

Pre-Trial Monitoring Guiding Principles – Best Practices

1. Operationalized Mission

The DOC's mission as it relates to pre-trial monitoring is to enhance public safety through evidence-based strategies that minimize re-arrest, ensure court appearance and provide support for released defendants.

Staff will be educated in best practices regarding pre-trial monitoring and will share this knowledge with local stakeholders. It is strongly recommended that stakeholders meet and regularly discuss the framework within which pre-trial monitoring will occur as well as to discuss responses to pre-trial failures. Community safety issues regarding pre-trial monitoring should be discussed with stakeholders on an on-going basis.

2. Universal Screening

A designated risk assessment tool approved by Judicial Council will be completed on all offenses required by Minnesota Statute 629.74, with encouragement for use on all assault related misdemeanor and gross misdemeanor offenses to include DANCO Violations.

Court involved stakeholders will be encouraged to utilize the risk assessment scores, in addition to other information presented at the preliminary hearing, when making decisions regarding Release on Recognizance, Pre-trial Monitoring or Remanding a defendant.

3. Validated Pre-Trial Risk Assessments

Once placed on pre-trial monitoring, the designated risk assessment tool approved by Judicial Council will be used to determine level of supervision.

4. Sequential Bail Review

Process by which agents can target scheduled court hearings to address non-emergency violations of pre-trial monitoring conditions, progress reports or make a recommendation to the Court to end pre-trial monitoring in the community due to positive adjustment. Agents will not be requesting any changes to monetary bail. Agents may also request adjustment with regard to conditions of supervision. Emergency issues will be addressed with the Court as needed.

5. Risk-Based Monitoring

Following a court order for pre-trial monitoring, a validated risk assessment as noted above will be utilized to place defendants into one of three categories for pre-trial monitoring:

- Low: Contact with the defendant will occur a minimum of quarterly and take place by phone and/or virtually.
- Medium: Contact with the defendant will occur a minimum of once per month and may occur by phone, in person, and/or virtually.
- High: Contact with the defendant will occur a minimum of twice per month with at least one of these contacts occurring face to face (may be virtual visit).

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Focus for Contacts/Supports:

- Reminder of next Court date
- Update phone/address/employment information. Agent will remind defendant to contact Court Administration with updated address. Agent will provide updated address information to Court Administration as well.
- Inquire as to if defendant has any new arrests/citations.
- Provide information around housing, employment and any other supportive resources requested by the defendant.
- Follow up with any court ordered obligations as appropriate (ie: chemical and/or mental health assessments, color wheel testing, electronic home/alcohol monitoring etc.)
- Increase/decrease pre-trial monitoring in the community based on adjustment and/or risk assessment.

Boundaries of Pre-Trial Supervision:

- Absolutely no discussion regarding any details of the defendant's alleged criminal offense. All defendants will be referred to their defense attorney for these types of discussions.
- Agents will not provide an opinion with regard to plea agreements during the pre-trial supervision process.
- Agents MAY comment on cooperation with regard to pre-trial monitoring.

Court Reporting Process (violations/progress/discharges)

Violation/Progress/Discharge reports will be filed as needed by the agent directly with the Court for review and decision making. Copies will be served to the prosecuting attorney and defense attorney.

6. Performance Measurement and Feedback

- Percentage of pre-trial defendants who made all Court appearances (CSTS enhancement is needed to track this information)
- Percentage of pre-trial defendants who remained compliant with Court conditions during pre-trial monitoring (not to include re-arrest)
- Percentage of pre-trial defendants who remained law abiding during their pre-trial monitoring
- Validate the risk assessment tool approved by Judicial Council to target high risk defendants for placement on pre-trial monitoring
- Comparisons between districts with regard to successes in each risk level category.

7. Additional Best Practices for a Pre-Trial Monitoring Program

Develop a separate Pre-Trial Division within Field Services. Agents would cover multiple counties performing only the following tasks:

- Pre-Trial Monitoring
- Bail Studies
- Pre-Sentence Investigations

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Develop specialized training program for Pre-Trial Division with technical assistance from the National Institute of Corrections.

<https://nicic.gov/pre-trial-justice-how-maximize-public-safety-court-appearance-and-release-internet-broadcast>

Best Practices Based on NIC Article Reviews

1. **Pre-Trial Monitoring**

Committee Findings: Studies were a bit dated with mixed results. Pre-Trial Monitoring did not appear to impact re-arrest rates. Studies did not look at specific conditions when Pre-Trial Monitoring was ordered.

Recommendations:

- Pre-Trial Monitoring should be used only in those cases scoring high risk on a validated assessment tool.
- Pre-Trial Monitoring should be used to offer support services such as referrals for mental health, chemical health, employment, housing, etc...
- Pre-Trial Monitoring conditions should be individualized to the defendant vs. having blanket conditions for everyone.

Pretrial Monitoring Research Summary Final 10.19.20

2. **Court Date Notification Systems**

Committee Findings: Court notification systems were found to significantly impact court appearance rates. It worked best when specific information was provided, such as next court date, location of court house, & consequences for non-appearance. Additionally, a notice sent following a missed court appearance along with instructions as to how to resolve this issue, decreased the number of warrants issued. Electronic notices (texts/voicemails/broadcast messaging) are good, but live reminders are better and resulted in the defendant being twice as likely to show up for court. This was the most well researched and effective intervention with regard to court appearances. Proven to save jail beds as well as minimize the impact to the defendant regarding employment, housing and family responsibilities.

Recommendations:

- Post information in lobby areas describing how to sign up for State Court Administration e-court reminders.
- If placed on Pre-Trial Monitoring, assist defendant in setting up the e-reminders.

Court Date Notification Systems Research Summary Final 10.20.20

3. **Pre-Trial Assessment Tools**

Committee Findings: Pre-Trial assessment tools can improve outcomes and guide the investment of resources. Implementation with fidelity as well as a process for quality assurance is crucial. Assessment tools need to be validated on the

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populations they serve to ensure minority communities are not negatively impacted and cut off scores are normed.

Recommendations:

Factors to review regarding validation of the Judicial Council approved assessment tool:

- Disparity regarding minority populations
- Cut off scores for low, medium and high
- AUC score
- Quality Assurance - annual booster trainings
- Implementation –training staff on the validated assessment tool following approval of the tool by Judicial Council.

Pretrial Assessment Tools Research Summary Final 10.19.20

4. Pre-Trial Detention

Committee Findings: Pre-Trial Detention should be reserved for serious/violent crimes. Detaining low/moderate risk defendants can actually make them worse given they are likely to be detained with higher risk individuals and defendant's social supports are removed during this time. When defendants are detained with bail they are unable to pay, many plead guilty to get out of jail. Defendants who were detained were more likely to experience the following collateral consequences:

- Harsher and/or longer sentences
- Increased likelihood of re-arrest long term – increased recidivism
- Difficulties maintaining employment/housing

Recommendations:

Quality risk assessments provided to the Court can assist in judicial decision-making regarding detention.

Pretrial Detention Summary Final 11.13.20

5. Pre-Trial Drug Testing

Committee Findings: Based on research from the 1980's and 1990's, there is no connection between drug testing and pre-trial success and/or failure. Information regarding the specifics of who was selected for drug testing is lacking. For example, was drug testing a blanket condition or individualized to the defendant's risk/need? There was a correlation between those that showed up for drug testing and court appearances. If defendants showed up for drug testing, they also tended to show up for court. If defendants failed to show up for drug testing, they also tended to not appear for court.

Various additional studies indicate a direct relationship between the use of illegal substances and crime. Of particular note, is the high propensity for violence when individuals are under the influence of opiates and/or methamphetamine.

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Recommendations:

- Drug testing should be reserved for high risk defendants.
- Drug testing should be individualized to target defendant's risk/need and not used as a blanket condition for pre-trial monitoring.
- Drug testing can improve outcomes for defendants when a positive relationship is built and pre-trial agents respond to positive test results in a supportive manner.
- Drug testing can serve as a support for defendants who choose to address their chemical dependency issues.

Pretrial Drug Testing Research Summary Final 10.22.20

6. Pre-Trial Location Monitoring (EHM)

Committee Findings: There is very little research on EHM at the pre-trial stage. Studies have mixed outcomes and depending on which study you read, defendants on EHM are more, less, or equally likely to appear for court and/or remain law abiding than those not placed on EHM. Of further note, defendants placed on EHM had increased technical violations compared to defendants not placed on EHM. Many of these technical violations were due to equipment issues.

Recommendations:

- Electronic Home Monitoring / Electronic Alcohol Monitoring should be reserved for high-risk defendants unless otherwise statutorily required.

Pretrial Location Monitoring Research Summary Final 10.19.20

Additional NIC Articles for Review

NIC-Measuring for Results

NIC-Essential Elements of an Effective Pretrial System and Agency

NIC - Measuring What Matters