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# Gender Justice Pretrial Toolkit

**A Model of Participatory Pretrial Justice  
for Women and Gender-Diverse People**



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Erica King, Keilah Joyner, Alison Shames, Kristie Puckett,  
Darlene George, and Skye Adams

Center for Effective Public Policy (CEPP)

# About The Center for Effective Public Policy (CEPP)



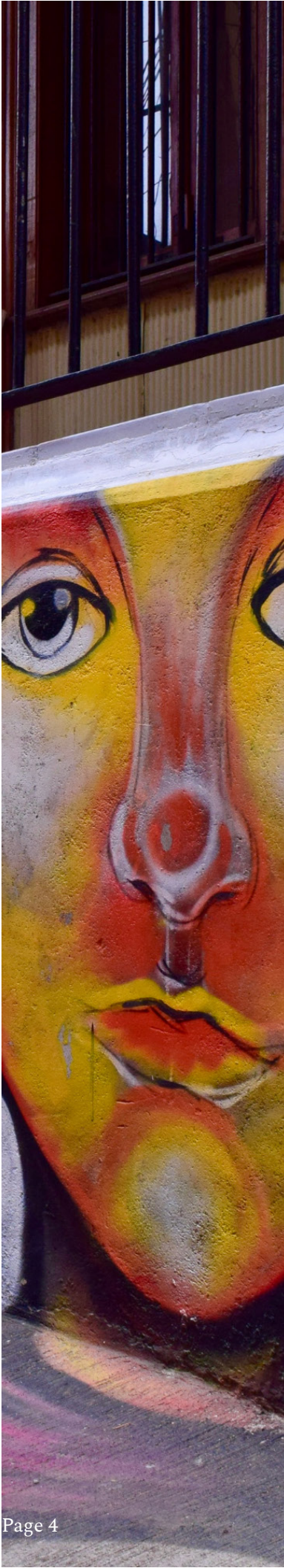
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a world where  
all justice is  
community justice**

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*We bring life into the world and we are the least respected.*

*From the time some of us are born, we are abused  
physically, mentally & sexually  
and we still try to take care of the family.*

*What happened to someone, anyone, showing us some  
dignity?*

*What happened to anyone showing us some humanity?*

*What happened to anyone caring about us besides the  
person doing the abusing,  
if you consider that caring?*

*What happened to anyone showing us respect?*

*What happened to anyone seeing us as the beautiful  
women we are?*

*What happened to anyone hearing our screams?*

*What happened to anyone helping us and not hurting us?*

*What happened to letting the punishment fit the action?*

*When all of these things were not happening, you know  
what else happened?*

*No one asked*

*“What do you need?”*

*“Do you need help?”*

*“What can I do for you?”\**

\*These words and those that appear as such within are written by Darlene George, gender justice policy advisor and currently incarcerated at the Maine Department of Corrections.

# Introduction

*“This is a man’s world  
But it wouldn’t be nothing, nothing, not one little thing,  
without a woman or a girl.”  
~James Brown*

As more jurisdictions across the country seek to improve their pretrial practices, reducing the number of women who are unnecessarily detained in jail pretrial is of utmost importance. In 2024, there were nearly 190,600 women and girls incarcerated in prisons, jails, and other carceral spaces in the United States.<sup>1</sup> Nationwide, women’s state prison populations have grown 834% over nearly 40 years.<sup>2</sup> 834%—twice the pace of growth of the male prison population.<sup>3</sup>

Notably, more women are held in local jails—which are often outdated—than in state prisons. Moreover, of the 84,000 women in local jails, more than half (51,200) are presumed innocent and are detained while waiting the final disposition of their case.<sup>4</sup> Most of those detained in jail pretrial are likely there not because they are deemed a danger to the community or a flight risk but because they do not have the financial means to satisfy a requirement to pay a relatively nominal monetary bond. This result should come as no surprise given that the median bond amount for a felony charge is \$10,000 and the average yearly income for a woman who cannot afford to post bond is \$11,000.<sup>5</sup>

***Our use of “women”: Throughout this document we refer to “women” but we include in this phrase gender diverse people who experience many of the same gender disparities as women, especially Black transgender women.***



*Our children are being displaced or adopted out according  
to how much time we receive.*

*We are losing housing never to be received again,  
and let's not speak about employment.*

*Who needs a job or a roof over your head!*

*That's something that everyone needs.*

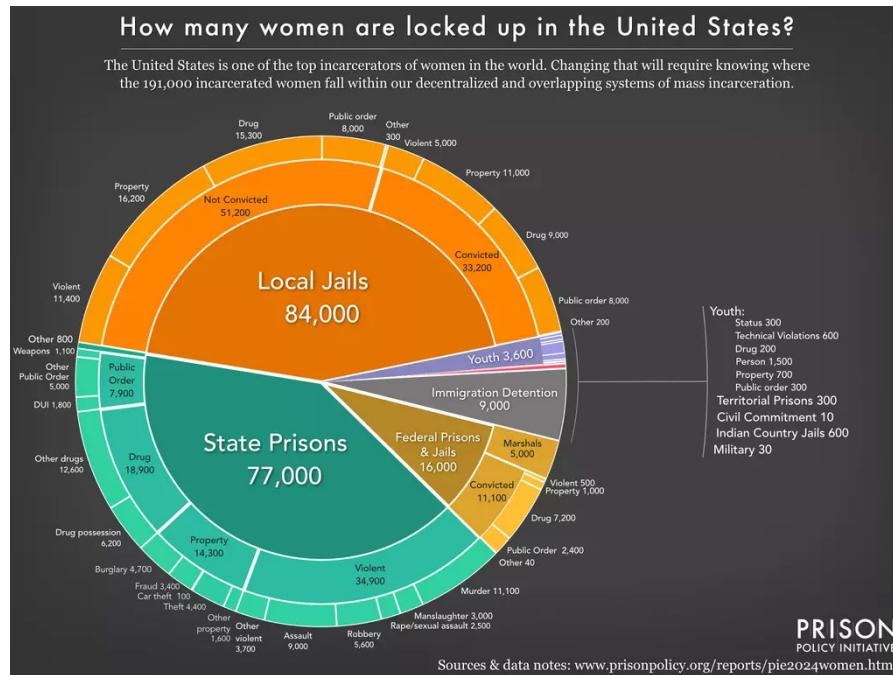
*When we are sentenced, the judges, district attorney, and  
other lawyers give a false narrative about what services  
will be available to us upon arrival.*

*We have written several letters to the judges and district  
attorney's office stating these facts  
with no response.*

*"No one cares!" is what we hear when no one answers the  
letters.*

*However, someone has to ask the question,  
Why are we being jailed at such an alarming rate?*

Women who are held in local jails and are not convicted are largely there on accusations of nonviolent behavior: Less than a quarter of the 51,200 women held in jails pretrial (11,400) are charged with violent offenses. Rather, they are arrested for property crimes (16,200), drug offenses (15,300) and crimes against public order (8,000).<sup>6</sup>



According to the Prison Policy Initiative:<sup>7</sup>

- Women in jail have a higher mortality rate than men in jail
- Women in jail died of drug and alcohol intoxication at twice the rate of men in jail
- The number of deaths by suicide among women in jail increased by almost 65% over the last 20 years
- Women are more likely than men to enter jail with a medical problem or serious mental illness

Moreover, women in jail “are disproportionately people of color, overwhelmingly poor and low-income, survivors of violence and trauma, and have high rates of physical and mental illness and substance use. Nearly 80 percent of women in jail are mothers, but unlike incarcerated men, they are, by and large, single parents, solely responsible for their young children.”<sup>8</sup>

When we examine the population of women in jail, and in our conversations with many of them, we

***“My child’s best interest and mine were never centered. I felt like we literally didn’t matter.” ~Incarcerated mother***

*So many of us are victims of domestic violence, sexual violence.*

*And let's not forget secondary trauma.*

*Jails and prisons are never the place to address trauma, domestic violence, or sexual violence.*

learn that they often become involved with the justice system as a result of efforts to cope with life challenges such as poverty, unemployment, and significant physical or behavioral health struggles, including those related to past histories of trauma, mental illness, or substance use.

The vast majority of women in jail report having experienced trauma in their lifetime: 86 percent report having experienced sexual violence, 77 percent report intimate partner violence, and 60 percent report caregiver violence.<sup>9</sup> Jails and prisons are places where women are subject to further sexual violence, as women and gender-diverse people are disproportionately victims of Prison Rape Elimination Act (PREA) violations at the hands of those paid to protect them – i.e., correctional staff and officers.<sup>10</sup>

The Prison Policy Initiative recently found that the progress that states have made in reducing prison populations since they peaked in 2009 has been uneven, benefiting men more than women. The total number of men incarcerated in state prisons fell more than 5 percent between 2009 and 2015, but the number of women in state prisons fell only a fraction of a percent—0.29 percent, to be exact. Contributors to this disparity include the lack of diversion programs for women and policy changes that have led to mandatory arrests for fighting back against domestic violence, increasing criminalization of school-aged girls' misbehavior, and the criminalization of women who support themselves through sex work.

***Women trying to survive violence are often criminalized and mandated to a process that removes agency and reinforces the worst of gender and racial socialization as well as the perception that law enforcement and state agencies cannot be trusted, which may cause women not to seek necessary help out of fear of retribution.***





*What can we do to hold the criminal legal system  
accountable to protect the most vulnerable and the least  
protected?*

*This is an age-old question.*

*Let's take a lead from former judge Victoria Pratt who  
adapted and utilized  
procedural justice and alternative sentencing.  
She humanized the approach in her courtroom.*

*Dignity.*

*Humanity.*

*Caring.*

*Respect.*

*See me. Hear me. Help me. Don't hurt me.*

*Let the sentence fit the crime.*

# Gender Justice in Pretrial: Why Now?

This project emerges from the urgent need to interrupt a 50-year trend of rising pretrial detention and incarceration of women, despite them having the lowest risk to public safety and the highest likelihood of being primary caregivers. Their incarceration comes at a tremendous cost to women; to their dependent children, too many of whom are lost to foster care (often perpetuating trauma and carceral cycles at further expense to the state); and to taxpayers.<sup>11</sup>

Very little is written about the unique circumstances of women during the pretrial period. What we do know, based on research on women who are on probation or who are incarcerated, is that gender-responsive programming achieves better results.<sup>12</sup> However, we noted a sizable lack of specific gender- focused strategies to inform decision making during the pretrial phase. This project sought to survey the field and to learn directly from both system stakeholders and from women going through the system.

To achieve this, we conducted several activities:

- We contracted with a team of currently and formerly incarcerated women and scholars to serve as gender justice policy advisors through all project phases.
- We conducted a literature review to determine what research and reporting has been done about women during pretrial, and we identified the key findings.
- We distributed two surveys to the field: one to pretrial officers, to ask about their practices toward women and any related training; and a second to directly impacted women and gender-diverse people to ask about their experiences during the pretrial phase.
- To dig deeper, we conducted a series of listening sessions, virtually and in person. We interviewed directly impacted women and transgender and nonbinary people to learn about their experiences in the system, and we interviewed judges and pretrial service providers to learn more about their local policies and practices.
- We networked at national conferences, with both system stakeholders and directly impacted women, and we presented and discussed our initial findings. This included leading sessions at the Beyond the Bars conferences held at Columbia University, the FreeHer Conference hosted by the National Council for Incarcerated and Formerly Incarcerated Women and Girls, and the annual conferences hosted by the Association of Justice-Involved Females and Organizations.

- Finally, we conducted outreach to several organizations that are focused on providing legal or pretrial services to women or that are practicing a form of participatory policymaking.

As part of this project, we also created a unique project team. CEPP has long been a trusted partner to stakeholders in the criminal legal system. For 40 years, we have partnered with judicial officers, prosecutors, defense attorneys, and community supervision practitioners.

For this project, we intentionally and deliberately formed an innovative project team that included women who have lived experience in the pretrial system and who are engaged in scholarship and practice around gender justice policy reform. Our team consists of:

- **Erica King**, a senior manager at CEPP and director of the National Resource Center for Justice-Involved Women, who has worked for two decades to design and lead efforts to strengthen trauma-informed, gender-responsive, evidence-based policy and practice strategies.
- **Keilah Joyner**, a program associate at CEPP, who has 10 years of experience working within the criminal legal system and who is committed to racial and gender equity.
- **Alison Shames**, a director at CEPP, who is trained as a lawyer and has 15 years of experience providing training and technical assistance to criminal legal system stakeholders.
- **Kristie Puckett**, a gender justice policy advisor to CEPP and an organizer and lobbyist in the movement toward racial and social justice. Kristie is directly impacted by intimate partner violence, substance use disorder, poverty, and incarceration. She uses her life experiences to shape policies that address the many inequities and injustices within the criminal punishment system. Kristie obtained her AS, BS, and MA in human services counseling, with a concentration in addiction and recovery counseling.
- **Darlene George**, a grants manager for a healthcare facility, a gender justice policy advisor to CEPP, a board member of the College Guild, and a certified Recovery Coach with ten years of experience. Darlene is also a member of the Maine Prisoner Advocacy Coalition. She obtained her BA in psychology and forensic psychology in New York. She is incarcerated at the Maine Department of Corrections Women's Center.<sup>13</sup>
- **Skye Adams**, a policy and programming intern at CEPP. She is graduating with her MSW in the spring of 2024 and advocates for criminal legal change through collaborative program management, group facilitation, support, and resource sharing.

We also drew upon the expertise and experience of CEPP’s first cohort of Opportunity Scholars, which is an initiative that supports people with lived experience in the carceral system to grow personally, professionally, and academically through access to higher education and fulfilling careers. Those who serve as Opportunity Scholars act as peer mentors and lead projects that center critical community justice, gender equity, and youth justice work nationwide.

With this diverse and inclusive team, we engaged in participatory policymaking among CEPP staff and those directly affected by gender injustices. This methodology represents what is possible when women come together to advance change within and outside carceral spaces. Through participatory policymaking, reform strategies, and healing practices, we explored the critical balance between abolitionist visions and immediate, harm-reducing strategies that support the structural transformation needed to achieve abolition, justice, and freedom.

After conducting our literature review and consulting with directly impacted women, gender-diverse people, and system stakeholders, the team arrived at two key learnings. First, the pretrial process rarely provides anyone—especially Black and Brown women and gender-diverse people—the opportunity to share their stories and unique circumstances or to advocate for their needs. Second, the system does a poor job of explaining the pretrial process to people and acts as if each person experiences the process in the same way.

**In response to these learnings, we formulated a model of “participatory pretrial” to address the urgent need for more equitable, just, and family-strengthening decisions for women and gender-diverse people pre-conviction.** This model prepares judicial officers, pretrial practitioners, women, and gender-diverse people facing court decisions to support a participatory process, resulting in more informed decisions, greater autonomy for the people charged, a more holistic approach to pretrial release conditions, and, ultimately, an increase in the rates of successful completion for people on pretrial release.

*“The DA takes everything and puts it on you like you’re the worst person in the world, and they never include any of the good. Why can’t they recognize some of the good?” ~Listening session participant*

We developed a series of tools to assist practitioners in implementing this model. Our participatory pretrial toolkit includes the following components:

1. **A bench card for judicial officers** to use at all pretrial hearings to prompt them to ask questions to provide them with insight and see the humanity of the person in front of them and not simply as their criminal history report

2. **A resource for people who were arrested** that offers guidance on how to speak to a judicial officer, a defense lawyer, and a pretrial services officer, which helps them have agency and advocate for themselves
3. **Templates for pretrial services practitioners:** one for a pamphlet that informs women about the pretrial process and the services available, including supportive (voluntary) services, and one for an intake form designed to elicit information about the person charged and their individual needs

In addition to the toolkit, this report includes sections explaining the participatory pretrial model, the promising practices that currently exist in the field, some implementation guidance for those interested in piloting our model, and a final “call to action” for the field.

*“If you give us all what we need to thrive,  
the majority of us would not go to jail.”  
~Listening session participant from New York*

# Why Participatory Pretrial?

People should have the right to participate in decisions about their lives, especially in situations that impact their liberty and legal status. A participatory approach to practices in the criminal legal system allows people to have a voice and make informed choices about their legal process—whether it’s a plea bargain, agreeing to pretrial supervision, or other strategies.

A more inclusive decision-making process encourages trust between system actors and people charged with a crime, increases the probability that people will honor the agreed-upon terms of release or sentence, and, ultimately, increases the integrity of the legal process. Such a process also gives the person charged—who is a main focus of the proceeding—an opportunity to suggest suitable alternatives or to proactively address a condition they would otherwise be unable to meet.

Our model of participatory pretrial prepares judicial officers, pretrial practitioners, women, and gender-diverse people facing court decisions to support a participatory process. This process results in more informed decisions for those in authority, greater autonomy for the people charged, a more holistic approach to pretrial release conditions, and increased rates of successful completion for people on pretrial release.

## ***An Approach Baed on Collaboration***

Participatory *defense* is a community-based model that developed as a response to the isolation, disconnection, and powerlessness felt in many communities when dealing with the criminal legal system.<sup>14</sup> Participatory *pretrial* builds upon and is complementary to this model and addresses the isolation felt by women and gender-diverse people who are subject to criminal charges.

Collaborative approaches to building procedural justice and models that build partnerships between people involved in the criminal legal system and good faith system actors result in improved outcomes and make a positive impact on communities.<sup>15</sup> The participatory approach can and should be applied to all areas of the criminal legal system. Allowing people to engage fully with decisions that affect their freedom and rights will increase buy-in for the process, ultimately leading to more successful rehabilitation and optimal reintegration.

***We use person-first language to describe people who are arrested, assigned to pretrial services, or convicted. We refer to them as “people” throughout this document.***

*Participating in the process is fundamental to a just and fair criminal legal system. It upholds the principles of due process, autonomy, fairness, and transparency, fostering trust in the criminal legal process and respecting the rights of individuals involved in the system.*

Additionally, participatory pretrial is supported by restorative justice practices. Restorative justice seeks to examine the harmful impact of a crime and then determine what can be done to repair that harm while holding the person who caused it accountable for their actions. Rather than focusing on the punishment meted out, restorative justice measures results by how successfully the harm is repaired.<sup>16</sup>

Every case is unique; this is why a participatory approach is the best way forward for practitioners who are invested in improving results for system stakeholders and for the individuals, families, and communities they support.

## ***Principles of Participatory Pretrial Procedures***

**1. Respect for Individual Autonomy:** Participatory pretrial, a consent-based decision-making framework, respects the autonomy and personal agency of the people involved in the pretrial process. It acknowledges that people have a right to make decisions about their lives, including choices that may affect their legal status.

**2. Presumption of Innocence:** The criminal legal system operates on the presumption of innocence until proven guilty. Participatory pretrial aligns with this principle by allowing people to have a say in decisions that may impact their freedom and rights before a court has determined their guilt. This also includes the opportunity for redress for policing practices that legitimately constitute harassment. People should be able to speak to someone about excessive policing and harassment without fear of retaliation, and law enforcement officials should feel comfortable discouraging their peers from engaging in harassing behaviors and excessive policing directed at gender, race or community can result in intentional infliction of emotional distress.

**3. Informed Decision Making:** Obtaining consent ensures that people are fully informed about the consequences of their decisions. This transparency is essential in empowering them to make informed choices about plea bargains, pretrial release conditions, and other legal strategies.

**4. Enhanced Trust in the Criminal Legal System:** A participatory-based approach fosters trust between individuals and the criminal legal system. When people perceive that their voices are heard and their choices respected, they are more likely to trust the fairness and integrity of the criminal legal process. They also see the legal system as a legitimate authority to impose rules and regulations.

**5. Reduced Coercion and Duress:** Without consent, people may feel pressured or coerced into accepting plea deals or pretrial conditions that they may not fully understand or agree with. Under any other circumstances, this would render the agreement invalid. These are conditions placed on a person who is charged but presumably innocent. Consent-based decision making minimizes the risk of undue influence and ensures that whatever choices are made are indeed voluntary. Criminal legal professionals must hold each other accountable and reinforce positive client relationships that promote collective accountability.

**6. Efficient Resource Allocation:** Allowing people to participate in certain pretrial decisions can lead to more efficient resource allocation within the criminal legal system. For example, by avoiding unnecessary delays, trials or legal proceedings, resources can be directed toward cases requiring adjudication.

**7. Support for Rehabilitation:** A consent-based approach acknowledges the potential for behavior change and reintegration into society. It allows people to actively participate in decisions that will influence their change process, promoting a more rehabilitative and less punitive approach to justice.

**8. Adaptability to Diverse Circumstances:** Every case is unique, and a participatory approach allows for greater adaptability to diverse circumstances. What may be an acceptable resolution for one person may not be suitable for another, and consent ensures that decisions align with each person's specific needs and circumstances.

### ***What are the Benefits of Participatory Pretrial?***

- People feel included in decision-making process that affect them and understand that there are things they can do to improve their situation.
- When women are included in decision making, there is an increased likelihood of cooperation, communication, and compliance.
- The responsibility of providing support is spread across community, family, and system decision makers.
- Collaboration deepens the understanding that factors such as gender, race, and caregiver status might have on court outcomes.
- Agency culture improves with more directly impacted leadership and voices to inform individual, program, organizational, and system decisions.
- System stakeholders are better prepared to understand local advocacy efforts.
- Current children and future generations are better off.
- There is a greater sense of agency and accountability for people during the pretrial phase.



- People’s focus of control shifts from external (“Why is the world against me,” and “why do bad things always happen to me?”) to internal (“I am the master of my fate, the captain of my soul.”). When people’s actions/interactions/efforts yield positive outcomes, they begin to notice how they appear in the world and become more aware of consequential actions associated with their decisions and behavior.

# Participatory Pretrial Toolkit

To have the greatest positive impact, the team developed a set of easy-to-use tools for the different parties involved in the pretrial process. These tools were created to ensure directly impacted people have the opportunity to share their unique circumstances and advocate for their needs, as well as to make it easier for practitioners to engage women in the pretrial process without judgment. The tools include:

1. **Judicial bench card:** for judicial officers
2. **Resource for women:** guidance on how to speak to a judicial officer, defense lawyer, and pretrial services officer
3. **Resources for pretrial services agencies:**
  - a. **Template pamphlet about pretrial services** that informs women about the pretrial process and the services available
  - b. **Template intake form** designed to elicit information about the person and their individual needs

The tools can be used individually or they can be used in connection with each other at all levels of your system. We encourage you to review, save, and modify the tools to suit your local circumstances.

*In these resources, we refer to “pretrial professionals” and “pretrial staff.” This refers to someone who works for pretrial services and interacts directly with people placed on pretrial services during the pretrial period. In some jurisdictions, these people may be referred to as caseworkers, pretrial officers, or case managers.*

# Judicial Bench Card

This tool offers a visual reminder to bring gender parity to the forefront of judicial decision making. It is available as a PDF or Word document.

A bench card is a common tool used to support judicial decision making. Many national organizations have developed model bench cards to draw attention to critical responsiveness and equity factors. For example, the Council for State Governments, through its Judges and Psychiatrists Leadership Initiative, developed a [judicial bench card](#) to improve the release and sentencing of people who have behavioral health needs. The intent is for this bench card to serve as an equity prime.

Do not use this bench card if you will be releasing the person on recognizance and with standard release conditions. This bench card should be used only if you decide to impose additional release conditions, such as a monetary bond.

## *What Is an Equity Prime?*

Coined by [Race Forward](#), an equity prime is a prompt or visual reminder to center racial and gender equity. An equity prime can be a simple graphic image, some keywords, provocative questions, or a checklist that judicial officers can refer to when making decisions.<sup>17</sup>

Some of the questions included in this bench card may not be appropriate for a judicial officer to ask the person in open court, due to the lack of privacy and other concerns. As such, we encourage judicial officers to consider ways in which they can provide a setting for people to have these conversations while maintaining their pride and dignity. We also include at the end of the benchcard several questions that the judicial officer should consider asking themselves, during the decision-making process.

# Judicial Bench Card to Center Gender and Racial Equity

This bench card is intended to be used as a reflective tool to consider gender and racial equity issues when making pretrial release decisions.

## BEFORE...

**Before making a decision, ask yourself:**

- Do the court conditions consider family unification and stability?
- Can we safely address harm with a more restorative alternative to incarceration?
- Are the conditions the least restrictive necessary to support the person's return to court and the community's safety and well-being?
- Can a peer support navigator be engaged to facilitate community support?
- Can the risk be mitigated through offering additional community support?
- How can we reduce or waive fines and fees (e.g., the cost of drug tests, electronic monitoring, or other conditions that require payment) based on low income?

**If you decide to ask the person any of these questions, tell them:**

"I want to ask you a few extra questions that help me think about how to make the best decisions. Your answers to these questions are important because they'll give me more information about you. Those answers will also help me use my discretion, to ensure public safety and the well-being of you, your family and your community."

**Why say this?** *It is essential that people know that judicial officers want to help them be successful. Questioning gender, race, and social conditions can inform judicial decisions.*

## AFTER...

**Before scheduling the next court appearance, ask the person:**

**Ask: "What can we do to help ensure you return to court?" "Does this date work for you?"**

*Returning to court may be one of many responsibilities a person may be facing and, depending on individual circumstances such as location, finances, and transportation, it may be more challenging for some than others. Asking questions related to people's ability to reappear may increase appearance results. Collectively, you can decide what times are most convenient and discuss any potential barriers.*



## RESPONSIVITY & EQUITY FACTORS TO CONSIDER

|                                      |   |
|--------------------------------------|---|
| <b>GENDER?</b>                       | <i>Nationwide, women's state prison populations have grown 834% over nearly 40 years. This is twice the pace of the growth of men in prison. More than 75% of the women held in local jails pretrial are there on accusations of nonviolent behavior. Moreover, women are at a higher risk for sexual abuse and retraumatization inside jails and prisons, where they are often not believed as survivors of violence.</i>  |
| <b>GENDER IDENTITY?</b>              | <i>Transgender people—especially Black and Brown transgender people— experience restrictive housing and solitary confinement more than the general population and are almost four times more likely to be victims of sexual violence. Transgender people, who often don't receive adequate care while incarcerated, usually experience acute mental health, substance use, suicide, and early mortality in prisons and jails.</i>   |
| <b>RACE?</b>                         | <i>Disparities that disproportionately impact Black, Brown, and Indigenous people are well documented across the criminal legal system. It is vital to ensure that judicial decisions are not perpetuating racial and gender based outcomes.</i>  |
| <b>TRAUMA?</b>                       | <i>More than half of all women will experience at least one traumatic event over the course of their life. According to a 2017 study, women are exposed to more interpersonal and "high-impact trauma," such as sexual assault, than men, and they are exposed to it earlier in life. Women are often criminalized and punished for reacting to traumatic behaviors and for acting in self-defense. Outside of these circumstances, they are otherwise a very low risk to public safety.</i>  |
| <b>ADVERSE CHILDHOOD EXPERIENCE?</b> | <i>Eighty percent of women in jails are mothers. Even a short time in jail may disrupt family stability and lead to the intervention of child welfare services. Unnecessary incarceration contributes to adverse childhood and community experiences. Many women are also primary caregivers for aging parents, disabled adults, and others. Jails are inadequate vehicles for providing necessary prenatal health care for mothers and their unborn children.</i>  |
| <b>EDUCATION / EMPLOYMENT?</b>       | <i>Women earn less than their male counterparts, they have limited work opportunities, and their dollars must stretch to cover housing and the needs of children. These economic realities are worsened by fines and fees (beyond restitution) added by the criminal legal system. Women and girls have disconnected pathways to education and are often subject to harsher discipline for minor behaviors, which contributes to disruptions in opportunities.</i>  |
| <b>HOUSING?</b>                      | <i>Housing instability is often a key underlying factor for people's involvement in the criminal legal system. While the relationship between housing and system involvement is complex, studies have shown that people in high-poverty areas are more likely to be involved in the system as a victims, witness, accused, or arrested.<sup>24</sup> Providing safe, stable, and sober housing can lessen people's likelihood to commit new survival offenses such as theft and, or women in particular, can mitigate the collateral sanction of felony disenfranchisement.</i> |
| <b>DISABILITY?</b>                   | <i>This may explain behavior previously attributed to risky behavior or noncompliance because of defiance. Mental health behaviors often co-exist with and are exacerbated by trauma.</i>   |
| <b>LANGUAGE ACCESS?</b>              | <i>In 2019, almost 1 in 5 people in the U.S. spoke a language other than English at home. To help ensure due process for all accused people, the court should identify and provide skilled, trained court interpreters promptly. The accused person may not fully understand why they are being charged or allowed to provide the court with important information that can determine case outcomes.</i>  |
| <b>SUBSTANCE USE?</b>                | <i>Too often, addiction is criminalized rather than viewed as a public health issue. If your jurisdiction offers a specialized drug court docket, referring a person to long- or short-term treatment may yield more positive, long-lasting outcomes. Substance use treatment programs can decrease or eliminate dependency.</i>  |

# Resource for Women

This tool is available as a PDF or Word document so that a court or agency can tailor it to local circumstances, practices, and laws.

# Preparing for the Pretrial Period: A Resource for Women and Gender Diverse People

**Purpose:** This document will prepare you for some questions that pretrial professionals or other criminal legal stakeholders may ask you during the pretrial process. We hope that this resource will reduce some of the uncertainty of the pretrial process and help you better advocate for yourself.

## Common Questions

**Question:** Where do you lay your head? This may or may not be the same address where you receive mail.

*Explanation:* Pretrial professionals may want to remind you of upcoming court dates, sometimes through the mail but they want to know of other ways to reach you. Not having a current address may also violate the conditions of your pretrial release. Remember to update the address if you can no longer receive mail there.

**Question:** Do you know how to use Zoom (or another video conference program)? Do you have access to a computer, laptop, or tablet?

*Explanation:* Sometimes, the court will allow you to attend your court hearings by Zoom instead of appearing in person. This option is more likely to be available to you if you have a phone or access to a computer and are familiar with the program. Remember that you can access wifi at public places.

**Question:** Will you use public transportation or Uber or Lyft to attend in-person sessions and court appearances?

*Explanation:* During the pretrial phase, you must attend court hearings and maybe some in-person appointments. Knowing whether you will use public transportation or rideshare options is helpful for scheduling appointments and appearances around convenient transportation times. Also, pretrial professionals may have bus passes or prepaid Uber or Lyft credit to reduce or eliminate the financial strain of attending appointments.

**Question:** Where are your children now? Do you need to use the phone to ask someone to pick them up from school or tell someone else to get them?

*Explanation:* Pretrial professionals want to keep your family together. However, child

protective services can investigate any situation that may endanger the safety of your children. Try to avoid child protective services' involvement by ensuring the well-being of your children (e.g., by requesting that a friend or family member pick them up from school if you are unable to do so, or by requesting that an appointment be rescheduled due to childcare responsibilities).

**Question:** Are you currently employed? Do you need to call your employer?

*Explanation:* Some courts and offices may try to accommodate your work calendar when scheduling appointments. Or, they might give you the opportunity to call your employer if you may be late or absent because of an appointment. This can help you avoid loss of a job if there is a call-in policy in the event of lateness or absence. Also, the courts view employment favorably. Among other things, it is a sign that you have strong community ties.

**Note:** *Community ties* is a broad term that refers to a person's relationship with their community. For example, a person may have strong community ties if they are employed, regularly volunteer at a homeless shelter, is involved in an educational program, is a member of their neighborhood watch, own their own property, or have family living nearby.

**Question:** Do you have specific needs, such as food, clothing, and safe shelter/housing? Do you have access to healthy, fresh groceries?

*Explanation:* Many pretrial services offices can help you access community resources to meet your basic needs, such as housing, food, and clothing.

**Question:** Who would you name as your support system?

*Explanation:* Pretrial professionals may need to contact your support system if they cannot reach you to remind you of your court dates. Also, having a support system indicates that you have strong community ties to support your success.

**Question:** Are you experiencing any violence in your home or community? Do you have any concerns about medical, mental, or substance use problems or issues?

*Explanation:* System stakeholders have a mission to help people succeed while on pretrial release. At times, this means identifying and offering community-based resources and services, beyond what is court-ordered, to help you with basic needs, safety, and security. Your participation in these programs is optional; if you choose not to attend or participate, it will not be a violation of your conditions.

**Question:** Tell me about your educational background. (They may also ask about your employment status, how long you've lived at your current address, or your marital status.)



*Explanation:* A good education, a good job, and a stable place to live can be seen as strengths and help you succeed during the pretrial period. And, if these things are lacking, pretrial services can help fill the gap.

**Question:** Are you experiencing or anticipating difficulties complying with your pretrial conditions, such as mandatory drug testing, classes, or curfews?

*Explanation:* Pretrial professionals sometimes have the authority to waive or adjust conditions. Being honest about difficulties can help your officer adjust conditions so that it will be easier for you to comply with them.

### **Prepare for Pretrial Release and Supervision**

1. What are the potential barriers to your success while on pretrial supervision?
2. What can your pretrial officer do to assist you with getting to court?
3. What can your pretrial officer do to assist you in being successful during the pretrial phase?
4. Is there any additional information the pretrial officer should know about you that wasn't already asked about or presented?

*Remember, pretrial services and other people asking you questions are there to help you succeed. You are presumed innocent, and the goal of the pretrial system is to efficiently resolve your case while also making sure the community is safe. At no point should any pretrial services staff ask you about guilt or innocence in the process.*

# Resources for Pretrial Services Agencies

This section includes two resources: a template pamphlet about pretrial services that can be distributed to women and a template intake form to be used by the pretrial professionals during their first interaction with a woman. Both tools are available as PDF and Word documents so that the pretrial services agency can tailor these documents to their local circumstances, practices, and laws.

# Template Pamphlet About Pretrial Services

Note: This pamphlet should be combined with or used in addition to any materials that will help people contact you and locate your office.<sup>25</sup>

## Welcome to [Name of Organization, such as Jones County Pretrial Services or Smith County Community Corrections]!

Our organization offers pretrial services to people ordered to report to us by a judge. [Insert your organization’s vision and mission statement, such as, “Our mission is to support people on pretrial release, preserve community safety, and enhance the efficiency of the court system.”]

## We are here to support you while your case is pending.

Pretrial services is **not** probation. You have not been convicted of an offense. You are presumed innocent until proven guilty.

Our organization exists to help you return to court for future court appearances, support you in complying with court-ordered conditions, and offer you services that may help you meet your basic needs.

## Our services respond to meet your needs.

Each person assigned to pretrial services has different life circumstances. Our support will adjust based on your needs as they relate to community safety and court appearance.

Depending on what the court orders as part of your conditions of pretrial release and your needs, our services may include:

- Regular check-ins, usually by phone
- Automated court date reminders
- Offers of supportive services, such as transportation vouchers and referrals to social services (substance use, mental health, housing, healthcare, etc.)
- Location monitoring, alcohol monitoring, or drug testing (only if court-ordered)

Your goal while on pretrial supervision is to comply with all court-ordered conditions. Those conditions include appearing in court for all hearings and not getting arrested during the pretrial period. Other conditions may include:

- [List the common conditions in your jurisdiction, such as staying in state, curfews, etc.]

Our job is to help you do exactly that. **We want you to succeed.**

## Frequently Asked Questions About Pretrial Services

*[Review and tailor all responses based on your local policies and practices. The answers provided are examples only and may not reflect your local policies and practices.]*

Does your organization provide me with a court-appointed lawyer?

*No. Our role is to help you comply with your court-ordered pretrial release conditions.*

Do I meet with pretrial staff in person?

*Usually, you will contact your assigned pretrial staff member by phone. However, there may be circumstances where in-person reporting is necessary.*

Are conversations with pretrial staff confidential?

*For the most part. If you tell pretrial staff about behavior that violates your court-*

*ordered conditions, they may have to report that behavior to their supervisor or the judge.*

How can I access social services or community resources?

*We can help with that! Speak to pretrial staff about your needs and ask for their support to connect you with the services and supports that you need.*

What happens if I miss a court appearance?

*If you miss a court hearing, the court may issue a bench warrant for your arrest. It is never in your best interest to miss a court appearance. Speak to pretrial staff and your lawyer ahead of time if you have a conflict with a court hearing.*

Will I get put in jail if I show up for my next court hearing?

*Most likely no. However, if you have an outstanding warrant for a serious crime, you could be placed in custody until the court holds the first court hearing.*

I'm having trouble with my pretrial case manager. Is there someone else I can speak to or a place where I can provide feedback?

*Yes, you can call our office and speak to a supervisor. The number is XXX-XXXX.*

While on pretrial, is it ok to use my medical weed card?

*Speak to pretrial staff to see what your conditions are. Look specifically for any conditions about use and possession of marijuana.*

My employer expects me to travel for work. Is this something I can still do?

*You will likely be able to obtain a travel pass for work, through discussions with your assigned pretrial staff.*

### Questions You Should Ask Pretrial Staff

- If you need it, ask pretrial staff for a copy of your court order.
- What fines, fees, or other costs am I required to pay? Can any be waived due to my family and economic situation?
- Do you know of any resources to support childcare, housing, recovery, support?
- Are there any peer supports or navigators available to be during this time?
- I can't afford to pay for drug testing.

What should I do?

- I have to miss work to attend my next court hearing. But I could get fired. What should I do?
- I can't afford the fee to go to counseling, What's going to happen?
- My partner is on probation. Does that matter?
- Will I have to submit to a drug and alcohol test even if I was arrested for theft?
- Someone told me that I may get a curfew. Is this correct?

# Template Intake Form

**Purpose:** This document is a template intake form to be used when the pretrial professional first meets the person assigned to pretrial services. It is designed to help the pretrial professional get to know the person and understand their strengths, needs, and potential obstacles to pretrial success.

*Note: Your local jurisdiction may require additional questions. This form is available as a Word document so that you can tailor it to meet your jurisdiction's requirements.*

*Make sure each person ordered to pretrial services has a copy of their specific release conditions as ordered by the court.*

This form is intended to help us better understand how we can help you be successful while on pretrial supervision.

1. What is your name?
2. What is your race?
3. What is your gender?
4. What is your gender identify?

Male, Female, Transgender, Nonbinary, Other: \_\_\_\_\_

5. What pronouns do you use?

*Note: If the person identifies as transgender or nonbinary, and your agency has a practice of having a gender-specific case manager, ask whether the person would prefer to be assigned to pretrial staff of a particular gender.*

6. Are you pregnant? Yes or No
7. Are you the primary caretaker of a child or children? Yes or No
8. Are you the primary caretaker of an elderly or disabled parent or grandparent?  
Yes or No
9. Do you anticipate needing childcare or other caretaker assistance to attend appointments or court hearings? Yes or No

10. What is your occupational/job status?

- Full-time
- Part-time
- Self-employed
- Unemployed
- Student
- Returning to work

Explanation:

*Note: Attending court hearings and appointments is one of many existing responsibilities for people on pretrial release. Determining the best method, time, and contact over the next few months will help both of you be successful in your communication. The following questions are intended to help you with scheduling and allow people to make informed decisions.*

11. Do you have access to a reliable, working phone? Yes or No

12. Is it okay to leave a message at this number? Yes or No

13. Would you be interested in using an app to communicate (e.g. Reconnect)?

14. Who is in your support system (spouse, friend, family)?

- a. If we are unable to reach you, can we contact them?

15. What is the best day and time to contact you? Check all that apply.

|           | A.M. | Midday | P.M. |
|-----------|------|--------|------|
| Monday    |      |        |      |
| Tuesday   |      |        |      |
| Wednesday |      |        |      |
| Thursday  |      |        |      |
| Friday    |      |        |      |
| Saturday  |      |        |      |
| Sunday    |      |        |      |

16. Do you have reliable transportation to court and other appointments? Yes or No

17. The chart below is intended to determine your interest in community resources.

|                             | Would you like a referral to community resources? | Are you already seeking or receiving services? |
|-----------------------------|---|--|
| Housing instability         | Yes or No   | Yes or No                                      |
| Mental health               | Yes or No   | Yes or No                                      |
| Trauma                      | Yes or No   | Yes or No                                      |
| Medications                 | Yes or No   | Yes or No                                      |
| Domestic or family violence | Yes or No   | Yes or No                                      |
| Substance use               | Yes or No   | Yes or No                                      |
| Employment                  | Yes or No   | Yes or No                                      |

Explanation:

Our goal is to help you return to court, attend meetings, and remain arrest-free during the pretrial period. I'm going to ask you a few questions about how you spend your day and other things about your life. Your answers will help me identify potential barriers and resources, which will in turn help me see if there are ways I can better support you during this difficult period.

18. Over the next few months, do you have any specific goals (either related or unrelated to the pending case)?
19. Would you like to be paired with a peer support navigator? Yes or No
20. Can you briefly describe your typical weekday? (Example: taking your child to a park...)
21. What helps you destress? What brings you joy?
22. Do you have any other concerns that you would like to mention?

Unless otherwise stated, your responses to any questions are confidential. At times, it may be helpful to share your responses with the prosecutor's office, defense attorney, judge, or service providers to avoid repetition of questions, align services, and provide additional context. If information will be shared, we will review a release of information with you so that you are assured the right of giving informed consent. Is there anything we talked about that you don't want me to share?



# Implementation Guidance

At the model's core is a process that (1) seeks to provide the person who is arrested with an opportunity to share their story, advocate for their needs, and explain their unique circumstances; and (2) explains the pretrial process and tailors the experience based on the person's individual needs.

By meeting these core objectives, a jurisdiction has a greater chance of delivering procedural justice for people going through the system, which can result in increased compliance with pretrial release conditions and enhanced community safety. Critically, through this model, a jurisdiction increases its likelihood of improving communitywide objectives such as community health, strong families, and economic advancement.

We suggest taking the following steps to prepare system stakeholders for this model and to assist the jurisdiction in measuring the impact of the program.

## 1. Create a multidisciplinary workgroup to oversee and evaluate the implementation process.

- Any effort to make and support effective and lasting change requires the active participation of all relevant stakeholders. This includes people familiar with the daily operations of the pretrial phase (i.e., judicial officers, prosecutors, public defenders, court clerks, and pretrial services) as well as people impacted by pretrial policies and practices, such as community members, people charged with crimes and their loved ones, and victim/survivor advocates. Involving all those with crucial expertise and perspectives ensures that the implementation process will take into account everyone's interests, solutions, and values.
- An effective team includes a champion who strongly believes in and supports the team's goals. Additionally, a team lead or project coordinator should have the time, resources, and authority to create work plans, hold team members accountable, and call meetings. In many jurisdictions working on pretrial improvements, the champion ends up being a judicial officer, and the team lead is often the director of the local pretrial services agency.



**2. Identify your vision and articulate local goals that translate into relevant performance measures.**

- One of the team’s initial tasks should be to create a vision for this project. A vision articulates the values that will drive your work, what you hope to achieve, and how you will define success. From that vision, the team would decide on the goals and purpose of the participatory model program.
- Identify performance measures and collect related baseline data so that you are well-positioned to examine pre- and post-implementation outcomes. Although not a causal analysis, a pre- and post-analysis is useful in evaluating the potential benefits of a new program.
- The program’s goals will include quantitative goals, such as maximizing pretrial release, maximizing people’s pretrial success, and maximizing the delivery of supportive services. There will also be qualitative goals, such as amplifying procedural justice.

**3. Educate the relevant stakeholders about the unique circumstances of women and gender-diverse people entering the criminal legal system and the value of a gender-responsive approach.**

- It is unlikely that every relevant stakeholder will come to the workgroup table with full support for the proposed program. Change is difficult, and many people resist undoing what has been done for decades. At the very first meeting, start educating people about women and gender-responsive programming. This will help increase buy-in and support for the program. It’s amazing what education can achieve: over time, it often turns the loudest critic into the strongest champion.
- Start by educating the workgroup about the population being arrested in your jurisdiction. Present a jail overview of everyone in your jails, or focus on just the people who identify as women.<sup>26</sup> You can also ask pretrial services to develop an overview of its women who identify as women. These overviews should not only explain people’s current charges but also their criminal history, social needs, and outcomes. These activities can help you with the baseline data you need to evaluate the program eventually.
- At the same time, it is very useful to paint the national picture of women arrested and convicted in order to place the project in context. Many people will be surprised to learn that women are the fastest-growing prison population



and that more women are incarcerated in jails than in prisons. They may also be surprised to learn that 80 percent of women incarcerated are mothers and that 86 percent report having experienced sexual violence in their lifetime.<sup>27</sup>

- Finally, educating stakeholders about gender-responsive and trauma-informed programming will help people realize that women and gender-diverse people often need different programming than men—programming based on their unique histories and circumstances.<sup>28</sup>

**4. Develop a program review plan, which, in addition to data collection, may include surveys, interviews, and observations of hearings.**

- Because most jurisdictions are unable to have trained researchers conduct a formal evaluation, we suggest a program review, where you use your performance measures to gauge the change that occurs before and after program implementation. Although this cannot be used to demonstrate causality, the description of the change is useful and powerful for stakeholders.
- In addition to examining the performance measures, a program review can examine qualitative data collected through surveys, interviews, and observations. We suggest surveying and interviewing the relevant system stakeholders about their experiences as well as the people who are arrested and required to report to pretrial services.
- If possible, observing court hearings and client interactions will greatly inform the program review.

While designed with the needs of women and gender-diverse people in mind, our participatory pretrial model can be adapted and provide benefit to the population at large. However, we suggest starting with women, who are more often arrested on lower-level charges and who are more likely to experience family or personal challenges that social services can address. This population is also typically smaller and, therefore, more manageable for a pilot program.

Contact the Center for Effective Public Policy to discuss your implementation questions at [thecenter@cepp.com](mailto:thecenter@cepp.com).



# Call to Action

*No one asked*

*“What do you need?”*

*“Do you need help?”*

*“What can I do for you?”*

*See me. Hear me. Help me. Don't hurt me.*

This project highlights what is possible when women come together to advance change within and outside carceral spaces. Through participatory policymaking, reform strategies, and healing practices, we can move toward a pretrial system that allows people to have a voice and make informed choices about their legal process while supporting practitioners in their efforts to improve the system from the inside out. Participatory pretrial allows people from all aspects of the system—judges, service providers, staff, and directly impacted people—a rare opportunity to work together to create a process that centers human dignity and public safety.

We aim to divert and improve support for women at the front end of the criminal legal system to avoid long-term impacts on them, their families, and their communities. By intentionally helping women meet their needs after arrest and avoid further criminal legal system processing, we can do more than just reduce mass incarceration; we can avoid the devastating impacts of separating mothers from their children and prevent the loss of housing stability, employment, and other protective factors essential for success.

Our collective work in this critical area has the potential to contribute to the improvement of pretrial outcomes and to more women leading productive lives in the long term.

Learn more about CEPP's gender justice work on our [website](#).

# Appendix A: Promising Programs

A participatory approach to practices in the criminal legal system is not new. Our pretrial model is inspired by the participatory defense movement and designed in solidarity with those working toward community-based alternatives that lead to safety.<sup>29</sup>

In this appendix, we recognize several organizations and programs that share our values and that have helped fuel the development of the participatory pretrial framework. We thank them for their generosity of time in explaining their work and hope that our respective models complement each others' and contribute to positive outcomes.

*We recognize that many programs and organizations exist that share the below values and practices. It was beyond the scope of this project to speak with all of them. The ones recognized in this appendix are the ones our project team spoke with during the course of the project.*

## Shared Values and Practices

The work of these organizations and our model of participatory pretrial are driven by the desire to:

- Amplify the voices of the people being charged, arrested, or incarcerated
- Respect the dignity of all people
- Empower people and give them agency
- Individualize holistic, supportive services

The programs all share the goal of operational practices that try to move a person who is impacted by the criminal legal system from being a passive recipient to being actively involved in the process. As Silicon De-Bug, which founded the participatory defense movement, explains, the process “moves people out of the role of ‘court watching’ and into one of ‘court doing.’”

Here are some of the shared practices we observed:

- Peer support and peer specialists—directly or indirectly impacted professionals who are trained as advocates, mentors, and resource allocators—provide direct support to people arrested and charged with a crime and are trained to tell their stories.<sup>30</sup>

- Partnerships are established with local nonprofits and social services for the delivery of supportive services.<sup>31</sup>
- A comprehensive intake tool that requires an interview is used in addition to or in place of a scored risk assessment or checklist. The interview asks about basic needs first (e.g., food, housing) and then gender-specific needs.
- Navigators are embedded at courthouses and county jails to meet people where they are in the physical sense.
- Universal eligibility to programs (e.g., supervised release, treatment recovery court, or other alternatives to incarceration) are encouraged; that is, programs are available to people regardless of their charged offense or crime.
- Alternatives are developed with gender equity in mind. This might mean developing programs that are specifically focused on women or it might mean making sure there is gender stratification within a program (e.g., not placing women with men in a batterer intervention program).

## Notable Programs



### [NYC Criminal Justice Agency](#)

Working with the New York City Mayor's Office of Criminal Justice, the Criminal Justice Agency (CJA) employs a multidisciplinary approach to find alternatives to pretrial detention through their Supervised Release program. Using transparency, expansive case management, evidence-based practices, and a comprehensive referral system of nonprofits and service organizations, CJA addresses the needs of those awaiting trial case processing through services like gender-specific housing options, community care vans, and other transportation solutions.



### [Participatory Defense](#)

Through a community organizing model, participatory defense aims to transform the court system experience for people facing charges, their families, and their communities.<sup>32</sup> The theory behind participatory defense is simple: when those oppressed by systemic injustice find ways to activate their voice for community change, they begin to co-create more equitable and just systems and processes. Three principles guide the participatory defense model:

- **Family and community strength** can play a pivotal role in stopping or reducing incarceration for a loved one and a community.
- Families and communities can be even more powerful when taking the role of **organizer and agent of change** rather than service recipient
- By working on individual cases, communities can **build the movement** of directly impacted people to hold the actors of the court accountable, make systemic changes, and ultimately end mass incarceration



### Partners for Justice

Partners for Justice is a nonprofit organization that practices “collaborative defense,” which they define as a method to help public defenders be more client-led and secure better outcomes. Guided by six principles, including empowerment and coordinated access to services, Partners for Justice takes a holistic and individualized approach to public defense. With several locations nationwide, they embed teams of advocates and peer navigators at public defender offices and pretrial services, and provide training, advocacy, and assistance to address the needs of people awaiting trial.



### Still She Rises

Operating out of Tulsa, Oklahoma, Still She Rises describes itself as the first holistic, pro bono defense office in the country dedicated exclusively to representing mothers in both the civil and criminal legal systems to find alternatives to incarceration. Using a team of client advocates and peer supports, Still She Rises helps women facing pretrial navigate not only the criminal legal system but also service organizations in an attempt to bend the system to the client and not the other way around. With a deep understanding of the blame and moral judgment that women, and especially mothers, face during the pretrial process, Still She Rises uses knowledge of the community and legal culture to educate judges on assistance programs and involve women in the process of pretrial diversion.



### TEEM

TEEM<sup>33</sup>'s Pretrial Release Initiative is unique to Oklahoma City. Based on a 2021 report by the Vera Institute of Justice, TEEM's model is one of the first initiatives in the area to serve people who are low-income and unhoused and who are awaiting trial.<sup>34</sup> Instead of an assessment tool, TEEM works with public defenders to use an interview sheet with questions about gender-specific needs and barriers to meeting court conditions. Some other outstanding TEEM practices include the absence of eligibility requirements, one-time cash payments, connection to benefits, cell phones with text and email reminders for court appointments, and the use of peer support specialists.





### Women's Pretrial Release Initiative

Aiming to reduce the number of women detained pretrial in New York City, The Legal Aid Society created the Women's Pretrial Release Initiative. The Initiative connects women to gender-specific services and alternatives to incarceration—creating relationships with community organizations to provide women with housing, treatment for substance use, and support for keeping their families intact. By using a trauma-informed and participatory approach to defense, court advocates, social workers, and public defenders work to establish relationships with women awaiting trial and provide letters to judges recommending services and referrals with the hope of finding safe, effective alternatives to incarceration for women.

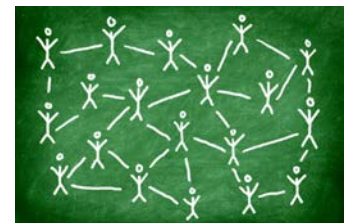
# Appendix B: Desired Practices

We asked our gender justice policy advisors to consider this question:

*What practices should be in place for women and gender diverse people going through the criminal legal system?*

The following list of services is intended to inform all programs offered to people charged or convicted of a crime and are most especially important for women and gender diverse people.

1. **Gender-responsive services:** Offer people the services they need, including:
  - a. Medical and mental health services (inpatient and outpatient)
  - b. Substance use treatment (dual diagnosis)
  - c. Housing, including gender-specific housing and expanded options for housing with children (both women with children AND men with children)
  - d. Daycare
  - e. Counseling (individual and group)
  - f. Food stamps
  - g. Well-being services (e.g., meditation, yoga, self-care services)
  - h. If people need social services, connect them to a caseworker.
  - i. Offer voluntary services and programs in which can choose or refuse to participate, including:
    - i. Educational or vocational training
      1. Job interview skills
      2. Professional clothing program
      3. Internships
  - j. Promote self-advocacy, empowerment, self-determination, voice, and choice:
    - i. Offer guidance on when to talk and when not to talk during a legal proceeding.
    - ii. Give people the choice of whether to tell their story or have an advocate tell it.
    - iii. Engage in collaborative or participatory defense.



2. **Mitigating factors:** When conditions of release or supervision are being assigned, take into consideration the person’s life (remember, they are presumed innocent and have not been found guilty of anything).
  - a. Create a **social biographical** packet<sup>35</sup> that includes the following components:
    - i. Narrative
    - ii. Checklist for required documents, including orders of protection and I-cards
    - iii. Calendar and court appointments
    - iv. What to expect: Rights and responsibilities
    - v. Referrals to collaborating organizations
    - vi. Support letters
    - vii. Contact information for a lawyer, counselor, and other service providers
  - b. Consider past trauma:
    - i. Domestic violence or interpersonal violence
    - ii. Gender-based and sexual violence
  - c. Identify barriers to success for court appearances and mandates.
  - d. Examine systemic factors that contribute to oppression and criminalized behavior:
    - i. Race
    - ii. Wealth
    - iii. Gender
    - iv. Immigration status
  - e. Develop a judicial bench card:
    - i. Provide judicial officers with useful questions and guidelines to help make decisions based on emerging scientific findings about trauma



3. **Flexible scheduling and conditions of release:**
  - a. If the person does not have transportation, find a ride for them (e.g., volunteer drivers, taxis, rideshare companies) or offer them a transit card.
  - b. Schedule teleconference or phone call check-ins instead of having the person appear in person.
  - c. Send text and email reminders of appointments.
  - d. Give access to technology.
    - i. Anyone eligible for SNAP benefits is entitled to a free cell phone and wireless services.
  - e. Schedule home visits.
  - f. Reduce fines, fees, and wealth based disparities wherever possible given their impact on primary caregivers. Do not require the person to pay for any court-ordered services (e.g., electronic monitoring).



**4. Staff training:** Train law enforcement, court staff, pretrial services, corrections staff, legal professionals, etc., in areas such as the following:



- a. Relational skills
  - i. Treat people like they matter (because they do!)
  - ii. Be courteous. Don't make people feel as if they are bothering you or like you have better things to do.
  - iii. Consider your verbal and nonverbal communication (facial expressions, body language, etc). Try to make people feel at ease.
  - iv. Ask questions and listen attentively.
  - v. Interrogate your own biases and judgments.
  - vi. Allow people to speak their truth, and acknowledge the complexities, nuances, and contradictions that naturally exist.
- b. Good "customer service"
  - i. Communicate with attorneys in a timely and consistent manner.
  - ii. Begin communication and building the relationship at arraignment (or even booking).
  - iii. Increase public defenders' capacity by training them on basic principles.
  - iv. Have social workers on staff.
- c. Trauma-informed care
  - i. Train judges, public defenders, law enforcement, and pretrial staff on trauma-informed practices.
- d. Motivational interviewing
- e. Harm reduction
- f. Nonviolent communication
- g. Antiracism (A DEI) and implicit bias training
- h. Needs of transgender and nonbinary people

**5. Holistic care coordination and holistic defense.**

- a. Involve public defenders, social workers or court advocates, case workers, peer support specialists, pretrial supervisors or POs, counselors or therapists, etc.



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13. Some may wonder how a currently incarcerated person serves in these many capacities. The Maine Department of Corrections is committed to a new model of corrections, one promoting the safety and wellbeing of staff and residents and also ensuring residents and community clients see fewer barriers as they meaningfully engage with rehabilitative-focused services. This operating philosophy, known as the Maine Model of Corrections, is founded on the principles of normalization and humanization, with emphasis on destigmatization, respect, and modernization of the Department as a whole. CEPP contracts with Ms. George in her capacity as an Opportunity Scholar.
14. The model of participatory defense was developed as part of Silicon Valley De-Bug's Albert Cobarrubias Justice Project. Through a model of community organizing, participatory defense aims to transform the court system experience for people facing charges, their families, and their communities. For more information on participatory defense, see <https://journals.law.harvard.edu/crcl/participatory-defense-what-it-is-and-why-it-deserves-our-attention/#:~:text=Participatory%20defense%20is%20%E2%80%9Ca%20community,Valley%20De%2DBug%2C%20a%20community.>
15. For more information about procedural justice, see <https://law.yale.edu/justice-collaboratory/procedural-justice> and <https://trustandjustice.org/resources/intervention/procedural-justice#>. See also: LaGratta, E. (2017). *To be fair: Conversations about procedural justice*. Center for Court Innovation. <https://www.innovatingjustice.org/sites/default/files/documents/To Be Fair.pdf>
16. For more information about restorative justice, see <https://law.wisc.edu/fjr/rjp/justice.html>.
17. For example, the equity prime of DreamYard, an arts and social justice organization in the Bronx, includes these questions: Who is benefiting from this decision? What is the desired outcome of this decision? How does this outcome connect to our commitment to racial justice? Who are we excluding? How can we be more inclusive with this decision? For more information, see <https://www.dreamyard.com/imperative/racial-equity-resources>.

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25. We recommend offering a printed pamphlet to people rather than referring them to a website.
26. Learn how to complete a jail overview. <https://advancingpretrial.org/improving-pretrial-justice/appr-resources/jail-overview/>
27. The Prison Policy Initiative is a credible and respected organization that publishes research about women and gender-diverse people involved in the criminal legal system (see (<https://www.prisonpolicy.org/women.html>)). The materials include detailed statistics and illustrative graphs and charts. See also Swavola et al., 2016.
28. CEPP's National Resource Center on Justice-Involved Women has a number of resources on gender-responsive and trauma-informed policies and practices (see <https://cjinvolvedwomen.org/resources/>), including the following: Fleming, E., Upton, A., Lopez Wright, F., Wurzburg, S., & Ney, B. (2021). *Adopting a gender-responsive approach for women in the justice system: A resource guide*. National Resource Center on Justice-Involved Women and Council of State Governments Justice Center. <https://cjinvolvedwomen.org/resources/adopting-a-gender-responsive-approach-for-women-in-the-justice-system-a-resource-guide/>
29. See <https://www.participatorydefense.org/about>.
30. Peer navigators are becoming more common as a service provided by pretrial services programs. Read more at <https://advancingpretrial.org/story/ive-walked-this-road-before/>.
31. Read more about how pretrial services organizations are integrating supportive services into their operations at <https://advancingpretrial.org/improving-pretrial-justice/stories-from-the-field/>.
32. Read more about this model at <https://advancingpretrial.org/story/participatory-defense/>.
33. Not an acronym.
34. See <https://www.vera.org/publications/oklahoma-city-chamber-criminal-justice-task-force-report>.
35. Watch this video from Silicon Valley De-Bug that explains how to compile a social biographical packet: [https://www.youtube.com/watch?v=d2daMnTiQ\\_0](https://www.youtube.com/watch?v=d2daMnTiQ_0).

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## Contact

10605 Concord St. No. 440  
Kensington, MD 20895

www.cepp.com  
thecenter@cepp.com  
@TheCenter\_CEPP

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