

Supreme Court of Nevada  
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET  
Director and  
State Court Administrator

JOHN MCCORMICK  
Assistant Court Administrator  
Judicial Programs and Services



RICHARD A. STEFANI  
Deputy Director  
Information Technology

VERISE V. CAMPBELL  
Deputy Director  
Foreclosure Mediation

**MEETING NOTICE AND AGENDA**  
**Committee to Study Evidence-Based Pretrial Release**  
**VIDEOCONFERENCE**

**Date and Time of Meeting:** Monday May 23, 2016 @ 2:00 p.m.

**Place of Meeting:**

Carson City	Las Vegas
Supreme Court Law Library Room 107 201 S. Carson Street Carson City, Nevada	Regional Justice Center Supreme Court Courtroom 200 Lewis Avenue Las Vegas, Nevada
Teleconference Access: 1-877-336-1829, passcode 2469586	

**AGENDA**

- I. Call to Order
  - a. Call of Roll
  - b. Approval of 2-12-16 Meeting Summary\* (**Tab 1**)
  - c. Opening Remarks
    - i. CCJ/COSCA Western Region Pretrial Justice Reform Summit Update
    - ii. Public Comment
- II. NPRA Tool Testing Results
  - a. Mr. James Austin, *JFA Institute* and Ms. Angela Jackson-Castain, *Department of Justice, OJP Diagnostic Center* (**Tab 2**)
  - b. Adoption of Validated NPRA Tool\* (**Tab 3**)
- III. Discussion of NPRA Tool Implementation Protocol
  - a. Ms. Lori Eville - *National Institute of Corrections* (**Tab 4**)
  - b. NPRA Implementation Manual Update - *Ms. Heather Condon* (**Tab 5**)
- IV. Subcommittee to Study Bail Schedules Status Update - *Judge Mason Simons* (**Tab 6**)
- V. National Task Force on Fines, Fees, and Bail Practices Discussion (**Tab 7**)
- VI. Other Items/Discussion
- VII. Next Meeting Date: TBD

## VIII. Public Comment

## IX. Adjournment

- Action items are noted by \* and typically include review, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair in order to accommodate persons appearing before the Commission and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited at the discretion of the Chair.
- The Commission is pleased to provide reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If assistance is required, please notify Commission staff by phone or by email no later than two working days prior to the meeting, as follows: Jamie Gradick, (775) 687-9808 - email: [jgradick@nvcourts.nv.gov](mailto:jgradick@nvcourts.nv.gov)
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030)
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.
- **Notice of this meeting was posted in the following locations:** Nevada Supreme Court website: [www.nevadajudiciary.us](http://www.nevadajudiciary.us); Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Regional Justice Center, 200 Lewis Avenue, 17<sup>th</sup> Floor.

# TAB 1

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**JUDICIAL COUNCIL OF THE STATE OF NEVADA**

*"To unite and promote Nevada's judiciary as an equal, independent and effective branch of government."*

**Committee to Study Evidence-Based Pretrial Release**

Summary Prepared Jamie Gradick

February 12, 2016

1:30p.m. – 4:00 p.m.

Videoconference (Carson City, Las Vegas)

**Members Present**

Justice James Hardesty, Chair  
Judge Heidi Almase  
Judge David Barker  
Judge Stephen Bishop  
Judge Joe Bonaventure  
Jeremy Bosler  
Heather Condon  
Kowan Connolly  
Judge Gene Drakulich  
Tad Fletcher  
Joey Orduna Hastings  
Judge Douglas Herndon  
Chris Hicks  
Judge Kevin Higgins  
Judge Cedric Kerns  
Phil Kohn  
Judge Victor Miller  
Judge Michael Montero  
Judge Scott Pearson  
Judge Melissa Saragosa

Judge Elliott Sattler  
Judge Mason Simons  
Dagny Stapleton  
Judge John Tatro  
Judge Ryan Toone  
Judge Natalie Tyrrell  
Anna Vasquez  
Jeff Wells  
Steven Wolfson (Chris Lalli-Proxy)  
Judge Bitia Yeager

**Guests**

Dr. James Austin  
Dana Hlavac  
Angela Jackson-Castain  
Kim Kampling  
Ryan Sullivan

**AOC Staff**

Jamie Gradick  
Robin Sweet

- I. Call to Order
  - Justice Hardesty called the meeting to order at 1:30 p.m.
- II. Call of Roll
  - Ms. Gradick called roll; a quorum was present.
- III. Approval of Prior Meeting Summary
  - The summary from the January 8, 2016 meeting was approved.

#### IV. Opening Remarks

- Justice Hardesty welcomed attendees and thanked them for their attendance.
- Justice Hardesty informed those in attendance that both Mr. Clayton and Mr. Krimel (bail bond representatives) have provided follow-up information in response to the questions they received during their respective presentations to the Committee. Justice Hardesty extended an invitation to both Mr. Clayton and Mr. Krimel to attend this meeting should they have any additional input to share.
- Justice Hardesty asked attendees for approval to appoint a subcommittee (consisting of both members and nonmembers) to study bail bond schedules throughout the state and offer suggestions/analysis on why discrepancies exist, how bail schedules are used, and what steps could be taken to address discrepancies/issues.
  - The motion was made and approved unanimously.
  - Justice Hardesty invited public participation on the subcommittee and informed attendees to send an email expressing their interest to Ms. Gradick within the week.
- Justice Hardesty informed those in attendance of the CCJ/COSCA Western Region Pretrial Justice Reforms Summit being held in New Mexico in May; the conference will be attended by Chief Judge Bonaventure, Mr. Jeff Wells, Ms. Heather Condon, Ms. Robin Sweet, Chief Justice Parraguirre, and himself.
  - Nevada has received praise for the progress it has made in this Committee
  - Those attending the conference will provide a brief recap to the Committee membership at the next meeting.

#### V. Public Comment

- There was no public comment in Las Vegas or in Carson City.

#### VI. Guest Speaker Presentations

- Justice Hardesty informed those in attendance that the Department of Justice, OJP Diagnostic Center has agreed to provide technical assistance to this Committee.
- Justice Hardesty introduced Dr. James Austin, JFA Institute, and Ms. Angela Jackson-Castain, OJP Diagnostic Center.
- Ms. Jackson-Castain provided a brief overview of the OJP Diagnostic Center.
  - *(See PowerPoint included in meeting materials)*
  - Currently working with Las Vegas Metro PD on inmate population management; LVMPD is seeking technical assistance to “improve inmate population management through the evaluation of the inmate classification system and the exploration of pretrial analysis framework, while leveraging existing reentry and social service programs to reduce recidivism.” Four recommendations come from this process, one of which being the implementation of a tested, validated evidence-based pretrial risk management system and assessment.
  - The Diagnostic Center applies a three-phased process – Diagnose, Implement and Assess – for providing assistance to communities. This approach enables the Diagnostic Center to identify the factors (organizational issues, legal mandates, fiscal resources, etc.) contributing to criminal justice challenges and align them to strategies and solutions that have demonstrated success in addressing similar challenges.

- During the “assess” phase, the Diagnostic Center works with the “community” to adopt data collection strategies to measure the effectiveness of program put into place - it’s important to understand the “nuances” of each community in order to accomplish this.
- Dr. Austin provided a brief overview of his background in this field and provided a presentation on the proposed Nevada-specific pretrial risk assessment tool and associated timeframe for implementation.
  - *(See PowerPoint included in meeting materials)*
  - This instrument is “customized” to the data available in this state and will be a “blend” of those tools this Committee has already been looking at but can also include elements not found in other tools (example: age, gender-specific FTA rates). Scales, risk levels, design will be based on Nevada’s population needs, data, resources, etc. These can be refined/adjusted to meet needs and produce most beneficial data set.
  - The proposal is to retroactively apply this tool to cases (in the pilot sites) dating back through 2014. This analysis will look at which items are accurate predictors and will also look at failure to appear and rate of rearrest while on pretrial status. This will be a large, random sample of 1,250 cases across the three pilot-site counties: suggestion is 500 in Clark, 500 in Washoe, 250 in White Pine. Other sites/counties are welcome to participate in the testing.
  - Dr. Austin emphasized that the tool (NPRA) is still very much in draft form and welcomed any input and suggestions from attendees. The data gathered from this testing will be analyzed and presented to the Committee at the next meeting.
  - Discussion was held regarding the distinction between prior “arrests” and “convictions.” Dr. Austin explained that he has been informed that Nevada has access to “arrest” data but not necessarily accurate data on prior “convictions.” Ideally, Nevada would need to “bring its data system up” to a point where it could accurately report prior conviction data before this element can be incorporated into the tool. Until then, “prior arrest” will have to be the element used to address prior criminal record.
    - Discussion was held regarding the ability of Washoe and Clark Counties to get accurate conviction data; Nevada has a problem with entering “good data” in this area. There is a problem in this state with “instability of reporting” of convictions.
    - Concern was expressed regarding consistency of how these elements are treated; every jurisdiction will need to define and enter the data the same way in order to validate the data.
  - Discussion was held regarding the inclusion of race information on the tool; this will not be a scoring item and is only included for testing racial bias for tool validation purposes and will provide protection from challenges to the tool based on gender/racial bias.
  - Dr. Austin explained that the testing process will test the tool in two ways: reliability and validity; 100 of the 1250 cases will be randomly selected and rescored (by a different individual) to see if the original scoring remains consistent.

- Discussion was held regarding whether the tool should address allegations in terms of severity. This is currently not incorporated into the tool as a “scoring item” because it wasn’t part of the Ohio or Kentucky tools that this tool is based on. Research shows that the more serious the charge, the lower the FTA rate; “Most serious charge” is included on the tool so it can be tested.
  - Similarly, “bail amount” is also included on the tool as a “non-scoring” item so that the correlation of bail amount to the other elements can also be tested.
  - Discussion was held regarding the use of SCOPE in Clark County versus NCIC or NCJIS in Washoe - there will be a need for compatibility in order to get adequate, accurate information statewide but this isn’t feasible at this time. Discussion was held regarding Washoe’s ability to use SCOPE or Justware (since it tracks FTA) but only the DA has access to Justware in Washoe, not the court; Justware (in Washoe) has only been in place 3-4 years.
  - Mr. Hicks pointed out that the databases Washoe uses do not contain complete information on convictions, only arrests, so the tool would need to be based on arrests rather than convictions for the tools to work in Washoe. A suggestion was made that the testing be done “both ways” - once with just arrests and again using convictions- to see if there’s a difference in results. Given the differences in databases/resources between Washoe and Clark, the tool will be tested on a county basis instead of statewide basis - use a convictions test in Clark and arrests in the other pilot site counties.
  - Dr. Austin pointed out that this testing can be applied to any other elements the Committee believes should be included - just let Ms. Jackson-Castain or himself know what other items to include.
- Discussion was held regarding “override reasons” included in the tool. Would there be a value in having certain, egregious offenses listed included in this section?
  - Dr. Austin explained that there are three types of overrides. Mandatory overrides are set by the court. The other two types are discretionary overrides that allow the pretrial agency to override up or down based on specific case circumstances.
  - Overrides can be included in the testing; it will be up to the Committee to determine which overrides to utilize and how to do so. Discussion was held regarding including the overrides in the testing or to develop the overrides based on the results of the testing; this was primarily included on the form to bring attention to the fact that overrides can be part of the tool. Mr. Bosler expressed concern regarding the inclusion of a “balanced” field of overrides. Dr. Austin can provide a list of testable overrides (up and down) to address this.
- Judge Pearson asked for clarification on “preexisting pending criminal case” - this just means “open” case. There was discussion regarding tracking parole/probation when scoring a defendant. Ms. Condon explained that probation/parole would come up as a DAWNS hit at booking; however, because this testing is being done retroactively, it may be difficult to test this particular element going backwards. Dr. Austin suggested that this element could be

included on the tool but with the understanding that it could be applied to cases going forward and then evaluated at some later point. The consensus was to attach this element as a “predictor” and examine results in 2017.

- Judge Pearson asked for clarification on why the tool does not include a differentiation for “top charge”? Dr. Austin explained that the tool follows the statute but, moving forward, the tool can differentiate among charge/case types.
- Judge Pearson asked for clarification regarding the definition of “violence”? What crimes would fall under this category? Dr. Austin explained that determining this definition would be up to the Committee.
- Judge Pearson asked for clarification regarding whether incarceration in jail versus prison was a relevant element and should be considered. Dr. Austin explained that research in other states did not indicate that this was a significant predictability factor; it can be included for testing if the Committee wishes, but most tools consider prior convictions as a “more accurate” indicator.
- Judge Bishop expressed concern regarding limited resources and support in the rural counties - his county does not have a pretrial services department so who will complete these assessments in the rural counties? Given the small case load, a discussion should be had with the jails regarding having the jail staff trained to complete the tool. Judge would still be responsible for making the final decision; the tool is just a “guide.” Discussion was held regarding the pilot site testing be expanded to include additional rural counties in order to reach the proposed number of 250 cases (from rural counties). This is an issue that will impact other rural counties so a solution will need to be addressed.
- Judge Tyrrell asked for clarification on the substance abuse portion of the tool; this is a section of the tool that could aid in imposing release conditions. Discussion was held regarding the tool providing a level of liability security by giving judges something to support the release decisions they make.
- Justice Hardesty asked Ms. Condon to look into residency of Washoe County inmate population; discussion was held regarding “residential status” role on the tool.
- Discussion was held regarding the ability of this tool to test whether current administrative release processes in place “make sense.” Additionally, there was general consensus that there is value in testing misdemeanors separately in Clark (and perhaps Washoe) as a portion of the 500 sampling.
- Ms. Condon asked for clarification regarding whether there will be statewide conditions established for each level - this will likely have to be a local decision depending upon resources but the discrepancies can’t be significant - this is something the Committee will have to keep in mind.
- Concern was expressed regarding the language of #9 on the tool - will training be provided that defines the terminology used on the tool? Discussion was held regarding “drug of choice” and whether this is something that can be retroactively tracked for the testing or if it can only be addressed on current/future cases.
- Dr. Austin addressed the proposed timeline/work plan (*See PowerPoint in meeting materials*)
  - Will work directly with pilot site teams/staff to draw samples for the testing, and provide training on completing the tools.



- Once results are gathered, Dr. Austin will analyze and prepare to present results to the full Committee for approval prior to “rollout implementation” of the tool.
- Discussion was held regarding integrating the tool into case management systems and associated technology concerns; until these are addressed, the tools will be in hardcopy format.
- Justice Hardesty asked whether the DOJ’s “technical assistance” includes training judiciary and court/pretrial staff on proper usage of the tool once validation is complete and the tool is ready to be implemented? Ms. Jackson-Castain responded that, at this time, the technical assistance includes Dr. Austin’s efforts/expertise; the training element is something that can be addressed at a later time.
  - Mr. Kohn suggested that training also be made available to prosecutors and public defenders.
  - Justice Hardesty informed attendees that an ADKT hearing before the Nevada Supreme Court on this will also need to take place; there will be an opportunity for public input and asked the Committee members for preferences regarding moving forward with Dr. Austin’s plan.
- Mr. Kohn made a motion to formally accept the DOJ/ OJP Diagnostic Center’s technical assistance, as outlined by Dr. Austin’s presentation, and the NPRA tool, with modifications. The motion was seconded by Judge Bonaventure and was unanimously approved by the Committee. Justice Hardesty will appoint a subcommittee to work with Dr. Austin to modify and work on preparing the instrument for implementation.
- Justice Hardesty asked for a motion to approve the timeline put forth by Dr. Austin. Mr. Kohn made a motion to approve the timeline with any necessary modifications; Mr. Wells seconded the motion. The motion was unanimously approved.
- Justice Hardesty asked the Committee to extend the Chair the authority to appoint a subcommittee to implement the plan. Judge Barker made a motion to extend said authority to the Chair; Judge Kerns seconded the motion. The motion was unanimously approved.

## VII. Discussion of Outcome Measures

- Justice Hardesty asked attendees for additions and/or edits to the Outcome Measures presented/discussed and approved during the January 8, 2016 meeting.
  - Ms. Stapleton suggested that outcomes take resource limitations of rural counties into consideration and thanked the Committee for being sensitive to the needs of the rural counties.
  - Ms. Hastings informed the Committee that she has kept county commissioners and budgeting team apprised of the Committee’s progress in anticipation of future discussions/needs. A suggestion was made that municipalities be brought into the conversation as well.

## VIII. Jail Statistics

- This topic was deferred until a future meeting.

IX. Other Items/Discussion

- The next meeting will be scheduled for May; Dr. Austin and the pilot sites will be given the opportunity to present the results of the NPRA tool testing during that meeting. An email will be sent out with the details.
- Justice Hardesty asked Mr. Hicks, Mr. Wolfson or Mr. Lalli, Mr. Bosler and Mr. Kohn to confer and identify a list of “override crimes.”

X. Additional Public Comment

- There was no additional public comment offered from either Las Vegas or Carson City.

XI. Adjournment

- Justice Hardesty adjourned the meeting at 4:33 p.m.

**TAB 2**

# Nevada Statewide Pretrial Risk Instrument Validation Results

James Austin, Ph.D.

# Over-View

- Prototype pretrial risk instrument was developed based on other validated instruments.
- Random samples of defendants released from jail in 2014 were created for Washoe, Clark and White Pine Counties.
- Forms were completed and returned for statistical analysis.
- Each case tracked to determine if defendant was re-arrested or had FTA Warrant issued while case(s) were pending
- Currently 1,000 release data forms have been received and processed. Still checking another 50-60 forms.

# Validation Samples

County	Releases	%
Total Releases	1,000	100%
Clark	340	34%
Clark Muni	179	18%
Washoe	408	41%
White Pines	63	6%
Type of Release		
OR	450	45%
Surety Bond	354	35%
Cash Bail	66	7%
Other	130	13%

# Attributes

Attribute	Releases	%
Residency		
NV	817	82%
CA	53	5%
Unknown	86	9%
Other States	43	4%
City		
Las Vegas	397	40%
Reno	211	21%
Sparks	87	9%
Ely	36	4%
Henderson	13	1%
Sun Valley	39	4%
Unknown	82	8%
	Mean	Median
LOS in Jail	11.6	1.0
Initial Bail	\$11,121	\$4,018
Number Charges	2.3	2
Current Age	35 yrs	32 yrs
Age First Arrest	25 yrs	21 yrs

# Attributes

Attribute	Releases	%
Gender		
Male	781	78%
Female	215	22%
		0%
Race		
White	503	50%
Black	203	20%
Hispanic	177	18%
Asian	30	3%
Other	36	4%
Cell Phone?	523	52%
	Mean	Median
Prior Misd Arrests	3.9	2.0
Convictions	1.4	0.0
Prior Felony Arrests	2.5	1
Convictions	0.5	0



# Follow-Up Results

Attribute	Releases	%
Total Releases	999	100%
Re-Arrested	122	12%
FTA	171	17%
Either FTA/Re-Arrest	246	25%
Re-Arrest Charge		
Drugs	16	2%
Domestic Violence/Battery	12	1%
Probation/Parole Violation	10	1%
Contempt of Court	9	1%
Traffic Violations	7	1%
Theft	6	1%
Interfere Police	5	1%
Weapons	4	0%
Trespassing/Disturb	4	0%
Burglary	4	0%
DUI	3	0%
Robbery	3	0%
Child Abuse	2	0%
Other/Missing	27	3%

# Re-Arrest and FTA Rates by County

County	Re-Arrest	FTA	Composite
Clark	15%	27%	36%
Clark Muni	3%	16%	17%
Washoe	12%	9%	17%
White Pines	23%	19%	36%
Total	12%	17%	25%

73% of the FTA cases  
were not arrested for any crimes

# Re-Arrest, FTA, and Risk Rates by Method of Release

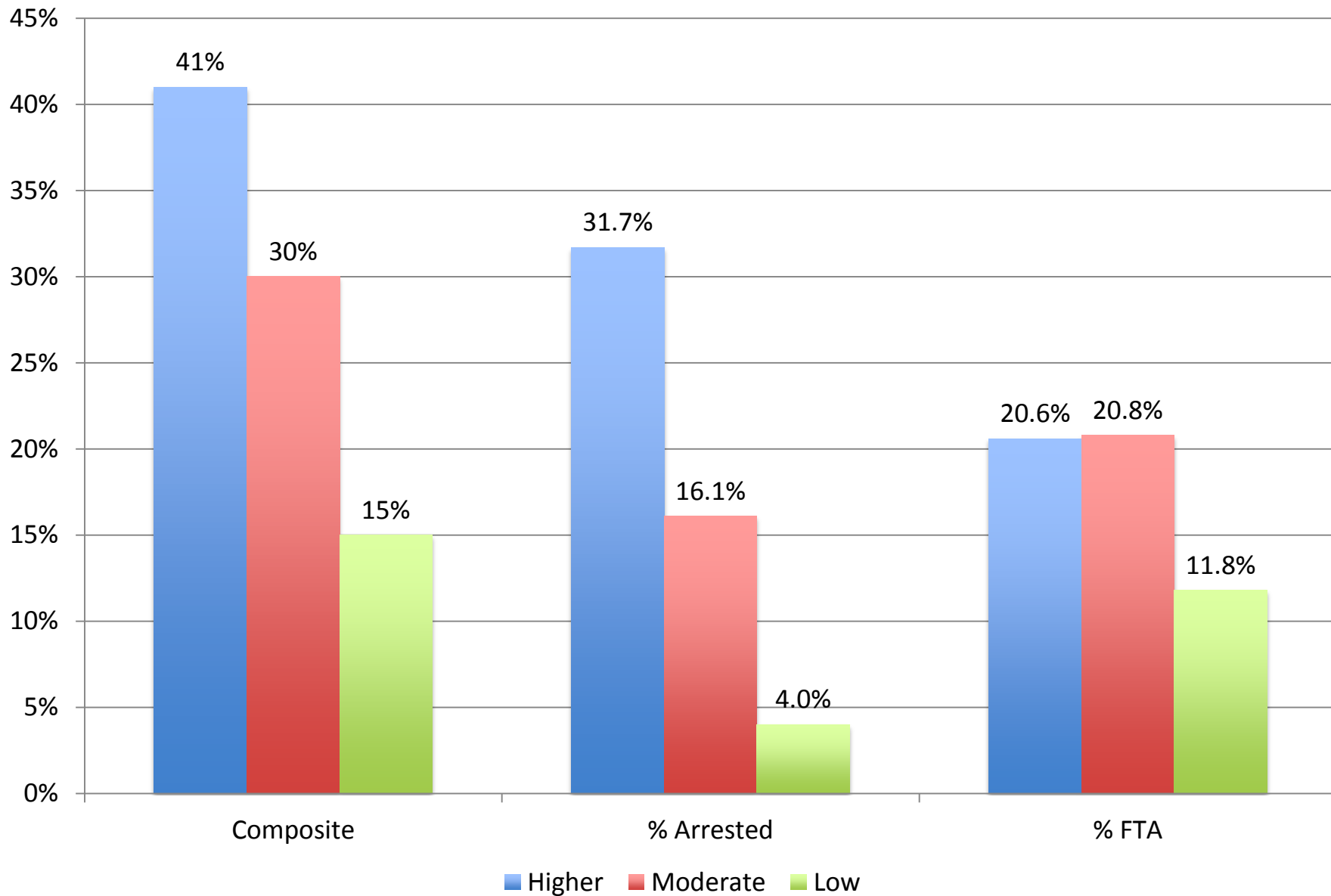
Type of Release	Re-Arrest	FTA	Composite
OR	14%	17%	27%
Surety Bond	15%	15%	22%
Cash Bail	11%	15%	17%

Type of Release	Low	Moderate	Higher
OR	40%	53%	7%
Surety Bond	46%	48%	6%
Cash Bail	47%	50%	3%

# Modified Risk Levels By County

Risk Level	Clark	Clark Muni	Washoe	White Pines	Total
Higher	6.8%	4.5%	7.1%	3.2%	6.3%
Moderate	38.2%	42.5%	41.4%	51.6%	40.8%
Low	55.0%	53.1%	51.0%	45.2%	52.9%

# Re-Arrest and FTA Rates By Risk Level



# Further Adjustments to Risk Instrument

- Adjust prior misdemeanor and felony conviction scores (none receive = -1 pts);
- Adjust prior FTA score (1 or more = 2 pts);
- Adjust employment (only count homeless);
- Adjust substance abuse (only count prior arrests for drugs and alcohol = 2 pts)
- Add cell phone (people with one have lower re-arrest and FTA rates);

**TAB 3**

NOTE: This tool is in draft form and is currently undergoing a validation study; it may be edited as part of that process.

### NEVADA PRETRIAL RISK ASSESSMENT (NPR)

Name: \_\_\_\_\_ Assessment Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
Case #: \_\_\_\_\_ County: \_\_\_\_\_ Assessor: \_\_\_\_\_  
DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_ Gender: \_\_\_Male \_\_\_Female # of Current Charges: \_\_\_\_\_  
Most Serious Charge: \_\_\_\_\_ Initial Total Bail Set: \$ \_\_\_\_\_  
Race: \_\_\_ Hispanic \_\_\_White \_\_\_ Black \_\_\_ Asian \_\_\_ Nat. Amer. \_\_\_ Other \_\_\_\_\_  
Verified Cell Phone #: \_\_\_\_\_ Address: \_\_\_\_\_  
Deadly Weapon Charge: \_\_\_ Yes \_\_\_ No City State Zip

#### SCORING ITEMS

#### SCORE

1. Does the Defendant Have a Pending Case at Booking?  
a. Yes - 3 pts. b. No- 0 pts. \_\_\_\_\_
2. Age at First Arrest First Arrest Date \_\_\_\_/\_\_\_\_/\_\_\_\_  
a. Under age 21 yrs. 2 pts. \_\_\_\_\_  
b. 22-35 yrs. 1pts. \_\_\_\_\_  
c. 36 Plus. 0 pts. \_\_\_\_\_
3. Prior Misdemeanor Arrests. Total # Misd. Arrests: \_\_\_\_\_ Total # Misd. Convict: \_\_\_\_\_  
a. Two or less- 0 pts. \_\_\_\_\_  
b. 3- 5 - 1 pt. \_\_\_\_\_  
c. 6 plus - 2 pts. \_\_\_\_\_
4. Prior Felony/Gross Misd Arrests Total # Felony/GM Arrests: \_\_\_\_\_ Total # Felony/GM Convict: \_\_\_\_\_  
a. None or One - 0 pts. \_\_\_\_\_  
b. 2 - 4 - 1 pt. \_\_\_\_\_  
c. 5 plus - 2 pts. \_\_\_\_\_
5. Prior Arrests - Violence: Total # Arrests \_\_\_\_\_ Total # Convict: \_\_\_\_\_  
a. None - 0 pts. \_\_\_\_\_  
b. 1 or more - 2 pts. \_\_\_\_\_
6. Prior FTAs Past 24 Months Date of last FTA Warrant: \_\_\_\_/\_\_\_\_/\_\_\_\_  
a. None - 0 pts. \_\_\_\_\_  
b. 1 FTA Warrant - 1 pt. \_\_\_\_\_  
c. 2 or more FTA Warrants - 2 pts. \_\_\_\_\_
7. Employment Status at Arrest List Employer: \_\_\_\_\_  
a. Employed or Student or Retired - 0 pts. \_\_\_\_\_  
b. Unemployed - 2 pts. \_\_\_\_\_
8. Residential Status Date of Residency: \_\_\_\_/\_\_\_\_  
a. Living in current residence 6 mos. or longer - 0 pts. \_\_\_\_\_  
b. Not lived in same residence 6 mos. or longer - 1 pt. \_\_\_\_\_  
c. Homeless - 3 pts. \_\_\_\_\_
9. Substance Abuse  
a. No evidence of drug abuse/alcoholism - 0 pts. \_\_\_\_\_  
b. Some evidence - current charge - 1pt. \_\_\_\_\_  
c. Prior multiple arrests for drug possession/alcohol/drunkenness - 2 pts. \_\_\_\_\_

**Total Score:** \_\_\_\_\_

**Risk Level: (Circle One):** 0-3 pts. LOW 4 - 6 pts. MODERATE 7+ pts. HIGHER

Over-Ride? \_\_\_ Yes \_\_\_ No

Over Ride Reason(s): \_\_\_ Mental Health \_\_\_ Disability \_\_\_ Gang Member \_\_\_ Flight Risk

Other Reason: \_\_\_\_\_

**Final Recommended Risk Level;** \_\_\_\_\_ **LOW** \_\_\_\_\_ **MODERATE** \_\_\_\_\_ **HIGHER**



NOTE: This tool is in draft form and is currently undergoing a validation study; it may be edited as part of that process.

**FOLLOW-UP DATA**

Booking Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Release Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Method of Release: \_\_\_\_ Cash Bail \_\_\_\_ Surety Bond \_\_\_\_ Court OR

Other Release Method: \_\_\_\_\_

Was Defendant Re-Arrested Prior to Court Disposition? \_\_\_\_ Yes \_\_\_\_ No

If Yes, Date of Re-Arrest \_\_\_\_/\_\_\_\_/\_\_\_\_ Most Serious Charge: \_\_\_\_\_

Did Defendant FTA and Have a Warrant Issued? \_\_\_\_ Yes \_\_\_\_ No

If Yes, date of FTA \_\_\_\_/\_\_\_\_/\_\_\_\_

Was Defendant Re-Booked to Jail? \_\_\_\_ Yes \_\_\_\_ No

If Yes, date of Re-Booking: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Final Court Dispositions:**

Charge	Disposition Date	Disposition	Sentence Length
1			
2			
3			
4			
5			

**TAB 4**

***No materials for this agenda item***

**TAB 5**

**Nevada Pretrial Risk (NPR) Instrument**

**Instruction Manual**

**May 13, 2016**

**DRAFT**

## **INTRODUCTION**

This manual is designed to provide instructions to pretrial service staff who are responsible for completing the Nevada Pretrial Risk (NPR) instrument. The NPR is designed to inform the court of the relative risk of re-offense and/or failure to appear (FTA) during the pretrial phase.

This manual should be updated on a regular basis as the NPR is modified and/or as new sources of information required to complete the form, are developed. Staff who are responsible for the completion of the NPR should carefully review this manual to ensure the information used to assess a defendant's risk of re-offense and/or FTA is accurately recorded.

## **BACKGROUND INFORMATION**

<u>Defendant's Name:</u> Source:	Enter the defendant's legal first and last name. Arrest, Detention, Court records, Defendant interview
<u>Assessment Date:</u> Source:	Enter the date the NPR was completed. Pretrial services staff
<u>Case #:</u> Source:	Enter the mutually exclusive booking or court case number assigned to the defendant. Arrest, Detention, Court records
<u>County:</u> Source:	Enter the name of the county the defendant is being charged in. Arrest, Detention, Court records
<u>Assessor:</u> Source:	Enter the name of the person completing the NPR. Pretrial services staff
<u>DOB:</u> Source:	Enter the defendant's legal date of birth. Arrest, Detention, Court records, Defendant interview
<u>Gender:</u> Source:	Enter the defendant's gender as male or female. Arrest, Detention, Court records, Defendant interview
<u># of Current Charges:</u> Source:	Enter the <u>total</u> number of current felony, gross misdemeanor, and misdemeanor charges at the time of the NPR assessment. Arrest, Detention and Court records.
<u>Most Serious Charge:</u>	If the defendant was booked on more than one charge, which includes multiple levels of crime (e.g. 1 felony charge and 2 misdemeanor charges), list the most serious charge based on the level. If the defendant was booked on multiple charges within the same level of crime (e.g. 5 felonies), list the most serious charge

based on the category provided in the statute (A, B, C, or D). For a misdemeanor charge, battery / domestic violence and DUI shall be considered the most serious charge.

Defendant's Race:

Enter the defendant's race/ethnicity using the pre-existing codes. If a code does not exist mark "Other" and list the race or ethnicity.

Source:

Arrest, Detention, Defendant interview.

Verified Cell Phone:

Enter the defendant's cell phone number. If none exists, list as "none".

Source:

Arrest, Detention, Defendant interview

Current Address:

Enter the defendant's current address. If none exists, list as "none".

Source:

Arrest, Detention, Defendant interview

Deadly Weapon Charge:

Enter whether a deadly weapon has been used in any of the charges involved with this arrest. Enter "Yes" or "No".

Source:

Arrest, Detention, Court records, Defendant interview

DRAFT

## SCORING ITEMS

1. Pending Case at Booking Determine if there is a case that is pending with an open court date in any jurisdiction. Indicate “Yes” or “No” and score based on the numeric value. For the purposes of this question, “open” means the defendant has an active case with the court, pre/post sentence.

Source: Court records, Criminal history

2. Age at First Arrest Enter the defendant’s age of first arrest based on the first entry in the defendant’s criminal history. Calculate age and score accordingly.

Source: Criminal history

\* For questions 3 and 4, use a “transactional” approach, counting for each arrest not charge. For example, if a person is booked on five misdemeanor charges on 1/1/14, then it would count as one misdemeanor arrest. If they have been booked on a combination of felony and misdemeanor charges, then it would count as one felony and one misdemeanor.

3. \* Prior Misd. Arrests Use a *transactional* approach, counting arrests. While reviewing the criminal history keep track of and indicate the number of misdemeanor convictions.

Source: Criminal history

4. \* Prior Felony/Gross Misd. Arrests: Use a transactional approach, counting arrests. While reviewing the criminal history keep track of and indicate the number of felony/gross misdemeanor convictions.

Source: Criminal history

5. Prior Arrests – Violence Indicate the number of violent arrests based on NRS Chapter 200. These arrests may have been counted in the misdemeanor and felony/gross misdemeanor arrest questions (3 & 4) already, however you will list them again here.

Source: Criminal history

6. Prior FTA’s Past 24 Months Calculate the number of FTA’s that occurred 2 years prior to the date the defendant was booked on this charge. Date of last warrant should include issued or booked. Assessor can stop counting once maximum number of FTA’s has been reached.



Source: Criminal history

7. Employment Status at Arrest

Indicate applicable answer. Government assistance is not considered “employed”.

Source: Arrest Report, Detention, Court records, Defendant interview

8. Residential Status

Indicate exact date if possible. The goal is to find out if they are stable or homeless, moving from place to place.

Source: Arrest report, Detention, Defendant interview

9. Substance Abuse

Information based on drug/alcohol related arrests (transactional approach).

Source: Criminal history

**CALCULATE THE TOTAL SCORE AND LIST THE NUMERICAL ANSWER ACCORDINGLY.**

**CIRCLE THE APPLICABLE RISK LEVEL BASED ON THE TOTAL SCORE.**

Override

If the assessor feels there is a reason to override the total score, e.g. the defendant has a low score/risk but is a possible flight risk, indicate that here. If your reason does not fall under a specific override category, indicate your concern in the “Other Reason” section provided.

**INDICATE THE FINAL RECOMMENDED RISK LEVEL BASED ON THE INITIAL TOTAL SCORE AND ANY OVERRIDES**

**FOLLOW-UP DATA**

Information pertains to the current charge

**Booking & Release Date**

Enter the dates pertaining to this arrest.

Source:

Detention

**Method of Release**

Indicate how the defendant was released. If the defendant posted bail on one charge and was OR'd on another, indicate both.

Source:

Detention

**Rearrested**

Was the defendant rearrested during the course of this case for any new charges? If yes, indicate the specific date and most serious charge. This does not include revocations.

Source:

Detention, Court records, Criminal history

**FTA/BW issued**

Did the defendant fail to appear for any scheduled court hearing prior to court disposition in this case? If yes, indicate the specific date.

Source:

Court records

**Rebook/Revocation**

Was the defendant rebooked/revoked prior to court disposition on this case? If yes, indicate the specific date.

Source:

Court records

**FINAL COURT DISPOSITIONS** - Indicate the applicable information for each charge for this arrest.

Source:

Court records

**TAB 6**

Supreme Court of Nevada  
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET  
Director and  
State Court Administrator

JOHN MCCORMICK  
Assistant Court Administrator  
Judicial Programs and Services



RICHARD A. STEFANI  
Deputy Director  
Information Technology

VERISE V. CAMPBELL  
Deputy Director  
Foreclosure Mediation

**JUDICIAL COUNCIL OF THE STATE OF NEVADA**

*"To unite and promote Nevada's judiciary as an equal, independent and effective branch of government."*

**Committee to Study Evidence-Based Pretrial Release**

Subcommittee to Study Bail Schedules

April 12, 2016

**Members Present**

Judge Simons (Chair)  
Judge Bishop  
John Boes  
Judge Bonaventure  
Paul Caruso  
Judge Higgins  
Judge Pearson  
Judge Stevens  
Judge Tiras

**Guests**

Randall Soderquist

**AOC Staff**

Jamie Gradick

- I. Judge Simons called the meeting to order at 4:00 p.m. and welcomed attendees to the inaugural meeting of the subcommittee.
- II. Bail Schedule Differences/Disparities Discussion
  - Discussion was held regarding the various bail schedules in use throughout the state. Most schedules specifically identify the statutorily requires offenses.
    - Judge Simons informed hose in attendees that there is a North Central regional bail schedule that was reviewed and partially revised approximately 3 years ago. There's also a "fall back" schedule for offenses not included in the bail schedule.
    - Judge Bishop commented that White Pine County uses a similar schedule with only 4 specific felonies set out.
    - Washoe County uses a 1-page schedule similar to that used in Las Vegas Justice Court; all Washoe courts (with possible exception of Wadsworth) use same schedule.
    - Not all courts in Clark County use the same schedule; discussion was held regarding place of booking determining which schedule is used.

- Judge Tiras asked for clarification regarding whether the group was going to look at misdemeanor bail or traffic as well; the consensus was that the group will discuss all schedules that have been adopted or are being used.

### III. Subcommittee Goals

- Judge Simons suggested that the group “compile” the various bails schedules in use around the state and begin analyzing differences and reasoning behind differences.
  - Judge Bishop suggested that location can be reason for some of the disparities in bail schedules; what results in prison in one area may be treated “less seriously” in others.
  - Discussion was held regarding which felonies result in administrative release in which jurisdictions, the reasons for variances, and the roles court services and jail population concerns play in this.
- Judge Tiras provided a brief overview of past efforts to address bail schedule concerns across the state; getting statewide agreement will be a significant challenge. Discussion was held regarding the likelihood of developing a unified bail schedule. A suggestion was made to focus on “uniformity” on a region by region or district by district basis or to develop a “recommended” bail schedule.
- Discussion was held regarding the processes used to establish or modify bail schedules; catch-all categories set bail amounts at booking but judge can alter the bail at 48 hour/PC review or 72 hour hearing.
- Most jurisdictions have reviewed bail schedules within the last 3 years.

### IV. Discussion of Impact of Setting Bail on Indigent Persons

- Discussion was held regarding a defendant financial conditions and the level of impact that factor should have in bail determinations. Attendees briefly discussed procedures/processes for establishing financial condition; varies by jurisdiction. In Washoe, the financial analysis is completed by pretrial services at booking; judge usually gets public defender applications/financial affidavits within 12 hours.
- Discussion was held regarding “Request for Financial Assistance” process - defendants can request financial assistance for counseling, services, etc. The court has more time to determine and verify indigence/financial condition in these cases.
- Mr. Boes commented that, from the bail agent perspective, almost everyone gets bond; bail agencies offer payment plans and require co-signers, promissory notes. Usually have little difficulty posting bonds for even the most indigent clients.

### V. Discussion of the Amount of Information Available to Judge When Setting Bail

- Discussion was held regarding legislative language change regarding validated risk factors and what factors statutorily require consideration when setting bail.

### VI. Assessment of Legal Authority for Courts to Establish Bail Schedules and Discussion of Whether Schedules Should be Used After Implementation of Statewide Pretrial System.

- Concern was expressed regarding whether bails schedules are even permissible or constitutional. Discussion was held regarding the fact that bail doesn’t override judicial discretion; it’s only in effect until the defendant sees the judge. But bail schedules don’t accurately capture/consider the risk factors of the case - those who are high risk but have money can get out and reoffend; those without money are “trapped” because they can’t bail out even though they are low risk.
- Discussion was held regarding whether judges necessarily has to review all defendants, even the “low risk” ones or can the rural jurisdictions adopt an administrative order that allows the jail to automatically release the low risk offenders without judicial involvement.

VII. Potential Meeting During Leadership Summit

- Judge Simons discussed the possibility of the Subcommittee meeting briefly during the Judicial Leadership Summit April 26-29<sup>th</sup>; he will let the subcommittee members know if this is taking place.

VIII. Other Discussion Items

- Brief discussion was held regarding the best way to present recommendations to the full Committee and to the judiciary as a whole in order to minimize “push-back.”
- Mr. Boes volunteered to gather bail schedules from those jurisdictions not represented on the Subcommittee.
- The Subcommittee will try to have one more teleconference prior to the May 23<sup>rd</sup> full-Committee meeting.

IX. Action Items

- Please send your respective bail schedules (and any schedules from areas around you) to Randall Soderquist; he will compile and disseminate them back out to the group for consideration.

**TAB 7**



## U.S. Department of Justice

Office of Justice Programs  
Civil Rights Division  
Office for Access to Justice

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Washington, D.C. 20530

March 14, 2016

Dear Colleagues:

In December of last year, the Department of Justice brought together judges, court administrators, advocates, prosecutors, and defense attorneys to participate in a working session on “Poverty and the Criminal Justice System: The Effect and Fairness of Fees and Fines.” The Department’s working session was followed the next day by a meeting at the White House on “A Cycle of Incarceration: Prison, Debt and Bail Practices.” These extraordinary convenings raised many critical issues, and highlighted several promising ideas and strategies for reform.

At the end of the meetings, the Department pledged to continue working with the diverse communities represented to help address the complex challenges the assessment and enforcement of fines and fees pose. We are pleased to announce today several initiatives that will help stakeholders make the changes needed to guarantee equal justice under law to everyone, regardless of their financial circumstances.

- The Department’s Bureau of Justice Assistance will be awarding [\\$2.5 million in competitive grants](#) to state, local, or tribal jurisdictions, who together with community partners, want to test strategies to restructure the assessment and enforcement of fines and fees through the *Price of Justice: Rethinking the Consequences of Justice Fines and Fees* grant program. Four grants of \$500,000 will be awarded to agencies and their collaborative partners to develop strategies that promote appropriate justice system responses, including reducing unnecessary confinement for individuals who are unable to pay fines and fees. An additional grant of \$500,000 will be awarded to a technical assistance provider. For agencies interested in applying for this funding opportunity, BJA will host an informational webinar on March 28, 2016, at 11:30 a.m. to describe the background, key concepts, and requirements of the solicitation. To register, please follow this [link](#).
- The Bureau of Justice Assistance plans to provide resources to support the new National Task Force on Fines, Fees, and Bail Practices, led by the Conference of Chief Justices and the Conference of State Court Administrators. The Task Force, which will also be funded by the State Justice Institute, will be comprised of



national leaders from the judiciary, bar, state and local government, the advocacy community, and the academy. It will work to draft model statutes, court rules, and policies and procedures, and will serve as a clearinghouse for best practices and resources. Department officials will also serve as ex officio members of the Task Force.

- The Office of Justice Programs Diagnostic Center is releasing [Resource Guide: Reforming the Assessment and Enforcement of Fines and Fees](#), listing issue studies and various publications related to fines, fees, and other financial obligations. The resources are intended to help executive-level leaders make informed policy decisions and pursue sound strategies at the state, local, and tribal levels.
- The Department has written a “Dear Colleague” letter to state Chief Justices and state court administrators to provide greater clarity to state and local courts regarding their legal obligations with respect to the enforcement of fines and fees. The letter is attached.

We hope these efforts will allow us to continue to work collaboratively to ensure that, in the words of Attorney General Loretta Lynch, there is “no price tag on justice.”

Sincerely,



Karol V. Mason  
Assistant Attorney General  
Office of Justice Programs



Vanita Gupta  
Principal Deputy Assistant  
Attorney General  
Civil Rights Division



Lisa Foster  
Director  
Office for Access to Justice



## **National Court Leadership: Task Force Meets to Identify Challenges, Solutions on Fines, Fees and Bail Practices**

**Williamsburg, VA (March 14, 2016)**— The **National Task Force on Fines, Fees and Bail Practices**, formed in early 2016 by the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA), is meeting Monday and Tuesday in the nation’s capital. This task force, comprised of national leaders, will identify solutions, recommend statutory revisions and update court rules in order to face the challenges presented by certain practices in municipal and state courts.

The Department of Justice this morning lauded the formation of the task force, while also issuing guidance to court leaders in the form of a “Dear Colleague” letter sent to administrative heads of the state court system.

“We thank the Department of Justice for their support of the work of the task force,” said task force co-chair Maureen O’Connor, Chief Justice of the Supreme Court of Ohio. “State court leaders recognize the harmful impact inappropriately levied fines and fees have had, particularly on minority and economically disadvantaged communities. This is why the work of this task force is so vital.”

O’Connor added: “This is not only a judicial branch problem. Supervisory authority over many municipal courts resides with other branches of government. That is why our task force includes representation from officials of the executive and legislative branches, and why we are focused on assembling a diverse national coalition of stakeholders to pursue solutions to these difficult problems.”

For more information on the task force, [click here](#).

Contact: Lorri Montgomery  
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## JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Monday, March 14, 2016

### **Justice Department Announces Resources to Assist State and Local Reform of Fine and Fee Practices**

The Department of Justice today announced a package of resources to assist state and local efforts to reform harmful and unlawful practices in certain jurisdictions related to the assessment and enforcement of fines and fees. The resources are meant to support the ongoing work of state judges, court administrators, policymakers and advocates in ensuring equal justice for all people, regardless of financial circumstance.

“The consequences of the criminalization of poverty are not only harmful – they are far-reaching,” said Attorney General Loretta E. Lynch. “They not only affect an individual’s ability to support their family, but also contribute to an erosion of our faith in government. One of my top priorities as Attorney General is to help repair community trust where it has frayed, and a key part of that effort includes ensuring that our legal system serves every American faithfully and fairly, regardless of their economic status.”

The package, which was sent to state chief justices and state court administrators throughout the country, includes the following elements:

- **Dear Colleague Letter** from the Civil Rights Division and the Office for Access to Justice to provide greater clarity to state and local courts regarding their legal obligations with respect to the enforcement of court fines and fees. The letter addresses some of the most common practices that run afoul of the U.S. Constitution and/or other federal laws, such as incarcerating individuals for nonpayment without determining their ability to pay. The letter also discusses the importance of due process protections such as notice and, in appropriate cases, the right to counsel; the need to avoid unconstitutional bail practices; and due process concerns raised by certain private probation arrangements.
- **\$2.5 million in competitive grants** through the Bureau of Justice Assistance (BJA) to state, local or tribal jurisdictions that, together with community partners, want to test strategies to restructure the assessment and enforcement of fines and fees. The grant program, titled *The Price of Justice: Rethinking the Consequences of Justice Fines and Fees*, will provide four grants of \$500,000 to agencies and their collaborative partners to develop strategies that promote appropriate justice system responses, including reducing unnecessary confinement, for individuals who are unable to pay fines and fees. BJA will award an additional grant of \$500,000 to a technical assistance provider. For agencies interested in applying for this funding opportunity, BJA will host an informational webinar on March 28, 2016, at 11:30 a.m. EDT to describe the background, key concepts and requirements of the solicitation. To register, please follow this [link](#).
- **Support for the National Task Force on Fines, Fees and Bail Practices**, which is led by the Conference of Chief Justices and the Conference of State Court Administrators. The task force is being funded by BJA and is also supported by the State Justice Institute. It is comprised of leaders from the judiciary, state and local government, the advocacy community and the academy. The task

force will draft model statutes, court rules and procedures, and will develop an online clearinghouse of best practices. Department officials will also serve as ex officio members of the task force.

- **Resource Guide** that assembles issue studies and other publications related to the assessment and enforcement of court fines and fees. The resource guide, compiled by the Office of Justice Programs Diagnostic Center, helps leaders make informed policy decisions and pursue sound strategies at the state, local and tribal levels.

Today's announcement follows a seminal two-day convening held by the Justice Department and the White House in Washington, D.C., on Dec. 2 and 3, 2015. Judges, court administrators, researchers, advocates, prosecutors, defense attorneys and impacted individuals came together to discuss challenges surrounding fines and fees. The convening made plain the existence of unlawful and harmful practices in some jurisdictions and highlighted a number of promising reform efforts already underway. At the meeting, participants and department officials also discussed ways in which the Justice Department could assist courts in their efforts to make needed changes. Participants specifically asked the department to provide legal guidance to state and local actors; to highlight and help develop model practices; and to provide resources for local reform efforts.

The Justice Department is committed to reforming justice-system practices that perpetuate poverty and result in unnecessary deprivations of liberty. The department discussed many of these practices in its March 2015 report on the investigation of the Ferguson, Missouri, police department and municipal court. As discussed at the December 2015 convening, however, these practices can be found throughout the nation. And their effects are particularly severe for the most vulnerable members of our communities, often with a disproportionate impact on racial minorities. The resources released today are aimed at reforming these practices and mitigating their harmful effects.

#### Fines and Fees Cover Letter

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16-285

Access to Justice

Civil Rights Division

Office of Justice Programs (OJP)

Office of the Attorney General

**Topic:**

Civil Rights

*Updated March 14, 2016*