

# COVID-19 and Pretrial Practices: A Pretrial Executives Roundtable

Advancing Pretrial Policy and Research (APPR), in partnership with the National Center for State Courts (NCSC), invited a small group of pretrial leaders to participate in virtual Pretrial Executives Roundtable conversations to explore the impact of COVID-19 on their respective pretrial practices.

The Pretrial Executives Roundtables, convened on June 19 and July 16, 2020, explored how pretrial practices have changed in the participating jurisdictions as a result of COVID-19, the impact of those changes thus far, and the potential long-term impacts of these short-term changes.

The Pretrial Executives Roundtables were sponsored by APPR; facilitated by Kristina Bryant, Principal Court Management Consultant with the NCSC; and moderated by Nick Sayner, CEO and Co-Founder, JusticePoint. Participants included:

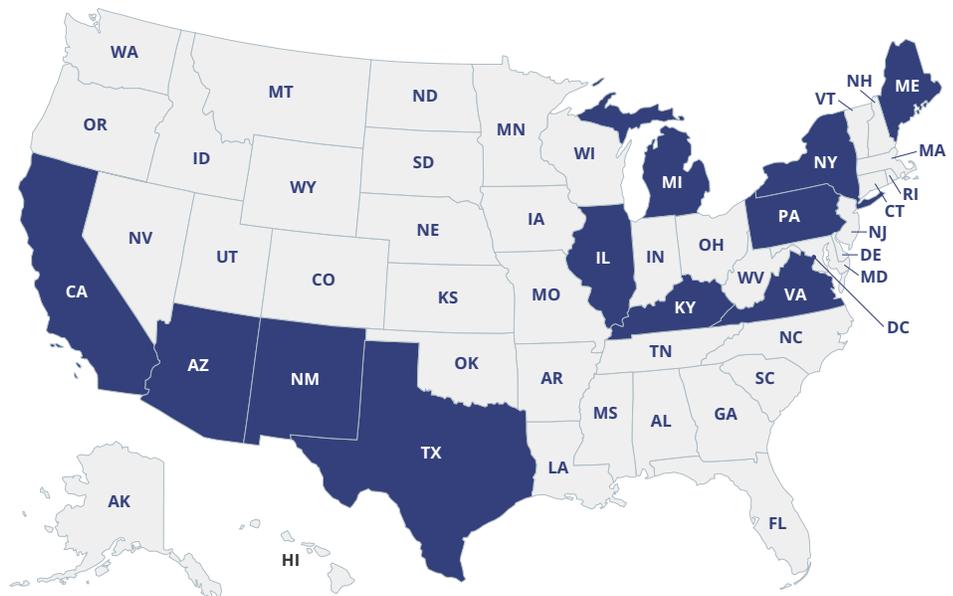
- Domingo Corona, Director, Pretrial Services Division, Arizona Superior Court, Pima County, AZ
- Edwin Monteagudo, Director, Pretrial Services Bureau, Los Angeles County Probation Department, CA
- Juan Hinojosa, Assistant Chief, Pretrial Services Division, Cook County Adult Probation Department, IL
- Tara Boh Blair, Executive Officer, Kentucky Court of Justice, Administrative Office of the Courts, Department of Pretrial Services, KY
- Elizabeth Simoni, Executive Director, Maine Pretrial Services, ME
- Barbara Hankey, Manager, Oakland County Community Corrections, MI
- Kelly Bradford, Statewide Pretrial Program Manager, New Mexico Administrative Office of the Courts, NM
- Craig McNair, Executive Director, Pretrial Services Program, Division of Criminal Justice Services, Monroe County, NY

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- Janice Radovick-Dean, Director, Allegheny County Pretrial Services, Fifth Judicial District of Pennsylvania, PA
- Dr. Kelvin L. Banks, Director, Harris County Pretrial Services, TX
- Kenneth Rose, Pretrial Program Coordinator, Virginia Department of Criminal Justice Services, VA

The participants' descriptions and comments about changes to pretrial practices in their respective jurisdictions as a result of COVID-19 are summarized without specific attribution below.



**Advancing Pretrial Policy and Research** is committed to achieving fair, just, effective pretrial practices, every day, throughout the nation.

The **Center for Effective Public Policy** ([cepp.com](http://cepp.com)) leads all implementation and technical assistance activities for APPR.



This report was developed in partnership with the **National Association of Pretrial Services Agencies** and the **National Center for State Courts**.



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## Delegated/administrative release was expanded. Incidents of custodial arrest were reduced.

- Cite and release authority was expanded in most localities. One jurisdiction reported that changes in delegated release quadrupled the number of releases from jail, while another reported that administrative releases increased from 15% to 70%.
- In one state, the Supreme Court expanded delegated release authority to include all Class D felonies (low-level, nonviolent, nonsexual felonies), all civil cases, contempt charges, failure to pay child support, drug court violations, and anything related to restitution or fines.
- One jurisdiction's prosecutor decided to discontinue prosecution for misdemeanor possession of drugs. In this same jurisdiction, pretrial services worked with the prosecutor to generate release agreements

*Cite and release authority was expanded considerably in most localities.*

*“Tough conversations will need to happen on how the jail population was reduced during a pandemic but not prior to it.”*

for approximately 40 people who were already in jail on minor possession charges.

- Another locality noted an emergency order from the felony court identifying charges for which people could be immediately released on unsecured bond.
- As time has progressed, some jurisdictions have begun to scale back or withdraw this expanded use of delegated release.

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### **Jail populations were reduced quickly, which had implications for pretrial services agencies and service providers.**

- One participant noted that their locality quickly identified people in jail for judicial consideration for release (e.g., people with medical concerns, those 65 years of age and older). In another locality, people detained pretrial were reviewed to determine if a financial condition of release was the reason for continued detainment. In still another, people with a bench warrant for failure to appear were released.
- In the early weeks of COVID-19, the jail population in one community decreased from 2,000 to 1,300, through collaboration on the part of pretrial, prosecutors, and defense attorneys. Partnerships with community organizations and resources were increased to provide supportive services to people who were released.
- Other jurisdictions reported jail population reductions of 25%, 36–40%, 43%, and nearly 50%.
- An advocacy group stepped forward to pay financial conditions to secure some people’s release in one community.
- Several communities received public feedback on the need to reduce the jail population. One participant noted that the recovery community was quite vocal about jail releases. Another reported that citizens participated in protests at the jail and courthouse to encourage jail releases.
- In some jurisdictions, the urgency to release people did not provide time to transition them to services in the community. Two localities noted that continuity of services should be a priority, particularly with people using opioids. Some communities experienced an increase in overdoses that could be related to a lack of services.
- Service providers were not necessarily prepared to receive people for services remotely, leaving a gap in service delivery.

*COVID-19 required rapid responses that allowed some communities to take advantage of system change efforts that were under consideration or already underway.*

- One participant noted that the massive push to release people required a similar response in personnel to process the release. The result was a backlog of people waiting to be released.

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## **Pretrial services look different during COVID-19.**

- COVID-19 required rapid responses that allowed some communities to take advantage of system change efforts that were under consideration or already underway, such as less restrictive release conditions for certain types of cases and administrative processes for stepping down pretrial monitoring.
- Changes in pre-booking screenings were made, including the introduction of remote pretrial interviews in some jurisdictions. One participant noted that this change proved to be a barrier when people were housed in a part of the jail that did not have access to remote technology.
- Suspension of court hearings during the pandemic resulted in a corresponding suspension of initial (or other) in-person pretrial contacts. In-person contacts were often replaced by virtual contacts, making use of multiple forms of technology.
- In most localities, office visits transitioned to remote supervision (phone, email, video technology). One locality suspended office reporting indefinitely.
- Referrals for service received increased attention.
- Drug testing was suspended or reduced in some localities.
- Electronic monitoring was increased in other localities.

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## **Staffing and operating models changed drastically in response to COVID-19 and quarantine requirements.**

- In all jurisdictions, pretrial functions continued.
- One state recognized pretrial staff as “essential personnel.”
- Many pretrial services staff were able to work from home. This was particularly efficient when technology resources (e.g., computers, secure access, cell phones) were already available.
- One jurisdiction moved 280 employees to remote work and was up and operating again within 24 hours. In another, a plan was developed to move staff home to work remotely in just one weekend, including providing all necessary automation.

*The need for pretrial personnel increased due to the significant increases in pretrial caseloads resulting from reduced jail populations and increased court process delays.*

- The role of pretrial services was expanded significantly in one locality, from exclusively supervising people released on personal bond to also supervising people released on financial conditions. This change shifted responsibility for supervision services from probation to pretrial and was made possible through the allocation of over \$5 million in new resources to support 42 new pretrial positions, infrastructure expansion, and location monitoring technology.
- Remote operations has required solutions to obtaining system stakeholder and client signatures—which have historically been obtained in person—through electronic means.

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### **Intrastate collaboration facilitated the myriad changes made in response to COVID-19.**

- One state deployed remote staff so they provided services statewide, without regard to physical location or assigned jurisdiction, resulting in a more efficient use of limited resources.
- Another state held virtual forums that allowed local programs to share innovations and solutions to challenges such as growing caseloads and the associated increased demands for service.
- A third state created recurring roundtable forums for programs statewide. Discussions included how to complete investigations, drug testing, and contracting for services under the circumstances of the pandemic.

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### **Many lessons have been learned since the beginning of COVID-19.**

- Effective, collaborative partnerships among stakeholders facilitated rapid, strategic process and service changes.
- Under the circumstances of this crisis, technology access and mastery were critical components of jurisdictions' success. The stronger the technology infrastructure, the smoother the transition.
- Computer backup systems and virus detection software, secure access to criminal justice data systems, and integrated data proved to be necessary components of remotely conducted court hearings and pretrial monitoring activities.
- An increase in pretrial releases necessarily required a corresponding increase in staff to process and manage such releases, and in service providers to help people transition to the community.

*Effective, collaborative partnerships among stakeholders facilitated rapid, strategic process and service changes.*

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## **Jurisdictions' experiences have potential implications for the future of pretrial.**

- Many jurisdictions will explore ways to continue the expanded use of administrative release, even after the pandemic ends.
- Remote hearings will be considered as a long-term strategy, particularly in localities where the jail is far from the court.
- Telework will be explored as a permanent option for some positions.
- Careful scrutiny will be given to fees associated with pretrial release, which disproportionately impact people of limited means.
- Caution will be exercised to avoid overconditioning people as a part of detention reduction efforts.