



Snapshot of Pretrial Justice Reform: Arizona

Pretrial Justice Brief 3*

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Background and Initial Work

Following the Conference of Chief Justices' 2013 endorsement of the Conference of State Court Administrators' policy paper on pretrial release, Arizona's state court leadership began exploring issues related to pretrial justice reform during its 2013 Leadership Conference.¹ At the time, about half of Arizona's 15 counties provided some form of pretrial services. The counties that did provide services varied significantly in population size, resources available, whether a pretrial risk assessment was used, whether probation (part of the Judicial Branch in Arizona) or court administration was responsible for pretrial services, and the extent of pretrial supervision services available. As a result of the Leadership Conference and subsequent discussions with court leaders, Chief Justice Scott Bales included improving and expanding "the use of evidence-based practices to determine pre-trial release conditions for low-risk offenders" as part of the Supreme Court's 2014-2019 strategic agenda.²

Several important events to advance Arizona's pretrial reform efforts followed:

- In January 2014, the Supreme Court modified its Code of Judicial Administration to include a new section on evidence-based pretrial services.³ The new section provided requirements for establishing and operating pretrial services for all courts statewide.
- In February 2014, the Laura and John Arnold Foundation announced that four counties and one city in Arizona would be among the latest jurisdictions to pilot the Public Safety Assessment (PSA) pretrial risk assessment tool.⁴ This was a critical component for advancing pretrial services in Arizona because the PSA does not require an interview with each defendant, making risk assessment easier to adopt for courts (particularly limited jurisdiction courts) with few staff resources.⁵
- In June 2014, a team from Arizona, including the Administrative Director of the Courts, the Director of Adult Probation Services, Arizona's Project Manager of Pretrial Services, three Superior Court judges, a Superior Court chief probation officer, a Superior Court director of pretrial services, a Superior Court administrator, and a county attorney, attended the National Center for State Courts' Pretrial Justice Policy Forum in Washington, DC where they had an opportunity to hear from experts about various pretrial issues and develop an action plan to

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build on their pretrial justice reform efforts already underway.⁶

Recent Activities

Arizona continues to make progress on its pretrial reform goal of expanding pretrial services to the Superior Court in all 15 counties and eventually to all limited jurisdiction courts (including justice courts and city courts). Court leaders are working to create a “culture of release” based on the appropriate use of a validated risk assessment instrument and pretrial supervision, and consistent with constitutional provisions for detaining and releasing defendants. Examples of activities recently taken or underway in support of these goals follow.

- An informal Pretrial Advisory Committee, consisting of Policy Forum team members and other court and stakeholder group representatives, continues to promote the statewide use of a validated risk assessment tool for making pretrial release decisions. The Committee’s outreach efforts include presentations at several conferences and professional meetings of stakeholders. For example, sessions on pretrial issues at statewide judicial conferences and the annual court leadership conferences, often featuring national experts, are a regular occurrence. These meetings provide opportunities for dialogue among judges, prosecutors, and other stakeholders to build trust in using evidence-based pretrial practices.
- Based on the success of the five pilot sites, the Arizona Judicial Council approved the use of the PSA as a validated pretrial risk assessment tool for all courts.⁷
- The Arnold Foundation announced the statewide adoption of the PSA by Arizona in June of 2015, expanding the use of the tool

across all 15 counties.⁸ As part of the implementation of the PSA, Administrative Office of the Courts (AOC) staff work closely with the Arnold Foundation and representatives from each county to provide stakeholder training and education and monitor implementation. Each county has its own multi-stakeholder team guiding implementation.

- The AOC convened a statewide training event with faculty from Kentucky’s pretrial services program for pretrial staff in all 15 Arizona counties.⁹ The meeting discussed evidence-based supervision practices and the differences between pretrial supervision and post-conviction probation supervision.
- Because Arizona has no additional appropriation from the legislature to implement pretrial reform, AOC staff is working with each county to determine what services can be supported by realigning or repurposing existing funds and/or leveraging existing funds with grant funds and supplemental county funding.

Moving Forward

Arizona’s pretrial justice reforms have benefited from the active support of the Chief Justice and the Administrative Director of the Courts. They worked with state court leaders to determine a plan of action before embarking on reform. This planning provided an opportunity for a more thoughtful and deliberate approach to implementation—an approach that continues today. Education, training, opportunities to discuss concerns, and outreach to all stakeholders involved in pretrial issues have been and continue to be hallmarks of reform implementation in Arizona. It is an approach Arizona has used to implement other evidence-based practices in sentencing, probation, and juvenile justice.



Pretrial reform also benefited from an existing probation infrastructure that is part of the Judicial Branch. The existing infrastructure was particularly helpful in establishing pretrial services in counties that had no pretrial services at all. Adding a pretrial officer to an existing probation office was easier than creating an infrastructure (e.g., facility, computer equipment, management) for a new pretrial services office.

Moving forward, Arizona will focus on several short-term and long-term activities:

- With continued guidance and technical assistance from the Arnold Foundation, state court leaders anticipate that all Superior Courts will be using the PSA, including its automated scoring system, to assess pretrial risk by the end of 2015 or shortly thereafter.
- Plans are underway to formalize the Pretrial Advisory Committee as a standing subcommittee of the Supreme Court's Committee on Superior Court.¹⁰ This would be accomplished with an Administrative Order issued by the Chief Justice.
- Education of judges and stakeholders to explain evidence-based pretrial practices will continue. This is particularly critical for new judges and for judges from limited jurisdiction courts who primarily handle low-risk offenders who are charged with minor offenses. A more serious offense in a limited jurisdiction court would be considered less serious in a superior court. The limited jurisdiction judge sees a more restricted set of offenses and thus may define "serious" differently than the superior court judge.
- Arizona is very interested in collecting data to evaluate its pretrial reforms. However, this is a more long-term goal as resources are limited and the current focus is on implementation. Data collected in collaboration with the Arnold Foundation offers a starting point for more sophisticated statewide data monitoring and evaluation efforts, if funding and staff resources become available in the future. In addition, some individual counties may collect their own information to determine, for example, if the reforms are having any effect on the size of jail populations.

Endnotes

¹ See Conference of Chief Justices. (2013). *Resolution 3: Endorsing the Conference of State Court Administrators Policy Paper on Evidence-Based Pretrial Release*. Williamsburg, VA: National Center for State Courts (available <http://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/01302013-pretrial-release-Endorsing-COSCA-Paper-EvidenceBased-Pretrial-Release.ashx>). For the policy paper, see Conference of State Court Administrators. (2012). *2012-2013 Policy Paper: Evidence-Based Pretrial Release*. Williamsburg, VA: National Center for State Courts (available <http://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/Evidence%20Based%20Pre->

[Trial%20Release%20-Final.ashx](http://www.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/01302013-pretrial-release-Endorsing-COSCA-Paper-EvidenceBased-Pretrial-Release.ashx)). The Arizona conference is reported on p. 11 in Pretrial Justice Institute. (2014). *Implementing the recommendations of the National Symposium on Pretrial Justice: 2013 progress report*. Washington, DC: Author. Information also provided by D. Byers & K. Waters, personal communication, August 24, 2015.

² See p. 4 in Arizona Supreme Court, & Administrative Office of the Courts. (2014). *Advancing justice together: Courts & communities 2014-2019*. Phoenix, AZ: Author (available <http://www.azcourts.gov/portals/0/AdvancingJusticeTogetherSA.pdf>).



³ See Arizona Supreme Court, Code of Judicial Administration, Part 5, Chapter 2, Section 5-201: Evidence Based Pretrial Services (available [https://www.azcourts.gov/Portals/0/admcode/pdfcurrentcode/5-201 New December 2013.pdf](https://www.azcourts.gov/Portals/0/admcode/pdfcurrentcode/5-201%20New%20December%202013.pdf)). Also see Supreme Court of the State of Arizona Administrative Order No. 2014-12 at <http://www.azcourts.gov/Portals/22/admorder/Orders14/2014-12.pdf>.

⁴ Laura and John Arnold Foundation. (2014, February). *Laura and John Arnold Foundation announces new pilot sites for court risk assessment tool*. New York: Author (available <http://www.arnoldfoundation.org/home-foundation-areas-focus-resources-grants-team-jobs-contact-us-laura-john-arnold-foundation-announces-new-pilot-sites-court-risk-assessme/>).

⁵ Because the instrument draws upon criminal justice data (e.g., criminal history, current charge, age of the defendant) already available to the court, it requires significantly less staffing time to administer than traditional risk assessment tools. In addition, Arizona's Justice Web Interface, a law enforcement and criminal justice portal developed and owned by Maricopa County, makes it fast and easy to obtain criminal justice history information from a wide range of sources. See Maricopa County's Integrated Criminal Justice Information System website at <https://www.maricopa.gov/icjis/JWI.aspx> for more information.

⁶ Information about the Pretrial Justice Policy Forum, including the workshop agenda, speaker presentations, and other resources, is available on the Pretrial Justice Center for Courts' website at <http://www.ncsc.org/Microsites/PJCC/Home/Workshop-Information.aspx>.

⁷ Supreme Court of the State of Arizona Administrative Order No. 2015-38 at <https://www.azcourts.gov/Portals/22/admorder/Orders15/2015-38.pdf>.

⁸ Laura and John Arnold Foundation. (2015, June). *More than 20 cities and states adopt risk assessment tool to help judges decide which defendants to detain prior to trial*. New York: Author (available <http://www.arnoldfoundation.org/more-than-20-cities-and-states-adopt-risk-assessment-tool-to-help-judges-decide-which-defendants-to-detain-prior-to-trial/>).

⁹ The costs for Kentucky faculty to travel to Arizona were covered by the National Center for State Courts' Pretrial Justice Center for Courts, which is supported by the Public Welfare Foundation. The approximately 90 participants also included representatives from New Jersey and one from San Francisco (K. Waters, personal communication, April 3, 2015).

¹⁰ The subcommittee would have a similar role and mission as the Committee on Probation. See <http://www.azcourts.gov/apsd/Committee-on-Probation-COP>.