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by Thomas McAdam

Not exactly a "Get Out Of Jail Free" card, but Kentucky is a leader in intelligent pretrial release of accused defendants.

There's a memorable passage in Lewis Carroll's Through the Looking-Glass ^[2], where the White Queen is explaining to Alice how it is that her memory works backwards. "There's

the King's Messenger. He's in prison now, being punished: and the trial doesn't even begin till next Wednesday: and of course the crime comes last of all." "Suppose he never commits the crime?" asks Alice. "That would be *all the better*, wouldn't it?" the Queen replied.

Our legal notion of pretrial detention used to work pretty much like the White Queen's jurisprudence: accused individuals were kept in jail—or released only upon the posting of a high bail—mostly to insure that they could be prevented from committing additional crimes. If they were eventually found not guilty, then, "That would be *all the better*, wouldn't it?"

But here in Kentucky, back in 1976, our courts took the bold step of eliminating commercial bail bonding and replaced it with a statewide pretrial program. The new system developed a "point system" to determine the likelihood of a defendant's showing up for trial after release. Now, the courts have a risk-assessment tool that ensures that decisions on pretrial release are consistent, objective and effective.

On Monday, the results of a new federal study were released by Kentucky's Administrative Office of the Courts, showing that the court system's method for helping judges determine whether to grant pretrial release is a proven success. The study by the JFA Institute in Washington found that Kentucky has a high pretrial release rate of 74 percent, with low rates of rearrest and failure to appear in court among individuals who were granted pretrial release. The study showed that 93 percent of individuals released remained arrest-free while awaiting trial and 92 percent of those released pending trial appeared in court when required.

The state's pretrial release, rearrest and failure-to-appear rates are among the best reported by any criminal justice program in the nation, according to the non-profit Pretrial Justice Institute.

"The results are overwhelmingly positive," AOC Director Laurie K. Dudgeon said. "The study confirms that Kentucky judges are predicting who should be granted pretrial release with a high rate of accuracy. It also indicates that our risk-assessment tool is key to judges making reliable, informed decisions. I'm pleased that our pretrial process is saving Kentucky money but not at the expense of public safety."

Kentucky requires its pretrial officers to interview individuals within 12 hours of arrest. Pretrial officers perform an investigation and collect background information. Once they verify the information and conduct a background check, they complete an objective 13-question risk assessment and make a recommendation to the presiding judge on whether to grant pretrial release.

A defendant's release is based on an assessment of his or her flight risk, anticipated criminal behavior and danger to the community. These factors are measured by the defendant's family ties, employment, education, length of residence, criminal history and other related matters. The current risk-assessment tool was adopted in 2006 and is based on a point system used for two decades.

The National Association of Pretrial Services Agencies also praised Kentucky for its achievements in the area of pretrial release. "The pretrial movement owes much to Kentucky as it demonstrates that individuals under arrest who are adequately assessed

can be safely released into the community during the pretrial process," NAPSA President Peter C. Kiers said.

Learn more: [Articles on pretrial release, from The Advocate](#) [3]

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