



Virginia Pretrial Services Stakeholder Group

Preliminary Needs Assessment Findings

March 26, 2018

Overview



- Purpose of Needs Assessment
- Methodology and Response Rates
- Positive Feedback
- Overall Concerns
- Defining and Measuring Data Outcomes
- Discussion

Purpose of Needs Assessment



- Purpose:

1. Provide a mechanism where stakeholders have an opportunity to provide feedback regarding pretrial services in a confidential manner.

2. Identify:

- Which needs are being met;
- What is working well;
- Which needs are not being met; and,
- Areas requiring improvement.

Needs Assessment Methodology



- Surveys were disseminated to stakeholders between February 22 - March 1, 2018.
 - Final deadline was extended to March 9, 2018.
- Surveys were confidential.
 - Exception: Judges and magistrates were anonymous.

Needs Assessment Response Rates



- An excellent response rate was received from nearly all stakeholders, including:
 - Pretrial Services Agency Directors, Managers, and Officers;
 - Judges and Magistrates;
 - Commonwealth’s Attorneys;
 - Public Defenders; and,
 - Jail Administrators.
- The response rate from court-appointed counsel and city/county administrators was lower but valuable feedback was still obtained.

Needs Assessment Response Rates



2018 Pretrial Services Needs Assessment

Stakeholder	TOTAL	Number Responded	% Response Rate
Pretrial Services Agency Directors	33	33	100%
Pretrial Services Agency Officers/Managers	~207	147	71%
Judges	393	235	60%
<i>Circuit Court Judges</i>	159	94	59%
<i>General District Court Judges</i>	117	76	65%
<i>JDR District Court Judges</i>	117	65	56%
Magistrates	413	226	55%
Commonwealth's Attorneys	120	94	78%
Public Defenders	25	24	96%
Court-Appointed Counsel	~1,608	372	23%
Local and Regional Jail Administrators	67	56	84%
City and County Administrators	138	30	22%

Positive Feedback



- There was a large amount of positive feedback given relating to the:
 - Awareness and understanding of pretrial services;
 - Value of pretrial services and supervision;
 - Good working relationships among stakeholders;
and,
 - Adequacy of training.

Positive Feedback



- The large majority of responding stakeholders “agree to strongly agree” that:
 - They understand the role and purpose of pretrial services.
 - Pretrial services provides a valuable service to their court system or their locality.
 - Pretrial services is a necessary component of the criminal justice system.

Positive Feedback



- With few exceptions, stakeholders “agree to strongly agree” that they have a good working relationship with their pretrial services agency or agencies.
- Most judges, magistrates, prosecutors, public defenders, and court-appointed attorneys “agree to strongly agree” that they trust pretrial services agencies to monitor bail conditions.

Positive Feedback



- Many of the stakeholders “agree to strongly agree” that pretrial supervision is a valuable tool to:
 - Mitigate failure to appear;
 - Monitor other bail conditions; and,
 - Assure public safety.
- Overall, stakeholders emphasized the valuable role of pretrial services in monitoring defendants.

Positive Feedback



- Most pretrial services agency directors reported “very good to excellent” working relationships with all stakeholders, including:
 - Judges, clerk’s offices, magistrates, prosecutors, public defenders, court-appointed counsel, city/county administrators, jail administrators and personnel, state/local probation, and DCJS.
- 58% (19 of 33) of directors reported a “good, very good, or excellent” working relationship with bail bondsmen.

Positive Feedback



- Most pretrial services agency officers/managers reported *at least* a “good” working relationships with all stakeholders.
- All pretrial services agency directors and most pretrial officers/managers “agree to strongly agree” that judges provide clear instruction on how their agency is expected to serve the court.

Positive Feedback



- Most judges, prosecutors, and public defenders “agree to strongly agree” that:
 - They are well-informed of any changes to pretrial policies and procedures that impact their courts.
 - They trust the information provided in the written pretrial investigation/risk assessment reports.
- They also indicated that these reports present information in a clear and straightforward manner “very often to always.”

Positive Feedback



- Most pretrial directors, officers, and managers “agree to strongly agree” that adequate technical assistance is provided by DCJS.
- Overall, pretrial directors, officers and managers feel they have received adequate training on the roles and duties of pretrial services and that the training is relevant to their day-to-day duties.

Positive Feedback



- The large majority of pretrial directors, officers, and managers “agree to strongly agree” that they have received adequate training, including:
 - CORE training for new pretrial officers;
 - “In-house” training for new and existing pretrial officers/managers; and,
 - VPRAI-R/Praxis training.

Positive Feedback



- Most judges, prosecutors, and public defenders “agree to strongly agree” that they:
 - Received adequate training on the role and duties of pretrial services.
 - Are satisfied with the frequency of training that has been provided.

Overall Concerns



- Concerns identified by stakeholders:
 - Training;
 - Notification of bail condition violations;
 - PTCC Case Management System;
 - VPRAI-R and Praxis:
 - Increased placements and FTAs.
 - Praxis’ “monitoring” supervision level.
 - Utility and credibility of the risk assessment tools.

Overall Concerns



- Concerns identified by stakeholders:
 - Resource needs;
 - Allocation of resources;
 - Utility of pretrial officers being present in court.
 - Role of pretrial services in making bond recommendations.
 - Magistrate bail decisions;
 - Funding formula for allocation of state funds; and,
 - Reduction in state funding.

Training Needs



- Although there was overall satisfaction with the adequacy and frequency of training provided, there were still some needs identified among stakeholders:
 - All expressed desire for more training opportunities.
 - Magistrates had very mixed levels of agreement regarding the adequacy and frequency of training opportunities provided to them.

Training Needs



- Over half of responding court-appointed counsel “disagree to strongly disagree” that they have received adequate training opportunities.
 - Likewise, over half “disagree to strongly disagree” that they are well-informed of any changes to pretrial services’ policies and procedures that affect their courts.
- Localities clearly need to be more well-informed and engaged in the activities of their respective pretrial services agency.

Notification of Violations



- All pretrial services directors reported that they promptly notify the court of bail condition violations “very often to always.”
 - 79% (26 of 33) of pretrial services directors indicated that judges promptly respond to notifications of pretrial violations “very often to always.”
- Most judges indicated that pretrial services promptly notifies their court of bail condition violations “very often to always.”

Notification of Violations



- However, only 61% of prosecutors, 31% of public defenders, and 22% of responding court-appointed counsel indicated that pretrial services promptly notifies them of bail condition violations “very often to always.”
 - Magistrates expressed frustration over lack of notification as well.

Notification of Violations



- Relevant stakeholders want to receive notifications in a *reliable* manner.
 - Prosecutor: *"I'm not confident that we always know about all violations."*
- More timely notification of violations from pretrial services for all relevant stakeholders is desired.
 - Prosecutor: *"Notifications of violations come very late if at all..."*
 - Prosecutor: *"Would prefer immediate notice of violations..."*
- Magistrates would greatly value feedback on violations.
 - Magistrate: *"Feedback on FTAs or pretrial violations would be nice..."*

Notification of Violations



- Defense counsel, especially court-appointed counsel, desire to be notified of violations and receive updates on clients so they can identify issues before they turn into violations.
 - Court-appointed counsel: *“Often we only learn of a pretrial violation after a show cause is issued. Notifying counsel would permit counsel to see if the issue can be cured prior to a court hearing.”*
- Defense counsel feedback suggests that pretrial services agencies may need to improve their ability to communicate with and make themselves available to defense counsel.

Notification of Violations



- Some stakeholders indicated that the notification process to court should be streamlined to allow for a quicker response to violations.
 - Pretrial officer: *“We need to be able to send violators to jail quicker than we do. A defendant [who] has a positive drug test and admits to using cocaine should go straight to jail, not 7-14 days later when the paperwork works its way through the system...”*
- On a related note, a few respondents indicated that giving pretrial services agencies the authority to petition for a warrant for noncompliance would be beneficial.

PTCC Case Management System



- PTCC is the case management system used by pretrial services agencies.
- Pretrial services agency directors, managers, and officers expressed a great deal of frustration with PTCC.
- DCJS is convening an independent workgroup to:
 - Explore options for improving or replacing the existing system.
 - Monitor the use to ensure that comprehensive definitions for data elements are utilized and that data is being entered consistently and uniformly.
 - Director: *“We need to clearly identify what is meaningful, what needs to be analyzed and will be beneficial to future data mining and focus on getting that data entry consistent and accurate. We need a new data system.”*

VPRAI-R and Praxis



- In September 2017, the Virginia Pretrial Risk Assessment Instrument – Revised (VPRAI-R) and a newly created supervision tool (Praxis) were implemented statewide.
 - VPRAI-R: a validated instrument with questions that are weighted to generate a risk level score.
 - Praxis: a recommendation tool that determines the supervision level based on the VPRAI-R risk score and the current charge.
- DCJS is convening an independent workgroup to examine the effectiveness and any unintended consequences in the application of these new tools.



- Feedback from pretrial services agency directors, managers, and officers indicate that the revised/new risk assessment tools:
 - Allow for more concise decision-making;
 - Are more objective and less arbitrary;
 - Provide more uniform and appropriate supervision; recommendations based on defendants' risk and needs;
 - Have received some positive feedback from the courts; and,
 - Have increased placements.



- A number of concerns with the risk assessment tools were identified by stakeholders:
 - Increased placements under Praxis;
 - Increased FTAs and other non-compliance;
 - Increased low-risk defendants on pretrial supervision;
and,
 - Lack of trust and credibility in the risk assessment tools.

VPRAI-R and Praxis



- Stakeholders were asked to indicate how often the VPRAI-R is an accurate predictor of a defendant's risk to the community and failure to appear:
 - Nearly all pretrial services agency directors indicated that the VPRAI-R is an accurate predictor for both outcomes "very often to always."
 - Pretrial managers and officers indicated the VPRAI-R is an accurate predictor for both outcomes *at least* "sometimes."
 - Judges, prosecutors, and public defenders indicated the VPRAI-R is an accurate predictor for both outcomes "sometimes to very often."
 - Court-appointed counsel indicated the VPRAI-R is an accurate predictor for both outcomes "rarely to sometimes."

VPRAI-R and Praxis



- Some stakeholders expressed significant concern regarding Praxis' "monitoring" supervision level.
 - Pretrial officer/manager: *"Some judges and prosecutors do not agree with the monitor only status of pretrial clients. They want clients to report in, not just get a notification to show up for court."*
 - Pretrial officer/manager: *"The implementation of Praxis as related to monitoring cases has not been as positive. Monitoring cases take just as much work as a regular case so staff do not see the value of monitoring cases."*
 - Pretrial officer/manager: *"Supervision levels that are deemed to be monitor are automatically increased to Level I if they have been court-ordered to submit to drug testing or have any other conditions that need direct supervision."*

VPRAI-R and Praxis



- Pretrial officer/manager: *“I do not feel that some of the levels are correct. I am finding that clients on monitoring are having more issues. We were told we cannot disagree with Praxis levels-must go with Praxis. I think that is very wrong-something is going to happen and it won’t be good. We should be able to use our judgement...If I feel a client warrants being seen more often, I want to be able to make that decision.”*



- Some stakeholders are concerned that the risk assessment tools do not appropriately account for factors such as:
 - Facts of the alleged crime:
 - Judge: *“Pretrial recommendations in bail hearings need a lot of work. They are formulaic and sometimes do not accurately convey the particular circumstances of a charge. For example, pretrial recommendations...do not take into account the extent of an injury in an alleged assault and whether or not a weapon of any kind was used...both of which should be considerations in any bail recommendation-especially if the recommendation is supervised release. I have no idea why...a recommendation would not consider factors like these.”*
 - High risk fact patterns often found in domestic violence, strangulation, repeat/high BAC DUI, and assault/battery cases.



- Drug addiction, especially opioid addictions:
 - Pretrial officer/manager: *“It takes no consideration of defendants on an individual level, most notably with regard to addiction...”*
 - Judge: *“Heroin is not properly weighted in risk assessment...should be given more serious risk factor for reoffending and serious risk of danger to the defendant.”*
- Risk to self.
- Severe mental illness.
- History of FTAs.

VPRAI-R and Praxis



- Some stakeholders asserted that standard recommendations should not contradict current statutes that mandate a presumption against bail, secured bond or no bond. Credibility is lost each time this happens.
 - Judge: *“Praxis often recommends pretrial release despite the fact that a presumption against bond applies to the case. There should be some consistency between Praxis and the Code.”*
 - Prosecutor: *“Pretrial services should be better versed in presumptions against bail, and their assessment tools should reflect those presumptions.”*
 - Prosecutor: *“Pretrial officers have informed me that they are not allowed to consider the facts when making a bail recommendation, for fear of injecting subjectivity into the process. This leads to a number of unfortunately recommendations in both directions: people who should be held receive a release recommendation, and many who should be released receive a hold recommendation. EBDM instruments are helpful, but these decisions cannot be made in a wholly objective fashion.”*

VPRAI-R and Praxis



- Pretrial services agencies expressed mixed feelings over the 85% benchmark concurrence rate policy for making bail status or supervision level recommendations to the court.
 - Director: *“Remove the 85% benchmark and mandate Praxis completion instead, determine when it is appropriate to go against the Praxis before mandating its use...”*
 - Director: *“The appearance that pretrial is now mandated to follow the Praxis instead of what is appropriate will lead to a lack of faith by the judiciary. The Praxis was to be a guide. Until the cases that are appropriate to go against the Praxis are determined, the benchmark and data acquired are useless and only serve to change agency behavior and use of the instrument, even if it means making inappropriate recommendations.”*



85% benchmark concurrence rate policy (cont.)

- Pretrial officer/manager: *"I feel it is too lenient at times for a lot of defendants who should be supervised more intensely and/or denied bail all together."*
- Director: *"The concern I have with this 85% benchmark is that it may be used to negatively affect agencies that have legitimate reasons for deviations. It would be simple to achieve 100% compliance by never deviating. Would this suggest that the agency with 100% compliance is doing a better job than an agency with 80% compliance? What about an agency with 75% compliance? I know we want consistency but simply using a percentage is unacceptable. We have to look at each case and determine if the deviation is appropriate."*

Resource Needs



- **Funding** is by far the largest resource need for pretrial services agencies. Specifically to:
 - Fill vacant positions;
 - Increase salaries to hire and retain more qualified staff;
 - Handle increased level of placements to pretrial services/reduce burnout from heavy caseloads; and,
 - Increase presence in all courts.

Resource Needs



- Only 36% (12 of 33) of directors “agree to strongly agree” that they have adequate staffing/resources to appear in courts.
- Only 45% (15 of 33) of directors “agree to strongly agree” that they have adequate staffing/resources to:
 - Complete pretrial investigations.
 - Supervise pretrial defendants.
- 56% (18 of 33) of directors “agree to strongly agree” that they have adequate staffing/resources to provide reports to the court.

Allocation of Resources



- While most stakeholders identified the *information provided* to the courts is beneficial, there is mixed levels of agreement among judges and prosecutors as to whether having a pretrial officer *present* at first appearance and/or bail hearings is helpful.
 - Prosecutor: *“With limited staffing to do both evaluations and then conduct the monitoring makes it impossible to fulfill their duties in a meaningful way.”*
 - Public defender: *“Usually the report is enough...the officer very seldom adds any comment in court.”*

Allocation of Resources



- Some stakeholders expressed that pretrial services should place its emphasis on supervision rather than assisting with bond determinations.
 - Magistrate: *“I think that magistrates do a great job of assessing risk for the initial bond determination. Pretrial is useful to monitor defendants after a magistrate or judge makes a determination, but I do not think that they should assist with or make bail determinations.”*
 - Magistrate: *“Pretrial is great for supervision of defendants and supervision should be their focus, not making the bail determinations.”*
 - Magistrate: *“Information from VPRAI is helpful, but honestly, we ask almost all the same questions on bail determination sheets.”*
 - Prosecutor: *“Pretrial services in my jurisdiction is limited to supervision of conditions of bond. [I] do not receive written reports prior to bond hearings. [I] do see value in use of pretrial supervision of the bond conditions set by the court.”*

Magistrate Bail Decisions



- Most stakeholders “agree to strongly agree” that they are aware of what information magistrates rely upon when determining bail.
- Most pretrial services directors “rarely to never” provide information to magistrates to assist with bail determinations.
- Most magistrates “disagree to strongly disagree” that pretrial officers routinely provide them with information to assist with bail determinations.

Magistrate Bail Decisions



- Most magistrates “disagree to strongly disagree” that they are well-informed of any changes to pretrial services’ policies and procedures that impact the court system.
- Only 24% (8 of 33) of pretrial services agencies indicated they provide guidance or feedback to magistrates regarding the defendants they place on supervision “very often to always.”

Magistrate Bail Decisions



- Stakeholders were asked the extent to which they support or oppose the idea of magistrates receiving a risk assessment report to assist with bail determinations.
- There was overwhelming support for this idea, but strong reservations relating to:
 - Logistics of cost, manpower, and staffing requirements;
 - Time constraints and delays in bail determinations or release of defendants; and,
 - Infringement upon independent magisterial decision-making.

Funding Formula for State Funds



Why a funding formula?

- 51% (17 of 33) of directors “disagree to strongly disagree” that allocation of state funding to existing pretrial services agencies has been fair and equitable, with an additional 27% (9 of 33) of directors being “uncertain.”
- 70% (23 of 33) of pretrial services agency directors “disagree to strongly disagree” that state funding for their agency is adequate.

Funding Formula for State Funds



- Pretrial services directors were asked to what extent they agree or disagree with a funding formula being used to determine the allocation of state funding to pretrial services agencies across Virginia:
 - 27% (9 of 33) strongly agree;
 - 39% (13 of 33) agree;
 - 6% (2 of 33) disagree; and,
 - 27% (9 of 33) are uncertain.

Funding Formula for State Funds



- Pretrial services agency directors believe the following factors are the most important in developing a funding formula:
 - 75% (24 of 33): Compliance with state grant conditions
 - 66% (21 of 33): Compliance with DCJS minimum standards
 - 56% (18 of 33): Number of pretrial investigations conducted
 - 56% (18 of 33): Supervision caseload
 - 53% (17 of 33): Jail population
- Importance of other factors, such as population and risk level of locality, crime rate of locality, number of courts served, jail capacity, and a judicial caseload study also received support.

Funding Formula for State Funds



- There were mixed levels of agreement among pretrial services agency directors, managers and officers as to whether current DCJS minimum standards are difficult to meet.
 - Some noted that the standards should be even higher so that all agencies have the same policies and procedures.
 - Others noted concern with the time and resources it takes to meet some of the new standards.
 - Pretrial officer: *“We have experienced vast increases in pretrial placements the last few years without any additional state or local funding, and therefore...continue to be understaffed; this makes meeting minimum standards very difficult.”*
- DCJS is convening an independent workgroup to examine this issue.

Reduction in State Funding



- Stakeholders were asked to discuss the specific impacts a reduction in state funding would have on their agency and/or locality. Potential impacts include:
 - Immediate reduction or discontinuation of pretrial services:
 - Fewer pretrial investigations, numbers of defendants supervised, and services provided.
 - Reduction in staff with an increase in pretrial officer:client ratio.
 - Reduction or removal of a viable alternative to incarceration:
 - Increased jail population, overcrowding, and strain on jail staff.
 - More low risk and indigent defendants remaining in jail awaiting trial.
 - Increased costs to localities for housing inmates awaiting trial:
 - Increased financial burden to locality and local tax base.
 - Potential funding of another jail expansion.
 - Financial burden of pretrial services absorbed by localities, with many already having limited available funding.

Other Needs



- Pretrial services serving multiple localities have additional challenges:
 - Distance, lack of staff, travel time and costs can make it difficult to appear in all courts within areas served.
- Transportation issues are a major concern for many defendants across the state.
 - Defendants may have difficulty making required visits, especially if living in rural areas and/or when agency is not physically in the locality where they live.
- Funding for defendant services, especially mental health and substance use/addiction services.

Other Needs



- Funding for electronic notification systems.
 - Pretrial services agency directors, managers, and officers all indicated that reminder notifications were the most effective way to reduce FTAs.
- Funding for expansion of pretrial services to rest of state.
- Some pretrial services agencies expressed a desire to effectively separate pretrial services from probation (i.e., statutory distinction).
- Funding for DCJS to complete audits of pretrial services agencies every 3 years.



Defining and Measuring Data Outcomes



“I believe that consistent data to support the need of this service is critical.”

-Jail Administrator

Defining and Measuring Data Outcomes



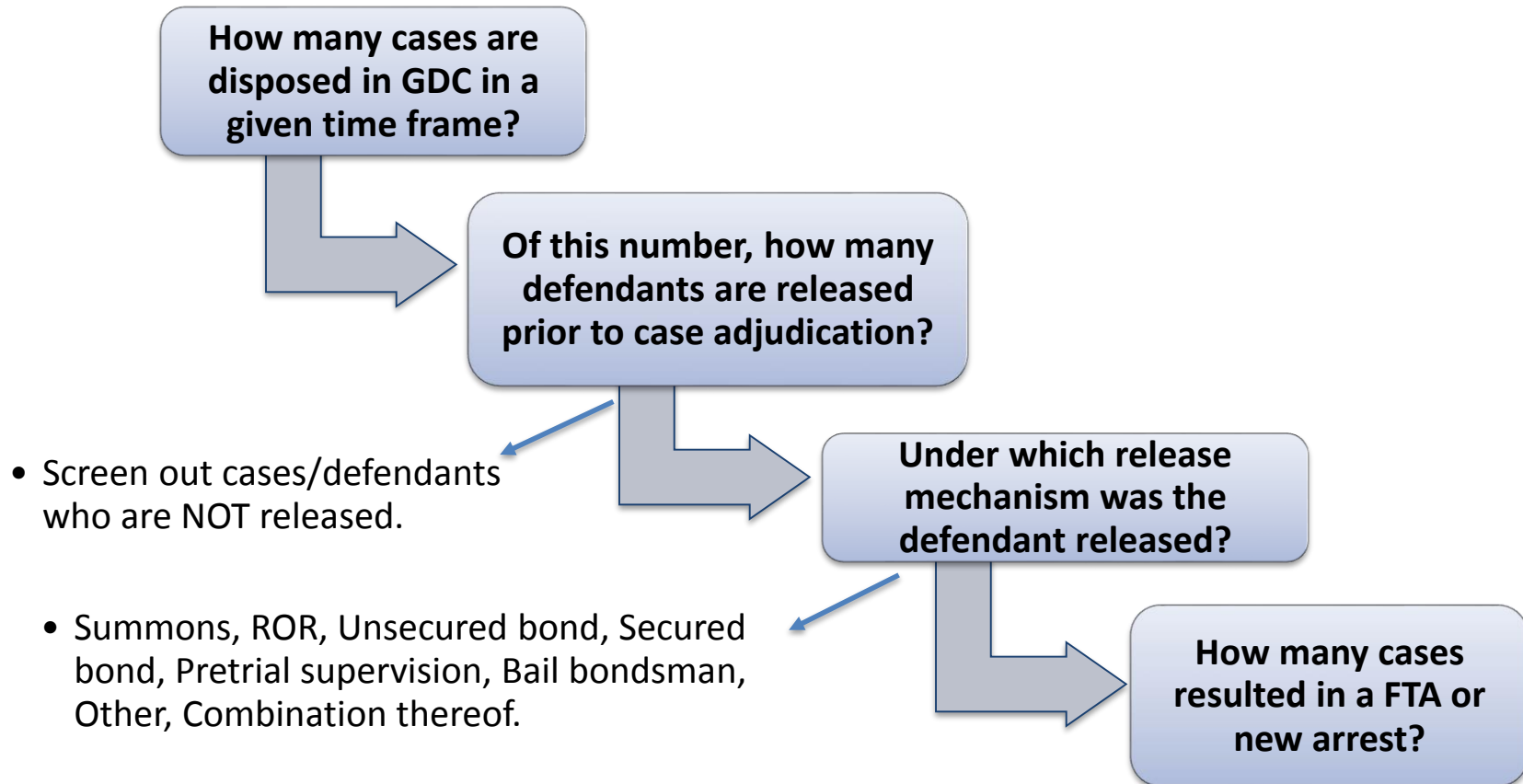
Comparison of Pretrial Outcomes by Release Mechanism

- General Research Questions:
 - Do FTA and new arrest rates vary across release mechanisms? If so, by how much?
 - What are the strongest predictors of FTA and new arrests across each release mechanism?
 - Will the effectiveness of a release mechanism vary depending on the type of defendant/offense?
 - Is there a statistically significant difference between those released with pretrial supervision and those without?



Defining and Measuring Data Outcomes

Potential Roadmap for Data Collection and Analysis



Defining and Measuring Data Outcomes



- Types of Release Mechanisms:

- Summons;
- ROR;
- ROR with pretrial supervision;
- Unsecured bond, no supervision
- Unsecured bond, pretrial supervision
- Secured bond, no supervision;
- Secured bond, pretrial supervision only;
- Secured bond, bail bondsmen only;
 - Surety vs. Property vs. Other
- Secured bond, bail bondsmen PLUS pretrial supervision; and,
- Other forms of supervision not carried out by pretrial services or bail bondsmen.

Defining and Measuring Data Outcomes



- Failure to Appear:

- Warrant for FTA under Virginia Code Section 19.2-128;
- Capias;
- Show cause;
- Contempt of court; or
- Continuance of case without issuing any process.

Defining and Measuring Data Outcomes



General Research Questions:

- How does the presence of a pretrial services agency impact jail populations?
 - There were 67 correctional facilities in May 2017.*
 - Of the 67 correctional facilities in May 2017:
 - 48 serve areas with pretrial services;
 - 16 serve areas without pretrial services; and,
 - 3 serve areas with and without pretrial services.
 - Most jails serve areas providing pretrial services.
 - The total pretrial population varied widely from jail-to-jail, ranging from 11%-50%.*

* Source: Compensation Board, LIDS- Average Monthly Population Reports.



Summary

- Overall, broad support exists amongst many stakeholders for the use of pretrial services.
- Crime Commission staff identified multiple concerns relating to the administration of pretrial programs during the course of their two-year study that need to be addressed.
- The *2018 Pretrial Services Needs Assessment* further reinforced many of these concerns, as well as identified additional needs and issues of stakeholders.



Discussion

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