

University of Pittsburgh
Institute of Politics

CRIMINAL JUSTICE PROGRESS PANEL

**2018
report**

INCARCERATION IN ALLEGHENY COUNTY

An initiative advancing the CRIMINAL JUSTICE TASK FORCE report of 2016



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INTRODUCTION

In the fall of 2015, Allegheny County Executive Rich Fitzgerald asked the Institute of Politics of the University of Pittsburgh to assemble a group of distinguished civic leaders to examine ways to improve the county’s criminal justice system so that it would be “fairer and less costly, without compromising public safety.” The Institute subsequently convened a Criminal Justice Task Force, consisting of 40 regional leaders.

The members of the Task Force included criminal justice professionals currently holding positions of responsibility within the criminal justice system; distinguished academics with expertise in directly relevant fields such as criminology, law, and psychiatry; and respected community leaders with a strong interest in the system but with no direct links to it. Mark Nordenberg, Chair of the Institute of Politics and Chancellor Emeritus of the University, and Frederick Thieman, a former U.S. Attorney and the Henry Buhl Jr. Chair for Civic Leadership of the Buhl Foundation, served as co-chairs of the task force.

The task force met on a monthly basis for the better part of a year. Members examined all aspects of the criminal justice system, including policing, pretrial services, prosecution and defense, incarceration, and courts and probation. Meetings typically included presentations from national leaders, who provided a sense of emerging best practices, and local leaders, who provided an assessment of existing practices in Allegheny County. The task force also retained the director of the Washington, D.C.-based Justice Policy Center of the Urban Institute as a consultant, and at each meeting, members engaged in serious discussion and debate. This well-designed and highly collaborative effort led to the development of the Institute of Politics’ report titled “Criminal Justice in the 21st Century: Improving Incarceration Policies and Practices in Allegheny County,” which was publicly released and has been widely discussed.

The work of the task force built upon improvements already achieved by criminal justice professionals in Allegheny County and was framed by the following six guiding principles.

- The preservation of public safety through effective law enforcement that is protective of individual rights is a fundamental responsibility of good government.
- Depriving a person of his or her freedom through the criminal justice system, especially prior to an adjudication of guilt, is a serious and intrusive action to be used wisely by governments created to respect and preserve individual liberty.



- Incarceration and other forms of correctional control should be used judiciously, with careful balancing of the goals of punishment and deterrence, preserving public safety, respecting victim’s rights, maximizing opportunities for rehabilitation, and conserving scarce government resources.
- The processes of the criminal justice system should be fair, socially and financially equitable, and structured to avoid even the appearance of bias, particularly racial or ethnic bias.
- The criminal justice system and all expenditures made in support of it must be cost-effective and subject to appropriate oversight and budgetary review, as is true of all operations of government.
- In a society characterized by dramatic advances in information systems, modern methods should be employed to obtain the most timely and pertinent data that would be useful in supporting fact-based decision-making and transparency within the criminal justice system.

As was expressly noted in the task force report, Allegheny County already is respected as a national leader in criminal justice reform. It also seems well positioned to foster further progress in the months and years ahead. Among other things, Allegheny County is known to have a culture that emphasizes collaboration and embraces innovation. Also critical is the fact that efforts to achieve further progress in this area have been championed by County Executive Fitzgerald, who has been actively engaged in advancing task force recommendations since its report was released, setting a clear and inspiring example for others whose leadership contributions will be essential to system wide improvements. See Appendix A for a listing of the task force’s recommendations.

RECENT PROGRESS IN IMPROVING ALLEGHENY COUNTY’S CRIMINAL JUSTICE SYSTEM

IMPROVEMENTS DRIVEN BY THE COUNTY EXECUTIVE

The first three recommendations in the task force’s report were directed toward the County Executive and required action by his office. Two of those three recommendations—the first involving the appointment of a progress panel and the second involving the appointment of a criminal justice coordinator—have been implemented. The third recommendation, which involves improvements to the county’s information systems is essentially a never-ending quest, but substantial progress already has been made.

PROGRESS PANEL

The first recommendation in the task force’s report asserts that “Given the strong and growing public interest in the fair and effective functioning of the criminal justice system, the Allegheny County Executive should appoint a panel to review progress in implementing these recommendations and advancing the guiding principles, providing a new measure of accountability and a new source of information.” The report goes on to offer further explanation: “An educated public can better assess the fairness and cost-effectiveness of the criminal justice system. The panel, in conjunction with the new criminal justice system coordinator, will publish relevant information about

the system to encourage the ongoing development of creative and innovative mechanisms to improve fairness and effectiveness.”

In the fall of 2017, the County Executive appointed and charged the progress panel to act under the auspices of the Institute of Politics. The group has been meeting on a quarterly basis, and this is the first of its reports. Progress panel members are listed below. Eight of its nine members were drawn from the membership of the task force, and the co-chairs of that task force, Mark Nordenberg and Frederick Thieman, have agreed to co-chair the progress panel. The remaining seven members are as follows:

- **Alfred Blumstein**, PhD., J. Erik Jonsson University Professor of Urban Systems and Operations Research, Emeritus at Carnegie Mellon University; former chair of the Pennsylvania Commission on Crime and Delinquency; and recipient of the Stockholm Prize in Criminology
- **Kenya Boswell**, president, BNY Mellon Foundation of Southwestern Pennsylvania
- **Quintin Bullock**, DDS, president, Community College of Allegheny County
- **Susan Everingham**, RAND Director of Innovation Architecture, senior policy researcher, and professor in the Pardee RAND Graduate School
- **Jeffrey Finkelstein**, president and CEO, Jewish Federation of Greater Pittsburgh
- **Reverend Glenn Grayson**, pastor, Wesley Center A.M.E. Zion Church
- **Matt Smith**, president, Greater Pittsburgh Chamber of Commerce

CRIMINAL JUSTICE COORDINATOR

The second recommendation of the task force’s report stated, “The Allegheny County Executive should create a criminal justice coordinator position, reporting to the county manager and focused on monitoring the criminal justice system, to better manage the criminal justice system and advance the goals of maintaining public safety, enhancing equity, and reducing costs.” That recommendation went on to note, “The Allegheny County criminal justice system is a decentralized system of separate departments, a number of which are headed by independently elected officials. For more large-scale improvements to be achieved, greater communication among the various sectors within the criminal justice system should be pursued. The coordinator will take a leadership role in facilitating collaboration among the sectors of the criminal justice system.”

In response to this recommendation, County Executive Fitzgerald appointed Edward Mulvey, PhD, to the newly created post of Allegheny County criminal justice coordinator, and Mulvey began work in this role in November.

Mulvey is a professor of psychiatry in Pitt’s School of Medicine and is director of the Law and Psychiatry Program at the Western Psychiatric Institute and Clinic of UPMC. He has been at the University of Pittsburgh since 1983 and, in that time, has conducted numerous research studies on violence and mental illness, future violence and crime, juvenile offenders, delivery of services in the juvenile justice system, and criminal justice policy. He has particular expertise relating to the intersection of the criminal justice system and mental health. His research has investigated how clinicians make judgments about the risk posed by adults with mental illness, as well as what treatments are appropriate in such cases. He recently served as the principal investigator on a longitudinal study of serious adolescent offenders, the Pathways to Desistance study, and he is a member of two National Academy of Sciences panels assessing juvenile justice reform. Mulvey is currently a member of the Pennsylvania Commission on Crime and Delinquency and chair of the Science Advisory Board for the Office of Justice Programs of the U.S. Department of Justice.

IMPROVED INFORMATION SYSTEMS

The third recommendation in the task force’s report stated, “To improve the transparency and effectiveness of the criminal justice system, Allegheny County should build on its considerable technology assets to deliver timely data and analysis to manage the overall system and monitor key performance metrics, including racial disparities.” The report acknowledged Allegheny County’s “enviable record of developing strong data systems” but noted that there was “room for further improvements in how data are collected

and used,” including the development of “real-time data tools,” as well as efforts to ensure that decision makers fully appreciate the potential of data, “embrace its use,” and are “educated in how to properly maximize its benefits.”

Following the release of the task force’s report, County Executive Fitzgerald empowered County Manager William McKain to lead this effort, working in close cooperation with the Allegheny County Department of Human Services’ Office of Data Analysis, Research, and Evaluation to develop a series of dashboards that display relevant criminal justice system data. The improved access to real-time data can provide important opportunities for identifying and correcting practices or procedures that are unfair or not cost-effective. In implementing the dashboards, the county is working toward convening a group of cross-agency criminal justice leaders to routinely review and discuss the implications of the data presented by the dashboards.

The county has developed or is in the process of developing a variety of dashboards that analyze aspects of diversion, bail, courts, jail, offender programming, and probation. A complete listing of completed and planned dashboards can be found in Appendix B. These dashboards are in different stages of development. However, those that have been completed are already in use by county leadership. Going forward, the dashboards will serve as a critical tool for identifying new problems and analyzing the effectiveness of implemented reforms.

OTHER RECENT EXAMPLES OF PROGRESS

Leaders from within the criminal justice system have taken additional steps to create a more efficient, effective, and equitable system in Allegheny County. These actions, as outlined in the following sections, target concerns raised during the work of the task force and reflect a shared desire to improve the system.

REPRESENTATION OF DEFENDANTS DURING PRELIMINARY ARRAIGNMENTS

A preliminary arraignment is a critical proceeding during which decisions are made to determine whether a defendant will be released to await trial or be held in jail. Despite the importance of this determination, a public defender has not traditionally been present to advance a defendant’s side of the case in such proceedings in Allegheny County. Although bail and other pretrial detention decisions can be appealed to the Court of Common Pleas—where, in the opinion of most informed observers, President Judge Jeffrey Manning makes exemplary efforts to review decisions as quickly as possible—defendants still may be incarcerated for several days while waiting for their appeals to be heard. Even these relatively short-term stays can result in long-term consequences for the person and his or her family.



In April of 2017, taking an important step to address this issue, the Allegheny County Public Defender’s Office, under the leadership of Chief Public Defender Elliot Howsie, began providing counsel to some defendants during their preliminary arraignments. However, due to resource and staffing limitations, this program has been implemented at the Pittsburgh Municipal Court facility and only during normal business hours. Nonetheless, because of this program, close to one-quarter of defendants in the Allegheny County courts now have representation during their preliminary arraignments.

Even in the short time since it was implemented, this program has shown positive results. There has been a substantial decrease in the use of money bail and jail bookings, and this decrease has been even greater among Black defendants. The program also has resulted in an increase in the rate at which arraignment decisions made by district judges are consistent with recommendations generated by a newly deployed pretrial risk-assessment tool. Also important for its long-term success, the program appears to have been positively received by the district judges participating in it.

Based on the early successes of the program, the Public Defender’s Office is planning to extend its hours of coverage. This expansion is expected to occur in stages over the next year. Consistent with the commitment to assess the effectiveness of any changes made, the county will continue to monitor the impact of this increased representation. Estimates of cost savings resulting from decreased jail stays also should be calculated as part of the ongoing data analysis.

IMPROVEMENTS IN COURT PRACTICES

The fourth and sixth recommendations of the task force’s report, in part, call for the Court of Common Pleas of Allegheny County to “take steps to enhance both fairness and cost-effectiveness” within the criminal justice system. Among other things, the report stated that these goals could be better achieved through faster case disposition, shorter probation terms to periods consistent with national practice, and a reduction in the use of monetary bail through more consistent utilization of the county’s new pretrial risk-assessment tool. The court has made progress in achieving these goals through a series of initiatives.

REDUCING PROCESSING TIMES

Court data indicate that case-processing times in Allegheny County—the time from initiation to disposition—for both misdemeanor and felony cases could be further improved. In Allegheny County, some people who are on probation and commit a new offense still spend unnecessarily extended periods of time in the county jail. When a person is on

probation and has a newly filed offense, the situation often results in two separate hearings, sometimes scheduled months apart, with the defendant remaining in jail until both hearings have taken place.

The court has begun to address this issue by coordinating schedules so that both hearings are before the same judge on the same day. Because this process has just started, initial data still need to be collected and analyzed regarding the policy’s feasibility, its acceptance by the judges, and its impact on jail time served by affected defendants.

REDUCING THE LENGTH OF PROBATION TERMS

Probation terms in Allegheny County are about twice as long as the national average. Some of this irregularity is the result of some judges imposing consecutive, as opposed to concurrent, probation terms, as well as the fact that Pennsylvania law permits judges to impose probation sentences up to the maximum legal sentence, even for misdemeanors. These practices may be rooted in an unsubstantiated belief that extended court supervision will act as a deterrent to further crime for most defendants. Long probation terms may provide the illusion of enhanced public safety, but research indicates this is not true. Longer probations simply expose people to more time during which they may commit what are sometimes labeled “technical” probation violations—actions that would not otherwise have merited a stay in jail. Long probation terms also increase, some would say to an unmanageable level, the total number of people subject to supervision by the limited number of available probation officers.

Allegheny County has recently begun to address lengthy probation terms by bringing together the Probation Department and the Public Defender’s Office to recommend early termination of probation in certain cases that meet established criteria. Eligible cases are limited to those involving misdemeanor charges, with half of the probation term completed, with all conditions met, with no subsequent arrests, with all mandatory minimums met, with current supervision being conducted as a low-risk case, and with no sexual or violent offenses in the defendant’s criminal history. In cases meeting these criteria, the public defender presents a plan to the court for early termination. The judges to whom such recommendations are presented will have been briefed and must approve each recommendation. Moving forward, the outcomes of these cases will be tracked, and the initiative will be expanded if warranted by the data.

REDUCING THE USE OF MONETARY BAIL

There is a growing national movement to end the use of monetary bail. That movement is grounded in a belief that a defendant who poses a risk to the community should continue to be held in custody even if he or she is able to post a high

bond and that a defendant who poses no threat to the community should not be held simply because he or she does not have the means to post even a modest bond. This tenet is already part of the Pretrial Services Department’s operations; it does not recommend monetary bail.

Nonetheless, some district judges choose to require monetary bond. To guard against the unnecessary—and sometimes unfair—imposition of monetary bond, a subset of the bail determinations made by district judges are reviewed daily by the President Judge and are revised when appropriate. The President Judge bases his decisions on background research and recommendations made by the Pretrial Services Department. Through the President Judge’s leadership, bond modification, revocation, and reinstatement for incarcerated defendants have become more fair and more efficient.

This approach, however, can be viewed as a time-limited measure that is totally dependent on the leadership of the current President Judge. It does not address the basic structural problem that some district judges have limited inclination to align with the recommendations of the risk-assessment tool or the growing belief that monetary bail conditions should be imposed rarely.

REDUCING OVERCHARGING

Recommendation 4d of the task force’s report states, “The District Attorney should guard against the practice of overcharging and also consider alternatives to prosecution that do not require filing formal charges, such as pre-charge diversion programs.” The report noted that “initial charging decisions are a baseline for future dealings between prosecutors and those charged with a crime.” More particularly, these decisions can have significant influence on subsequent decisions made by the court, such as pretrial detention and, in the case of conviction, length of sentence.

District Attorney Stephen Zappala has recently taken steps consistent with this recommendation by assigning assistant district attorneys to review, with arresting officers, incidents for a subset of crimes before charges are approved in certain felony cases. Currently, this policy pertains only to Pittsburgh Bureau of Police incidents. Though limited data are available, the District Attorney’s Office maintains that this practice has reduced the severity of charges filed, when appropriate, and has added a new dimension of consistency to charging practices. Data collection and analysis are needed to assess the actual impact of this policy change.

MENTAL HEALTH DIVERSION

The fifth recommendation of the task force’s report says, “A high priority should be placed on expanding crisis intervention training for police and other law enforcement personnel and

on diverting individuals who are suffering from mental illness or substance use disorders into effective treatment programs.” That portion of the report goes on to note that “the purpose of jail is deterrence, incapacitation, punishment and rehabilitation. Jails were never intended to be a major provider of treatment for mental illness or addiction. Increasingly, however, the jails and prisons of America have housed large numbers of defendants suffering from mental illnesses, substance use disorders, or both. Housing such individuals is both expensive and inhumane, and it is counterproductive if it worsens these preexisting conditions.”

Effective diversion will require screenings as early as possible in criminal justice system processing. It will also require an easily accessible and responsive system of mental health service providers, expanded beyond the capacity of the current system.

The county currently is in the process of developing a strategic plan for diverting individuals with behavioral health problems during early stages of involvement in the criminal justice system, thereby aiming to reduce the number of such individuals in the Allegheny County Jail. This project involves interviews with key stakeholders in the system, consultation with national experts, analyses of county data, and workshops to discuss the strengths and weaknesses of possible options. The plan is expected to be released before the end of 2018.

The success of the strategic plan is dependent upon two overarching activities which must be pursued in tandem. First, systems will have to be developed to assess the impact of each planned activity; second, a responsive and collaborative system of service providers will have to be developed. This latter point often is raised by district judges who suggest that jail is often the only viable option in cases where mental health issues are the root of behaviors. The current connections between mental health and substance use service providers and criminal justice system professionals are limited. In addition, it seems unlikely that existing provider systems would be able to effectively handle the increased demand that likely would be generated by increased diversionary practices.

RECOMMENDATIONS

In order to achieve an equitable and cost-effective criminal justice system, Allegheny County will require active cooperation and participation from leaders in all areas of the county criminal justice system. Among other potential criminal justice reforms, the Progress Panel recommends continuing efforts to effect further progress in the following areas over the course of the next six months.

- Reduce the disproportionate impact of the Allegheny County criminal justice system on minority groups, particularly the Black community.
- Continue support by the County Executive of the Progress Panel and Criminal Justice Coordinator.
- Complete the criminal justice system dashboards and use the dashboards to inform the decision-making of criminal justice system leadership within the county.
- Expand coverage of representation by the Public Defender’s Office during preliminary arraignments beyond daylight hours at Pittsburgh Municipal Court. This program should continue to be monitored to measure its effectiveness and impact.
- Continue to monitor the impact of recently implemented programs and policies aimed at reducing processing times and the length of probation terms.
- Increase district judges’ rate of concurrence with the county’s pretrial risk-assessment tool and decrease the use of monetary bail by district judges.
- Increase transparency of the District Attorney’s program of reviewing charging decisions in certain felony cases to better assess its effectiveness.
- Increase diversion opportunities for people with mental health issues from the criminal justice system. Any potential program should be monitored for its impact.

CONCLUSION

Allegheny County already has earned national respect as a center of excellence in criminal justice. Since the 2016 release of the Criminal Justice Task Force report, county leaders have driven further progress through committed efforts and continued innovation. However, further work must be done if the county is to achieve even higher levels of fairness and cost-effectiveness, while preserving public safety.

Critical to those efforts will be the thoughtful use of carefully collected data, so that choices are guided by evidence, not

by instinct or anecdote. Consider, again, just some of the conservatively calculated facts highlighted in the 2016 Criminal Justice Task Force report:

- Allegheny County spends the equivalent of at least 42 cents of every property tax dollar received on the criminal justice system.
- The dramatic increase in the population of the Allegheny County Jail over the past two decades has translated to more than \$12 million in additional annual costs for county taxpayers.
- Black men in Allegheny County are booked into jail at nearly twice the national rate for Black men, which is itself six times the national rate for White men.
- Although they make up just more than 13 percent of the population of Allegheny County, Black people make up 49 percent of the population of the Allegheny County Jail.
- In the Allegheny County Jail, 75 percent of inmates have drug/alcohol issues or mental illness issues, and 48 percent have both.

Standing alone, each of these numbers clearly suggests that there are areas in which there is enormous potential for improvement. Collectively, they convey a compelling sense that there is an urgent need to pursue existing opportunities for improvement, both to achieve higher levels of fairness and to reduce dramatically escalating costs.

The task force’s plan provides a roadmap for pursuing those companion goals of fairness, cost-effectiveness and safety, and the Progress Panel is pleased to report that committed efforts to fuel further progress are underway. It seems appropriate that the County Executive, who launched this initiative, also has taken the lead with respect to implementing its recommendations. However, equally determined efforts by other leaders will be essential to achieving even higher levels of progress.

It is those efforts that the Progress Panel will monitor and assess in the months and years ahead and that will be the subject of an ongoing series of Progress Panel reports. Among obvious areas of focus will be the extent to which data are being used effectively; the speed with which improvements to the system are implemented; whether or not minority groups, particularly Blacks, continue to be impacted disproportionately; and the extent to which any particular parts of a coordinated system are holding back the progress of the system as a whole. It is our shared hope that future reports can cite the types of reforms and progress noted in this first report. ■

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APPENDIX A: CRIMINAL JUSTICE TASK FORCE RECOMMENDATIONS

The Criminal Justice Task Force issued the following series of recommendations in its 2016 report, “Criminal Justice in the 21st Century: Improving Incarceration Policies and Practices in Allegheny County.”

1. Given the strong and growing public interest in the fair and effective functioning of the criminal justice system, the Allegheny County executive should appoint a panel to review progress in implementing these recommendations and advancing the guiding principles, providing a new measure of accountability and a new source of information.
2. The Allegheny County executive should create a criminal justice system coordinator position, reporting to the county manager and focused on monitoring the criminal justice system, to better manage the criminal justice system and advance the goals of maintaining public safety, enhancing equity, and reducing costs.
3. To improve the transparency and effectiveness of the criminal justice system, Allegheny County should build on its considerable technology assets to deliver timely data and analysis to manage the overall system and monitor key performance metrics, including racial disparities.
4. Because even a brief period of pretrial detention can have a devastating impact on the person jailed and because the costs of incarceration are a significant burden for county taxpayers:
 - a. Police, courts, and the district attorney should develop and use proven alternatives to arrests and bookings, including establishing programs to divert individuals who otherwise might have been charged with nonviolent offenses into community-based treatment and support services, using summons in lieu of arrests, and establishing community-based restorative justice programs.
 - b. District judges should use monetary bail rarely and instead should use the county’s risk assessment tool for pretrial release determinations, avoiding pretrial except when necessary to preserve public safety or ensure the defendant’s presence in subsequent proceedings.
 - c. Jail personnel and the courts should reduce the processing time between a person’s admission to the jail and his or her first court appearance.

- d. The district attorney should guard against the practice of overcharging and also consider alternatives to prosecution that do not require filing formal charges, such as precharge diversion programs.
 - e. Indigent defendants should be represented by a public defender at the preliminary arraignment, when initial incarceration decisions are made.
 - f. Police and district judges should commit to the use of the jail in a uniform and consistent manner commensurate with the seriousness and frequency of crime in their particular communities.
5. A high priority should be placed on expanding crisis intervention training for police and other law enforcement personnel and on diverting individuals who are suffering from mental illness or substance use disorders into effective treatment programs.
6. The Court of Common Pleas should take steps to enhance both fairness and cost-effectiveness by:
 - a. Disposing of cases within time frames that are equal to or better than national standards.
 - b. Reducing the length of probation terms to be consistent with national standards.
 - c. Eliminating the use of consecutive probation terms.
 - d. Using graduated sanctions that are fair, swift, and certain for probation violations.
 - e. Assessing court fines and fees on a sliding scale that reflects a person’s ability to pay.
7. To the extent that cost savings are realized from a reduction in the population of the Allegheny County Jail, the county executive should give high priority to additional investments in the broader criminal justice system that will improve its effectiveness. These include:
 - a. Increasing the number of police on the beat—who, properly trained in a sentinel role, could be a major force in preventing crime and improving police-community relations.
 - b. Increasing the number of probation officers to better provide more effective supervision to higher-risk individuals on probation.
 - c. Expanding programs that have a proven record of reducing recidivism, including reentry programs.
 - d. Incentivizing district judges and municipal police departments to develop creative programs to reduce their use of the county jail even while maintaining public safety.

APPENDIX B: ALLEGHENY COUNTY CRIMINAL JUSTICE DASHBOARDS

PART 1: DIVERSION DASHBOARD

- Human Service Needs of Arrestees
- Police Crisis Intervention
- **Justice-Related Services**
- **Diversion Drug and Alcohol**
- **Battering Intervention Program**

PART 2: BAIL DASHBOARD

- **Bail Decisions**
- **Recommendations from Pretrial Services**
- **Concurrence Rates**

PART 3: COURT DASHBOARD(S)

- **Charges and Sentencing**
- **Court Time to Disposition**
- Court and Supervision Fees

PART 4: JAIL DASHBOARD

- **Jail Population Overview**
(of those physically booked in Allegheny County Jail)
- **Jail Capacity**
(of those physically booked in Allegheny County Jail)
- **Alternative Housing**
- **Bookings, Releases and Length of Stay**
- **Population Status**
(why people are held in the jail)

PART 5: OFFENDER PROGRAMMING DASHBOARD

- **Participants Overview**
- **Services Involvement and Outcomes**
- **Participant Outcomes**

PART 6: PROBATION DASHBOARD

- **Detainers**
- **Caseload Trends**

Bold: Dashboards completed

Red: In progress

Plain text: Planned



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PERMANENT

