Indiana Association of County Commissioners

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Indiana Criminal Rule 26 and Pretrial Reform

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Today's Learning Points

▶ Overview of Ind. Criminal Rule 26

▶ Overview of effective pretrial practice and pretrial pilot counties

▶ Overview of Jail Overcrowding Task Force Report

Ind. Criminal Rule 26

Rule 26. Pretrial Release (in part)

(A)   If an arrestee does not present a substantial risk of flight or danger to themselves or others, the court should release the arrestee without money bail or surety subject to such restrictions and conditions as determined by the court except when:

(1)   The arrestee is charged with murder or treason.

(2)   The arrestee is on pre-trial release not related to the incident that is the basis for the present arrest.

(3)   The arrestee is on probation, parole or other community supervision.

 (B)   In determining whether an arrestee presents a substantial risk of flight or danger to self or other persons or to the public, the court should utilize the results of an evidence-based risk assessment approved by the Indiana Office of Court Services, and such other information as the court finds relevant. The court is not required to administer an assessment prior to releasing an arrestee if administering the assessment will delay the arrestee's release

Indiana Pretrial Pilots

- Allen, Bartholomew, Grant, Hamilton, Hendricks, Jefferson, Monroe, Porter, St. Joseph, Starke, Tipton
- Established local policy team
- Collaborate with state
- Pilots will work to:
  - Maximize public safety
  - Maximize court appearance
  - Maximize pretrial release for appropriate defendants

Indiana Pretrial Pilots

▶ Use the IRAS-PAT to inform release / supervision

▶ Pretrial supervision based upon risk

▶ Court reminder systems

▶ Framework to respond to pretrial misconduct

▶ State and defense counsel at first appearance

▶ Data collection

Pretrial Pilots

▶ All are using IRAS PAT, may use supplemental assessments

▶ In varied states of implementing expectations

▶ Received funding from DOC and Supreme Court to implement projects

Sample Pretrial Release Matrix

TIPTON INDIANA PRETRIAL RELEASE

RISK LEVEL	MISDEMEANORS CLASS A, B, C	FELONY LEVEL 5 AND 6	FELONY LEVEL 1, 2, 3, 4 PO HOLD PRETRIAL NEW CRIME INVASION OF PRIVACY, BATTERY, STALKING AND SEX OFFENSES	MURDER
LOW	Release ROR	Release Supervision Level 1	Hold pending hearing If released, Supervision Level 2	No release
MEDIUM	Release Supervision Level 1	Release Supervision Level 1	Hold pending hearing If released, Supervision Level 3	No release
HIGH	Hold Pending Hearing Supervision Level 2	Hold Pending Hearing Supervision Level 2	Hold pending hearing If released, Supervision Level 3	No release

Standard conditions for all pretrial releases:

- Make all court appearances
- Do not leave state with prior written consent of the court
- Do not commit/be arrested for another crime
- Notify court and attorney of change of address within 24 hours

Additional conditions may include:

- No weapons
- No drinking or Illicit substance use
- Random drug testing
- No contact
- Limited special conditions based on case (i.e. no internet use)
- Limited home confinement

Supervision Level 1 – Call in every two weeks; monthly criminal record check

Supervision Level 2 – 1 Call in and 1 face to face meeting every month; monthly criminal record check

Supervision Level 3 – 2 call ins and 2 face to face meetings every month; monthly criminal record check

Data Collection and Research

▶ All pilots collecting data, systems vary

▶ Identifying options for consistent data collection

▶ Jail data a challenge

▶ Wayne State conducting IRAS-PAT validation study

Jail Overcrowding Task Force

▶ Established by General Assembly 2019

▶ Identify reasons for overcrowding and possible solutions

▶ Multidisciplinary membership

▶ Three regional meetings

▶ Report issued December 2, 2019

▶ https://www.in.gov/judiciary/iocs/3874.htm

Recommendations:

▶ Data and Evaluation

▶ Behavioral Health

▶ Case Processing

▶ Community Supervision

Questions?