

THE PRETRIAL REPORTER

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National Notes

NEW REPORT DESCRIBES EFFORTS TO PROTECT SAFETY OF DOMESTIC VIOLENCE VICTIMS DURING PRETRIAL PERIOD

In 1999, the National Institute of Justice (NIJ) and the Office on Violence Against Women (OVW) funded the Judicial Oversight Demonstration (JOD) Initiative, which is testing the idea that quick, coordinated responses by the justice system can improve the safety of domestic violence victims. This is especially important during the pretrial period, when victims may be most vulnerable to re-victimization. Three jurisdictions participated in a JOD demonstration project focusing on pretrial innovations for protecting the safety of these victims. The three jurisdictions were: Dorchester County, MA, Milwaukee County, WI, and Washtenaw, MI. A new report describes the efforts of these three counties to improve the safety of domestic violence victims.

One approach taken by the JOD demonstration sites was to increase judicial involvement in managing domestic violence cases during the pretrial stage and by restructuring court processes. Dorchester and Washtenaw County implemented dedicated dockets for domestic violence defendants; and Milwaukee employed a domestic violence intake court. These specialized courts are specifically handling all matters in a domestic violence between arraignment through sentencing, if applicable.

Another approach involved having all judicial officers that were participating in JOD attend a five-day training program sponsored by OVW. The purpose of the training was to give the judicial officers a more detailed understanding of domestic violence and the role that the court can play in adjudicating these cases.

Specific supervision units were established for domestic violence defendants during the pretrial phase in both Washtenaw County and Milwaukee County. The supervision units continuously reviewed release conditions with defendants, and in Milwaukee County, the bail monitor made home visits with regular contact to ensure that these defendants understood the conditions of release. The

EXECUTIVE DIRECTOR'S LETTER

Dear Friends,

I am pleased to report that our conversion of the PTR to an electronic format has been successful. Many of you have taken the time to offer your comments and suggestions and our subscription base has grown substantially. Our changes to the PTR are only a ripple in what I see as growing changes in our field.

The National Association of Pretrial Services Agencies (NAPSA) annual conference in Ohio this fall drew record numbers. The federal pretrial services community convened a twenty fifth anniversary celebration as an adjunct to NAPSA's conference and it too, was extraordinarily well attended. The Office of Justice Programs has recently made several investments in our work including; judicial training on effective pretrial services, pretrial services technical assistance for tribal governments and assistance with mental health diversion. The District of Columbia Pretrial Services Agency has awarded a significant contract to Abt & Associates to study the efficacy of their pretrial supervision efforts. This work promises to have significance for all of us.

The New York City periodical CITY LIMITS this month devoted an entire issue to bail, while Federal Probation magazine dedicated its September 2007 issue exclusively to pretrial services and included many thoughtful articles by notables

EXECUTIVE DIRECTOR'S LETTER
(CONTINUED)

such as Marie VanNostrand. Senator Jim Webb of Virginia recently convened a bi-partisan hearing on the costs and effects of incarceration in the United States and Mexico is convening it's first-ever conference on bail reform in a few weeks with support from the Office of Strategic Initiatives (OSI). The National Institute of Corrections (NIC) just completed its second Orientation for New Pretrial Executives and has another session scheduled for March 2008. Finally, philanthropic institutions such as the JEHT Foundation continue their interest and support of justice reform on several fronts, including ours.

While each and every of these developments is encouraging they represent only a fraction of the work ahead. As we raise awareness of the issues we all believe in, so too must we continue to refine our own practice at the local level. We must commit ourselves to elevating the NAPSA Standards from aspirational goals to everyday reality. We must all join the effort to expand pretrial diversion as a rational and effective alternative to prosecution in every community, through an aggressive campaign supported by data driven outcomes. We must be willing to discard what doesn't work while we embrace policy supported by scientific evidence. All of this is within our reach. It will, however, come with inevitable and relentless attacks by those whose financial profits will be affected by our success. Our struggle has never been about profit, it has always been about justice. We have so much to be proud of these past months. I can't wait to see what the next year brings. Congratulations and keep up the fight.



increased supervision and communication with defendants was implemented in an effort to reduce pretrial misconduct. New policy and procedures were put into practice regarding pretrial bond violations. In Washtenaw County, for example, if a defendant failed to appear for a bond condition meeting and did not contact the probation supervisor, a bench warrant was issued. This misconduct was "streamlined" to the prosecutors and the court, keeping in constant communication. This approach allowed for quick court sanctions to pretrial misconduct.

The enhancement of victim services was also put into action. The JOD sites used both non-governmental agencies and court services providing referrals for service to victims. The referrals were intended to inform and protect victims and increase participation of the victim throughout the process. Both Dorchester County and Washtenaw County hired "specialists" that are located onsite to assess the victim's needs and refer them to the appropriate services. The more timely response is thought to have an impact. In Milwaukee County, victim advocates expressed the need for a "secured" space for the victims so they would not have to fear running into the defendant at a hearing. Some of the JOD funding went toward a room that is staffed by victim specialists and security helping to provide a "safe" place for victims and their families to reduce intimidation. Educating and assisting the victim was intended to reduce the non-compliance rate that has often been the case out of fear for retaliation.

A pending evaluation report that will describe outcomes achieved through this demonstration project is expected in 2009.

A copy of the report, "Pretrial Innovations for Domestic Violence Offenders and Victims: Lessons from the Judicial Oversight Demonstration Initiative," can be downloaded at www.ncjrs.gov.

EXPERIENCES OF SEVEN SITES WITH GPS TRACKING IS DOCUMENTED THROUGH NIJ GRANT

The National Institute of Justice funded an effort to identify the challenges faced by jurisdictions in implementing and using GPS (Global Positioning System) technology to monitor pretrial defendants and sentenced offenders in the community. A new publication synthesizes the experiences of seven jurisdictions that use GPS, including four that use it to monitor pretrial defendants. The seven jurisdictions were selected for their relative maturity in using GPS technology and geographical distribution. The document is meant to guide other jurisdictions that are thinking about introducing the use of GPS.

Jurisdictions considering the implementation of GPS technology must be clear about their objectives for doing so.

The document noted that jurisdictions considering GPS must be clear about their objectives for doing so. In the discussions with the seven jurisdictions, several objectives for using GPS were identified. These included: protecting the safety of the community; assuring defendant/offender accountability; deterring additional crimes; relieving jail crowding; and reducing the risks of failure to appear in court.

According to the document, the experiences of the seven jurisdictions showed the importance of having clearly defined policies and procedures when implementing GPS. These include: detailed selection criteria; participation agreements with the defendant/offender, the family or home owner, and the victim; payment for participation and for loss to or damage of equipment; equipment installation; and program responses to alerts.

Under a heading entitled, "Wish We Knew," the document relays the unexpected experiences of the seven jurisdictions when they were implementing GPS. Included among these were: dealing with signal losses and poor reception that either fail to identify violations or continually produce false alarms; battery life limitations; the frequency of equipment failures; and poor "tamper proof" features of the equipment. Also, the jurisdictions noted that the time required to analyze data and determine appropriate action was taking longer than expected.

The jurisdictions also faced challenges presented by judges who did not fully understand the limits of the technology and would order such intense monitoring that the battery of the unit would be exhausted long before the defendant/offender would be required to be home. In addition, according to the document, judges would often assign inappropriate individuals to GPS.

The document also thoroughly describes the current state of GPS technology and anticipated future enhancements to that technology.

The document, "Global Positioning System (GPS) Technology for Community Supervision: Lessons Learned," can be downloaded from www.ncjrs.gov.

LAW REVIEW ARTICLE FOCUSES ON MAINTAINING SPEEDY TRIAL RIGHTS IN THE FACE OF A DISASTER

The complete breakdown that occurred in the New Orleans criminal justice system in the aftermath of Hurricane Katrina has been well-documented. The courts ceased to function for a period, and pretrial detainees were scattered in jails and prisons throughout the state, with no access to their attorneys and no court dates scheduled. A recent law review article examines the speedy trial implications when a court system is faced with such an unprecedented calamity.

*A natural disaster
is no excuse for
violating speedy
trial rights of
pretrial detainees,
argues law review
article.*

The article discusses speedy trial in light of a four-pronged test laid out by the U.S. Supreme Court in *Baker v. Wingo*, 407 U.S. 514, 532 (1972). In determining whether a defendant's speedy trial rights are being violated, the Supreme Court said, a court must look at the length of the delay, the reason for the delay, the defendant's assertion of the right to a speedy trial, and the prejudice done to the defendant by the delay. While the reason for delay was a natural disaster, the author argues that the "government was at fault for the delay because it failed to have a contingency plan to preserve the criminal justice system in case of disaster." Without a contingency plan, dockets in New Orleans became crowded and caused extended delays even after the courts re-opened. In New Orleans, the average defendant spent 385 days in detention following Hurricane Katrina, even when facing misdemeanor charges.

As to the defendants' assertion of their rights to speedy trial, the author argues that they were in no position to assert their rights since they were scattered around the state and had no access to their attorneys. The author also argues that defendants faced oppressive pretrial incarceration. Reports indicate that it took nearly three days to evacuate New Orleans' jails. During this time, allegations of misconduct arose as defendants claimed they suffered neglect and abuse while incarcerated. According to the article, conditions during Katrina likely caused anxiety for defendants. These factors, in combination with impairment to the defense resulting from the collapse of the public defender system, prejudiced defendants.

After considering all four factors in the context of what occurred in New Orleans after the hurricane, the author argues that, even given the calamity, the speedy trial rights of pretrial detainees were violated according to the *Baker* test.

Although natural disasters have occurred throughout history, the author states that it is important that local jurisdictions develop contingency plans in the event that court systems are unable to operate. Local jurisdictions must learn from Katrina by emphasizing emergency preparedness in the event of disaster. They must work to establish alternate locations for holding court hearings, create databases to track defendants, and ensure that stable funding exists for public defender services. By creating such emergency plans, the author says, local jurisdictions may uphold the constitutional right to a speedy trial and the right to an attorney, even in the face of natural disasters.

The article "Learning From Katrina: Emphasizing the Right to a Speedy Trial to Protect Constitutional Guarantees in Disasters" by Patrick Ellard appears in the Summer 2007 American Criminal Law Review.

*At least 150,000
pretrial inmates
have been illegally
strip searched in
New York City after
a 2002 settlement
which was
supposed to stop
the practice.*

**NEW YORK JAIL TWICE CONTINUED TO VIOLATE
FEDERAL COURT RULING BANNING STRIP
SEARCHES OF MISDEMEANOR ARRESTEES**

In 2001, the U.S. Court of Appeals for the Second Circuit ruled unconstitutional the strip searching of misdemeanor defendants who were being held at New York City’s Rikers Island jail pending their initial appearance in court. Under the ruling, jail officials could only conduct strip searches if there was reason to believe the defendant was carrying contraband. Despite this ruling, the jail continued to strip search these defendants. As a result, in 2002 the City was forced to pay up to \$50 million to settle a lawsuit filed on behalf of tens of thousands of these defendants who were strip searched after the court ordered such searches to stop. In 2005, it was discovered that these strip searches had not stopped with the 2002 settlement.

In a settlement recently reached in federal court, the City’s Department of Corrections conceded that as many as 150,000 misdemeanor defendants have been illegally strip searched since the 2002 settlement, and were entitled to payment for damages. As part of the settlement, the Department agreed that it would immediately cease all strip searches of misdemeanor defendants. The Department will also post signs at the Rikers Island facility informing misdemeanor defendants that they do not have to submit to strip searches. The signs will include a toll-free telephone number for an independent monitor to be named by the court.

In explaining how these strip searches could have continued despite the federal court order and the 2002 settlement, Stephen Morello, a deputy commissioner of corrections, noted that the department had “a policy in place which met the law and ensured that strip searches would not be conducted on new admissions misdemeanor detainees. However, we lacked the procedures needed to guarantee that the policy was consistently followed. We regret that, and we have already begun to implement new procedures to ensure that we comply with the law.” (*The New York Times*, 10/5/07.)

**NEW LAW IN TEXAS ALLOWS FOR CITATION
RELEASE FOR MARIJUANA POSSESSION; NEW
POLICY IN THE STATE’S LARGEST COUNTY
REQUIRES FULL CUSTODIAL ARREST FOR ILLEGAL
IMMIGRANTS WITH OUTSTANDING WARRANTS**

On September 1, 2007, a new law went into effect in Texas allowing police officers to issue a citation rather than making a full custodial arrest for persons charged with possessing four ounces or less of marijuana. Legislation had been introduced on behalf

*Montana
Legislature
establishes
committee to look
into problems of
the mentally ill in
the criminal justice
system.*

of Texas police officers, who complained that making arrests in such minor cases was not a good use of their time, and contributed unnecessarily to jail crowding. "From my perspective, [this new law] gives police officers another tool in their belt when dealing with non-violent offenders," said Dennis McKnight, Chief Deputy of the Bexar County Sheriff's Department. "Rather than spending three hours taking a guy downtown, booking him into jail, taking him before a magistrate and taking his paperwork up to the district attorney, I can write him a ticket compelling him to show up in court. And I can get back to my beat protecting my citizens....It's a no-brainer." The legislation passed 132 to 0 in the Texas House and 29 to 1 in the Senate. (*Fort Worth Star Telegram*, 8/29/07.)

Meanwhile, the Harris County Sheriff's Department has begun a new policy on "non-arrest" bonds to illegal immigrants with outstanding warrants. In the past, individuals with outstanding warrants for certain minor offenses would be able to post a bond without being booked into the jail. Now, any of these individuals who are illegal immigrants must be booked into the jail. This new policy will allow Immigration and Customs Enforcement Agents to identify illegal aliens for removal. Legal aliens and U.S. citizens will still be able to post "non-arrest" bonds. (*Houston Chronicle*, 9/8/07.)

MONTANA LEGISLATIVE COMMITTEE LOOKING INTO WAYS TO IMPROVE HANDLING OF THE MENTALLY ILL IN THE CRIMINAL JUSTICE SYSTEM

The Law and Justice Interim Committee (LJIC), created by the Montana Legislature, has begun a series of meetings to develop an implementation plan for adults and youths in the criminal and juvenile justice systems in the state. Noting that more than half of jail and prison inmates have mental health problems, the Legislature asked the committee to develop a plan that addresses options for supervising youths and adults in the community and that includes a continuum of care encompassing community placements and inpatient treatment options.

The Legislature also asked the committee, which is comprised of six members of the Montana Senate and six members of the House, to look into other issues, including streamlining the process for committing, detaining, and treating persons with mental illness, and finding non-prison alternatives for the mentally ill.

In the first of seven scheduled hearings of the LJIC, the committee heard testimony from a number of officials who stated that there is a lack of treatment available for the state's mentally ill. This problem can lead to their incarceration for crimes committed due to

INSTITUTE ACTIVITIES

August and September kept us quite busy – here are some highlights: In August, Tim co-presented with Judge Bruce Beaudin a course on bail setting at the National Judicial College in Reno, NV. From there, he flew to Michigan to present on pretrial justice and bail setting at the Michigan District Judges Association 2007 Summer Conference.

In September, NAPSA held its 35th annual national conference in Cleveland, OH. We were fortunate enough to have all seven PJI staff attend, many attending for the first time. Timothy and David Levin presented on conference panels: Tim on the NIC Pretrial Executive Leadership Development Training, and David on the State Court Processing Statistics Project. The day before NAPSA, PJI held its annual Board of Trustees meeting where we unveiled our new name and redesigned website (still at www.pretrial.org). Tim also spoke at the United States Pretrial Services 25th Anniversary meeting, held the day after NAPSA.

Also in September, staff went to Dallas to participate in the 15th annual JDAI Inter-site Conference, representing our work operating the JDAI Help Desk (www.jdaihelpdesk.org). PJI has been a long-time partner in the Juvenile Detention Alternative Initiative of the Annie E. Casey Foundation. The JDAI Help Desk is an innovative way to make 15 years of technical assistance materials available to a wider audience.

In addition to our great travels, PJI continues to have new projects. BJA asked PJI to submit two technical assistance proposals - one to support mental health court diversion and the other to reduce unnecessary pretrial detention in tribal jails. We were also recently notified that we won a grant under the BJA Open Solicitation. The project will pilot the provision of state-specific judicial training on pretrial release statutes and standards, in partnership with the National Judicial College.

their illness. Moreover, while incarcerated the mentally ill often do not have access to the treatment and services that they require.

Assistant county attorney Leslie Halligan said many of the hospitals in the state have closed their mental health wings leaving the mentally ill with few options short of ending up in jail or on the street. Lewis and Clark County Sheriff Cheryl Liedle commented that because of one of their local hospitals closing its mental health wing, she is left transporting the mentally ill inmates to another facility. “This shifts burden of the costs to the local entities and takes officers off the streets,” said Sheriff Liedle. (*Billings Gazette*, October 2007)

Cases

HERNANDEZ V. LYNCH, COURT OF APPEALS OF ARIZONA, DIVISION ONE, 07-0092, 10/2/07

In November 2006, Arizona voters approved Proposition 100, which amended the state’s constitution to deny bail to persons charged with a felony offense “if the person has entered or remained in the United States illegally.” (Article 2, Section 22(A).) When Melvin Hernandez was arrested and charged with two counts of possession of forged instruments he was initially released on his own recognizance. Two weeks after his release, the Arizona Supreme Court issued an administrative order directing superior courts throughout the state to implement the bail-denial provisions of Proposition 100. As a result, when Hernandez appeared for his preliminary hearing, the trial court determined that he met the criteria under the proposition and ordered him held without bond. Hernandez appealed, arguing that the proposition was unconstitutional.

By the time that the Court of Appeals was ready to decide the case, Hernandez had pled guilty was sentenced. The court, stating that the issues raised in the appeal were likely to arise again, decided that it had jurisdiction even though the issues were now moot to Hernandez. The court addressed two issues. The first was whether Proposition 100 “applies to those persons who have entered or remained in the United States illegally but are now lawful residents.” The second issue was whether the proposition “is facially unconstitutional under either the Equal Protection or Due Process Clauses of the United States Constitution.”

In addressing the first issue, the court noted that the language of the proposition – “if the person has entered or remained in the United

Amendment

denying bail to

illegal aliens

facing felony

charges is

constitutional,

rules the Arizona

Court of Appeals.

States illegally” – is ambiguous. It was not clear from this language whether it included those who may have entered the country illegally but have since gained lawful resident status. The court concluded that the proposition applies only to those who are illegal aliens at the time of the arrest. In doing so, the court reasoned that “[i]f the denial of bail were used to punish the past acts of those who illegally entered or remained in the United States, but subsequently gained legal residency or citizenship status, it would act as punishment for those past acts rather than to serve the regulatory purpose of ensuring a defendant’s presence at trial.”

Turning to the second issue – the facial unconstitutionality of the proposition – the court considered the history and the purpose of the proposition, the avowed governmental interest, and the imposed periods of detention. The court concluded that the proposition was not intended to punish defendants who are illegal aliens, but to prevent them from fleeing before trial, and that this purpose serves a legitimate governmental interest. Moreover, the court held that since the time in pretrial detention is generally limited, there is no constitutional violation of due process rights.

**MELENDEZ V. GONZALES, U.S. COURT OF APPEALS
FOR THE 9TH CIRCUIT, NO. 05-73581, 9/19/07**

William Melendez was a native of El Salvador. He arrived in this country illegally in 1992. In 1996, he was arrested in California on a drug possession charge. He was placed in a pretrial diversion program, successfully completed the program and the charge was dismissed. In 1998, the federal government began removal proceedings on the basis of the fact that Melendez was an illegal alien. He then married a U.S. citizen, which changed his resident status. In 1999, he was arrested again for drug possession. This time he pled guilty and was sentenced to probation. The government re-instituted the removal proceedings since Melendez now had a conviction. Melendez responded by asking the state court that sentenced him to vacate the conviction; California Penal Code 1203.4 allows the court to expunge a conviction if the offender successfully probation. That court agreed and his conviction was expunged. The removal proceeding went before an immigration judge, who ordered Melendez removed. Melendez appealed to the Board of Immigration Appeals (BIA), which upheld the removal.

On appeal to the U.S. Court of Appeals, Melendez argued that the expunction of his 1999 conviction under a California statute was the equivalent of expunction of a criminal record under the Federal First Offender Act (FFOA). That act specifies that first offenders charged in federal court with simple possession of drugs

Since the defendant had two bites at the pretrial diversion apple, the second dismissal counts as a conviction for purposes of removal of an alien, rules U.S. Court of Appeals.

may have their convictions “not entered” if they complete a period of probation. A conviction that is not entered under FFOA is not considered a conviction for alien removal purposes.

The appeals court agreed with Melendez that equal protection and due process principles required that FFOA protections be extended to state convictions that are expunged pursuant to state statutes, “provided that the conviction was for first-time conduct.” The court ruled, however, that the 1999 conviction was not Melendez’s first offense. The court held that the 1996 dismissal of drug charges after completing pretrial diversion was the equivalent to actions taken under FFOA. “Therefore, we hold that equal protection principles did not require BIA to ignore the 1996 diversion program. Because Melendez was allowed to avoid criminal consequences for the 1996 charge and the 1999 conviction, the BIA properly could regard him as someone who had received two bites at the ameliorative apple, instead of one bite allowed by the FFOA.” The court upheld the BIA decision ordering the removal of Melendez.

STATE V. JASON G. MEYER, SUPREME COURT OF NEW JERSEY, A-121-05/A-43-06, 9/19/07

The issue facing the New Jersey Supreme Court was whether non-violent, drug-dependent defendants who do not meet the eligibility requirements for “special probation” could, alternatively, be admitted into a drug court program under other provisions. The Court concluded that while “special probation” is a type of disposition for certain non-violent drug offenders, it is not the sole route to admission into Drug Court.

Jason Meyer was indicted for possession with intent to distribute a controlled dangerous substance and shoplifting, and applied for admission into the Warren County Drug Court Program. After a court ordered evaluation showed a long history of drug dependency, beginning at age eight, and crimes committed while under the influence, it was recommended he complete a long term residential treatment program. The State rejected his application to Drug Court, stating that “special probation” was the only path to Drug Court, and Meyer was ineligible for “special probation” based on his four prior convictions of third-degree offenses. Meyer appealed this rejection to the trial court, arguing that his prior convictions did not bar him from a probationary term under the general sentencing provisions or from enrollment in Drug Court under the Manual for the Operation of Adult Drug Courts in New Jersey, which sets forth uniform statewide eligibility criteria. Upon review, the trial court admitted him into Drug Court, at which point Meyer pled guilty to the charges, and was sentenced to a five-year probationary term in Drug Court.

*There is more
than one route
into the Drug
Court, says the
New Jersey
Supreme Court.*

The State appealed to the New Jersey Supreme Court. In delivering its opinion, the court noted the Drug Court Manual addresses two routes to entry into Drug Court – either qualify for “special probation” under in N.J.S.A. 2C:35-14, or “otherwise be eligible under other sections of the Code of Criminal Justice.” The court noted that the Code of Criminal Justice states that a person is eligible for Drug Court if (a) the offender has a drug or alcohol dependence and is likely to benefit from treatment; (b) the offender has not been previously convicted of and does not have a pending charge of murder, kidnapping, or other violent crime; (c) the offender has no history of possession of a firearm during an offense; and (d) no danger to the community is likely to result from the offender being placed on probation. Under the general sentencing provisions of the Code, a sentencing court is authorized to impose “reasonable conditions” of probation, such as undergoing medical treatment and other conditions reasonably related to rehabilitation.

Given the criteria for the second route, the Court found that Meyers was eligible for Drug Court. As the court stated in its opinion, “[i]t is inconceivable that the Legislature granted a trial court power to impose a probationary sentence, but not the power to attach the one condition necessary to address the offender’s desperate needs – a drug rehabilitation program.” Even though Meyers did not qualify under “special probation,” it does not relieve the trial court of its obligation to impose the appropriate conditions of probation, including in-patient or out-patient drug rehabilitation, pursuant to N.J.S.A. 2C:45-1. Therefore, consistent with both the Manual and N.J.S.A. 2C:45-1, the trial court had the power to admit Meyers into Drug Court and to impose a probationary term with specific conditions, ruled the court.

**CITY OF EAST LIVERPOOL V. SMITH, COURT OF
APPEALS OF OHIO, 7TH DISTRICT, NO. 06-CO-34,
9/5/07**

This case addresses the question of whether a defendant is still on bond, and subject to bond forfeiture, after a sentence has been imposed but before the sentence has begun. The issue arose after the defendant, Arnold Stith, failed to appear at the county jail to begin a 30-day jail sentence.

When Stith was arrested for a second-degree misdemeanor, the court set a \$10,000 bond. Stith posted that bond through a bail bonding company and was released. When he returned to court at a later date, Stith pleaded guilty and was sentenced to 30 days in jail and two years unsupervised probation. The probation sentence began immediately, and the court ordered Stith to appear at the

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forfeiture if a
sentence has been
imposed but it has
not yet begun.*

county jail one month from that date to begin his jail sentence. The court also continued the bond until the jail sentence would begin. When Stith failed to appear at the jail, the court issued a warrant and ordered the bond forfeited. The bail bonding company filed a motion with the court to vacate the bond forfeiture, arguing that Stith could no longer be on a bail bond since he had been sentenced. The court denied that motion and the bonding company appealed.

The company raised two points on appeal. First, it argued that the trial court had lost jurisdiction of the case after it had sentenced Stith. The court of appeals rejected this argument, stating that Ohio court rules allow a judge to continue a defendant on bond pending the start of a sentence. The bonding company next argued that the trial court erred in forfeiting the bond because bond forfeiture is reserved solely for failure to appear in court, and not for failure to report to jail. The court rejected this argument as well, stating that the court has the authority, under Ohio Criminal Rule 46(I), to order a bond revoked and forfeited for failure to comply with any conditions set by the court. Since the trial court had clearly continued Stith on his bond and ordered, as a condition of that bond, that he appear at the jail to begin his jail sentence, that court acted within its authority to revoke and forfeit the bond when Stith failed to appear. The appeals court upheld the decision of the trial court to order the bond forfeited.

Research

STUDY SHOWS PROMISING OUTCOMES FOR SAN FRANCISCO MENTAL HEALTH COURT

A recent study investigated persons arrested with a mental disorder in San Francisco between January 2003 and November 2004 to see if those assigned to mental health court have lower recidivism rates and take longer to recidivate than those placed in jail. The results indicate that for persons of similar mental disorders, sociodemographic characteristics, and criminal histories mental health court participation reduced both violent and non-violent recidivism over a 24 month period after entry into diversion and over a 24 month period after graduation from the mental health court.

This study utilizes advanced research methodology to match mental health court participants to similar jail inmates. Having executed

*Mental
health court
participation
reduced
recidivism over a
two-year period
after program
enrollment and
over a two-
year period
after program
graduation.*

this matching, the study employs a form of multivariate regression designed to handle time to an event as the outcome variable. Highlights of the analysis indicate that participation in the mental health court reduced the likelihood of new charges by 26% over the first 18 months after entry. Participation reduced the likelihood of new violent charges by 55% over the first 18 months after entry. Post-graduation impacts are also substantial. Participation in the mental health court reduced the likelihood of new charges by 39% over the first 18 months after graduation. Participation reduced the likelihood of new violent charges by 54% over the first 18 months after graduation.

The study's authors caution that the results only apply to San Francisco mental health court outcomes. Moreover, recidivism in the study does not take into account new charges outside of San Francisco County. Lastly, all participants in the mental health court were volunteers and were possibly more motivated to avoid recidivism prior to diversion than the defendants sent to jail who they were compared to. The authors call for further studies to link treatment methods, client characteristics, and court structural characteristics to reducing recidivism.

The studies results are reported in "Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence," by Dale McNeil and Renée Binder, *American Journal of Psychiatry* 164: 1395-1403.

Calendar

The National Institute of Corrections (NIC) will be holding an Orientation for New Pretrial Executives from March 30 to April 4, 2008 at the National Corrections Academy in Aurora, Colorado. The 40-hour program is designed to enhance the leadership capacity of, and promote sound pretrial release practices for, pretrial professionals with decision-making responsibilities. The program will provide participants with a collaborative learning environment for addressing the practical challenges facing pretrial program administrators every day. Pretrial program administrators desiring to attend must submit an application to NIC by December 27, 2007. For more information, or to receive an application, contact Ken Rose, NIC Community Corrections Division, at (202) 514-0058, or at krose@bop.gov.

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