



COLORADO ASSOCIATION  

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*of*  

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*Pretrial Services*

**PROFESSIONAL STANDARDS  
FOR  
PRETRIAL SERVICES AGENCIES IN COLORADO**

September 2017  
Revised: January 2019

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## TABLE OF CONTENTS

Executive Committee Staff.....	2
Limitations of Liability.....	3
Table of Contents.....	4
Forward.....	5
Introduction by Timothy R. Schnacke.....	6-8
Part I: Colorado Laws Governing the Pretrial Process	
1:1 Right to Bail.....	9-10
1:2 Bail Before Conviction.....	10
1:3 Setting and Selecting Type of Bond.....	10-12
1:4 Types of Bond Set by the Court.....	12-15
1:5 Conditions of Release on Bond.....	15-17
1:6 Pretrial Services Programs.....	17-19
Part II: Recommended Pretrial Services Program Standards	
2:1 Purposes of Pretrial Services Agencies and Programs.....	20
2:2 Screening of the Pretrial Defendant and Eligibility for Release.....	20
2:3 Delegated Release Authority.....	21
2:4 The Defendant Interview.....	21
2:5 Pretrial Services Report.....	21-22
2:6 Monitoring and Supervision.....	22-23
2:7 Failures to Appear.....	23-24
2:8 Role of Staff with Judicial Officials.....	24
2:9 Confidentiality.....	24-25
Part III: Administrative Procedures	
3:1 Organization and Management of Pretrial services Agency/Program.....	26
3:2 Program Objectives.....	26-27
3:3 Resources.....	27
3:4 Information Gathering and Data Collections.....	27-28
3:5 Quality Assurance.....	28
3:6 Job Description and Qualifications.....	28
3:7 Training and Professional Development.....	28-29
3:8 Communication with Stakeholders.....	29
Part IV: Definitions and Standardized Methods.....	30-32
Part V: Professional Standards Review Process.....	33-34
Appendix A: CAPS Professional Standards – Self-Review Checklist.....	35-40
Appendix B: Annual Reporting Form.....	41

## FOREWORD

There is a growing movement in Colorado and the United States regarding best practices in the field of pretrial services. A range of research is emerging, both legal and empirical, which is creating more clarity in the delivery of pretrial services. For this reason, it is becoming critical for the field to develop best practices regarding overall service delivery.

The Colorado Association of Pretrial Services (CAPS) focuses its efforts to support the establishment of responsible agencies that provide pretrial services in the state of Colorado. The mission of the association is to promote the exchange of ideas, enhance professional competence, provide a leadership role in legislative issues and improve professional performance measures in pretrial services. CAPS also aids pretrial services agencies throughout Colorado by fostering collaboration, providing ongoing education/training, and offering recommendations for best practices in the pretrial services field. This is CAPS' first attempt at developing professional standards. These standards provide guiding principles for professionals within Colorado, commensurate to national pretrial services standards, who currently operate a pretrial services agency and/or to jurisdictions that are looking to create a new program.

The CAPS Executive Committee thanks the following organizations that have helped pave the way for pretrial services in Colorado: the Colorado Pretrial Executives Network (PEN), the National Association of Pretrial Services Agencies (NAPSA), the National Institute of Corrections (NIC), the Pretrial Justice Institute (PJI), the California Association of Pretrial Services (CAPS), the American Bar Association (ABA) and Melissa Saindon, editor. The Pretrial Justice Institute has created a comprehensive and inclusive glossary of terms contained on their website that would be helpful for your agency to review in conjunction with the standards within this document (<http://www.pretrial.org/glossary-terms/>). CAPS also acknowledges Tim Schnacke, Executive Director for the Center of Legal and Evidence-Based Practices for his assistance with these professional standards.

Sincerely,

A handwritten signature in cursive script that reads "Steve Chin".

**Steve Chin**  
**CAPS President**

## INTRODUCTION

Historically speaking, the first pretrial services officers were an accused's family members, who brokered a deal with the victim's family and took responsibility for making sure the accused faced justice, thereby avoiding a blood feud. That was around 400-500 A.D., and while things may seem radically different now, the service of watching over an accused person while he or she faces justice is the essence of what a pretrial agency does. It was important to the Angles and Saxons of 5<sup>th</sup> and 6<sup>th</sup> Century Britain, and it is important to American citizens today.

The long history of how we obtained our current notions of professional pretrial services agencies began in earnest, though, just after the Norman Invasion, when criminal justice reforms created a system that began to resemble the system we have in America today. Crimes against the crown (like our crimes against the state), jury trials, roving judges, and jails, all came together to require the use of so-called "personal sureties," who were people willing to take responsibility of the defendant from the sheriff and to keep that defendant under control for the duration of the case. Like pretrial services officers today, those early sureties were required to take all comers – they could not opt out of their service to the sheriff and the court – and they were not allowed to profit from the enterprise. Moreover, even if they ended up paying something themselves, personal sureties could not be reimbursed or indemnified. The singular use then of what we call today "unsecured" bonds (which require only a promise to pay property or money if the accused does not return to face justice) versus secured bonds (which require actual payment of something up front to get out of jail) assured that all bailable defendants were actually released.

That system worked well in both England and America until the 1800s, when, for a variety of reasons, both countries started running out of personal sureties. In England, the country responded to the issue of bailable defendants not being released by passing a law allowing judges to release defendants without sureties. In America, however, we did something completely different. Gradually, through court cases decided during the mid-to-late 1800s, we chipped away at the laws forbidding profit and indemnification at bail; essentially, we replaced the failing personal surety system with the commercial surety system – right about 1900.

The move from personal sureties to commercial sureties was a monumental move designed to help get bailable defendants out of jail. Why then, is it not considered a "bail reform movement" like others we have seen throughout history? The answer is that it never worked. The switch to commercial sureties, along with a heavier reliance upon secured money bonds, resulted in an exacerbation of the very problem that led us to commercial sureties to begin with – bailable defendants were not getting out of jail.

Indeed, America switched to the new system in 1900 yet recognized its failings as early as the 1920s, when bail scholars began to write about that system's inherent flaws. For forty years, those scholars documented problems with the traditional money bail system, but it was not until a few bail reformers in New York began to experiment with reducing the role of money at bail and helping with an innovative new type of release – the "own" or "personal" recognizance release – that we began to see

people from outside of the commercial bail industry working with courts to help administer bail. The Manhattan Bail Project in New York, and other bail projects like it, ultimately gave rise to the professional pretrial services agencies we have today.

Before discussing those entities, though, we should briefly consider how the field of probation has influenced the field of pretrial release and detention. Compared to pretrial release (bail) and detention (no bail), probation was created in a whirlwind of activity in the 1800s that culminated in 1956, when each American state had a formal adult probation statute. During that time, and while the field of bail and no bail was struggling to find its own course, probation settled on a number of key ingredients that would be helpful to later bail reform movements. Indeed, John Augustus, the so-called “father of probation,” pioneered early versions of risk assessment and supervision, recommendations to the court, and revocation processes. Importantly, though, while probation began by using bail terminology and by actually imposing financial conditions of post-conviction release, over time the probation field realized that using money was monumentally unfair and wholly ineffective compared to the casework and supervisory strategies adopted by early probation officers.

It is probable, then, that these elements – risk assessment, assisting the court with recommendations, and community supervision without financial conditions – were in the minds of people running these innovative bail projects of the early 1960s. And, indeed, starting with these projects, we began to see a gradual coupling of the historic notions of personal sureties with more modern understandings of risk assessment and risk management to create the professional pretrial services agencies in existence today.

Since the 1960s, pretrial services entities have grown even more effective and responsive to the needs of American courts. In the 1970s and 1980s, America gradually began to recognize public safety in addition to court appearance as a constitutionally valid purpose for limiting pretrial freedom. Once again, the traditional money bail system, led by commercial sureties, failed by making sure that for-profit bail bondsmen could never be held responsible for defendant behavior that might lead to new criminal activity. But pretrial services agencies adapted, and added various supervision techniques to their arsenal of methods to help keep communities safe while also making sure defendants come to court. When jurisdictions needed help and guidance with criminal diversion efforts, pretrial services professionals adopted diversion as the second major branch of their field. When bail researchers created multi-jurisdictional actuarial risk assessment instruments to help courts maximize court appearance and public safety rates, pretrial services agencies began quickly to adopt them into their practices.

And now, when all of America is considering the elimination of money at bail, pretrial services entities are again leading the country by examining how they will adapt by providing efficient and safe release and detention practices in a moneyless bail system. Moreover, pretrial services agencies have done all of these things, and they continue to do even more, despite relentless vilification by a bail insurance industry determined to eliminate them simply to make more money. I challenge anyone to compare their work to the noble work done within pretrial services agencies, which, at their core, strive simply to uphold the rights afforded by our state and federal constitutions.

In Colorado, pretrial services programs were formally authorized in 1991, in the wave of second-generation bail reform practices designed to deal with a new world of pretrial release and detention that included public safety. Although the statute did not require their creation, most Colorado jurisdictions immediately saw the benefits and did so. Thus, the state currently enjoys having pretrial services agencies that cover roughly 80% of all state defendants, coming ever closer to realizing the American Bar Association's Criminal Justice Standards recommendation that those agencies serve all American jurisdictions. In the last several years, these state agencies have joined together to: (1) create the Colorado Pretrial Risk Assessment Tool; (2) help jurisdictions understand and use that tool; (3) create standardized performance measures to match new statutory requirements; (4) sponsor professional training on various bail and no bail topics; and (5) compare practices (such as measuring outcomes) through a Pretrial Executives Network designed specifically to make the separate but similar county functions even more cohesive.

Pretrial services agencies in Colorado have proven to be highly effective and very popular with state leaders and the public at large. In 2012, the Colorado Commission on Criminal and Juvenile Justice recommended the increased use of pretrial services functions, and legislators amended our bail laws in 2013 to: (1) urge jurisdictions to create pretrial services agencies where they did not exist; and (2) improve them where they did exist by increasing the use of legal and evidence-based bail practices. Pretrial services agencies in Colorado are strong, and they are only getting stronger.

And now the Colorado Association of Pretrial Services (CAPS), the group most responsible for maintaining Colorado's rational bail structure and for fighting against an irrational one, has created the Colorado Standards for Pretrial Agencies. These standards, reflecting an adaptation to the particular characteristics of Colorado law and practice, follow in the footsteps of (and, indeed, expressly refer to) the National Association of Pretrial Services Agencies' Standards on Pretrial Release (currently being revised and combined with its national diversion standards) and the American Bar Association Standards on Pretrial Release, both of which attempt to provide concrete recommendations for pretrial practice using the law and the research or evidence. As CAPS says, the Colorado Standards are "intended to provide guiding principles for counties within Colorado that are currently operating as a pretrial services agency, or to counties that are looking to create a new program. These standards should be used as a tool to measure progress of a pretrial services agency."

The standards are, indeed, a valuable tool for helping Colorado pretrial services agencies perform crucial functions designed to further the lawful purposes of bail. But the standards are more than that, for they reflect the latest step in a long and steadfast march by dedicated pretrial professionals, who strive to make both pretrial release and detention in America effective, safe, rational, and fair.

**Timothy R. Schnacke**  
**Executive Director**  
**Center for Legal and Evidence-Based Practices**



## PART I: COLORADO LAWS GOVERNING THE PRETRIAL PROCESS

### 1. Right to Bail: Constitution of the State of Colorado, Article II Bill of Rights, Section 19

- A. All persons shall be bailable by sufficient sureties pending disposition of charges except:
- 1) For capital offenses when proof is evident or presumption is great; or
  - 2) When, after a hearing held within ninety-six hours of arrest and upon reasonable notice, the court finds that proof is evident or presumption is great as to the crime alleged to have been committed and finds that the public would be placed in significant peril if the accused were released on bail and such person is accused in any of the following cases:
    - a) A crime of violence, as may be defined by the general assembly, alleged to have been committed while on probation or parole resulting from the conviction of a crime of violence;
    - b) A crime of violence, as may be defined by the general assembly, alleged to have been committed while on bail pending the disposition of a previous crime of violence charge for which probable cause has been found;
    - c) A crime of violence, as may be defined by the general assembly, alleged to have been committed after two previous felony convictions, or one such previous felony conviction if such conviction was for a crime of violence, upon charges separately brought and tried under the laws of this state or under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States which, if committed in this state, would be a felony; or
- B. Except in the case of a capital offense, if a person is denied bail under this section, the trial of the person shall be commenced not more than ninety days after the date on which bail is denied. If the trial is not commenced within ninety days and the delay is not attributable to the defense, the court shall immediately schedule a bail hearing and shall set the amount of the bail for the person.
- 1) The court may grant bail after a person is convicted, pending sentencing or appeal, only as provided by statute as enacted by the general assembly; except that no bail is allowed for persons convicted of:
    - a) Murder;

- b) Any felony sexual assault involving the use of a deadly weapon;
  - c) Any felony sexual assault committed against a child who is under fifteen years of age;
  - d) A crime of violence, as defined by statute enacted by the general assembly; or
  - e) Any felony during the commission of which the person used a firearm.
- C. The court shall not set bail that is otherwise allowed pursuant to subsection B.) unless the court finds that:
- 1) The person is unlikely to flee and does not pose a danger to the safety of any person or the community; and
  - 2) The appeal is not frivolous or is not pursued for the purpose of delay.

This section shall take effect January 1, 1995, and shall apply to offenses committed on or after said date.

Source: Entire article added, effective August 1, 1876, see L. 1877, p. 31. L. 82: Entire section R&RE, p. 685, effective January 1, 1983. L. 94: Entire section amended, p. 2853, effective upon proclamation of the Governor, L. 95, p. 1434, January 19, 1995. (*Colorado Constitution, Article II, Section 19*)

**2. Bail Before Conviction: Colorado Revised Statute 16-4-102**

Any person who is in custody, and for whom the court has not set bond and conditions of release pursuant to the applicable rule of criminal procedure, and who is not subject to the provisions of section 16-4-101 (5), has the right to a hearing to determine bond and conditions of release. A person in custody may also request a hearing so that bond and conditions of release can be set. Upon receiving the request, the judge shall notify the district attorney immediately of the arrested person's request, and the district attorney shall have the right to attend and advise the court of matters pertinent to the type of bond and conditions of release to be set. The judge shall also order the appropriate law enforcement agency having custody of the prisoner to bring him or her before the court forthwith, and the judge shall set bond and conditions of release if the offense for which the person was arrested is bailable. It shall not be a prerequisite to bail that a criminal charge of any kind has been filed.

Source: L. 2013: Entire part R&RE, (HB 13-1236), ch. 202, p. 822, § 2, effective May 11. Title 16. Criminal Proceedings: Code of Criminal Procedure: Article 4: Release from Custody Pending Final Adjudication. Part 1: Release on Bail. C.R.S. 16-4-102 (2016)

**3. Setting and Selecting Type of Bond: Colorado Revised Statute 16-4-103**

- A. At the first appearance of a person in custody before any court or any person designated by the court to set bond, the court or person shall determine the type of bond and conditions of release unless the person is subject to the provisions of section 16-4-101.
- B. If an indictment, information, or complaint has been filed and the type of bond and conditions of release have been fixed upon return of the indictment or filing of the information or complaint, the court shall review the propriety of the type of bond and conditions of release upon first appearance of a person in custody.
  - 1) The type of bond and conditions of release shall be sufficient to reasonably ensure the appearance of the person as required and to protect the safety of any person or the community, taking into consideration the individual characteristics of each person in custody, including the person's financial condition.
  - 2) In determining the type of bond and conditions of release, if practicable and available in the jurisdiction, the court shall use an empirically developed risk assessment instrument designed to improve pretrial release decisions by providing to the court information that classifies a person in custody based upon predicted level of risk of pretrial failure.
- C. When the type of bond and conditions of release are determined by the court, the court shall:
  - 1) Presume that all persons in custody are eligible for release on bond with the appropriate and least-restrictive conditions consistent with provisions in paragraph 1) of subsection 3. B. unless a person is otherwise ineligible for release pursuant to the provisions of section 16-4-101 and section 19 of article II of the Colorado constitution. A monetary condition of release must be reasonable, and any other condition of conduct not mandated by statute must be tailored to address a specific concern.
  - 2) To the extent a court uses a bond schedule, the court shall incorporate into the bond schedule conditions of release and factors that consider the individualized risk and circumstances of a person in custody and all other relevant criteria and not solely the level of offense; and
  - 3) Consider all methods of bond and conditions of release to avoid unnecessary pretrial incarceration and levels of community-based supervision as conditions of pretrial release.
- D. The court may also consider the following criteria as appropriate and relevant in making a determination of the type of bond and conditions of release:

- 1) The employment status and history of the person in custody;
- 2) The nature and extent of family relationships of the person in custody;
- 3) Past and present residences of the person in custody;
- 4) The character and reputation of the person in custody;
- 5) Identity of persons who agree to assist the person in custody in attending court at the proper time;
- 6) The likely sentence, considering the nature and the offense presently charged;
- 7) The prior criminal record, if any, of the person in custody and any prior failures to appear for court;
- 8) Any facts indicating the possibility of violations of the law if the person in custody is released without certain conditions of release;
- 9) Any facts indicating that the defendant is likely to intimidate or harass possible witnesses; and
- 10) Any other facts tending to indicate that the person in custody has strong ties to the community and is not likely to flee the jurisdiction.

- E. When a person is charged with an offense punishable by fine only, any monetary condition of release shall not exceed the amount of the maximum fine penalty.

Source: L. 2013: Entire part R&RE, (HB 13-1236), ch. 202, p. 822, § 2, effective May 11. L. 2014: (1) amended, (SB 14-212), ch. 397, p. 1998, § 1, effective July 1. Title 16 Criminal Proceedings: Code of Criminal Procedure: Article 4: Release from Custody Pending Final Adjudication. Part 1: Release on Bail. C.R.S. 16-4-103 (2016)

#### **4. Types of Bond Set by the Court: Colorado Revised Statute 16-4-104**

- A. The court shall determine, after consideration of all relevant criteria, which of the following types of bond is appropriate for the pretrial release of a person in custody, subject to the relevant statutory conditions of release listed in section 16-4-105. The person may be released upon execution of:
- 1) An unsecured personal recognizance bond in an amount specified by the court. The court may require additional obligors on the bond as a condition of the bond.

- 2) An unsecured personal recognizance bond with additional nonmonetary conditions of release designed specifically to reasonably ensure the appearance of the person in court and the safety of any person or persons or the community;
- 3) A bond with secured monetary conditions when reasonable and necessary to ensure the appearance of the person in court or the safety of any person or persons or the community. The financial conditions shall state an amount of money that the person must post with the court in order for the person to be released. The person may be released from custody upon execution of bond in the full amount of money to be secured by any one of the following methods, as selected by the person to be released, unless the court makes factual findings on the record with respect to the person to be released that a certain method of bond, as selected by the court, is necessary to ensure the appearance of the person in court or the safety of any person, persons, or the community:
  - a) By a deposit with the clerk of the court of an amount of cash equal to the monetary condition of the bond;
  - b) By real estate situated in this state with unencumbered equity not exempt from execution owned by the accused or any other person acting as surety on the bond, which unencumbered equity shall be at least one and one-half the amount of the security set in the bond;
  - c) By sureties worth at least one and one-half of the security set in the bond; or
  - d) By a bail bonding agent, as defined in section 16-1-104 (3.5).
- 4) A bond with secured real estate conditions when it is determined that release on an unsecured personal recognizance bond without monetary conditions will not reasonably ensure the appearance of the person in court or the safety of any person or persons or the community. For a bond secured by real estate, the bond shall not be accepted by the clerk of the court unless the record owner of such property presents to the clerk of the court the original deed of trust as set forth in subparagraph (IV) of this paragraph (d) and the applicable recording fee. Upon receipt of the deed of trust and fee, the clerk of the court shall record the deed of trust with the clerk and recorder for the county in which the property is located. For a bond secured by real estate, the amount of the owner's unencumbered equity shall be determined by deducting the amount of all encumbrances listed in the owner and encumbrances certificate from the actual value of such real estate as shown on the current notice of valuation. The owner of the real estate shall file with the bond the following, which shall constitute a material part of the bond:

- a) The current notice of valuation for such real estate prepared by the county assessor pursuant to section 39-5-121, C.R.S.; and
  - b) Evidence of title issued by a title insurance company or agent licensed pursuant to article 11 of title 10, C.R.S., within thirty-five days after the date upon which the bond is filed; and
  - c) A sworn statement by the owner of the real estate that the real estate is security for the compliance by the accused with the primary condition of the bond; and
  - d) A deed of trust to the public trustee of the county in which the real estate is located that is executed and acknowledged by all record owners of the real estate. The deed of trust shall name the clerk of the court approving the bond as beneficiary. The deed of trust shall secure an amount equal to one and one-half times the amount of the bond.
- 5) Unless the district attorney consents or unless the court imposes certain additional individualized conditions of release as described in section 16-4-105, a person must not be released on an unsecured personal recognizance bond pursuant to paragraph (a) of subsection (1) of this section under the following circumstances:
- a) The person is presently free on another bond of any kind in another criminal action involving a felony or a class 1 misdemeanor;
  - b) The person has a record of conviction of a class 1 misdemeanor within two years or a felony within five years, prior to the bail hearing; or
  - c) The person has willfully failed to appear on bond in any case involving a felony or a class 1 misdemeanor charge in the preceding five years.
- 6) A person may not be released on an unsecured personal recognizance bond if, at the time of such application, the person is presently on release under a surety bond for felony or class 1 misdemeanor charges unless the surety thereon is notified and afforded an opportunity to surrender the person into custody on such terms as the court deems just under the provisions of section 16-4-108.
- 7) Because of the danger posed to any person and the community, a person who is arrested for an offense under section 42-4-1301 (1) or (2) (a), C.R.S., may not attend a bail hearing until the person is no longer intoxicated or under the influence of drugs. The person shall be held in custody until the person may safely attend such hearing.

Source: L. 2013: Entire part R&RE, (HB 13-1236), ch. 202, p. 824, § 2, effective May 11. L. 2014: IP(1)(c) amended, (SB 14-212), ch. 397, p. 1998, § 2, effective July 1. Title 16 Criminal Proceedings: Code of Criminal Procedure: Article 4: Release from Custody Pending Final Adjudication. Part 1: Release on Bail. C.R.S. 16-4-104 (2016)

**5. Conditions of Release on Bond: Colorado Revised Statute 16-4-105**

- A. For each bond, the court shall require that the released person appear to answer the charge against the person at a place and upon a date certain and at any place or upon any date to which the proceeding is transferred or continued. This condition is the only condition for which a breach of surety or security on the bail bond may be subject to forfeiture.
- B. For a person who has been arrested for a felony offense, the court shall require as a condition of a bond that the person execute a waiver of extradition stating the person consents to extradition to this state and waives all formal procedures incidental to extradition proceedings in the event that he or she is arrested in another state while at liberty on such bail bond and acknowledging that he or she shall not be admitted to bail in any other state pending extradition to this state.
- C. Additional conditions of every bond is that the released person shall not commit any felony while free on such a bail bond, and the court in which the action is pending has the power to revoke the release of the person, to change any bond condition, including the amount of any monetary condition if it is shown that a competent court has found probable cause to believe that the defendant has committed a felony while released, pending the resolution of a prior felony charge.
- D. An additional condition of every bond in cases involving domestic violence as defined in section 18-6-800.3 (1), C.R.S., in cases of stalking under section 18-3-602, C.R.S., or in cases involving unlawful sexual behavior as defined in section 16-22-102 (9), is that the released person acknowledge the protection order as provided in section 18-1-1001 (5), C.R.S.
- E. An additional condition of every bond in a case of an offense under section 42-2-138 (1) (d) (I), C.R.S., of driving while such person's driver's license or privilege to drive, either as a resident or nonresident, is restrained solely or partially because of a conviction of a driving offense pursuant to section 42-4-1301 (1) or (2) (a), C.R.S., is that such person not drive any motor vehicle during the period of such driving restraint.
- F. If a person is arrested for driving under the influence or driving while ability impaired, pursuant to section 42-4-1301, C.R.S., and the person has one or more previous convictions for an offense in section 42-4-1301, C.R.S., or one or more convictions in any other jurisdiction that would constitute a violation of section 42-4-1301, C.R.S., as a condition of any bond, the court shall order that the person abstain from the use of alcohol or illegal drugs, and such abstinence shall be monitored.

- 1) A person seeking relief from any these conditions shall file a motion with the court, and the court shall conduct a hearing upon the motion. The court shall consider whether the condition from which the person is seeking relief is in the interest of justice and whether public safety would be endangered if the condition were not enforced. When determining whether to grant relief the court shall consider whether the person has voluntarily enrolled and is participating in an appropriate substance abuse treatment program.
- G. A person may be released on a bond with monetary condition of bond, when appropriate, as described in section 16-4-104 (1) (c).
- H. In addition to the conditions specified in this section, the court may impose any additional conditions on the conduct of the person released that will assist in obtaining the appearance of the person in court and the safety of any person or persons and the community. These conditions may include, but are not limited to, supervision by a qualified person or organization or supervision by a pretrial services program established pursuant to section 16-4-106. While under the supervision of a qualified organization or pretrial services program, the conditions of release imposed by the court may include, but are not limited to:
- 1) Periodic telephone contact with the program;
  - 2) Periodic office visits by the person to the pretrial services program or organization;
  - 3) Periodic visits to the person's home by the program or organization;
  - 4) Mental health or substance abuse treatment for the person, including residential treatment if the defendant consents to the treatment;
  - 5) Periodic alcohol or drug testing of the person;
  - 6) Domestic violence counseling for the defendant if the defendant consents to the counseling;
  - 7) Electronic or global position monitoring of the person;
  - 8) Pretrial work release for the person; and
  - 9) Other supervision techniques shown by research to increase court appearance and public safety rates for persons released on bond.

Source: L. 2013: Entire part R&RE, (HB 13-1236), ch. 202, p. 826, § 2, effective May 11.L. 2014: (4) amended, (SB 14-212), ch. 397, p. 1999, § 3, effective July 1.L. 2015: (4) amended, (HB 15-1060), ch. 45,



**6. Pretrial Services Programs: Colorado Revised Statute. 16-4-106**

- A. The chief judge of any judicial district may order a person who is eligible for bond or other pretrial release to be evaluated by a pretrial services program established pursuant to this section, which program may advise the court if the person is bond eligible, may provide information that enables the court to make an appropriate decision on bond and conditions of release, and may recommend conditions of release consistent with this section. The chief judge may make such order in any or all of the counties of the chief judge's judicial district.
- B. The chief judge of any judicial district shall endeavor to consult, on an annual basis, with the county or counties within the judicial district in an effort to support and encourage the development by the county or counties, to the extent practicable and within available resources, of pretrial services programs that support the work of the court and evidence-based decision-making in determining the type of bond and conditions of release.
- C. To reduce barriers to the pretrial release of persons in custody whose release on bond with appropriate conditions reasonably assures court appearance and public safety, all counties and cities and counties are encouraged to develop a pretrial services program in consultation with the chief judge of the judicial district in an effort to establish a pretrial services program that may be utilized by the district court of such county or city and county. Any pretrial services program must be established pursuant to a plan formulated by a community advisory board created for such purpose and appointed by the chief judge of the judicial district. Membership on such community advisory board must include, at a minimum, a representative of a local law enforcement agency, a representative of the district attorney, a representative of the public defender, and a representative of the citizens at large. The chief judge is encouraged to appoint to the community advisory board at least one representative of the bail bond industry who conducts business in the judicial district, which may include a bail bondsman, a bail surety, or other designated bail industry representative. The plan formulated by such community advisory board must be approved by the chief judge of the judicial district prior to the establishment and utilization of the pretrial services program. The option contained in this section that a pretrial services program be established pursuant to a plan formulated by the community advisory board does not apply to any pretrial services program that existed before May 31, 1991.
- D. Any pretrial services program approved pursuant to this section must meet the following criteria:
  - 1) The program must establish a procedure for the screening of persons who are detained due to an arrest for the alleged commission of a crime so that such

information may be provided to the judge who is setting the bond and conditions of release. The program must provide information that provides the court with the ability to make an appropriate initial bond decision that is based upon facts relating to the person's risk of failure to appear for court and risk of danger to the community.

- 2) The program must make all reasonable attempts to provide the court with such information delineated in this section as is appropriate to each individual person seeking release from custody;
  - 3) The program, in conjunction with the community advisory board, must make all reasonable efforts to implement an empirically developed pretrial risk assessment tool, to be used by the program, the court, and the parties to the case solely for the purpose of assessing pretrial risk, and a structured decision-making design based upon the person's charge and the risk assessment score; and
  - 4) The program must work with all appropriate agencies and assist with all efforts to comply with sections 24-4.1-302.5 and 24-4.1-303, C.R.S.
- E. Any pretrial services program may also include different methods and levels of community-based supervision as a condition of release, and the program must use established methods for persons who are released prior to trial in order to decrease unnecessary pretrial detention. The program may include, but is not limited to, any of the criteria as outlined in section 16-4-105 (8) as conditions for pretrial release.
- F. Commencing July 1, 2012, each pretrial services program established pursuant to this section shall provide an annual report to the judicial department no later than November 1 of each year, regardless of whether the program existed prior to May 31, 1991. The judicial department shall present an annual combined report to the house and senate judiciary committees of the House of Representatives and the senate, or any successor committees, of the general assembly. The report to the judicial department must include, but is not limited to, the following information:
- 1) The total number of pretrial assessments performed by the program and submitted to the court;
  - 2) The total number of closed cases by the program in which the person was released from custody and supervised by the program;
  - 3) The total number of closed cases in which the person was released from custody, was supervised by the program, and, while under supervision, appeared for all scheduled court appearances on the case;

- 4) The total number of closed cases in which the person was released from custody, was supervised by the program, and was not charged with a new criminal offense that was alleged to have occurred while under supervision and that carried the possibility of a sentence to jail or imprisonment;
  - 5) The total number of closed cases in which the person was released from custody and was supervised by the program, and the person's bond was not revoked by the court due to a violation of any other terms and conditions of supervision; and
  - 6) Any additional information the judicial department may request.
- G. For the reports required in subsection (6) of this section, the pretrial services program shall include information detailing the number of persons released on a commercial surety bond in addition to pretrial supervision, the number of persons released on a cash, private surety, or property bond in addition to pretrial supervision, and the number of persons released on any form of a personal recognizance bond in addition to pretrial supervision.

Source: L. 2013: Entire part R&RE, (HB 13-1236), ch. 202, p. 828, § 2, effective May 11. L. 2014: (4)(c) amended, (SB 14-212), ch. 397, p. 1999, § 4, effective July 1. Title 16 Criminal Proceedings: Code of Criminal Procedure: Article 4: Release from Custody Pending Final Adjudication. Part 1: Release on Bail. C.R.S. 16-4-106 (2016)

## **PART II: RECOMMENDED PRETRIAL SERVICES PROGRAM STANDARDS**

The following are standards set forth by other pretrial associations that CAPS endorses and whereas applicable, expands upon for the purposes of pretrial services delivery in Colorado. Pretrial professionals are encouraged to implement these standards wherever possible.

### **1. Purposes of Pretrial Services Agencies and Programs**

Pretrial services agencies have three primary services that focus on legal and evidence-practices:

- A. Maximize public safety
- B. Maximize court appearance
- C. Maximize release rates

Pretrial services agencies and programs perform functions that are critical to these purposes. This includes assisting the court in making prompt, legal, fair, and effective release/detention decisions, and monitoring and supervising released defendants. In doing so, the agency or program also contributes to the fair and efficient use of detention facilities. In pursuit of these purposes, the agency or program collects and presents information needed for the court's release/detention decision prior to first appearance, generates empirically derived assessments of risk posed by the defendant, develops and uses risk-based strategies that may be used for supervision of released defendants, makes recommendations to the court concerning release options and/or conditions in individual cases, and provides monitoring and supervision of released defendants in accordance with conditions set by the court. When defendants are held in detention after first appearance, the agency or program should periodically review their status to determine possible eligibility for conditional release and provides relevant information to the court.

*Related Standards: NAPSA (2004), Standard 3.1 ABA Standards on Pretrial Release (2002), Standard 10-1.10. California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 2.1.*

### **2. Screening of the Pretrial Defendant and Eligibility for Release**

Initial eligibility screening should be conducted at the defendants booking or at the earliest point thereafter. It is a best practice to collect and present information to judicial officials on all defendants that are booked in to the local detention facility and not to exclude anyone based on charges.

### **3. Delegated Release Authority**

To enhance the principle of maximizing release, it is recommended that programs seek delegated release authority to improve accelerated release of eligible defendants. This authority may be obtained through a delegated order from the jurisdiction's Chief Judge (please review Colorado Chief Justice Directive 95-01 for guidance). Programs who obtain release authority should collaborate with stakeholders to develop clear standards of eligibility to be released by pretrial services. Another method of enhancing pretrial release may be a communication agreement with the Judge(s) regarding developed criteria to contact or present to Judge(s) to initiate a defendant's early release prior to initial appearance. Pretrial services programs with delegated release authority should have detailed specific guidelines for making the release decision provided or approved by the court.

*Related Standard NAPSA (2004), Standard 1.4; 1.9. C.R.S. 16-4-103 (1)*

### **4. The Defendant Interview**

It is recommended that a criminal history be completed on each defendant before the interview is conducted. Risk Assessment instruments rely heavily on criminal history information; therefore, this process will allow staff to clarify criminal history and related items during the interview.

The interviewer should advise the defendant of the purpose of the interview, their right to consult an attorney and the defendant should review and sign a Release of Information document before the interview is conducted.

An eligible defendant should be interviewed through a standard interview format. Each interview should include questions necessary to score an empirically developed risk assessment instrument. The interview of the defendant should not include any direct questions concerning the alleged offense.

*Related Standards NAPSA (2004), Standard 1.3 ABA Standards on Pretrial Release (2002), Standard 10-4.2 9. CRS 18-4-103*

### **5. Pretrial Services Report**

The pretrial services agency or program should compile reliable and objective information relevant to the court's determination concerning pretrial release or detention. The report should include information obtained through the interview of the defendant and other information obtained through the criminal history investigation. A written report should be prepared that organizes the information and presents an assessment of risk posed by the defendant identifying appropriate release options. (A verbal report may be provided upon the request of the judicial officer.) The information gathered in the pretrial services investigation should be demonstrably related to the purposes of the pretrial release decision and should

include factors shown to be related to the risk of nonappearance or of potential threat to the safety of any person or the community and to the selection of appropriate release conditions. The report may include information regarding any facts justifying a concern that the defendant will violate conditions of release. The recommendations should be supported by objective, consistently applied criteria set forth in agency or program policies developed in consultation with the judiciary. Pretrial services agencies or programs making recommendations for release and conditions of release should base these recommendations on an objective, verifiable risk assessment instrument. It is recommended that each program consult with their local stakeholders regarding the additional information to include in the pretrial services report. The information in the reports should also focus on any statutory requirements that judges must consider when setting bail/bond.

It is recommended that pretrial services agencies not engage in recommending money amounts on pretrial services reports, but rather provide focused information to encourage a judicial officer to make a decision to hold or release the defendant, based on the guiding principles of the law, including the individual defendant's risk to public safety and flight. Bond schedules are not supported as effective through research and are discouraged by statute. The use of secured money bonds to keep impoverished arrestees in jail after arrest without an inquiry into their ability to pay is recognized as unconstitutional.

*Related Standards NAPSA (2004), Standard 3.4 ABA Standards on Pretrial Release (2002), Standard 4.2(g) and (h). Maurice Walker v. City of Calhoun Georgia, 2016 CIVIL ACTION FILE NO.: 4: 15-CV-0170-HLM; Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option, Pretrial Justice Institute, Michael R. Jones, 2013*

## **6. Monitoring and Supervision**

Any pretrial services agency or program that provides supervised release services should recommend the least restrictive release conditions necessary to assure the defendant's appearance in court, to protect the safety of the community, and to safeguard the integrity of the judicial process.

Pretrial services agencies and programs should establish appropriate policies and procedures to facilitate the effective supervision of defendants released prior to case disposition under conditions set by the court. The agency or program should do the following:

- A. Monitor the defendant's compliance with court ordered release conditions;
- B. Have a procedure in place to address the process of notifying court officials of violations;
- C. Recommend modifications of release conditions as appropriate, consistent with agency or program policy;
- D. Maintain a record of the defendant's compliance with conditions of release; and

E. Notify released defendants of their court dates.

For cases in which the court's release order has been modified, the pretrial services agency or program should keep record of all modifications. The agency should develop an interagency agreement with the courts and/or the District Attorney's office to notify the agency when conditions are removed or modified. When released defendants fail to comply with conditions set by the court, the pretrial services agency or program should take prompt action to render assistance to the defendant to assure compliance. Depending on individual circumstances, modification of conditions may be warranted. A record of the defendant's compliance history should be maintained by the pretrial services agency or program. Information relevant to the defendant's progress as it relates to program attendance or completion should be recorded.

It is recommended that each agency develop a protocol for responding to alleged violations developed in collaboration with other key system stakeholders. Agencies should also have protocols regarding incentives for compliance and reporting positive compliance to the relevant attorneys.

Pretrial services agencies are encouraged to not assess fees upon defendants for services that would inhibit their release or supervision. Agencies should never request modification or revocation of a defendant's pretrial release for not paying, or wait to release defendants from jail if they have not paid a fee. It is recommended that pretrial services agencies avoid charging supervision fees if viable within their jurisdictions. If fees are necessary to help subsidize the program, then each program should have protocols to waive fees for indigent defendants and to ensure that defendants are never incarcerated due to non-payment. Practices should be in place that demonstrate the acceptance of fees for the purpose of services rendered to a defendant intended to enhance release or continue their release in the community.

It is a best practice for pretrial services agencies to develop supervision strategies in accordance with the current assessed empirical risk level of the defendant. Each program should be able to demonstrate that more supervision expectations and resources are placed on higher-risk defendants and less on lower risk defendants. It is recommended that programs develop protocols regarding when to recommend supervision and identify lower risk individuals in which supervision is not recommended. This will focus supervision resources in a more effective and efficient direction and target the goal of "least restrictive conditions."

*Related Standards NAPSA (2004), Standard 3.5 ABA Standards on Pretrial Release (2002), Standard 10-1.10. California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 2.8.*

**7. Failures to Appear**

Upon notification of a defendant's failure to appear while on Pretrial Services supervision, the pretrial services agency or program should work with judicial officers to establish methods or receive prompt notification to notify the defendant that a bench warrant is either pending or

has been issued. The pretrial services agency or program should advise the defendant that he or she is responsible for contacting the court to resolve the matter. When released defendants fail to appear, the pretrial services agency or program should take prompt action to render assistance to the defendant to resolve the warrant through peaceful surrender or through administrative relief measures.

*Related Standards California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 2.9*

## **8. Role of Staff with Judicial Officials**

Pretrial services agencies or programs should be available to the court to answer questions concerning relevant pretrial services reports, to explain conditions of release and sanctions for non-compliance to the defendant, to facilitate the speedy release of defendants and for overall efficient administration of justice. Programs should have a policy that addresses what staff should do when a subpoena is received to include how information is disclosed to judicial officials.

Pretrial services staff must avoid ex-parte communication with Judges and policies or protocols should be established to guide staff regarding appropriate communication with Judges, court officials and stakeholders.

*Related Standards California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 2.10*

## **9. Confidentiality**

Each pretrial services agency or program should develop written guidelines setting policy concerning the collection and distribution of information obtained during the pretrial services process. The guidelines should provide for confidentiality of information obtained during the pretrial interview and post-release monitoring and supervision of the defendant. Subject to applicable limitation on disclosure of information, the policy guidelines should provide for disclosure as follows:

- A. The pretrial agency or program should maintain confidentiality of pretrial program records.
- B. Information obtained during the pretrial interview and during post-release supervision should only be released to the courts and its officers and should not be disclosed unless authorized by the defendant through a signed Release of Information or as authorized by Colorado Statute and Federal Laws.
- C. Programs should keep defendant files secure at all times and should have a procedure in place for file retention and storage. Any disclosure of pretrial services information should be limited to the minimum information necessary



to carry out the purpose of such disclosure and in accordance with Colorado Open Records Act (CORA) rules.

- D. The pretrial agency or program's reports used to determine eligibility/suitability for release should be made available to the court, district attorney's office and the defense counsel.

Reports related to defendant compliance should be made available to judicial officials. The program should have a policy in place on releasing information to outside stakeholders or entities.

In cases in which pretrial agency or program staff has specific information leading to a good faith belief that the defendant intends to harm law enforcement authorities, particular individuals (e.g. victims), or the community at large, the agency or program should have policies in place regarding the duty to warn.

All contracts and written communications between the pretrial agency or program and individuals or organizations agreeing to provide supportive services for the custody or care of pretrial defendants must contain a nondisclosure clause.

Information contained in pretrial program files may be made available for research purposes to qualified personnel pursuant to a written research agreement, which states the terms and conditions of each information transfer. All research agreements concerning access to information in the files of any pretrial agency or program should assure that the identity of any defendant is not revealed in research publications, reports or any other materials distributed to anyone who is not a member of the research team unless the defendant has provided authorization.

*Related Standards NAPSA (2004), Standard 3.8 ABA Standards on Pretrial Release (2002), Standard 10-4.2 (b). California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 2.11*

## PART III ADMINISTRATIVE PROCEDURES

### 1. Organization and Management of Pretrial Services Agency/Program

The pretrial services agency or program should have an administrative structure that provides guidance and support for the achievement of agency or program goals. This framework should facilitate effective interaction with the court and other criminal justice agencies, while ensuring substantial independence in the performance of its core functions. The pretrial services agency or program should have policies and procedures that enable it to function as an effective partner in the criminal justice system. More specifically, the agency or program should:

- A. Develop and update written policies and procedures relative to the performance of key functions;
- B. Develop and update strategic plans designed to accomplish established policies and procedures; and
- C. Establish specific goals for effectively assisting in the pretrial release decision-making process and the supervision of pretrial defendants in the community.

*Related Standards: NAPSA (2004), Standard 3.7. California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 3.1.*

### 2. Program Objectives

Every pretrial services agency or program should establish program objectives consistent with the following guidelines:

- A. Presume that all qualified persons in custody are eligible for release with the appropriate and least-restrictive conditions in accordance with Colorado statutes and local system protocols;
- B. Maximize appearance rates;
- C. Maximize public safety rates;
- D. Avoid recommending monetary conditions of bond;
- E. Only recommend conditions related to the defendant's current case(s) that may mitigate risk;
- F. Only supervise specific conditions ordered by the court;
- G. Consider all methods of bond and levels of community-based supervision as conditions of pretrial release to avoid unnecessary pretrial incarceration and;

- H. Provide services and supervisory resources for defendants released with conditions;
- I. Enable the hold or release decision by providing information to judicial officials in a timely manner;
- J. Develop criteria for defendants who can be recommended for release without supervision (i.e. programs should not recommend supervision for all defendants).
- K. Provide a wide range of reasonable recommended conditions that specifically mitigate risks posed by an individual defendant; and
- L. Provide support, make referrals and encourage a defendant's participation in appropriate treatment programs.

*Related Standards: NAPSA (2004) and People v. Rickman, Colorado Court of Appeals No. 04CA0501-Bail Conditions, Authority to Impose Conditions of Bail Bond, Delegation of Discretion to Impose Conditions of Bail Bond, Bond Condition Forms, and Pretrial Services Programs*

### **3. Resources**

The pretrial services agency or program should have policies and procedures that enable it to effectively manage and account for its financial resources and budgetary requirements. More specifically, the agency or program should:

- A. Develop strategic plans aimed at identifying resources essential to achieving the agency's mission; and
- B. Maintain financial systems that enable the program to manage its resources.
- C. Minimize reliance on defendant fees for operation.

*Related Standards: California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 3.3.*

### **4. Information Gathering and Data Collection**

The pretrial agency or program should:

- A. Develop and maintain an information management system to monitor the effectiveness of its program's operations relative to these professional standards, and adherence to or compliance thereof;
- B. Promote academic research and exchange of information with other pretrial professionals to advance the field of pretrial justice;

- C. Conduct periodic data reviews to assess the need for modifications with regard to pretrial best practices;
- D. Collect statistical data to determine defendant failure to appear, public safety rates, release rates and other critical success factors; and
- E. Develop and maintain a data system to support defendant identification, risk assessment, determination of appropriate release conditions, compliance monitoring, detention review functions, and other data collection essential for the effective management and operation of the pretrial release agency or program.

*Related Standards: California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 3.4.*

## **5. Quality Assurance**

The pretrial agency or program should incorporate a comprehensive quality assurance component to ensure that both new and established procedures are continuously followed. Quality reviews should be conducted to affirm that defendant compliance and overall service delivery is consistently achieved. Accountability is essential to the achievement of measurable performance objectives in terms of staff productivity and the quality of the work product.

*Related Standards: California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 3.5.*

## **6. Job Descriptions and Qualifications**

The pretrial services agency or program should develop policies and procedures guiding staff recruitment, selection, compensation, management, training and career advancement.

## **7. Training and Professional Development**

The pretrial services agency or program should ensure that employees are sufficiently trained to perform their duties and responsibilities. Training should include timely orientation of all program staff regarding these standards and specific operational requirements; and should ensure that all employees perform their duties consistent with the provisions of these standards, with local, state and federal laws and other regulations. The pretrial agency or program should:

- A. Encourage staff to participate in available certification processes for pretrial services practitioners; and

- B. Provide staff with periodic performance reviews to acknowledge accomplishments and address deficiencies.

*Related Standards: California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 3.7.*

## **8. Communication with Stakeholders**

The pretrial agency or program should:

- A. Establish an effective outreach program to build support and awareness for their services;
- B. Prepare and distribute materials to inform the public and other affected agencies of the policies, procedures and achievements of the pretrial release agency or program;
- C. Provide copies of an annual report or other scheduled reports on program operations and performance to local, county, jurisdictional and/or state criminal justice officials and the public;
- D. Initiate training to educate other members of the criminal justice system regarding the policies and practices of the pretrial release program; and
- E. Meet regularly with community and state representatives to discuss program practices and issues.

*Related Standards: California Association of Pretrial Services Release Standards and Recommended Procedures (February 2007), Standard 3.9.*

## PART IV: DEFINITIONS AND STANDARDIZED METHODS

To ensure understanding, CAPS herein provides an overview of certain definitions promulgated in the delivery of pretrial services in Colorado.

Background: The Pretrial Executives Network (PEN) is a working group of pretrial professionals at executive levels within their agencies, departments, counties and/or jurisdictions that meets regularly to discuss the advancement of pretrial services in Colorado. The PEN supports the work of CAPS and together has developed definitions and standardized methods to establish consistency in the way data is collected for annual reporting required of programs by the Colorado State Legislature. The varying practices between jurisdictions can result in reported data that serves no useful purpose. The inherent differences between each program and jurisdiction is not always an “apples to apples” comparison of data, therefore definitions and standardized methods allows for more useful and comparative data gathering. The following are ongoing needs for standardization and clarification:

- Number of Pretrial Assessments Completed
- End of Defendant Supervision
- Failure to Appear
- New Offense Determination

In April 2016, the PEN and CAPS met to discuss statewide pretrial program processes and procedures based on surveys completed by pretrial agencies and programs. The intent of the survey was to gain better understanding of agency/program methodologies and reporting practices. The following contains survey results and proposed uniform reporting practices. The PEN and CAPS continue to work on consensus and standardization of practices. For the purpose of these professional standards, pretrial services agencies or programs are encouraged to design policies and procedures to these definitions and standardization methods.

### 1. **Number of Pretrial Assessments Completed**

Currently, 60% of programs count only the number of risk assessments completed while 40% of programs count the total number of pretrial reports completed. The number of pretrial reports completed and submitted to the court for use in determining bond and conditions should be as followed:

- A. The number of pretrial risk assessments completed and submitted to the court should tallied in Column 1 of the Annual Reporting Form to the State. See Appendix C for example of this form.

### 2. **End of Supervision**

The second column on the Annual Reporting Form asks for “the number of pretrial supervision cases closed.” There is variation across programs about what events lead to the “end” of a supervision period. The following best determines the beginning and end of a supervision period:

- A. A case is defined as a supervision event for a court case.

- B. A supervision event begins when supervision is ordered on a bond and the defendant is released on that bond or the date that supervision is added by court order to a person already out of custody such as in a summons case.
- C. A supervision event ends when supervision is removed from a case due to a warrant, revocation or other event of the court.

**The preferred definition for data collection and reporting requirements is as follows:**

- A. The number of pretrial supervision cases closed refers to the total number of closed cases by the program in which the defendant was released from custody and supervised by the program.

**The following reasons for a supervision event to end is as follows:**

- A. A warrant is issued on the supervised case.
- B. Incarceration on new charges with no change to the supervised case bond and conditions.
- C. Incarceration due to revocation of consent of surety.
- D. Incarceration not associated with new charges or the supervised case.
- E. The type of bond is modified on the supervised case.

For many, B and D listed above are not necessarily reasons to end a supervision event. CAPS determines the definitional intent is best met when at least one face to face meeting has occurred and if the person is incarcerated after posting a bond in a supervised case, and the bond on the supervised case is not modified or revoked, and the supervision period remained open. CAPS however recognizes that day to day practice may be to “suspend” or “pause” supervision on an incarcerated defendant, regardless of the status of the bond on the supervised case. To account for alignment with uniform reporting practices, programs that do not actively supervise defendants while they are incarcerated may need to calculate a bifurcated average daily population.

**3. Number of Cases with No Failures to Appear**

Programs can vary in the method and circumstances in which they count Failures to Appear by a defendant during a supervision period. The definition provided on the Annual Reporting Form states:

**The number of cases with No FTA refers to the total number of closed cases in which the defendant was released from custody, was supervised by the program, and while under supervision, and appeared for all scheduled court appearances on the case. No FTA refers to the absence of an FTA noted in the court record.**

The only two instances in which an FTA should not be counted is when an FTA warrant was not issued or when an FTA warrant was issued and quashed the same day of issuance. All other FTAs are to be counted.

**4. New Offense Determination**

Programs can vary in the sources checked for alleged new offense commission by defendants while under supervision. The following criteria guides the determination and tabulation of new offense commission by defendants during their supervision period:

- A. Colorado State Courts – Data Access and Denver Municipal Database should be used for new offense look up.
- B. Offenses committed outside of Colorado are to be included only if known.
- C. The date of offense (not the filing date) will determine if an offense was committed during a supervision period.
- D. New offenses must carry the possibility of jail or prison to be included.
- E. All closed supervision periods should be checked for new offenses.
- F. Case and conviction status of the new offense should not to be considered when determining if a defendant committed a new offense during their supervision period.



## **PART V: PROFESSIONAL STANDARDS REVIEW PROCESS**

CAPS is committed to assisting pretrial services agencies or programs in Colorado to implement and carry forward these Professional Standards. Pretrial services agencies or programs requesting the assistance of CAPS shall do so in two parts (1) a Self-Review and (2) an Onsite Review. The pretrial services agency or program must achieve 70% in each section excluding laws, to meet the standards.

### **Eligibility:**

1. Pretrial services agency/program must be a CAPS Member and be in good standing.
2. Members of the CAPS Board shall not conduct reviews of their own agencies or programs.
3. The requesting pretrial services agency/program shall be responsible for costs as agreed upon by the agency/program and CAPS.

### **Self-Review:**

1. Pretrial services agency/program completes the enclosed Self-Review Checklist.
2. Upon completion, the pretrial services agency/program shall submit their completed checklist to the CAPS Board via email for review ([caps@capscolorado.org](mailto:caps@capscolorado.org)).
3. CAPS Board review.
4. CAPS Board provides feedback to the program for recommended changes, if needed.

### **Onsite Review:**

1. Once the Self-Review is accepted by CAPS Board and any needed changes have been made, schedule Onsite Review with agency/program. CAPS Board schedules date/time with agency/program and CAPS Board designates a board member(s) to complete an Onsite Review.
2. Onsite Review is conducted. This review implies that most or all aspects of the pretrial services agency/program are evaluated, compared with Colorado statutes, and these Professional Standards.
3. Results presented to CAPS Board for initial review and approval.
4. Notice of findings and recommendations given to the pretrial services agency/program; opportunity for discussion by the parties on findings and recommendations. If recommendations need to be implemented to meet the acceptable threshold, the agency/program must continue to work directly with CAPS Board to make the needed changes prior to formal recognition.

5. Formal recognition by CAPS Board to the pretrial services agency/program of achievement and adherence to these Professional Standards.

**The CAPS Board encourages pretrial services agencies/programs to conduct Self-Reviews annually and Onsite Reviews every three (3) to five (5) years for quality assurance and fidelity.**

**APPENDIX A:  
CAPS Professional Standards – Self-Review Checklist**

Compliance with Professional Standards (Self-Review and Onsite Review measurements)

<u><b>PART I</b></u>	<b>Compliance with Colorado Laws</b>		
	<b>Yes</b>	<b>No</b>	<b>Unknown</b>
Section 1.1			
Section 1.2			
Section 1.3			
Section 1.4			
Section 1.5			
Section 1.6			

**PART II**

**Standard 2.1: Purposes of Pretrial Services Agencies and Programs**

- Program perform functions that:

Maximize Public Safety

Yes       No       Unknown

Maximize court appearance

Yes       No       Unknown

Maximize release rates

Yes       No       Unknown
- Program uses a validated or empirically developed risk assessment tool.

Yes       No       Unknown
- Name of validated or empirically developed risk assessment tool (provide copy).

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**Standard 2.2: Screening of the Pretrial Defendant and Eligibility for Release**

- Pretrial release eligibility screening used.

Yes       No       Unknown
- All eligible arrestees screened prior to their first appearance.

Yes       No       Unknown
- Program does not exclude interviewing defendants based on charge type.

Yes       No       Unknown

**Standard 2.3: Delegated Release Authority**

- 1. Program has delegated authority which includes guidelines consistent with the laws and rules to release defendants according to local judicial authority (i.e. bond commissioners).  
 Yes       No       Unknown

**Standard 2.4: Defendant Interview**

- 1. A criminal history review is completed on each defendant prior to the interview being completed.  
 Yes       No       Unknown
  - 2. The interviewer advises the defendant of the purpose of the interview and has them sign a Release of Information.  
 Yes       No       Unknown
  - 3. Interview questionnaire includes questions for an empirically developed or validated risk assessment instrument.  
 Yes       No       Unknown
  - 4. How are new arrestee interviews completed?  
 Face to Face    Electronically       Not completed
  - 5. Provide copy of template pretrial services interview.
  - 6. Rate of new arrestees interviewed vs persons booked into the jail with new charges.
- 

**Standard 2.5: Pretrial Services Report**

- 1. Program does not recommend money amounts on pretrial services report(s).  
 Yes       No       Unknown
- 2. Jurisdiction does not use a pre-defined bond schedule.  
 Yes       No       Unknown
- 3. Program recommends bond type on pretrial services report(s).  
 Yes       No       Unknown  
If yes, list types (e.g. cash, property, commercial surety, personal recognizance, secured, unsecured): \_\_\_\_\_
- 4. Program recommends the least restrictive release conditions for the defendant(s) based upon risk profile.  
 Yes       No       Unknown

**Standard 2.6: Monitoring and Supervision**

- 1. Program utilizes a risk-based supervision continuum based on empirically developed risk instrument.  
 Yes       No       Unknown
  
- 2. Program uses empirically developed risk instrument to determine appropriate levels of pretrial supervision for defendants to include modifications after the defendant(s) has been released.  
 Yes       No       Unknown
  
- 3. Program has process to notify judicial officials of defendant pretrial violations.  
 Yes       No       Unknown
  
- 4. Program maintains a record of defendant compliance with conditions of release.  
 Yes       No       Unknown
  
- 5. Program maintains record of release modifications.  
 Yes       No       Unknown
  
- 6. Program notifies released defendants of their court dates.  
 Yes       No       Unknown
  
- 7. Program notifies judicial officials to consider modification of a defendant’s pretrial releases and/or conditions.  
 Yes       No       Unknown  
If yes, explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Standard 2.7: Failures to Appear**

- 1. Program tabulates defendant Failure to Appear rate according to statutory definition and required annual reporting to the state.  
 Yes       No       Unknown
  
- 2. Program has procedure to follow-up with a defendant if they fail to appear (provide copy).  
 Yes       No       Unknown

**Standard 2.8: Role of Staff with Judicial Officials**

- 1. Staff personally appear in court for initial bail hearing(s).  
 Yes       No       Unknown
  
- 2. Staff are available to answer questions from judicial officials about pretrial services reports and supervision.  
 Yes       No       Unknown

3. Staff personally appear in court for hearings on pretrial violations.  
 Yes       No       Unknown
4. Program has a policy and procedure that addresses what staff should do when a subpoena is received (provide copy).  
 Yes       No       Unknown

**Standard 2.9: Confidentiality**

1. Program has policy and procedure regarding the collection and distribution of information obtained during the pretrial services process (provide copy).  
 Yes       No       Unknown
2. Defendant information is securely stored via (circle all that apply).  
 Electronically       Paper Files       Both       Unknown
3. Defendants are advised of the potential uses of the information collected during the pretrial supervision stage and sign a Release of Information.  
 Yes       No       Unknown
4. Program has a policy in place regarding staff's "Duty to Warn" (provide copy).  
 Yes       No       Unknown
5. Program has nondisclosure clauses which may include agreements, contracts and/or written communication with stakeholders (provide copy).  
 Yes       No       Unknown
6. Program has a procedure in place for data distribution to external agencies for academic research or other relevant purposes (provide copy).  
 Yes       No       Unknown

**PART III**

**Standard 3.1: Organization and Management of Pretrial Services Agency or Program**

1. If established after 1991, program has a "Community Advisory Board," as specified by Colorado statute to include Bylaws or other organizational structures.  
 Yes       No       Unknown       Exempt
2. Program has an organizational chart P(provide copy).  
 Yes       No       Unknown

3. Program has written policies and procedures relative to the performance of key operating functions (provide copy).  
 Yes       No       Unknown
  
4. Program has a process for strategic planning designed to accomplish established policies and procedures.  
 Yes       No       Unknown  
*If yes, provide copy of most recent Strategic Plan.*
  
5. Program has written goals/objectives for effectively assisting in the pretrial release decision-making process and the supervision of pretrial defendants.  
 Yes       No       Unknown  
*If yes, provide copy of written goals/objectives.*

**Standard 3.2: Program Objectives**

1. Program has objectives that apply to Part III, section 2, subsections A-L.  
 Yes       No       Unknown

**Standard 3.3: Resources**

1. Program has a financial system that enables the program to manage its resources.  
 Yes       No       Unknown

**Standard 3.4: Information Gathering and Data Collection**

1. Program maintains an information management system to monitor the effectiveness of its program operations.  
 Yes       No       Unknown
  
2. Program promotes academic research and exchange of information with other pretrial professionals to advance the field of pretrial justice.  
 Yes       No       Unknown
  
3. Program collects and publishes data for annual reporting purposes required by Colorado statute.  
 Yes       No       Unknown
  
4. Program uses data to adjust procedures in order to be more aligned with best practices (data-informed decision making).  
 Yes       No       Unknown
  
5. Program conducts review and identification of pretrial defendants who remain in custody and the reason for their incarceration and reports findings to judicial officials.  
 Yes       No       Unknown

**Standard 3.5: Quality Assurance**

1. Program has a comprehensive quality assurance component.

- Yes       No       Unknown

If yes, explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Standard 3.6: Job Description and Qualifications**

1. Program has policy guiding staff recruitment, selection, compensation, management, training and career advancement (provide copy).

- Yes       No

2. Program has job descriptions and qualifications (provide copy).

- Yes       No

**Standard 3.7: Training and Professional Development**

1. Program has practices in place to assure staff members are sufficiently trained to perform their duties and responsibilities.

- Yes       No       Unknown

2. Program has process for completing performance reviews for staff.

- Yes       No       Unknown

**Standard 3.8: Communication with Stakeholders**

1. Program has an effective outreach program/procedure to build support and awareness for their services.

- Yes       No       Unknown

2. Program provides information to community and/or stakeholders regarding pretrial policy, procedure and outcomes.

- Yes       No       Unknown

3. Program regularly meets with community representatives and/or other identified entities to discuss program practices and issues.

- Yes       No       Unknown



## APPENDIX B: Annual Reporting Form

CRS 16-4-106 Pretrial Services Program Reporting Annual Reporting to State Judicial Department																		
Jurisdiction:																		
Fiscal Year: 2017																		
Month	Number of Pretrial Assessments	Number of Pretrial Supervision Cases Closed	Number of These Cases with No FTA	Court Appearance Rate	Number of These Cases with No New Filing	Public Safety Rate	Number of These Cases Not Revoked for Technical Violation	Technical Compliance Rate	Number of These Cases Posted via Commercial Surety Bond (Bail)	Percent of These Cases Posted via Commercial Surety Bond	Number of These Cases Posted via All Cash Bonds	Number of These Cases Posted via Property Bond	Total Number of All Cash and Property Bonds	Percent of These Cases Posted via All Cash or Property Bonds	Number of These Cases Posted via Personal Recognizance/Self Bond	Number of These Cases Posted via Personal Recognizance/Surety Bond	Total Number of All Personal Recognizance Bonds	Percent of These Cases Posted via All Personal Recognizance Bonds
Jul				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Aug				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Sep				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Oct				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Nov				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Dec				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Jan				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Feb				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Mar				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Apr				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
May				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Jun				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!			0	#DIV/0!			0	#DIV/0!
Annual Total	0	0	0		0		0		0		0	0	0		0	0	0	
Months	0	0	0		0		0		0		0	0	0		0	0	0	
Fiscal Year Rate				#DIV/0!		#DIV/0!		#DIV/0!		#DIV/0!				#DIV/0!				#DIV/0!
Notes:																		

Definitions:
This data collection tool is designed to fulfill the data requested by statute, highlighted in blue.
<b>Number of Pretrial Assessments</b> refers to the total number of pretrial assessments performed by the program and submitted to the court.
<b>Number of Pretrial Supervision Cases Closed</b> refers to total number of closed cases by the program in which the defendant was released from custody and supervised by the program. This number serves as the denominator for the remaining calculations. A case is defined as a supervision event for a court case (i.e., one person may have multiple court cases with multiple supervision events each). A supervision event begins when supervision is ordered on a bond and the bond is posted or the date that supervision is added by court order to a person already out of custody such as in a summons case. A supervision event ends when supervision is taken off of the case due to a warrant, revocation or other event of the court.
<b>Number of These Cases with No FTA</b> refers to the total number of closed cases in which the defendant was released from custody, was supervised by the program, and, while under supervision, appeared for all scheduled court appearances on the case. No FTA refers to the absence of an FTA noted in the court record.
<b>Court Appearance Rate</b> is an automatically calculated field.
<b>Number of These Cases with No New Filing</b> refers to the total number of closed cases in which the defendant was released from custody, was supervised by the program, and was not charged with a new criminal offense that was alleged to have occurred while under supervision and that carried the possibility of a sentence to jail or imprisonment. Excludes cases for which jail or imprisonment is not a possible sentence. No new charge refers to the absence of new cases of any kind filed with the state's county or district courts, regardless of whether it began with a jail booking or a summons.
<b>Public Safety Rate</b> is an automatically calculated field.
<b>Number of These Cases Not Revoked for Technical Violation</b> refers to the total number of closed cases in which the defendant was released from custody and was supervised by the program, and the defendant's bond was not revoked by the court due only to a violation of any other terms and conditions of supervision. Excludes revocations for failure to appear and for a filing for a new crime.

<b>Technical Compliance Rate</b> is an automatically calculated field.
<b>Number of These Cases Posted via Commercial Surety Bond (Bail Bonding Agent)</b> refers to the number of cases for which the defendant was released on a commercial surety bond in addition to pretrial supervision.
<b>Percent of These Cases Posted via Commercial Surety Bond</b> is an automatically calculated field.
<b>Number of These Cases Posted via All Cash Bonds</b> refers to the number of cases for which the defendant was released on a cash bond which he/she posted him/herself or released on a cash bond which someone other than the defendant who was not a commercial bail bondsman posted for the defendant (i.e., private surety), in addition to pretrial supervision.
<b>Number of These Cases Posted via Property Bond</b> refers to the number of cases for which the defendant was released on a property bond, in addition to pretrial supervision.
<b>Total Number of All Cash and Property Bonds</b> is an automatically calculated field.
<b>Percent of These Cases Posted via All Cash or Property Bonds</b> is an automatically calculated field.
<b>Number of These Cases Posted via Personal Recognizance/Self Bond</b> refers to the number of cases for which the defendant was released on a personal recognizance bond, in addition to pretrial supervision. Excludes Personal Recognizance Co-Sign Bonds.
<b>Number of These Cases Posted via Personal Recognizance/Surety Bond</b> refers to the number of cases for which the defendant was released on a personal recognizance bond that required someone other than the defendant to sign the bond (i.e., Personal Recognizance Co-Sign Bonds), in addition to pretrial supervision.
<b>Total Number of All Personal Recognizance Bonds</b> is an automatically calculated field.
<b>Percent of These Cases Posted via All Personal Recognizance Bonds</b> is an automatically calculated field.
<b>Disclaimer:</b> Using any data not required and highlighted in blue for any other purpose may be invalid. Because of differences in the pretrial services agencies and the jurisdictions in which they operate, these data cannot be used to compare the effectiveness of one program to another.