



# **BIG CHANGES FOR SMALL TOWNS: PRETRIAL JUSTICE REFORMS TO IMPROVE PUBLIC SAFETY AND RIGHT- SIZE JAILS IN RURAL AREAS**

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May 29, 2019

# TPPF Launched Right on Crime in 2010

- **Speaker Newt Gingrich, Gov. Jeb Bush, Gov. Mike Huckabee, J.C. Watts, Ed Meese, Gov. Rick Perry, Grover Norquist, and Other Conservative Leaders Have Endorsed Right on Crime Statement of Principles**
- **Statement Supports Reining in Growth of Non-Traditional Criminal Laws, Cost-Effective Alternatives for Nonviolent Offenders, Emphasis on Restitution and Treatment, and Performance Measures.**



# The Roots of Right on Crime

- Role for government should focus on addressing cases where one person harms another
- Least restrictive alternative to liberty necessary to address harm
- Prioritize public safety, victims
- Redemption, family preservation, workforce reintegration
- Not too tough on taxpayers
- Accountability for results



# Jails are the Front Door and Backstop

- Local jails absorb 12 million admissions every year
- In many communities, police have nowhere else to bring someone who is having a psychotic breakdown or overdose
- Since 1977, local jails have grown six-fold to more than 700,000 daily population



# Growing Jails Take a Toll

- More than 60 percent of those in jail are awaiting trial \*
- Local corrections costs have quadrupled since 1977\*\*
- Rural jail populations up 888% since 1970, others now falling\*\*\*
- Bail amounts have risen (for example 22% a year in California), contributing to average length of stay going from 9 to 23 days over last four decades\*\*\*\*



# Rural Communities Don't Want More Jails

- April 2018 Vera Institute poll found that 61 percent of rural respondents did not believe building more jails and prisons would reduce crime
- 60 percent in rural communities would describe themselves as “concerned” if they learned incarceration rates in their community were higher than in similar communities.



# Likely Causes of High Rates of Rural Pretrial Incarceration

- Reliance on commercial bail coupled with economic stagnation and increasing bail amounts
- Lack of pretrial services
- Lack of treatment, transportation
- Surging opioid epidemic – in Mercer County, WV sheriff attributes 90% of jail increase to opioids



# The Burden of Pretrial Incarceration

- ▣ **Perverts order of justice process as half of people ultimately receive probation while others plea to time served even if innocent**
- ▣ **Costs \$13.6 billion per year\***
- ▣ **Research by University of Cincinnati has shown pretrial incarceration of more than 24 hours results in separation from employment, housing, and family, thereby increasing re-arrest rate for defendants that weren't high risk\*\***



# Solutions from Start to Finish

- Reduce number of crimes leading to arrest
- Discontinue jailing for inability to pay fines, fees
- Expand police diversion
- Enhance and expedite pretrial risk assessment
- Reform use of money bail
- Expedite provision of counsel
- Streamline case processing
- Alternative sentencing for misdemeanors
- Enhance supervision compliance, fewer revocations
- Improve jail reentry

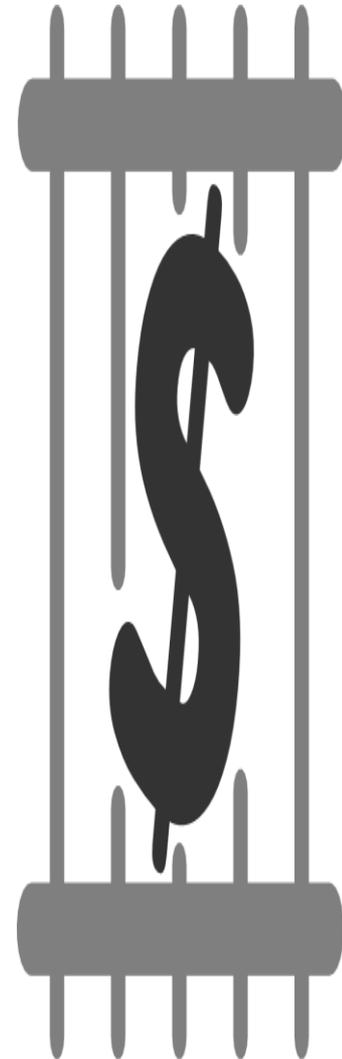
# Limiting What's Criminal and Jailable

- Texas has more than 1,700 criminal laws and Arizona more than 2,000, not including local ordinances
- Baytown, TX woman arrested for overdue library book and Carrollton, TX woman received warrant for selling tamales online
- Texas law passed in 2007 allows cite & summons for misdemeanors such as driving without license, petty theft, and marijuana



# A Death Sentence for Debtors' Prisons

- 20% of jail admissions in some jurisdictions are for failure to pay fines & fees\*
- In 2017, Texas and Louisiana required courts to offer alternatives for those unable to pay, such as community service, payment plans, and fine reductions commensurate with income
- In 2007, San Antonio Municipal Court stopped using jail as a sanction and collections rose\*\*



# Clearing Out the Cobwebs of Warrants

- Many jail admissions come from warrants for failure to pay or appear for traffic or other violations that wouldn't carry jail time as a sentence
- Spokane's Municipal's Community held a "warrant fest" for people to clear warrants in old cases while the Manhattan DA has dismissed thousands of cases that are 10 years old or more involving conduct that is either no longer criminal or prosecuted



# Expanding Police Diversion

- LEAD in Seattle that focuses on homeless drug and prostitution cases. Has reduced recidivism by 60% and saved millions on emergency room and jail costs.\* Colorado is piloting LEAD in rural counties.
- Florida youth civil citation program has 90% success rate, now expanded to adults\*\*
- Other examples: detox/sobriety centers, 24 hour mental health crisis center, mediation



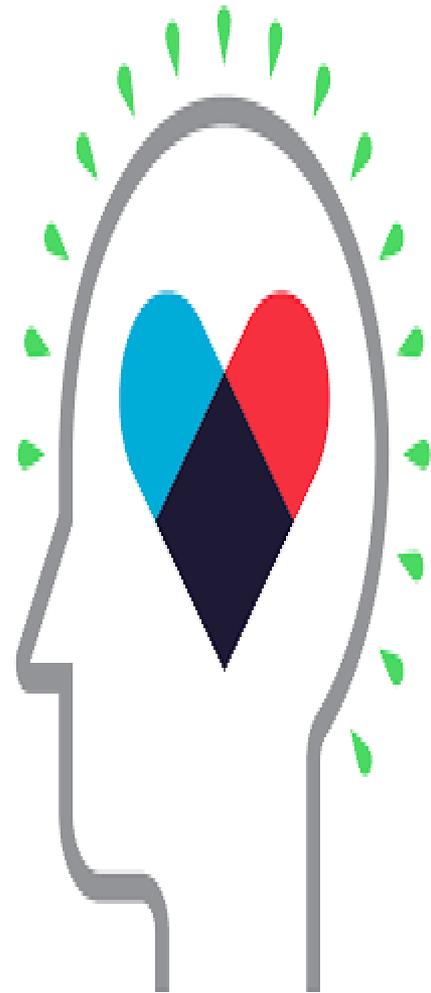
# Risk Assessment Works

- ▣ Kentucky adopted a pretrial risk assessment instrument on a statewide basis in 2013, enabling more defendants to qualify for supervised release prior to trial regardless of ability to pay
- ▣ No drop in appearance rates and new offenses by those released prior to trial have dropped nearly 15 percent\*
- ▣ Utah state auditor found 26% failure to appear for bail vs. 17% for pretrial supervision\*\*



# Assessment Also Involves Needs

- ▣ Pima County has implemented immediate mental health screening which has identified many mentally ill defendants suitable for treatment instead of remaining in jail
- ▣ Pima County average jail population is down 15% year over year\*
- ▣ For seriously mentally ill “frequent fliers” some jurisdictions are using home visits to ensure compliance with medication, appointments



# The Case for Bail Reform

- ▣ Risk assessment more accurate than wealth in predicting flight & re-arrest risk
- ▣ Not a free-market system since no traditional consumer/seller relationship and forfeitures rarely paid in full
- ▣ In/out decision should be made without regard to a person's wealth and then conditions should be set
- ▣ Avoid lawsuits – Harris County lost after court found 40% of misdemeanants couldn't make bail amount that was set; most pled to time served\*



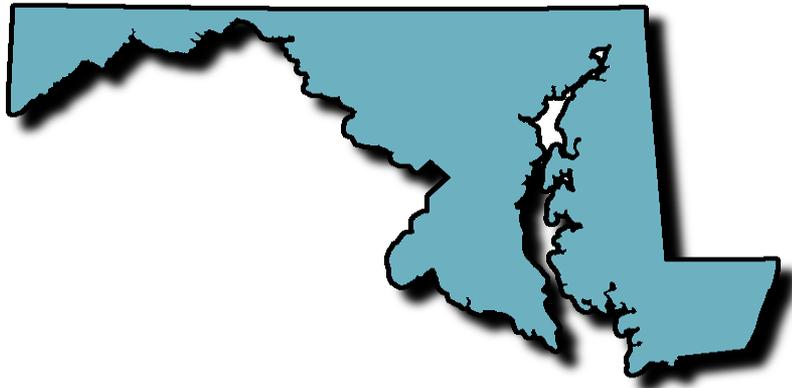
# New Jersey Bail Reform Results

- ▣ Jail population down 20% since start of 2017\*
- ▣ 87% released, most with some form of monitoring, while 13% detained\*\*
- ▣ Re-arrest and Re-appearance rates are virtually the same as prior to the reforms. Some tweaks have been made, including detention of those with serious weapons charges.



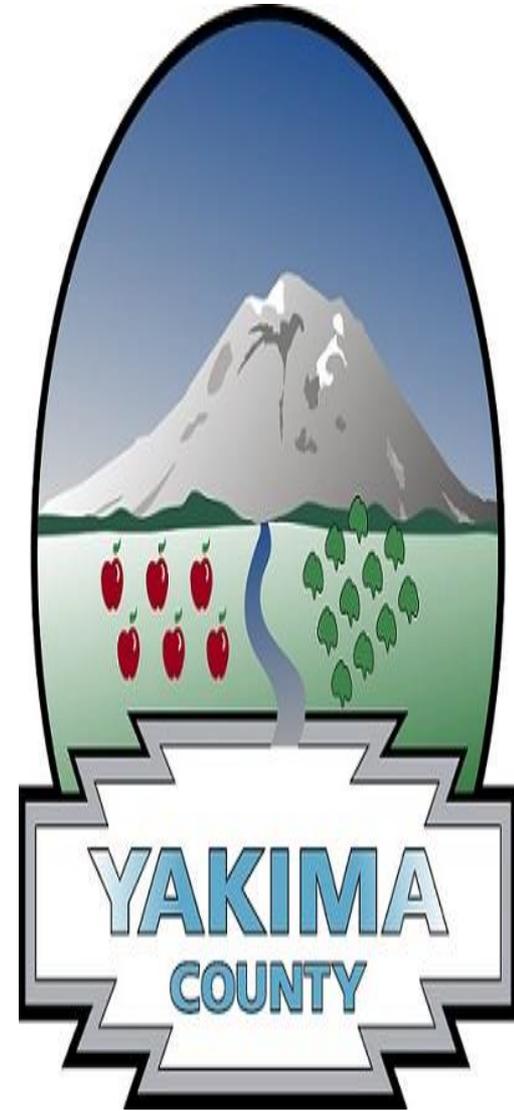
# Rural Case Study – St. Mary’s County, MD

- ▣ Sheriff launched pretrial services program in 2015, with cost of \$29 a day versus \$149 for the jail. Jail population down to only one-third pretrial.
- ▣ 99% show up, 92% are not re-arrested for new offense
- ▣ Vocational and health services integrated



# Rural Case Study – Yakima County, WA

- ▣ In February 2016, Yakima County launched new pretrial risk assessment tool, arranged for defense counsel at first appearances, and established a new pretrial services agency to match defendants with assessment and management services
- ▣ Pretrial release rate up from 53% to 73% with no statistically significant change in re-appearance and re-arrest rates



# Rural Case Study – Maine

- ▣ **Maine Pretrial Services is a non-profit providing assessment and supervision in 10 rural counties**
- ▣ **Flexibility allows for employees to be in different counties on different days depending on caseloads**
- ▣ **Failure to appear rates at first hearing range from 2% in Lincoln County to 7.2% in Andro County**



# Rapid Provision of Quality Counsel

- A defendant cannot enter a plea to an offense subject to incarceration without representation and defense counsel is needed to argue for lower bail. Many rural counties, including 11 in Nebraska alone, have no attorneys other than the D.A.
- Miami and Seattle have adopted rapid appointment systems, usually within 24 hours
- Some jail savings can be reinvested in indigent defense, as well as courts, pretrial supervision, police diversion



# Streamlining Case Processing

- Justice Reboot in NYC has resulted in 95% of cases being resolved that were more than a year old
- Everyone involved in case regularly receives a snapshot of key metrics such as pending caseload held in pretrial detention, share of such cases pending for longer than the 180-day target, the median length of adjournments, the median number of days from indictment to arraignment, etc.
- Shelby County, TN added “Over 500 Days” list of defendants in custody circulated monthly to judges, defenders, and prosecutors and is reviewed at each meeting of the coordinating committee.

# Collaboration, Data-Sharing Key to Success

- Establishing a local coordinating council with judges, DA, Sheriff, police chief, public defender, etc. often lays groundwork for sustainable change.
- For example, Palm Beach County, FL is creating “court navigator” positions for its State Attorney and Public Defender’s offices who review data provided by the county’s Criminal Justice Commission to identify defendants jailed on relatively low bonds after 3-10 days, and coordinate efforts to expedite release & resolution.



# Alternative Sentencing for Misdemeanors

- Convicted misdemeanants represent a smaller share of jail populations - 2,156 in Texas statewide.\*
- Credit for pretrial time served, length of probation leads some to opt for incarceration
- Residential and non-residential drug and mental health treatment
- Use of day reporting centers
- Kern County, CA day reporting center has reduced recidivism by 57% compared to the control group\*\*



# Enhancing Supervision Compliance

- Ensure conditions of pretrial supervision and probation are tailored to risk/needs assessment, rather than cookie cutter
- Employ matrix of graduated sanctions and incentives
- Utilize technology such as automated reminders by phone/text and electronic monitoring in limited cases to ensure appearance



# Improving Processing of Supervision Violators

- **Revise policies that automatically make all technical and misdemeanor probation violators ineligible for bail, diversion to treatment, etc.**
- **St. Louis County's new State Probation Violation Program utilizes jail-based case managers upon booking to expedite cases to recommend suitable individuals to the prosecutor and judge for new probation conditions, such as treatment, reducing jail stay from an average of 99 days to 10 or less.**

