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# Improving Pretrial Assessment and Supervision in Colorado

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**T**his article describes an innovative pretrial initiative known as the Colorado Improving Supervised Pretrial Release (CISPR) Project, now in progress in Colorado. The CISPR project has the potential not only to modernize and improve pretrial services in our state, but also to contribute to the knowledge base on effective pretrial practices nationwide. A particular focus is on how pretrial supervision agencies can match defendants' individualized risk profiles—as measured by a validated risk assessment instrument—to specific interventions, in order to minimize defendants' new arrests and failures to appear while they are out on bond.

The pretrial release decision and the supervision of defendants in Colorado are similar to processes in many other states. Denver-metro area counties and other large counties employ pretrial staff who use home-grown pretrial risk assessment instruments that were modeled after the Manhattan Bail Project in the 1960s and then modified over time. These instruments score defendants on factors such as their history of failure to appear (FTA), criminal history, employment and residential stability, and their substance abuse history. Judicial officers consider the information and recommendations supplied by the pretrial agency, along with any recommendations on bond made by the prosecuting attorney, to make a decision about defendants' conditions of bond. These conditions often require that defendants post a monetary bond, many times through a commercial surety, and receive supervision by the county's pretrial agency. In some counties, judicial officers have expressed their dissatisfaction with the current pretrial bonding and release process and have asked their pretrial staff to propose improvements. The CISPR project helps fulfill this request.

The pretrial services agencies in Colorado are typically very well regarded by law enforcement, prosecution, and the courts in the jurisdictions they serve. The agencies operate on tight budgets, and most are achieving documented FTA rates of 5% or less and new arrest rates of 1% or less. Though the numbers look good, local pretrial agency policies and procedures have not yet been optimized—including those related to the use of pretrial assessment and supervision. Many inefficient and ineffective practices still exist in the local justice system.

For example, defendants who could be supervised effectively in the community often remain in jail unnecessarily because they are unable to post bond. At the same time, higher-risk defendants who can post a monetary bond are often returned to the community unsupervised. In addition, many defendants who do not need pretrial supervision are ordered to it as a condition of release. These prac-

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tics result in system resources being spent, unwisely, on the incarceration and supervision of lower-risk defendants rather than on the higher-risk defendants who pose a greater threat to public safety and the integrity of the legal process.

### **Aims of the CISPR Project**

In late 2005, representatives from pretrial agencies in 10 Colorado counties began the CISPR project to improve the efficiency of the pretrial release procedure and the effectiveness of pretrial supervision.

The project has two main components:

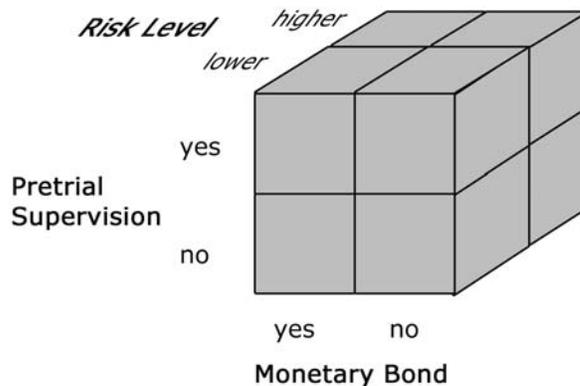
- 1) The development of a validated pretrial risk assessment instrument, to be known as the Colorado Bond Conditions Assessment (COBCA), that will replace the various, more subjectively derived risk assessment instruments currently used in each county; and
- 2) The development of research-based pretrial release supervision protocols that match individual elements of a defendant's risk profile to specific pretrial release supervisory techniques.

Upon completion of this project, pretrial agencies will be able to make research-based recommendations about conditions of bond to the judges and magistrates who set these conditions. The CISPR project is effectively statewide in scope, as 80% of the state's population resides in the 10 participating counties, which comprise urban, suburban, and rural or mountainous areas, most of which are in Colorado's populous "front range" region. Participating counties include Adams, Arapahoe, Boulder, Denver City & County, Douglas, El Paso, Jefferson, Larimer, Mesa, and Weld. The project is partially funded by an Edward Byrne Memorial Justice Assistance Grant from the U.S. Department of Justice.

The CISPR project is part of a broader movement in Colorado and nationwide toward evidence-based human and criminal justice services. Services that are based on researched outcomes use resources more cost-effectively, better reduce government liability, and provide more effective services to citizens than do services that have not been evaluated. It is likely that, at the conclusion of the CISPR project, many changes will ensue within the pretrial assessment, release, and supervision component of the legal process in Colorado. The result will be the delivery of better services to the defendants, the victims, and the justice system agencies affected by proceedings at the pretrial stage of the legal process.

The CISPR study should help to answer several long-standing questions in the pretrial field, such as, "Are pretrial outcomes for defendants who are required to post a monetary bond and undergo supervision by a pretrial agency better than the outcomes for defendants who receive either option alone, and does this differ for defendants of different risk levels?" To help answer this question, CISPR project staff will analyze FTA and new arrest outcomes for defendants in each of the eight conditions depicted in Figure 1, page 15.

**Figure 1. Matrix of Risk, Bond, and Pretrial Supervision Conditions for CISPR Analysis**



Other long-standing questions that will be answered are, for example, “Does the amount of the monetary bond affect defendants’ pretrial outcomes?” and “Does the type of surety (e.g., commercial or family/friend) that posts the monetary bond affect defendants’ pretrial outcomes?” The data-supported answers to these and other questions may lead to changes in local policies, or perhaps even statutes, that govern pretrial bonding and release practices in Colorado, and they may also influence policy in other states.

**The Phases of CISPR**

The CISPR project will progress through several phases. The first phase is projected to last throughout 2008. The second and subsequent phases are projected to continue throughout 2009.

**PHASE 1—Develop instrument.** The first phase will consist of the development of a uniform, statistically validated pretrial release risk assessment instrument, the COBCA, for use in Colorado. This phase will validate several risk factors already in use by pretrial agencies, as well as revealing new risk factors.

The research methods to develop the COBCA are similar to those developed for and used by other jurisdictions, such as New York City, Virginia, and Arizona. In particular, researchers from several of these jurisdictions have provided information, advice, or consultation that has improved the CISPR project. Ongoing technical assistance is being provided by Dr. Marie VanNostrand, who developed the Virginia Pretrial Risk Assessment Instrument. Many factors expected to predict FTA and new arrest are being included in the data collection, such as residential stability, substance abuse history, and criminal history. These items were gathered from previous studies in other jurisdictions as well as from items that are currently in use in various Colorado counties.

In addition, data collection will include some factors for which the predictive value has not yet been adequately tested. For example, to determine whether time incarcerated is predictive of FTA and new arrest during pretrial release (as it often is for recidivism after prison), defendants will be asked about the number of times and length of time they have spent in jail, residential community corrections, and/or prison. Moreover, to determine whether defendants' abilities to plan and problem-solve are predictive, defendants will be asked several open-ended questions about their specific plan for appearing in court and overcoming potential obstacles, such as conflicts with work or child care and transportation issues. While creating a validated instrument for Colorado, CISPR researchers hope to discover new factors that may have value in predicting FTA and new arrests in other jurisdictions.

**PHASE 2—Match risks and interventions.** The second phase of the project will consist of attempts to empirically match the specific risk factors of defendants to specific interventions that reduce or contain those risk factors. The intention here is to replace the more conventional protocol in which defendants who achieve a given numerical risk score receive a given level of pretrial supervision, such as low, medium, or high. These levels of supervision often include a pre-packaged set of conditions of bond (e.g., report weekly, possess no weapons in the home), and they may or may not also include a few individualized conditions (e.g., a restraining order, electronic monitoring).

If this phase of the project is successful, then the courts will know specifically how to bundle different conditions of bond to minimize risk for each defendant, rather than using a one-size-fits-all approach. This bundling would greatly improve the efficiency of how pretrial agency resources are allocated, such that the over- or under-supervision of defendants would rarely occur.

**PHASE 3—Educate system stakeholders.** The third phase of the project will consist of educating judicial officers, prosecutors, defense attorneys, jail commanders, and pretrial staff on the study's rationale, methods, and findings, and about the resulting products: the COBCA and the new research-based supervisory practices. Because we will be working with some counties in which full-time staff already facilitate systemwide collaborative policy planning and provide their local justice system policy-makers with information and analyses on system functioning, the roll-out of the CISPR products will be expedited.

**PHASE 4—Prepare documentation.** In the fourth phase of the project, we will finalize user manuals for the COBCA and supervisory practices. The content of these manuals will be informed by the results of the research study and feedback from the system stakeholders. These manuals will be shared with all 22 Colorado judicial districts.

**PHASE 5—Assist with local implementation.** The fifth phase of the project will consist of developing and implementing training materials and protocols for current and new pretrial staff. We anticipate this will include varied formats, such

as slide shows and case vignettes with exercises. Materials will cover the COBCA and its direct implications for research-based supervision practices. CISPR research staff will be available to help interested Colorado jurisdictions convert from their current pretrial release practices to a validated assessment and research-based supervision protocol.

**PHASE 6—Solidifying progress.** The sixth and final phase of the project will consist of two parts:

- ◆ Within Colorado, we plan to monitor the adherence to the new protocol and make ongoing necessary adjustments to the COBCA, as well as revising pretrial agency policies and procedures. Pretrial staff in Colorado meet at least once per year to share information and ideas, so a forum already exists for the ongoing discussion of issues that may develop out of the CISPR project.
- ◆ On a national scale, CISPR research staff and project partners will be available for information-sharing about what was learned from the CISPR project so that other jurisdictions can build upon our experiences to further advance their own practices and the pretrial field as a whole.

**T**he CISPR project in Colorado presents an unprecedented and ambitious challenge to current pretrial and bond practices, with important theoretical and practical implications. At the local level, the participating pretrial agencies are likely to assume a more integral and valued role in front-end case processing, and to provide a model for implementing research-based and cost-effective practices within the justice system. At the national level, research findings and the resulting products should help the pretrial field's quest to become evidence-based. Long-held assumptions surrounding optimal conditions of bond will be empirically tested.

In the end, of course, the direct benefactors of the CISPR project will be the citizens of Colorado. Their local justice systems will be better positioned to improve public safety, the integrity of the legal process, and the due process rights of the accused—at costs that are lower and more sustainable than those of current incarceration and supervision practices. ◆

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