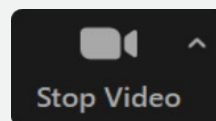


Welcome!

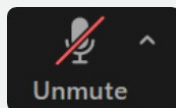
We'll get started in a few minutes.

Zoom Etiquette

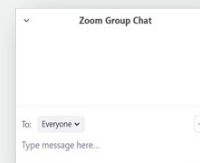
- Keep your video turned on. We want to see you!



- Mute yourself when not talking.



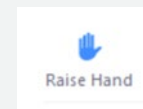
- Use the chat box if you have comments or questions.



- Rename yourself: First and Last Name, Organization

Hover on your image, click on the three dots, click on “Rename”

- Raise your hand if you want to say a comment or question out loud.



- APPR will be recording this session. Please take a moment to consent to the “pop-up” message.

Introduction to Pretrial Services

DATE: April 4, 2024

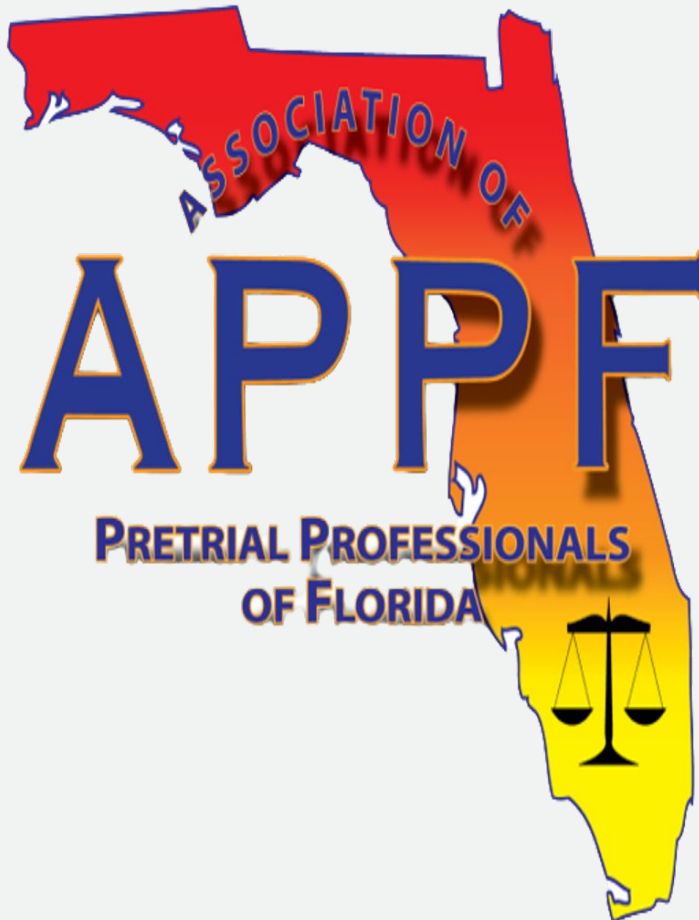
PRESENTERS: Alison Shames, Director, Center for Effective Public Policy
Dr. Kelvin L. Banks, Associate Director, Center for Effective Public Policy
Orleny Rojas, Senior Manager, Center for Effective Public Policy

INFO: Association of Pretrial Professionals of Florida Training Series

Advancing Pretrial Policy and Research (APPR) seeks to achieve fair, just, and equitable pretrial practices that positively impact people, systems, and the community. APPR's mission is to support and engage pretrial professionals and community members in the meaningful delivery of data-informed pretrial justice. APPR is managed by the Center of Effective Public Policy (CEPP) and supported by Arnold Ventures (AV).

This training and supplemental resources were prepared and delivered to advance pretrial justice from the various diverse viewpoints of the training faculty. The training content, supplemental resources, and faculty views are not intended to represent the official opinion or policies of APPR, CEPP, and/or AV.

APPF/APPR Training Series



Training #1

Introduction to Pretrial Services

Training #2

Before and During the First Appearance Hearing

Training #3

Pretrial Supervision and Supportive Services

Training #4

Measuring Performance

Learning Objectives



Recognize the roles of pretrial services



Identify pretrial legal and evidence-based principles



Recognize the relevance of issues of racial equity and community engagement

Agenda

Welcome Remarks & Introduction to APPR

The Role of Pretrial Services

APPR's Approach to Pretrial Supervision

National Pretrial Legal Foundation

Break

Florida Pretrial Laws

Importance of Racial Equity and Community Engagement

APPR ADVANCING PRETRIAL POLICY & RESEARCH

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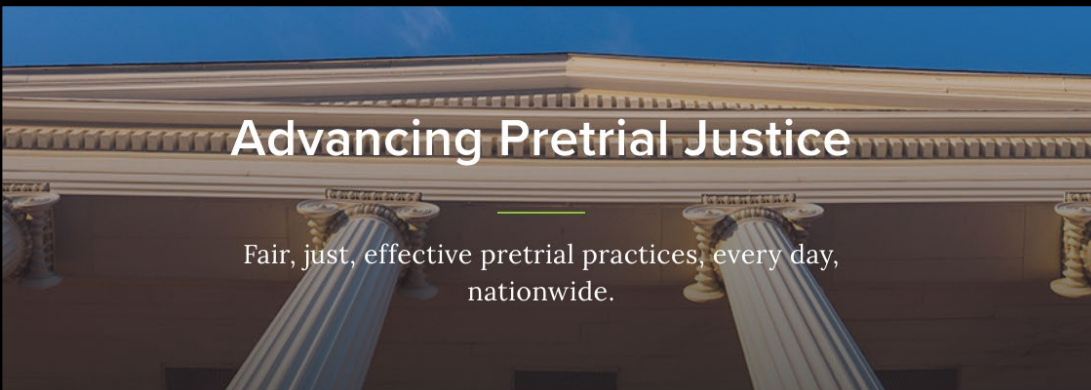
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Advancing Pretrial Justice

Fair, just, effective pretrial practices, every day,
nationwide.

Highlights



Story
Addressing Unmet Needs
In St. Louis, Missouri, supportive pretrial services address...

[LEARN MORE >](#)



Faculty



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Orleny Rojas
Senior Manager,
CEPP



Judge Miguel de la O
Eleventh Judicial Circuit
of Florida

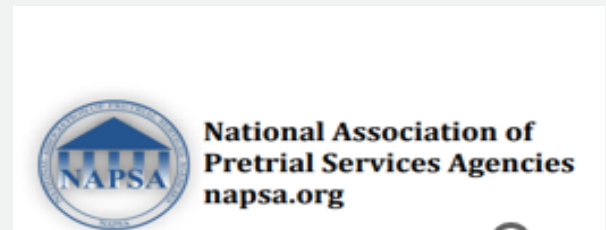
The Role of Pretrial Services

Dr. Kelvin L. Banks

NAPSA Standard 4.1(a)

“The purposes of a pretrial services agency are to:

- *(i) assist judicial officers to make prompt, fair, and informed bail decisions that promote future court appearance and enhance public safety; and*
- *(ii) provide the Court with practical, risk-based monitoring, supervision, and support options for defendants that require oversight while on pretrial release.”*



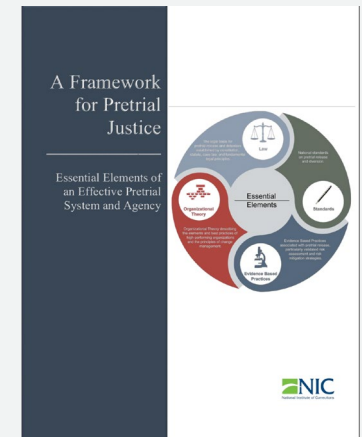
ABA Standard 10-1.10

“Every jurisdiction should establish a pretrial services agency or program to collect and present the necessary information, present risk assessments, and, consistent with court policy, make release recommendations.”



Dedicated Pretrial Services Agency

“A dedicated pretrial services agency ensures that management of essential functions occurs under a single organization goal and better coordination among elements, for example, ensuring that release recommendations match supervision resources and capacity.”



Purpose of a Pretrial Services?

Retribution?

Deterrence?

Rehabilitation?

Accountability?

Pretrial Services Roles

Support

Support judicial officers in making pretrial decisions

Help

Help people minimize their involvement with the criminal legal system

Return

Return to court – maximize return
Not get arrested again – maximize safety

Connect

Connect to voluntary and helpful services

Help

Help people meet their needs

Pretrial Stage

Law
Enforcement
Contact



Conviction,
Acquittal or
Dismissal of
Charges

Before First Appearance

- Interview person
- Report to judge

First Appearance

- Assessment and other reports
- Appear in court

Before Disposition

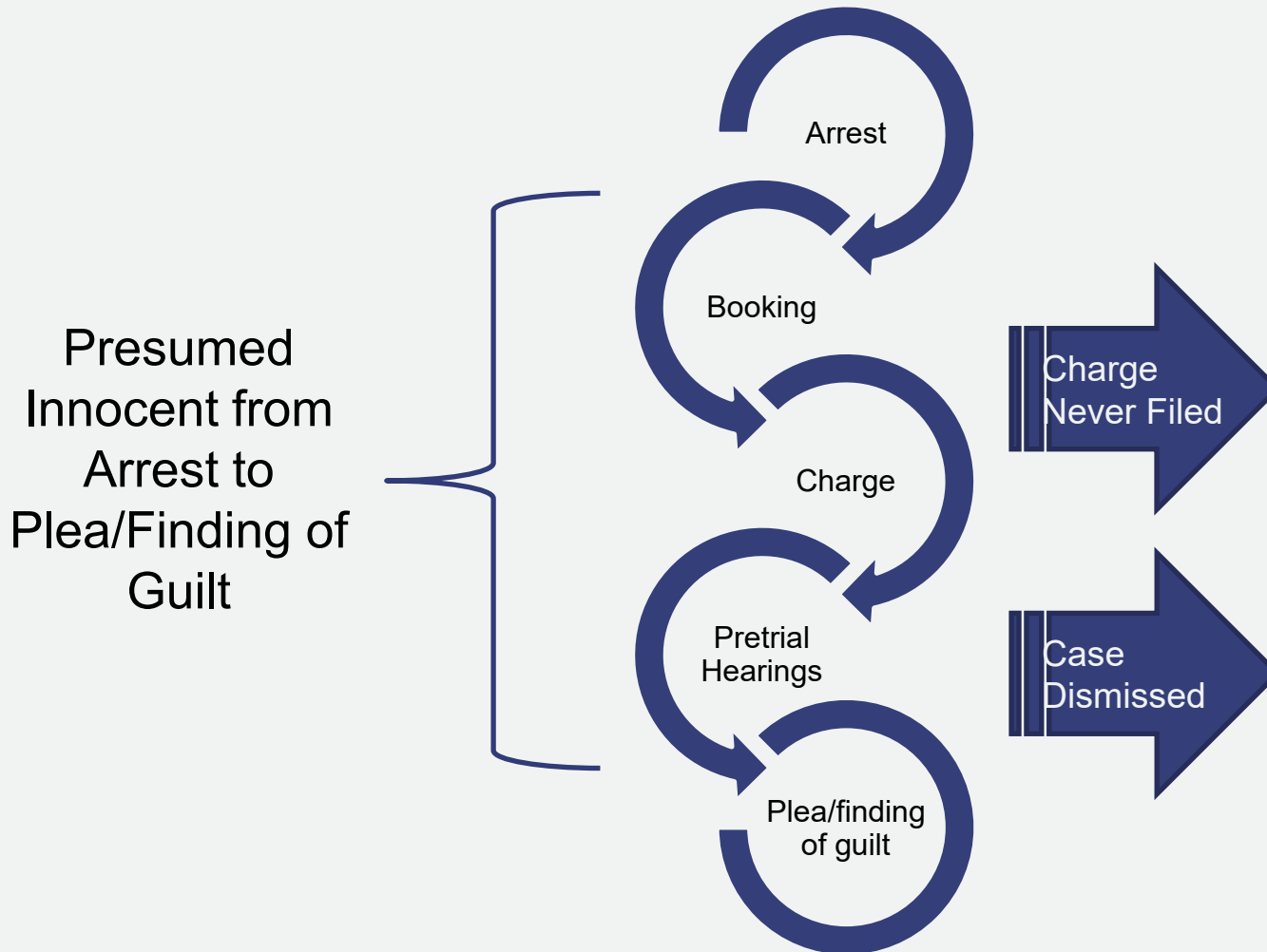
- Monitor clients
- Offer supportive services
- Report to court

Important Reminders

**Presumption
of
Innocence**

**Human
Dignity**

Presumption of Innocence



Human Dignity



APPR's Approach to Pretrial Supervision

Dr. Kelvin L. Banks

What is Pretrial Supervision?

Using the
least restrictive interventions needed
to promote court appearance and
community safety



Promoting **Success** rather than Managing Failure

APPR Approach

1



Law

2



Data

3



Best
Practices

4



Research

5



Equity

6



Supportive
Services



1) Law: Pretrial Release Conditions

If any conditions are imposed, they must be the **least restrictive necessary** to provide reasonable assurance of court appearance and public safety.

U.S. v. Salerno, 281 U.S. 739 (1987)

Conditions must be **individualized**.

Stack v. Boyle, 342 U.S. 1 (1951)

2) Data: National Studies

80%
of People
Released
Pretrial Succeed

Remain
Arrest-Free

Return to
Court

Most People
Succeed!

Data: Local Questions on Appearance Rates

What is the Overall Appearance Rate?

When are People Missing Court?

Why are People Missing Court?

What Types of Cases?

What are the Demographics of the People Missing Court?

How is Noncompliance for Court Appearance Addressed?

Data: Local Questions on Arrest-Free Rates

What is the Overall Arrest-Free Rate?



What Types of Cases for Existing and New Arrest?



What are the Demographics of the People being Rearrested?



How is Noncompliance for New Arrest Addressed ?

Best Practices



- Effective supervision strategies promote pretrial success!

Best Practices: Promoting Success

Provide Court Reminders

**Respond to Compliance
and Noncompliance**

Make the Contact Count

**Match Supervision to the
Likelihood of Success**

4) Research: Strategies for Success

Empirical research helps us understand **what works** to achieve court appearance and no new arrest.



Research: Risk Principle

The risk principle tells us that we should provide **fewer pretrial resources or none** to those who are assessed as more likely to succeed—and provide **more resources** to people who are less likely to succeed.

Summary of Research Findings

Condition/ Intervention	Research shows effective for maximizing appearance?	Research shows effective for maximizing arrest-free?	Research shows effective for maximizing release/liberty?
Court date notifications	✓	?	✓
Pretrial supervision/ check-ins	✓*	—	✓
Drug & alcohol testing	—	—	✓*
Electronic location monitoring	—	—	✓*
Secured financial conditions	—	N/A*	—*

Research: Court Date Notifications

Condition/ Intervention	Research shows effective for maximizing appearance?	Research shows effective for maximizing arrest-free?	Research shows effective for maximizing release/liberty?
Court date notifications	✓	?	✓

- Effective for lots of people (charges, assessment scores)
- Minimally restrictive/intrusive
- Low cost, high yield

Discussion Question?

- Does your system provide court date notifications?
- If so, what type (i.e., email, text message, phone calls)?



Research: Drug & Alcohol Testing

Condition/ Intervention	Research shows effective for maximizing appearance?	Research shows effective for maximizing arrest-free?	Research shows effective for maximizing release/liberty?
Drug & alcohol testing	—	—	✓ *

- Expensive for people and/or system
- Very restrictive/intrusive
- * High rate of technical violations

Research: Electronic Location Monitoring

Condition/ Intervention	Research shows effective for maximizing appearance?	Research shows effective for maximizing arrest-free?	Research shows effective for maximizing release/liberty?
Electronic location monitoring	—	—	✓ *

- Expensive for people and/or system
- Very restrictive/intrusive
- * High rate of technical violations

Discussion Question?

- Has there been an increase in your jurisdiction in the use of electronic monitoring over the last few years?
- How is noncompliance addressed?



Research Summaries



Court Date Notifications Systems



Pretrial Monitoring



Pretrial Drug Testing



Electronic Monitoring



Financial Conditions

[Pretrial Research Summaries | Advancing Pretrial Policy & Research \(APPR\)](#)

More Research is Needed

Many common pretrial release conditions and practices—including no-contact orders, curfews, driving interlock devices, and pretrial services' responses to compliance and noncompliance with court-ordered conditions—lack empirical grounding.

National Pretrial Legal Foundations

Alison Shames, CEPP
Judge Miguel de la O, Eleventh Circuit Court

Pretrial Legal Foundations

Right to Pretrial Release

Limitations on Pretrial Detention

Conditions of Release

Law: Right to Pretrial Release

The U.S. Supreme Court has held that the vast majority of people arrested are entitled to release before trial.

“In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”

U.S. v. Salerno, 281 U.S. 739 (1987)

Absent a right to pretrial release, “the presumption of innocence... would lose its meaning.”

Stack v. Boyle, 342 U.S. 1 (1951)

Law: Right to Pretrial Release

Why is the presumption of pretrial release so strong?

1. **Physical freedom** is at the core of the Constitution's liberty interests
2. **Presumption of innocence** before trial: The state holds people accountable for past—not future—actions

Law: Limits on Pretrial Detention

- The U.S. Constitution does not directly address when a judge can order someone **detained** before trial.
- But courts have established **limits**, based largely on principles of due process:
 - **Flight** and **public safety** are the only constitutional reasons for detention
 - Detention is a **last resort**—and only permitted when no conditions of release will provide a reasonable assurance that the person will not flee or commit a serious offense
 - Detention is permitted only after **full due process**

Law: Limits on Pretrial Detention

- **Full due process** includes:
 - Representation by counsel
 - A prompt hearing
 - The right to testify on one's own behalf and to examine witnesses
 - The judicial officer using constitutionally and statutorily enumerated factors to determine whether detention is necessary
 - The use of a “clear and convincing evidence” standard
 - Written findings of fact and statement of reasons for any decision to detain
 - The right to expedited appellate review

Research: Impacts of Pretrial Detention

- People detained pretrial—even for just a few days—may be more likely:
 - to plead guilty or be convicted
 - to receive harsher sentences: greater likelihood of incarceration, and longer periods in jail or prison
 - to lose jobs, family, or housing
 - to be rearrested both before and after their cases are resolved
 - to fail to appear for court
- In addition, state and county governments spend at least \$14 billion annually detaining people before trial

Law: Pretrial Release Conditions

For the vast majority of people who are legally entitled to pretrial release, how should a judge set conditions?

Remember: Most people will succeed on pretrial release without any conditions other than a promise to return to court and stay out of legal trouble.

Law: Pretrial Release Conditions

Two main legal principles when setting conditions of release:

If any conditions are imposed, they must be the **least restrictive necessary** to provide reasonable assurance of court appearance and public safety

U.S. v. Salerno, 281 U.S. 739 (1987)

Conditions must be **individualized**.

Stack v. Boyle, 342 U.S. 1 (1951)

Financial Release Conditions

- Money is used to detain people in many jurisdictions nationally -- even though it is meant to be a “condition of release.”
- This allows for the detention of many people (often those who are economically disadvantaged) who are not eligible for detention under state law.

Law: Financial Release Conditions

- Three main legal principles :
 - Financial conditions may not be used to **intentionally detain**
 - **Unaffordable financial conditions** will be subject to increased scrutiny
 - A person's **ability to pay** must be assessed before setting financial conditions

State Law: Pretrial Release and Detention

- These federal constitutional guarantees establish **general baseline rules** to which courts in all states must adhere.
- But each state sets forth its **own specific criteria** for determining who is entitled to pretrial release, and who judges may consider detaining.

Break

5 Minutes

Florida Pretrial Laws

Alison Shames, CEPP
Judge Miguel de la O, Eleventh Circuit Court

Florida Constitution

Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great,

every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions.

If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.

-- Fla. Const. art. I, §14

Primary Consideration

The legislature has stated it intends for the “primary consideration” regarding pretrial detention to be:

“the protection of the community from risk of physical harm to persons”

-- Fla. Stat. § 907.041(1)

Discussion Question?

- Have you noticed any differences in jail bookings, detention rates, or court hearings since the new law went into effect?



Release Prior to First Appearance

- New law in 2023 limits those who can be released before first appearance. FS 903.011 (6)
- Those who cannot be released before first appearance include:
 - Anyone who is currently on community supervision
 - Those designated as a sexual offender
 - Those who were sentenced previously as a habitual felony offender, etc.
 - Someone who has been arrested three or more times in the past 6 months
 - Someone arrested on any number of more serious offenses

Pretrial Detention (new 2023 law)

- If person is arrested for a “dangerous crime” that is a capital felony, a life felony, or a felony of the first degree, and the court determines there is probable cause to believe the person committed the offense, the state attorney, or the court on its own motion, **shall** motion for pretrial detention.
- If the court finds a **substantial probability** that the person committed the offense and finds that **no conditions of release or bail will reasonably** protect the community from risk of physical harm, ensure the presence of the defendant at trial, or assure the integrity of the judicial process, **the court must order pretrial detention.**

-- FS 907.041 (4) (d)

Pretrial Detention (optional)

- Upon motion by the state attorney, the court **may** order pretrial detention if the court finds by a substantial probability that any one of a number of different circumstances exist. –FS 907.041 (4) (c)
- Motion must set forth “with particularity the grounds and the essential facts on which pretrial detention is sought and certifying that the state attorney has received testimony under oath supporting the grounds and the essential facts alleged in the motion” (Fla. R. Crim. P. 3.132(a)).

Release Conditions

State rules establish that, when determining conditions of release, the court should consider the following forms of release in order of preference (Fla. R. Crim. P. 3.131(b)(1)). The rules also define “bail” to include “any of the forms of release stated below” (id.):

- personal recognizance;
- unsecured appearance bond;
- restrictions on travel or residence;
- placement in the custody of a person or organization that agreed to supervise them;
- a bail bond with sufficient sureties; and
- any other condition “deemed reasonably necessary to assure the defendant’s appearance.”

Mandatory Financial Conditions

- People charged with a “dangerous crime,” are not permitted to be released on nonfinancial conditions at first appearance if the court has determined there is probable cause to believe the person has committed the offense.

-- FS 907.041 (b)

Nonmonetary Conditions (new law)

1. Maintain employment, or, if unemployed, actively seek employment.
2. Maintain or commence an educational program.
3. Abide by specified restrictions on personal associations, place of residence, or travel.
4. Report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency.
5. Comply with a specified curfew.
6. Refrain from possessing a firearm, destructive device, or other dangerous weapon.
7. Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription from a licensed medical practitioner.
8. Undergo available medical, psychological, psychiatric, mental health, or substance abuse evaluation and follow all recommendations, including treatment for drug or alcohol dependency, and remain in a specified institution, if required.
9. Return to custody for specified hours following release for employment, school, or other limited purposes.
10. Any other condition that is reasonably necessary to assure the appearance of the defendant at subsequent proceedings and to protect the community against unreasonable danger of harm.

Statewide Bond Schedule

- Florida Supreme Court issued Administrative Order AOSC23-88 and imposed a statewide bond schedule.
- Counties may impose a bond schedule with **higher** amounts but may not include lower amounts without approval from the Supreme Court.
- Regardless of the bond schedule, FS 903.011(5)(f) states that “The uniform statewide bond schedule shall not bind a judge in an individual case who is conducting a first appearance hearing or bail determination.”

Polling Question:

Do your judges follow the bond schedule or use their discretion as the statute allows?

Did your county:

- a) Adopt the statewide schedule
- b) Adopt a schedule that imposes higher amounts
- c) Request approval to adopt a schedule with lower amounts
- d) I don't know

Revocation (new law)

FS 903.0471: A court may, on its own motion, revoke pretrial release and order pretrial detention if the court finds

- probable cause to believe that the defendant committed a new crime while on pretrial release **or**
- *violated any other condition of pretrial release in a material respect.*

Discussion Question?

- Have you seen judges revoking pretrial release in greater numbers since this change in law?



Importance of Racial Equity and Community Engagement

Orleny Rojas

Discussion Question?

- What comes to mind when you think about racial equity and pretrial justice?



ADVANCING EQUITY



Available data on Race and Ethnicity

- Whites, Blacks, Hispanics, Asians, Native Americans

Metrics to understand the problem and measure progress

- Number of people involved in the criminal legal system
- Likelihood of pretrial justice involvement compared by race and ethnicity
- Identify policies or practices that create or exacerbate disparities

Why analyze racial and ethnic disparities?



Ensure equitable experience and impact regardless of race or ethnicity

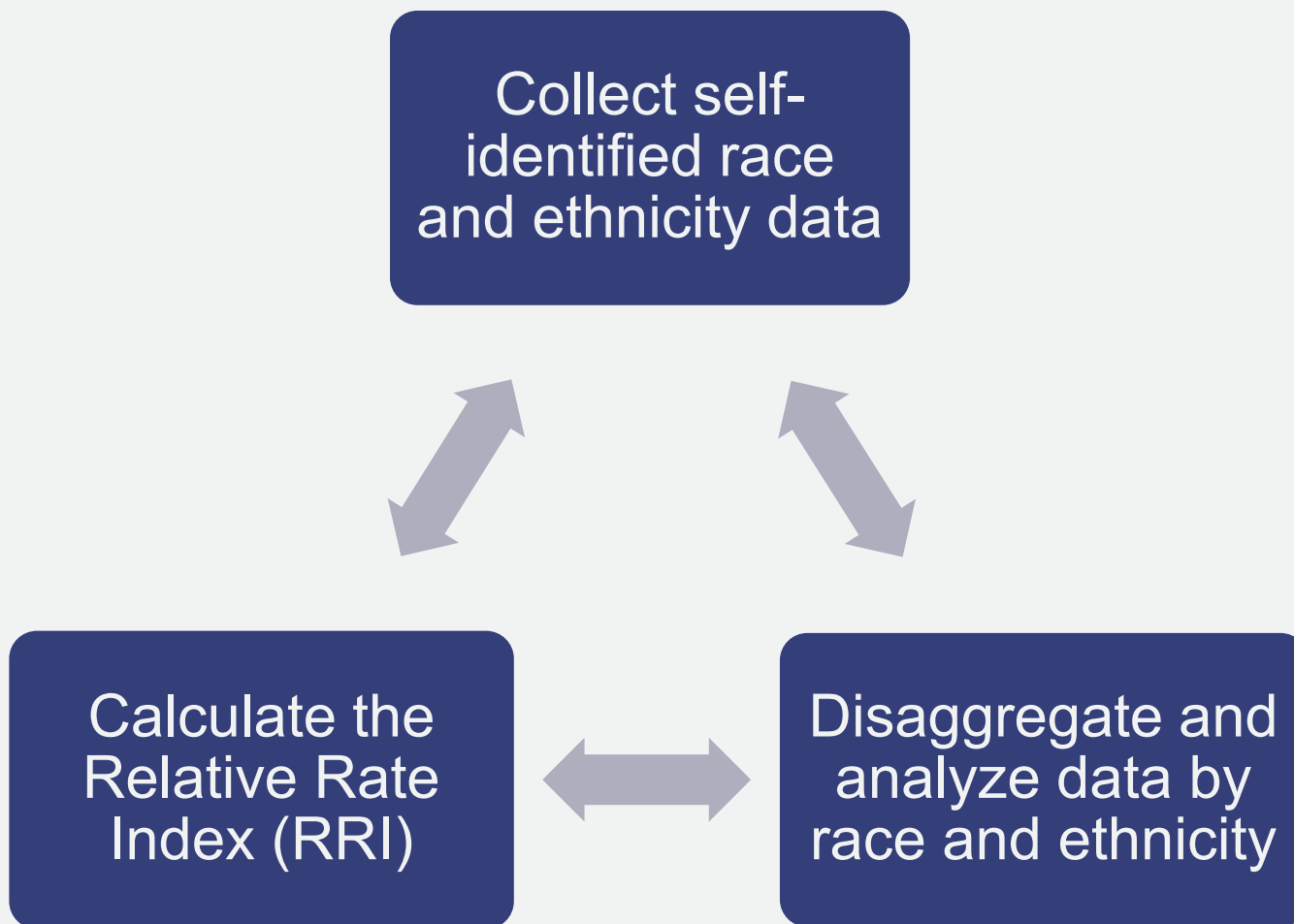


Eliminate overrepresentation in the criminal legal system based on race and ethnicity



Change policies or practices that create or exacerbate disparities

Measuring racial and ethnic disparities



Racial Equity Resources

Local and Regional Government Alliance on Racial Equity (GARE): Racial Action Plans

<https://www.racialequityalliance.org/wp-content/uploads/2016/11/GARE-Racial-Equity-Action-Plans.pdf>

Racial Equity: Getting to Results (GARE)

https://www.racialequityalliance.org/wp-content/uploads/2017/09/GARE_GettingtoEquity_July2017_PUBLISH.pdf

Racial Equity and Inclusion Action Guide: The Annie E. Casey Foundation

https://assets.aecf.org/m/resourcedoc/AECF_EmbracingEquity7Steps-2014.pdf

Haywood Burns Institute: Structural Racism Assessment

<https://burnsinstitute.org/wp-content/uploads/2020/10/structuralracism.pdf>

Discussion Question?

- How can your agency or jurisdiction benefit from engaging community members, organizations, or people with lived experience in pretrial advancement efforts?



Community Engagement



An opportunity to build relationships with community service providing organizations



A way to gather input on the impact and effectiveness of policies and practices



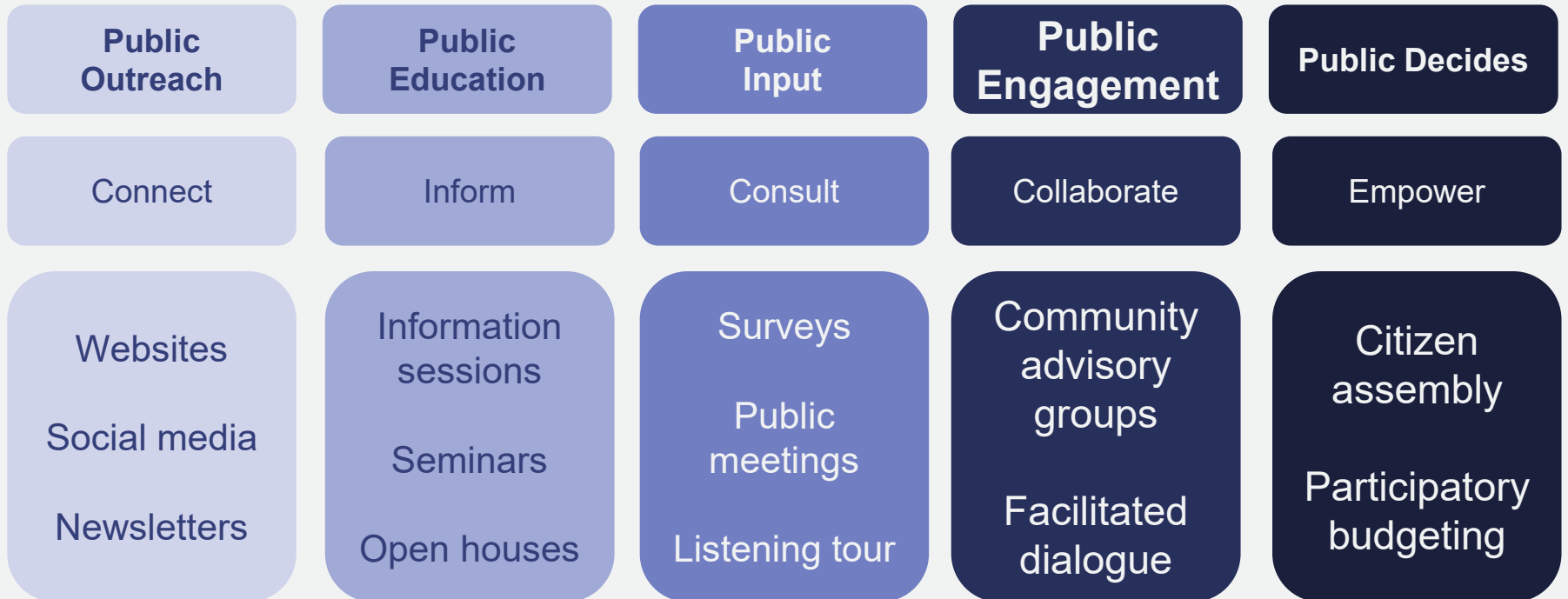
An approach to identify and address disparities experienced by participants



A path to increase capacity by tapping into existing community resources

The Spectrum of Engagement

Increasing level of public participation & shared decision-making authority



Components of an Engagement Plan

What are we
engaging the
community on?

Who are we
engaging in the
community?

How are we
engaging
them?

What are we engaging on?

What is your goal in engaging the community?



Example: We want the public to be informed about pretrial services.



Example: We want to hear from pretrial participants about their supervision experience and how to best support their pretrial success.

Who are we engaging?



How are we engaging them?

What “type(s)” of engagement are you hoping to conduct?



What will each engagement method achieve?



How do you create a combination of thick and thin engagement?

Components of Meaningful Engagement



Capacity and Support



Do leadership and staff have a good understanding of why engagement is important, and of engagement principles and best practices?



Are there staff who have the bandwidth to lead community engagement as part of their job responsibility?




Is there support within the agency for community engagement such as funding, training opportunities, commitment from leadership to this work?

Communication

Does leadership communicate to agency staff why community engagement is important?



Does the agency communicate with the public about its commitment to community engagement, what it is currently doing to engage the community, and follows-up about engagement?



Is the agency engaging with people with lived experiences (e.g. system involved people and their families, people who live in high crime neighborhoods, or victims of crime)?

Partnerships and Planning



Is the agency already collaborating with organizations and individuals in the community, or do these relationships need to be built?



Are there structures in place for community engagement, such as a community advisory council, or do these need to be developed?



Is there a clear plan for how and why the agency wants to engage the public, complete with goals, timelines, and actions?

Principle

Engagement is about building trust and collaboration between local people and the institutions that serve them.

Evaluation & Closing Remarks

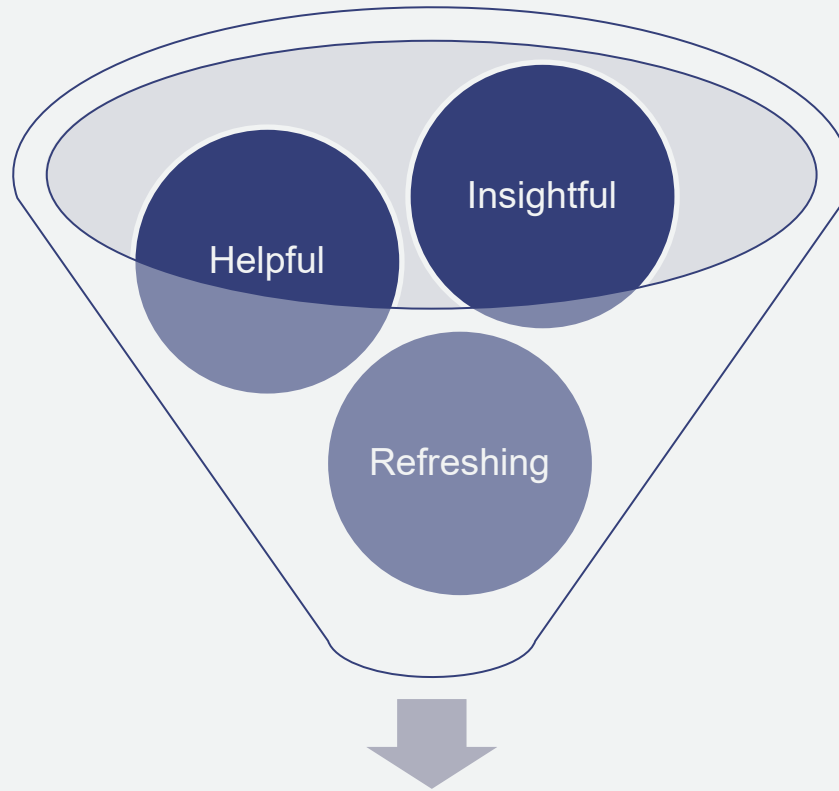
Dr. Kelvin L. Banks

APPF/APPR Training Series: Office Hours



Reminder:
30-Minute Office Hours
Immediately Following

One Word Takeaway for Today?



One Work Takeaway

Thank you for your time!

Don't forget to register with APPR to receive advance notice of trainings and new resources!

Join the APPR Community to connect with pretrial practitioners from around the country!