

SAFETY + JUSTICE CHALLENGE
PRETRIAL EQUITY TRANSFORMATION (PET) NETWORK

EVALUATING THE EVIDENCE: PRETRIAL SUPERVISION



this series

The *Evaluating the Evidence* series highlights key pretrial release supports and conditions: (1) automated court reminder systems; (2) electronic monitoring or GPS monitoring; (3) pretrial supervision, and; (4) urinalysis testing.

Each resource will provide key findings from the research about the effectiveness of the strategy to improve court appearance and reduce arrest while on pretrial release.

The resource will also discuss the strategy's impacts on worsening or improving disparities, and offer critical questions to help practitioners take an equity lens to their own pretrial release strategy.





WHY COURTS ASSIGN PRETRIAL SUPERVISION AS A CONDITION OF RELEASE ●

Pretrial supervision varies vastly across the country, but in some places works similarly to post-conviction supervision like probation and parole. Once the court releases an individual, the court can ask the individual to meet regularly with a pretrial supervision officer (i.e., in person, via phone/virtual, at individual's home). The officer may provide referrals to local community providers but is mainly responsible for updating the court on an individual's compliance with the meeting schedule and the rules of pretrial supervision.

Courts use pretrial supervision to lower jail populations while keeping tabs on individuals. Pretrial supervision requires individuals to keep their officer updated on their home address, in some jurisdictions allow searches of their person, property, and home, and follow other strict rules. The presumption is that if the court imposes conditions, this will prevent individuals from engaging in activities that may create opportunities for rearrest or missing court.

UNCLEAR EVIDENCE IF PRETRIAL SUPERVISION IMPROVES ATTENDANCE OR REDUCES REARREST

Systematic disinvestment across minoritized neighborhoods has left many individuals living in communities without the proper resources to get to court or get to pretrial supervision appointments (i.e., inaccessible or limited: public transit, affordable childcare, jobs with flexible hours). As a result, Black, Latiné, Indigenous, and other minoritized and poor populations who tend to live in disinvested communities miss pretrial supervision appointments at higher rates. Research suggests asking individuals who have limited resources to get to court or pretrial appointments are more likely to miss these appointments. As a result, they are more likely to return to jail.

WHAT DOES THE EVIDENCE SAY?



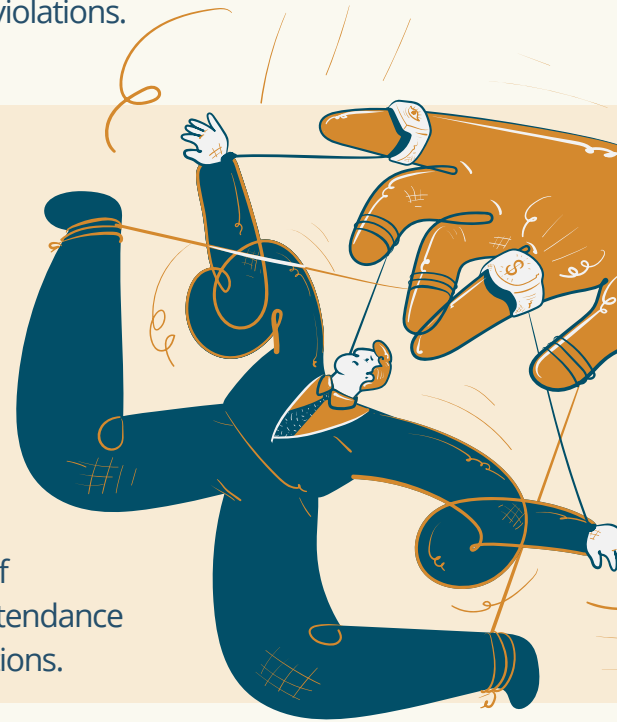
PRETRIAL SUPERVISION

Once the court assigns individuals to pretrial supervision, they meet with their pretrial supervision officers who provides them a list of rules they must follow, called “conditions of release.” The court believes these rules will provide structure to help people get to court and avoid rearrest while released.

However, these rules are often too lengthy, too vague, and too challenging to follow immediately for individuals with limited access to resources. As a result, individuals become non-compliant with the rules, coined technical violations, which officers report to the court. The court can return individuals to jail for these technical violations.

The research shows **mixed results on the true effectiveness of pretrial supervision** to improve court attendance and reduce rearrest. Some research shows improved court appearance; however, other research suggests pretrial supervision does not improve attendance and, instead, creates additional barriers that nearly guarantee technical violations.

Overall, the research is unclear if the monitoring itself improves court attendance or the improved court attendance is from individuals returning to jail for technical violations.



Adding more meeting requirements via pretrial supervision contacts can set up the most under resourced individuals to fail.

Pretrial supervision agencies should reduce or eliminate compliance monitoring, and instead dedicate operations to providing only support services to released individuals.



taking an **EQUITY LENS** to **PRETRIAL SUPERVISION**

Courts may use pretrial supervision as a condition of pretrial release, but the research shows mixed results on its ability to improve court attendance or reduce rearrest, especially among the most under resourced individuals.

Given the evidence and number of under resourced individuals navigating the court process, courts should assess their use of pretrial supervision and how it may inadvertently punish poverty. The questions below can help agencies reconsider the scale of pretrial supervision and discuss how strict compliance monitoring may create disparate returns to jail especially among the poorest individuals.

- How does your jurisdiction determine who is placed on pretrial supervision? What is the demographic composition of those assigned to pretrial supervision compared to those not assigned?
- How might perceptions of “pretrial risk” or “failure to appear” shape who is placed on pretrial supervision? In what ways is this “risk” or previous court absences related to lack of resources or other measures of poverty?
- What are the specific needs of the people on pretrial supervision? In what ways is the pretrial supervision agency addressing these needs? If they do not, why not?
- How does your local pretrial supervision agency respond to non-compliance with conditions of release? How do these responses account for individuals who are under resourced?
- What is the demographic composition of individuals returning to jail for technical violations? How does the community benefit from individuals returning to jail for behaviors that are not illegal outside of the context of pretrial supervision? What evidence supports this answer?





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This resource guide was created with support from the John D. and Catherine T. MacArthur Foundation, which seeks to reduce over-incarceration by changing the way America thinks about and uses jails. Core to the Challenge is the need to reduce the over-reliance on jails, with a particular focus on addressing disproportionate impact on low-income individuals and communities of color.

www.SafetyandJusticeChallenge.org