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Defendant Experiences in Pre-Trial Programs

Reviewing Research in the Context of Vermont's Statewide Program

Presented to the Vermont Pre-Trial Services Department

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1. INTRODUCTION

1.1 Background

Vermont recently passed legislation that requires pretrial services systems to be utilized throughout the state. Pretrial services connect particular categories of arrestees with mental health, substance abuse, and other resources intended to reduce their likelihood of future offending or addiction. The system is an alternative to the usual criminal penalties and judicial process for these individuals. Vermont's program will build on successful county-level services currently existing, notably in Rutland, and create a cohesive state-wide approach and set of priorities.

1.2 Motivation

To assist in the program development, statewide pretrial services coordinator Annie Ramniceanu and Robin Weber engaged us to investigate defendants' perspectives of pretrial programs in other states. To do this we undertake a thorough review of prior research. Because existing programs vary widely, comparing defendants' experiences across a wide range of jurisdictions poses many challenges. A literature review offers a useful way to consider a wide range of outcomes in many areas.

Only recently have researchers sought to systematically evaluate defendants' subjective experiences with pretrial programs. Bare, Miller, and Wilcoxon (2004, 59) state, "An extensive review of the literature indicated that assessment of client satisfaction with U.S. Pretrial Services had either not been formally conducted or had not been published." In the past ten years, a greater number of studies have addressed outcomes such as satisfaction, rather than just recidivism or substance use. Our literature review addresses articles that exist with implications for Vermont's program as it moves forward.

2. LITERATURE REVIEW

2.1 Assessing Customer Service Satisfaction with U.S. Pretrial Services, District of Nebraska (2004)

Mindy Bare, Dana Miller, and Travis Wilcoxon assess the satisfaction of individuals who receive or provide services of the United States Pretrial Services Office for Nebraska. The study is unique in that it focuses not only on defendants, but also judges, attorneys, probation staff, and drug and alcohol treatment staff. Their *Federal Probation* article provides a method to formally survey these individuals' attitudes and describes the attitudes for a sample of 125 individuals, including 42 defendants.

To assess attitudes and experiences, the Pretrial Services office administered a cross-sectional survey to seven customer groups served by the Lincoln and Omaha U.S. Pretrial Services offices. The groups include judges, defense attorneys, U.S. attorneys, U.S. marshals, U.S. probation officers, drug and alcohol treatment center staff, and past and



current defendants. For this purposes of our literature review, we focus on what may be most relevant to Vermont: the defendants' responses.

The Pretrial Services office selected defendants through systematic random sampling from a list of individuals who had worked with their office from 2001 to 2004. For the study, they reached out to 105 past defendants and received 42 responses. The exact procedure used by the Pretrial Services Office can be found in much greater detail in the original report. The surveys assessed basic satisfaction with the services provided by the Pretrial Services Office, as well as overall satisfaction with the entire process.

Overall, defendants responded positively about issues that reflected the professionalism of the agency, with more than half *strongly agreeing* or *agreeing* that they were "treated fairly," were "treated with dignity," received "accurate information," received a "clear explanation of the function of Pretrial Services," and were "treated like an individual."

Alternatively, the response was much less positive regarding the overall federal case experience and its result. Less than half of the responses rated their attitudes positively (*strongly agree* or *agree*) about being treated as "innocent until proven guilty," and feeling that Pretrial Services "helped (them) find a balance between case-related demands and life demands." There was also considerable confusion regarding the exact role of the U.S. Pretrial Services, with many past defendants mixing up Pretrial Services officers for U.S. probation officers.

The study then closes with a series of recommendations for the U.S. Pretrial Services office in Nebraska, the officers working in the office and for the Federal Judicial Center:

For the U.S. Pretrial Services Office in Nebraska, the study recommends the development of education tools for defendants and treatment providers regarding the exact role of the Pretrial Office. Specifically, the study recommends pamphlets or videos, in both English and Spanish. Along those lines, they also recommend the office addresses the language barrier many defendants experienced by improving their ability to communicate with Spanish-speaking individuals. Additionally, the report encourages Pretrial Services staff to make in-person contacts with treatment centers on a regular basis and participate in ongoing training on the most recent developments in substance abuse and mental health treatments.

For Pretrial Services officers, the study recommends that officers consistently consult with each other about their cases to maintain their objectivity and explore all available methods to serve their clients. In addition, officers are recommended to communicate regularly with drug and alcohol treatment staff regarding their client's progress. This will also help officers stay up to date on court developments and their client's drug testing results.



2.2 Evaluating Pretrial Services Programs in North Carolina (2008)

Since pretrial services are intended to benefit defendants, understanding the defendant's perspective is crucial. The authors of this report, Dillon Wyatt, Douglas Yearwood, and Melinda Tanner, acknowledge that research on the effectiveness and efficacy of pretrial programs is sparse and client satisfaction is rarely measured. They depend heavily on the work summarized earlier by Bare et. al. examining Nebraska's Drug Court Program, but also critique that study for relying solely upon client perception instead of assessment of actual data. Tanner and Wyatt conducted a study to "to analyze both 1) program processes, as in Clark and Henry's (2003) formative work, and 2) client perceptions, following the summative work of Bare, et.al. (2004) regarding the impact that these programs exert on the community, program clientele or defendants, jail populations and judicial processing. The study 3) also examined existing administrative data in an effort to present actual quantitative information on program efficacy and impact as opposed to measuring these factors solely by relying on client perceptions" (19).

In order to conduct this study, Tanner and Wyatt created two surveys. The first was developed to access the operation and management of pretrial services. While this study is useful, we will address it in less depth because it is not directly measuring the defendants' experience. The second study was designed for the constituents and agencies that either use or are affected by pretrial services. It was a questionnaire of 24 questions, divided into three sections. Surveys were mailed to all 33 pretrial services program centers in the state in 2007. Responses were obtained from 23 pretrial services program directors (69.7%) and 29 program constituents (29.3%).

"Respondents were asked to rate pretrial programs on a variety of measures, including written reports and recommendations, defendant supervision and programming, as well as to delineate program strengths and weaknesses. The survey also included identical Likert-type scale questions, as contained in the pretrial program directors' questionnaire, in order to compare and contrast the consumers' perceptions with those of the pretrial administrators on program impact. These questions sought to identify how pretrial services programs are exerting an impact on defendants, the community, and the local detention and court facilities."

To obtain responses, Tanner and Wyatt mailed the surveys to each county's pretrial service program director, the district court judges, chief magistrates, and sheriffs. It does not articulate how they received responses from the defendant's. The foundational questions were centered on six key questions:

- 1) Are pretrial programs more beneficial than jail?
- 2) Do pretrial programs speed up the judicial process?
- 3) Do pretrial programs reduce trials?



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- 4) Do pretrial programs reduce jail populations?
 - 5) What impact do pretrial programs have on the community?
 - 6) What percent of jailed defendants are good candidates for pretrial release?

The results to this questions show that constituents viewed pretrial services in a positive light. In other areas, “more than three-quarters (75.8 percent) of the respondents noted that pretrial release programs are more beneficial for defendants than traditional bail procedures, with seven (24.2 percent) answering that pretrial programs are no different from or are not as beneficial as bail”.

2.3 Minnesota Drug Court Defendant Experience and Fairness Study (2004)

Minnesota’s Fourth Judicial District Court commissioned this study to evaluate its Drug Court Program, especially in regards to its fairness to defendants. The court’s research division began by preparing a study taking a closer look at defendant’s experiences and views on Minnesota’s existing Drug Court Program. To do this, the Fourth Judicial District developed quantitative surveys with the help of three social psychologists who have spent extended periods of time studying the relationship between individuals’ perceptions of fairness and satisfaction, Larry Heuer from Barnard College, Tom Tyler from New York University, and Steven Penrod from the John Jay College of Criminal Justice. They then used these surveys to interview the 341 defendants who were on probation for a drug offense in Hennepin County District Court in 2003. Eight to nine months later, willing defendants, around 85% of those who filled out the survey, participated in follow up phone interviews to complete the qualitative evaluation.

In the survey, the Fourth Judicial District Court examined a broad range of topics, ranging from motivation for joining the program, which parts were most successful, what additional services may be useful, and a fairness assessment of the judges, probation officers, and the courts themselves. During the phone interviews, the defendants were asked nine open-ended questions regarding how effective they believed the program had been and how their lives have progressed since then. The report contains an extensive appendix, which includes both the original quantitative survey and the questions asked in the phone interview. These may be useful if Vermont crafts its own defendant experience survey.

Generally, defendants in Minnesota’s Drug Court Program were very positive regarding how the judges and probation officers treated them, with every respondent rating the judges and probation officers at or above a 7 on a 1-9 scale. Nine out of ten defendants interviewed in the follow up phone calls also reported that they had been able to successfully stay off drugs following their Drug Court experience. In general, program elements that defendants identified as being most useful to them in staying drug-free



included support groups, increased schooling, housing aid, job training, and family counseling.

2.4 An Honest Chance: Perspectives on Drug Courts

From 1997-1999, the Crime and Justice Research Institute hosted focus groups with participant in Drug Court Programs in six different American drug courts. These focus groups were intended to test common assumptions concerning drug courts, specifically those regarding the role of the courtroom, the judge, drug testing, and the use of sanctions. The Crime and Justice Research Institute decided to use focus groups as a fast and intimate approach to receiving personal feedback rather than utilizing quantitative surveys. Defendants who participated were offered a payment of \$25 at the end of their two-hour focus group session.

Each of the six drug courts that were selected were chosen to represent a diversity of approach, location, and demographics, and were based out of Brooklyn, Las Vegas, Miami, Portland, San Bernardino, and Seattle, and ranged in size from 8-22 participants. Every focus group would begin with a discussion around the group's purpose. Every focus group meeting covered the same topics and questions to provide consistency in the results. The topics covered were participant histories, neighborhood problems, drug court knowledge, the courtroom experience, defendant's commitment to treatment, the treatment experience, participant drug use, court responses, and participant recommendation. The National Criminal Justice Reference Service has excerpts and summaries of defendant's responses at every location regarding each of the topics.

While the focus groups covered a broad range of topics and thus have a long list of findings, there are a few broad conclusions that are relevant for the purposes of this literature review. In terms of defendant's experience in regards to fairness and treatment, the Crime and Justice Institute found that participants desired more communication and custom tailoring of programs. Defendants also desired more support either from drug court staff or through increased linkages to other support systems.

2.5 Female Drug Offenders Reflect on their Experiences with a County Drug Court Program (2011)

This study assesses the experiences of ten women in a drug court program in Northeast Pennsylvania. The data was collected on March 1, 2005, and each of the participants had graduated from the program at least three months prior to the date. Of the ten women, four were arrested for drug related crimes and three were arrested for property crimes. The median length of time spent in the program was approximately 19 months and the median age of the participants in the research was 32 years. To gather their data, the authors of the study Roberts and Wolfer conducted semi-structured and open-ended interviews with the participants. They based their interview style around the tenets of



Appreciative Inquiry, which are “(a) the focus on positive and effective programs and (b) amplification of what participants want more of, even if what they want more of exists only in a small quantity.” Roberts and Wolfer then organized all of the interviews using a word processing program to identify themes.

Roberts and Wolfer’s research found that the participants had positive overall impressions of the program, despite initial hesitations. In addition, the research indicated that participants identified “program structure, fear of punishment, rewards for progress, the cumulative effect of treatment services provided, and length of treatment required” as valuable contributors to their recovery. However, many participants also cited the difficulty of maintaining employment while participating in the program as a drawback. This study only addresses the experiences of a small group of a subset of the population, i.e. women, but provides valuable insight into the perspective of drug court participants.

2.6 A Statewide Evaluation of New York’s Adult Drug Courts (2013)

This study, funded by the Bureau of Justice Assistance, evaluated 86 drug courts across the state of New York to pinpoint why some drug courts are more successful than others. Specifically, the report compares recidivism and sentencing outcomes between matched samples drawn from drug courts and conventional courts in the same jurisdictions in 2005 or 2006. The drug court sample was predominately male and more than four out of five participants had at least one prior arrest, though well under half faced felony charges on the case that brought them into drug court.

The report is extensive and covers the impact of drug courts, differential effects based on target population, and differential effects based on drug court policies and practices. While not all of this is applicable to the work being done in Vermont, there are a few salient points that may be of interest. The study lists the topics the judges always discuss with defendants, and notes variation between approach and results in New York City, the suburbs, and the upstate New York area. Interestingly, the time between arrest and enrollment is long, especially in the suburbs and upstate. This seems to cut against best practices regarding timely interventions.

2.7 The Multi-Site Adult Drug Court Evaluation: Executive Summary (2011)

Drug courts began to propagate across the United States during the late 1980s and early 1990s. In 2002, the National Institute of Justice (NIJ) conducted the first national drug court evaluation, looking at multiple drug courts across the country. The study looked at whether drug courts reduced recidivism and drug use, what specific individual and program factors had an impact on effectiveness, how defendant attitude and behavior changed across the program, and whether any cost savings were generated through drug courts. The NIJ visited 29 drug courts in 8 states, and the sample included 1,781 offenders (1,156 drug court participants and 625 comparison group members).



While the study covers many topics that may not be of interest to Vermont's Pre-Trial Program, there are interesting findings looking at the role of the judges and defendant's attitudes in drug court programs. Drug court offenders believed that their judges treated them more fairly than the comparison group, and the report found that offenders with positive attitudes towards judges have better outcomes. Further, judges with a more positive judicial demeanor, those showing respect, fairness, attentiveness, enthusiasm, care, and knowledge, produced better outcomes. In terms of defendant attitudes, the study found that participants that were more aware of the consequences of failing the program were more committed and more likely to finish the program.

2.8 No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives (2013)

In this report, the Center for Health and Justice at TASC (Total Administrative Service Counsel) summarizes their extensive research into the various diversion programs offered throughout the United States. Their objective was to gain an over-arching understanding of the multitude of differing diversions programs utilized across the nation, and their major findings are outlined below. The project staff conducted an online survey to find information on program scope, development, design, and evolution. Staff also reached out to national associations and organizations working with diversions programs to promote the survey to the constituents of the organizations. All told thirty-three programs completed the online survey via self-report, providing some lessons that may be relevant to Vermont as they begin to prepare their own pretrial program:

- Although there are many types of pre-trial diversion programs with significantly different procedures, a large proportion of such programs heavily emphasize the needs of individuals with substance abuse and mental health issues.
- Many diversion programs exclusively deal with individuals with first-time or low-level offenses.
- Despite the prevalence of diversion programs, there are no clear universal standards to collect or publish data to evaluate these various programs against common performance measures.
- Similarly, there is no universal language, or set of definitions, for the literature of diversions programs across the country.
- Diversion programs have become necessary endeavors for many jurisdictions as the numbers of citizens entering the court systems and correctional institutions have increased.



3. CONCLUSION

This report leads us to believe that assessing defendants' experiences and satisfaction with pre-trial services has not been a significant priority in the implementation of many jurisdictions' programs. Perhaps for this reason, a limited number of studies systematically evaluate subjective experiences during and after pre-trial programs. Nevertheless, several studies, such as those in Nebraska, Pennsylvania, and Minnesota, offer useful lessons when implementing or evaluating pre-trial programs with risk and needs assessments. Through surveys and interviews, researchers have found widely positive responses among participants to pre-trial programs allowing them to avoid jail time and have the opportunity to address substance abuse issues. In addition, participants cited structure and support systems of drug court programs as extremely beneficial for their recovery. Participants also cited assistance with jobs, housing and food as particularly helpful in efforts to rebuild their lives. However, certain participants expressed confusion regarding the exact nature of pre-trial programs and had difficulty understanding the process, sometimes expressing feelings of having little agency. The varied nature of the study populations and programs makes it difficult to draw specific and concrete conclusions about pre-trial programs as a whole, yet the generally positive responses by participants suggest the programs are experienced as a positive alternative to more mainstream judicial processes.



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