

IMPLEMENTING THE PRETRIAL FAIRNESS ACT

PFA Implementation Toolkit

C ≡ P P
Center for
Effective
Public Policy

The logo for Justice System Partners (JSP) features the letters 'JSP' in a large, blue, sans-serif font. The letter 'J' is stylized with three horizontal bars extending from its top. Below the letters, the text 'JUSTICE SYSTEM PARTNERS' is written in a smaller, blue, all-caps, sans-serif font.
JUSTICE SYSTEM PARTNERS

Purpose of the Toolkit

- ❑ Support Illinois counties in their efforts to effectively implement the Pretrial Fairness Act (PFA)
- ❑ Provide counties with a road map for how to move forward with implementation, and a framework for local decision making, based on the experiences of the PFA Pilot Sites
- ❑ *Note:* This document is a product of the Illinois Supreme Court Implementation Task Force. **This is not an official resource from the Supreme Court.**

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- ✓ Review the PFA and Supporting Materials
- ✓ Make Local Policy and Operational Decisions for each Pretrial Decision Point
- ✓ Develop and Execute an Implementation Plan

Introduction

- ✓ Passage of the Pretrial Fairness Act
- ✓ Role of the Supreme Court Task Force
- ✓ Task Force Subcommittees
- ✓ Pilot Sites: Locations and Roles

Pretrial Fairness Act

- The Illinois Supreme Court Pretrial Implementation Task Force was created in 2020 to prioritize and implement the recommendations of the Supreme Court Commission on Pretrial Practices Final Report.
- The Pretrial Fairness Act (PFA) was passed as part of the Public Act 101-0652, signed into law by the Governor in February 2021. Effective January 1, 2023, the PFA abolishes the use of money in pretrial release decisions and establishes new processes for pretrial release and detention decisions.
- Following the passage of the PFA, the Task Force was charged by the Supreme Court to help educate and prepare the justice system for the changes required by the PFA.

Role of the Pretrial Implementation Task Force

- The Task Force is working to prepare all justice system partners throughout Illinois to implement the requirements of the PFA by its effective date.
- To accomplish this, the Task Force, its subcommittees, and other AOIC working groups are partnering with national, state, and local experts including the Center for Effective Public Policy (CEPP) and Justice System Partners (JSP).
- The Task Force created six subcommittees:
 - Communications
 - Education
 - Legislative
 - Pretrial Assessment Tools
 - PFA Guidelines
 - PFA Pilot Sites

Subcommittees

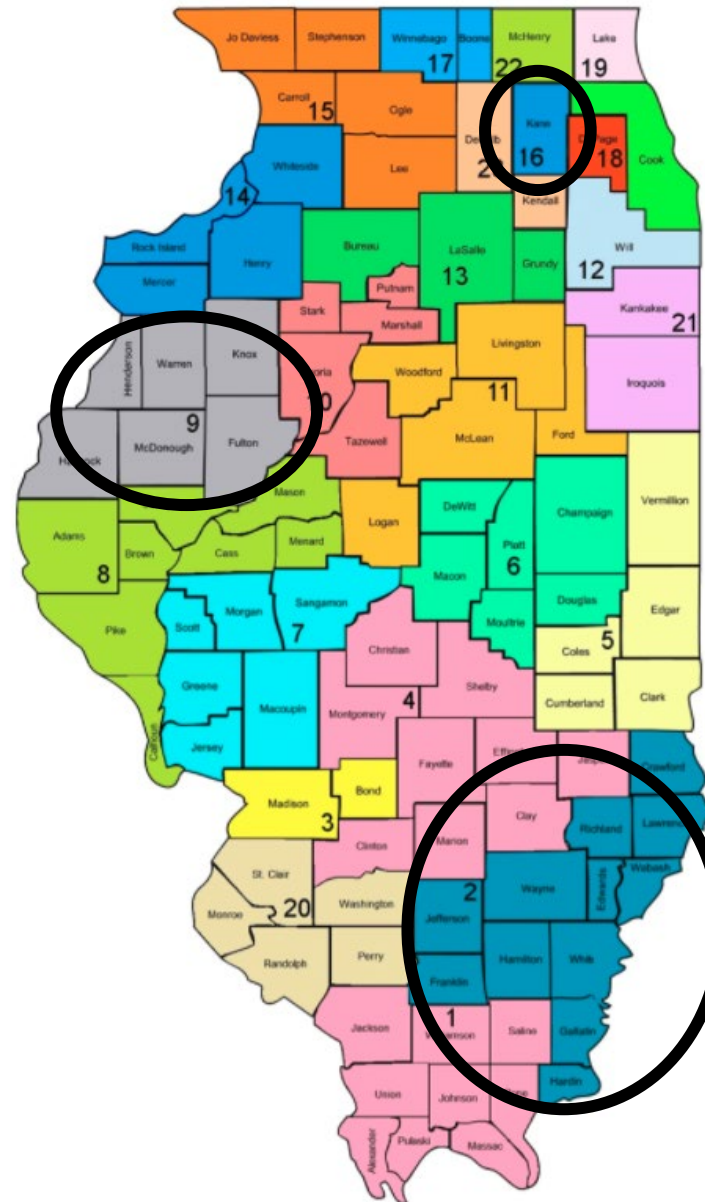
Subcommittee	Scope
Communications	Develop a plan and resources to educate diverse internal and external audiences about the PFA and the AOIC's plans for PFA implementation.
Education	Develop a comprehensive, coordinated, and continuous education plan to support the implementation of the PFA.
Legislative	Identify inconsistencies between the PFA and the Commission's Final Report.
Pretrial Assessment Tools	Develop guidelines for scoring and using assessment tools under the PFA.
PFA Guidelines	Develop a model process, guidelines, and related resources for counties to use to implement the PFA.
PFA Pilot Sites	Identify and provide technical assistance to selected pilot sites to support their implementation of the PSA, and to share their tools, templates, and experience with other jurisdictions.

Providing Guidance

- The Task Force issues guidance to assist counties with implementing the PFA.
- The Task Force and its subcommittees **do not engage in advocacy** for or against the PFA or proposals to modify it.
- As is the case with any new law, some questions—particularly around statutory interpretation—will ultimately be decided by the courts, and the Task Force cannot weigh in on these issues.
- Any guidance provided by the Task Force is just that—guidance. It is **not** an official position of the Illinois Supreme Court.

PFA Pilot Sites

- 2nd Judicial Circuit
 - Franklin County
 - Gallatin County
- 9th Judicial Circuit
 - Hancock County
 - McDonough County
- 16th Judicial Circuit
 - Kane County



Overview of the Implementation Process

- ✓ Convene a Stakeholder Working Group
- ✓ Review the PFA Statute and Supporting Materials
- ✓ Make Local Policy and Operational Decisions for each Pretrial Decision Point
- ✓ Develop an Implementation Plan

Convene Stakeholders

Convene a Broadly Representative Group of Stakeholders

Partners to Include

- **Criminal justice system partners**, such as judges and other court staff, state's attorneys, public defenders, clerk staff, pretrial staff, jail and law enforcement.
- **Community**, such as community advocates, victim advocates, service providers, faith-based representatives, people with lived experience.

Having everyone involved in the process:

- Builds cross-agency and community trust and understanding
- Clarifies existing practices, identifies redundancies, gaps, and opportunities for improvement.

Read more about the [value of collaboration](#)

Convene a Broadly Representative Group of Stakeholders

Key Considerations

- Identify an implementation **leader**/chair who has positional authority and is willing to champion change, (e.g., a judge or other elected official).
- Make sure **participants**:
 - Share a commitment to doing the work and willingness to meet (in-person and/or virtually) frequently (at least weekly) to ensure progress.
 - Are willing to seek help and use available resources.
 - Have an ability to acknowledge and tackle complexities, ambiguities, conflicts, and unknowns and still move forward.
 - Share a sense of urgency for decision-making.
 - Are willing to communicate decisions to staff and community.
 - Are flexible.

Convene a Broadly Representative Group of Stakeholders

Role of the Implementation Leader

- The leader needs to:
 - chair the collaborative group
 - set meeting schedule and develop agendas
 - address concerns or challenges that may hamper success
 - be accessible and assertive
 - motivate others and provide positive inspiration
- This may be the circuit's chief judge – but any strong leader with positional authority can fulfill this role.

Pilot Site Experience

“Each criminal justice partner has unique insight into how the PFA impacts them and the tasks they are responsible for. Additionally, by having everyone at the table, we have been able to identify issues and concerns that we may not have otherwise been aware of. I highly recommend that anyone involved in PFA planning reach out to all stakeholders and encourage them to be a part of the process.”

- Honorable Clint Hull, Chief Judge of the 16th Judicial Circuit of Illinois

Pilot Sites Stakeholder Group Participant Examples

Kane County Policy Team

- Chief Judge
- Implementation Lead (Judge)
- Public Defender
- State's Attorney
- Clerk's Office
- Court Services
- Domestic Violence Advocate
- Law Enforcement (Local PDs and County Sheriff)

Hancock County Policy Team

- Implementation Lead (Resident Circuit Judge)
- Chief Judge
- Drug Court and Pretrial Supervisor
- Public Defender
- State's Attorney
- Court Clerk
- Peer Support Specialist (Impacted Individual)

Gallatin County Policy Team

- Circuit Judge
- State's Attorney
- Public Defenders
- Office of Statewide Pretrial Services
- Sheriff
- Local Health/Mental Health service provider

Review the PFA

Thoroughly Review the PFA

- Everyone needs to read and understand the many provisions of the PFA.
- Reviewing the key provisions of the law **as a group** helps build common understanding and identify the areas in which local decisions need to be made.
- There will be interpretation and operational decisions to make.
- There is no substitute for closely reading and studying the statute.
- Use the guidance from the Task Force (see next slide).
- The next step will be for the stakeholder group to consider how policies and practices need to change to implement the law—so, understanding the law is critical!

Review Supporting Materials and Engage in Trainings

- Review materials produced by the Task Force, particularly the Flowcharts and Considerations Documents.
- Attend Task Force Town Halls and watch previously recorded Town Halls.
- Attend a Task Force training event.
- Attend relevant conferences or convenings.

All Task Force materials and information about the Town Halls and training events are located on the Task Force Website

<https://www.illinoiscourts.gov/courts/additional-resources/pretrial-implementation-task-force/>

Task Force Materials

The Task Force Guidelines Subcommittee created resources to help counties understand and implement the key provisions of the PFA. The Flowcharts and Considerations documents are posted on the Task Force's website.

1. [Release with Citation](#)
2. [Release from Custody](#)
3. [Pre-First Appearance Activities](#)
4. [Setting Release Conditions](#)
5. [Issuing Arrest Warrants and Orders to Show Cause](#)
6. [Modifying, Sanctioning, or Revoking Conditions of Release](#)
7. Detention Hearing (coming soon)

More resources are in development and will be available on the Task Force website.

Make Local Policy and Operational Decisions for Each Decision Point

Make Local Policy and Operational Decisions

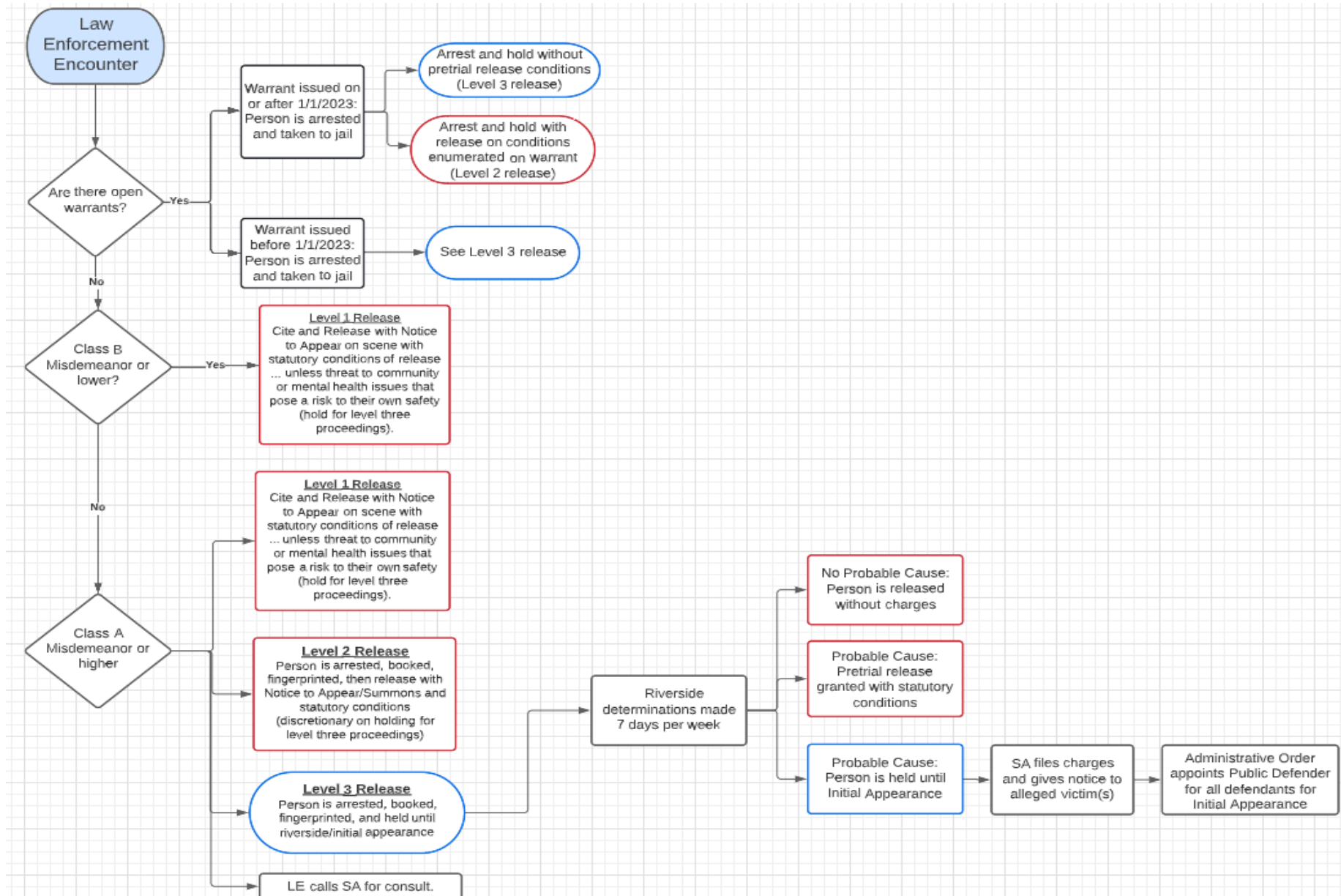
- Through a series of workgroup meetings, review each pretrial decision point (e.g., use of citations, release from custody, initial appearance, etc.) and discuss:
 - What needs to change in your system to comply with the PFA?
 - How will you operationalize those changes?
- Use the Task Force's Flowcharts and Considerations documents to guide your discussions and help identify and address operational questions.
- Collaboratively determine what changes and decisions need to be made, who needs to make them, and when the decisions need to be finalized; document all decisions.

Pilot Site Experience

“Working through each decision point together as a collaborative group allowed for different perspectives and insight into how decisions can impact others. Starting with the decision to issue a citation or arrest the person and bring them into custody, the group talked about the PFA requirements, compared that to the current process, and identified ways their practices and procedures needed to change. Ultimately, this led to revised procedures and the development of new standard forms.”

- Tara Boh Blair, CEPP consultant and technical assistance provider to several PFA pilot sites

Example of Local Operational Decisions: Cite and Release



Examples of Policy and Operational Decisions

- Example of documentation to track changes that need to be made.

Action Items / Decision Points	Responsible Agency	Example Comments/Notes	Status/Final Decision
Establish process for fingerprinting: type of cases and LE bring all cases back to station to fingerprint	<i>List agencies who need to provide input and who will make the decision</i>	<i>INSERT INFORMATION ABOUT YOUR LOCAL PROCESS AND DECISIONS</i>	<i>UPDATE REGULARLY WITH STATUS</i>
What is the protocol for law enforcement (LE) and Sheriff holding individuals for first appearance.			
Traffic vs. Class A offenses (DUI) - Cite and release vs bring in for conditions hearing			
Approval of all forms/orders			
Can summons be served via mail or served in person?			
Will there be the option for Zoom court for small LE agencies for conditions hearing only?			
Private location for public defender present/virtual?			

Examples of Documents and Forms

What documents or forms need to change or be created to comply with the PFA?

- At each decision point, all forms and orders should be reviewed, revised, or created to support PFA implementation.
- All stakeholders should have an opportunity to comment and suggest edits for each form.
- *Note:* Ill. Sup. Ct. R. 552 gives the Conference of Chief Circuit Judges the authority to govern the uniform citation forms. Such forms must be used by law enforcement when issuing citations for non-felony offenses. Law enforcement agencies are not authorized to generate their own citation forms for local use.

Illinois Pretrial Fairness Act Document Checklist Example*			
<u>Form / Order Title</u>	<u>Stakeholder / Agency</u>	<u>Status</u>	<u>Finalized?</u> Y / N
Probable Cause Warrant	Law Enforcement / Court		
Cite & Notice to Appear	Law Enforcement / Court		
Motion to Deny Pretrial Release	State's Attorney		
Summons to Appear	Clerk		
Order for Pretrial Conditions	Court		
Pretrial Release / Detention Order	Court		
Initial Appearance Order	Court		
Order Remanding Custody	Court		
Order to Show Cause	Court		
Motion for Revocation of Pretrial Release	State's Attorney		
Summons to Show Cause Hearing	Clerk		
Warrant for Violation	Law Enforcement / Court		
Motion / Notice for Sanctions	State's Attorney		
Revocation Order	Court		
Order for Sanctions	Court		

***Example checklist. This is not a comprehensive list of all forms. Each county will have its own list of forms.**

Using Data to Inform Your Decisions

The Loyola University Chicago, Center for Criminal Justice Research, has worked with several counties to estimate the potential impact of the PFA on:

- Initial appearance decisions
- Pretrial release
- Pretrial detention
- Jail populations
- Lengths and costs of pretrial detention

They have produced a series of research briefs that inform counties as they prepare for PFA implementation.

Read Loyola's [Research Briefs](#).

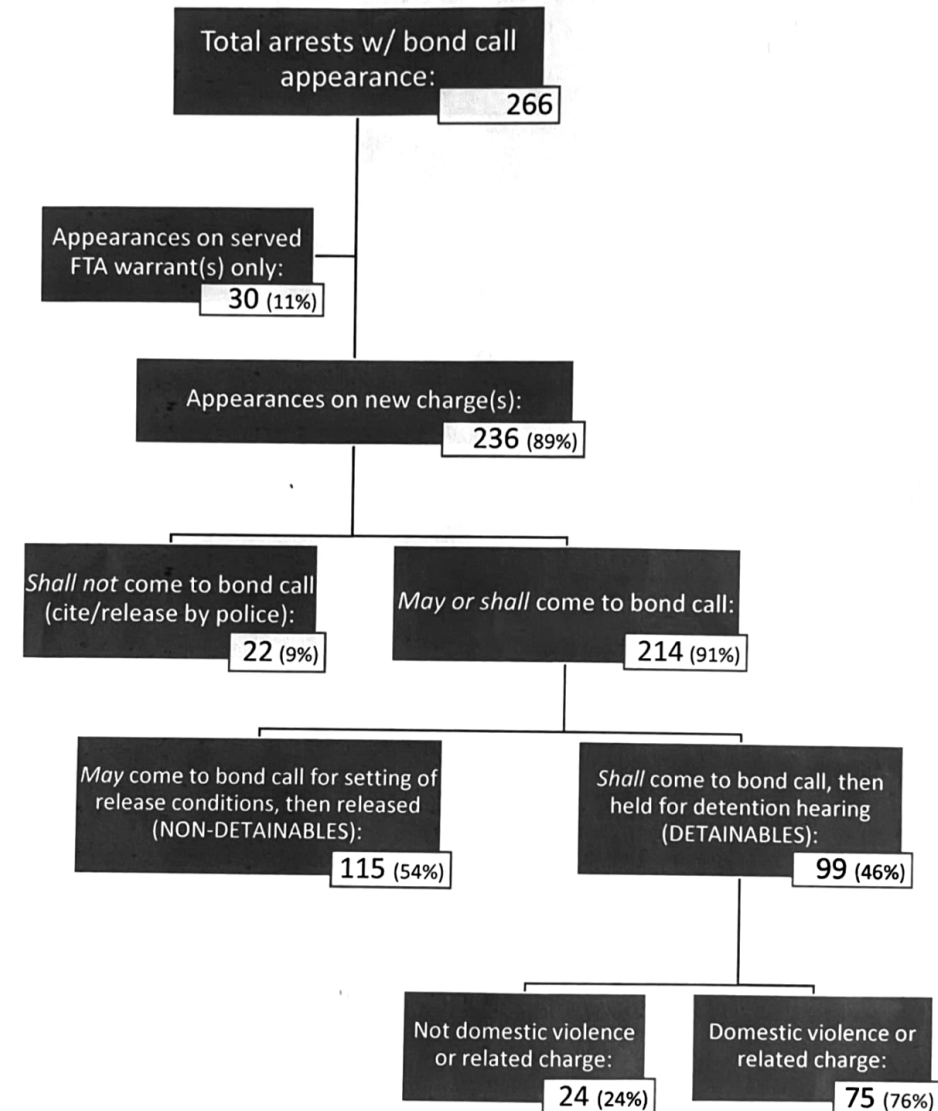
Data Element Examples

- Jail population
 - Pretrial population
 - Population being held on non-pretrial matters
- Number of people, over the past ~year:
 - Appearing in court on new offenses (broken down by charge type)
 - Released on recognizance; on financial conditions; on pretrial supervision; on other conditions
 - Detained: on financial condition; because release was denied
- Length of stay for those detained
- Demographics including gender, race
- Pretrial assessment levels
- Pretrial outcomes: court appearance and arrest-free rates

Example of Using Data to Inform Planning

- Utilizing a list of offenses prepared by Loyola University, Kane County Court Services applied a PFA framework to all initial appearances.
- Loyola University is assisting counties in estimating the proportion and number of detention-eligible cases expected per day or per week.
- This data allows counties to estimate the volume of initial appearances and detention hearings that may be held beginning January 1, 2023.

June, 2022 Bond Call Appearances: SAFE-T Act Breakdown



Develop an Implementation Plan

Develop an Implementation Plan and Timeline

- Based on the system changes identified, create an implementation plan that describes:
 - Specific tasks
 - Responsible parties
 - Due dates
 - Outputs/outcomes
 - Status
- Counties may want to include additional components, such as:
 - Resource requirements, i.e., budget adjustments or additional revenue requirements
 - Staffing needs
 - Training needs
 - Data and reporting needs – including key outcome measures prioritized by the stakeholder group

Example Implementation Plan

HB3653 Reference	Goal	Task	Category (Training, Communication, Document, Form)	PERSON RESPONSIBLE/JSP ROLE	DEADLINE	Current Status	RESOURCES NEEDED	OUTPUTS	COMMENTS/FEEDBACK
	Establish LE protocol for completion of paperwork	Police will complete and issue the paperwork (charges/complaint) at the police station regardless of charge and detention eligibility.	Document	SAO		In progress			Resourcing issue for small LE agencies
	Establish protocol for LE for conditions/detention hearings	State's Attorney's Office Felony Authorization division will communicate with police if person will be held for conditions and/or detention hearings.	Document	SAO		In progress		Policy Document	
		Police officer will complete paperwork – synopsis, charges – and email to clerk, ACS, SAO and Public Defender at the bond call email that is in use now.	Document						
		Clerk is developing a system for police to get case numbers and courtroom assignments so can complete paperwork for charged defendants and "Release".	Document	Clerk					
		Add the Public Defender to the email distribution list	Document						
109-1(a-1) 109-1(a-3)	New Citation / Notice to Appear Form	Revise Citation / Notice to Appear Form – include court reminder program and standard conditions	Form						

Pilot Site Example

This is not a template, but an **example** from a PFA Pilot Site.

