

2017 CSAC Challenge Awards – Executive Summary

Overview: Santa Clara County is reducing unnecessary, costly, and unjust pretrial detention and creating an innovative, multifaceted pretrial justice system through collaboration among key stakeholders.

Challenge: Like many communities across the country, our County has faced significant challenges in its pretrial justice system, including the fact that over 70% of inmates in our jail are awaiting trial; that many low-income individuals are unable to afford bail or experience significant financial distress after paying for a bail bond; and a lack of transparency and common understanding of the process by which individuals are granted pretrial release or remain in custody, as well as the short- and long-term consequences of those decisions. To address these challenges, in 2014, the County created the Bail and Release Work Group (BRWG), a commission comprised of local public safety and justice officials, Superior Court officials, and representatives of community organizations and the bail industry.

Innovative Solution: The BRWG studied national research on best practices in pretrial justice; reviewed current policies and practices locally and in other jurisdictions; sought input from key stakeholders; consulted with experts; and developed a detailed report with policy reform recommendations. The BRWG identified areas for both incremental and broad reforms to achieve the goal of avoiding unnecessary and unjust pretrial detention while protecting public safety, safeguarding the integrity and fairness of the judicial process, and ensuring that out-of-custody defendants make all required court appearances.

First, the BRWG identified discrete practices—such as delays in arraignment resulting in additional time in jail—that could be resolved by improving cooperation among County departments. Second, on a broader scale, the BRWG found that the status quo—in which release often depends not on an individual's risk of flight or re-arrest, but instead on his or her ability to afford bail—does not protect public safety or ensure court appearances, and instead enriches bail agents while imposing great costs upon defendants, their families, and local governments. These costs include excessive fees charged by bail agents; job and housing loss for those who cannot afford bail and must remain in custody; and the County's jail administration costs. The reforms undertaken by our County range from invoking an underutilized provision of the Penal Code

that allows County jail officials to release individuals who have been unable to post bail if their release would be consistent with local public safety priorities, to involving community groups in supervising those granted pretrial release to promote their success in making court appearances and avoiding new arrests.

Originality: Santa Clara County is unique in pursuing pretrial justice reform through an open and public process that allowed all interested stakeholders to offer input. We are the only county in California with an independent Office of Pretrial Services (PTS), which screens all arrestees booked into the jail to determine their risk level; makes release recommendations to the Court in appropriate cases; and supervises released individuals. With a well-established PTS, our County can pursue highly effective reforms that would be infeasible in other counties—such as the Penal Code release program, which will be jointly implemented by jail officials and PTS. Our County is also in the early stages of developing and supporting a community bail fund to help low-income, low-risk defendants obtain release without oppressive financial conditions.

Cost Effectiveness: The County will save millions each year by implementing the reforms proposed by the BRWG, which will allow a much larger segment of the County's pretrial defendants to be safely out of custody pending trial. For example, having a defendant in jail costs \$159 per day, whereas supervision by PTS costs only \$15 per day. The only direct cost to date is one staff position.

Results: The BRWG's work led to an array of very significant reforms to County programs and processes. For example, PTS is building upon existing processes by adopting a domestic violence-specific risk screening tool for individuals charged with relevant offenses. The BRWG also improved cooperation among local agencies—including the Superior Court—as they recognize that preventing unnecessary detention supports the shared goals of protecting public safety and ensuring court appearances. Finally, the visibility of the County's bail reform work also enabled it to win a grant to develop media informing jail inmates about their rights and options during the pretrial process.

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Optional Submission: The BRWG's *Final Consensus Report on Optimal Pretrial Justice* is attached.