

EVALUATING THE EFFICACY OF PRETRIAL CHANGES INTENDED TO REDUCE THE JAIL POPULATION: PRETRIAL SERVICES' SUPERVISION UNIT

A Final Report for Prepared for the Palm Beach
County Criminal Justice Commission

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Executive Summary:

1. The September 2017 changes to pretrial supervision increased the probability of SOR release among those who were released pre-disposition.

These changes did not, however, increase the probability of pretrial release. Instead, it appears that some individuals who would have otherwise been released on money bond were released SOR.

2. Despite increases in the probability of SOR release among those released pretrial, there were no increases in pretrial failure.

Rates of FTA, NCA, and NVCA among SOR releasees were substantively similar during the periods before and after the changes.

3. Following the changes, SOR IV was the modal category of SOR release, followed by levels III, II, and I, respectively.

4. Rates of pretrial failure increased slightly across the SOR levels, consistent with the notion that individuals at greater risk of pretrial failure are assigned to more intensive levels of supervision.

These increases were most notable for NCA, while smaller increases were observed across SOR levels for FTA. Rates of NVCA were substantively similar across risk levels.

Taken together, these findings suggest that efforts to expand the range of supervision levels within the Palm Beach County Pretrial Services Program resulted in increased utilization of SOR with no adverse effects on court efficiency or community safety. However, these gains did not contribute to increases in pretrial release. Instead, they appear to have shifted the release mechanism for a subset of individuals who likely would have been released on money bond prior to the changes. Given the low levels of pretrial failure observed across the sample as a whole, and individuals characterized as low risk in particular (SOR I), greater utilization of personal recognizance release is likely to maintain the current levels of pretrial compliance while further reducing the financial burden of either money bond or pretrial supervision.

Introduction

Over the last several years, Palm Beach County has instituted a range of changes aimed at reducing unnecessary pretrial detention and improving court efficiency. Much of this has been in conjunction with the MacArthur Foundation, during the course of Palm Beach County's involvement in the Safety and Justice Challenge (SJC). At the outset of the SJC, representatives from both the MacArthur Foundation and the county established a set of goals (e.g., percent reduction in the jail population) and strategies for how those may be accomplished. Similar to other jurisdictions around the country, an early focus was the Palm Beach County Pretrial Services Program. Pretrial Services provides a variety of functions in the county, including verifying and presenting information to courtroom workgroup members at first appearance, in addition to providing supervision to pretrial defendants in the community. Early on, that supervision was limited to a single level of services; however, in September 2017, the range of supervisory levels offered by pretrial services was expanded to four, which potentially allowed for judges to release a broader range of defendants on supervised own recognizance (SOR) bonds.

Since that change, there have been no systematic efforts to evaluate the shift from one to four levels of supervision. Using data from the Palm Beach County Jail, Clerk of Courts, and Pretrial Services, researchers from Florida State University's College of Criminology and Criminal Justice undertook an evaluation of the impact of this change on the likelihood of pretrial release and pretrial release outcomes (i.e., failure to appear (FTA), new criminal activity (NCA), and new violent criminal activity (NVCA)). The preliminary findings of that evaluation are described below.

Background

Pretrial services agencies have existed in the criminal justice system for more than half a century. The first of these was established in New York City as the Manhattan Bail Project (Ares et al., 1963). Although more widely known for launching the bail reform movement, the Manhattan Bail Project also brought to light the potential for release decisions to be more consistent and less determined by a defendant's wealth, provided that these were guided by systematic, verified information about the defendant. In the decades since, pretrial services programs have proliferated across the country.

Despite their ubiquity, there is wide variation in pretrial service programs, including the types of services that they provide, where they are housed, and how they are funded. The American Bar Association and the National Association of Pretrial Services have provided some guidance on the services and practices that should be present, including the 1) systematic gathering of information about defendants to aid judicial officers in making release decisions, 2) assessment of the defendant's likelihood of failure to appear and rearrest, and 3) provision of supervision in the community for those defendants who are conditionally released prior to the resolution of their charge(s) (Clark & Henry, 2003).

Over the last several decades, there have been several attempts to evaluate the efficacy of pretrial supervision; however, the findings of this work are mixed. Based on a review of the most recent research, Bechtel and colleagues (2022) suggest that "a 'less may be more' approach may be more effective for pretrial populations in terms of increasing community safety and court appearance outcomes (p. 37). This is an important insight given recent moves to expand pretrial services as jurisdictions attempt to reduce their jail populations and their reliance on money bond. Researchers and legal and policy experts have voiced concerns about the expansion of

pretrial services, as reductions in pretrial detention may be met by the most punitive forms of pretrial release (e.g., electronic monitoring). This is especially concerning as the available research clearly documents that overly onerous conditions of pretrial release undermine pretrial success by increasing the risk of technical violations among those who likely otherwise succeed absent such conditions (e.g., Sainju et al., 2018). Yet changes to pretrial supervision need not result in the expansion of intensive supervision, as some programs may opt to grow in ways that increase the opportunities for less intensive approaches to supervision, consistent with the recent changes implemented in Palm Beach County. Such changes may contribute to increased rates of pretrial release with no negative impact on levels of pretrial compliance. To consider this possibility, we evaluate the effect of the recent changes implemented in Palm Beach County.

Data and Methods

To examine whether the September 2017 changes to pretrial services instituted in Palm Beach County, Florida affected rates of court appearance rearrest, researchers from FSU conducted a series of analyses using case-level data from the clerk of courts, jail, and pretrial services. These analyses focused on all individuals booked into the Palm Beach County Jail between May 1, 2015 and December 31, 2019 on felony or misdemeanor charges. These dates are anchored around the September 2017 changes to ensure equal coverage of the period preceding and following the shift from one to four supervision levels within the Palm Beach County Pretrial Services Program.

A series of outcomes were tracked from the time of booking until the case was disposed or for 12 months, whichever came first. This follow-up period ensured the same duration of at-risk periods for all individuals. We began by tracking overall levels of pretrial release, in

addition to levels of SOR. For comparison purposes, we also examined temporal patterns in money bond and personal own recognizance release. Next, we evaluated the likelihood of pretrial release. Then, among those released, we examined the likelihood of SOR. Finally, we considered the full range of pretrial failure outcomes, including FTA, NCA, and NVCA. FTA was defined as a defendant failing to appear for any court event in the case during the follow-up period. NCA was defined as any new booking for a misdemeanor or felony charge during the follow-up period. NVCA was defined as a new booking for a violent crime during the follow-up period.

Results

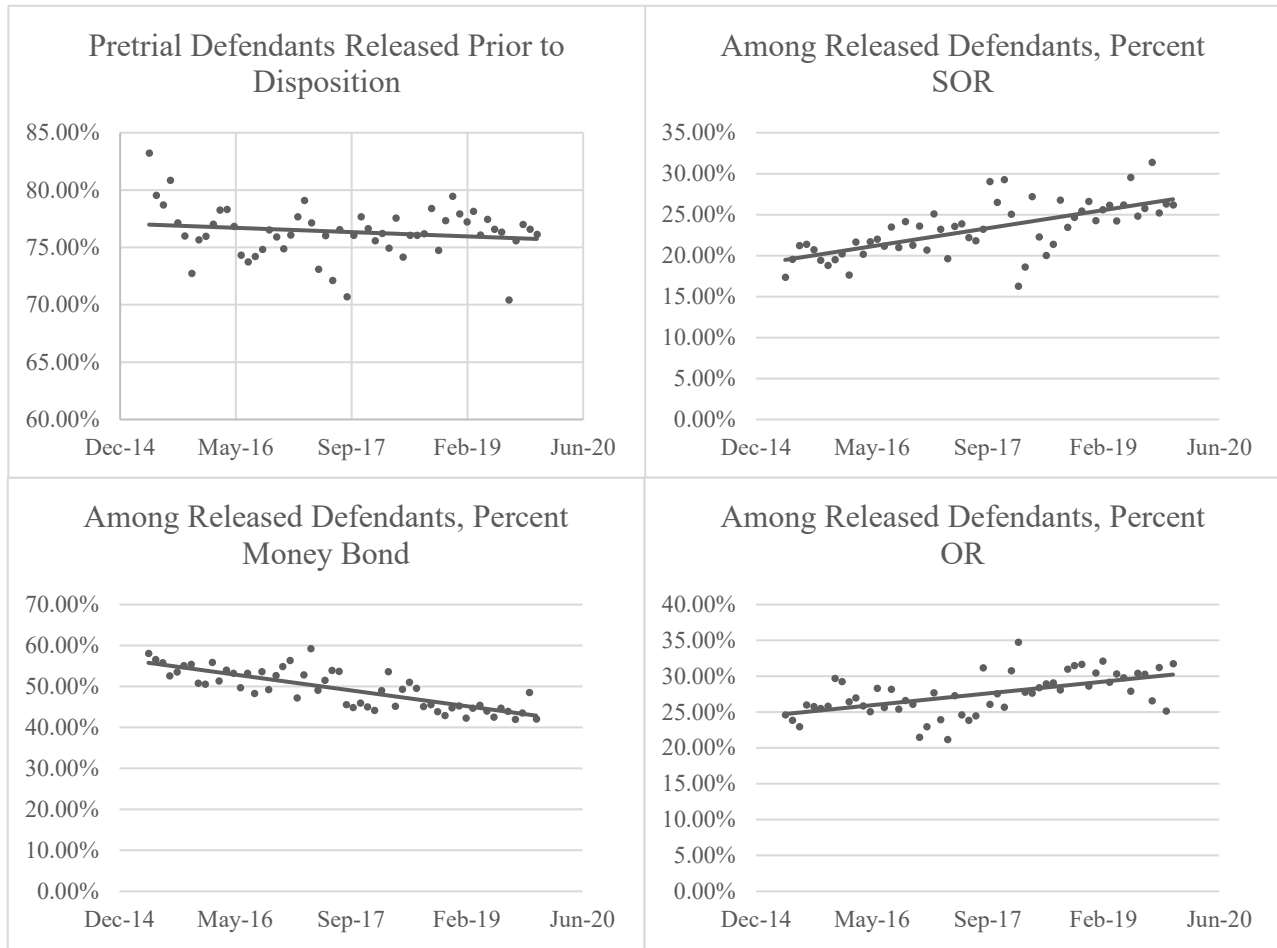
As indicated above, the change to pretrial services that occurred in September 2017 expanded the levels of supervision provided by the Palm Beach County Pretrial Services Program. Our findings suggest that this change (i.e., the expansion of pretrial supervision levels from one to four) increased the odds of being released to pretrial services (i.e., SOR).

Figure 1 presents trends in pretrial release across the study period. The dots represent the monthly share of individuals released. The first image reflects the share released among all defendants booked during the period. The subsequent images (SOR, money bond, OR) depict the share released via a given mechanism among those who were released pretrial. For example, focusing on the image characterizing SOR releases, 26% of individuals released pretrial in December 2019 were released SOR.

There are a couple of discernable patterns in the data. First, the overall share of individuals released pretrial is largely stable. However, among those released, there is a notable

increase in the share released SOR (and OR). Second, there is a corresponding decrease in the share of individuals released via money bond across the period.

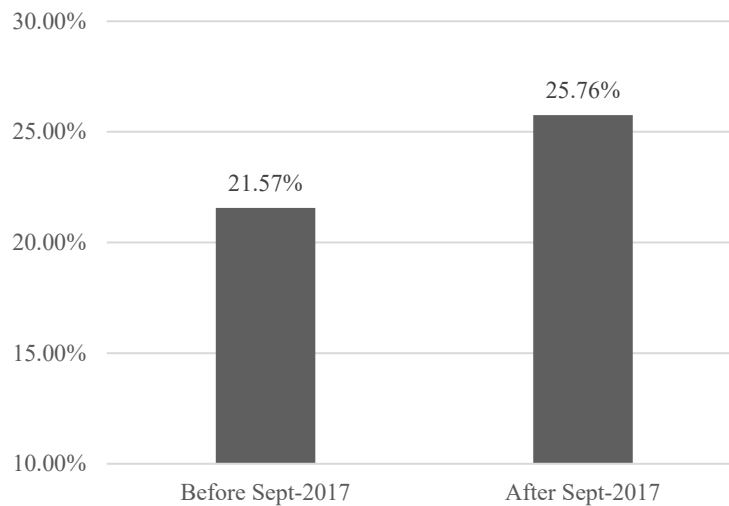
Figure 1. Time Trends in Pretrial Release



Although these descriptive findings suggest an increase in the use of SOR after the 2017 change, these analyses cannot rule out the possibility that these differences are attributable to differences in the types of individuals booked into the Palm Beach County Jail before and after the September 2017 change to pretrial supervision levels. To account for this possibility, we estimated a series of regression models to estimate the odds of a defendant being released SOR,

net of a range of defendant background, current charge, and criminal history information. These models indicated that the change to pretrial supervision, which expanded their range of services to offer four different levels of supervision for individuals released to their custody, resulted in a significant increase in the odds of SOR release. After controlling for defendant and case factors, roughly 22% of released defendants were released SOR prior to the change as compared to 26% of defendants during the post-change period (Figure 2). Furthermore, these increases were not isolated to a particular racial or ethnic group, as the probability of SOR release was higher during the post-change period among non-Hispanic white (24% vs. 29%), non-Hispanic Black (19% vs. 23%), and Hispanic or Latino (21% vs. 25%) individuals.

Figure 2. Probability of SOR Release Before and After Expansion of Pretrial Supervision

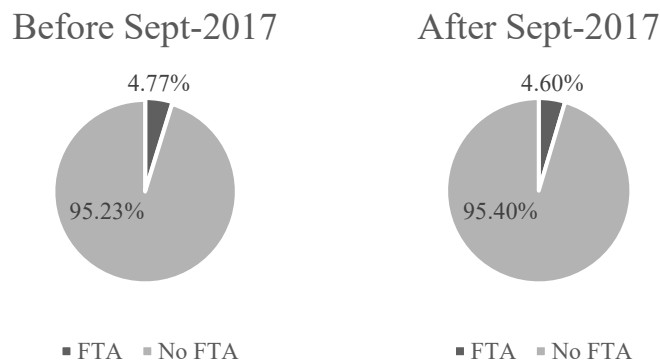


This translates to an additional 1,378 individuals released SOR during the post-change period than if the pre-change rates of SOR release had remained stable. Because similar shares of individuals were released during the pre- and post-change periods, these additional 1,378 individuals released SOR are mostly likely individuals who would have otherwise been required

to post monetary bond to secure release had the change not been instituted. These findings suggest that the changes to pretrial supervision increased the percent and number of individuals released under the supervision of pretrial services. A remaining question is whether these changes resulted in corresponding increases in missed court appearances or new crimes.

In a series of analyses, we examined the impact of the expansion of pretrial services on FTA, NCA, and NVCA. Similar to the findings outlined above, these outcomes were examined using logistic regression techniques to examine the odds of pretrial failure, net of key defendant, case, and criminal history factors. Overall rates of pretrial failure to appear during the study period were roughly 4%, suggesting that the vast majority (96%) of individuals released pending the resolution of their case attended all required hearings. Despite these low levels of nonappearance in court, an unanswered question was whether rates of FTA had increased since the changes were implemented to pretrial supervision in 2017.

Figure 3. Probability of FTA Before and After Expansion of Pretrial Supervision

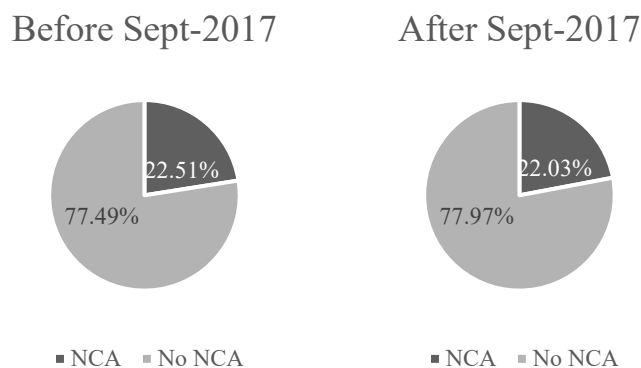


Defendants released pretrial were tracked until their case was disposed or for 12 months, whichever came first. Using data from the Clerk of Courts, we determined whether individuals failed to appear for a scheduled court event. Results indicated that the change to pretrial

supervision had no effect on the odds of pretrial failure to appear. After controlling for defendant background, current charge, and criminal history information, 4.77% of defendants were expected to miss a court appearance during the pre-change period as compared to 4.60% after the changes (Figure 3). These patterns were consistent across racial and ethnic groups, suggesting that expected rates of FTA were similar during the pre- and post-change periods across race/ethnicity (4.63% vs. 4.46% non-Hispanic whites; 4.97% vs. 4.78% non-Hispanic Blacks, and 4.59% vs. 4.42% Hispanic or Latino).

We also tracked defendants during the follow-up period (until case disposition or for 12 months) to determine whether they had been rebooked into the Palm Beach County Jail on new misdemeanor or felony charges. In analyses controlling for relevant defendant background, current charge, and criminal history information, our results indicated that there was no increase in the odds of new criminal activity during the period following the changes to pretrial supervision.

Figure 4. Probability of NCA Before and After Expansion of Pretrial Supervision

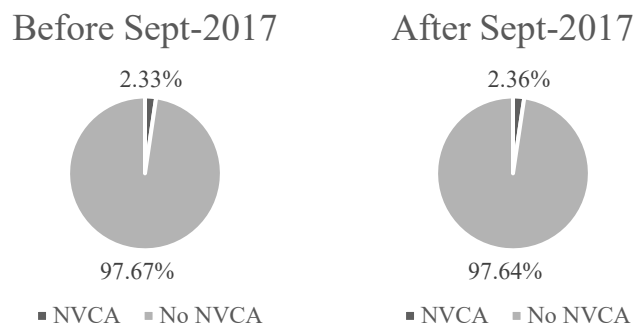


After controlling for relevant factors, 22.5% of defendants were expected to be arrested prior to the changes as compared to 22.03% after the changes (Figure 4). These patterns were

consistent across racial and ethnic groups (21.86% vs. 21.32% non-Hispanic white; 23.36% vs. 22.78% non-Hispanic Black, and 21.91% vs. 21.34% Hispanic or Latino). Thus, the majority of defendants—nearly four in five during the pre- and post-change periods—were not booked on new charges during the follow-up period. Although rates of new criminal activity during the pretrial period are relatively low, an issue of particular concern to the public and system stakeholders alike is the extent of new violent criminal activity. Accordingly, in a final set of analyses we examined whether defendants were rearrested on violent charges during the follow-up period.

Our findings revealed that the change to pretrial supervision, which included an expansion of pretrial services’ supervision levels, had no effect on the odds of new violent criminal activity among individuals released SOR pending the resolution of their case. Accounting for defendant background, current charge, and criminal history information, just 2.3% and 2.4% of defendants during the pre- and post-change periods were expected to be rebooked on a new violent crime, respectively (Figure 5). Similar to the findings for FTA and NVCA, these patterns were consistent across race/ethnicity (2.03% vs. 2.03% non-Hispanic white, 2.70% vs. 2.70% non-Hispanic Black, and 2.04% vs. 2.04% Hispanic or Latino).

Figure 5. Probability of NVCA Before and After Expansion of Pretrial Supervision



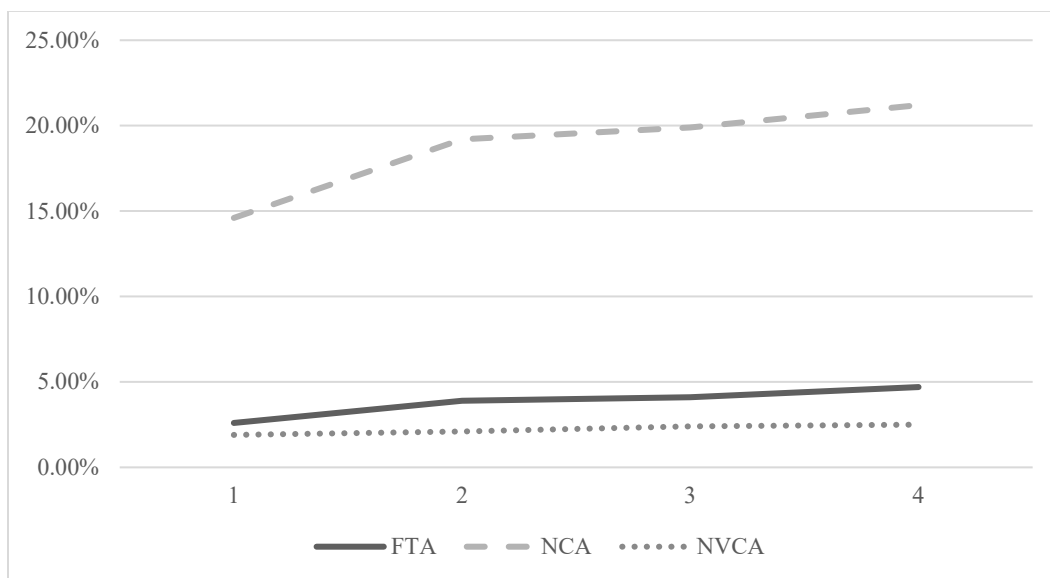
Supplemental Analyses

In supplemental analyses, we estimated a series of propensity score models. This approach creates matched comparison groups of individuals from the pre- and post-change periods such that the only observable difference between these groups is the period in which individuals were booked. Accordingly, any observed differences in the likelihood of pretrial failure can be attributed to the shift in pretrial supervision across the period, and not differences between the types of individuals who were booked before and after the change. This approach attempts to approximate the types of findings generated from an experimental design in which treatment assignment is random. Our findings from these analyses were substantively identical to those generated from the multivariate models and revealed no differences in the odds of pretrial failure—including FTA, NCA, and NVCA—across the periods.

Although the primary focus of our analyses was on the effect of the change to pretrial services from one to four levels of supervision, there was additional stakeholder interest in more explicitly exploring the four levels of SOR established in September 2017. We thus focused on the period following the September 2017 change to explore the likelihood of release to SOR I, II, III, and IV among those released via SOR. In models adjusting for defendant background, current charge, and criminal history factors, the probability of release to levels I through IV was 13%, 15%, 27%, and 45%, respectively. Thus, we determined that despite broadening the range of SOR levels, SOR IV—which is similar to the level of supervision provided prior to the September 2017 change—is the modal category of SOR release. In contrast, relatively few individuals were released to the least restrictive levels of SOR.

We also considered levels of pretrial failure across the four levels. In logistic regression models estimating the odds of FTA, NCA, and NVCA, we found patterns of pretrial failure consistent with expectations. More specifically, the probability of pretrial failure increased across the levels of SOR in a monotonic fashion, such that the probability of FTA was 2.6%, 3.9%, 4.1, and 4.7%; the probability of NCA was 14.6%, 19.2%, 19.9%, and 21.2%; and the probability of NVCA was 1.9%, 2.1%, 2.4%, and 2.5% across SOR levels 1-4, respectively (Figure S1). Given the very low levels of rearrest for a violent crime observed across all risk levels, the differences in the probability of NVCA across SOR levels is negligible. Similarly, there is a slight increase in the probability of FTA across SOR levels 1-4. The largest differences are observed for NCA, where the probability of rearrest ranges from 15% among SOR I releasees to 21% among those released on SOR IV. Although the substantive differences between levels across the pretrial failure outcomes is, in some cases, small, the general patterns suggest that the assignment of individuals to supervision levels is largely in line with their odds of pretrial failure.

Figure S1. Probability of Pretrial Failure by SOR Level



Conclusion

In September 2017, Pretrial Services' Supervision Unit expanded their range of services to offer four different levels of supervision, instead of a single, universal level, to individuals released pretrial on SOR. This approach is consistent with best practices in supervision conditions, which recommend that conditions be tailored to the individual to ensure that they are realistic (i.e., few in number and attainable) and relevant (i.e., customized to individual risks and needs). It is also consistent with the goals of the SJC, which included approaches that reduce unnecessary levels of pretrial detention. The analyses contained in this report evaluate whether the changes to pretrial supervision increased levels of pretrial release and, moreover, whether these changes were associated with increases in pretrial failure.

Focusing on all misdemeanor and felony bookings during a nearly five-year period, including the 28 months before and after changes were made to pretrial services' supervision levels, we conducted a series of descriptive and multivariate analyses. Our findings revealed that following the September 2017 changes to pretrial supervision, the percent of defendants released SOR increased. Furthermore, the pattern of increased rates of SOR release in the period following the changes to pretrial supervision was observed for all racial and ethnic groups included in the evaluation (i.e., non-Hispanic white, non-Hispanic Black, and Hispanic or Latino). However, this change did not appear to affect *whether* individuals were released, but rather *how* they were released. More specifically, we did not observe an increase in the likelihood of pretrial release during the post-change period. Instead, we observed increases in the likelihood of SOR release alongside declines in the likelihood of release on money bond. Despite increases in the number and percent of individuals released SOR following the September 2017

changes, there were no increases in pretrial failure, including 1) pretrial failure to appear, 2) new criminal activity, and 3) new violent criminal activity. In addition, similar levels of pretrial failure were observed during the pre- and post-changes periods across racial and ethnic groups.

Taken together, these findings suggest that the changes instituted within the Palm Beach County Pretrial Services Program have resulted in increases in the number and share of individuals released SOR. Furthermore, this has been accomplished without jeopardizing public safety or court efficiency. However, these changes did not contribute directly to reductions in pretrial detention. Future research should consider the net costs of SOR for defendants, including whether these changes—which largely resulted in individuals being released SOR who would have otherwise posted money bail—increased or decreased their financial burden. Given the low levels of pretrial failure observed among individuals released pretrial in Palm Beach County, and among those released to SOR I in particular, it is likely that the court could increase levels of personal recognizance release while still maintaining high levels of pretrial compliance. This approach would prove more cost effective to the county (i.e., lower supervision costs) and the defendants (i.e., avoid the fees associated with pretrial supervision) alike.

References

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