Applying Evidence-Based Practices to Pretrial Services

The Virginia Experience

Prepared by: Katie W. Green
Co-Chair, EBP Committee
Virginia Community Criminal Justice Association
INTRODUCTION

- In 2005, Virginia began piloting EBP with state and local probation organizations.
- In 2006, the Virginia Community Criminal Justice Association (VCCJA) formed an EBP Committee to focus on EBP issues unique to local probation and more specifically to include Pretrial Services.
- There are 37 local probation programs and 30 pretrial service programs operating in VA. A majority of programs are under the same agency (all are pretrial release services.)
INTRODUCTION - Continued

- Ten pilot sites identified that represented all geographical areas, CCCA/PSA agency size and had both pretrial and post trial operations.
- VCCJA in partnership with the Virginia Department of Criminal Justice Services requested technical assistance from NIC to help us identify and address unique issues of developing legal and evidence-based practices for pretrial service programs.
Technical Assistance Process

- Objective: To facilitate an action planning process to produce an action plan with concrete steps and timelines to implement legal and evidence-based practices for pretrial services.
- To develop evidence-based procedures and practices that don’t conflict with the legal principles of pretrial
Why EBP?

- Can we mitigate risk without compromising the legal status?
- A large number of defendants placed on pretrial supervision with a secured bond
- A large number of high risk defendants unsuccessful due to technical violations
Case Closure Status
Pretrial Supervision: Closed Cases FY05

<table>
<thead>
<tr>
<th>Risk level (per VPRAI)</th>
<th>FTA</th>
<th>New Arrest</th>
<th>Technical Violation</th>
<th>Successful</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5%</td>
<td>1%</td>
<td>3%</td>
<td>90%</td>
</tr>
<tr>
<td>2</td>
<td>6%</td>
<td>1%</td>
<td>5%</td>
<td>88%</td>
</tr>
<tr>
<td>3</td>
<td>5%</td>
<td>3%</td>
<td>8%</td>
<td>84%</td>
</tr>
<tr>
<td>4</td>
<td>5%</td>
<td>4%</td>
<td>10%</td>
<td>80%</td>
</tr>
<tr>
<td>5</td>
<td>7%</td>
<td>8%</td>
<td>15%</td>
<td>69%</td>
</tr>
</tbody>
</table>
### Services that address failure to appear and danger to public

<table>
<thead>
<tr>
<th>Services that address risk reduction and risk management</th>
</tr>
</thead>
<tbody>
<tr>
<td>The “gray middle ground”</td>
</tr>
</tbody>
</table>

### “Risk reduction” services determined by court order

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>No risk reduction services provided</td>
<td>Refer to services if client initiates and volunteers</td>
<td>Use pre-trial as a “gateway” to criminogenic needs. Use MI techniques to increase awareness and motivation to address issues voluntarily</td>
</tr>
</tbody>
</table>

- **Stay clear of situations requiring disclosure**
Pretrial Legal Foundation

- There are six critical principles found in the law that serve as the framework for the operation of pretrial services programs:
  1. Presumption of Innocence
  2. Right to Counsel
  3. Right Against Self-Incrimination
  4. Right to Due Process of Law
Critical Principles - Continued

5. Right to Equal Protection Under the Law
6. Right to Bail That is Not Excessive
TA Discussion Results

- Legal principles of pretrial required caution around programming referrals.
- Program referrals should be clearly voluntary and initiated by the defendant.
- Program should not require disclosure of the alleged offense or details surrounding the alleged offense lest it compromise the individual or pending case.
Legal and evidence-based principles for pretrial were consolidated into five areas (goals) and used for action planning purposes.
Goals for the Pretrial EBP Action Plan

- Goal 1: Apply actuarial risk tools to predict the likelihood of risk of flight and danger to the community.
  - Objectives: DCJS and VCCJA to enter into contract with Luminosity to re-validate the Virginia Pretrial Risk Assessment Instrument (VPRAI). All ten pilot sites provided sample selection, developed data collection instrument and in process of collecting data. Develop and implement pretrial bail/release recommendation guidelines based on VPRAI.
Goals for the EBP Pretrial Action Plan

- Goal 2: Provide the least restrictive supervision necessary to effectively monitor compliance of bail conditions.
  - Objectives: Review current mission statements statewide. Develop consensus on concepts that should be included in mission statements related to EBP. Use VPRAI for case classification/differential supervision strategies.
Goals for EBP Pretrial Action Plan

- Goal 3: Report violations of bail conditions which indicate an increased risk of pretrial failure to the court with a recommendation for modified bail conditions to mitigate risk.

- Objectives: Align local practice w/ this principle. Encourage differential response based on type of case and severity of violation.
Goal 4: Use evidence-based techniques to gain compliance and increase defendant engagement and motivation through strength based and motivational interviewing techniques.

Objectives: Review and modify motivational skill training for use in pretrial consistent with legal principles. Align organizational culture with engagement, use of affirmation, and social learning techniques.
Goals for EBP Pretrial Action Plan

- Goal 5: Use fidelity measures, data, and evaluation to ensure quality and effectiveness of services and guide decision-making.
  - Objectives: Develop statewide outcome and process measures. Ensure statewide adherence to EBP core practices according to validated model.
Next Steps