

# The Role of Crime Victims and Advocates in Pretrial Justice Reform Webinar Q&A

Responses by Hon. Gregory J. Donat, Aubree Cote, and Anne Seymour

1. Policy/procedural level recommendations for including victim's voices and ability to access restitution in instances when pre-charge services are used?
  - *Build in victim input and restitution into the case management timeline and assign the duty to a specific partner.*
  - *Assist victims in documenting pecuniary losses for restitution, and have the prosecutor present to the court at pretrial stage*
  
2. How can we better engage because many Prosecutors and Police Officers do not see our role as essential and want to work directly with the victims and think that we are a barrier to their work rather than helping the victim and helping the prosecution having a better witness? Also, what do the panelists see as our role specifically with examples?
  - *Everyone sees safety and particularly victim safety as a critical issue so tap into that aspect with victim advocates that can include specific tasks into the case management plan. A checklist can include victim notifications and victim input. Forms with victim right and waivers can be developed and provided to the court.*
  - *Form a Work Group that helps clarify the role of police and prosecutors during pretrial phases of cases, using the webinar resources as a basis for initial discussions*
  
3. Are there any updated documents on victim rights/pre-trial process that we can send to Victims?

*There are forms on the Pretrial Justice Institute webpage. If the type of form you want is not available, request that your form be developed.*
  
4. What are some suggestions for reaching out to victims who are uncooperative or who may not want to be involved?
  - *Make victims aware that even if they do not want services at this point, the entire system is still available at any time in the future. We respect victims choices and will be helpful in any way that we can and we respect their confidentiality.*
  - *Work with victim advocates who can help assess the victim's needs, first and foremost of which are safety, and autonomy to choose whether or not to participate. It's important to find out if the victim has been threatened; if s/he feels safe at the moment, and at the time of participating in justice*

*processes. It helps to explain the CJS process to them, along with their role and any protections that can enhance their safety and participation.*

5. Often as part of safety planning it is helpful to know defendant's whereabouts - as advocates we often are told that this info cannot be released by the supervising entity...why is that? More often than not, the defendant knows exactly where the V is ( in DV cases). Also, having the defendant's location is helpful when the victim is trying to obtain a civil protection order.

- *In most cases, the defendant's location is subject to the 4<sup>th</sup> Amendment search provisions. A judicial finding of probable cause to issue a warrant would be required in such cases.*
- *If the defendant is ordered to be at a specific place (treatment facility) or ordered not to appear at a certain place (exclusion zone) those would be more discoverable; but as to general areas, the 4<sup>th</sup> Amendment right to privacy would apply.*

6. Hi, I am Staff Attorney at CAST. We have had some issues with prosecutors/judges refusing to allow us to enter an appearance in court. Prosecutors are also not consistently communicating with us. They are communicating to the victim directly over our objections. They say there is no requirement that they speak to us. Any thoughts on precedent/legal authority we can use to assert the right to enter an appearance and demand that all communications be through us?

*First check the state statute that often establishes and controls victim rights and victims assistance programs. Otherwise identify the courts and prosecutors needs and show them how you can help them meet their needs efficiently and effectively.*

7. I'm sorry if I missed this-- who supervises this system? Is it victim/witness? Or is this through the Public defender's office, etc.?

*The courts establish a pretrial services program. Often this is done under an existing department such as probation, community correction, court referral agency, or law enforcement.*

8. Is RF the same as EHM?

- *The two types are based upon call-in instrument and are not using GPS location capabilities. RF is Radio Frequency and monitors location by having defendant respond by a specific telephone number. EHM is Electronic Home Monitoring and also uses monitoring by having the defendant call in from home telephone or similar.*
- *Radio Frequency is the technology used to communicate a bracelet being in range of a monitoring base station or modem. The base station communicates through a land line telephone line or through cell technology which is part of the base station itself. It is often referred to EHM.*

9. This seems like a VERY expensive process that ultimately in some distant day comes up with a mixed bag of outcomes for perpetrator, victim and society, but it is blunt at best, agree?
- *Pre-trial services are vastly cheaper for both the community and the defendant and most cost effective than county jail. Defendants on release have the ability to earn revenue to pay for needed services.*
  - *Currently there are cost benefit analysis being done that incorporate both the fiscal cost of jail bed savings, improved court process savings, as well as socioeconomic savings to the individual defendant who is not detained and remains employed and not part of the social support systems. Additionally, these analyses also look at societal and individual costs of new crimes that may be committed by pretrial defendants.*
10. How do you support domestic violence victims who want to have the charges dropped, or conditions of release changed during the pre-trial phase to permit contact/have the offender return home? We have heard many victims report that they will never call the police again should something further happen. How is a victim's right to self-determination balanced with what the "system" believes to be in that person's best interest?
- *It is critical to support the victim's informal decisions. The court can require that the victims meet privately with a professional to assure that the decisions are in fact informed and not coerced. The victim should be advised of all options and future resources in case of repeat violence.*
  - *Again, it is important to connect the victim with a victim advocate who can assist her; conduct an assessment; explain the CJS process and his/her role as a witness; and most important, identify and address safety concerns.*
11. What are the yellow circles used to determine?  
*The yellow circles on the GPS mapping represent the defendant's location at a point in time.*
12. There is no end to the costs the courts can incur for services "needed" which is obvious to me. The perpetrator, who already likely has job and income problems, is put underwater in all and every respect likely for a lifetime, agree?
- *Often times pretrial services are the same programs that the defendant will face post disposition, so it is really only moving the resolution forward.*
  - *One of the goals of making evidence and legal based pretrial release and detain decisions is to allow low to medium risk defendants the ability to remain out of custody, employed or seeking employment with as little disruption as possible. Supervision costs are much less than the cost to detain a defendant in custody.*
13. What results are gained by treating an adult like a child? Is the lesson control and who has control, or who will repent, reconcile, learn and mature?  
*The goal is to empower the victim and to require the defendant to be responsible for meeting the terms of release and to be held accountable to the victim and community.*

14. What were Denver's appearance and public safety rates prior to implementation of pretrial services?

*Denver has had a pretrial program since the 1970's which for many years had an emphasis on the investigative function of the program, providing bond reports and recommendations to the court. Supervision was provided to a much smaller population compared to the current system. It is difficult to make a comparison as the systems, population supervised, and knowledge of risk is so different.*

15. Our job as a society is to productively employ USA citizens. What is the plan for reliable sustaining employment for USA citizens?

*One of the benefits of a legal and evidence based pretrial system is the ability for low and medium risk defendants to remain in the community and employed.*

16. There is an obvious difference between juvenile and adult systems. With an increase in the violent crimes committed by juveniles. Is there any thought into changing the pretrial system for juveniles to model more of an adult system?

*The terms of release should be individualized based upon the defendant's characteristics, and age is only one factor.*

17. The key here is supervision, and communication, and unfortunately, there are not enough personnel to provide effective supervision. How is this problem going to be solved?

*Supervision is the key to success as the programs demonstrate cost benefits; hopefully fiscal agents will see the benefit of applying some of the savings to further pre-trial supervision.*

18. I worry that tools designed and these days in greater use, to assess offender risk, without the specific focus on dv, could fail to id risk on dv cases or more concerning miss risk in dv cases. Have you identified ways to bolster those tools or shared cautions for those NOT using DV specific tools such as ODARA and the Colorado tool?

*Pretrial risk assessment tools evaluate for risk of failure to appear as well as public safety. Domestic violence would be included in this public safety measure. Denver chooses to use the ODARA to help*

*provide further information on tailoring pretrial supervision conditions. It is important that jurisdictions decide what their local system tolerance and goals are and develop systems to address their specific needs. Some jurisdictions also assess the victims' needs; and conduct lethality assessment in cases involving domestic violence.*

19. I work with a GPS/alcohol bracelet monitoring company from Tennessee and I think this webinar has been amazing. We're currently in 5 states and would like to know how many other states would be interested in having services like ours to help protect victim's rights?

*This is an excellent tool that can help improve compliance with conditions of supervision. It would be helpful to educate victim service providers about this resource, as they would undoubtedly support its use in their jurisdictions.*

20. Is there a Risk Matrix Tool to help mitigate the chance for violence in the court setting, or is there a group that I can reach out to that might have already examined this problem?

*The Pretrial Justice Institute (PJI.org) is a great resource for pretrial information and research.*

21. New York's criminal law allows trial judges, in deciding whether to set bail and the amount of bail in any case, to consider only a defendant's risk of failure to appear in court, but not the risk of committing a new crime. This impacts how a pretrial risk assessment is used and limits its influence in decision making. What are your thoughts on bail statute limitations that restrict the influence of pretrial risk assessments?

*Tim Schnacke of PJI is the expert on status of state laws. He can be reached at the Center for Legal and Evidence Based Practices (clevp.org). He is a great resource for local legal pretrial information.*

22. How do victims get the protection order when they NEED the defendant's address in order to get the order?

*The best practice is for the case management plan to include a preliminary protective order to be issued on probable cause when the case is filed or at the first court appearance.*

23. How do we support juvenile victims from their juvenile offenders when they attend the same school? It seems some students won't speak up for the fear of being publicly shamed by their peers in a daily environment.

*Peer mediation is now widely used in schools, where students are trained to help facilitate discussion among any fellow students who have disagreements, delinquent activity, etc. Here are some helpful resources: <http://www.schoolmediation.com/pdf/Quick-Guide-to-Implementing-a-Peer-Mediation-Program.pdf>; and <http://www.peermediators.org>.*

24. If a victim has information that the defendant is violating his bond conditions, does PTS want to know this information and how can that be communicated?? - Through the DA advocate or the victim themselves?

*The victim should be advised of immediate access to PTS and law enforcement of any violation of terms of release or violation of protective order. Any non-compliance information in the Denver system, can be reported to pretrial services, law enforcement, or the victim advocate depending on the nature of the violation.*

#### Comments/suggestions-

1. I don't have a question; I have a suggestion. For those people who are showing such irresponsibility as to not show up for court; Judge Donat suggested that doctors, dentists, and so on, there is an automated machine that reminds their patients of appointments; to use the same system for offenders. Doctors also charge their patients the same charge whether they show up or not. Do the same for these offenders, and maybe they will learn to show up. If they can afford to sit home and watch Jerry Springer and drink beer; they can certainly afford to pay for their missed court date. Many jurisdictions use "Call to Court" that reminds offenders by telephone, text and email about court dates.

*A financial penalty would certainly be appropriate in some cases, but in general there should be negative consequences even if it is just setting in the jury box wasting a half day waiting for defendant's case to be called. This can be a teaching opportunity with the lesson being it is in your interest to follow the law and play by the rules.*

2. An issue is that the victim and others have their lives - there is some help before and during trial, but after NOBODY in courts cares or will pick up the pieces - NO SAFETY NET really. Law enforcement and/or the courts with what thy "must" do, permanently ruin MARRIAGES, FAMILIES, COMMUNITIES, ETC. AND THE COST!!! This needs to change (I am law abiding person myself). My brother murdered - just so somebody knows I am "in the club." Thank you for your response and it's important for us to listen to survivors like you! 49 states have corrections-based victim programs (visit [www.navspic.org](http://www.navspic.org) for a roster of these programs) that help victims in the post-sentencing phases of their cases. Increasingly, community-based victim advocates are partnering with CJS and corrections professionals to improve victim services – this is vital to ensure that victims' needs are identified and addressed!

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