

PRETRIAL RELEASE TASK FORCE
FINAL RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
January 11, 2019

FY19-PR #08. Encourage Best Practices for Pretrial Training and Data Collection [Policy]

Recommendation FY19-PR #08

To improve adult pretrial-related services throughout the state of Colorado through education and improved data collection, this recommendation proposes the following:

- Request the State Court Administrator’s Office (SCAO) to establish, identify, and develop a core curriculum around the best practices of pretrial and the pretrial process to disseminate to participating stakeholders;
- Encourage major pretrial stakeholders to participate in new hire and regular pretrial training via the SCAO curriculum. The major stakeholders recommended for inclusion are: Colorado District Attorneys’ Council (CDAC), SCAO, State Public Defender, Alternate Defense Council, Pretrial Services, and law enforcement;
- Recommend the SCAO have primary oversight over curriculum development and maintenance, dissemination, and follow-up of individual stakeholder training protocols;
- Recommend the SCAO implement evaluation protocols assessing the effectiveness of pretrial process through appropriate and data collection procedures.

Discussion

One of the potential critical points of the 2013 legislation on pretrial reform is the lack of or inconsistent training/education where high turnover occurs at all levels ranging from pretrial services staff to judges. There are many who cannot implement the original reforms properly or evolve with continuing reforms because they do not know enough about the complexities and importance of the bail process. It is consistently noted that “buy-in” is an important factor in building and sustaining best practices in bail and pretrial; however, maintaining the “buy-in” from key justice system members is just as crucial.¹ Past and future legislation around pretrial reform will remain inadequate without this important element of education. Although the importance of educating the public is a frequent topic of discussion,² on this topic, but the practitioners and major stakeholders often lack consistent and frequent education on best practices in pretrial. The proposed recommendation intends to help close the education gap around pretrial by streamlining and centralizing a core curriculum.

To properly establish best practices pretrial training, it is necessary to have a single entity who is responsible for establishing, developing, and maintaining a core curriculum. There are many resources and templates available to establish a basic “Pretrial 101” curriculum.³ It is suggested here that the SCAO serve as the primary training administrator. This comports with the functions of the SCAO, including, “to develop and implement standards and guidelines” for the entities of the Colorado judicial

¹ Pretrial Justice Institute. (2017). *Improving Pretrial Justice Using Existing Resources: A Case Study from St. Mary’s County, Maryland*. Rockville, MD: PJI. (See, university.pretrial.org/viewdocument/improving-pretrial-justice-using-ex)

² Pretrial Justice Institute. (2016). *The PJI Approach to Improving Pretrial Justice*. Rockville, MD: PJI. (see, university.pretrial.org/viewdocument/the-pji-approach-to-improving-pretr)

³ For the purpose of this recommendation, “Pretrial 101” will be used to generically refer to a succinct but comprehensive training curriculum that covers bail and pretrial processes and best practices, and would need to be created and/or in partnership from other resources (for example, PJI’s “Bail 101” program).

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branch.⁴ Once established and ready to be disseminated, participating stakeholders would benefit more directly from only making minor localized adjustments to the training while still maintaining the core learning objectives as established by the SCAO.

Upon development of the curriculum, this recommendation next proposes the state encourage the following bail-related stakeholders within the criminal justice system in support of the pretrial process to independently provide consistent and regular training on pretrial practices: 1) Pretrial Services; 2) CDAC; 3) SCAO; 4) State Public Defender; and 5) Law Enforcement.⁵ Including law enforcement as an additional stakeholder is critical to the success of pretrial reform as officers are often in a discretionary decision-making status regarding summons vs. arrest procedures which impacts bail decisions. Further, many counties currently utilize sheriff's deputies for bail risk assessment.

It is proposed here that the SCAO continue to serve as the primary branch of oversight over the pretrial training. It is noted that the SCAO would not administrate the training, but rather act as facilitator. Training would only be "mandated" at the individual stakeholder levels. Although the individual stakeholders are responsible for ensuring the training is being conducted appropriately, the SCAO would provide routine updates to the curriculum as well as facilitate stakeholder gatherings to ensure all engaged parties continue the conversations of best practices within bail. For example, the SCAO could facilitate an annual "pretrial conference". Ultimately the goal would be to encourage participation and engagement in pretrial training and education.

Finally, once a training regimen has been established, it is imperative that the effectiveness of the training and of the overall pretrial practice in Colorado be evaluated. It is recommended here that the SCAO is also the best entity to do this. Currently, there is a statutory and legislative requirement for pretrial services to submit an annual report (to the SCAO).⁶ However, it is suggested these reports may have little value in their current use. Data collection should be modified to more narrowly assess effectiveness of bail and pretrial practices around the learning objectives of the "Pretrial 101" curriculum developed by the SCAO.

Regarding a proposed time-line, this recommendation can be broken down into two parts. The first part is a time-line proposal for launching a training regimen. Specifically, the establishment of a training curriculum and initial achievement of training is proposed as follows:

- 1) A standardized "Pretrial 101" curriculum be established as a template for all stakeholders to utilize by June 1, 2019.
- 2) All current judges/magistrates receive "Pretrial 101" training by December 31, 2019.
- 3) "Pretrial 101" training be added to POST training by December 31, 2019.
- 4) Establish improved data collection processes by December 31, 2019.

⁴ From functions of the Colorado Judicial Branch, Office of the State Court Administrator listed at, courts.state.co.us/Administration/Index.cfm

⁵ It is noted that there may be some exceptions to those who should receive training. For example, not all judicial officers have a criminal docket and do not deal with bail. These exclusions would be determined within each of the individual elements.

⁶ See Colorado House Bill 2013-1236, Colorado Senate Bill 2017-234, and §16-4-106 (6), C.R.S.

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The second part proposes the state encourage the following minimum guidelines to achieve a sustainable training process in support of best practices in pretrial:

- 1) Each stakeholder may adjust or expand upon the “Pretrial 101” training template as established by the SCAO as is appropriate and/or relevant to their local mission, but they should aim to meet the minimum criteria established in the curriculum.⁷
- 2) Each participating stakeholder may also offer trainings on a more frequent basis, but should at least offer it for new hires and annually.
- 3) Each of the participating stakeholders shall offer “Pretrial 101” as part of the regular/probationary training for all new hires who are critical in the bail process.
 - a. All new hires should receive “Pretrial 101” training within 6 months of their hire date or as close thereto as possible.
 - b. Any new judicial appointments should receive “Pretrial 101” training within 6 months of their appointment or as close thereto as possible.
- 4) Refresher training on “Pretrial 101” will be encouraged on an annual basis.
 - a. The SCAO may implement a certification process to help ensure compliance.
 - b. If someone has received “new hire” training within 6 months of the annual training, they should not be required to receive that annual training.
 - c. The annual refresher training may be provided on a rotational basis.
 - d. The SCAO may facilitate an annual pretrial conference which could serve as refresher training.

⁷ An electronic or “webinar” training program shall be considered.