

# Offender Programs Report

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## Offender Substance Abuse Report

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### Probation-Based Pretrial Practice in Dutchess County, New York

by Mary Ellen Still

Dutchess County, New York is located about 90 miles north of New York City and has a population of approximately 297,000 people. The county is diverse geographically, with two small cities as well as suburban and rural areas. The county has a number of law enforcement agencies and courts as well as a local jail that has been over capacity for many years. This overcrowding has resulted in the housing out of inmates until very recently, when temporary pods were installed pending the completion of a new jail facility to be called the Justice and Transition Center.

The Dutchess County Office of Probation and Community Corrections has operated a pretrial program since 1978. Over the years, the program has expanded and evolved to meet the needs of defendants, the courts, the larger criminal justice system, and the community.

#### Avoiding “Widening the Net”

In spite of the addition of new initiatives and resources, the program

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### Gender-Specific Services for Scotland’s Forgotten Young Women

by Gail Wilson

This practice-informed article advocates for the revision of criminal justice responses for young women. Experiences of trauma, victimization, and neglect mean that girls are at the attention of a multitude of services from an early age, from frequent police visits at home to attending Children’s Panels. Police visit mainly on account of disturbances within the home, such as child protection concerns raised by neighbors and for arrests normally around drunk and disorderly parents or domestic violence. These patterns repeat themselves when girls have their own accommodation. Children’s Panels are held when those child protection concerns are acted upon by social services or the police. The Children’s Panel is made up of three laypeople who conduct a tribunal to decide whether children/young people need to be placed in care, or, if they have offended, whether they should be placed in secure accommodation.

As girls age into adolescence, anti-social and violent norms, absconding, substance misuse culture, abusive relationships, and difficulty in controlling emotions continue to keep them in the

crosshairs of services, all of which are there to protect and guide, but unfortunately regularly up-tariff and laterally criminalize them. Professionals in these services are often not trained in gender-specific approaches to working with girls, and indeed often hold unhelpful gender expectations. As a result, their actions can be a factor in re-traumatizing young women and influencing further risk-taking behaviors.

In the last four years the Scottish government has acknowledged the need for structural change in the criminal justice system (CJS) to account for the needs of women; however, there is further need to implore understanding of the lives of young women as a quite separate population group. This distinction needs broad recognition across services and systems involved with young women from childhood. This article will disseminate what we know from gender- and age-based research, and the practice of Time for Change, a service run by the charity Up-2-Us for highly vulnerable

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has maintained its core commitment to obtain releases for all eligible defendants without “widening the net” or over-programming. This has been achieved through the use of evidence-based assessment instruments that provide the risk level (of failure to return to court) for each individual. There are several such instruments available, but Dutchess County uses the pretrial section of the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS).

Using the COMPAS, pretrial staff assesses each individual newly admitted to the jail. After the staff completes the instrument and verifies information provided by the defendant, low-risk individuals are recommended for release on recognizance (ROR) without any special conditions. In these cases, Pretrial Services simply monitors that court appearances have been kept. Generally, release is achieved within 24 hours. For the past several years, over 1,000 defendants have been released to Pretrial Services, the majority of them with no condition other than to appear in court as directed.

When staff recognized that higher-risk defendants who could not make bail were remaining in jail, several additional options were created. Again, with staff using the COMPAS as well as verifying information, higher-risk defendants were recommended for one of several alternatives available. These included:

- Intensive supervision with special conditions ordered by the court;
- Pretrial electronic monitoring; or
- Participation in a wide variety of community-based programs.

In order to prevent a creeping tendency to “widen the net,” a three-step process is used:

1. The first step is to screen for release under ROR.
2. If the defendant does not meet the criteria, or ROR is denied by the judge, a second-stage screening takes place. Cases are reviewed for a variety of alternatives, based on the risk level and identified needs. Pretrial staff members are then able to approach the court with a viable option for the defendant. Defendants are carefully screened to match the program to their needs in order to avoid overprogramming. This process is facilitated by the fact that probation officers are present in the

higher-volume courts in the county, including the felony-level county court.

3. Finally, a multi-agency meeting is held to discuss cases that have not secured pretrial release. Participants include the Office of Probation, District Attorney’s Office, Public Defender’s Office, Jail, and the Department of Mental Hygiene.

### Meeting the Unique Needs of Female Defendants

Building upon this foundation, the department recently engaged in a technical assistance project supported by the Bureau of Justice Assistance and coordinated by the National Resource Center on Justice Involved Women and the Center for Effective Public Policy. The goals of the project were to provide information about the most recent research regarding gender-responsive pretrial risk and needs assessments and to understand how to apply evidence-based practices to help women achieve better pretrial outcomes.

The “Pathways Perspective” suggests that women enter the criminal justice system through different pathways than men and have different needs. When women’s needs are unrecognized or unmet, an opportunity is lost to improve outcomes. Addressing the unique needs of women can reduce pretrial failure and can ultimately result in plans that transition to other correctional or community agencies.

As pretrial services perform a gate-keeping function, there is an opportunity to identify and address needs at the earliest possible stage in the criminal justice process. Using an objective assessment not only quantifies the needs, but makes judges more likely to consider and accept the findings. Assessments can also guide work at later decision points. Therefore, as part of the project, an Inventory of Needs (ION) screening tool was developed. It was tested in Dutchess County to determine how useful it was in predicting pretrial failure and addressing the needs for services related to mental health, medical issues, housing, substance abuse, child care, personal safety, and other emergency services. Once the needs were identified, a referral would be made to the appropriate service. Of particular note was the fact that although pretrial women were more likely to score as being at lower risk on risk assessment instruments than were men, women’s identified needs differed from those of men. Current and past abuse, trauma, mental health issues, housing

safety, and needs related to children scored prominently in the needs assessment.

The role of the ION was supportive in nature; it was not used as a condition of pretrial release or as a sanction. Pretrial Services was very diligent in separating the role of the ION from the screening used to determine eligibility for pretrial release. Participation was voluntary, and no negative consequences were attached for failure to engage in the project. Interestingly, almost all female defendants not only chose to participate, but were eager to do so. Many indicated that they saw the link between their past life experiences and the current behavior that brought them into contact with the criminal justice system. They often expressed that they felt empowered by the insights they gained and were eager to see the information from the ION used to help other women. Pretrial staff also reported that the pretrial experience for these women was generally more positive and that they complied with court orders more readily.

The benefits of using a gender-specific needs assessment were manifold:

- Early identification of needs correlated to pretrial success;
- More effective collaboration took place with referral agencies;
- Trauma issues were identified and addressed early in the criminal justice process; and
- Female defendants appeared to develop more rapport with staff and trust in the criminal justice system.

The successful introduction of the ION depended on having a strong pretrial program that was committed to using a validated screening tool, making release recommendations according to risk (thereby avoiding “widening the net”), and matching risk and need to the appropriate program so that lower-risk defendants did not receive unneeded interventions, thereby potentially increasing their risk of recidivism. Adhering to these principles and practices allowed the ION to be used in an effective manner.

Given the fact that the number of women in the criminal justice system has increased and that they have unique risk and needs, effectively identifying and addressing those needs could substantially reduce pretrial failure.

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