shows that of those individuals in our sample who ultimately ended up under supervision, 20% attended treatment sessions, less than one percent attended "drug court

like” sessions or veteran’s court sessions, and none attended mental health court sessions, or JSP sessions.

<b>Table 7. Clients with Treatment Court Program Referral Form in File</b>		
	Count	Percent
With Form in File	37	5.6%
Without Form in File	638	94.4%
Total	675	100.0%

<b>Table 8. Count and Percentages of Treatment Sessions by Type</b>		
	Count	Percent
General Treatment Sessions	84	20.5%
Drug Court Like Sessions	1	0.2%
Veterans Court Sessions	2	0.5%
Mental Health Court Sessions	0	0.0%
JSP Sessions	0	0.0%

Note: The program changed forms requiring us to list both Mental Health Court and JSP Sessions.

We also gathered data on client employment. The only quantitative data on client employment was found in the Triage form. Unfortunately, whether the client is employed at intake does not show how successful the SJDC-PTS caseworker was at assisting the client in securing a job. According to Standard 10-1.10 (j) of the ABA Pretrial Standards, one of the tasks of pretrial is to assist the defendant prior to trial in securing necessary employment. We recommend SJDC-PTS complete a “status at discharge form” at the closing of the case or when the client has been adjudicated. The division should also consider collecting information during the time the client is in the division indicating changes in social stability, i.e., employment, education, mental health, legal status, etc. The status form should be used to collect the relevant information to measure best practices, e.g., employment status at discharge.

A proactive reminder or notification system would contact defendants prior to their court hearing to remind them where and when to show up. The SJDC-PTS does not send out any court date reminders or notify the client by phone of upcoming court appointments. Client files we had access to did not contain a quantitative list of the number of times the client was notified of a court hearing by the PTS Officer. Recent research has shown that any type of notification program, i.e., phone calls, note cards, etc., reduces the number of defendants missing hearings. In approximately October 2013 SJDC-PTS initiated a system whereby the PTS officer manually

enters the upcoming hearing date in the database and notifies the client the next time the client reports to the officer.

#### 6. Reporting on process and outcome measures to stakeholders

According to NAPSA Standards 3.7 it is important for a pretrial program to establish procedures for regularly measuring the performance of the program. Performance and outcome or output measures and also data that is deemed critical to the mission of any pretrial program, have all been developed by the NIC. These measures have been accepted since 2010 as standard indicators for determining the success of a pretrial program (USDOJ NIC, 2011).

As a portion of our research questions, we adopted the standard measures from the NIC monograph, *Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field, 2011*, of the 14 measures in this monograph we were able to calculate six.

#### What resources have been or are being expended?

During FY13, the Second District Court entered into two contractual agreements with Bernalillo County. One agreement (#2012-0437) was a continuation of contracts SJDC has had with Bernalillo County since FY07. This contract was in the amount of \$552,951. The second agreement (#2012-0555) was an expansion contract for \$1.5 million. In both contracts the County paid for basic pretrial services. The expansion agreement paid for basic services plus two additional services, a global positioning system (GPS or EM) for 100 clients, and an effort by the SJDC-PTS to provide client services at the MFFA. The Court supports pretrial services from its general fund and there are additional grant funds allocated to the SJDC-PTS, i.e., OptumHealth grant for the Veteran's Court. It is difficult to extract the total expenditures for the SJDC-PTS from the total SJDC Court Budget. Appendix D lists in an abbreviated format the scope of services in each agreement and the associated compensation for the service.

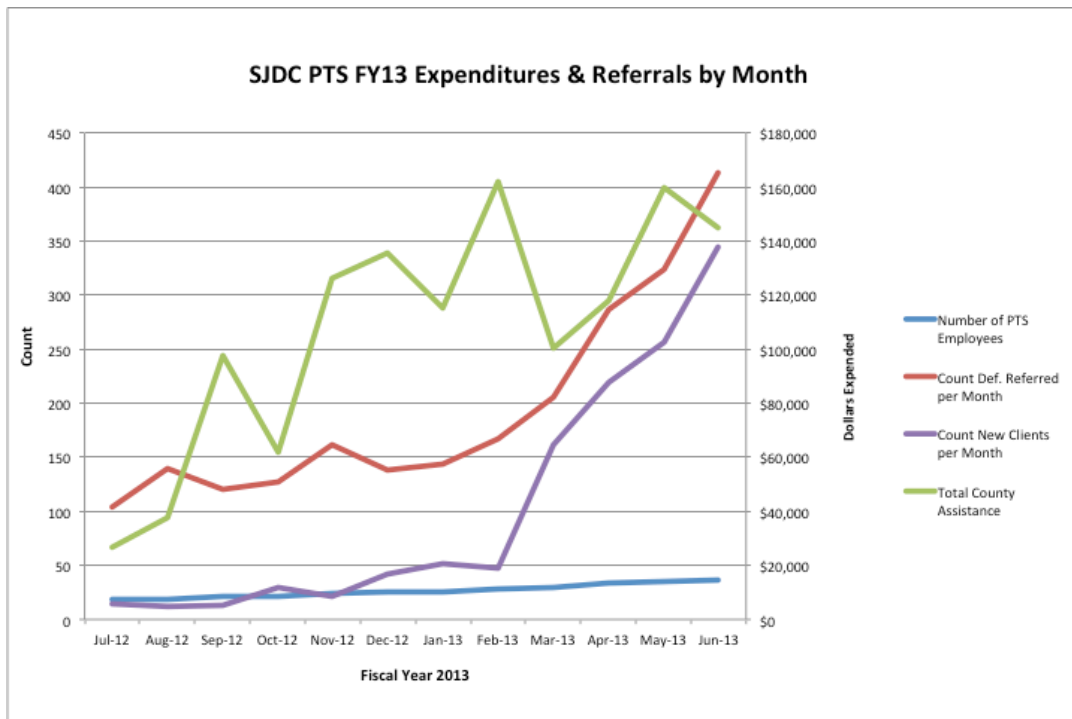
#### Staffing And Expenditures

At the beginning of FY13, PTS had 23 staff, by the end of FY13, 16 positions had been added for a total of 39 (See Appendix E, Table SJDC-PTS Personnel). The additional positions included a permanent Division Director, 10 PTS Officers, 2 Probation Officers, 1 PTS Lead-worker, and 1 Background Investigator. All but two of the positions added in FY13 were term positions.



Cost allocation is part of good program budgeting and accounting. Cost allocation allows managers to begin to determine the true cost of a given unit of service (Kettner, Moroney, & Martin, 1990). Determining the true cost allocation of the PTS Division is beyond the scope of this study. We were unable to determine a unit of service for SJDC-PTS but were able to describe the expenditures relative to client data by month. Figure 2 shows the monthly expenditures of the contracts between SJDC-PTS and Bernalillo County.

The components in the expenditure description are: salary, benefits, and other costs. Other costs were mostly medical supplies, (i.e., drug test kits), inventory exempt supplies, computer equipment, and maintenance costs. Figure 2 shows the SJDC-PTS expenditures by month compared to the total number of defendants referred to PTS each month, the number of new clients each month, and the increase in PTS staff each month. The jump in expenditures in September, November, December, February, and May are due mostly to increases in inventory exempt supply costs, e.g., furniture, and installation costs. Referrals to PTS seem to pickup starting in February. It should be noted, there were no expenses from the \$1.5 million Expansion in July and August 2012, as SJDC received the agreement from the County in August 2012 and had to make changes to their budget before begin able to draw down on the County funds.

**Figure 2 SJDC-PTS Expenditures, Cases, and Employees by Month**

Bernalillo County has contracted with SJDC to support the PTS Division since FY07. We were not able to discover the total cost of the PTS Division so were not able to calculate the percentage of County support for PTS.

### Can PTS meet outcome, performance, and mission-critical measures promoted by the DOJ National Institute of Corrections and best practice literature?

#### Outcome (Output) Measures:

**Appearance Rate** – The percentage of supervised defendants who make all scheduled court appearances.

We were not able to calculate the appearance rate as defined by NIC because the data did not exist in the SJDC-PTS client files or automated dataset during the study time period. As an approximation of the appearance rate, we utilized JID data to examine the number of FTA warrants issued on PTS clients. Table 9 shows that of the clients in our sample that were matched to JID data, one in five received a FTA warrant.

<b>Table 9. Number of FTA Warrants by PTS Client</b>	
	SJDC-PTS Clients
FTA Warrant	53 18.9%
No FTA Warrant	228 81.1%
Total	281 100.0%

Note: Chi square =0.747

**Compliance Rate** – The percentage of supervised defendants who are not issued a Failure to Comply (FTC) warrant.

We utilized JID data to examine this measure. Table 10 shows that almost a third of the clients under PTS supervision received a FTC warrant. Aside from the expected result – supervised clients are being monitored and are more likely to be non-compliant – the finding points out the level of warrants PTS clients receive.

<b>Table 10. Number of FTC Warrants by PTS Client</b>	
	SJDC-PTS Clients
FTC Warrant	92 32.7%
No FTC Warrant	189 67.3%
Total	281 100.0%

Chi square =0.007

**Success Rate** - The percentage of released defendants who (1) do not receive a bench warrant, and (2) do not receive a notice of arrest during pretrial supervision.

Again, we utilized JID Data to examine these measures. Table 11 shows that a little over half of PTS clients received a bench warrant while under supervision. In regards to arrest notifications, Table 12 shows that very few individuals (1.6%) were arrested for a new crime.

<b>Table 11. Number of Bench Warrants by PTS Client</b>	
	SJDC-PTS Clients
Bench Warrant	153 54.4%
No Bench Warrant	128 45.6%
Total	281 100.0%

Note: Chi square = 0.002

<b>Table 12. Number of Arrest Notifications by PTS Client</b>	
	SJDC-PTS Clients
Arrest Notification	4 1.4%
No Arrest	277 98.6%
Total	281 100.0%

Note: Chi square = 0.709

**Concurrence Rate** - The ratio of defendants whose supervision level or detention status corresponds to their assessed risk of pretrial misconduct. This is a recognized best practice.

This measure requires that a risk assessment tool be used. Because a standardized risk assessment instrument was made available to SJDC-PTS after the completion of the first draft of this report it was not possible to report a concurrence rate. Near the time we began our study and on several occasions during the course of the study we suggested that the division begin using a risk assessment instrument for division supervision and to measure risk of failure while under supervision. On these occasions division staff noted they were waiting to implement the COMPAS.

**Performance Measures include:**

PTS may not collect all the data possible to produce these measure but they should begin working towards this goal.

**Universal Screening** - The percentage of clients eligible for release by the court that are assessed by PTS. Required data for this performance measure includes the total number of release-eligible defendants and the number of defendants screened.

This information was not available during the course of our study and we were not able to calculate this measure. Additionally, as stated in our comparison with the National Standards, SJDC-PTS Background Investigators do not investigate all unsentenced felon arrestees, but primarily defendants who are targets of the grand jury.

**Recommendation Rate**- This measurement reflects how frequently the pretrial division follows its risk assessment criteria when recommending release or detention.

This measure requires that a risk assessment tool be used. As noted earlier because a standardized risk assessment instrument is not used it is not possible to calculate how frequently the SJDC-PTS staff presenting in court may override the risk assessment finding.

**Pretrial Intervention Rate**-The pretrial agency's effectiveness at resolving outstanding bench warrants and arrest warrants.

Because PTS data noting the details of the client's arrest or the resolution of the warrant does not exist in a standard form in the client's file it was not possible to calculate an intervention rate. SJDC-PTS is not allowed to motion the court, but information they provide the defense or prosecution that results in an intervention could be tracked in the PTS database and reported.

**Pretrial Detainee Length of Stay** - The detainee length of stay represents the average length of jail stay for pretrial detainees who are eligible by statute for pretrial release.

This is a significant outcome measure for a local jail aiming to control jail crowding. For agencies not tasked with controlling jail crowding this is a performance measure. For this reason this measure is located here. This measure could not be calculated. The measure requires MDC data and requires a determination of all arrestees that are eligible for release including those released to PTS and not released to PTS. SJDC-PTS would need to work with MDC to acquire the data for this measure.

**Employment** - The number of PTS clients who are gainfully employed to indicate the effectiveness of PTS in reducing the cost of housing clients and helping them be independent and involved in productive activity instead of criminal conduct.

The ABA (Standard 10-1.10(j)) holds that assisting a person prior to trial in securing employment is important. We were not able to calculate this measure. We were able to document the employment status of SJDC-PTS clients at the beginning of their participation in the PTS division. Table 13 shows that only a third of PTS clients were employed at the date of triage. However, the recommended changes to the supervision completion paperwork, would provide the data to calculate the level of success SJDC-PTS officers had helping clients find or maintain employment during the client's time in the PTS division. While less complete than the measure, the current completion form does document the officer's subjective assessment of the client's

compliance with employment/education. Table 14 provides the counts and percentages for the client's compliance. We found that a third of clients were non-compliant, a third were rated only "Poor" or "Fair", a quarter were rated as "Good", and only ten percent were rated as "Excellent."

<b>Table 13. Employment Status for PTS Participants at Triage</b>		
Category	Count	Percent
Not Employed	221	54.0
Employed	136	33.3
Missing Status in Files	52	12.7
Total	409	100.0

<b>Table 14. Count and Frequencies of Clients' Compliance with Employment/Education</b>		
	Count	Percent
Noncompliant	99	33.9%
Poor	27	9.2%
Fair	67	22.9%
Good	70	24.0%
Excellent	29	9.9%
Total	292	100.0%

#### **Mission Critical Data include:**

**Number of Defendants Released by Release Type and Condition** -The number of release types ordered during a specified time frame. This measure counts the release of all defendants from jail custody by type of release. List of defendants released to PTS must meet PTS screening criteria.

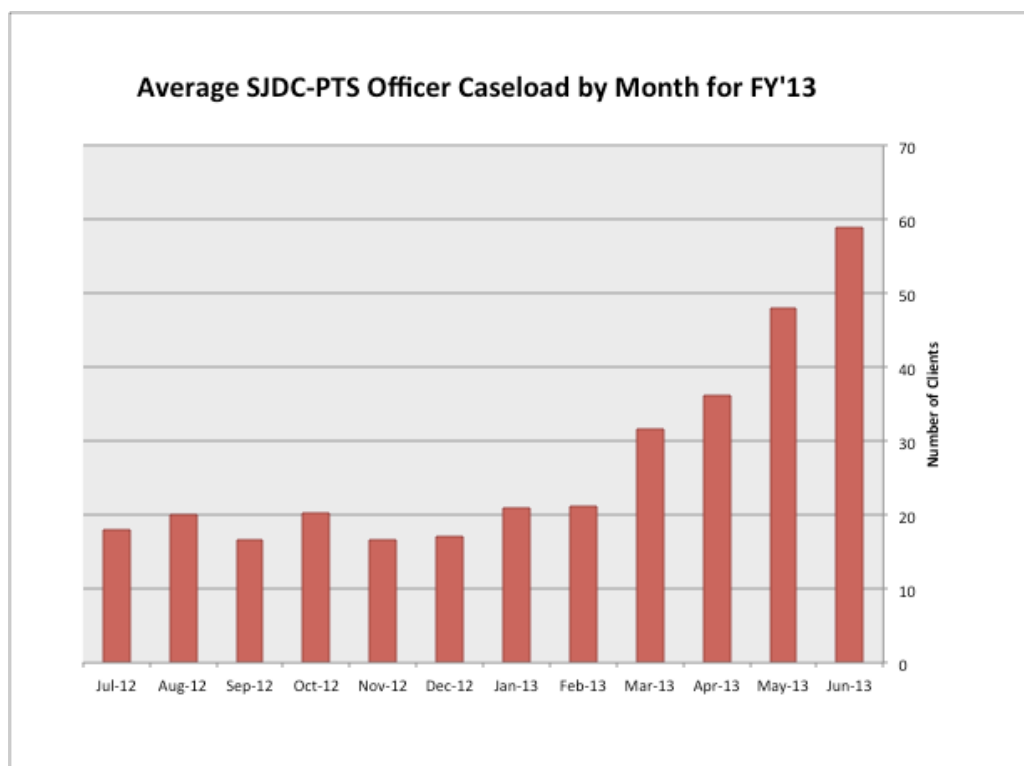
We were not able to determine the PTS eligibility determination criteria from our sample and therefore could not calculate this measure. In addition to not being able to find the data in the SJDC-PTS client files, we did not have the time or resources to calculate this measure for this study. Again, these data would need to be collected by PTS with the assistance of MDC staff.

**Caseload Ratio** - The number of supervised defendants divided by the number of case managers. This ratio also includes the pretrial division's overall caseload rates and rates for special populations such as defendants in high-risk supervision units.

To calculate the caseload ratio, we used the latest database from SJDC-PTS sent to us on January 21, 2014. Using these data we approximated the caseload for each officer going back to cases assigned from August 2008 to July 2012. We added new cases assigned to officers – added new

officers – and subtracted the cases closed each month. Figure 3 graphically shows our calculation of the average caseload per officer during FY13. The caseload begins at 18 cases on average and increases each month to an average of 60 cases per officer at the end of FY13.

**Figure 3 Average Caseload Per SJDC-PTS Officer**



**Time from Court's Order of Release to Start of PTS** - Tracks the time between a court's order of release and the PTS division's start date.

Table 15 shows that the majority of clients (51.2%) reported to PTS the same day they were released. Further, we found that almost eighty percent of clients reported to PTS within 10 days of their release.

<b>Table 15. Frequencies and Counts for Categories of Time Between OSCOR and Triage Dates</b>		
	Count	Percent
0 Days	208	51.2%
1 Day	56	13.8%
2-10 Days	59	14.5%
11-30 Days	51	12.6%
31+ Days	32	7.9%
Total	406	100.0%

**Time on PTS Supervision** - measure the length of time between the pretrial division's assumption of supervision authority and the end of the division supervision.

Table 16 shows that almost half of PTS clients (45.5%) were released from the division in less than 90 days and that one in five clients were released after between 91 and 180 days of supervision. Though a little over a third of clients were under supervision for more than six months. Specifically we found that clients were under supervision for a mean of 163 days and a median of 119 days.

<b>Table 16. Frequencies and Counts for Categories of Time on PTS Supervision</b>		
Days	Count	Percent
0-90	138	45.5
91-180	54	17.8
181-270	48	15.8
271-365	31	10.2
366+	32	10.6
Total	303	100.0

**PTS Detention Rate** - The proportion of PTS clients who are detained throughout PTS case processing.

This measures the percentage of clients held in jail at any point during their service on PTS supervision. The measure requires data on PTS clients in jail at any point in time, including the dates of admission and release from the jail. In addition to not being able to find the data in the SJDC-PTS client files, we did not have the time or resources to calculate this measure for this study.

#### **Does PTS use a validated risk assessment tool in making decisions?**

Up until mid February 2014 a standardized risk assessment instrument had never been used. The risk assessment instrument has not been validated to the local population.

#### **Does PTS monitor client's compliance with release conditions and court appearance requirements?**

From our review of the client files, we found little evidence PTS staff record client's compliance with release conditions and court appearance requirements during supervision. The only evidence we found of the officer's input were documented remand orders and noncompliance reports.



Table 17 shows that a little over a third of clients received a remand while on supervision. Table 18 shows that almost a quarter of clients received a non-compliance report while on supervision.

<b>Table 17. Whether or Not Client Received a Remand on Supervision</b>		
	Count	Percent
Did Not Receive Remand	263	64.3%
Did Receive Remand	146	35.7%
Total	409	100.0%

<b>Table 18. Whether or Not Client Received a Non-Compliance Report on Supervision</b>		
	Count	Percent
Did Not Receive Non-Compliance Report	282	75.6%
Did Receive Non-Compliance Report	91	24.4%
Total	373	100.0%

Besides non-compliance reports and copies of remand orders, the supervision completion form documents the officers assessment of the client's compliance with conditions of release, compliance with reporting, and compliance with counseling. We do not know how officers measure compliance Table 19 shows the counts and percentages for the categories of compliance for these three compliance measures. The table also shows that 40.2% of clients were non-compliant with the conditions of release, 23.7% were rated as "poor" or "fair", 26.2% were rated as "good", and 10.0% rated as "excellent." We also found that 29.9% were non-compliant with reporting, 25.0% were rated as "poor" or "fair", 31.2% were rated as "good", with only 14.0% being rated as "excellent." Table 19 also displays that 32.6% of clients were non-compliant with counseling, 28.7% were rated as "poor" or "fair", 26.2% were rated as "good", and 12.5% rated as "excellent."

<b>Table 19. Counts and Percentages for Categories of Compliance</b>						
	Compliance with Conditions of Release Count	Percent	Compliance with Reporting Count	Percent	Compliance With Counseling Count	Percent
Noncompliant	129	40.2%	96	29.9%	91	32.6%
Poor	24	7.5%	23	7.2%	24	8.6%
Fair	52	16.2%	57	17.8%	56	20.1%
Good	84	26.2%	100	31.2%	73	26.2%
Excellent	32	10.0%	45	14.0%	35	12.5%
Total	321	100.0%	321	100.0%	279	100.0%

### **What clients are put on electronic monitoring?**

In our sample, we found only five individuals (1.1%) on electronic monitoring. This finding could be the result of our sample. This small number of individuals on EM means that we were unable to look at who is put on electronic monitoring or if they have better or worse outcomes than those clients who are not put on EM. As of early March 2014 the SJDC-PTS Director reported that approximately 100 of their clients are on EM.

### **How are clients selected to go to a specialty treatment program?**

As noted previously, there is little evidence of client participation in specialty treatment programs in the client files. The supervision completion form, which we used as a basis of a portion of our data collection instrument lists, Like Drug Court, Veterans Court, Mental Health Court, and JSP.

### **What statutes govern local pretrial decision-making?**

The history of PTS in Bernalillo County began in the 1970s with the establishment of a Release-On-Recognizance (ROR) program in the lower courts and later evolving into the Metropolitan Court PTS Division. In August 2002, the Second District Court hired staff from the Metropolitan Court PTS and began a PTS division in the District Court. The rules of procedure governing both the upper and lower jurisdiction courts in Bernalillo County are generally the same. See Table 20 for a brief list of the Laws and Rules governing Pretrial services in New Mexico.

Table 20 New Mexico Pretrial Release Laws and Rules	
Citation	Description
<ul style="list-style-type: none"> <li>Citation in Lieu of Arrest § 31-1-6</li> </ul>	<ul style="list-style-type: none"> <li>Issuing a citation is not presumptive, however a citation can be issued for petty misdemeanors. Law enforcement officers can issue citations after arrest.</li> </ul>
<ul style="list-style-type: none"> <li>Pretrial Release Eligibility Const. art. 2 § 13</li> </ul>	<ul style="list-style-type: none"> <li>State constitution provides a presumption of pretrial release. Pretrial release can be denied for capital offenses, any felony if the defendant has two or more previous felony convictions, and felonies involving use of a deadly weapon if the defendant has a prior felony conviction.</li> </ul>
<ul style="list-style-type: none"> <li>Guidance for Setting Release Conditions § 38-1-3 authorizes R. Cr. P. 5-401(A) &amp; (D)(2)</li> </ul>	<ul style="list-style-type: none"> <li>State statute provides a presumption of pretrial release on personal recognizance or unsecured appearance bond. Law requires the least restrictive conditions be imposed.</li> </ul>
<ul style="list-style-type: none"> <li>Pretrial Release Conditions § 38-1-3 authorizes R. Cr. P., Rule 5-401</li> </ul>	<ul style="list-style-type: none"> <li>Law allows release on personal recognizance or an unsecured appearance bond. Common conditions of release include: commercial surety, cash deposit, property bond, supervision and additional requirements.</li> </ul>
<ul style="list-style-type: none"> <li>Pretrial Detention R. Cr. P. Rule 5-401</li> </ul>	<ul style="list-style-type: none"> <li>When a defendant is unable to meet the pretrial release conditions, a judicial review is required after 24 hours in custody.</li> </ul>
<ul style="list-style-type: none"> <li>Bail Bond Agent Licensure S. A. 1978, § 59A-51-3; S. A. 1978, § 59A-51-6</li> </ul>	<ul style="list-style-type: none"> <li>The Superintendent of the Division of Insurance regulates bail bondsmen and solicitors. To be licensed, applicants must meet age, residency, pre-license education and continuing education requirements, and pass an exam. They cannot be employed as law enforcement, adjudication, jail, court or prosecution officials or an employee thereof, an attorney, an official authorized to admit to bail, or a state or county officer. Crimes that can cause their license to be denied or revoked include all felonies with the exception of a conditional discharge of a felony conviction.</li> </ul>
<ul style="list-style-type: none"> <li>Bail Bond Agent Business Practices § 59A-51-13</li> </ul>	<ul style="list-style-type: none"> <li>Bail agents cannot offer legal advice, recommend an attorney or make arrangements with public officials. No bail bond agency can advertise as a surety insurer.</li> </ul>
<ul style="list-style-type: none"> <li>Bail Forfeiture Procedure § 31-3-2</li> </ul>	<ul style="list-style-type: none"> <li>After notification of their client's failure to appear, a bail agent has 10 § 31-3-2 days to produce the defendant or provide an adequate reason why the defendant did not appear. Statute addresses standards for remission procedure. Unpaid forfeitures can result in suspension of the agent's authority to execute new bonds.</li> </ul>
<ul style="list-style-type: none"> <li>Recovery Agents § 59A-51-6; § 59A-51-12</li> </ul>	<ul style="list-style-type: none"> <li>Recovery agents have similar licensing requirements as bail agents. Associations with bail agents must be disclosed.</li> </ul>
<ul style="list-style-type: none"> <li>Enactments</li> </ul>	<ul style="list-style-type: none"> <li>In 2013, New Mexico enacted a law (HB 178) addressing citation in lieu of arrest.</li> </ul>

### What is the level of client performance Pre and Post Expansion?

In this section, we compared the different measures of performance for clients who started the PTS division pre and post division expansion (March 2013). Table 21 examines the appearance rate across the two time periods. We found no significant difference in the number of FTA warrants received by clients in the pre period (17.5%) compared to the post period of expansion (21.0%).

<b>Table 21. Number of FTA Warrants by Pre/Post Division Expansion</b>		
	Pre	Post
FTA Warrant	35 17.5%	13 21.0%
No FTA Warrant	165 82.5%	49 79.0%
Total	200 100.0%	62 100.0%

Note: Chi square = 0.537

Table 22 shows the compliance rate across the two time periods. There were no significant difference in the number of FTC warrants received by clients in the pre period (32.5%) compared to the post period of expansion (24.2%). Though, it appears there was a decline in the number of FTC warrants since the division expansion.

<b>Table 22. Number of FTC Warrants by Pre/Post Division Expansion</b>		
	Pre	Post
FTC Warrant	65 32.5%	15 24.2%
No FTC Warrant	135 67.5%	47 75.8%
Total	200 100.0%	62 100.0%

Note: Chi square = 0.215

Table 23 and Table 24 display the number of bench warrants and the number of arrests across the two time periods. We found no significant difference in the number of bench warrants received by clients in the pre period (55.5%) compared to the post period of expansion (48.4%). However, as with the compliance rate, it appears this rate is declining for clients since the division expansion. There was no significant difference in the number of arrest notifications received by clients in the pre period (1.5%) compared to the post period of expansion (1.6%).

<b>Table 23. Number of Bench Warrants by Pre/Post Division Expansion</b>		
	Pre	Post
Bench Warrant	111 55.5%	30 48.4%
No Bench Warrant	89 44.5%	32 51.6%
Total	200 100.0%	62 100.0%

Note: Chi square = 0.326

<b>Table 24. Number of Arrest Notifications by Pre/Post Division Expansion</b>		
	Pre	Post
Arrest	3 1.5%	1 1.6%
No Arrest	197 98.5%	61 98.4%
Total	200 100.0%	62 100.0%

Note: Chi square = 0.949

Table 25 shows client's compliance with employment/education across the two time periods. We found no significant difference across the two time periods. Though we did see that non-compliance with employment/education seemed to be declining from the pre period (35.4%) to the post period of expansion (30.7%).

<b>Table 25. Client Compliance with Employment/Education by Pre/Post Division Expansion</b>		
	Pre	Post
Noncompliant	70 35.4%	23 30.7%
Poor	16 8.1%	7 9.3%
Fair	40 20.2%	21 28.0%
Good	51 25.8%	17 22.7%
Excellent	21 10.6%	7 9.3%
Total	198 100.0%	75 100.0%

Note: Chi-square = 0.694

Table 26 displays whether a client received a remand across the two time periods. We found there was a significant relationship between division expansion and whether the client received a remand while on supervision. Specifically, 45.5% clients in the pre period received remands while under supervision, but in the post division expansion period only 15.4% of clients received remands.

<b>Table 26. Whether or Not Client Received a Remand by Pre/Post Division Expansion</b>		
	Pre	Post
Did Not Receive Remand	145 54.5%	99 84.6%
Did Receive Remand	121 45.5%	18 15.4%
Total	266 100.0%	117 100.0%

Note: Chi-square = 0.001

Table 27 shows whether a client received a non-compliance report across the two time periods. We found a significant relationship between division expansion and whether the client received a non-compliance report while on supervision. Specifically, 26.8% clients in the pre period received a non-compliance report while under supervision, but in the post division expansion period only 15.6% of clients received non-compliance reports.

<b>Table 27. Whether or Not Client Received Non-Compliance Report by Pre/Post Division Expansion</b>		
	Pre	Post
Did Not Receive Non-Compliance Report	175 73.2%	92 84.4%
Did Receive Non-Compliance Report	64 26.8%	17 15.6%
Total	239 100.0%	109 100.0%

Note: Chi-square = 0.022

Table 28 shows client's compliance with conditions of release across the two time periods. We found a significant relationship between compliance with conditions of release and the two time periods. Explicitly, non-compliance with conditions of release is higher in the pre period (42.4%) compared to the post period of expansion (34.1%). Though, the percent of clients rated with "poor" or "fair" compliance is higher in the post period (34.7%) than the pre period (18.4%).

<b>Table 28. Client Compliance with Conditions of Release by Pre/Post Division Expansion</b>		
	Pre	Post
Noncompliant	92 42.4%	28 34.1%
Poor	8 3.7%	11 13.4%
Fair	32 14.7%	17 20.7%
Good	60 27.6%	21 25.6%
Excellent	25 11.5%	5 6.1%
Total	217 100.0%	82 100.0%

Note: Chi-square = 0.011

Table 29 shows client's compliance with reporting across the two time periods. There were no statistically significant differences across the two time periods. Non-compliance with reporting was marginally higher in the pre period (30.4%) compared to the post period of expansion (26.8%). However, the percent of clients rated with "poor" or "fair" compliance was slightly higher in the post period (29.2%) than the pre period (22.1%).

<b>Table 29. Client Compliance with Reporting by Pre/Post Division Expansion</b>		
	Pre	Post
Noncompliant	66 30.4%	22 26.8%
Poor	12 5.5%	7 8.5%
Fair	36 16.6%	17 20.7%
Good	71 32.7%	25 30.5%
Excellent	32 14.7%	11 13.4%
Total	217 100.0%	82 100.0%

Note: Chi-square = 0.764

Table 30 shows client's compliance with counseling across the two time periods. We found that there was a significant relationship between compliance with counseling across the two time periods. Specifically, non-compliance with conditions of release was higher in the pre period (34.7%) compared to the post period of expansion (28.8%). Though, the percent of clients rated with "poor" or "fair" compliance was higher in the post period (42.4%) than the pre period (22.9%). Conversely, the percent of clients rated with "good" or "excellent" compliance was higher in the pre period (42.2%) than the post period (28.8%).

<b>Table 30. Client Compliance with Counseling by Pre/Post Division Expansion</b>		
	Pre	Post
Noncompliant	68 34.7%	19 28.8%
Poor	12 6.1%	8 12.1%
Fair	33 16.8%	20 30.3%
Good	58 29.6%	11 16.7%
Excellent	25 12.8%	8 12.1%
Total	196 100.0%	66 100.0%

Note: Chi-square = 0.034



## CONCLUSION and RECOMMENDATIONS

### National Standards and Best Practices

We completed this study by reviewing division materials, discussions with division administrators, gathering and analyzing client level data, and comparing the division to national standards and best practices. The SJDC-PTS division has existed for more than 10 years.

As noted in several places in this report the SJDC-PTS division recently, in mid-February 2014, began using the COMPAS risk and needs assessment instrument. During the time of our study the division did not use a risk assessment instrument. Because the division has not used a risk assessment instrument we were not able to report routine output and performance measures. In the future the SJDC-PTS division should be able to report output and performance measures that at least partly rely on the use of a risk assessment instrument.

The use of a validated risk assessment instrument is useful for a number of reasons that have been discussed elsewhere. In brief and in general, risk instruments are important to measure the likelihood of future criminal behavior, improve public safety, and can help officials better identify individuals at high risk of reoffending, while also identifying the types of supervision and services that are likely to reduce recidivism. Risk assessment instruments can be used at various points in the criminal justice system and can be customized for use by different agencies.

Specifically pretrial services programs and courts can use risk assessment instruments to help make pretrial bail and release decisions, sentencing and revocation decisions, set supervision conditions, and determine services.

The proper use of the COMPAS risk and needs assessment instrument should help the division to more reliably and consistently measure the likelihood of future criminal behavior, improve public safety, make pretrial bail and release decisions, set supervision conditions and help determine service needs.

Without a risk assessment instrument judges lack a reliable indication of the level of risk a defendant poses to the community. Additionally, determining the defendant's level of supervision can be done more reliably and consistently with a risk assessment tool. Levels of supervision and

provision of services to clients can also more reliably and consistently be done with the aid of a risk assessment instrument.

The use of the COMPAS risk and needs assessment instrument should be tracked. The COMPAS should be used as the basis for the background investigator's recommendation of the conditions of release at the earliest possible hearing.

A major variation between SJDC-PTS and best practices, is the point in the criminal justice process where SJDC-PTS interviews defendants. ABA and NAPSA are clear that pretrial services programs should interview all defendants who are in custody before the initial court appearance. SJDC-PTS picks up felony cases just before the felony arraignment in district court. This is not a best practice as determined by the ABA and NAPSA. The arraignment can be as much as 60 days after the initial hearing in Metropolitan Court, if the defendant is not in custody and 10 days if the defendant is held in custody. The best practice is a screening of all defendants prior to the initial appearance and a complete verification of information and criminal history. Currently, SJDC-PTS Background Investigators have a very limited amount of time to completely verify defendants information between the indictment and filing of the case in district court and the district court arraignment.

New Mexico allows a variety of bonds, from own recognizance to financially secured bonds. Research has shown and best practices support the use of unsecured bonds. These bonds are as effective at achieving public safety and the defendant's appearance in court as are secured bonds and when coupled with a risk assessment and supervision by PTS serve as a reliable and valid means of safeguarding the community and appropriately classifying and serving the risk and needs of individuals. Both the ABA and NAPSA recommend courts should first consider releasing the defendant on an unsecured bond. In our review of PTS files we found that judges most frequently require financial bonds. Judges very rarely use the unsecured bond option and PTS is not used to its potential. The literature suggests that judges usually use financial bonds for several reasons, including judges are comfortable with long-standing practices, they do not trust risk assessment tools, there maybe a lack of adequate supervision options, or they may feel push-back from bail bond agencies.

Another best practice noted by ABA and NAPSA focuses on the periodic review of pretrial detainees to determine if factors associated with the initial detention decision still apply and,

when appropriate, report new findings to the court. SJDC-PTS prioritizes their efforts on individuals that are scheduled for arraignment. Additional efforts should be placed on interviewing or investigating unsentenced defendants detained in MDC that have not been able to pay a financial bond.

According to national standards, conditions of release and supervision should be related to the risk identified by the risk assessment tool in each individual case, and should be the least restrictive necessary to reasonably assure the defendant's appearance to court and community safety. Additionally, a pretrial program should proactively remind client's of their court hearing dates a day or two before the hearing. Client supervision includes the PTS caseworker contacting the client and providing supervision. The client's compliance while under supervision should be monitored. Also, supervision should be individualized and based on a scheme of graduated contacts and level of supervision dependent on conditions imposed. Our analysis of the number of SJDC-PTS client contacts and supervision information in client files was inconclusive. It appears that clients are categorized at one level and that do not change while the client is on pretrial supervision.

In October 2013, SJDC-PTS began notifying clients of court hearings. Prior to this clients were not routinely notified. As described by the SJDC-PTS Director the system depends on each PTS Officer looking up the client's case and entering the next hearing date in the SJDC-PTS database. If the client reports to PTS before the hearing, the officer has the client sign a notification stating the client is aware of the hearing.

According to NAPSA Standards it is important for a pretrial program to establish procedures for regularly measuring the performance of the program. The NIC has a monograph describing various measures and the formulas for the calculations. Using data from PTS client files and JID data, we were able to only calculate 6 of the 14 standard measures. A major reason for not being able to calculate the measures was because the division did not use a risk assessment tool. These measures rely on risk assessment data. In the future with the use of a risk assessment tool the SJDC-PTS should be able to perform more of the 14 standard measures.

Goals and objectives are a fundamental part of any program and NAPSA standards recommend their creation to guide a pretrial program. We were not able to find published goals or measureable objectives for the SJDC-PTS Division.

## **Recommendations**

As noted earlier, the SJDC-PTS has experienced a large increase in the number of clients served and during the course of our study has made changes some of which will move the division toward becoming a best practice program. These changes include the February 2014 implementation of the COMPAS risk and needs assessment instrument and the beginning of a process in October 2013 to notify clients of upcoming court hearings. In this final section, we provide recommendations that would move the division closer to being inline with best practices. In addition to changes toward best practices, we make recommendations for further study.

Recommend: The SJDC-PTS should continue using COMPAS as the basis for the background investigator's recommendation of the conditions of release at the earliest possible hearing.

Recommend: The ABA and NAPSA are clear that pretrial services programs should interview all defendants who are in custody before the initial court appearance. The SJDC-PTS should interview, investigate, and verify the background and assess the risk of individuals before the felony first appearance hearing. The County hopes to help SJDC-PTS gain access to Felony First Appearance hearings and make recommendations to the judge.

Recommend: SJDC-PTS reevaluate the risk conditions of felony detainees at MDC on a regular basis and present changes to the district judge for a reconsideration of conditions of release.

Recommend: SJDC-PTS should use the results of the COMPAS risk and needs assessment tool to help place the client in supervision. When supervision levels change the change should be documented in the new database.

Recommend: SJDC-PTS complete a "status at discharge form" at the closing of the case. The division should also collect information during the time the client is in the division indicating changes in social stability, i.e., employment, education, mental health, legal status, etc. The discharge status form should be used to collect relevant information to measure best practices, e.g., success rate, pretrial intervention rate, employment status at discharge, etc.

Recommend: Research should be done to determine the pace of felony case adjudication involving PTS clients in the District Court. This would perhaps address pressure the District judges feel in managing their docket.

Recommend: The impact of the SJDC-PTS division should be further studied to understand the impact of the division on the criminal justice system and MDC. This current study focused on the implementation of division and did not focus on outcomes or cost. Properly implemented pretrial service programs that adhere to best practices have been shown to be beneficial to the criminal justice system and improve public safety.

Recommend: Bernalillo County has contracted with SJDC to support the PTS Division since FY07. We were not able to discover the total cost of the PTS Division so were not able to calculate the percentage of County support for PTS. Based on available information we believe the County provides the majority of financial support for this Court division. It would be beneficial for the County to more completely understand this issue.

Recommend: From our sample of PTS and JID data we were able to make observations about the use of warrants, compliance, and changes in activities before and after the \$1.5 million expansion contract. These analysis should continue to be performed, to show the impact of incorporating the ABA and NAPSA best practices into the SJDC-PTS division.

Recommend: A method should be developed to routinely and consistently report the process, outcome, and mission critical measures described in this report. This information is useful to track the performance of the division and progress towards meeting best practices.

## **Conclusion**

Overall, when compared to ABA and NAPSA standards and best practices, the SJDC-PTS Division is not currently a best practice pretrial services program. The SJDC-PTS has made progress in some best practice areas since the expansion funding and during the time of our study. While SJDC-PTS can make changes on it's own to increase it's effectiveness, SJDC-PTS does not exist in a vacuum. The SJDC-PTS division will need the collaboration of other criminal justice agencies to become a best practice program. Further other agencies in the local criminal justice system in Bernalillo County can make strides toward best practices in their own operations.

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## APPENDICES

### APPENDIX A. LITERATURE REVIEW

#### Introduction

Today, in addition to providing an alternative to the bail system, PTS programs also function to help alleviate crowding of jail populations, subsequently reducing the costs tolled on the community by housing these individuals in jail. PTS programs operate through the collaboration of a variety of participants including law enforcement personnel, defense attorneys, prosecutors, and judicial officers. The responsibilities and roles of these worker's depends largely on their geographic location, legal authority, case volume, local legal culture, and jurisdictional resources.

Ultimately, the services call for them to assess newly arrested defendants to determine their eligibility for supervised release, provide supervision to the released defendants awaiting trial, remind the defendant of their upcoming court dates, and report back to the courts on the defendant's behavior while on pretrial release (Mahoney et al., 2001).

The purpose of this literature review is to report on Pretrial Services programs. Specifically, we address evidence based best practices, which include standards, outcome and performance measurements, and specific elements of pretrial risk assessment and supervision programs. We report on research that has studied different systems, which have been found to be either effective or ineffective, and apply that knowledge to improve or optimize its function within the criminal justice system of New Mexico.

According to State of the Science of Pretrial Risk Assessment, pretrial justice is contingent upon effectively balancing three fundamental elements (Mamalian, 4):

1. The presumption of innocence and provision of due process to the accused.
2. Elimination of inappropriate detention through the assignment of least restrictive intervention to the defendant.
3. To maintain community safety.

#### Background

##### History

In 1961 the Vera Institute of Justice was established, marking the beginning of Pretrial Services (PTS) programs. The first pretrial screening program in the country, the Manhattan Bail Project,

was initially formed to provide an alternative to the money bail system, in which the defendant's release was determined through financial conditions (APPA, 2010; Mahoney et al., 2001). The main concern was, and still is, that liberty should not be granted based upon the defendant's income or ability to post bail; moreover, that financial means were not, and are not predictive of the defendant being a risk to the community, to re-offend, or to fail to appear (FTA). Research findings from the Manhattan Bail Project concluded that a variety of factors need to be considered when evaluating a defendant for pretrial release, such as employment, education, and criminal histories and records. The first PTS program was developed by the Washington, D.C. Bail Agency in 1968; within eight years the National Association of Pretrial Service Agencies (NAPSA) funded the establishment of the Pretrial Services Resource Center (PSRC), which later became the Pretrial Justice Institute (PJI).

### **Defendant Profile**

Within local jails, the majority of inmates are males, and over 60% are racial or ethnic minorities (Mamalian, 11). Violent offenders only account for 25% of the inmate population, leaving the other 75% of inmates to drug, property and public order offenses. Needless to say, these findings are invaluable, however, not all situations or communities are accounted for, nor are these statistics applicable to each unique situation or community. For example, research suggests that 92% of federal pretrial defendants have felony charges, while only 7% have misdemeanor charges. In contrast, local pretrial defendants are more likely to have misdemeanor charges (Mamalian, 7) than felony charges. In other words, Mamalian suggests that examination of the defendant population and their respective risk factors may be limited to generalization at federal, state, and local levels.

### **Best Practices**

#### **Standards**

Although research on pretrial services began more than 40 years ago, much has been left unexplored. Mamalian reveals that "a handful of notable studies have been conducted," however, she explains that "this area of research is still generally in its infancy" (10-11). The establishment of best practices and standards has also had a slow development.

During the span of 44 years, the American Bar Association (ABA) published 3 editions of pretrial standards, which were released in 1968, 1985, and 2002 (Clark, 13). Additionally, the National Association of Pretrial Services Agencies (NAPSA) published Standards and Goals for Pretrial Release in 1978. The standards addressed the policies for pretrial services, aiming to provide specific information and “guidance on how to maintain policies, practices, and quality control measures that ensure adherence to these standards” (Mamalian, 6). Although the two sets of standards align in many ways, the NAPSA standards aim to provide additional implementation guidance for the ABA standards. When taken together, the pair are said to “present details for introducing effective practices into all facets of pretrial decision making” (Aungst, 10).

Unfortunately, findings show that many of the services and practices specified by the ABA and NAPSA are missing in many programs (Clark, vii). For instance, in *Pretrial Services Programming at the Start of the 21st Century: A Survey of Pretrial Services Programs*, John Clark points out that these “standards call for the use of objective criteria in the formulation of a risk assessment,” (vii) however, 35% of pretrial programs rely exclusively on subjective risk assessment criteria. Additionally, inconsistencies between the ABA standards and the NAPSA standards have arisen, such as how a defendant’s information is collected and presented in court. The NAPSA standards stipulate that reports “be presented to the court ‘concisely in writing,’ with copies to the prosecution and the defense. In contrast, the ABA standards stipulate “the results of the pretrial services investigation and recommendations of release options should be promptly transmitted to relevant first appearance participants before the hearing” (Webber, 16). Offhand this may appear to be a small discrepancy; however, this example helps illustrate some of the barriers that hinder implementation and adherence to standards.

Despite these inconsistencies, findings from a series of surveys conducted by the PJI, which were released in 1979, 1989, 2001, and 2009 respectively, suggested that in regards to current practices of PTS programs, “there have been several improvements, some incremental, others more significant, in how [these] programs function[ing] in relation to standards put forth by the ABA and NAPSA” (Webber, 14). Essentially, there is need for agency specific guidelines, which provide comprehensive navigation in the creation and maintenance of policies, practices, and quality control measures. Through this, implementation and adherence is thought to be possible. Needless to say, the ways in which pretrial services are administered can have significant ramifications for the defendant and the community.

A pretrial program should be continually assessed to ensure it is meeting its goals. The assessment process may run smoother and produce more accurate and useful results if a program specific guide is outlined first. For example, an outlined guide of questions, such as:

1. What are the goals of our pretrial system?
2. What are the demographics of the pretrial population?
3. How are pretrial defendants currently managed?
4. What are the policies and procedures of individuals and agencies that are part of pretrial decision-making?
5. What statutes govern local pretrial decision-making?
6. How does local practice compare to national standards?

The assessment process should incorporate diverse viewpoints from across agencies and within agencies. The assessment should utilize both qualitative and quantitative data from a variety of sources and collected through various means. Such means may include open meetings, surveys or focus groups. Lastly, the assessment should take into consideration evidence-based outcome and performance measures.

## Outcome and Performance Measures

With national standards in place, the National Institute of Corrections (NIC) Pretrial Executive Network shifted their focus to identifying and promoting best and promising practices within pretrial services programming. To accomplish this, performance and outcome measures would have to be established in a consistent and meaningful manner. In October of 2010 the Network commissioned a working group to provide definable and measurable elements to help justice systems gauge their programs' effectiveness more accurately.

By first identifying performance indicators within the national criminal justice system, researchers were then able to recommend similar strategies to the local and state criminal justice systems. Ultimately, researchers identified five outcome measures, four performance measures, and five mission-critical data. In 2011, NIC compiled the Network's suggested performance and outcome measures into a publication, *Measuring What Matters: Outcome and Performance Measures for the Pretrial Field*. More recently, individual programs are able to measure their effectiveness in achieving the goals, objectives, and expectations from their respective justice system. (Department of Corrections, V-VI, 4-7) These outcomes are provided below:

### Outcome Measures

1. Appearance Rate-The percentage of supervised defendants who make all scheduled court appearances (See additional discussion below).
2. Safety Rate- The percentage of supervised defendants who are not charged with a new offense during the pretrial stage.
3. Concurrence Rate- According to the National Institute of Corrections (NIC), the concurrence rate is the ratio of defendants whose supervision level or detention status corresponds to their assessed risk of pretrial misconduct; this is a recognized best practice in the criminal justice field.
4. Success Rate- The percentage of released defendants who (1) are not revoked for technical violations of the conditions of their release, (2) appear for all scheduled court appearances, and (3) are not charged with a new offense during pretrial supervision.
5. Pretrial Detainee Length of Stay- The detainee length of stay represents the average length of jail stay for pretrial detainees who are eligible by statute for pretrial release. This is a significant outcome measure for correction departments aiming to control jail crowding.

### Performance Measures

1. Universal Screening- The percentage of defendants eligible for release by statute or local court rule that the program assesses for release eligibility.
2. Recommendation Rate- This measurement reflects how frequently the pretrial program follows its risk assessment criteria when recommending release or detention.
3. Response to Defendant Conduct-The frequency of policy-approved responses to compliance and noncompliance with court-ordered release conditions.
4. Pretrial Intervention Rate-The pretrial agency's effectiveness at resolving outstanding bench warrants, arrest warrants, and capiases.

### Mission Critical Data

1. Number of Defendants Released by Release Type and Condition-The number of release types ordered during a specified time frame.
2. Caseload Ratio-The number of supervised defendants divided by the number of case managers. This ratio also includes the pretrial program's overall caseload rates and rates for special populations such as defendants in high-risk supervision units.
3. Time from Nonfinancial Release Order to Start of Pretrial Supervision-Time between a court's order of release and the pretrial agency's assumption of supervision.
4. Time on Pretrial Supervision-Time between the pretrial agency's assumption of supervision and the end of program supervision.
5. Pretrial Detention Rate-Proportion of pretrial defendants who are detained throughout pretrial case processing.

## Risk Assessments

The fundamental element of pretrial decision-making is the risk assessment. Effective PTS programs emphasize the importance of accurate risk assessment, not only at intake, but also on a regular basis during the supervision period.

It focuses primarily on identifying factors that are predictive of defendant misconduct while awaiting sentencing; these include failure to appear in court (FTA), re-arrest, and/or endangering the community.

When a newly arrested defendant is evaluated for pretrial release many factors must be considered (Mahoney et al., 2001):

1. The seriousness of the current charge, as set forth in the complaint and the representations of the prosecutor.
2. The defendant's prior criminal record, which is widely viewed as relevant to assessing the risk to public safety that would be posed by a decision to release or to set a relatively low money bond amount.
3. Information about the defendant, including community and family ties; employment status; housing; existence and nature of any substance abuse problems; and (if the defendant had been arrested before) record of compliance with conditions of release set on previous occasions, including any failures to appear.
4. Information about available supervisory options if the defendant is released.

## Risk Assessment Tools

Standardized risk assessment tools, such as the LS/CMI, COMPAS, and CAIS, can assist in making informed and objective decisions. Literature on risk assessment and risk assessment tools is vast, and could arguably be one of the more dominant topics of concern regarding PTS programming.

Unfortunately, research findings on the effectiveness of risk assessment tools tend to be mixed. There are those who insist the available tools are simply not standardized and cannot be used across federal, state, and local levels. Cynthia Mamalian argues that “some jurisdictions report using pretrial risk assessment instruments,” however, “very few are using risk assessment instruments that have been validated for their specific jurisdiction. Most predictions of crime are

different in different places for different reasons, whether they are variations in local culture, local crime, or information systems, for example. A good instrument must be both reliable and valid, and validity comes when the instrument is normed to a specific population” (34, 35). Furthermore, agencies have little incentive to create and implement a tool specific to their needs because of their cost. Many are concerned with “the high costs associated with the development and implementation of a standardized tool, which few criminal justice agencies can afford” (Mamalian, 34).

In contrast, many advocate the available assessment tools, maintaining that they are validated and effective. With this said, it is essential to understand that like many other widely used assessment tools, risk assessment tools have disadvantages and advantages. Positions appear less divided, however, when focusing on the criteria of an effective assessment tool.

According to Marie VanNostrand (16-18, 2007) pretrial risk assessments should meet these criteria:

1. A pretrial risk assessment instrument should be proven through research to predict risk of failure to appear and danger to the community pending trial.
2. The instrument should equitably classify defendants regardless of their race, ethnicity, gender, or financial status.
3. Factors utilized in the instrument should be consistent with applicable state statutes.
4. Factors utilized in the instrument should be limited to those that are related either to risk of failure to appear or danger to the community pending trial.

## **Conditions of Release**

### **Bail**

The purpose of bail, according to the 8th Amendment, is to assure the appearance of the accused at trial and sentencing; and to protect witnesses, victims, and the community from threats, danger, and interference (Stack v. Boyle, 1952). Defendants primarily utilize three terms of bail when securing release pending trial, which include:

1. Release on Own Recognizance (ROR)
2. Unsecured Bail
3. Secured Bail

For the past five decades critics of the American bail system have argued that bail does not always assure the appearance of the accused, nor is it effective in distinguishing between dangerous and non-dangerous defendants (Mamalian, 6).

According to Marie VanNostrand (22-23, 2007) bail recommendations should meet these criteria:

1. Bail recommendations should be based on an explicit, objective, and consistent policy for identifying appropriate release conditions.
2. Conditions of bail should be the least restrictive reasonably calculated to assure court appearance and community safety.
3. Financial terms of bail should only be recommended when no other term will reasonably assure court appearance.
4. Conditions of bail should be restricted to those that are related to the risk of failure to appear or danger to the community posed by the defendant.

### Supervision

Most pretrial services programs differ in needs, resources, and capabilities; in terms of supervision, function ‘varies widely’ among pretrial programs (Aungst, 9). As briefly described in the introduction, many officials are involved in the practices and processing in PTS programming. One significant reason why pretrial services hold so much potential is its flexibility to fit particular needs, such as with supervision. For example, pretrial programs may be administered by “probation departments, sheriffs, the courts, or independent agencies, public or private, and statute may dictate who can be supervised and in what manner” (Aungst, 9).

According to Marie VanNostrand (23-24, 2007) pretrial supervision should meet these criteria:

1. Defendant contacts should be required at a frequency that is reasonably necessary to monitor the conditions of release.
2. Defendants should be reminded of their court date(s).

### Electronic Monitoring

Electronic monitoring (EM) provides an alternative to incarceration through the tracking of offender movement, specifically through GPS navigation. Electronic monitoring can be used in a variety of ways, such as enforcing curfew, house arrest, and stay-away conditions.

In short, it can be an effective method to reduce the potential risk for defendants to engage in criminal behavior, by limiting when, how, with whom, and where they go within the community (VanNostrand 24). Lastly, defendants released on electronic monitoring conditions tend to be assessed as a higher- risk offender; this can be viewed as either an advantage or disadvantage.



### **Court Notification**

The purpose of court notification is to reduce failure to appear in court. Reducing FTA's serves multiple purposes. FTA's delay the sentencing process and overall case flow in the criminal justice system. By decreasing FTA's and improving appearance rates, the court system is able to reduce costs and reallocate resources appropriately.

### **Failure to Appear (FTA) in Court**

The appearance rate measures the percentage of supervised defendants who make all scheduled court appearances—generally, it is considered to be the most basic outcome measure for pretrial service programs. With this said, minimizing failures to appear (FTA) in court has been identified by national standards as a central function for pretrial programs. As Bechtel et al. explains, this can be understood as the “optimal outcome for any pretrial justice system from both an effectiveness (justice system goals) and efficiency (resource management)” (2012).

The reasons why defendants fail to appear (FTA) at court for relatively minor offenses may be related to the typically long period of time between the citation and the court date and the form of reminders defendants receive, if any. Delays in the processing and movement of cases in conjunction with an unsatisfactory or non-existent notification system may affect the rate of court appearances, especially if the defendants are unaware that a FTA could result in an arrest warrant.

Research has shown that reminding the defendant of their upcoming court date effectively improves court appearances, no matter the approach (VanNostrand, 20). Methods which have shown promise include “live” callers, such as volunteers or paid staff, automated calling systems, notification letters or postcards, or a combination of the three. By implementing a live telephone caller, in Jefferson, Colorado, court appearance rates increased from 79% to 88% (Schackne, 1).

In a different randomized study in Multnomah County, Oregon, it was found that defendants who received an automated reminder via phone had a 16% FTA rate, in contrast to the comparison group which had a 28% FTA rate.

Ultimately, research studies from across the United States (Nebraska, Multnomah County, Oregon, Flagstaff, Arizona, Jefferson County, Colorado, King County, Washington, and New York, NY) spanning over 30 years have demonstrated the effectiveness of reducing FTA's through court date notifications.

While court notifications may reduce FTA's, findings suggest that defendants on Electronic Monitoring tend to have higher FTA rates. Such individuals are also more likely to be rearrested, specifically in terms of technical violations, than defendants not on EM. This may be explained partially by the fact that EM is usually used for high-risk offenders who have been identified as more likely to FTA from the start (VanNostrand, 25).

## **Pretrial Effectiveness**

This section discusses research findings regarding PTS program's overall effectiveness. Specific focus is paid to the various factors that contribute to the effectiveness of a PTS program. As discussed in the previous section, outcome and performance measurements are essential for the assessment of PTS programs, specifically in determining the overall effectiveness of the program, and the impact of functions within it.

Importantly, the effectiveness of the program is dependent upon the reason for its implementation in the first place. Pretrial programs are utilized for a variety of reasons, but can generally be understood as a means of diversion. This is not always the case however—PTS programs have many useful functions, and if implemented correctly have the potential to resolve many arising problems in the criminal justice system today.

A common issue courts experience is delays, which are costly and described as “not just a burden on victims and other citizens participating in criminal cases,” but also “cause significant wasted time for judges, prosecutors, defense attorneys, law enforcement officers, support staff and other organizations in the court process” (National Center for State Courts, 2013). Because FTA's are a large contributor to court delays, one of the initial goals of PTS programs was to increase appearance rates.

Ironically, some research has shown that such programs do not necessarily improve these delays. In fact, there are critics who argue that there is still a cost in time and money, due to pretrial conferences, especially ones that are delayed and rescheduled. Unless there was a way for courts to organize pretrial conferences in a way that they could be consistently “meaningful,” PTS programs may not be any more effective than regular case processing.

The number of defendants detained pending adjudication and their average length of stay is directly impacted by criminal case processing practices. Presently, findings suggest that state court practices rarely meet with National practices, especially in the instance of case flow speed. Felony case management, for example, has been identified as one of the largest obstructions to maintaining an adequate case processing flow. This resulted in the hindering in many of the case management processes, one of which being PTS programming.

Research has confirmed the feasibility of correcting felony case management, and in doing so, other case flow processes can be improved. The National Center for State Courts stated that “there is ample evidence that successful management of felony cases results in the reduction of delay...one can hardly argue that the reduction of felony delay will not reduce time spent in custody pending adjudication” (2013) Based on these contingencies, it is plausible for PTS programs to be implemented and function effectively. In conclusion, research has found promising practices in the field of pretrial release; practitioners and researchers agree there is still much to be learned.

## **Sample of Pretrial Services Utilized In Selected States**

The PTS programs discussed below have been selected for numerous reasons. First and foremost, these examples are intended to be representative of PTS programs as a whole. Second, selection was based upon the frequency in which an agency was reviewed in related literature. Of significance, each program illustrates a particular aspect of practices within pretrial services, whether ineffective or effective, conventional or new and noteworthy.

### **District of Columbia**

Pretrial services in the District of Columbia operate 24 hours a day, 7 days a week with a staff of 170 (Mahoney et al., 14). With the exception of traffic charges and municipal ordinance

violations all defendants are interviewed normally within 24 hours of being arrested. Defendants voluntarily submit to the PTS interview, drug test, and prior record check.

During the interview the defendant is asked for references verifying residence, community ties, and employment. Using this information, in addition to criminal records, the officer identifies specific solutions for each proposed risk factor. The complete assessment is then presented to the presiding judge of the case for their approval or rejection of the defendant being released on PTS. An important element of the agencies operations is its automated computer system. Used to record defendant information, it sends out computer-generated letters to alert defendants of upcoming court dates, and allows for officers to monitor compliance and conditions of release (Mahoney et al., 14).

### **Kentucky**

Pretrial services in the state of Kentucky have served as a model program for other PTS programs. The state of Kentucky abolished all bail bonding for profit in 1976 (Mahoney et al., 11). Approximately 220 pretrial services officers are staffed in 60 different offices located across the state. The PTS offices operate 24 hours a day, 7 days a week, and serve a population of approximately 4 million (Mahoney et al., 11). Pretrial officers interview all arrested defendants within 12 hours of detainment, except for those who immediately post bail or those who decline the PTS interview. Defendants are assessed using a point-scoring system which evaluates their current charges, prior record, and family and community ties. Defendants who score above the cutoff line on the assessment are recommended for release on recognizance (ROR). The pretrial officers offer the assessment to the presiding case judge for their final decision. In addition to ROR, the judge considers the defendant's flight risk and risk of committing subsequent criminal acts. If a defendant is placed on PTS by the presiding judge, the judge may also stipulate other requirements such as mental health or substance abuse treatment to be completed while awaiting trial.

It becomes the pretrial officer's duty to verify that the client meets all required court ordered expectations and attends all scheduled appearances. Only 8% of defendants fail to appear under pretrial supervision in Kentucky; in such cases, the defendant is often on release for a non-violent crime, or minor offense. Importantly, PTS program practices are reviewed every two years, specifically its point-scoring system for risk assessment. During the review, a sample group of

pretrial services officers, jail officials, judges, and circuit clerks are given the opportunity to offer suggestions. Also, an in-service training program is provided to pretrial officers, which focus on domestic violence, victim advocacy, cultural diversity, and driving under the influence (Mahoney et al., 13).

### **Monroe County, Florida**

The Monroe County PTS program began in 1988 due to severe jail overcrowding and rising caseloads. The program conducts about 3,300 interviews and supervises approximately 650 defendants released on nonmonetary conditions every year (Mahoney et al., 15). Monroe Counties' PTS program has 9 staff members that operate at four different locations, three of which are in Key West. The program obtains information about family and community ties, employment, and prior criminal records from several different sources, including an interview with the defendant, the defendant's family, and any other references for verification; if the charge involves a victim, they will be contacted to learn of any other concerns. Criminal history information is collected from the program's own records, Monroe County records, and criminal history information maintained by the Florida Dept. of Law Enforcement and the FBI's National Crime Information Center (NCIC). With this information staff makes an assessment using a point-scoring form to develop a recommendation. Staffing limitations complicate the procedures at the Marathon location and the Plantation Key location. The judge's decision must consider the likelihood of appearance for scheduled court dates and the risk of physical danger to the community. Despite a statutory presumption in favor of non-monetary release, judges make extensive use of financial conditions of release (Mahoney et al., 15).

### **Maricopa County, Arizona**

Maricopa County, Arizona's PTS program originally launched in 1975 through Federal Law Enforcement Assistance Administration (LEAA) funding, and after three years assumed funding through the Superior Court. Despite only having a staff of 48 pretrial officers, Mahoney et al., reports they interviewed at least 44,000 arrested felony-charged defendants in a single year, which accounted for over 77% of all initial appearances (Mahoney et al., 16). The pretrial officers use a bail guideline matrix, which incorporates a point scale, in deciding whether to recommend ROR or conditional release. The risk factors which are incorporated into the matrix include current charge, prior record severity, prior failures to appear, and the defendant's living situation and employment.

Information needed for the bail guideline matrix is collected through interviews conducted by the pretrial officers. Information about the defendants' identity, residence, employment, community ties and criminal history, with specific focus on the latter two are also verified as best as possible through other references such as family or employers (Mahoney et al., 16). The interviews are conducted using laptop computers, and the data is later printed out to present to the court. If the defendant is released under non-financial conditions, the level of supervision is stipulated in the release conditions set by the initial appearance commissioner, and may vary from weekly call-ins to 24-hour house arrest. Importantly, Maricopa County established a 'failure-to-appear unit,' which consists of two officers and focuses on locating missing defendants within 7 days of the missed court date (Mahoney et al., 16).

## **Colorado**

The Colorado Improving Supervised Pretrial Release (CISPR) Project is a pretrial initiative focusing on identifying individualized risk profiles and their respective interventions. In doing so, pretrial services may be able to minimize defendants' new arrests and failures to comply with set release conditions. Participating counties include Adams, Arapahoe, Boulder, Denver City & County, Douglas, El Paso, Jefferson, Larimer, Mesa, and Weld. Many PTS agencies in Colorado have high court appearance rates and low new arrest rates, with at least 95% of defendants appearing to their court date, and 1% or less new arrest rates. Despite this, judicial officers and pretrial staff members have suggested that inefficient and ineffective practices still exist. The CISPR project holds potential for eliminating some of these practices, therefore optimizing the pretrial agencies' functioning. More specifically, policies and procedures surrounding the pretrial release process, particularly in terms of pretrial bonding, has been described as unprofitable and irresponsible (Jones, 13-14). Often, defendants who could be supervised effectively within the community remain in jail due to their inability to post monetary bond. Jones explains, "these practices result in system resources being spent, unwisely, on the incarceration and supervision of lower- risk defendants rather than on the higher-risk defendants" (14).

## **Summary and Discussion**

Pretrial Services programs have the potential to improve the criminal justice system. With the rising jail population and consequential overcrowding, County jails and justice systems are now confronted with the necessity to re-prioritize institutional resources. It is no longer feasible to

house large numbers of individuals awaiting trial nor is it justifiable to release high risk defendants into the community risking public safety.

While researches have demonstrated that PTS programs are conceptually invaluable; findings have also shown that there are numerous variations in the actual application of pretrial services. Many researchers express the need for a better understanding of the defendant population, particularly special populations. Special populations are determined to be particularly vulnerable, such as individuals who suffer from serious mental illness, juveniles who are charged as adults, and women (Clark, 31). Much more needs to be invested in the exploration of PTS programs, especially in order to establish credibility within the criminal justice field. Accordingly, researchers have pressed forward, continuing to question what they already know and what they can learn.

Some of the more involved questions are still unanswered, such as, “can a universal risk assessment instrument be developed that can be used by jurisdictions nationwide?” (Mamalian, 35)

On the other hand, researchers must be warned that they “must simultaneously acknowledge that empirically grounded risk assessment processes, which are designed to help keep the right people in and the right people out, will always generate large margins of error. The field must grapple with the real problems of misclassification and over-classification in risk assessment" (Mamalian, 32). Ultimately, PTS programs unquestionably face challenges as it continues to develop its foundation of knowledge. Nevertheless, its function and utilization has substantive value within and outside of the criminal justice field.

Appendix B. Data Collection Form

Date: \_\_\_\_\_

No. \_\_\_\_\_

Initials of Collector: : \_\_\_\_\_

Case is: OPEN / CLOSED

DID NOT PARTICIPATE

[Circle One]

**[\*CROSS OUT SECTIONS THAT YOU CANNOT FIND IN THE FILE\*]**

**SUPERVISION COMPLETION FORM**

Defendant Name: \_\_\_\_\_ CR#: \_\_\_\_\_

DOB: \_\_\_\_\_ SSN: \_\_\_\_\_

Charges: \_\_\_\_\_

1. Date ordered/referred to PTS: \_\_\_\_\_ Presiding Judge \_\_\_\_\_

2. Conditions of Release: \_\_\_\_\_

3. Case Adjudicated ☐ Yes ☐ No Date of Adjudication/Plea \_\_\_\_\_

\_\_\_ Guilty Plea \_\_\_ No Contest \_\_\_ Jury or Bench Trial: \_\_\_ Conviction \_\_\_ Not Guilty \_\_\_ Mistrial

4. Date Case Closed \_\_\_\_\_

☐ Failure to Comply/BW ☐ Remand ☐ Remand/No PTS ☐ Reject ☐ 60 day ☐ 10 day

☐ GJI ☐ Nolle Prosequi ☐ Posted Bond ☐ Dismissed ☐ COR Changed ☐ Drug Ct ☐

Sentenced: \_\_\_\_\_ ☐ I/C other charges ☐ Reassigned ☐

Other \_\_\_\_\_

5. Compliance with Pretrial supervision. The above referenced individual did/did not participate in:

☐ PTS ☐ Jail Diversion/MH ☐ JSP ☐ Vet Ct ☐ Metro ☐ GPS

Conditions of Release \_\_\_ Excellent \_\_\_ Good \_\_\_ Fair \_\_\_ Poor \_\_\_ Noncompliant

Reporting \_\_\_ Excellent \_\_\_ Good \_\_\_ Fair \_\_\_ Poor \_\_\_ Noncompliant

Counseling \_\_\_ Excellent \_\_\_ Good \_\_\_ Fair \_\_\_ Poor \_\_\_ Noncompliant ☐

No Referral

Employment/Education \_\_\_ Excellent \_\_\_ Good \_\_\_ Fair \_\_\_ Poor \_\_\_ Noncompliant ☐

Disabled

Comments \_\_\_\_\_



\_\_\_\_\_  
PTS Staff Signature

\_\_\_\_\_  
Date

**CONFIDENTIAL TRIAGE –INTAKE FORM**

Triage Date: \_\_\_\_\_

Type of Case: ( )DWI ( )DV ( )MH ( )MFFA ( )Other  
\_\_\_\_\_

PTS Component: ( )JSP ( )Jail Diversion ( )Veterans treatment court ( )PTS

**Defendant Information**

Sex: Male / Female

Ethnicity: \_\_\_\_\_

Phone Number : Yes / No

Does Client have a Permanent Address? YES / NO

Access to vehicle: Yes / No

**Employment/Education/Military /Benefits Information**

Current Employment: ( )Yes ( )No

Work Schedule: ( ) Full Time ( ) Part Time ( ) Other

Level of Education Completed: \_\_\_\_\_

Military Service: ( )Yes ( )No

Financial Resources: ( ) SSI ( ) SSDI ( ) TANF/AFDC ( ) EBT ( ) Employment

( ) Other ( ) None

Amount:

\$ \_\_\_\_\_

Insurance Source: ( ) Medicaid ( ) Medicare ( ) Private Insurance

( ) HMO ( ) Other: \_\_\_\_\_ ( ) None

**Mental Health / Treatment / Counseling**

Have you ever been in treatment and/or counseling: ( ) Yes ( ) No

Do you have a Mental Health Diagnosis: ( ) Yes ( ) No

Do you have a Dual Diagnosis/Co-Occurring: ( ) Yes ( ) No

Medications: ( ) Yes ( ) No

Case Management: ( ) Yes ( ) No

**Drug/Alcohol History**

Were alcohol or drugs involved at the time of the incident: ( ) Yes ( ) No

Do you think you have an alcohol or drug problem: ( ) Yes ( ) No

**Family and Support**

Marital status: ( ) Single ( ) Co-Habiting ( ) Married ( ) Divorced ( ) Separated  
( ) Widow

Does Client have children? YES / NO if YES, do they live with the Client? YES / NO / Some

Does Client seem to have a support system: YES / NO

[ Note: This should be determined after looking at the Family Support Section ]

**Other Information**

Do you have a valid New Mexico driver's license: ( ) Yes ( ) No

**Supervisor Information**

Supervision Contract Signed: ( ) Yes ( ) No

[Look for Signed Contract]

UA Conducted: ( )Yes ( )No If yes, results: \_\_\_\_\_

*ELIGIBILITY DETERMINATION*

Does Not meet PTS eligibility criteria.....

(...) 5-401. C.1. Alleged offense involves violence or narcotic drug

(...) 5-401. C.3. b, c, d, e, f: Lack of community ties

(...) 5-401. C. 3. g, h, i: Has failed to comply with conditions of Release on Case # \_\_\_\_\_

(...) 5-401. C. 4. Danger to self or others if released

(...) 5-401. C. 5. Failure to Appear history

(...) Other: : \_\_\_\_\_

**ORDER SETTING CONDITIONS OF RELEASE (OSCOR)**

[ Use Earliest OSCOR ]

Dates: 1 \_\_\_\_/\_\_\_\_/\_\_\_\_

**ORDER SETTING CONDITIONS OF RELEASE**

IT IS ORDERED that the defendant be released from custody subject to the following conditions:

- ( ) Personal recognizance
- ( ) Unsecured appearance bond of \_\_\_\_\_ (\$ \_\_\_\_\_)
- ( ) Bond of \_\_\_\_\_ (\$ \_\_\_\_\_) deposited with District Court as follows:
- ( ) Cash only in full amount of the bond.
- ( ) Surety/bail bond in the full amount of bond executed on (Form 9-304)
- ( ) Cash at \_\_\_\_\_ % of the above bond to be posted with the Court.
- ( ) Real property bond executed on (form 9-304)
- ( ) Third party custody release to: \_\_\_\_\_ (Name)

\$ _____	Posted on _____
	by _____
Reverified by _____	
Date _____	

I/We agree to supervise the defendant; to use every effort to assure his/her appearance at all scheduled hearings; and to notify the Court immediately in the event the defendant violates any conditions of release.

Signature of Custodian

Address (city/zip)

Area Code/Telephone #

**AS CONDITIONS OF RELEASE, DEFENDANT IS HEREBY ORDERED:**

(1) Not to possess firearms, firearm ammunition, or dangerous weapons; (2) Not to violate any federal, state, tribal or local criminal law; (3) Not to leave the County of Bernalillo, State of New Mexico without prior written permission of the Court; (4) To notify your attorney immediately of any change in your home or work addresses or telephone numbers; (5) To maintain weekly contact with your attorney by telephone and/or in person.

**DEFENDANT IS FURTHER ORDERED:**

- ( ) Not to possess or consume alcohol or illegal drugs or enter any type of liquor establishments;
- ( ) Not to have any contact or association with any street gangs or gang members or participation in any violent or gang related activity behavior;
- ( ) No contact with the alleged victim, Co-Defendant or witnesses (i.e. anyone who may testify in this case), either directly, indirectly, or through any person other than in the actual presence of your attorney;
- ( ) No driving without a valid New Mexico drivers license;
- ( ) Ignition interlock shall be installed on any vehicle driven by Defendant;
- ( ) Comply with any other Court orders and/or directives of CYFD: PROBATION, DRUG-COURT, OR PRETRIAL SERVICES
- ( ) CCP (Community Custody Program) ☐ Authorized ☐ Ordered
- ( ) Other Conditions; \_\_\_\_\_

- Not to possess firearms or dangerous weapons;
- Not to return to the location of the alleged incident;
- Not to possess or consume alcohol/illegal drugs or enter liquor establishments;
- Not to violate any federal, state, or local criminal law;
- To notify the Court of any change of address;
- Not to leave the County of ( \_\_\_\_\_ ) State of ( \_\_\_\_\_ ) without prior permission of the Court;
- To maintain contact with my attorney/to seek and consult with an attorney;
- To avoid all contact with the alleged victim or anyone who may testify in this case;
- To have an ignition interlock device installed on any vehicle I may drive; (☐ camera capable ignition interlock device);
- To be on Pretrial Supervision and abide by all conditions set by the Court.
- (Other Conditions) \_\_\_\_\_

CJ/PH ☒ 10 Day Rule, Date: 12/21/12 ☐ 60 Day Rule, Date: \_\_\_\_\_

**TREATMENT COURT PROGRAM REFERRAL FORM**

**Name:** \_\_\_\_\_

**Date of Referral:** \_\_\_\_\_

**DOB:** \_\_\_\_\_

**Age:** \_\_\_\_\_

**SSN:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Include street address, apt/space #, city, state & zip code)

**Phone:** \_\_\_\_\_ **Message Phone:** \_\_\_\_\_ **Employed**

☐ Yes ☐ No

☐ Out of custody

☐ In custody since \_\_\_\_\_

☐ PSC time to date

**Case#:** \_\_\_\_\_ **Current Charges:** \_\_\_\_\_

**Assigned Judge:** \_\_\_\_\_

Status of case: ☐ Pending Plea ☐ Pending Sentencing ☐ PV ☐ Proceedings

Stayed/Inactive

**DA:** \_\_\_\_\_ **Phone** \_\_\_\_\_ **PD/Atty:** \_\_\_\_\_ **Phone** \_\_\_\_\_

☐ Attorneys agree to this referral

1. Purpose of Referral:

☐ JSP Eligibility

☐ Veterans Court Eligibility

☐ Psychological Evaluation to Determine JSP Eligibility (includes competency)

\*\*\*JSP only\*\*\*

☐ Amenability for Treatment

☐ Psychological Evaluation (No Prior Diagnosis)

☐ Treatment consultation (PTS clients only)

☐ Assessment of Veteran Status

(Veterans Court only)

2. Questions about this individual regarding:

☐ Diagnosis

☐ Cognitive Abilities

☐ Competency (JSP only)

☐ Violence Potential

☐ Treatment Recommendations

3. Provide a **brief narrative** of your questions /concerns about this individual:

\_\_\_\_\_  
\_\_\_\_\_

---

4. Provide a brief list and/or history of any psychiatric treatment (including provider/agency name), diagnoses and medications:

---

---

5. Note any co-occurring substance abuse or medical issues:

- ☐ Drug(s) of  
Choice: \_\_\_\_\_
- ☐ Medical  
Issues: \_\_\_\_\_
- 

6. The following documents must be attached before eligibility determination will be considered:

- ☐ Criminal History   ☐ Order Setting Conditions of Release assigning to Pretrial Services
- ☐ Police Report   ☐ Criminal Complaint   ☐ Plea   ☐ J & S   ☐ Treatment Records
- ☐ Military Discharge Information   ☐ Other: \_\_\_\_\_

7. Referred by: \_\_\_\_\_ Phone #: \_\_\_\_\_

---

E-mail address: \_\_\_\_\_ Mailing address: \_\_\_\_\_

---

## REMAND ORDERS

[Enter the Dates of every Remand Order found]

<div style="text-align: center; font-weight: bold; font-size: 1.2em;">Dates</div>                      	<div style="text-align: center; font-weight: bold; font-size: 1.2em; margin-bottom: 10px;">REMAND ORDER</div> <p style="margin-bottom: 10px;">Pending further Order of the Court, the above-named defendant is remanded to the custody of the Metropolitan Detention Center for the following reason(s):</p> <p>( ) Remanded    or    ( ) Sentenced to the custody of the</p> <p style="margin-left: 40px;">( ) Department of Corrections</p> <p style="margin-left: 40px;">( ) Metropolitan County Detention Center</p> <p style="margin-left: 40px;">to serve a term of _____</p> <p style="margin-left: 40px;">for the crime(s) of _____</p> <p style="margin-left: 40px;">with _____ days of Pre-Sentence Confinement/Probation credit.</p> <p>( ) Booking purposes: to be released immediately upon booking.</p> <p>( ) Bond/release conditions change: _____</p> <p>( ) Other reason/conditions: _____</p> <p style="text-align: right; margin-top: 20px;">FILED IN OPEN COURT THIS _____ DAY OF _____ 20_____</p>
---	--

## NONCOMPLIANCE REPORTS

Total Number of Non-Compliance Reports in the Client's file: \_\_\_\_\_

[Check box that applies - enter Date and Recommendation, if possible]

Date	Failed to Report for Interview with PTS	FTA for Appointments	Failed to Comply with Court Conditions	Recommendation

Comments:

## AA / NA ATTENDANCE RECORD

Entry Type	Number (Hash Mark Technique)	Earliest Date	Latest Date
Number of AA/NA Attendance Meetings			

Comments: \_\_\_\_\_

*CLIENT CONTACTS and SELF-REPORTING FORMS*

Entry Type	Number (Hash Mark Technique)	Earliest Date	Latest Date
Number of Officer Client Contacts			
Number of Client Self-Reports			

Comments: \_\_\_\_\_

*TREATMENT / BEHAVIORAL PLANS FOR VETERNS COURT – MENTAL HEALTH COURT*

Entry Type	Number (Hash Mark Technique)	Earliest Date	Latest Date
Number of Treatment Sessions (Indv & Group)			
Number of Like Drug Court Sessions			
Number of Veterans Court Sessions			
Number of Mental Health Court Sessions			
Number of JSP Sessions			

What is name of Treatment Provider: \_\_\_\_\_

*DRUG ANALYSIS FORMS*

Entry Type	Number (Hash Mark Technique)	Earliest Date	Latest Date
# of Negative Results			
# of Positive Results			
# of Stalls			
# of Refusals			
# of > 0.001 BAC Results			



## **APPENDIX B. ABA PRETRIAL STANDARDS**

### **PART I. GENERAL PRINCIPLES**

Standard 10-1.1 Purposes of the pretrial release decision

Standard 10-1.2 Release under least restrictive conditions; diversion and other alternative release options

Standard 10-1.3 Use of citations and summonses

Standard 10-1.4 Conditions of release

Standard 10-1.5 Pretrial release decision may include diversion and other adjudication alternatives supported by treatment programs

Standard 10-1.6 Detention as an exception to policy favoring release

Standard 10-1.7 Consideration of the nature of the charge in determining release options

Standard 10-1.8 Pretrial release decision should not be influenced by publicity or public opinion

Standard 10-1.9 Implication of policy favoring release for supervision in the community

Standard 10-1.10 The role of the pretrial services agency

### **PART II. RELEASE BY LAW ENFORCEMENT OFFICER ACTING WITHOUT AN ARREST WARRANT**

Standard 10-2.1 Policy favoring issuance of citations

Standard 10-2.2 Mandatory issuance of citation for minor offenses

Standard 10-2.3 Permissive authority to issue citations in all cases

Standard 10-2.4 Lawful searches

### **PART III. ISSUANCE OF SUMMONS IN LIEU OF ARREST**

Standard 10-3.1 Authority to issue summons

Standard 10-3.2 Mandatory issuance of summons

Standard 10-3.3 Application for an arrest warrant or summons

### **PART IV. RELEASE BY JUDICIAL OFFICER AT FIRST APPEARANCE OR ARRAIGNMENT**

Standard 10-4.1 Prompt first appearance

Standard 10-4.2 Investigation prior to first appearance: development of background information to support release or detention determination

Standard 10-4.3 Nature of first appearance

## **PART V. THE RELEASE AND DETENTION DECISIONS**

Standard 10-5.1 Release on defendant's own recognizance

Standard 10-5.2 Conditions on release

Standard 10-5.3 Release on financial conditions

Standard 10-5.4 Release order provisions

Standard 10-5.5 Willful failure to appear or to comply with conditions

Standard 10-5.6 Sanctions for violations of conditions of release, including revocation of release

Standard 10-5.7 Bases for temporary pretrial detention for defendants on release

Standard 10-5.8 Grounds for pretrial detention

Standard 10-5.9 Eligibility for pretrial detention and initiation of the detention hearing

Standard 10-5.10 Procedures governing pretrial detention hearings: judicial orders for detention and appellate review

Standard 10-5.11 Requirement for accelerated trial for detained defendants

Standard 10-5.12 Re-examination of the release or detention decision: status reports regarding pretrial detention

Standard 10-5.13 Trial

Standard 10-5.14 Credit for pre-adjudication detention

Standard 10-5.15 Temporary release of a detained defendant for compelling necessity

Standard 10-5.16 Circumstances of confinement of defendants detained pending adjudication

## **PART VI. NOTICE TO VICTIMS OF CRIME**

Standard 10-6.1 Judicial assurance of notice to victims

**APPENDIX C. 2004 NATIONAL ASSOCIATION OF PRETRIAL SERVICES AGENCIES  
STANDARDS ON PRETRIAL RELEASE 3<sup>rd</sup> Edition**

INSERT PDF COPY OF THE NAPSA STANDARDS HERE

## APPENDIX D. MOU SCOPE OF SERVICES

<b>Table 20 #2012-0555 Intergovernmental Agreement Scope of Services: PTS Component (\$452,988)</b>
• Provide PTS supervision of eligible defendants released to SJDC-PTS.
• Conduct background checks and NCIC investigations for eligible defendants appearing for arraignment or referred.
• In-court felony arraignment presentations and bond recommendations.
• Provide special needs defendants with appropriate services, e.g., mental health or veteran.
• In court, at jail, or in office, conduct COMPAS risk/needs assessment to determine release and level of supervision.
• Jail diversion services based on Conditions of Release (COR).
• Graduated levels of supervision.
• Provide referral for psychiatric, psychological, and substance abuse evaluation and treatment.
• Drug and breath alcohol screening
• Monitoring compliance with Conditions of Release and treatment.
• Case management to provide essential services based on need.
• Psychological and medical consultations by court clinical team.
• Collaboration with community agencies to maintain care and compliance.
• Weekly JSP and Veterans Court eligibility staffing and monthly case review and judicial review proceedings.
• Appearance before judge to report on client's progress.
• Provide qualified staff to perform contractual scope of services.

<b>Table 21 MFFA Scope of work</b>
1. PTS will supervise 250 felonious clients between post arrest and pre-indictment.
2. Provide risk/needs assessments using COMPAS and create release and supervision plans.
3. Prioritize clients with an open charge felony, mental health disorder, and substance abuse and/or Veteran status.
4. Continue services for 60-day jurisdiction or until indictment.
5. Verify community ties.
6. Collaborate with community agencies
7. Monitor progress and compliance with COR and PTS mandates.
8. Address compliance and sanctions with referring judge.

<b>Table 22 GPS Scope of work</b>
1. Non-stop, real time tracking of 100 defendants.
2. GPS inclusion and exclusion zones based on court order and victim safety.
3. Provide qualified staff to conduct GPS scope of services.

<b>Table 23 PTS Scope of Services (#2012-0437)</b>
1. Screen defendants – indicted or scheduled for arraignment – using Rule 5-401 criteria.
<ul style="list-style-type: none"><li>• Rescreen defendants in custody to determine a change in eligibility for services.</li></ul>
<ul style="list-style-type: none"><li>• Appear at hearings to reconsider conditions of release.</li></ul>
<ul style="list-style-type: none"><li>• Supervise eligible defendants released to SJDC-PTS.</li></ul>
<ul style="list-style-type: none"><li>• Provide MDC with a PTS monthly progress report. MDC will provide computing assistance.</li></ul>
<ul style="list-style-type: none"><li>• Provide MDC with an annual progress report.</li></ul>
<ul style="list-style-type: none"><li>• Participate quarterly in the PTS Collaborative; help determine the appropriate PTS quarterly performance indicator target levels; and help determine appropriate corrective actions when targets are not met.</li></ul>

## APPENDIX E. SJDC-PTS PERSONNEL

Table 24 SJDC Pretrial Services Division Personnel Hiring					
Position	Status	Date Hired	Filled	Division	
• Court Psychologist	• Perm	• 8/28/95	•	• Clinical Svcs	
• Court Counselor	• Term	• 12/3/07	•	• Clinical Svcs	
• PTS Lead worker	• Term	• 9/1/12	•	• PTS Sprvsn	
• PTS Officer 2	• Term	• 10/3/11	•	• PTS Sprvsn	
• PTS Officer 2	• Term	• 4/29/13	•	• PTS Sprvsn	
• Court Probation Officer 2	• Perm	• 9/26/05	•	• PTS Sprvsn	
• PTS Officer 2	• Term	• 6/5/06	•	• PTS Sprvsn	
• Court Probation Officer 2	• Perm	•	• Vacant	• PTS Sprvsn	
• PTS Officer 2	• Term	• 4/27/13	•	• PTS Sprvsn	
• Court Probation Officer 1	• Term	• 4/13/13	•	• PTS Sprvsn	
• PTS Officer 2	• Term	• 4/27/13	•	• PTS Sprvsn	
• Court Clerk 2	• Term	• 8/4/13	•	• PTS Sprvsn	
• PTS Lead worker	• Term	• 6/15/13	•	• Jud Sprvsn Prog	
• PTS Officer 2	• Term	• 11/26/12	•	• Jud Sprvsn Prog	
• PTS Officer 2	• Term	• 12/10/12	•	• Jud Sprvsn Prog	
• PTS Officer 2	• Term	• 2/6/12	•	• Jud Sprvsn Prog	
• Court Probation Officer 2	• Term	• 6/22/13	•	• Jud Sprvsn Prog	
• Court Clerk 2	• Term	• 2/1/10	•	• Jud Sprvsn Prog	
• Background Investigator	• Perm	• 9/10/05	•	• Background Invs	
• Background Investigator	• Term	• 5/14/11	•	• Background Invs	
• Background Investigator	• Term	• 3/16/13	•	• Background Invs	
• Court Clerk 2	• Term	• 5/25/13	•	• Background Invs	
• Background Investigator	• Perm	•	• Vacant	• Background Invs	
• Background Investigator	• Term	•	• Vacant	• Background Invs	
• PTS Officer 2	• Term	• 11/24/12	•	• Vet Ct.	
• Court Clerk 2	• Term	• 2/1/10	•	• Vet Ct.	
• PTS Lead worker	• Term	• 12/13/08	•	• MFFA	
• PTS Officer 2	• Perm	• 2/16/13	•	• MFFA	
• PTS Officer 2	• Term	• 2/11/13	•	• MFFA	
• PTS Officer 2	• Term	• 11/24/12	•	• MFFA	
• Court Clerk 2	• Term	•	• Vacant	• MFFA	
• PTS Lead worker	• Term	• 5/18/07	•	• GPS	
• PTS Officer 2	• Term	•	• Vacant	• GPS	
• PTS Officer 2	• Term	• 12/8/12	•	• GPS	
• PTS Officer 2	• Term	• 7/20/13	•	• GPS	
• PTS Officer 2	• Term	• 9/1/12	•	• GPS	

• Division Director	• Perm	• 3/16/13	•	• Admin
• Program Manager	• Term	• 8/3/02	•	• Admin
• Admin Assistant 2	• Term	• 9/1/12	•	• Admin

## APPENDIX F.



### STATE OF NEW MEXICO SECOND JUDICIAL DISTRICT

March 17, 2014

Mr. Tony Ortiz  
New Mexico Sentencing Commission  
1915 Lomas Rd. N.E.  
Albuquerque, NM 87106

Dr. Paul Guerin  
UNM-Institute of Social Research  
MSC02-1625  
1 University of New Mexico  
Albuquerque, NM 87131

RE: Second Judicial District Court Pretrial Services Division Assessment Response

Dear Sirs,

Attached please find the Court's response to the preliminary SJDC Pretrial Services assessment by the UNM Institute of Social Research. We are thankful to have been able to participate in the first assessment of any pretrial program in the state of New Mexico and grateful for the opportunity to comment.

In the attached summary are outlined concerns about the overall assessment process. Also attached is the assessment with comments on each area of concern. It is our hope that further discussion and collaboration can occur in order to take into consideration the comments so that the assessment is a useful tool to all agencies involved.

Thank you for your time in this matter. I can be reached at 505.841.7425 or by email at [albdgti@nmcourts.gov](mailto:albdgti@nmcourts.gov).

Respectfully,

A handwritten signature in dark ink, appearing to read "Gregory T. Ireland". The signature is fluid and cursive, with the first name "Gregory" and last name "Ireland" clearly visible.

Gregory T. Ireland  
Court Executive Officer

c: Chief Judge Ted Baca  
Judge Charles Brown, Presiding Criminal Division  
Joy Willis, Attorney Supervisor  
Lisa Simpson, Bernalillo County

ELECTRONIC ATTACHMENT: Response Comments to NMSC Assessment\_03172014



**SECOND JUDICIAL DISTRICT COURT  
PRETRIAL SERVICES DIVISION  
Response to Preliminary Assessment of Pretrial Services by NMSC  
March 17, 2014**

This report will clarify the development of a fact and research based Pretrial Services division of the Second District Court. The development of a fully functioning Pretrial Services is in fact a best practice which has been severely limited in Bernalillo County until recently. Recognizing that detention of defendants prior to trial is an expensive proposition for the county government Bernalillo County has found it is in the best interest of all the criminal justice partners to fund PTS development.

The 2012 regular session of the New Mexico Legislature passed House Joint Memorial 20 (HJM20) "requesting the Bernalillo County Board of Commissioners to create a pilot project to streamline case management systems, establish an alternative incarceration facility and create treatment options and alternative incarceration, transitional living and reintegration programs for qualified individuals; requesting the New Mexico Sentencing Commission to assist and advise the Bernalillo County Board of County Commissioners and to study the effects of the pilot project."

In Fiscal Year 13 the Bernalillo County Board of Commissioners provided an allocation of \$1.5 million in funding to the Second Judicial District Court (SJDC) for expansion of Pretrial Services (PTS) through an Intergovernmental Grant Agreement (IGA) between Bernalillo County and the Second Judicial District Court. This expansion funding is thought to be one of the strategies of the pilot project outlined in HJM 20. Defined in the IGA included the scope of services that Pretrial Services would provide, Pretrial Services requirement to participate in the program evaluation by the New Mexico Sentencing Commission, and Bernalillo County would provide the Northpointe COMPAS risk and needs assessment, software and training.

In the first months of the expansion many barriers prevented Pretrial Services from becoming fully operational that included 1) receiving the contract in August 2012, 2) obtaining a BAR for the additional funding, 3) staffing the expansion positions, 4) moving the division to an area that could accommodate the growth, and 5) the introduction of the Northpointe COMPAS training. All of these obstacles were accomplished while still providing services to defendants who were already receiving services through PTS during the transition. The COMPAS risk and needs assessment did not become available for full PTS use until February 2014 at which time PTS immediately began to use the instrument and SJDC Background Investigators began including this information to the Arraignment Judge. This was not a failing of PTS, but resulted from Vendor delays which were not described or accounted for in the Study provided by UNM-Institute of Social Research. Essentially the Sentencing Commission conducted their study at a time when a central and critical component they based their findings on was not even available to PTS. What appears to have been a more appropriate and professional way to address this omission might have been to request additional time to complete the evaluation pending implementation of this critical instrument.

On February 1, 2014 the New Mexico Sentencing Commission completed the PTS assessment through the UNM-Institute of Social Research. We believe that they have incorrectly concluded and stated that the "SJDC-PTS program is not a best practices pretrial services program indicating that the program fails to measure up to American Bar Association (ABA) & the National Association of Pretrial Services Agencies (NAPSA) standards" knowing that some critical changes (COMPAS) were not available to PTS

until after the study deadline and failed to address the pervasive and significant changes that were made to PTS beginning in March 2013.

In reviewing the assessment, there appear to be inconsistencies and unclear descriptions of member groups, what research questions and data were used, reference to the ABA & NAPSA as the standard for the assessment with periodic reference to the National Institute of Corrections (NIC) as the standard, and redundancy. The evaluation plan is not delineated in the assessment and brings up the question as to who created the evaluation plan, how was "effectiveness" defined, and what were the limitations of the assessment and methodologies? What was clear is that the Literature Review included in the assessment outlined best practices for several pretrial services agencies throughout the country as well as barriers these programs faced that impacted best practices. The barriers SJDC-PTS encountered were vaguely described but were not incorporated into the assessment. The NMSC assessment did not fully correlate their literature review to the assessment protocol they loosely describe in their document. NMSC assessment did not correlate the New Mexico Release Provisions into their assessment of PTS which are the governing rules for PTS. Examples of this can be found throughout the document.

We strongly disagree with and view their findings to be based on inadequate and non-existent information and being driven by deadlines imposed in the memorial rather than based on the actual timeline of PTS changes implemented. This results in a finding that quite simply fails to meet the intent of the memorial in reviewing PTS and sacrifices the opportunity to actually assess how PTS changes have and will impact individuals ordered to supervision under the parameters of the memorial.

This is the first time SJDC-PTS has been assessed and we believe that the findings are unfounded, premature and incomplete at best. There were several important factors that were not taken into consideration. SJDC-PTS is a hybrid pretrial services program. It has evolved into a program that not only makes release recommendations and assures defendants appear for court but also serves as an alternative to incarceration, responds to the needs of the criminal justice community, the public, the defendants it serves, and has served as the model for other jurisdictions within the state. The growth and progression of services have included not only release and supervision of defendants pending trial but an array of services and interventions that meet the needs of a complex and varied population. The NMSC assessment does not recognize or include those promising best practice models in its assessment of PTS (*See GAINS Center Key Jail Diversion Activities-Steadman, et al, 2001*). The assessment lacks consistent correlation of the scope of work items in the IGA.

In conclusion the time frame of 25 months served to secure an unbalanced approach given the newness of the expansion and was driven by the need to complete the evaluation by 12/31/2013. UNM ISR staff initially told SJDC staff that only the expansion would be evaluated. Evaluating a program in transition can be valuable, but not if it doesn't provide a clear explanation of the transition goals and progress. If the third quarter of the expansion was compared to this year's third quarter the findings and conclusions would be remarkably different because of collaboration between the Court, the County and the criminal justice stakeholders who are addressing systemic issues. The collaboration was in its infancy when the assessment began.



## **Bernalillo County Public Safety Response to Second Judicial District Court Pretrial Services Report 2014 March 24, 2014**

Research and evidence has shown that pretrial service divisions can directly impact jail population. The National Association of Counties (NACo) recommends that “all counties” establish pretrial service agencies. Similarly, the American Bar Association (ABA) urges “every jurisdiction” in the country to develop a pretrial services program.

In FY13, the Bernalillo County Board of Commissioners provided the Second Judicial District Court \$1.5 million to expand the Second Judicial District Court Pretrial Services Program (SJD PTS). With the expansion there were several barriers presented early on in the expansion process which delayed the program’s ability to ramp up quickly. Lack of space to house an expanded staff was a major initial issue. Using part of the funding, the County remodeled a floor of the Public Safety building. The remodel was completed in phases to accommodate the existing staff and then create work space for expansion staff. This process took several months. Pretrial Services was not able to become fully staffed until the beginning of 2013.

In March of 2013, a new Director was hired who has made substantial changes to the business processes and the overall direction of SJD PTS. As stated in the report, SJD PTS did not use a risk assessment tool until February 2014. However, this was not from a lack of intention to do so. SJD PTS spent many months collaborating with the vendor and the County to modify the Northpointe tool and create a scoring matrix that would result in a more complete report to the court. Unfortunately the present report does not fully describe the development of the PTS program as the data sample used ended around the time the changes began. As stated in the report, the full scope of the changes that have been made with the expansion and the implementation of many best practices were not captured because of the timing of the report.

Since March of 2013, the Second Judicial District Court Pretrial Services has made significant progress in bringing about evidence based best practices for a Pretrial Services program as identified by the ABA and the National Association of Pretrial Agencies (NAPSA). The new director with the help of staff and collaboration with County staff have begun to implement core functions such as:

1. Use of an objective risk assessment instrument – February 2014
2. Development of a comprehensive database and case management system and with that, the collection of program data-

3. Use of a court date reminder process- October 2013
4. Establishment of levels of supervision based on criminal history and pretrial release risk assessment
5. Review of inmates remaining in jail after being ordered to a bond and PTS for PTS eligibility and providing information to attorneys and courts for revision of release conditions.

With these program modifications, SJD PTS is moving steadily towards being a best practice program. As such, it will have the potential to decrease the jail population as effective pretrial services programs have demonstrated in many jurisdictions. Pretrial Services programs assist judges in determining which defendants can be released safely into the community and provide monitored supervision expanding the number that can safely be released. This not only helps to ensure court appearance and public safety, but also saves taxpayers money by avoiding unnecessary incarceration. The jail population is currently 7% below the jail population last year at this time. This is the same period of time that SJD PTS completed its expansion and began moving towards best practices. Pretrial services and other reform efforts have certainly played role in this reduction.

To date, the SJD PTS is in a state of transition and continues to strive to be a best practice program. The SJD PTS Director continues to work closely with Bernalillo County Public Safety staff to monitor progress and move forward with new processes identified as core functions of pretrial services. In the next few months the program plans to implement a supervision risk assessment tool specific for a pretrial population. With the support and collaboration with Bernalillo County, SJD PTS also plans to implement an automated court reminder system. In addition, SJD PTS plans to work closely with the Metropolitan Court to provide release recommendations for the felony initial hearings.

Bernalillo County Public Safety staff is encouraged with the direction SJD PTS is moving in and hopes to continue to see a decreasing trend in jail population as SJD PTS continues to adopt best practice processes. This study will be beneficial as a measurement of where this program began and where it is going.