

Pretrial Compliance and Noncompliance

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INFO: Texas Association of Pretrial Services Annual Conference

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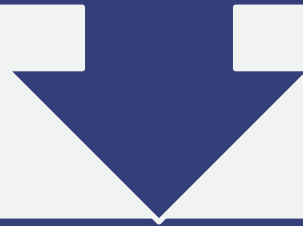


Objectives

Understand	Understand the value of developing protocols for responding to compliance and Noncompliance
Become	Become familiar with best practices for responding to compliance and Noncompliance
Learn	Learn steps to develop response protocols for your jurisdiction

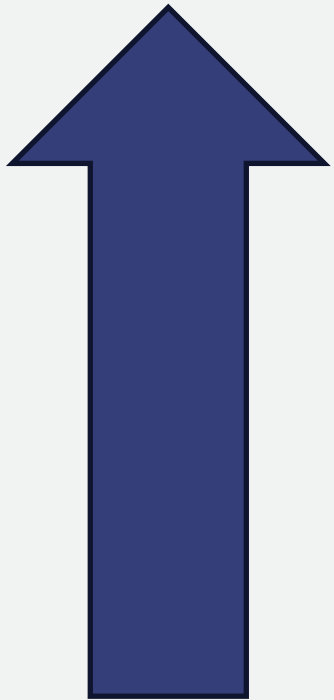
Quote

“The sole meaning of life is to serve humanity.”



— Leo Tolstoy

Session Goal



To increase
human
dignity.



To decrease
unnecessary
pretrial
detention.

Responding to Compliance and Noncompliance

Dr. Kelvin L. Banks

Foundational Principles

Release Decision

- Least Restrictive
- Individualized



Supervision – Responding to Compliance and Noncompliance

- Least Restrictive
- Individualized



Supervision Goals

- Court Appearance
- No New Arrest

Discussion Question?

- Do you know if your jurisdiction have protocols for responding to compliance and noncompliance?



Why is this Important?



Can prevent unnecessary detention of more people pretrial



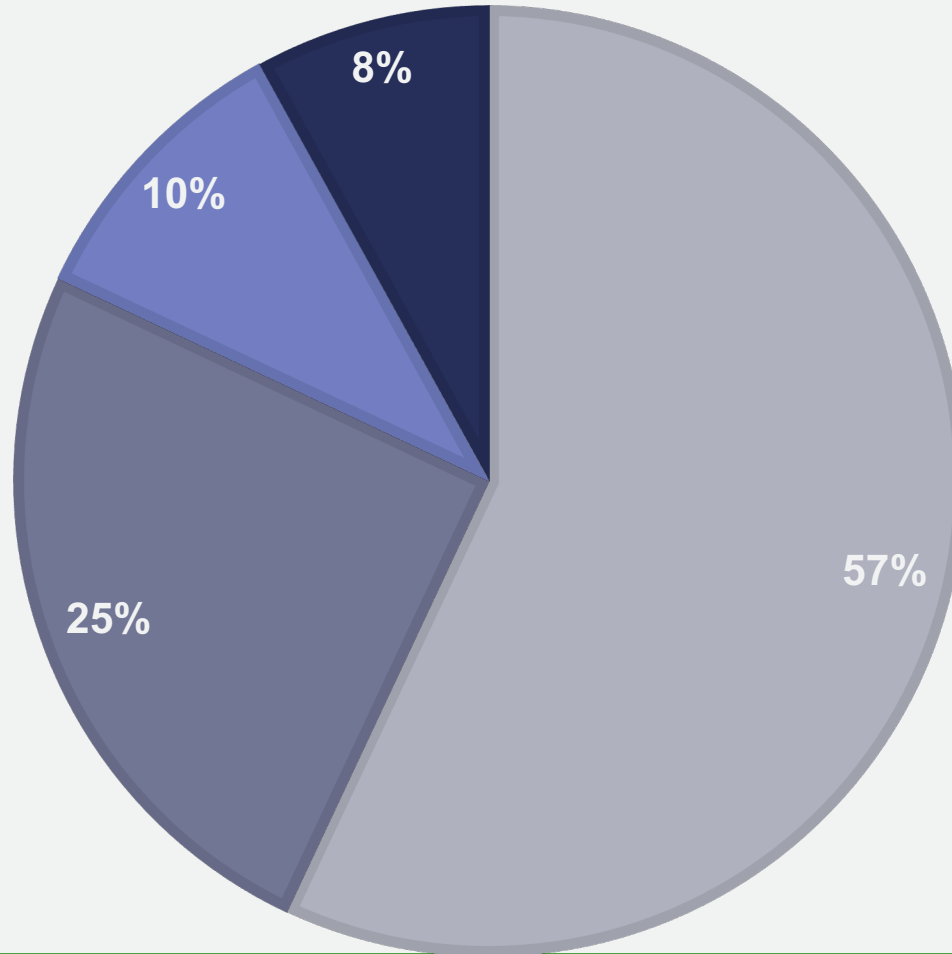
Can empower pretrial services to make service referrals or take other actions more directly connected to helping the person succeed



Allows agencies to promote success and not simply manage failure

Case in Point: Unnamed County, USA 2017

■ Contact Issues ■ EM Violation ■ Positive Drug Screen ■ Other



Case in Point: Unintended Consequences

- Average length of stay for a person violated for Noncompliance = 43 days
- Daily cost to detain = \$128
- **Cost of response to Noncompliance = \$5,504 per person**



Best Practices

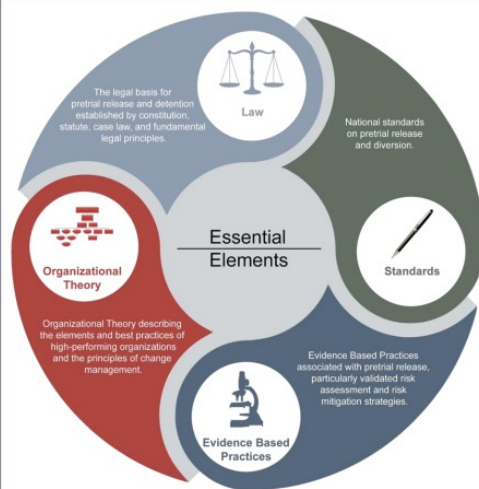
- Implementing a clear consistent, and equitable policy for responding to behavior while on pretrial release can prevent unnecessary pretrial detention and empower pretrial services to make service referrals.



Best Practices

A Framework for Pretrial Justice

Essential Elements of an Effective Pretrial System and Agency



- **Certainty**—the person knows the supervision program’s response scheme beforehand
- **Swiftness**—responses are prompt and timely to the person’s behavior
- **Proportionality**—responses are appropriate to the person’s behavior
- **Fairness**—persons perceive the response as fair and just compared to the behavior
- **Individualization**—responses must consider the person’s likelihood of future noncompliance or pretrial failure

Best Practices



Best Practices

“Pretrial services agencies should verify and, when appropriate, respond to a defendant’s conduct on court-ordered supervision. The agency’s response procedures should include administrative options the agency may apply without requesting court action. These should be developed with the court’s approval and shared with prosecutors, defense attorneys, and defendants.”

- *NAPSA Standard 4.6*



Standards on Pretrial Release:
Revised 2020



National Association of
Pretrial Services Agencies
napsa.org

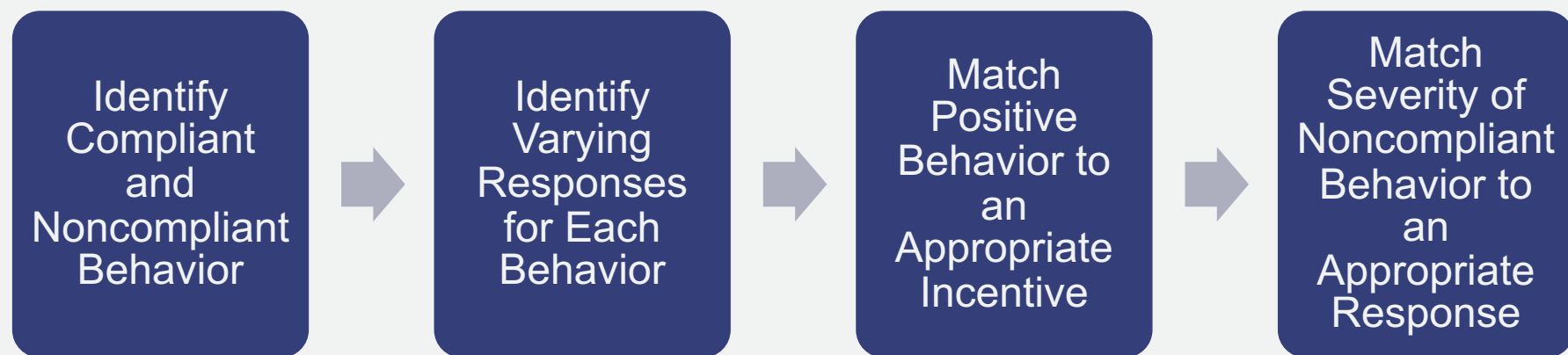
Best Practices

“Assist persons released prior to trial in securing any necessary employment, medical, drug, mental or other health treatment, legal or other needed social services that would increase the chances of successful compliance with conditions of pretrial release.”

- *ABA Standard 10-1.10*



Developing a Process



Compliant Behavior Examples

- No positive drug tests
- Maintain compliance with all conditions for 90 days
- On time for appointments
- No electronic monitoring violations
- No new arrest in 60 days
- Appearing at all court dates

Discussion Question?

- What responses does your jurisdiction have to address compliant behavior?



Practice Identifying Appropriate Responses: Compliance

John Lonestar

- Has been on intensive supervision 90 days
- Has appeared for each court appearance
- Has not been re-arrested
- Has adhered to all other conditions of release

Response to Compliance Examples

- Verbal praise
- Reduce supervision
 - Generally, after a period of 60-90 days when compliant with all pretrial conditions
- Ask the court to remove supervision
- Convert in-person appointment to a phone appointment
- Reduce or stop drug testing



Discussion Question?

- What responses does your jurisdiction have to address noncompliant behavior?



Response to Noncompliance Examples



Reinforce	Offer Support	Increase Contact	Problem-Solve	Increase Supervision	Court Involvement
Verbally reinforce conditions of supervision	Work with client to identify barriers and identify ways to support compliance <ul style="list-style-type: none">• Make appropriate service referral	Increase contact (frequency and type)	Develop a problem-solving plan	Increase supervision level	Notify the court <ul style="list-style-type: none">• Request OFA

Least Restrictive

Individualized

Developing Protocols – Collaborative Approach

- Identify stakeholders
- Share and discuss best practices
- Share and discuss data (if available)
- Identify appropriate responses for each supervision condition and level of Noncompliance
- Develop communication plan



Monitor and Provide Feedback

01

Ensure consistency in application

02

Create opportunities for feedback

03

Measure pretrial outcomes

- Court appearance
- New criminal arrest

04

Commit to ongoing review and evaluation

Closing Thoughts & Key Takeaways

Dr. Kelvin L. Banks



Key Takeaways: Responses to Compliance and Noncompliance

Grounded in Procedural Justice



Reduce or Eliminate Unnecessary Pretrial Detention



Continuous Review Practices to Ensure Alignment with Best Practices

Success Starts With You!



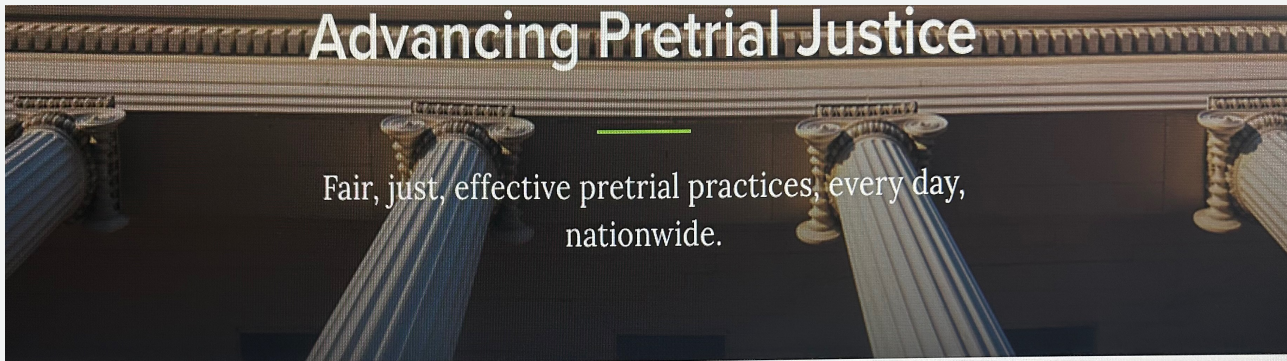
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Advancing Pretrial Justice

Fair, just, effective pretrial practices, every day,
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Highlights



Story

Moving the Needle

In Connecticut, leaders are updating court policies to reduc...

TRAINING

Trauma-Informed Care for Impacted People and Staff

Event / March 26, 2024

Trauma-Informed Care for Impacted Peo...

A training exploring the importance of trauma-informed care ...

TRAINING

Future of Pretrial Law: Legislation, Litigation, and Court Rules

Event / March 21, 2024

Future of Pretrial Law: Legislation, ...

A training on current trends and the forecast for pretrial l...



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