

Vermont State Plan National Criminal Justice Reform Project

A. Executive Summary

The State of Vermont seeks to improve the state's pretrial justice system through state and local collaboration to increase public safety, improve access to substance use and mental health disorder treatment, strengthen data integration between law enforcement and public health, protect the constitutional and statutory rights of defendants, and protect the statutory rights of victims. As part of the National Criminal Justice Reform Project (NCJRP), Vermont established the Vermont Pretrial Advisory Committee ("Advisory Committee") to oversee this work.

Prior to NCJRP, Vermont implemented a new Pretrial Services program, housed in the Office of the Attorney General, with pretrial coordinators throughout the state. This program is in different stages of development across the state, and the availability and capacity of treatment and support services vary by county. The Advisory Committee's goal is to develop high-quality services that are informed by evidence-based principles and delivered in a consistent manner in all counties. The Committee is focused on creating standardized policies for pretrial screening, risk assessments, monitoring, as well as developing a data collection system that is outcome-based and provides data access to impacted agencies. These activities will support Vermont's goal of improving criminal justice and public health outcomes, and will build understanding and support for pretrial services among stakeholders and the broader community.

The Advisory Committee is comprised of representatives from the Department of Public Safety, the Attorney General's Office, the Judiciary, the Department of Corrections, Department of Mental Health, the Department of Health, the State's Attorney's Department, the Office of the Defender General, the Center for Crime Victim Services, law enforcement and community providers. The Advisory Committee designated a Core Team to help guide the work of the project. The core team is comprised of officials from the Department of Public Safety, the pretrial services director, the director of the State Statistical Analysis Center, and a state's attorney.

The Advisory Committee has met bi-monthly since the state's acceptance to the project in March, with the intent of developing a state plan for improving Vermont's pretrial justice system. Through this strategic planning process, the areas for improvement were identified as bail/afterhours bail, use of a risk assessment tool, pretrial monitoring/services, and data access and integration. The Advisory Committee has developed the following high-level recommendations for improving Vermont's Pretrial Justice system¹:

- **Address Inequities in Bail and Afterhours Bail;**
 - E.g., investigating the idea of using one judge to handle all the arraignments for incarcerated individuals using the video arraignment system.
- **Standardize and Increase Use of a Risk Assessment Tool to Assist Decision-Making;**
 - E.g., seek funding to conduct a retroactive study using the Arnold Foundation's Public Safety Assessment (PSA) tool to determine its potential value within Vermont's criminal justice system.

¹ A full list of recommendations is included in the Recommendations section of this plan.

- **Continue Support for Pretrial Monitoring and Services;**
 - E.g., support Pretrial Coordinators in following Risk/Need/Responsivity principles to inform their work with defendants, including avoiding over-supervising low-risk defendants.
- **Create Formal Infrastructure to Collect, Share, and Analyze Pretrial Data.**
 - E.g. conduct an assessment of existing memorandums of understanding and data use agreements between necessary state/local agencies, and determine additional agreements that need to be in place to ensure data-sharing.

B. Organizational Structure and Membership

The Vermont Pretrial Advisory Committee is comprised of an inter-branch, multi-agency group of stakeholders from across the criminal justice and health spectrum. This body convenes bi-monthly and oversees the NCJRP work in the state.

Vermont Pretrial Advisory Committee

1. Commissioner Tom Anderson, Commissioner, Department of Public Safety
2. Attorney General TJ Donovan, Vermont Attorney General
3. Judge Brian Grearson, Chief Superior Judge, Vermont Judiciary
4. Sheriff Roger Marcoux, Sheriff, Lamoille County
5. Chief Trevor Whipple, Chief of Police, City of South Burlington
6. Chris Herrick, Deputy Commissioner, Department of Public Safety
7. Dean Hamel, Director of Digital Services, ADS / DPS
8. Monica Weeber, Administrative Services Director, Department of Corrections
9. Mourning Fox, Deputy Commissioner, Department of Mental Health
10. Brandon Olson, MAT-PDOA Substance Abuse Program Manager, Department of Health
11. David Cahill, Windsor County State's Attorney
12. Marshall Pahl, Supervising Attorney, Office of the Defender General
13. Tari Scott, Chief of Trial Court Operations, Vermont Judiciary
14. Jeff Loewer, Chief Information Officer, Vermont Judiciary
15. Willa Farrell, Pretrial Services Director, Office of the Attorney General
16. David Scherr, Co-Chief, Community Justice Division, Office of the Attorney General
17. Becky Penberthy, Pretrial Services Operations Director, Lamoille Restorative Center
18. Karen Gennette, Executive Director, Crime Research Group (SAC)
19. Emmet Helrich, Coordinator, Chittenden County Rapid Intervention Community Court
20. Cara Cookson, Public Policy Director and Victim Assistance Program Coordinator, Vermont Center for Crime Victim Services

The Vermont Pretrial Core Team is comprised of officials from the Department of Public Safety, the pretrial services director, the director of the state statistical analysis center, and a state's attorney. The Core Team convenes bi-weekly via conference calls, and is charged with planning meetings, reaching out to stakeholders, and guiding the overall project.

Vermont Pretrial Core Group

1. Chris Herrick, Deputy Commissioner, Department of Public Safety (SAC)
2. Dean Hamel, Director of Digital Services, ADS / DPS
3. Willa Farrell, Pretrial Services Director, Office of the Attorney General
4. David Cahill, Windsor County States Attorney

5. Karen Gennette, Executive Director, Crime Research Group (SAC contractor)

Through the NCJRP strategic planning process, the areas for improvement were identified as bail/afterhours bail, use of a risk assessment tool, pretrial monitoring/services, and data access and integration. Subcommittees were formed to engage representatives not on the Advisory Committee and met to discuss challenges in the current system and opportunities for improvement.

Bail Subcommittee

1. Judge Brian Grearson, Chief Superior Judge, Vermont Judiciary
2. David Cahill, Windsor County State's Attorney
3. Marshall Pahl, Supervising Attorney, Office of the Defender General
4. Sheriff Roger Marcoux, Sheriff, Lamoille County
5. Chief Trevor Whipple, Chief of Police, City of South Burlington
6. Karen Gennette, Executive Director, Crime Research Group (SAC)
7. David Scherr, Co-Chief, Community Justice Division, Office of the Attorney General
8. Tari Scott, Chief of Trial Court Operations, Vermont Judiciary

Data Subcommittee

1. Dean Hamel, Director of Digital Services, ADS / DPS
2. Monica Weeber, Administrative Services Director, Department of Corrections
3. Karen Gennette, Executive Director, Crime Research Group (SAC)
4. Robin Joy, J.D., Ph.D., Crime Research Group (SAC)
5. Andrew Owen, SEARCH

Risk Assessment Tool Subcommittee

1. Becky Penberthy, Pretrial Services Operations Director, Lamoille Restorative Center
2. Jeffrey Wallin, Director of the Vermont Crime Information Center, Department of Public Safety
3. Tari Scott, Chief of Trial Court Operations, Vermont Judiciary
4. Cara Cookson, Public Policy Director and Victim Assistance Program Coordinator, Vermont Center for Crime Victim Services
5. Willa Farrell, Pretrial Services Director, Office of the Attorney General
6. Emmet Helrich, Coordinator, Chittenden County Rapid Intervention Community Court
7. Mourning Fox, Deputy Commissioner, Department of Mental Health
8. Brandon Olson, MAT-PDOA Substance Abuse Program Manager, Department of Health
9. Cullen Bullard, Director, Classification & Facility Designation, Department of Corrections

C. Background of the Problem

In 2007, the Chief Justice of the Vermont Supreme Court convened the Tri-Branch Task Force on Criminal Justice Collaboration. The original charge included assembling decision-makers from the three branches of government and developing a plan to support individuals with mental illness and co-occurring disorders at the front end of the criminal justice system. Subsequently, the Tri-Branch Task Force adopted the Sequential Intercept Model (SIM) to provide the

foundation and framework for the work in the criminal justice system. Through its fact-finding, the Task Force recognized the lack of available services statewide at the front end of the system after mapping all counties in Vermont for services to individuals in the criminal justice system or at risk of coming into the criminal justice system. For example, providers and state departments spent time and funding on re-entry but there was very little focus on keeping low-risk individuals out of the system.

With the change in the Administration in 2016, it appeared that the Tri-Branch Task Force was wrapping up its work. The staff person who coordinated the meetings had moved onto other employment, the new coordinator had other responsibilities, and the members were also adjusting to the new Administration. While the Legislature was in session, several months had gone by without a meeting. The NCJRP opportunity came at a critical time for Vermont as the NCJRP Advisory Committee took over what was previously the role of the Task Force with renewed energy.

At the beginning of this initiative, a survey was sent to stakeholders and the top three priorities of the 50 returned surveys were:

- 67% Access to substance abuse and mental health services;
- 42% Community supervision; and
- 39% Validated pretrial risk assessment.

In the same survey, the top three priorities for addressing critical challenges as they relate to implementing evidence-based practices (in no particular order) were:

- Establishing cross jurisdictional data access and information sharing policies;
- Establishing privacy policies for criminal justice data; and
- Improving access to data and information sharing practices.

The Advisory Committee used this information as a starting point for the discussion around criminal justice reform.

Bail and Pretrial Monitoring Challenges

2016 was also a critical year for Pretrial Services and bail reform. Pretrial Services had gone through a major change in the fall of 2016, moving from the Department of Corrections (DOC) to the Office of the Attorney General (AGO). Pretrial Services developed in Vermont following the 2014 Legislative session. The original legislation directed DOC to contract for services that included risk assessment, needs screening, court-ordered monitoring, and support of prosecutor pre-charge diversion.

Following the Administration's decision to transfer Pretrial Services administration to the AGO, the new Pretrial Services director, providers, and other stakeholders examined successes and challenges in implementing services during the past two years. Challenges identified included a) scarce resources being used to do risk assessment with individuals cited into court (i.e. not detained), b) obstacles to proper use of the ORAS Pretrial Risk Assessment tool, c) defense attorneys' concerns about use of risk assessment and needs screening results, and d) prosecutors' reluctance to divert high-need and high-risk individuals without filing charges.

The AGO proposed changes to address these challenges that led to legislation adopted in 2017; Act 61, effective July 1, 2017, limits the group of defendants to whom risk assessments are

offered to people who are lodged and unable to post bail within 24 hours, clarifies Court ordering of pretrial monitoring, and provides enhanced protections for defendants to encourage participation in Pretrial Services. The new law changed the name of pretrial monitors to pretrial coordinators to better reflect the role of staff and their work connecting people to services. Even though pretrial coordinators provide services throughout the state, the program is in differing stages of development across the state, in addition, the availability and capacity of treatment and support services vary by county.

Risk Assessment Challenges

Meanwhile, Vermont's Judiciary system was also facing pretrial challenges. For example, judges rarely consider the results of the risk assessment when setting bail. Judges typically already have the same information in the case file, and there are challenges to pretrial coordinators completing the Ohio Risk Assessment System: Pretrial Assessment Tool (ORAS-PAT) with fidelity to the tool's design. Coordinators may not have adequate time to interview defendants and verify information, and as contracted staff (vs. state or federal employees), they do not have access to NCIC, the national criminal record database.

A second challenge is that although in some jurisdictions' law enforcement agencies conduct lethality screenings, no one tool is used uniformly throughout the state. Additionally, prosecutors and judges do not have access to any risk assessments that assess for risk of violence. Most risk assessment tools use risk of non-appearance as a risk factor, however, stakeholders have observed that risk of flight is more significant. It will be important to find a way to distinguish between risk of non-appearance and risk of flight.

Data Challenges

Within the state, there is a history of following a traditional approach of relying on transaction-based information systems for data capture and reporting. This model relies on disparate silos of data and functionality, resulting in numerous problems ranging from the inability to access the right data, to lengthy delays in obtaining much needed data for analysis and decision making. Further, issues around data and information sharing require the mandate of the Governor to improve. For example, the data systems that are used in pretrial services and bail reform are segregated as individual silos of information in the Department of Corrections, the Courts, the Attorney General's Office and individual providers' offices. This perpetuates inefficiencies and compromises the effectiveness of criminal justice practitioners as they try to navigate these systems.

Obtaining relevant data in Vermont can also be challenging due to a lack of information-sharing or inability to share data. Not only are there challenges in identifying data but there are also nuances in data fields that make it difficult and in some cases harmful to draw conclusions, for example, in the case of failure to appear when actually the defendant was incarcerated.

At the same time, however, Vermont has had a long-standing focus on the value of data-driven systems. Vermont has developed the Vermont Justice Information Sharing System (VJISS) and created a technical infrastructure, based on the Global Reference Architecture, that enables best practices in statewide justice information sharing. The NCJRP helped to focus work on a strategic plan that will further the integration of data systems and the use of measurable, high-fidelity, evidence-based programs.

The long-term vision of this effort is for a data system that allows for sharing of data and the integration of disparate information technology systems between and among all partners across the criminal justice system in the state. Such a system would provide practitioners at all levels with a comprehensive set of query and analytics tools for improved decision making.

D. Strategic Planning Activities

In its application to NCJRP, the state of Vermont requested technical assistance to improve the state's pretrial justice system through state and local collaboration to increase public safety, improve access to substance use and mental health disorder treatment, strengthen data integration between law enforcement and public health, protect the constitutional and statutory rights of and defendants, and protect the statutory rights of victims. As part of the NCJRP, Vermont established the Vermont Pretrial Advisory Committee ("Advisory Committee") to oversee this work.

The Advisory Committee's goal is to develop high-quality services that are informed by risk/need/responsivity principles and delivered in a consistent manner in all counties. The state has focused on creating standardized policies for pretrial screening, risk assessments, and monitoring. Developing a data collection system that is outcome-based and provides data to relevant agencies has also been a focus of the work to further Vermont's goal and build understanding and support for improving pretrial services.

As mentioned above, the timing of the NCJRP to re-focus and re-energize the Tri-Branch Task Force was ideal. The Advisory Committee is comprised of representatives from the Department of Public Safety, the Attorney General's Office, the Judiciary, the Department of Corrections, Department of Mental Health, the Department of Health, a state's attorney's office, Office of the Defender General, the Center for Crime Victim Services, law enforcement and community providers. The Advisory Committee designated a Core Team to help guide the day-to-day work of the project. The Core Team is comprised of officials from the Department of Public Safety, the pretrial services director, the director of the state statistical analysis center, and a state's attorney.

The Advisory Committee has met bi-monthly since the state's acceptance in March. In the interim between in-state meetings, the Core Team held bi-weekly calls to receive status updates, discuss any issues, and plan upcoming meetings.

At the initial Advisory Committee meeting in April, the group discussed Vermont's pretrial history, and NCJRP staff presented on the importance of strategic planning, evaluation, and data/information sharing. In June, NCJRP staff provided a presentation on the essential elements of an effective pretrial services agency and evidence-based decision-making; walked through a logic model exercise; and developed a system map of key pretrial decision points. The group also identified specific issue areas:

1. Afterhours bail: As a part of the Justice Reinvestment Initiative in Vermont, the Council of State Governments previously conducted a review of detainees. This review identified the changes that would be most impactful to be those that would reduce the number of detainees lodged on weekends and afterhours (meaning, after normal business hours). Since that previous study, many of the challenges remain, requiring renewed attention. Given this

project, the Advisory Team decided to take a deeper look at the issues with setting bail afterhours, the amount of bail set, and the data on detainees that could inform improvement to bail in general and afterhours bail specifically.

2. Risk assessment: As noted above, the administration of the ORAS-PAT is incomplete and inconsistent and the results are rarely used. The Advisory Team has discussed the value of and challenges to adopting different risk assessment tools, as well as the importance of clarifying what specifically should be assessed – risk of flight, risk of non-appearance, and/or risk of harm to individuals and the broader community. To help inform this analysis, the Arnold Foundation provided a webinar on its assessment tool for members of the Core Team in August.
3. Pretrial monitoring: Pretrial coordinators have only recently started to follow a common protocol; information on this approach was provided to the Advisory Team at its September meeting. The Advisory Team agrees that it is too early to assess the effectiveness of pretrial monitoring; however, there is interest in learning about successful practices in other jurisdictions.
4. Data: Advisory Group members conducted a gap analysis exercise on each of these identified pretrial system issue areas. Members evaluated how the current system operates at the decision point, what data is/should be collected, what pretrial services should be offered, and what improvements should be made that align with evidence-based best practices. Significant data sharing issues remain that require assistance from the Governor's office in convening cabinet-level conversations around data and information sharing, as well as procuring additional memoranda of understanding, data use agreements, or the like. The collection and review of data is an issue that underscores the other more topical issues. Foundational to this work is the need for access to integrated data from criminal justice and human services. Access to integrated data is critical for the decision-making processes within this work and is also necessary for measuring the results that are being achieved.

New advances in technology enable capabilities from a more cohesive and distributed approach to integrating and accessing information for strategic business purposes. Vermont currently uses the SEARCH Open Justice Broker Consortium (OJBC) platform to support the Vermont Justice Information Sharing System (VJISS). The OJBC is a non-profit membership organization of government agencies and jurisdictions, dedicated to improving justice information sharing through the reuse of low-cost, standards-based integration software. Organizations that adopt the OJB platform and participate as Consortium Members can:

- Access powerful integrated justice technology at very low cost
- Develop and share technology and ideas across jurisdictional boundaries
- More easily build to national justice and public safety community standards, such as the Global Reference Architecture and National Information Exchange Model
- Participate in a community dedicated to improved information sharing and effective use of taxpayer-funded technology
- Access expertise and implementation assistance via OJBC Membership

Through Vermont's information sharing program, data from disparate systems is made available to users for query and analysis in criminal justice. The work completed thus far on VJISS has focused primarily on law enforcement data in the CAD/RMS systems in the state. This technology is scalable to all systems within Vermont criminal justice, allowing for the comprehensive collection and assessment of data across the criminal justice process. Through the NCJRP, the Advisory Committee recognized the importance of expanding the focus of the VJISS project to include data from other agencies beyond that of law enforcement, including the Courts and Corrections. While Vermont can leverage work completed by other members of the OJBC (e.g. extensive analytics work has been done in Colorado and Arizona that can be utilized) who have developed data analytics tools that would support the risk assessment and pretrial services components of the NCJRP project, there is a need to: engage stakeholders, conduct a thorough technology and systems assessment, develop a comprehensive strategic plan for the VJISS program, and establish a governance structure and staffing to oversee this work.

The long-term vision is for VJISS to be a single point of reference for the integration of all Criminal Justice Data in Vermont. The VJISS broker provides query capabilities, as well as system integration services, allowing for the use of a single, open source (free) standards-based data portal to facilitate state-wide justice information sharing. The infrastructure to capitalize on this architecture has been successfully built and implemented in Vermont. The next steps call for bringing the criminal justice community together to develop a strategy that looks beyond the NCJRP. Our state continues to uphold a national leadership position in this valuable work.

Commitment to Evaluation

A core component of Vermont's strategic planning process has been evaluation. DPS, Vermont's Statistical Analysis Center (SAC), contracts with Crime Research Group (CRG) to perform the work of the SAC. CRG has been involved from the beginning of this initiative. The Pretrial Services program has contracted with CRG since its inception. CRG has provided assistance with data collection and performance metrics as well as reviewing pretrial services activities in other states. CRG plays an essential role in the NCJRP initiative, participating on both the Core Team and Advisory Committee, and is committed to embedding evaluation as a part of this project. There is funding for technical assistance in the contract for SAC services between DPS and CRG, included is technical assistance for supporting this initiative. This represents the state's commitment to evaluation.

The Attorney General's Office is collecting data from Pretrial Services providers and has developed outcomes and performance measures using Results Based Accountability (the State's designated performance accountability framework). In consultation with primary stakeholders, a report was submitted to the Legislature on December 1, 2017.

E. Recommendations

This state plan, as presented to Governor Scott, is the result of a comprehensive strategic planning process. The Core Team will continue to work on improving pretrial services via this state plan throughout the state in 2018. The state plan will be the guiding document to provide the background on the problem, describe Pretrial Advisory Committee activities, and present recommendations and opportunities to improve the Vermont pretrial justice system.

The Advisory Committee, Core Team, and Work Groups have driven this process to date and will continue to do so. The Core Team, led by DPS, will continue to convene the Advisory Committee. Culture change is an iterative process that takes time, and requires ongoing reviews, updating the plan, reflection, and re-evaluation. Training on changes in the law and training on evidence-based practices are just the beginning. The real work is to adopt behavior changes and new ways of working together. There is an ongoing commitment on the part of stakeholders to pursue this culture change in Vermont.

The identified issue areas will be addressed and we will standardize policies, procedures, and documents to create a more consistent process statewide. Policy considerations outlined below may include potential legislative changes, executive orders, promulgation of administrative rules, or changes to department policy.

This Advisory Committee recommends the following changes and asks that the Governor supports these efforts to:

1.) Address Inequities in Bail and Afterhours Bail

The Afterhours Bail Committee has convened and posed the following recommendations:

- That the State's Attorney be consulted by officers prior to the bail call to the clerk or judge. The on-call system for the (D)SAs should be adequately funded.
- Explore the centralization of after-hours bail decisions and consider that these decisions are best made by a judicial officer, though not necessarily a Superior Court judge. Such change may require a statutory expansion of authority of a Judicial Master.
- Review the need for potential changes to law or rules with respect to inserting the (Deputy) State's Attorney into the afterhours bail call process and with respect to centralization of the afterhours judicial role.
- A representative sample of overnight detainees should be studied by a qualified professional to determine the reason why each detainee was held. The professional conducting the study should be asking both clerks and police officers for their reasoning.
- Investigate the idea of using one judge to handle all the arraignments for incarcerated individuals using the video arraignment system.
- Sustain momentum in streamlining bail decision-making involving after-hours bail.

In considering whether or not a non-interview-based screening tool should be used before the officer makes a bail call, the subcommittee determined that it's not feasible for a screening tool to be used after hours at this time. Whether such a tool should be used the next business day is outside the scope of this subcommittee. An exception to this is that some law enforcement officers are using a lethality screening tool which is an interview-based screening tool.

One result of the strategic planning process was the identification and resolution regarding a consistency issues concerning bail decision decision-making involving after-hours bail. During the discussions on afterhours bail, the Chief Superior Judge changed the process so that when law enforcement officers are requesting bail, they call a judge afterhours and not a clerk. Clerks are still available for setting conditions of release.

2.) Standardize and Increase Use of a Risk Assessment Tool to Assist Decision-Making

The risk assessment workgroup met in October and November to discuss risk assessment within the context of the current system. Members of the workgroup represent Pretrial Services and the Attorney General's Office, Chittenden County's RICC program, the Center for Crime Victim Services, the Department of Mental Health, the Department of Health (Alcohol and Drug Abuse Programs), the Department of Public Safety (VCIC) and the Judiciary. A representative from the Department of Corrections joined the group for its second meeting.

The group discussed what risks should be assessed (flight, non-appearance, harm to specific individual, harm to the broader community), criteria for selection of risk assessment tools, and reviewed information about the Arnold Foundation's Public Safety Assessment (PSA) tool. The group noted that recommendations from the Bail Committee would impact this group's work. The risk assessment workgroup agreed that a thoughtful process should inform any recommendations for new tools or practices.

There is strong interest in the Arnold Foundation's PSA based on the research used to develop the tool, its use in other jurisdictions, and information provided by a representative of the Foundation during the workgroup's November meeting.

Based on the totality of these discussions, the Advisory Committee recommends the following changes to our state's current use and practice of risk assessment:

- Follow a thoughtful process to inform any recommendations for new risk assessment tools or practices.
- That the state seek funding to conduct a retroactive study using the Arnold Foundation's Public Safety Assessment (PSA) tool to determine its potential value within Vermont's criminal justice system.
- Examine how to separate out 'risk of flight' versus 'risk of non-appearance'.
- Examine how to assess risk of victim or community safety at different points in the justice system.

Members also seek to learn more about DOC processing of individuals when they are lodged and current use of domestic violence/lethality risk assessment tools by some law enforcement departments. Other topics for future discussion include how a risk assessment tool could tease out 'risk of flight' versus 'risk of non-appearance' and how to assess risk of victim or community safety.

3.) Continue Support for Pretrial Monitoring and Services

A pretrial monitoring work group was not convened because program changes following Act 61 have only recently been adopted. Information on current pretrial monitoring was shared with the Advisory Committee. Three members of the Committee are directly involved with pretrial monitoring and will continue to keep the Committee informed.

The Advisory Committee recommends that the AGO and providers:

- Continue to shift the role from pretrial monitor to pretrial coordinator.
- Support Pretrial Coordinators in following Risk/Need/Responsivity principles to inform their work with defendants, including avoiding over-supervising low-risk defendants.
- Gather information from other jurisdictions about best and promising practices.
- Examine outcome data to inform program enhancements.

4.) Create Formal Infrastructure to Collect, Share, and Analyze Pretrial Data

The Data Work Group reviewed the available data in the disparate systems in Vermont to gain an understanding of what exists, what is available, and what is accessible. The work group has talked with the DOC about a report the department is currently undertaking for the Joint Justice Oversight Committee on the number of detainees who spend fewer than seven days incarcerated. CRG extracted 2016 bail data from the Court's case management system that includes bail for felonies and misdemeanors and amounts for specific crimes; however, CRG and others question the quality of this data. The Judiciary is also reviewing the data they have on afterhours bail.

There is a need for a consistent process to capture, collect, and evaluate pretrial data. Without this data there is an inability to implement quality programs as well as an inability to evaluate pretrial program performance in Vermont.

The first step is to review the data that Pretrial Services has been collecting and do a review of the outcomes of the program as it has been operating. Once this is completed the Data Subcommittee will consider the following:

- Conduct an assessment of existing memorandums of understanding and data use agreements between necessary state/local agencies, and determine additional agreements that need to be in place to ensure data-sharing.
- Inventory the data that is available in Vermont, identify any additional data that's needed and identify the sources of the data.

- Explore the public DOC data on Vermont.data.gov and determine if it meets the committee's needs regarding detainee data.
- Develop access to local detainee and pretrial data.
- Create access to state and local pretrial performance data, including detainee population, appearance rate, public safety rate, risk level and release data.
- Access technical knowledge and additional technology resources from SEARCH and other OJBC members.
- Develop a comprehensive set of query and analytics tools for improved decision making.
- Continue to develop extensive analytics building on the work that has been done in Colorado and Arizona that can be utilized to support the work being done in Vermont.
- Explore the use of a comprehensive integrated criminal justice data tracking system.
- Hold the long-term vision for VJISS to be a single point of reference for the integration of all Criminal Justice Data in Vermont. The VJISS broker provides query capabilities, as well as system integration services, allowing for the use of a single, open source (free) standards-based data portal to facilitate state-wide justice information sharing.
- Use data to describe and identify the characteristics of detained individuals, describe and identify the characteristics of those we want to be detained, and describe the characteristics of those we do not want detained.
- Design an evaluation plan that accurately gauges pretrial services' effectiveness in meeting agency and statewide justice system goals.
- Review the following four data points for future consideration:
 1. Afterhours Bail
 - Jail population snapshot on a Friday, Sunday, and Monday
 2. Length of Detention
 - Who is being detained for 7 days or less
 - How many have substance use disorders or have mental health issues
 3. Better understanding of the inconsistencies between counties
 - Pull court/docket information and see the difference in the counties
 - Identify misdemeanor offenses when bail is not proposed except in exceptional circumstances (and law enforcement is required to give a citation)
 4. Risk Assessment
 - Determine whether Vermont has a problem with detaining low-risk individuals

- Retrospective study to look at what risk scores were compared to who was released Use data to describe and identify the characteristics of detained individuals, describe and identify the characteristics of those we want to be detained, and describe the characteristics of those we do not want detained.
- Explore the use of a comprehensive integrated criminal justice data tracking system.

Another recommendation that the Advisory Committee will pursue is obtaining the gap analysis of services from the AHS Secretary's Office (in process) to gain an understanding of the availability of services, or lack thereof, and inform our commitment to geographic justice. The work group will also consider establishing a VJISS governance structure to develop a thorough technology assessment and develop an overall VJISS plan.

The Data Subcommittee will continue to assist with developing increased capacity for collection and analysis of Vermont pretrial data, and to evaluate the pretrial reform efforts in Vermont. This subcommittee will assist in the development of a system for long-term data collection and integration.

In order to accomplish the above, one of the primary recommendations is that Vermont receive training and technical assistance to establish a VJISS governance structure, conduct a thorough technology assessment, develop an overall VJISS plan, and develop an action plan to complete this work.

F. Conclusion

Vermont is committed to Pretrial Services and to continue this collaborative group of stakeholders to employ evidence-based decision-making to ensure a high functioning pretrial system and that Vermont law and its pretrial justice system are aligned with evidence-based best practices. The Core Team will continue to meet and convene the Advisory Committee to address the issues outlined in this plan. The Work Groups will meet and address the recommendations.

The Core Team and Advisory Committee are committed to this work and would like continued technical assistance from the NCJRP. The guidance has been invaluable, helped the teams to stay on track, and is moving us quickly to action. After this plan is presented to Governor Scott, activities in 2018 will include ongoing work to solidify and implement the recommendations of the Work Groups. The Core Team will participate on bi-weekly calls, the Advisory Committee will participate in quarterly meetings and the Work Groups will meet monthly.

There may be budgetary items in the recommendation for which funding is needed. The Advisory Committee is not in the position to determine what those items are at this time.

G. Appendices - Please see the attached:

- a. Timeline of Activities
- b. Gap Analysis Worksheets with Decision Points Chart
- c. Logic Model

Appendix a: Timeline of Activities

March

- Selected as NCJRP site
- 28th: Initial Team call with SAA and CJP

April

- 3rd: In-state Pretrial Advisory Committee Meeting
- Developed VT Memorandum of Understanding and Workplan

May

- 11th: Pretrial Core Team Call
- 25th: Pretrial Core Team Call

June

- 8th: Pretrial Core Team Call
- 8th: Call with VT Pretrial Services
- 22nd: Pretrial Core Team Call
- 26th: Call with SAA/CJP re project
- 28th: In-state Core Team Meeting
- 29th: In-state Pretrial Advisory Committee Meeting
- Pretrial Advisory Committee conducts system mapping of pretrial decision points
- Pretrial Advisory Committee designates key issue areas (afterhours bail; risk assessment; pretrial monitoring)

July

- 6th: Pretrial Core Team Call
- 19th: Pretrial Core Team Call

August

- 7th: Pretrial Core Team Call

- 14th: Pretrial Core Team Call
- 15th: Webinar on Arnold Foundation Public Safety Assessment Tool
- 25th: Pretrial Core Team Call

September

- 7th: In-state Pretrial Advisory Committee Meeting
- 8th: In-state Core Team Meeting
- Pretrial Advisory Committee conducts gap analysis
- Pretrial Advisory Committee develops logic model
- Pretrial Advisory Committee begins to draft state plan
- 12th and 22nd: Data Subcommittee meets to develop recommendations
- 27th: Afterhours Bail Subcommittee meets to develop recommendations
- 28th: Pretrial Core Team Call

October

- Pretrial Advisory Committee submits Draft State Plan
- 11th: Pretrial Core Team Call
- 26th: In-state Core Team Meeting
- 26th: In-state Pretrial Advisory Committee Meeting
- Pretrial Core Team solicits feedback from Pretrial Advisory Committee Meeting

November

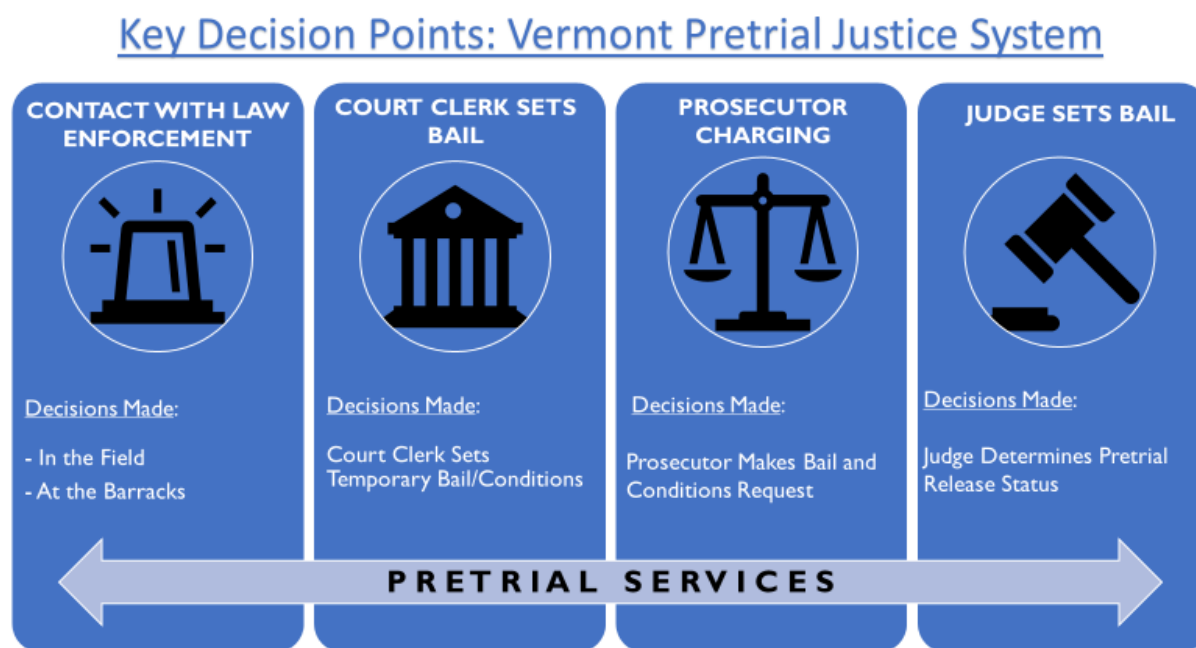
- 15th: Members of the Vermont Pretrial Core Team attend NCJRP All-State Convening
- 17th: Pretrial Core Team Call
- Core Team continues to solicit stakeholder feedback and update draft state plan and logic model

December

- 1st: Pretrial Core Team Call
- Core Team continues to solicit stakeholder feedback and update draft state plan and logic model
- 15th: In-state Pretrial Advisory Committee Meeting
- 15th: In-state Core Team Meeting

Appendix b: Gap Analysis

The Pretrial Advisory Committee has identified four key decision points in the Vermont Pretrial Justice System:



The following topics were identified by the Vermont Pretrial Advisory Committee as issue areas for further analysis:

1. Afterhours Bail
2. Risk Assessment
3. Pretrial Monitoring

Bail/Afterhours Bail: Opportunities for Improvement

- Further analysis is needed to determine how the discrepancies between how “risk of flight” and “risk of non-appearance” are applied in assessing risk and setting bail

- Further discussion needs to be had regarding how dangerousness/public safety is accounted for in pretrial risk decisions. Under current law, unless it is a life offense, bail decisions should be made to ensure someone appears in court. If someone is dangerous, the judge should use conditions of release. If no conditions of release are available, then the person should be held without bail.
- Law enforcement and court clerks should be provided continued education and training on pretrial statutory requirements to ensure appropriate application of the law.
- Further discussion is needed to determine how law enforcement should be making decisions at first contact, especially during afterhours bail decisions (Should they continue to contact the court clerk? Should they instead call the prosecutor?)
- Vermont should consider a court reminder system to alert defendants of upcoming court dates. Pretrial coordinators should also continue to be utilized.
- Vermont should continue to explore money bail alternatives.

Data: Opportunities for Improvement

- The Pretrial Advisory Committee will coordinate with the Department of Corrections as they collect data for the Joint Justice Legislative Oversight Committee, as these data sets can help inform pretrial analysis.
- Data points for future consideration:
 - Afterhours Bail:
 - Jail population snapshot on a Friday, Sunday, and Monday
 - Length of Detention:
 - Who is being detained for 7 days or less
 - How many have substance use disorders or have mental health issues
 - Better understanding the inconsistencies between counties
 - Pull court/docket information and review differences in counties
 - Identify misdemeanor offenses when bail is not proposed except in exception circumstances (and LE is required to give a citation)
 - Risk Assessment
 - Determine whether VT has a problem with detaining low risk individuals
 - Retrospective study to look at risk scores and release
- Use data to better inform conversations for detainees
- Explore the use of a comprehensive integrated jail data tracking system.

Risk Assessment: Opportunities for Improvement

- There are challenges to the pretrial risk assessment tool that is currently being used. Vermont needs to assess in what capacity it wants to utilize an evidence-based risk assessment tool and what would be most beneficial to those that are receiving the tool information.
- Once that is determined, can then consider what tool to use, how the tool should be administered, what data points to consider, who should be administering, etc.
 - If tool continues to be administered how it currently is, need to address barriers in access to background criminal history checks.
- Need to consider a tool for special victim populations, such as domestic violence victims.

Pretrial Monitoring/Services: Opportunities for Improvement

- Continue to shift role from pretrial monitor to pretrial coordinator.
- Coordinate with the Attorney General's office to develop metrics to track/evaluate impacts from the changes in legislation.
- Pretrial Coordinators should use level of risk to inform contact with defendant, and avoid over-supervising low-risk defendants.

Appendix c: Logic Model

