2017

Alternatives to Pretrial Detention:Pre Global Best Practice Catalog

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Diplomacy Lab

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Introduction

This catalog was compiled as part of Diplomacy Lab Project #68 "Comparative Analysis of Pre-Trial Detention and Alternatives," in spring semester of 2017, compiled for the Bureau of International Narcotics and Law Enforcement, Office of Criminal Justice Assistance and Partnership (INL/CAP). It is intended to cover best practices in reducing pretrial detention (either before detention occurs, or once it has occurred) across the globe, including laws, policies and programs. It does not include Oceania or very detailed information on North America.

The 12 graduate students in the capstone course of the Master of Arts Degree Program in International Crime and Justice at John Jay College of Criminal Justice began their search for the best practices included in this catalog by discussing the criteria for inclusion in class and came to a consensus that our best practices should meet 5 of 8 agreed criteria:

1. It respects human rights
2. It is affordable for the country's budget
3. It is available to the majority of accused
4. It is definable: we know how the best practice works in context
5. It ensures public safety: no further crime or victimization occurs upon release from detention
6. It is verifiable: more than one source attests to it (it is not a recommendation - it really exists)
7. It is sustainable - it really works and it can self-subsist
8. It should not result in profits for private entities, beyond reasonable salaries

After reaching consensus on these criteria, we agreed that each student team should cover one world region and find 15-20 best practices, formatting each entry to about one page and including:
Title of the Practice
Listing of the class best practice criteria that it meets (5 out of 8)
Paragraph description of the practice, to include
-how long it has been in practice
-what the main components of the best practice are
-scope: local or national
-who it affects
-costs if available (how it is funded)
-who is in charge of it (e.g. NGO/organizational structure)
-any independent evaluations?
-results
-whether it has been exported elsewhere (used in another country)
Links
Bibliography, to include
-any journal articles
-websites
-media references (print media, social media, videos, etc.)

The catalog is organized by region, in the following order: North America, Africa, Europe, Asia, Central America, South America.

North America

1.Court Notifications (USA)

CRITERIA: Respects human rights, Affordable, Available to the majority, Definable, Verifiable

Mechanism:

- Live calls, automated calling system announcements and notification letters can be administered to defendants in order to remind them of their upcoming court dates as well as their obligations (Aungst, 2012).
- Calls and notifications are mostly delivered through cell phones and or landline phones (Beach, 2015).

Target population:

- The target population for the court notification programs can vary from defendants with citations issued for minor offenses to those charged with felony offenses (Aungst, 2012).

Price/Funding:

- Yamhill County Court, Oregon (Beach, 2015)
    - Approximately $550-600 monthly expenditure for Automated Notification system.
    - $1.25 per successful calls and $.85 per unsuccessful calls.

Results:

- Multnomah County, Oregon:
    - Only 16 percent of defendants who had received court notifications failed to appear for court dates compared to the 28 percent who did not receive any notifications (Aungst, 2012).
- Coconino County, Arizona:
    - 12.9 percent of reminded defendants failed to appear to court dates compared to the 25.4 percent of defendants who did not receive any notifications (Aungst, 2012).
- Jefferson County, Colorado:
    - During the first six months period since its inception, the Jefferson County, Colorado, Court Date Notification Program successfully reduced Failure to Appear (FTA) rates by 52 percent (Jefferson County Criminal Justice Planning Unit, 2006).
    - Approximately 425 FTA warrants were avoided in the same time period due to the success of the program (Jefferson County Criminal Justice Planning Unit, 2006).

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2.Electronic Monitoring (United States)

CRITERIA: Respects human rights, Affordable, Available to the majority, Definable, Verifiable

Mechanism

- Electronic monitoring is an alternative method to detention that utilizes Radio Frequency (RF) and Global Positioning Systems (GPS) to closely track the movement of the offender (Alexander, 2007).
- The Southern District of New York Probation Office places released offenders under three main monitoring program components that requires technological specifications: **1) Curfew**: the lowest level of monitoring that requires defendant to remain at home during set periods of the day **2) Home Detention**: requires defendant to remain at home during all times of the day with the exception of pre-approved absences including religious activity, treatment and court appearances and **3) Home Incarceration**: requires a strict 24 hour lock down, with the exception of court appearances and medical needs (Southern District New York, 2017). Electronic monitoring is often granted as a condition of the defendant's release (Alexander, 2007). For high-risk cases, area supervisors place offenders on Electronic Monitoring to ensure public safety (Alexander, 2007).

Target Population:

- 20 percent of all community-based supervision involves electronic monitoring and both adults and juveniles are targets (Gable & Gable, 2005).

Price/Funding:

- Electronic monitoring may cost as low as $460 per participant with the average cost of approximately $750 per participant (Roman et al, 2012).
- Electronic monitoring reduces local agency expenditure by $580 per participant and federal agency expenditures by $920 per participant (Roman et al, 2012).
- Breakdown of average daily cost of EM program operation (Average electronic monitoring period: 14 to 90 days)
    - Average operation costs per day per supervisee: $ 8
        - Average cost of equipment: $1 – 12 dollars per day.

Results:

- U.S Federal Pretrial Services suggests that defendants on Electronic Monitoring are more likely to fail to appear and to be rearrested (Aungst, 2012).
- Bale and his colleagues (2010) found that the Electronic Monitoring system used in Florida reduced the risk of failure to comply by 31 percent. GPS monitoring also reduced supervision failure by 6 percent compared to RF monitoring (Bale, 2010).

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Roman, J. K., Liberman, A. M., Taxy, S., & Downey, M. (2012). The Costs and Benefits of Electronic Monitoring for Washington, D.C. *District of Columbia Policy Institute*, 1-15.
United States Probation Office - Southern District New York. (2017). Location monitoring program. Retrieved from http://probation.nysd.uscourts.gov/LocationMonitoring.html

3.Juvenile Detention Alternatives Initiative (United States)

CRITERIA: Respects human rights, Available to the majority, Definable, Verifiable, Sustainable

The Juvenile Detention Alternatives Initiatives (JDAI) was first launched in 1993, by the Annie E. Casey Foundation in order to better accomplish the actual purposes of juvenile detention (Shaw, 2008). It focused its reform efforts on changing the behaviors of the adults who operated the Juvenile justice system as a pre-requisite to reducing unnecessary juvenile detention and injustice (Shaw, 2008).

Mechanism:

- JDAI proposed three main types of action plans for reducing juvenile detention to leaders of local juvenile justice systems (Shaw, 2008):
    - **1) Early Disposition**: the process of identifying minor juvenile cases and speeding up the process of the judicial hearing
    - **2) Early Prosecutorial Screening**: the process of saving time spent in detention and court by identifying cases that would eventually be dropped in advance
    - **3) Continuances**: the practice of mandatorily setting the initial appearance hearing to the very next day within the assigned court to reduce juvenile detention time.

Price/Funding:

- Although approximately $2.25 million of initiating funds were issued in the form of grants, no additional costs are required to process cases according to the action plans (Shaw, 2008).
- In 2013, $58 million was secured for the initiative through local governments, private foundations and federal sources (Juvenile Justice Strategy Group, 2013).

Results:

- Since its inception, participating JDAI sites have reported in reducing average daily detention population by 44 percent (Juvenile Justice Strategy Group, 2017).
- Although the majority of youths detained are youths of color, JDAI sites detained 43 percent less juveniles of color than they did prior to JDAI (Juvenile Justice Strategy Group, 2013).

References

Juvenile Justice Strategy Group (2017), Juvenile Detention Alternatives Initiative. Annie E. Casey Foundation, Retrieved from http://www.aecf.org/work/juvenile-justice/jdai/

Juvenile Justice Strategy Group (2013), Juvenile Detention Alternatives Initiative: 2013 Annual Results Report Inter-site conference summary. Annie E. Casey Foundation, 1-32

Shaw, M. (2008). Reducing the Excessive Use of Pretrial Detention. Open Society Justice Initiative, 1-184.

4.Bail Verification and Supervision Program (Canada)

CRITERIA: Respects human rights, Affordable, Available to the majority, Definable, Verifiable, Sustainable

Mechanism:

- The Bail Verification and Supervision Program is a two-component program offered in the Province of Ontario, Canada.
- The components of the program are:
    - **1) Verification**: Private counsel conducts interviews and investigates various sources such as, correctional staff, family members or friends of defendant and community agencies to provide courts with the adequate information necessary for the decision making process of releasing the defendant from custody (Elizabeth Fry Society, n.d).
    - **2) Supervision**: Once the court confirms the eligibility verification, the defendant is released on recognizance with the condition of community supervision as an alternative (Brown, 2013). Bail Workers, non-profit organizations, will supervise defendants regularly, remind defendants of court dates, assist in defendant case management and refer defendants to appropriate community programs or services (Elizabeth Fry Society, n.d).
    - **3) Services**: Services will be provided by bail workers until the termination of all orders requiring bail supervision.

Target Population:

- 16 years of age or older male and female individuals accused of criminal offenses with the following legal proceeding status(es):
    - Awaiting initial bail proceeding
    - In detention
    - Unable to afford set bail amount or provide surety
    - In detention as a result of appealing bail decision

Price/Funding:

- The Verification and Supervision program is provided through the collaboration of District Courts and Bail workers, which are often non-profit organizations. In Ontario, 13 non-profit organizations operate such services (Brown, 2013). Therefore the acquisition of funding varies by organization.
- Bail Supervision costs approximately 5 Canadian Dollars per day for each defendant compared to 184 Canadian dollars for incarceration (Ministry of the Attorney General, 2014).

Results:

- In the fiscal year 2011, 35 percent of the 12,772 accused individuals across the Province of Ontario were released to the Supervision of the Bail Program (Brown, 2013). Of those released, 3,066 were released on their own recognizance or as a result of a surety being found (Brown, 2013).
- Between the fiscal year of 2011 and 2012, 91 percent of all supervised defendants appeared for all court dates (Ministry of the Attorney General, 2014).

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Elizabeth Fry Society, (n.d). Bail Verification and Supervision Program. Retrieved from http://efrysudbury.com/programs/bailverification/

Ministry of the Attorney General, (2014). Successful Bail Program Comes to Kingston. Retrieved from https://news.ontario.ca/mag/en/2014/02/successful-bail-program-comes-to-kingston.html

5.Vivitrol Program (United States)

CRITERIA: Respects human rights, Affordable for country, Available to majority of accused with drug related offenses, Definable, Verifiable

Vivitrol, medically known as XR-NTX, is a controlled substance that is used for addiction treatment. The drug is administered to patients in the form of an injection shot and blocks opiate receptor sites in the brain (Rehabs.com, 2017). Vivitrol programs have positively reduced opiate dependence for patients in the community corrections field (Coviello et al, 2012).

Mechanism:

- Overall inmate patients' eligibility criteria for program participation (Gordon et al, 2005):
    - Adult male or female looking for pharmacological treatment with a diagnosis of opioid dependence but not currently addicted.
    - Capable of understanding/complying with protocols and signed informed consent sheet of participation.
    - Currently opioid free, verified through urine test drug test, and must possess no opioid withdrawal symptoms.
    - Must reside in near vicinity for at least 8 months after release
- Intervention method (Gordon et al, 2005):
    - One injection shot of XR-NTX is administered to patients per month for seven consecutive months. (One prior to release and six post release)

- The program requires a medical doctor, who will administer the injection, and the patient's consent (Fuchs, 2012).

Price/Funding:

- Each shot of Vivitrol costs approximately $1,200 (Fuchs, 2012).
- Washington County Health Department (Tabachnick, 2015):
    - Able to pay $523 per shot due to grants and purchasing power.

Results:

- A study found that patients who did not complete receiving all doses (seven injection shots) of XR-NTX were more likely to be re-incarcerated (Gordon et al, 2005).
- Washington County Health Department (Tabachnick, 2015).
    - The department reported, from the 83 patients receiving Vivitrol treatment during a time period of three and a half years, 81 patients were able to complete program.
- Los Angeles County Evaluation System:
    - Patients reduced the use of drugs significantly pre-post Vivitrol treatment (Crèvecoeur-MacPhail et al, 2012).

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6.Changing Lives Through Literature (United States)

CRITERIA: Respects human rights, Affordable, Available to the majority, Definable, Verifiable, Sustainable

Changing Lives Through Literature (CLTL) is a program developed through the close collaboration between the New England education and criminal justice sector (Massachusetts Court System, 2013). Recognizing the rehabilitative effects of bibliotherapy, the method of reading books for reducing anxiety and stress, Judge Robert Kane and English Professor Robert Waxler from University of Massachusetts Dartmouth implemented the program in 1991 (Trounstine, 2013). The program is versatile as nearly half of federal prisons already had librarians by 1940 (Schutt, 2004).

Objective (Massachusetts Court System, 2013):

- Allow probationers to utilize literature as a tool to understand what factors influence or trigger their behavior and ultimately enable them to make better life choices.

Target Population (UMASS, 2003):

The program is offered to a wide range of participants in addition to probationers. The program is precisely offered to the following groups:

- Probation Officers (PO): POs are the main actors that refer probationers to CLTL programs. They distribute simple reading tests to determine a probationer's literacy level and potential to succeed in the program. The POs attend the weekly sessions and read the same material as the probationers not only to be a model participant in the classroom, but also to build rapport with the probationers.
- Judges: Judges are recognized as a significant part of the CLTL program. Judges have full discretion to refer a probationer to a CLTL program as a method of alternative sentencing. In order to encourage and be a model participant, Judges take part in the CLTL programs as actively as their schedule allows. They often act as the facilitators in the classroom and actively interact with the probationers.
- Instructors: Instructors' main role in the classroom is to decide on the logistics and rules. Most instructors have affiliations with colleges or educational institutions. The instructor also participates in the classes and helps the participants focus on self-reflection through the selected literature.

Mechanism:

- Probationers participate in the program for duration of twelve to fourteen weeks in a college classroom setting, where probationers will read six to seven books (Trounstine, 2013).
- Probationers will attend a graduation ceremony after completing the program and be recognized for success (Trounstine, 2013).

Results:

- More than half (53 percent) of CLTL participants have not been arrested in the 18 months after completing the program, which was higher than the 36 percent of non-CLTL participant population (Massachusetts Court System, 2013).
- CLTL positively bonded the authorities and probationers by creating an environment of respect and understanding (Schutt, 2004). Four in five participating probationers felt that the program allowed them a chance to solve their problems (Schutt, 2004).

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Africa

1. Police Duty Solicitors Scheme – Nigeria

Criteria:

- ✓ It respects human rights
- ✓ It is available to the majority of accused
- ✓ It is definable: we know how the best practice works in context
- ✓ It is sustainable - it really works and it can self-subsist
- ✓ It should not result in profits for private entities, beyond reasonable salaries

The Police Duty Solicitors Scheme in Nigeria is the main part of Nigeria's Legal Aid Council and Open Society Justice Initiative joint project, which was initiated in 2004. The goal of this project was to reduce the amount of people who were held in pretrial detention in Nigeria. In 2006, Nigeria's Rights Enforcement and Public Law Centre (REPLACE) partnered with the previous two agencies in order to help implement the initiative. The Police Duty Solicitors Scheme initially placed Nigerian young lawyers in police precincts in four states: Sokoto, Ondo, Imo and Kaduna.

In 2011, two more states, Edo and Kebbi, were added. The job of the lawyers stationed in the police precincts was to gather basic pedigree information of arrestees and to inform them of their rights under the law. They are also able to assist with drafting bail applications, contacting family members and monitoring the cases as they went to court. Monitoring of court cases was aided by another part of the project known as the Criminal Justice Information Management System (CRIMSYS), which was a computer program that tracked the movement of cases in court, thus allowing the case to be monitored more easily. Arrestees who had access to a lawyer soon after their arrest were able to use the legal help provided to them to move their cases into court or to secure bail at a faster rate than before.

The success of the Police Duty Solicitors Scheme is described by the Open Society Foundation: from 2005 to 2010 the sixteen duty solicitors were able to remove 13886 people from pretrial detention in Nigerian police precincts and courts; 81% of the pretrial detainees were removed from police precincts. Their removal was a success because it indicated that the pretrial detainees' cases have moved forward in some way – they were either given a speedier trial or released with a newly negotiated bail. The lawyers working for Police Duty Solicitor Scheme are paid by REPLACE and some funding for expanding the scheme into new Nigerian states had been provided by the Swiss government. An independent review of the scheme was allegedly conducted; however, information about the results of the review and the identity of the reviewer is not available.

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Open Society Justice Initiative (2015). Lawyer at the Polce Station Door: How REPLACE Provides Legal Aid in Nigeria. Retrieved from https://www.opensocietyfoundations.org/sites/default/files/pretrial-justice-brochure-nigeria-20150316_0.pdf

2. Paralegal Advisory Service Institute (PAS) – Malawi

Criteria:

- ✓ It respects human rights
- ✓ It is available to the majority of accused
- ✓ It is definable: we know how the best practice works in context
- ✓ It is verifiable: more than one source attests to it
- ✓ It should not result in profits for private entities

The Malawi Paralegal Advisory Service Institute (PASI) by Penal Reform International (PRI) in May of 2000. PRI is an NGO registered in the Netherlands that aims to help prison populations worldwide. This program aimed to train and connect Malawi paralegals with the prison population in a country where lawyers were few and far in between. Paralegals were trained to have a familiarity with basic law and the ability to draft documents that could be used by prisoners in their court cases. They were given the resources that were necessary for their work: computers, printers, cellphones and motorbikes.

The paralegals work with individuals who are at different stages of their journey through the criminal justice system: this includes defendants who are in pre-trial detention and those who have already been found guilty of a crime and are appealing. The Malawi paralegals offer legal advice and often act as the prisoner's advocate. They provide information on the legal process and help facilitate communication between the detainee and the court system. Initially, the Malawi paralegals worked with inmates in the four main prisons in Malawi; eventually their work expanded to twenty-one prisons, eighteen police stations and eleven courts, effectively making a difference on a nationwide level. By 2003 the twenty-six paralegals working for PAS were able to interact with 84% of the prison population at the time. The success of the Malawi Paralegal Advisory Service Institute led to its replication in numerous other countries in Africa such as Sierra Leone, Uganda and Kenya. PASI has been independently evaluated by Fergus Kerrigan in 2002, Thomas Hansen in 2004 and Martin Pierce in 2007 in reports prepared for the Department of International Development (DFID).

The evaluations have been positive. The main factors that were identified as positive in the evaluations are the availability of legal services to individuals who would otherwise be deprived of them and the reduction of the prison pretrial population that the work of Malawi paralegals has facilitated. The DFID is a government agency, based in the United Kingdom, which initially funded PASI. It is based in the United Kingdom and is responsible for distributing international aid. PASI is currently moving into a co-operation agreement to be funded by the Legal Aid Fund. Clifford Msiska is national director of Paralegal Advisory Service in Malawi.

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3. The Pretrial Detainees' Justice and Life Skills Project (PDJLP) – Kenya *(under the Resources Oriented Development Initiatives - RODI, Kenya)*

Criteria:

- ✓ It respects human rights
- ✓ It is affordable for the country's budget
- ✓ It is available to the majority of accused
- ✓ It is definable: we know how the best practice works in context
- ✓ It is verifiable: more than one source attests to it
- ✓ It is sustainable - it really works and it can self-subsist
- ✓ It does not result in profits for private entities, beyond reasonable salaries

In 2015 the Pretrial Detainees' Justice and Life Skills Project (PDJLP was started in Kenya under the direction of the Resource Oriented Development Initiative (RODI). Formed in 1989, RODI was established as a community-based organization with several objectives designed to service rural areas. PDJLP works with RODI in areas of pretrial justice by developing a peer-educator model that focuses on building legal capacity for both detainees and prison officers. Peer educators receive legal training certificates related to the Kenyan Constitution, human rights, criminal law and criminal procedure law (Redpath, 2015).

PDJLP is based on an earlier successful program called the Pre-trial Detainees and Crime Prevention Project (PDCPP). The initial program focused on 6 regions throughout Kenya. Original funding came from the Foundation Open Society Institute (FOSI) and the Open Society Initiatives for Eastern Africa (OSIEA) (RODI Kenya). The PDJLP raises awareness for family members of detainees. Families are provided information on bond processes, legal procedures and alternative dispute resolution options which may also facilitate the detainee's return to the community (Redpath, 2015). The PDJLP also facilitates Court User Committees to build public awareness on legal issues in addition to life skills training and knowledge of sexual and reproductive health areas (Redpath, 2015).

In terms of oversight, the PDJLP includes prison visits by relevant criminal justice stakeholders (Redpath, 2015). Sustainability for the original program and subsequent PDJLP program will rely on knowledge gained by criminal justice personnel, NGO staff and pretrial detainees following their extensive training (RODI Kenya).

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4. Case Management System (CMS) – Malawi

Criteria:

- ✓ It respects human rights
- ✓ It is available to the majority of accused
- ✓ It is definable: we know how the best practice works in context
- ✓ It ensures public safety
- ✓ It is verifiable: more than one source attests to it

In 2016 Malawi's Judiciary launched a new computerized **Case Management System (CMS)**. The CMS aims to improve access to justice and transparency to the people in accordance with Malawi's constitutional time limits regarding detention (PPJ, 2015). Attorney General Kalekeni represented Malawi's Justice and Constitutional Affairs Ministry and presided over the launch in October 2016. The new computerized system will improve the efficiency in the judiciary because it "will make available all the necessary documents to judges without boundaries" as well as address issues of missing files (Phimbi, 2016).

According to Penal Reform International (PRI) "an effective system of file management is crucial to ensuring that cases do not get lost in the system" (2016). The project falls under Malawi's Ministry of Justice and is funded by the European Union (EU) Democratic Governance Programme. Research leading up to project launch was funded by the Open Society Foundations (PPJA, 2015). An improved case management flow system was borne from findings in a 2011 pre-trial audit showing failures in Malawi's criminal justice system. Areas for improvement focused on:

1) Standardizing its system of record-keeping
2) Improving compliance with the country's custody time limits *(Time Limits Poster)*
3) and addressing delays in caseload processing *(PPJA, 2015)*

Under the leadership of Dustain Mwaungulu of Malawi's Supreme Court, and in partnership with IT firm, Paraflow Communications, the project has implemented "one of the most advanced judicial systems on the planet" (MCS, 2016). In its first six months, the CMS supported 9,000 separate cases in the system, processed over 30,000 documents related to cases and is now operational in 5 major cities across the country (MCS, 2016). The project holds promise for its broad stakeholder engagement across society; the government (High Court and Supreme Court Judges), EU development partners (EU High Commissioner Marchel Germann and the EU "Good Governance Programme"), and direct involvement from the business community (Phimbi 2016).

Improving information flow through technological advances is an important aspect. "The CMS has also an SMS facility that sends texts to the complainants, defendants and lawyers involved in a particular case updating them of any progress made in the processing of the case file" (Kapasule, 2016). Mr. Mwaungulu reiterates the advantages stemming from an interactive exchange between the judiciary and Malawian citizens (Ndau, 2016). Highlighting that lawyers and individuals have access to information in real time with an ability to check on the status of a file from their phones (Ndau, 2016), marks clear improvement in the case management process.

At the program's inception, "the system currently covers the upper judiciary and the Director of Public Prosecutions interaction with the upper judiciary" with the hopes to eventually extend "the system to cover lower courts and to integrate the whole legal system, prisons and

legal practitioners" (Ndau, 2016). By the end of 2016, CMS had linked the Supreme Court, the four registries of the High Court and the office of the Director of Public Prosecutions with the EU delegation asking "that the Malawi Police Service and the Prison Service be connected to the system" (Kapasule, 2016).

With goals targeting case management, Malawian pretrial justice improvements are likely a direct effect from the 2010 Memo of Understanding signed between the Government of Malawi and Open Society Initiative for Southern Africa (OSISA). Focusing their audit on case-flow management and pretrial detention, the initiative highlighted the need for "practical ways in which the existing legislative and policy environment can be changed in order to promote the speedy disposal of cases, the increased use of diversion and alternative sentencing and improvement of prison condition in line with the UN Standard Minimum Rules for the Treatment of Prisoners". Positives aside, the CMS is relatively new presenting difficulties in finding current data on the effectives of CMS improvements. Nonetheless, the transfer to an electronic Case Management System in Malawi offers practical solutions to inefficiencies in the criminal justice system and corresponding pretrial detention failures.

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5. Community Service Orders (CSO) – Uganda

Criteria:

- ✓ It respects human rights
- ✓ It is affordable for the country's budget
- ✓ It is definable: we know how the best practice works in context
- ✓ It is verifiable: more than one source attests to it (it is not a recommendation - it really exists)
- ✓ It is sustainable - it really works and it can self-subsist
- ✓ It does not result in profits for private entities, beyond reasonable salaries

The Directorate of Community Service (DCS) in Uganda operates under the Ministry of Internal Affairs (MIA) to "promote Community Service Orders as a non-custodial sentencing option" (MIA). Community Service Orders provide a vehicle to address lesser offenses while alleviating an overburdened system. The DCS has a number of functions to minimize pressures on an overstretched criminal justice system (see functions noted below). Those awaiting trial are directly affected with "decongesting remand and correctional facilities" a central component of the Community Service option (Ministry of Internal Affairs).

According to a 2012 Penal Reform International Report, the original pilot for community service options was marked as successful and rolled out across the country after a couple of years. Piloted in the Ugandan districts of Mukono, Mpigi, Masaka and Masindi from November 2001, the programme would extend to all Ugandan districts "following a review of progress in 2004" (PRI, 2012).

The Center of International Legal Cooperation (CILC) and Penal Reform International are currently carrying out "tailor-made training for the Directorate of Community Service in Uganda" (CILC). The one-week training program took twenty staff from the Directorate of Community Service in Jinja (Eastern Uganda) in July 2016 where progress was made in the following areas:

1) Offered comparative approaches and international standards on community services
2) Gave participants an opportunity to propose solutions in the context of Uganda
3) Included a field visit to the High Court and Jinja prison facilities. (CILC)

Though challenges remain, community service options offer viable restorative justice opportunities via informal and formal mechanisms; peer volunteers and the judiciary respectively. In the courts, "improved communication with the judiciary and other stakeholders should be given priority" in order to spur the judiciary to issue community service orders (CILC). The training program was funded through an EP-Nuffic Grant and encourages alternative approaches to reduce delays and detention.

Functions of the Directorate of Community Service:

- *Rehabilitation and reintegration of eligible offenders*
- *Tracking compliance to community service orders*
- *Decongesting remand and correctional facilities*
- *Training and needs assessment for development and implementation of community service.*
- *Advocacy*

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6. Quick Wins Reduction Programme – Uganda

Criteria:

- ✓ It respects human rights
- ✓ It is affordable for the country's budget
- ✓ It is available to the majority of accused
- ✓ It is definable: we know how the best practice works in context
- ✓ It is verifiable: more than one source attests to it (it is not a recommendation - it really exists)
- ✓ It is sustainable - it really works and it can self-subsist
- ✓ It does not result in profits for private entities, beyond reasonable salaries

The Quick Wins Backlog Reduction Programme in Uganda was launched in March 2010. Chief Justice Odoki directed the launch with the Justice Law and Order Sector (JLOS) (Kuhimbisa, 2010). JLOS coordinates multiple institutions in a sector-wide approach and brings "together institutions with closely linked mandates of administering justice and maintaining law and order and human rights, into developing a common vision, policy framework, unified on objectives and plan over the medium term" (JLOS history).

The Quick Wins Backlog Reduction Programme targeted 18,400 old cases in the immediate term. Its long-term objectives aimed to "decongest prisons, expedite the adjudication of disputes and generally improve the legal environment" (Case Backlog Reduction Programme, CBRP). Through the programme's "targeted and intensified hearing of cases, reduction of prisoners on remand has gone from 29 months to 15.1 months (CBRP). In the Upper Maximum Prison, "the convict-remand ratio improved from 50:50 to 53:47 – the first time in 28 years (CBRP). The Quick Wins Programme under JLOS incorporated a holistic approach across the justice sector to reach success in several areas:

- In the judiciary, judges increased the number of cases they heard from 30 to 50
- The Uganda Police Force "weeded out 75,903 cases from the system"
- The Court of Appeal moved beyond the city of Kampala – Uganda's capital and largest city – into Mbarara and Gulu
- The Uganda Human Rights Commission "completed 82 cases and 412 investigations"
- The programme also revived quality assurance in case management

(Case backlog Reduction Programme – CBRP)

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7. Legal Aid Act, 2012 – Sierra Leone

Criteria:

- ✓ It respects human rights
- ✓ It is affordable for the country's budget
- ✓ It is available to the majority of accused
- ✓ It ensures public safety: no further crime or victimization occurs upon release from detention
- ✓ It is verifiable: more than one source attests to it (it is not a recommendation - it really exists)
- ✓ It is sustainable - it really works and it can self-subsist
- ✓ It does not result in profits for private entities, beyond reasonable salaries

The Legal Aid Act, 2012 *- Being an Act to provide for the establishment of the Legal Aid Board, to provide accessible, affordable, credible and sustainable legal aid services to indigent persons and for other related matters. Enacted in Sierra Leone by the President and Members of Parliament in this present Parliament assembled.*

Described as one of the "most progressive legal aid laws in Africa", Sierra Leone's parliament took a highly "innovative approach to providing access to justice for all" (Conteh, 2012). The law provides expanding the role of paralegals across the criminal justice system and offers the country's first legal aid system (Conteh, 2012). The law expands on the successful 'Timap for Justice' model designed by the NGO in 2004, where paralegals explain the "bail process and aids the inmate in launching a new application for the court bail" (PRI, n.d.). The reach of the paralegal program further supports efforts in "education, mediation, organizing and advocacy" across local communities (Conteh, 2012).

The original Timap for Justice model, developed with support from the Open Society Foundations, was successfully scaled up across the country in 2009 (Conteh, 2012). With the passing of the 2012 law, the Sierra Leone government codifies legal aid initiatives towards delivering access to its citizens. The law explicitly recognizes several important components in strengthening access to justice by:

- providing that paralegals are to be deployed in each of Sierra Leone's 149 chiefdoms
- ensuring a flexible and cost effective method of delivering justice services to large parts of the population across the country
- endorsing university law clinics, civil society organisations and non-governmental organisations, alongside legal practitioners, as providers of legal aid services (Conteh, 2012)

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8. The Chain Link Initiative: Justice, Law and Order Sector (JLOS) – Uganda

Criteria:

- ✓ It respects human rights
- ✓ It is affordable for the country's budget
- ✓ It is available to the majority of accused
- ✓ It is definable: we know how the best practice works in context
- ✓ It is verifiable: more than one source attests to it (it is not a recommendation - it really exists)
- ✓ It is sustainable - it really works and it can self-subsist
- ✓ It does not result in profits for private entities, beyond reasonable salaries

The Chain Link Initiative in Uganda focuses on inter-agency cooperation, improved communication and greater coordination (PRI). Piloted in Masaka Ministerial district in Uganda, it "paved the way" for a coordinated and holistic approach in planning and budgeting the justice sector. The Chain Link Initiative focuses on the notion that "justice agencies were all part of the same chain that makes up the administration of justice process" (PRI). The initiative culminated in Uganda's Justice Law and Order Sector (JLOS), an innovative project started in 1999 focused on "on improving the administration of justice, maintenance or law and order as well as the promotion, protection and respect of human rights" (JLOS Operating Guidelines). The first of its kind in Africa, JLOS coordinates a multi-agency effort to advance its goals through cooperation among numerous institutions. Participating agencies include:

- The Ministry of Justice and Constitutional Affairs (MOJCA)
- Ministry of Internal Affairs (MIA)
- The Judiciary
- Uganda Police Force (UPF)
- Uganda Prison Service (UPS)
- Directorate of Public Prosecutions (DPP)
- Judicial Service Commission (JSC)
- The Ministry of Local Government (Local Council Courts)
- The Ministry of Gender, Labor and Social Development (Probation and Juvenile Justice)
- The Uganda Law Reform Commission (ULRC)
- The Uganda Human Rights Commission (UHRC)
- The Law Development Centre (LDC)
- The Tax Appeals Tribunal (TAT);
- The Uganda Law Society (ULS)
- Centre for Arbitration and Dispute Resolution (CADER)
- and The Uganda Registration Services Bureau (URSB)" *(JLOS History)*

Since implementation, JLOS has been successful in a number of areas; case disposal has increased from 12% of cases to 48%; Prison congestion has decreased from 500% occupation to 214% in 2011, Recorded crime rate has reduced from 502 per 100000 reduced to 302 per 100000; Conviction rate has increased from 22% to 53% in 2012; public confidence in the criminal justice system has increased from 21% in 2005 to 60% in 2012; average length of stay on remand has

come down from 5 years to under a year in 2012; proportion of the population in pretrial detention has decreased from 70% to 53% (PPJA).

The JLOS Strategic Investment Plan (SIP) focuses on three deliverables: a) Strengthening policy and legal framework b) Enhancing public access to JLOS services; and c) Promoting observance of human rights and accountability" (see JLOS Guidelines). The JLOS Strategic Investment Plan (SIP III) (2012/2013-2016/2017) was launched in March 2012. This third SIP instalment "builds on the sector wide approach adopted by the Government in 1999" (Kuhimbisa, 2012). The JLOS SIP III is supported by the Ugandan government and "development partners including Ireland, Netherlands, Denmark, and United Nations Agencies" (Kuhimbisa, 2012). The JLOS SIP III serves as a mechanism to assess the performance of its institutions, promotion of law, and access to justice (JLOS SIP III Promotional video).

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9. The Legal Assistance and Reform Intervention – Liberia

Criteria:

- ✓ It respects human rights
- ✓ It is available to the majority of accused
- ✓ It is definable: we know how the best practice works in context
- ✓ It ensures public safety: no further crime or victimization occurs upon release from detention
- ✓ It is sustainable - it really works and it can self-subsist

Liberia's legal assistance and reform intervention began in 2009. Following a second Civil War in 2003, Liberia experienced systemic weaknesses in the criminal justice system. Corruption, a lack of transparency and poor case management flow undermined the system. Though the Liberian Constitution establishes legal representation as a basic right, too few detainees had any access to a limited number of public defenders (in 2014 only 30 public defenders were on hand) (Redpath, 2015).

Legal aid assistance and civil society organizations took steps to address to address the shortage in legal aid and systemic weaknesses across the system. The intervention developed as a partnership among the American Bar Association Rule of Law Initiative (ABA ROLI) and two civil society groups in Liberia; the Prison Fellowship Liberia (PFL) and the Catholic Justice and Peace Commission (JPC). The partnership focused on alleviating pre-trial detention pressures and prison overcrowding in Monrovia Central Prison (Redpath, 2015). Intervention is aimed at providing legal aid, prison monitoring and dispute resolution. The intervention established a Taskforce which coordinated a multi-agency effort. The Taskforce brought together civil society representatives, international actors, and representatives from the Liberian Justice and Security sectors (Redpath, 2015). The focus of the Intervention utilizes legal aid and mediation options. A central component of the Intervention uses the Magistrate Sitting Programme in Monrovia Central Prison designed to process detainees who have been held for long periods of time.

Together, PFL paralegals and JPC lawyers prioritize cases and facilitate hearings at the Prison. For individuals charged with lesser offenses, PFL Paralegals also provide ***"Tok Palaver"*** – or informal dispute resolution – which helps with dismissal of charges and reintegration (Redpath, 2015). In these cases, paralegals assist with having the parties consent to a written settlement, which the court can use as grounds for dismissal. These efforts offer efficient alternatives to freeing up burdens during pretrial justice in addition to removing the negative labeling during the reintegration process. In this respect, the legal aid and assistance improvements in Liberia's offer a holistic approach for post-conflict societies in particular and for broader criminal justice reform initiatives.

References:

Redpath, J. (2015). *African Innovations in Pre-trial Justice.* Civil Society Prison Reform Initiative of the Dullah Omar Institute.

10. Settlement through Mediation – Democratic Republic of Congo

Criteria:

- ✓ It respects human rights
- ✓ It is affordable for the country's budget
- ✓ It is definable: we know how the best practice works in context
- ✓ It is sustainable - it really works and it can self-subsist
- ✓ It does not result in profits for private entities, beyond reasonable salaries

For the Democratic Republic of Congo (DRC), war in the eastern provinces undermined capacity for a formal criminal justice system according to a Penal Reform international report in 2006 (PRI, 2006). In the province of South Kivu, for example, there were 40 lawyers and 2 courts serving a population of 1 million people (PRI, 2006). According to the 2006 PRI report, most people seek justice and dispute resolution through local chiefs and elders but these paths of justice are similarly undermined by corrupt practices and displacement of communities. To promote justice in these areas, local NGOS and faith organizations have established mediation and defense committees (Comites de Mediation et Defense) to promote human rights training, mediation skills and information on basic laws (PRI, 2006). They coordinate efforts with other Christian, Moslem and Bah'I groups to extend training outreach. At the time of the report, settlement through mediation efforts facilitated the processing of 250 cases and registering 2,300 dossiers (PRI, 2006).

In addition to the NGO, Heritiers de la Justice, the Commission for Justice and Peace of the Catholic Church are also present to provide legal assistance. According to the report, costs are kept down by recruiting and training local people, who are incentivized by prestige gained in servicing the community (PRI, 2006). With incentives built in to encourage local participation, this type of mediation settlement offers true justice alternatives for rural and local communities. For war-torn areas in developing countries, mediation efforts are likely a cornerstone of capacity building in terms of criminal justice systems and pre-trial detention alternatives.

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11. Forum Theatre Techniques – (Malawi)

Criteria:

- ✓ It respects human rights
- ✓ It is affordable for the country's budget
- ✓ It is verifiable: more than one source attests to it (it is not a recommendation - it really exists)
- ✓ It is sustainable - it really works and it can self-subsist
- ✓ It does not result in profits for private entities, beyond reasonable salaries

Both developed and developing countries have adopted forum theatre techniques based on the work of Brazilian dramatist, Augusto Boal (PRI, 2006). Initially, the work was carried out with oppressed groups in Latin America, where people "act out theatre derived from the experience of the participant" oppression.

The Malawian arts organization *Nanzikambe*, has successfully developed Paralegal Aid Clinics (PLCs) in prisons, where individuals have daily access and people can attend to "learn how to apply the law in their own cause" giving over 45,000 Malawian prisoners access (PRI, 2006). Prisoners have a better understanding as "legal concepts and principles of justice are physicalized" giving people more knowledge and preparation for their appearance in court and interaction with the system.

The program in Malawi led to the release of 2,500 people and has since been applied in both Kenya and Uganda. More research would need to be done on whether there was a direct effect on pre-trial detention reduction. Nonetheless, the Malawi Forum Theatre techniques have proven themselves successful, influenced other countries and communities to implement such techniques, and offer creative solutions for in the alternatives for justice space.

References:

Penal Reform International (PRI). (February 2006). *Index of Good Practices in Providing Legal Aid Services in the Criminal Justice System, version 2.*

Europe

1. Type: Legislation - "Remand in Custody Pending Trial"
Country: Portugal
Title: Portuguese Code of Criminal Procedure Amendment no. 48 (29 August 2007)

This alternative respects human rights, is affordable for the country's budget, is available to the majority of accused (of the included crimes), is definable, is verifiable, is sustainable, and should not result in private profits.

The Portuguese Code of Criminal Procedure Amendment no. 48 (29 August 2007) is national and went into force on September 15th of 2007 (van Kalmthout, Knapen, Morgenstern, 2009, p. 1). The components making Amendment no. 48, Article 202 "Remand in Custody Pending Trial" a best practice is; pretrial detention is used as a last resort (van Kalmthout et al., 2009, p. 8); it has decreased the number of offences for which pretrial detention may be ordered; it is only applied for crimes punishable by imprisonment of five years or more, replacing the previous requirement of at least three years imprisonment. The exceptions to this rule are for crimes such as terrorism, violent acts (aggravated theft, fraud, bodily injury, with prohibited weapon and with intent), or highly organized crime, which still recognizes the punishment of at least three years imprisonment (Code of Criminal Procedure Portugal art. 202, p. 23).

This change in Portugal's legislation was sparked by criticism of the lengthy and excessive use of pretrial detentions in the country (van Kalmthout et al., 2009, p. 1). This amendment affects all the people who are accused of committing less serious offenses. According to the US Department of State (2016), lengthy pretrial detentions in Portugal remains, however, the number of people held in pretrial detention has decreased from the previous year (p. 5). The World Prison Brief (2017) reports that in 2005, 23.6% of the prison population in Portugal consisted of pretrial detainees. In 2015, it had decreased to 16.3%, and in 2017, to 15.1%.

In September of 2016, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Portugal to assess the progress since its previous visit in 2013 (Council of Europe, 2016). The findings, i.e. the progress of decreasing the number of people being placed in pretrial detention are pending until the publication of its official report.

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Council of Europe. (November 10, 2016). The CPT visits Portugal. Retrieved from http://www.coe.int/hr/web/cpt/-/cpt-visits-portugal

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World Prison Brief. (2017). Portugal pre-trial/remand prison population: trend. Retrieved from http://www.prisonstudies.org/country/portugal

2. Type: Legislation - "Arrest and Detention"
Country: Sweden
Title: The Swedish Code of Judicial Procedure Chapter 24

This alternative respects human rights, is affordable for the country's budget, is available to the majority of accused, is definable, is verifiable, is sustainable, and should not result in private profits.

The Court in Sweden makes the decision on whether or not to place an accused person into pre-trial detention. The person must be accused of a crime with a punishment of 1 year or more in prison (Polisen, 2016, & van Kalmthout et al., 2009, p. 916-917). Of those placed in pretrial detention, approximately 50% are held longer than one month (Brottsförebyggande rådet, 2017, p. 17).

The Swedish Code of Judicial Procedure Chapter 24 "Arrest and Detention" requires an indictment to be made by the prosecutor within 14 days from the starting date of detention (Polisen, 2016; Sveriges Riksdag, 2016). If an indictment is not initiated within two weeks, Chapter 24 further requires detention hearings within a maximum of every two weeks until the prosecution is initiated or detention has been lifted. Pre-trial detention ends once a prosecution is initiated. Time extension can be allowed at the discretion of the court, i.e. if there is evidence that the circumstances provide no purpose for hearings every two weeks (Polisen, 2016; Sveriges Riksdag, 2016, & van Kalmthout et al., 2009, p. 913-915).

These regulations constitute a best practice because they provide; a speedy process (every two weeks) for those who are detained; legal review of probable cause for detention on a regular basis (every two weeks); constant progress updates (every two weeks) of the current state of the investigation. This promotes transparency and is beneficial for all parties involved (suspects, relatives, defense, prosecutor, and the court etc.). In addition, these regulations allow reconsideration of detention at any time, either on the initiative of either party or the court (van Kalmthout et al., 2009, p. 918). In 2015, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reported that there were no violations of time limits for police custody in Sweden during its visits.

The Swedish authorities reported a decrease in both pretrial and prison population from the previous visit in 2009, primarily as a result of sentencing alterations in courts, early release and alternatives to detention (Council of Europe, 2016, p. 14 & 28). Furthermore, it was reported that in 2015, 9,000 people were placed in pretrial detention in contrast to 11,200 people in 2010 (Brottsförebyggande rådet, 2017, p. 42). According to the World Prison Brief (2017), the pretrial detention population in Sweden decreased from 24.4% of the total prison population in 2010 to 23.8% in 2015.

Lastly, an accused person is legally entitled to monetary compensation from the Swedish State if they were detained longer than 24 hours if a prosecution was not initiated, or the accused was deemed not guilty (van Kalmthout et al., 2009, p. 920).

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World Prison Brief. (2017). Sweden pre-trial/remand prison population: Trend. Retrieved from http://www.prisonstudies.org/country/sweden

3. Type: Legislation – "Free Legal Aid"
Country: Ukraine
Title: Law of Ukraine on Free Legal Aid

This alternative respects human rights, is available to the majority of accused, is definable, is verifiable, is sustainable, and should not result in private profits.

Ukraine adopted the right to legal aid for its citizens in 1996. In 2011, Ukraine further adopted the amendment guaranteeing the right to free legal aid, which created a system that could, after 15 years, provide it for free to its citizens. In addition, since 2013, 70,000 accused or convicted people have annually benefitted from the creation of the free legal aid in regional centers across Ukraine. Since 2015, another 100 local centers have been established, with plans of creating additional 400 centers in villages and smaller towns (Coordinating Centre for Legal Aid, 2016, p. 4). It is paid from public funds (Council of Europe, 2016, p. 11). This best practice is part of the Council of Europe's project "Continued Support to the Criminal Justice Reform in Ukraine" funded by the Danish government. It involves both civil society and Ukrainian criminal justice institutions (Council of Europe, 2016). It was assessed by the Council of Europe in September of 2016.

Approximately, 5,000 independent, licensed lawyers or members of the Bar currently collaborate with these centers to provide pro bono legal aid (Coordinating Centre for Legal Aid, 2016, p. 4; Council of Europe, 2016). For a lawyer to become a part of the Registry of Lawyers Providing Free Secondary Legal Aid, they need to go through extensive procedures including tests and interviews with selection commission consisting of representatives from the Ministry of Justice, the Free Legal Aid system, the Bar, judiciary and civil society (Council of Europe, 2016, p. 9)

This constitutes a best practice because it provides free legal aid nationally; is benefitting vulnerable and remote populations; contributes to providing equal opportunity to all citizens; is assessed by the Council of Europe and involves civil society in the process. This best practice is imperative in assisting with a reduction of pretrial detention populations, and it does so by promoting transparency, equal and free access to legal aid, increase the likelihood of being informed of one's legal rights and different alternatives to detention one might be eligible for.

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http://www.legalaid.gov.ua/en/
http://qala.org.ua/wp-content/uploads/2016/04/Angl.pdf
http://www.legalaid.gov.ua/images/docs/FSLA%20Assessment%20Report.pdf.pdf

http://www.coe.int/en/web/kyiv/support-to-the-criminal-justice-reform-in-ukraine
http://www.coe.int/en/web/criminal-justice-reform
https://www.opensocietyfoundations.org/sites/default/files/Justice_Initiati.pdf

4. Type: Awareness & Regional Collaboration & Reform
Country: Belgium
Title: Fair Trials Europe's Pre-trial Detention & Legal Experts Advisory Panel Projects

This alternative respects human rights, is affordable for the country's budget, is available to the majority of accused, is definable, is verifiable, and is sustainable.

Fair Trials International is a human rights organization that is based out of London in the United Kingdom. It founded Fair Trials Europe in 2014, which is located in Bruxelles, Belgium. They are independent, non-profit, and non-political. The organization receives funding from grants and donations. Their mission is "to work for fair trials according to internationally-recognised standards of justice" (Fair Trials, 2017). This organization constitute a best practice in Europe because they raise awareness about the usage of pretrial detention in practice across the EU, provide legal training to human rights experts and lawyer and have established a regional collaboration of professionals, and their work "helps people to understand and defend their rights, fights the underlying causes of unfair trials, and is building an international network of fair trial defenders" (Fair Trials, 2017).

Since 2014, Fair Trials have a project on pretrial detention in the EU. For example, they aim to reform the pretrial detention system and establish guaranteed access to legal representation for suspects at all stages of the criminal process, among other things. They continuously conduct evidence-based research on the usage of pretrial detention in Europe and identify best practices, alternatives to detention, develop initiatives to reduce excessive use of detention and lobby for implementation of new policies. This project demonstrates how pretrial detention is used in practice across the EU. They have published several reports such as i.e. "Detained without Trial" in 2011, "Stockholm's Sunset: New Horizons for Justice in Europe" in 2014, and on May 26, 2016, they published a policy report "A Measure of Last Resort? The Practice of Pre-trial Detention Decision Making in the EU". It was produced with the financial support of the Criminal Justice Programme of the European Union and was based on a 2-year research. It is founded upon a partnership of contributing members from 10 EU Member States, which discusses the existing practices of pretrial detention and decision-making across the featured member states. Fair Trials have additional projects on; extradition reform; EU defence rights; the disappearing trial; and INTERPOL.

Furthermore, they are coordinating a network across the European Union called the Legal Experts Advisory Panel (LEAP). It consists of 120 criminal justice and human rights experts such as lawyers, NGOs, and academics representing all 28 EU Member States. They have an advisory board, an annual conference, provide legal training to lawyers both in-person and online, offer developed toolkits on topics such as using EU law in criminal practice, right to information in criminal proceedings directive, interpretation and translation directive, and access to a lawyer directive, and additional courses online, and country specific training. They are partners with Human Rights Monitoring Institute in Lithuania, University of the West of England, Hungarian Helsinki Committee in Hungary, the Irish Penal Reform Trust in Ireland, Leiden University in the Netherlands, the Polish Helsinki committee in Poland, APDHE in Spain, the Association for the Defence of Human Rights in Romania, The Centre for European Constitutional Law – Themistocles and Dimitris Tsatsos Foundation (CECL) in Greece, the

Associazione Antigone in Italy, and the OpenGov Hub in Washington D.C., and is recognized by the European Union.

Links:
https://www.fairtrials.org/
https://www.fairtrials.org/campaigns/pre-trial-detention/
https://www.fairtrials.org/wp-content/uploads/A-Measure-of-Last-Resort-Full-Version.pdf
https://www.fairtrials.org/fair-trials-defenders/legal-experts/
https://www.fairtrials.org/wp-content/uploads/Fair-Trials-Case-for-Support.pdf
https://www.youtube.com/watch?v=zBlzWn7psTY

5. Type: Mediation as an Alternative Dispute Resolution (ADR)
Country: Finland
Title: The Finland Act on Conciliation in Criminal and Certain Civil Case (1015/2005)

This alternative respects human rights, is available to the majority of accused (who commits a specific type of crime), is definable, ensures public safety, is verifiable, and is sustainable.

Mediation is an alternative dispute resolution (ADR) measure, whereby a mediator assists those involved in a dispute to reach an agreement. The Act on Conciliation in Criminal and Certain Civil Case (1015/2005), 2006 requires mediation to cover the whole of Finland. As a result, mediation has been presented throughout the country. It is interesting to note that both the Council of Europe and the United Nations have been interested in this measure, especially in the concept of 'restorative justice' (van Kalmthout et al., 2009, p. 13).

The purpose of mediation is to help parties to a dispute to find a solution that is acceptable to both parties. It provides an opportunity for the parties to meet each other in the presence of an independent mediator to discuss the mental and material harm caused to the victim and agree on a measure to redress the harm (Act 1015/ 2005).

This alternative is considered a best practice to pretrial detention because of three main reasons. First, it involves lower costs than a trial for the parties concerned. Each party pays only his or her own costs and is not obliged to pay the costs of the opponent (The European E-Justice Portal, 2017). Second, instead of arrest or detention, a person suspected of an offense in a criminal case is given an opportunity to meet and discuss with another party confidentially and try to solve the problem beforehand. Third, since mediation is enforced throughout the country, it reaffirms that all Finnish citizens have equal opportunity to resort to mediation in terms of equity and of legal protection.

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Links:

Act on Conciliation in Criminal and Certain Civil Case (English version) available at (1015/2005))http://www.finlex.fi/fi/laki/kaannokset/2005/en20051015.pdf
Brochure on mediation available at https://oikeus.fi/en/index/esitteet/riidansovittelutuomioistuimessa.html
Information on mediation in Finland available at https://www.thl.fi/fi/palvelut-ja-asiointi/valtion-sosiaali-ja-terveydenhuollon-erityispalvelut/rikos-ja-riita-asioiden-sovittelu

6. Type: Judicial Hearing – Legal Aid
Country: United Kingdom
Title: The Legal Aid Agency

This alternative respects human rights, is affordable for the country's budget, is definable, is verifiable, and is sustainable.

The Legal Aid Agency is an executive agency, sponsored by the Ministry of Justice in the United Kingdom. It was created in April of 2013. Their staff consists of approximately 1,450 people who provide legal aid and advice in their head office in London, and in offices in towns across the UK. It is a best practice because; it benefits approximately two million people annually; covers both criminal and civil cases; they will provide legal aid automatically for individuals under the age of 16 years old, or 18 years if the person is enrolled in full-time study; have an emergency legal representation option and they also offer legal aid or advice such as getting documents translated if a person were to experience legal issues while abroad (Government of United Kingdom, 2017).

Before a person can receive legal aid, they have to demonstrate that; they cannot afford to pay the legal fees, the case is eligible for legal aid, and the case is serious. Additional best practice conditions include potential free aid if; the accused or victim is at risk of serious abuse or harm; experience homelessness; facing discrimination; the case is eligible under the Human Rights Act or they are in need of family mediation (Government of United Kingdom, 2017). In addition, their services range from free to partial cost for advice on rights, options, negotiations etc. They can provide information at the police station via telephone, police custody officer, legal adviser or police station duty solicitor, as well as speak on behalf of their client in court. They also refer people to local organizations like i.e. the Law Centres Network and Citizens Advice (Government of United Kingdom, 2017).

This best practice is imperative in assisting with a reduction of pretrial detention populations. It is sponsored by the Ministry of Justice, provides legal aid in criminal cases, which will directly promote judicial transparency, provide equal and free access to legal aid, especially to vulnerable populations that might have a higher likelihood of ending up in pretrial detention without legal representation. Providing legal aid will also increase the likelihood of individuals being informed of their legal rights and different alternatives to detention that they might be eligible for, and therefore, directly assists with reducing pretrial detention.

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http://www.advicenow.org.uk/

http://www.lawcentres.org.uk/
https://www.gov.uk/legal-aid/legal-problems-abroad

7. Type: Arrest
Country: Ireland
Title: The Ireland Bail Act, 1997 ("Station Bail" and "Court Bail")

This alternative respects human rights, is available to the majority of accused (committing a specific crime), is definable, is verifiable, and is sustainable.

The Ireland Bail Act, 1997 provides criteria and certain circumstances for the court to grant bail. The bottom-line element of bail is the use of detention as a last resort, in which liberty should not be deprived of the accused person. Persons in custody may apply for release on bail both at the police station (called 'station bail') and in court (called 'court bail'). When granted bail, the suspected offender or the surety must pay into court at least one-third of the amount of money promised in the bail bond. If the suspected offender appears in court as promised, this money will be returned.

According to Section 2 of the Bail Act, 1997, where an application for bail is made by a person charged with a criminal offense, the court may refuse the application for bail if such refusal is reasonably considered necessary to prevent that person to commit a serious offense. Besides, the court can take into account the severity of the punishment, the prospect of a reasonably speedy case, the commission of a serious offense, and so on to refuse bail.

This alternative allows the bailing proceed to be done at the police station; as a result, it reduces the workload at the court and saves time.

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Links:
The Ireland Bail Act, 1997 available at
http://www.irishstatutebook.ie/eli/1997/act/16/enacted/en/html

8. Type: Community Service
Country: Finland
Title: Finland Alternative Sanction (Article 2, para 4)

This alternative respects human rights, is affordable for the country's budget, is available to the majority of accused (who commits a specific type of crime), is definable, is verifiable, and is sustainable.

In Finland, introducing community service was related to prison overcrowding and the inadequate "intermediate" penalties between fines and imprisonment (Lappi-Seppala, 2008, p. 41). This alternative took place first on an experimental basis in 1991 before it became a standard part of the Finnish system of sanctions for the entire country and community in 1994 (Lappi-Seppala, 2008, p. 11).

Community service may be imposed for unconditional imprisonment when the sentence does not exceed eight months. The court may drive the sentence into community service owing to: first, the convicted person's consent, second, the offender's capability of carrying out the community service order, and third, considering the prevention to the use of this approach based on recidivism and prior conviction (Lappi-Seppala, 2011, pp. 239-243). The duration of community service varies from 20 and 200 hours. In practice, the length of service depends on the original sentence of imprisonment. One day in prison equals one hour of community service. Hence, two months of a custodial sentence should be commuted to roughly 60 hours of community service (Lappi-Seppala, 2008, p. 41).

Community service comprises of regular, unpaid work carried out under supervision. While the municipal sector provides approximately half of the service places, 40% were provided by non-profit organizations and 10% by perishes. The major offense in Finland for which community service has been imposed is mainly drunken driving (over one-half of the community service orders) (Lappi-Seppala, 2008, p. 42). If the convicted offender violates the condition of the community service, he or she will be imposed a new unconditional sentence of imprisonment.

Apart from Finland, community service is being used in many Scandinavian countries such as Denmark (the first country to start with this alternative in 1982), Norway, and Sweden. However, community service became more popular in a short period of time and has been more successful in replacing prison sentences in Finland than elsewhere in Scandinavia (Lappi-Seppala, 2008, pp. 40-41). Research assessing the effectiveness of this measure reveals that community service has proven to be an effective and wildly used alternative to unconditional imprisonment and reducing recidivism (Finland Ministry of Justice, 2011, p. 3; Lappi-Seppala, 2008, pp. 42-44). It also strengthens positive contact with work life, creates self-control over substance abuse, and preserves family ties.

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Links:

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Imprisonment and Penal Policy in Finland available at http://www.scandinavianlaw.se/pdf/54-17.pdf

9. Type: Electronic Monitoring (EM)
Country: Finland
Title: Release with Mobile-Control (Probationary Liberty under Supervision)

This alternative respects human rights, is affordable for the country's budget, is definable, is verifiable, and is sustainable.

Release with Mobile-Control is part of the new form of early release program called "Probationary Liberty under Supervision" and is operated by using Electronic Monitoring (EM) Lappi-Seppala, 2007, p. 248). However, Finland has developed this technique that makes it different from that in most countries.

This program was released in 2006 under the New Finnish Prison law and originally designed for long term prisoners who need more support and more intensive programs. What makes the Release with Mobile-Control different from the usual EM techniques is that instead of attaching the offender's ankle with bracelets, each offender is given a mobile phone with a GPS detection system (Lappi-Seppala, 2008, p. 49).

In practice, the offender is required to make regular calls to the prison administration officer. By doing so, this technique enables the officer to track the location of the offender's whereabouts. In turn, the prison officer is also required to make random calls with similar results.

According to Lappi-Seppala, 2008, this technique is unique and is reported to be used in Finland; thus we have not found whether it has been exported elsewhere. However, this method is considered the best practice because it is less stigmatizing and greatly cheaper than the original EM techniques (Lappi-Seppala, 2007, p. 262; Lappi-Seppala, 2008, p. 49).

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Links:
Further information see Bra˚-rapporter. (2005). Electronic Tagging in Sweden—Report from a Trial Project Conducted between 2001 and 2004. 2005:8. Stockholm: Bra˚.

10. Type: Alternative Detention - Electronic Monitoring
Country: Sweden
Title: Intensive Supervision with Electronic Monitoring

This alternative respects human rights, is affordable for the country's budget, is definable, is verifiable, and is sustainable.

Electronic monitoring was introduced in Sweden in 1994. It became the first national implementation in Europe in 1996 (Nellis & Bungerfeldt, 2013, p. 278). Today electronic monitoring is administered by the Swedish Probation Service (Kriminalvarden, 2017). Individuals who have been sentenced to imprisonment for a maximum of six months can apply for the option of serving their sentence in their home through electronic monitoring in the form of an ankle bracelet (Kriminalvarden, 2017). To be eligible, the offender is required to have employment, or undertake study, or another activity, have housing with the approval of fellow residents if eligible. In addition, they must participate in personal change and treatment programs assigned by the Probation Service where issues such as crime and drug abuse are discussed (Kriminalvarden, 2017, Nellis & Bungerfeldt, 2013, p. 283).

The Swedish usage of electronic monitoring is a best practice because it allows the offender to not be detained for less serious offenses with sentences of less than six months imprisonment which allows them liberty, to be a part of society while having a curfew. They have to maintain employment or education simultaneously as serving their sentence. There is an absolute alcohol- and drug prohibition. Inspectors have the right to make surprise home visits for drug testing purposes (Kriminalvarden, 2017). These rules will promote rehabilitation by requiring abstinence from drugs and alcohol and employment or study. If the offender violates the rules or use alcohol or drugs, the program will end immediately and they will have to serve the remaining sentence in prison. Lastly, the offenders normally have to pay a daily fee towards the Victim Compensation fund (Swedish: Brottsoffermyndigheten) which is a Swedish government agency. The fee is 80 SEK per day (Kriminalvarden, 2017), which is equivalent to approximately $9.

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http://www.cep-probation.org/wp-content/uploads/2015/03/Workshop-G-Workshop-Jan-Bungerfeldt.pdf

11. Type: Fine
Country: Finland
Title: Day-Fine System

This alternative respects human rights, is affordable for the country's budget, is definable, is verifiable, and is sustainable.

The Day-fine system was adopted nationally in Finland in 1921 and, later, was reformed in 1999. The main objective of this system is to ensure equal severity of the fine for offenders of different income and wealth (Lappi-Seppala, 2008, p. 28). In practice, the seriousness of the offense defines the 'number' of day-fines and the offender's financial situation determines the 'amount' of a day-fine. The amount of the day-fine equals roughly half of the offender's daily income after taxes. The day-fine is charged only once per crime (Lappi-Seppala, 2008, p. 28).

For example, the drunken driving day-fines would be around 40 day-fines. For someone who earns EUR 1,500 per month, the amount of day-fine would be EUR 20. The day-fine for a person with a monthly income of EUR 6,000 would be EUR 95. Hence, for the same offense, the total day-fine would be for the former person EUR 800 (40 x 20) and EUR 3,800 (40 x 20) for the latter.

A fine may be imposed either in an ordinary trial or in certain petty offense cases. If the fine is not paid, it may be converted into imprisonment through separate proceedings. In this stand, two day-fines conform to one day of imprisonment.

This alternative is considered the best practice because of its fairness aspect and possibility to reduce the recidivism rate. The Day-fine System has gained public acceptance in terms of fairness. By calculating fine based on the offender's net income (after taxes) instead of gross income (before taxes), the size of fine if perceived as fair among different income groups (Lappi-Seppala, 2008, p. 29). Moreover, researchers have found that the offenders receiving fines have the lower recidivism rates. Comparing day-fines with flat-rate fines (no difference according to income), the former had statistically lower recidivism rate (11%-17%) than the latter (Turner & Petersilia, 1996). The Day-fine System has also been used in Sweden and Denmark as an alternative to pretrial detention and imprisonment.

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Links:
More information on Day-Fine System by Vera Institute of Justice available at http://archive.vera.org/sites/default/files/resources/downloads/How_to_use_day_fines.pdf

News articles:

Day-Fine System and speeding ticket available at https://www.theatlantic.com/business/archive/2015/03/finland-home-of-the-103000-speeding-ticket/387484/

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12. Type: Detention: “Keeping Away”
Country: Hungary
Title: The Hungarian Act on Criminal Proceedings Sec. 138/A and 138/B

This alternative respects human rights, is available to the majority of accused (who commits a specific type of crime), is affordable for the country's budget is definable, is verifiable, and is sustainable.

Originally, the measure of keeping away was designed to protect victims of domestic violence. This measure aims to restrict the right of an offender to free movement and free choice of dwelling. The court will specify what from, where or from whom the offender has to keep away. For example, owing to the court’s decision, the defendant may be obligated to keep away from a specific person, or the person’s working place, etc.

If there is a reasonable suspicion of a criminal offense punishable with imprisonment, the court may order keeping away. However, the court should always be aware to use this measure in a reasonable way. In the case that pretrial detention is unnecessary but the offender would possibly frustrate proceedings, commit the attempted or prepared criminal offense, it is essential to restrict the offender. Thus, the court can order keeping away. In the case of violation by the offender, pretrial detention may be ordered or a disciplined penalty may be imposed.

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Links:
The Hungarian Act on Criminal Proceedings available at https://www.unodc.org/cld/document/hun/1998/hungarian_criminal_procedure_code.html?

13. Type: Preliminary Probation
Country: Austria
Title: The milder measures ("gelindere Mittel")

This alternative respects human rights, is available to the majority of accused (who commits a specific type of crime), is affordable for the country's budget is definable, ensures public safety, is verifiable, and is sustainable.

Austria adopts the principle of proportionality, demanding that detention is a means of last resort. Thus, in order to secure proceedings, priority must be given to alternative measures called "milder measures" (or "gelindere Mittel" in German). In essence, the prosecutor and the court have to establish a reason why a milder alternative was not implemented.

Among a wide range of 'milder measures', the 'preliminary probation' is one of them. The Austrian Probation has been privatized, allowing the organization "NEUSTART" to carry out probation activities. However, the activities are still basically financed by the government. Preliminary probation can be ordered if: a) the suspect consents; and b) it seems necessary to assist him in his pledge to lead a law-abiding and crime-free life (Morgenstern, 2009, p. 16).

According to Neustart, probation is an alternative to a prison term. Instead of keeping offenders under surveillance, it aims to support the individual, by help finding apartment and job, keeping contact with officers and public authorities, and most importantly, reintegrating person into society. Probation officers are employees of the organization NEUSTART; during their social education and professional work, they have developed the capability to support men and women in troublesome situations. Only after a period of six months and at the end of the attendance, a report is submitted to the responsible court. The result has shown a success in that 62% of 285,000 clients supervised by Neustart kept exempt from punishment.

The preliminary probation should be considered as an example of good practice because it extends the scope of possible assistance by the probation service to suspects who might otherwise end up in detention (Morgenstern, 2009, p. 16). Thus, it also helps to implement the idea of an integrative probation and treatment concept.

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Link:
The Neustart organization, available, both in English and German at http://www.neustart.at

14. Type: Non-Custodial Coercive Measures
Country: Italy
Title: The Italian Code of Criminal Procedure (CPP- Codice di Procedura Penale)

This alternative respects human rights, is available to the majority of accused (who commits a specific type of crime), is affordable for the country's budget, is definable, ensures public safety, is verifiable, and is sustainable.

The non-custodial coercive measures are pre-trial measure restricting the personal liberty instead of being remanded in custody. It is provided in the new Italian Code of Criminal Procedure (CPP- Codice di Procedura Penale) and imposed by the judge (Bhandari, 2012, p. 4).

This alternative to pretrial detention can be included: prohibition to travel outside the country (Article 281, CPP); the obligation to report to a specific police office on specific days and at certain times (Article 282, CPP); the prohibition to access or stay at a specific place, or the obligation to remain within the boundaries of a specific time (Article 283, CPP); and house arrest (Article 284, CPP). In the case of domestic violence, the judge can also issue a restraining order (Article 282-bis CPP), entailing an obligation for the defendant to stay away from the family home and is meant to protect the victims of domestic violence.

Money bail does not exist in Italy; however, judges may grant 'provisional liberty' to detainees awaiting trial. Detainees may request the 'liberty tribunal' (a panel of judges) to review their cases on a regular basis to avoid unjustified detention (U.S. Department of State, p. 6). More important, the law prohibits preventive detention for pregnant women, single parents of children under age three, persons more than 70 years of age, and the seriously ill, except in the most extraordinary situations.

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Link:
The Italian Code of Criminal Procedure- Codice di Procedura Penale (English version) available at http://legalactionworldwide.org/wp-content/uploads/2014/11/Criminal-Procedure-Code.pdf

15. Type: The Travel Ban
Country: Finland
Title: Finland Coercive Measure Act (CMA)

This alternative respects human rights, is affordable for the country's budget, is available to the majority of accused, is definable, is verifiable, and is sustainable.

According to Finland Coercive Measure Act (CMA), a travel ban can be imposed on a person suspected of an offense instead of arrest or detention. A person subjected to a travel ban cannot leave certain areas. He or she may also be prohibited from visiting or being in a given area. An officer with a power of arrest can decide to post a travel ban. These include police officers, prosecutors, and the court. A police officer needs to inform the prosecutor before he can make a decision on the travel ban. If necessary, the prosecutor can also decide on a travel ban after the conclusion of the criminal investigation. Also, the court can decide on the travel ban after the bringing of charges.

The travel ban encompasses the area or locality that the suspected offender may not leave or visit. However, it entails a temporarily granted permission to a person to leave the given area or locality to go e.g. to work (Article 2 (1), CMA). Moreover, the CMA states that the person imposed by a travel ban is subjected to remain available at his residence or place or work at certain times, present himself to the police at certain times, or remain in an institution or hospital in which he already is or into which he will be admitted (Sections 2(2)).

The travel ban can be canceled if their requirements to be fulfilled are no longer applicable. Section 2 (2), CMA, gives the power to the court to withdraw the travel ban, in whole or in part, even before charges have been brought. More importantly, if no charges have been brought within sixty days of its imposition, the travel ban is no longer valid. This alternative is considered best practice because it allows a suspected offender to remain his/ her working routine; thus, there is a less effect on the family of the offender.

It is interesting to note that the travel ban is an effective alternative to pre-trial detention under certain circumstances but it is not very widely used in Finland (Finland Ministry of Justice, 2011, p. 3). That being said, Finland is looking into the possibility of electronically monitored travel bans in order to increase the effectiveness of this alternative.

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van Kalmthout, A.M., Knapen, M.M., & Morgenstern, C. (eds.). (2009). Finland. *Pre-trial detention in the European Union, an analysis of minimum standards in pre-trial detention and the grounds for regular review in the Member States of the EU.* Retrieved from http://www.ecba.org/extdocserv/projects/JusticeForum/Finland180309.pdf

Links:
The Finland Coercive Measure Act (unofficial translation by Ministry of Justice, Finland)
Available at http://www.finlex.fi/en/laki/kaannokset/2011/en20110806.pdf
Evidence of cybercrime and coercive measures in Finland available at
file:///C:/Users/User/Downloads/2296-3523-1-PB.pdf

16. Type: Alternative Detention – "Travel Prohibition & Obligation to Report"
Country: Sweden
Title: The Swedish Code of Judicial Procedure Chapter 25

This alternative respects human rights, is affordable for the country's budget, is available to the majority of accused, is definable, is verifiable, and is sustainable.

The Swedish Code of Judicial Procedure went into force on January 1, 1948, with amendments in 1999. The Swedish Prison and Probation Service, a part of the Swedish government, implements prison and probation sentences, and supervise conditionally released persons etc. (Government, 2015). According to Chapter 25 "Travel Prohibition & Obligation to Report", Sweden practices three alternatives to pretrial detention; supervision, travel ban and report order (van Kalmthout et. Al., 2009, p. 920). For detention, the accused has to be reasonably suspected of an offense punishable by imprisonment, with a risk of fleeing or evading legal proceedings or penalty by leaving the country. If there is no reason to detain the person, he/she can be ordered to;

a) not leave the assigned place of residence (travel prohibition)
b) report to the police authority at assigned times (obligation to report)
c) be required to be at one's place of residence or work at specified times

The travel prohibition and obligation to report can be imposed simultaneously. The prosecutor or the court issue travel prohibition orders (Government Offices of Sweden, 1999, p. 142, van Kalmthout et. Al., 2009, p. 920-921).

Chapter 25 "travel prohibition and obligation to report" are among the best practices of alternatives to pretrial detention in Europe because it allows accused persons to uphold employment while maintaining regular contact with police authorities. They will not be deprived of their liberty as opposed to what detention can constitute. This practice is especially practical for accused persons who have children and may have been accused of less serious offenses.

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van Kalmthout, A.M., Knapen, M.M., & Morgenstern, C. (eds.). (2009). Sweden. *Pre-trial detention in the European Union, an analysis of minimum standards in pre-trial detention and the grounds for regular review in the Member States of the EU.* Retrieved from http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.194.1055&rep=rep1&type=pdf

Asia

1. Asia Action on Harm Reduction

***Best Practices Criteria:** Respects human rights, Affordable, Available to the majority, Definable, Verifiable, Sustainable, No profit for private entities

From interventions and case studies in Cambodia, China, India, Indonesia, Malaysia, and Vietnam, this community-based model was used as a preliminary resource for identifying services for those individuals that commit drug-related crimes. This was an effort that was done from 2013-2016 by Harm Reduction International, a non-profit organization, and this organization worked with local civil society researchers in these six countries to record how the community-based approach could create a solid alternative to drug treatment detention centers, which are the standard practice for dealing with drug use. Compulsory drug dependence treatment has shown to be ineffective, costly, and not in line with human rights standards. The main reason for the community alternative was the United Nations' view that such practices are limited in scope and the literature is not clear on how effective this community model could be. The Asian Action on Harm Reduction was a three-year harm reduction advocacy project of the International HIV/AIDS Alliance and was funded by the European Union. The point of this effort was to create much needed literature that would provide evidentiary support for drug policy.

While there are no official numbers of people living in Asia who use drugs, data do report that the numbers are significant enough to warrant change in the system. Amphetamines are the second most widely used drug in the region, and this fact is consistent with the fact that Asia is a major port for drug production and trafficking. Public health is at risk with this high number as well since the spread of Hepatitis C and HIV/AIDS increases significantly with the increased use of drugs. "The laws across Asia are in place to criminalize drug possession, use, distribution, production, cultivation, and trafficking" (p. 20). If people are arrested for drug-related crimes, they are punished by the state and incarcerated throughout the trial process--for this reason, there is a serious issue of overcrowded prisons in this region. For context, "40% of the prison population in Indonesia are incarcerated for drug-related crimes" (p. 20). The UN has called for closures of these compulsory drug dependence treatment centers, but these efforts have been met with resistance.

Each case study was unique in its implementation, but in general, the results were promising. There was an emphasis on voluntariness of the community centers, so that detainees had the option of participating in the alternative method. Treatment plants were administered on a case-by-case basis, which meant that the most important element was rehabilitation instead of punishment. There was a comprehensive health and psychological care service in every case study, which again, permitted that people's health concerns were the priority. Of course, these methods also ensured that legal consequences were diverted in lieu of the public health approach. The report does state that the primary concerns with adapting this structure are financial challenges, people's unwillingness to access drug treatment, and lack of human resources.

Tanguay, P., Stoicescu, C., and Cook, C. (2015 October). *Community based drug treatment models for people who use drugs: Six experiences on creating alternatives to compulsory detention centres in Asia*. London, England: Harm Reduction International.

Other sources:
http://www.aidsalliance.org/our-priorities/current-projects/176-asia-action
http://idpc.net/policy-advocacy/special-projects/asia-action-on-harm-reduction
https://www.hri.global/hr17/register-landing

2: Madaripur Mediation Model
***Best Practices Criteria:** Respects human rights, Affordable, Definable, Ensures public safety, Verifiable, Sustainable

This model was created by the Madaripur Legal Aid Association in order to address issues of lack of access to mechanisms that can help poor/disadvantaged populations gain access to legal assistance. This model was initially administered in Madaripur and Shariatpur Districts as well as part of Gopalganj District. All members of the mediation committees are volunteers, and this service is not a paid one--no one receives compensation for their work on the committee. Bangladesh is comprised of a mostly complex and formal legal system that mimics much of the legal systems around the world. However, what the mediation service aims to do is aim services at those that live in the poor, illiterate, and marginalized rural communities. Rural communities are also very much unaware of the legal process, and so they suffer from widespread injustices that those in other communities in Bangladesh may not. The Madaripur Mediation Model is modeled after Shalish, which is a traditional system of mediation and dispute resolution. Village elders gather to mediate issues and conflicts among community members in Shalish, so the Madaripur Legal Aid Association saw this as a feasible and sustainable method for alternative detention. This is a cost-effective means of resolving issues and repairing relationships within the community that avoid the costs of the formal legal system and brings together, rather than breaks apart, family and friends.

This system was started in 2002 and, at the village level, there are 450 Mediation Committees. Mediation committee members are trained in techniques of mediation, relevant laws including family law, and an understanding of human rights standards. This system is run on a donation basis where the Madaripur Legal Aid Association reaches out to such entities as Penal Reform International to provide not only monetary resources but also capacity building through yearly awareness and training workshops for volunteers and community members. Most of the organizations that are involved in donating are non-profit organizations, so this increases the level of transparency of the Mediation Committees. The organization stresses the importance of the impact of these mediation processes on women who, for the most part, are discriminated against in the legal system. The conflicts that the mediation deals with that directly affect women are dowry issues, family matters, minor assault, disputes over finance, marriage issues, and land ownership. The Madaripur Legal Aid Society ensures transparency through a system of monitoring and evaluation, and this includes random sample reviews and monthly reports by mediation workers on their respective mediation committees. “The mediation process dealt with 7,175 applications for mediation in 2001-2002 and 66% of these were resolved amicably” (p. 11). Ultimately, in these rural areas people can choose to take their cases to formal courts or resolve them through mediation, so this opens access to alternative resources that may make a difference in the amount of individuals detained in pretrial.

Penal Reform International. (2003). Alternative dispute resolution. Retrieved from http://srsg.violenceagainstchildren.org/sites/default/files/consultations/restorative_justice/presentations/nikhil_roy/Alternative%20Dispute%20Resolution%20Bangladesh_2003.pdf

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3: Children Protection Unit, Bar Association of Cambodia
***Best Practices Criteria:** Respects human rights, Affordable, Definable, Verifiable, Sustainable

In Cambodia, children who go through the criminal justice system as offenders often do not receive the appropriate legal representation that they require. Arrest and detention rates are at an all-time high in this region, and with the lack of basic rights in pretrial detention and in detention centers in general, health risks are inevitable. The Child Protection Unit of the Cambodia Bar Association chose to tackle this issue by providing legal assistance to children in order to aid in pretrial release instead of detention. The Cambodia Bar Association was created in 1995 and in 2002, there were 222 practicing lawyers as members of the Bar; the Child Protection Unit is set up within the Legal Aid Department. In addition, UNICEF Cambodia has been involved in providing resources for this endeavor since 2000 because of its emphasis on protecting children in conflict. Several other partners are involved in partnering with this program, and they are all human rights NGOs and municipal and provincial level protection networks. The main issues that the Cambodia Bar Association hopes to deal with are the fair treatment of children, proper arrest of children suspects, prolonged pretrial detention of children, and access to children's family members. This project initially started with two lawyers providing legal assistance in seven provinces. As of 2003, the project had nationwide coverage and consisted of three lawyers and one judicial assistant who specialize in child protection. The Child Protection Unit receives cases of children and represents them—these children come from poor families and are their cases are vetted to ensure that resources are allocated to the most urgent ones. Therefore, a database on cases is maintained to accept or refer them, and investigations are conducted on those cases that are accepted. The lawyers visit children to assess detention situations and gather statistics about the number of children in detention.

The Child Protection Unit works exclusively works to advocate for children's rights and access to resources for these children in Cambodia. From 2000 to 2002, 354 children in conflict were provided with legal assistance, and the number of cases that are referred to the Child Protection Unit has only increased. Of the 354 children, 26 were acquitted and many others were released on bail to avoid the long term and heinous conditions in pretrial detention centers. The Bar Fund is kept by the dues paid by members and other outside donations, and the direct impact of this work has done a lot to raise the confidence in the court process among juveniles and their families. Unfortunately, there is still a lack of responsiveness by judges about children's advocacy and political and economic circumstances make initiatives like this one less likely to remain sustainable.

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https://www.unicef.org/cambodia/2.Child_Protection.pdf

http://hrbaportal.org/wp-content/files/Creation-of-a-Child-Protection-Unit_Cambodia_UNICEF.pdf

4: Court Appointed Special Advocates/Guardians Ad Litem
***Best Practices Criteria:** Respects human rights, Affordable, Definable, Verifiable, No profit for private entities

This is a volunteer program in the Philippines that provides services to children in conflict with the law. The special advocates interview everyone involved in assigned cases in order to ascertain the needs of children and to provide the best possible resources to make pretrial detention the absolute last resort. The CASA/GAL program was created in late 2000, but it was not formally incorporated until 2002. It is a volunteer-run organization, and the volunteers are appointed by family courts. Volunteers must be over 18 years old, but they are generally between 35-60 years old. Some work full-time and others part-time, but they mostly all come from NGO backgrounds, and the position requires a commitment of more than one year. The Child Rights Desk of the Ateneo Human Rights Center (in Manila) houses the secretariat for the CASA/GAL Foundation. "In collaboration with the Philippines Judicial Academy, the CASA/GAL ensures that all volunteers receive targeted training on the court system. Since its inception, over 150 CASA/GAL volunteers have been trained in Manila through seminars and training of trainers (ToT) courses" (p. 34). The formal courtroom set up can be very intimidating for children, so the key component of the CASA/GAL is to ensure that children and their families understand court language and that they have a powerful voice when involved in conflicts. Volunteers research cases thoroughly, and often are the only court resource to uncover hidden facts and interests that the court may not have access for otherwise. The direct impact of this work has resulted in reduction in number of "forgotten" children who are often left in institutional detention centers—they are those children who are pretrial detainees. Furthermore, less children are traumatized by the court experience, and the program has been expanded and replicated to other areas of the country including Luzon, Visayas, and Mindanao. The NGOs helping to collaborate on this process has brought light to the marginalization of children in the criminal justice system, and this program complies with international standards on children in conflict with the law.

UNICEF. (2003) *Justice for children: Detention as a last resort*. Bangkok, Thailand: United Nations Children's Fund.

Other sources:
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http://www.casaforchildren.org/site/c.mtJSJ7MPIsE/b.7670539/k.EEFD/Learn_More_About_Us.htm

5: Commonwealth Human Rights Initiative (CHRI) Prison Visits
***Best Practices Criteria:** Respects human rights, Affordable, Available to the majority, Verifiable, No profit for private entities

The CHRI is an independent, international organization that has been practicing practical realization of human rights in many countries around the world. The organization is particularly concerned with prison reform because of the integral role that this plays in conservation of people's human rights. In India, it is especially difficult to gain access to prisons because the police and crime institutions hide behind the facade of security measures to ensure that individuals do not gain access to their facilities. However, CHRI managed to create a community intervention/effort to help govern the management of these prisons. CHRI worked along state human rights commissions and gain special permission from the government in order to begin a comprehensive study in 2001 in Madhya Pradesh, then the largest state in India. The work in this state then was expanded to Rajasthan and Chhattisgarh. "By 2005, a CHRI study team had visited 27 prisons in Madhya Pradesh, 22 in Chhattisgarh, and 26 in Rajasthan" (p. 58). The team found that there were rampant issues with overcrowding in every prison and limited use of bail/bond. India's judiciary is conservative in granting bail or bond to offenders, which only exacerbates the issue of overcrowding. These prison visits were initiated because of the danger that hiding behind secrecy and cover-ups could pose to those going through the jail system.

Prison conditions are appalling, and CHRI found that the neglect caused by the system only led to more issues of human rights abuses. Jail staff and offenders were initially suspicious of these visits, but later realized that the CHRI team's purpose could help to make improvements to the system through simple yet effective intervention. CHRI's role does not end with its prison visits; rather, regional workshops were formulated to involve criminal justice systems in a public forum to answer difficult but vital questions about the prison system. There, they can brainstorm ideas about how to reduce detention and make the prison system more tolerable for pretrial detainees and inmates alike. The work that they do during these mediation processes translates to real impact on the ground when it comes to making changes to the criteria that lead to arrests. "The statistics of pretrial detainees from before the program started to after show that there has been some impact in the reduction of this population. In Madhya Pradesh, the size of the population declined during the years 2001 to 2003, from 16,837 to 15,635 to 13,993" (p. 67). Of course, the real lasting impact in this system is the reform in the officials' perceptions of detainees as a direct result of these workshops. This number can, arguably, continue to fall if more individuals are educated about the plight of those in detention.

Venegas, V. and Vial, L. (2008). Reducing the excessive use of pretrial detention. *Open Society Foundations*. New York, NY: Open Society Institute.

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UNAFEI. (2011). Strategies and best practices against overcrowding in correctional facilities. Retrieved from http://www.unafei.or.jp/english/pdf/Congress_2010/00All.pdf

6: Community-Based Prevention and Diversion Programme
***Best Practices Criteria:** Respects human rights, Affordable, Definable, Ensures public safety, Sustainable, Verifiable

This program is based specifically in Cebu City, Philippines and focuses on preventative measures to keep children away from the justice system. Free Rehabilitation, Economic, Education and Legal Assistance Volunteers Association, Inc. (FREELAVA) is a non-profit organization that was established in 1983 in Cebu City, Philippines. The organization runs programs in Cebu, Mandaue, Lapulapu, Danao, and Toledo in order to create diversion programs that can be sustainable. The Children's Justice Committee (CJC), which is the umbrella organization for the prevention and diversion program, was created in "April 2002 to work for the settlement, reconciliation, and mediation of reported cases involving children in conflict with the law" (p. 44). Several government agencies are involved in this program, including the Departments of Interior, Justice, Social Welfare and Development, Education, Culture and Sport, the Philippine National Police, the Commission on Human Rights, and UNICEF Philippines. These provide the resources and education strategies by which the diversion program can function. In terms of its function, when a case is referred to the organization, committee members verify the facts of the arrest and the whereabouts of the child involved in the conflict. Community members inform the parents of the child, and they immediately suggest the diversion mechanisms in order to avoid arrest and, instead, offer on-going counseling and mediation strategies. The members make sure to involve both offender and victim in the process of mediation to schedule meetings and intervene and avoid the often lengthy and abysmal process of the formal criminal justice procedures.

In practice, 10 members of the CJC are involved in these processes in order to reach a settlement; however, if no settlement is agreed upon, then the members will resort to formal filing of the case. During this process, of course, the child is kept out of pretrial detention. The system by which volunteers become educated and can be involved in these cases is through a Peer Educators program, which provides training to volunteer members of the community. These Peer Educators can take children who participate in diversion programs and provide skill-training, informal group discussions, educational assistance, and, in some cases, loans to fund livelihood activities. The organization is still centrally located in Cebu City, but has expanded its program to different provinces within the city including Ermita, Tingo, Pasil, Suba, Dulj-Fatima, Carreta, San Roque, Pahina Central, and T. Padilla. The impact is great as there has been a significant reduction in the number of child offenders sent to detention, a reduction in crime rate among this population, reduced risk of re-offending, and increased self-confidence.

UNICEF. (2003) *Justice for children: Detention as a last resort*. Bangkok, Thailand: United Nations Children's Fund.

Other sources:

FREELAVA. (2005). *Guidelines for a community-based diversion and prevention programme for children in conflict with the law*. Quezon City, Philippines: Save the Children UK. https://www.doj.gov.ph/child-protection-program.html

Save the Children. (2011). *Child protection in the Philippines: A situational analysis*. Bangkok Thailand: Save the Children.

7: Camp Courts
***Best Practices Criteria:** Respects human rights, Affordable, Definable, Verifiable, Sustainable, No profit for private entities

In Bihar, India, judicial officials visit prisons and review cases to give rulings on the spot. The so-called "camp courts" only review cases of small-time offenders; this is done in an effort to reduce the amount of overcrowding found in the jail systems. Overcrowding is a result of the amount of pretrial detainees whose cases are often forgotten or whose court dates are often reassigned because of a lack of resources to try them. Prior to the camp courts, about 12,000 pretrial prisoners were "lodged in various jails of Bihar, waiting to be tried for minor offences" (p. 30). Many of these prisoners are held for long periods of time without adequate resources like food, water, or proper sleeping quarters. Camp courts were created to address this issue and provide an alternative method to hasten the court proceedings and deal with the multitude of cases that are backlogged in these systems. The camp courts deal with mainly petty offense and this initiative is organized under the "Bihar State Legal Services Authority, by order of the Chief Judicial Magistrate" (p. 30). Before the judicial officials have a chance to look at and determine the conclusions of these cases, superintendents from the local prisons are asked to submit a list of potential offenders whose cases can be considered for screening. The Bihar camp has been effective in reducing the backlog of these petty offenses and in reducing the overcrowding in these jails as a direct result of the work of the judicial officials. The only cost associated with this sort of program is the transporting of the officials to the various prisons. The officials only visit prisons once every month, so the resources involved in making a program like this work are doable in this context.

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8: Justice and Prison Reform for Promoting Human Rights and Preventing Corruption
***Best Practices Criteria:** Respects human rights, Available to the majority, Definable, Ensures public safety, Sustainable

As in other Asian countries, Bangladesh has a severe issue with overcrowded prisons, which often hold twice the actual capacity. The criminal justice system is also lacking in contemporary laws that deal with the issues facing pretrial detainees and current prisoners. The government of Bangladesh, along with development partners, created the Justice and Prison Reform for Promoting Human Rights and Preventing Corruption in Bangladesh to reduce the number of pretrial detainees. "Paralegals are trained to provide information on prison conditions that was otherwise unavailable due to a lack of resources, time, or organizational capacity and to provide legal assistant to prisoners and their families" (p. 1). Under this reform, the number of pretrial detainees dropped from 79% in 2010 to 62% in 2013. The main issue that was addressed by this reform was the fact that detainees are often unaware of their rights because they are poor and do not have any means of gaining access to legal aid. Therefore, this program provides these detainees with the opportunity to gain direct legal support. Furthermore, this program also provides reform to prison systems through interventions and heightened awareness of the operation at a community level.

In order to fund this program, a network of stakeholders was established at both the local and national levels to improve the justice sector and combine these with improvements of other public and private sectors. With this initiative at play, the GIZ project Advisory Committee hold ongoing policy discussion with government institutions to address the persistent issues of lack of counsel and prison overcrowding. Paralegal aid clinics also educate prisoners and basic legal procedures and their rights, and Case Coordination Committees (CCCs) were created to help manage the myriad of cases and serve as a forum by which discussions and solutions to local problems can be addressed. The second part of this program is important as it deals with the Ministry of Law, Justice, and Parliamentary Affairs. The goal is to review outdated laws and focus on ways to progress and modernize such laws. On this front, there is not much progress, but a new "Justice Audit" is expected to be completed in 2018 to deal with many of the issues associated with the outdated criminal justice system. Without stakeholders at both the local and national levels, this program would not be possible and many of those detainees who have benefited from the resources allocated to the prison system would still be awaiting trial for extended periods of time in appalling conditions. This reform originally started out in five prisons, but it is expected to expand through 2018 and will cover 40 of 64 districts in Bangladesh.

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9: UN Bangkok Rules

***Best Practices Criteria:** Respects human rights, Definable, Ensures public safety, Verifiable, No profit for private entities

The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules) supplements issues of treatment of detainees by classifying women detainees and standards for healthcare, sanitation, inmates' children, and non-custodial measures for minor offenses. Thailand has one of the highest percentages of women in prison when compared to the global average, so this set of rules creates an alternative method to deal with this issue. Princess Bajrakitiyabha of Thailand advocated for incarcerated women and their children, and she played a major role in the implementation of the Bangkok Rules. "The rules prioritize detailed registration and basic legal protections starting at intake" (para. 9). For example, when a mother is admitted, the information about her children is recorded and her medical history must be guaranteed to be kept private; prison authorities must also help women in gaining access to legal counsel if they wish to find recourse for violations they suffered before or during their detention. This is a set of rules that is progressive in its initiatives as it also safeguards women's health and childcare, providing for breast cancer screenings, sexual abuse and mental health evaluations, and suicide and self-harm prevention.

The Bangkok Rules are also meant to account for "gender sensitivity" training for prison staff who are directly involved with managing female detainees; this training includes women's basic medical needs, child health care and development for mothers whose children live with them, and HIV/AIDS training. The pretrial detention element of the Bangkok Rules designates diversion alternatives to pretrial detention through non-custodial measures that address women's most basic issues when entering the prison system. These measures include physical abuse counseling, emotional abuse counseling, and drug abuse counseling. Although the Bangkok Rules, which were established in 2010, are still fairly new, they serve the purpose of combatting issues that exclusively plague female prisoners who are often marginalized within the criminal justice system. This newness makes it difficult to find any data to assert that these rules have, in fact, made considerable difference in how women are treated throughout their encounters with the criminal justice system. Regardless, the resources that it takes to institute many of the provisions outlined by this treaty, makes the prospect of long-term sustainability difficult to achieve.

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10: India's 436A of the Code of Criminal Procedure

***Best Practices Criteria:** Respects human rights, Affordable, Definable, Verifiable, No profit for private entities

India is the second Asian country with the highest number of pretrial detainees. According to the 2013 National Crime Records Bureau there was a total of 419,992 detainees, over half of those detainees, 278,503, were detainees who were awaiting trial (Press Information Bureau Government of India Ministry of Home Affairs, 2014). A big problem in India is that the judicial system is so slow that often people are detained awaiting trial for longer periods of time then the sentence that they would serve. This leads to overcrowding of prisons. In 2013, the Government of India released a directive to its states, that per section 436A of the Code of Criminal Procedure, pretrial detainees whom already have served half of their maximum sentence are to be released. Amnesty International India launched a campaign in 2014 "Take Injustice Personally," which is part of the goal of the campaign to secure the release of eligible pretrial detainees per the Government order.

On September 9th 2014, the Indian Supreme Court decision of Bhim Singh v Union of India & Others, instructed prisons to release "pre-trial detainees who had been held for more than half of the maximum term they could be sentenced to if they were found guilty" (Press Information Bureau Government of India Ministry of Home Affairs, 2014). India did not create a new law in order to reduce the number of pretrial detainees, rather India utilized an existing law that had not been utilized. In effect, the Supreme Court ruling instructed the release of these pretrial detainees who had been left in pretrial detention for longer than their sentences would have been after their trial period. Although the law had existed beforehand, its scope was limited and many jurisdictions simply ignored it; however, this ruling mad a short but very great impact on the pretrial detention population. This is an excellent example that a country does not need to necessarily reinvent the wheel but rather utilize their laws effectively.

Press Information Bureau Government of India Ministry of Home Affairs. (2014 September 26). Releasing of undertrials who have served half of maximum sentence. Retrieved from http://pib.nic.in/newsite/PrintRelease.aspx?relid=111937.

Other sources:

Amnesty International USA. (2014 September 5). India: Supreme court order on undertrials must spur systemic changes. Retrieved from http://www.amnestyusa.org/news/news-item/india-supreme-court-order-on-undertrials-must-spur-systemic-changes

Amnesty International India. (2015 August 11). Take injustice personally. Retrieved from https://www.amnesty.org.in/show/entry/take-injustice-personally

Bhim Singh v Union of India & Others, 310 of 2005. (2014). Retrieved from http://cja.gov.in/TJO/Writ%20Petition%20(Crl.)%20310%20of%202005%20%20IMP%20Judgment.PDF

11: Penal Reform International's Pilot Juvenile Justice System Reform
***Best Practices Criteria:** Respects human rights, Affordable, Definable, Ensures public safety, Verifiable

Penal Reform International with the assistance of Dutch Ministry of Foreign Affairs implemented a Juvenile Police department in the Northern Amman district of Jordan as a pilot for the creation of a Juvenile Justice system. This pilot was implemented on January 1st 2012 with a budget of 238,035 Euros (Penal Reform International, 2013). There were three focuses of this pilot. The first was to increase the capability and operation of the Juvenile police department. The second was to education the public and government on alternatives for detaining juveniles in prison. Lastly, to establish an independent monitoring group with the help of a local human rights organization, Change Academy, which would ensure practices that were in line with international standards.

Jordan has six juvenile prisons throughout the entire country. During this pilot there was a decrease, over fifty percent, of juveniles that were being held in pretrial detention. In 2010, there were 4,371 juveniles in pretrial detention versus 1,771 in 2013 (data up to September) (Penal Reform International, 2013). Through this pilot, ninety percent of juvenile cases were resolved at the police level, versus thirty percent in other jurisdictions. Due to the success of the Juvenile Police department, it is expanding into other districts. As a result of the pilot Jordan's Parliament is considering new juvenile laws (Penal Reform International, 2013). By allowing the lesser offenses to be dealt on the police level this allows for less juveniles to enter the judicial system in the first place. The success of the pilot indicates that by using pretrial detention alternatives such as mediation this will lower the amount of juveniles in pretrial detention.

Penal Reform International. (2013 December). Humanistic approach to reform the juvenile criminal justice System in Jordan. Retrieved from https://cdn.penalreform.org/wp-content/uploads/2014/07/MENA-Juvenile-Justice-Evaluation-Final.pdf

Other sources:

https://www.unodc.org/middleeastandnorthafrica/en/resources/jor-juvenile-justice-reform-program-in-jordan---phase-1.html

Al-Tarawneh, M. (2010). Juvenile criminal justice in Jordan. Retrieved from http://www.nchr.org.jo/english/ModulesFiles/PublicationsFiles/Files/Mohammad%20M.%20Al-Tarawneh,%20Issa%20Al-Maraziq,%20Sabri%20Rubaihat,%20Muna%20Abu%20Sall_Juvenile%20Criminal%20Justice%20in%20Jordan_Studies%20and%20Researches_Juvenile%20Criminal%20Justice%20English.pdf

https://www.penalreform.org/news/jordan-moves-restorative-justice-adoption-noncustodial-alternatives-children/

12: Rehabilitation Framework and the Yellow Ribbon Project, Singapore
***Best Practices Criteria:** Respects human rights, Affordable, Available to the majority, Definable, Verifiable, Sustainable, No profit for private entities

Singapore was looking to make a change to the high prisoner population. In 2010, the prison population dropped to 250 per 100,000 from 400 per 100,000 (Open Society Foundations, 2014). This decrease in prison population is a result of the establishment of the Yellow Ribbon Project in 2004 and the Rehabilitation Framework that was developed in 2000. Both programs sought to decrease the recidivism rate. The objective is to create public acceptance of past offenders. Ex-offenders took part in educating the public by relaying their stories (Wah, 2010). The Yellow Ribbon Project went a step further by signing up thousands of employers who would be willing to hire past offenders. In a public opinion survey initiated by the Singapore Prison Service, seventy percent of people are "willing to accept ex-offenders either as friends or colleagues (Open Society Foundations, 2014).

These programs resulted in Singapore having less than eight percent of prison detainees being those on pretrial detention in 2010 (Open Society Foundations, 2014). There was a reduction in detainees because both programs' objectives were to stop recidivism from occurring. The fewer people who are repeat offenders, the smaller the prison population. Through other studies we know that recidivism is common. This happens because many people once they are released from prison they have a hard time finding employment. Through the Yellow Ribbon Project, by bringing about public acceptance and pledges from employers that are willing to hire these ex-offenders, it makes the transition into post penitentiary life easier.

Open Society Foundations. (2014). *Presumption of guilt: The global overuse of pretrial detention*. Retrieved from https://www.opensocietyfoundations.org/sites/default/files/presumption-guilt-09032014.pdf

Other sources:

https://reinventingtherules.com/2014/10/14/global-strategies-to-reduce-pretrial-detention

Wah, S. W. (2010). The yellow ribbon project story (Singapore): Reaching out and touching a nation. Retrieved from http://www.unafei.or.jp/english/pdf/Congress_2010/30Soh_Wai_Wah.pdf

http://www.yellowribbon.org.sg

13: Electronic Monitoring

***Best Practices Criteria:** Respects human rights, Affordable, Available to the majority, Definable, Ensures public safety

Electronic monitoring is used by several countries to varying degrees. The United Kingdom, Holland, South Africa, Canada, United States, New Zealand, Singapore, Sweden, and several other countries utilize the use of electronic monitoring (John Howard Society of Alberta, 2000). Taiwan wanted to utilize the use of electronic monitoring in order to decrease prison overcrowding, protect the community, reduce recidivism, enhance rehabilitation and increase legal alternatives to incarceration (Wang, 2007). Through the use of the electronic monitor you can keep tabs on the location of the offender, which in turn would help to keep the offender from the victim. This is particularly the case in sexual offenders. Also, since the individual is not detained in prison they can maintain employment, obtain treatment, remain with their families and so on (Wang, 2007).

Taiwan began using electronic monitoring for prisoners that did not commit violent crimes, whom were at the tail end of their prison sentence. The offender would be released from prison and fitted with an electronic monitoring device. Due to the success of utilizing electronic monitoring, the idea was to utilize electronic monitoring of pretrial release felony defendants. Particularly those defendants whom were involved with financial crimes or crimes where there was significant corruption (Wang, 2007). Currently, Taiwan does not charge for the use of electronic monitoring; in the United States, the cost varies from approximately five to fifteen dollars. This is a fraction of the cost from maintaining an individual in custody (Wang, 2007). By utilizing electronic monitoring for pretrial detainees, this could decrease the amount of detainees therefore relieving prison overcrowding and prevent defendants from fleeing while protecting the victim. Unfortunately, there is not yet any data to suggest that this sort of technology has made a direct impact on the amount of pretrial detainees in Taiwan—the technology and practice is still relatively new. However, with success in other parts of the international community, it is feasible that electronic monitoring could help to deal with the issue of extreme overcrowding in Taiwan prisons.

John Howard Society of Alberta. (2000). Electronic monitoring. Retrieved from http://www.correcttechllc.com/uploads/document14.pdf

Other sources:

Wang, N. (2007 April 2). Public prosecutor, Taiwan Taipei District prosecutor's office: The current application and future of electronic monitoring in the criminal justice system in Taiwan.

14: India's Nari Adalats

***Best Practices Criteria:** Respects human rights, Affordable, Definable, Ensures public safety, No profit for private entities

India holds Nari Adalats, women's courts, in order to facilitate conflict resolution regarding family and domestic disputes via mediation. Nari Adalats are unofficial courts, comprised of an eleven women counsel, utilized in rural communities. These counsel women "have received basic training on issues such as domestic violence, foetal sex determination, and other basic laws that impact women" (Krishnerl, 2014). The Nari Adalats are organized by NGO's and funded by foreign donor agencies or government agencies (Vatuk, 2013). Many of the cases that the Nari Adalats deliberate on are disputes between family members, marital grievances, domestic violence and so forth (Vatuk, 2013). This shows some of the limited scope of the Nari Adalats, but there are crimes discussed in these courts that could be, otherwise, tried by formal court systems and that would lead to possible pretrial detention problems. This includes crimes such as rape, property crimes, and robbery to name a few.

One of the positive aspects of Nari Adalats is that the counsel is made up of women from the same region and class where the plaintiff is from. This allows for the plaintiff to feel more comfortable and be able to speak more freely. Another benefit is that by resolving issues through mediation, it does not require the assistance of attorneys since many people in these rural areas cannot afford (Vatuk, 2013). The existence of the Nari Adalats keeps people that would enter into the judicial system out of it. This, in turn, allows for fewer people to be detained in prison awaiting their day in court. This program has made significant headway in both protecting human rights and ensuring that the already overcrowded jails and detention centers are less overwhelmed. Mediation practices have consistently been shown to work in these underrepresented, rural areas because the formal court systems are not conducive to the everyday lives of people in these communities.

Krishnerl, F. (2014 July 28). Nari Adalat is no kangaroo court. *The Times of India*. Retrieved from http://timesofindia.indiatimes.com/city/patna/Nari-Adalat-is-no-kangaroo-court/articleshow/39137166.cms

Other sources:

Vatuk, S. (2013 May 8). The "women's court" in India: An alternative dispute resolution body for women in distress. *Taylor Francis Onlin*e, *45*(1). Retrieved from http://www.tandfonline.com/doi/full/10.1080/07329113.2013.774836?src=recsys

15: Parental Release

***Best Practices Criteria:** Respects human rights, Affordable, Definable, Ensures public safety, Sustainable

One way that countries are decreasing their pretrial detention population is by focusing on juveniles. Countries such as Kazakhstan, Kyrgyzstan, Tajikistan and more are releasing juveniles to the custody of their parents/guardians instead of the juvenile being detained in prison (The United Nations Children's Fund, 2012). They are utilizing the Beijing Rules, which state that the use of institutionalization should be the last resort (United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985). As previous research has shown, denial of freedom for a juvenile can have detrimental effects. By not incarcerating juveniles this will not expose them to violence in prison (Penal Reform International, 2013). Only those juveniles who are awaiting trial for severe crimes or do not have a home with proper supervision are kept in detention (The United Nations Children's Fund, 2012).

Through the utilization of parental release, pretrial detention among juveniles has decreased in Kazakhstan by eighty percent from 2007 to 2011. Also, both Kyrgyzstan and Tajikistan saw an approximate fifty percent decrease in juvenile pretrial detention between 2004 to 2011 (The United Nations Children's Fund, 2012). By using parental release as an alternative to pretrial detention it reduces the number of defendants in prison and decreases the amount of money spent on detaining people in prison. Also, by releasing the juvenile to the parent, there is automatic supervision via the guardian which comes at no financial cost.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"). (1985 November 29). Retrieved from http://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf

Other sources:

Penal Reform International. (2013 December). A review of law and policy to prevent and remedy violence against children in police and pre-trial detention in Kazakhstan. Retrieved from https://www.penalreform.org/wp-content/uploads/2013/06/A-review-of-law-and-policy-to-prevent-and-remedy-violence-against-children-in-police-and-pre-trial-detention-in-Kazakhstan_Eng.pdf.

The United Nations Children's Fund (UNICEF). (2012). Juvenile justice in Central Asia. Retrieved from https://www.unicef.org/ceecis/UNICEF_JJ_Synthesis_2012.pdf

Central America

1. **Instituto de la Defensa Pública Penal en Guatemala (IDPP)**
    - Respects human rights
    - Available to majority of accused
    - Definable
    - Verifiable
    - Does not result in profits for private entities
    - Ensures public safety

The Instituto de la Defensa Pública Penal en Guatemala (Institute of Public Criminal Defense) provides free legal assistance to those facing criminal charges in Guatemala. It was created in 2005 as a response to the detrimental judicial system and has been successful since. Between 2012 and 2014, they have provided public defense in 226,051 cases (Latham & Watkins, 2015) with a total of 36 defense coordination units across the country. The IDPP provides free legal aid through public defenders of two types: defensores de planta, who are civil servants working exclusively with IDPP, and defensores de oficio, who are private attorneys that have volunteered to take on a pro bono case or have been allocated a case by the IDPP. Guatemala law guarantees free legal aid in all criminal proceedings to those earning less than three times the minimum wage. Article 12 of the Guatemala Constitution guarantees the right to legal assistance, Article 89 of the Civil and Commercial Code (Código Procesal Civil y Mercantil) guarantees indigent people the right to legal assistance, and Article 90 guarantees that those who are eligible for free legal assistance are exempted from any cost(s) incurred in their proceeding (Latham & Watkins, 2015). The IDPP is a state-subsidized program, although there is a strong backing by national and international NGOs. As a result of the increased need for public defense, the IDPP has published a Strategic Plan for 2015-2019 to address their budget, size, structure, and coverage. Overall, because a major reason for pretrial detention is the lack of proper representation, this could reduce the amount of persons held in pretrial detention pending a conviction.

Latham & Watkins. (2005). Pro bono practices and opportunities in Guatemala. Retrieved from:https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono20Survey/pro-bono-in-guatemala.pdf

Instituto de la Defensa Pública Penal en Guatemala. (2017). Que es el instituto de la defensa pública penal. Retrieved from: http://www.idpp.gob.gt/institucion/quienessomos.aspx

2. **Electronic monitoring (brazaletes electronicos)**
    - Respects human rights
    - Definable
    - Verifiable
    - Affordable for country's budget
    - Ensures public safety

Panama is one of the few countries in Central America who use electronic monitoring as an alternative to pretrial detention. Since 2005, the Public Ministry has been responsible for providing electronic monitoring to Panamanian prisons for the following beneficiaries: persons who voluntarily participate; those who have medical conditions that cannot be treated in the prison medical center; pregnant women and mothers with children under 6 months, unless they represent danger to the child; those who are not a danger to society; those eligible for bail; those who work; those who are in school. Electronic monitoring is also sparsely used in Costa Rica, as part of a public tender program, funded by the Inter-American Development Bank.

United Nations Office on Drugs and Crime. (2013). *The use of electronic monitoring bracelets as an alternative measure to imprisonment in Panama.* Retrieved from: https://www.unodc.org/documents/ropan/TechnicalConsultativeOpinions013/Opinion_2/Advisory_Opinion_002-2013_ENGLISH_FINAL.pdf

3. **Juvenile Justice and Pre-Trial Detention Program**
    - Respects human rights
    - Affordable for country's budget
    - Definable
    - Does not result in profits for private entities, beyond reasonable salaries
    - Verifiable

The Juvenile Justice and Pre-Trial Detention Program is a national program that has been federally funded by the International Narcotics and Law Enforcement Affairs federal agency since 2015. This program provides help to low/moderate risk adolescents who are or have been involved with gangs and/or drugs and have been given an alternative sentence by the courts. This program helps male and female adolescents reintegrate into society after receiving psychological care, educational coaching, training for employment, and anti-violence trainings, as opposed to pretrial detention, with no known eligibility requirements. The Juvenile Justice and Pre-Trial Detention Program is overseen by the National Center for State Courts (NCSC) and has also been implemented in Guatemala and Panama.

The Juvenile Justice and Pre-Trial Detention Program. (2017). *El Salvador.* Retrieved from:http://www.justiciajuvenilca.org/Microsites/CA%20Juv%20Justice/Home/sc_lang=es-sv

National Center for State Courts. (2017). *El Salvador: strengthening community support networks for juvenile justice.* Retrieved from:http://www.ncscinternational.org/Highlights/El-Salvador-StrengtheningCommunity-Support-Networks-for-Juvenile-Justice.aspx

4. **Law School clinics**
    - Respects human rights
    - Affordable
    - Available to majority of accused
    - Definable
    - Ensures public safety
    - Verifiable
    - Sustainable
    - Does not result in profits for private entities

To increase access to legal representation in Panama, Guatemala, and El Salvador, a pilot project was created and funded by the Bureau for International Narcotics and Law Enforcement Affairs (INL) to identify law schools that would be appropriate for a clinic program, or who already have existing clinic programs, to train and mentor law students. This pilot project aimed to help law students work through their clinics to screen existing prison populations for individuals who have spent an excessive time in pretrial detention. Their efforts were focused on low-risk prisoners of nonviolent crimes. Currently, in El Salvador, law students are required to provide free legal assistance prior to being admitted as attorneys. Making it a requirement for law students to give pro bono assistance, especially in regards to pretrial detention, is affordable for a developing country, like El Salvador, and allows the opportunity for agencies like INL to provide proper training and funds.

Latham & Watkins. (2015). Pro bono practices and opportunities in El Salvador. Retrieved from: https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono20Survey/pro-bono-in-el-salvador.pdf

United States Department of State. (2014). Juvenile Justice and Pre-Trial Detention in Guatemala, El Salvador, and Panama. Retrieved from: http://www.judicialwatch.org/wpcontent/uploads/2014/06/JuviJusticegrants.pdf

5. **Asistencia Legal por los Derechos Humanos (ASILEGAL)**
    - Respects human rights
    - Affordable
    - Verifiable
    - Definable
    - Does not result in profits for private entities

Headquartered in Mexico, ASILEGAL is a nongovernmental organization that was founded in 2006. They focus on due process and access to justice, primarily through strategic litigation and research; the penitentiary system and to defend "the rights of persons deprived of liberty in detention centers" (ASILEGAL, 2016); and the criminal justice system and implementation of a new justice system "by means of capacity building and professionalization of justice officials" (ASILEGAL, 2016). By educating current justice officials on the laws prohibiting excessive pretrial detention and building the capacity of justice officials, this allows not only a quicker pretrial detention holding, but a better understanding of the justice system and a move toward pretrial detention alternatives. Furthermore, the organization pushes for constitutional reform to address pretrial detention.

6. **Honduras house arrest**
    - Respects human rights
    - Definable
    - Affordable
    - Ensures public safety
    - Does not result in profits for private entities

Under the Criminal Procedural Code, Honduras mandates house arrest pending trial for those who are over the age of 60 who have been accused of committing nonfelony crimes, women who are pregnant or breast-feeding, and those who are terminally ill. Additionally, the Criminal Procedural Code allows house arrest for felony cases, depending on the seriousness of the crime as well as the accused's prior criminal record (if any) and personal history. Allowing for the accused to be placed on house arrest instead of sitting in pretrial detention centers gives them the opportunity to be with their families and continue to live their life (with restrictions), while also preventing the them from being labeled as guilty if they are being held in pretrial detention before conviction (if any). Furthermore, it ensures their return to trial and keeps them isolated, protecting the community.

U.S. Department of State. (2002). Honduras. Retrieved from: https://stagingpa3.state.gov/node/63300.

7. **Honduras Unsentenced Prisoner Law (1996)**
    - Respected human rights
    - Definable
    - Verifiable
    - Affordable
    - Does not result in profits for private entities

Implemented in 1996, the Unsentenced Prisoner Law in Honduras requires the release of a detainee whose case has not come to trial and "whose time in detention exceeds the maximum prison sentence for the crime of which he is accused" (U.S. Department of State, 2002). This prevents overcrowding in pretrial detention centers, especially for those who have been detained for an excessive amount of time pending trial. The Criminal Procedure Code of Honduras limits pretrial detention to 1 year if the highest penalty for the alleged crime is less than 6 years, and 2 years if the highest penalty for the alleged crime is 6 years of more. In 2000, the Honduran government estimated that over 3,000 detainees held in pretrial detention were eligible for release under this law.

U.S. Department of State. (2002). Honduras. Retrieved from: https://stagingpa3.state.gov/node/63300

8**. Ley del Menor Infractor (El Salvador)**
Respects human rights
Affordable for the country's budget
Definable
Ensures public safety
Verifiable
The Ley del Menor Infractor was implemented on March 1, 1995 by the legislative assembly of El Salvador found in Article 35 of their constitution under Decree number 863. The objective of this law is to regulate the rights of minors (12-18 years old) when they have committed some kind of criminal infraction. Also, to maintain a positive development on the youth instead of having a negative impact because of an arrest. Lastly, to guarantee that youth's rights not be violated. When a juvenile is arrested instead of being placed in pretrial detention the alternatives include familiar support, socioeconomic support, community service, rehabilitation, educative services, and legal aid. If the child does not have a family then they are placed under the care of the Instituto Salvadoreño de Protección al Menor (child services). This is implemented over a period of "probationary time" that must not exceed five years. During this time the child must present themselves at court every three months for an evaluation with the judge. If the child has parents the services that are cost effective are covered by the families with help from the government if they need it. Evaluations are done by a judge, prosecutor and psychologist in order to determine if they can come off these services. Although this was implemented many years ago, it has not been used in this precise manner since there are many youth that are in pre-trial detention for minor infractions; the youth that are given these services is only a fraction which unfortunately means those in charge of the system are not abiding by this law.

Reference:
Ministro de Justicia. 1994. Ley Del Menor Infractor. *Diario Oficial* No. 106, Tomo No. 323

9. Ley de Implementación del Control Telemático en el Proceso Penal (Guatemala)
Respects human rights
Affordable for the country's budget
Definable
Ensures public safety
Verifiable
No profit for private entities
Sustainable

On December 14th, 2016, the Guatemalan congress passed a law that would implement electronic monitoring as an alternative for pre-trial detention in order to alleviate the overcrowding problems, of which 46% are currently held in pretrial detention (Gramajo & Contreras, 2016). The electronic monitoring is tracked via GPS and can be used as an ankle bracelet, bracelet or any other device that can be tracked (Gramajo & Contreras, 2016).The device is only an option to those whose were arrested for minor crimes (per Guatemalan Criminal Statutes) but will not be an option for those that committed crimes like homicide, aggravated assault, rapes, aggravated burglary, kidnappings, and any sex or drug trafficking related crime (Gramajo & Contreras, 2016). The electronic monitoring will be paid for by the individual that is arrested, unless the judge determines that they cannot afford it, in this case the State would pay for it. The judge is also allowed to relocate the individual as they seem fit. Under Discrete 49-2016 (Ley de Implementación del Control Telemático en el Proceso Penal), those that are over 65, pregnant women, mentally ill (after evaluation, and have a severe physical illness, will have priority of using these electronic devices. Additionally, destruction, alteration, and refusal to use the devices was made a crime punishable by 10-25 years in prison and a fine of approximately 25-150 Quetzales. This was done as a way to ensure that the device itself would not be an issue.

Congreso de La Republica de Guatemala. 2016. https://www.scribd.com/document/334188604/Dto-49-2016-Ley-de-Implementacion-Del-Control-Telematico-en-El-Proceso-Penal

Gramajo, J & Contreras, G. 2016. Reos usarán brazaletes electrónicos como medida sustitutiva http://www.prensalibre.com/guatemala/politica/reos-usaran-brazaletes-electronicos-como-medida-sustitutiva

Congreso de La Republica de Guatemala. 2016. Organismo Legislativo Decreto Numero 49-2016. Ley de Implementación del Control Telemático en el Proceso Penal.

10. Proyecto Nacional de Desarrollo Urbano Integrado (PNDUI) "Barrio Ciudad"
Respects human rights
Affordable for the country's budget
Definable
Ensures public safety
Verifiable
No profit for private entities
Sustainable

The PNDUI- Barrio Ciudad was developed in Honduras in 2005 to provide more social services in a sustainable manner that could create a better environment to very poverty stricken communities, which eventually could spread throughout the country. The main objectives were divided into three major components; 1. Urban Services, 2. Technical support 3. Prevention of Crime and Violence. Targeting investments which will yield access to basic urban services in poor homes, have stronger human and social capital, increase the participation of planning within the communities are all part of the Urban Services projection but play a very big role in the reduction of crime as well. The prevention of crime and violence section seeks to lower homicides, juvenile delinquency, and the specific problems faced with poverty stricken neighborhoods by working with the community, organizations, and the government to create preventive measure in reducing crime. In order for this to be possible they created a plan that contained five components that would stipulate the guidelines. They were as followed, 1. Diagnostic- mapping out crimes using GIS, 2. Situational Prevention- reducing the amount of opportunities to commit crime through improvements to the communities, 3. Social prevention- more social services and community involvement that will deter people from committing crime 4. Community and Municipal relations- working with NGOs and the government to provide more service to the communities, educating the community and helping youth that are at risk. 5. Monitoring and Evaluation- evaluation on the project as a whole and statistics. This program opened their doors for youth that had been arrested for minor crimes that were awaiting sentencing to be involved in this program, per judge's permission. Many youth participated instead of being detained in pretrial. This project launched in 2009 in El Barrio de Independencia with 70% of the funding coming from World Bank who gave $852,260.62 and the other 30% was provided by the government and beneficiaries. In 2014, the project culminated and this neighborhood had flourished in children centers, social services and a decrease in crime. It is currently being implemented in three other Honduran cities.

References:

Honduras. 2005. *Honduras - Proyecto Barrio - Ciudad : marco de política de reasentamiento*. Tegucigalpa, Honduras: Government of Honduras. http://documents.worldbank.org/curated/en/548501468034451104/Honduras-Proyecto-Barrio-Ciudad-marco-de-politica-de-reasentamiento

World Bank. 2011. Crimen y Violencia en Centroamérica, Un Desafío para el Desarrollo. http://siteresources.worldbank.org/INTLAC/Resources/FINAL_VOLUME_I_SPANISH_CrimeAndViolence.pdf

Diaz, J. 2014. Concluye proyecto barrio ciudad en Comayagua. http://www.elheraldo.hn/regionales/612033-218/concluye-proyecto-barrio-ciudad-en-comayagua

11. La prisión preventiva como medida cautelar extraordinaria (10 Código Procesal Penal, Law No. 7954)

Respects human rights
Affordable for the country's budget
Definable
Ensures public safety
Verifiable
No profit for private entities
Sustainable

The Costa Rican government adjusted some of their penal laws to reflect more of the American Convention on Human Rights, Universal Declaration of Human rights and the International Covenant on Civil and Political Rights, in order to use pretrial detention for very specific purposes and in a more civil matter. In addition, the notion of innocent until proven guilty is upheld with more seriousness. The only person that has authority to decide whether the individual should stay in pretrial detention is the judge, not the prosecutor. The judge has two objectives which involve discovery of the truth and to make sure that individuals arrested are not immediately placed in pretrial detention unless otherwise decided. This law emphasizes how pre-trial detention should not and will not be used as the first measure available. Additionally, those waiting will be heard in a reasonable time and will not be subject to terrible conditions (Article1-10). Individuals that are arrested for serious crimes, if the individual can harm themselves or others and if there is incriminating evidence at the time of arrest. All individuals go before the judges and any evidence available is presented, the judge decides what should be done with the individual. In cases that the person arrested does not meet the criteria for detention, the judge will decide a reasonable bail or ROR. As a result of the national law, those operating the jails are responsible for upholding this because the State will monitor them. Since its implementation there has been a reduction in pre-trial detention. In 2016, Costa Rica had 17% of people in pre-trial compared to 24% in 2006.

La Asamblea Legislativa de La Republica De Costa Rica. Código Procesal Penal. Ley No.7594 http://www.wipo.int/wipolex/es/text.jsp?file_id=222454

Foro De Costa Rica.2017. La prisión preventiva como medida cautelar. https://tapatalk.com/m/?id=6&app_ios_id=307880732&app_android_id=com.quoord.tapatalkpro.activity&referer=http://forodecostarica.com

12. Ley De Fortalecimiento de la Policía Civilista (1994 and 2001) Costa Rica
Respects human rights
Affordable for the country's budget
Definable
Ensures public safety
Verifiable
No profit for private entities
Sustainable

The Costa Rican government created and implemented this new law that would reevaluate, change, enhance and bring forth new tactics for police to handle and interact with civilians (Comisión Permanente de Gobierno Y Administracion, 2001). Prior to 1994, Costa Rica was seeing a tremendous increase in arrests, pre-trial detentions and incarcerations. Those that were in any of these spectrums were also experiencing human rights violations and the Costa Rican criminal justice system was neglecting basic laws, codes and rights that already had been stipulated under the Costa Rican Penal Code (Comisión Permanente de Gobierno Y Administracion, 2001). The law reinforced on prohibiting arbitrary arrest and detention, enhanced how the police ranking and training should be added new tactics to avoid preliminary arrest and added new tactic to efficiently handle those arrested in order reduce the amount of people in pre-trial detention and incarceration (Comisión Permanente de Gobierno Y Administracion, 2001). They changed the military rankings to civilian rankings which would bring forth a less authoritative aura and promote a more community involved policing (Crime and Society,2016) All new police members had to take a course in the police academy on police administration and universal principles of human rights, which was done in 1 week of strictly learning this type of material. All of which was done with purpose of improving the relationships between law enforcement and community and to reduce the amount of people that were in pre-trial and detention. In 2001, the law was just slightly modified and more strictly enforced such that arrest could only be made with a judicial warrant (Crime and Society,201) Those individuals that were brought in were allowed to be held for 1-3 years depending of the severity of the crime, however, every 3 months the persons case is evaluated which many times results in the person's release(U.S Department of State, 2017) Additionally, there are 5 different levels such as local and state courts which depending on what the individual was arrested for the cases are diverted to a place where their case will be dealt with more quickly and efficiently (U.S Department of State,2017) Individuals all have the right to bail, unless judges find a more concerning reason to keep the person. All people arrested go before a fact finding investigator which determines whether or not there is enough information to keep the suspect within the first 24 hours. If there is little to no evidence linking that individual to the alleged crime they are released. All of these practices that since have been implemented have allowed thousands of individuals to be given the opportunity to not be held in pre-detention or simply have a complete dismissal of charges. This has weeded out many and reduced the amount of people that are in pre-trial detention and prisons in general.

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South America

1. **Title:** *Eliminate* Minor Crimes Code of Cordoba (CFCOR)

Description: The Minor Crimes Code of Cordoba, Argentina is a system that has been put into place in 2011 in order to address both misdemeanors and infractions. Systems that address misdemeanors or infractions tend to require special treatment, but the police directly apply the CFCOR on a daily basis. For example, the police regularly use the CFCOR to not only detect infractions, but also to impose different sanctions [CFCOR 114, 115, 117, 123]. Once those sanctions are given, a minor crimes judge is able to intervene in the process *only* if the defendant chooses to appeal the sanction or if the punishment is considered to be greater than twenty days in jail [CFCOR 119, 120]. Furthermore, according to the Minor Crimes Code of Cordoba, the police have the right to detain an individual if the individual does not have a residence in the city, and in the case of loitering, for twenty-four hours, in order to identify them [CFCOR 123]. Those kinds of proceedings do not require the assistance of an attorney, but the police do have to inform the accused that they have the right to hire an attorney or request the intervention of a public attorney. If for any reason the accused decides to confess to the crimes that they have been accused of committing, then their sanction may be reduced by half [CFCOR 15 and 19]. According to the CFCOR, the most commonly used infractions are loitering and the refusal to identify oneself or give police officers the information that they requested [CFCOR 98 and 79]. Loitering has been defined by the Minor Crimes Code of Cordoba as remaining in a location without reason, in a suspicious manner, all while causing extreme discomfort to the owners. When it comes down to it, the system has shown that individuals who have been arrested for loitering have been sanctioned with either three or five days in jail or with five days and ten fines. Each fine is estimated to be around $4.80 USD (Binder, Cape, & Namoradze, 2015, pgs. 160-161).

Results: Following in Cordoba's footsteps, Buenos Aires, Argentina put Law 13.482, 15.c. (CFBA) into effect, which provides for detention to determine an individual's identity without any kind of court order. In 2011, 70% of those individuals that had been detained in Cordoba were young men between eighteen and twenty-five years old, who had belonged to marginalized, urban neighborhoods. Not only were the majority of those detentions occurring on busy streets, but also they were occurring out in the open for everyone to witness. Records from *La Voz del Interior* indicated that 73,100 people were stopped in 2011, which estimated to be around two hundred detentions, in a facility, daily. Even though a chief prosecutor argued that the Minor Crimes Code of Cordoba was unconstitutional, it remained an adequate tool for the government's criminal policy (Binder, Cape, & Namoradze, 2015, pgs. 160-161). Obviously, the Minor Crimes Code of Cordoba led to an excessive number of unnecessary detentions exemplified from records from *La Voz del Interior*, and simply should be eliminated if the State ever wants to see a reduction in their number of pre-trial detainees.

Criteria (after the Code has been eliminated)**:**

- It respects human rights
- It is definable
- It is verifiable
- It should not result in profits for private entities, beyond reasonable salaries

- It is affordable for the country's budget

Reference:

Binder, A., Cape, Ed and Namoradze, Z. (2015). Effective Criminal Defence in Latin America. Translated from the Spanish Bogota, Colombia: Dejusticia. 1-542. http://eprints.uwe.ac.uk/27773

2. **Title:** Reforma del Código de Procedimiento Penal (CPP) de Brasil [Brazil's Criminal Procedure Code Reform]

Description: The Criminal Procedure Code (CPP) was publicized by executive Decree 3.689 of 1941 and has been in force since January 1st, 1942. Given that the CPP was promulgated during the government of President Vargas, who had instituted a dictatorship, the Procedural Criminal Code is characterized by the restriction of both civil and political rights, as well as the expansion of social rights. The dictatorial culture had also impacted on criminal legislation, because the CPP was created by an executive Decree, meaning the executive power unilaterally imposed the code and entered it into force without any legislative deliberation (Binder, Cape, & Namoradze, 2015, p. 176). After some time, the 1988 Federal Constitution, which happened to have been written and publicized during the recuperation of democracy after the dictatorship of 1964-1985, strongly regulated individual rights and protections. As a result, Brazil's Criminal Procedure Code (CPP) has undergone a number of specific, as well as significant reforms, which have been closely related to the right to effective defense (Binder, Cape, & Namoradze, 2015, pgs. 176-177). Those rights will not only benefit those individuals that have been accused of a crime, but the laws put into place have the ability to lower the State's number of pre-trial detainees.

Results: After the reform of Brazil's Criminal Procedure Code (CPP), three separate laws were created, which were related to the right to effective defense. Law 10.792 states that the interrogation of the accused is deemed a method of defense, rather than simply a way to obtain evidence. The law made the presence of a defense attorney obligatory during any kind of questioning of the accused, and ended up granting the parties the right to ask the accused questions. Prior to Law 10.792, the judge was the only one who had the power to ask the questions. Furthermore when Law No. 11.719/2008 was adopted, several changes were made to the criminal procedure process. One of the most important changes to the process involved moving the questioning of the accused to the after procedural instructions, in order to respect the principles of due process and broad defense [art. 5, LV and LVI]. Lastly, Law No. 12.403/2011 was created and that law is especially important, especially for those individuals who are stuck in pre-trial detention in Brazil. Law No. 12.403/2011 created alternative precautionary measures such as the obligation to periodically appear before the court, to remain a certain distance away from the victim, electronic monitoring, etc., due to Brazil's high rate of pre-trial detention. Overall, that specific law recognizes that it is not necessary to temporarily deprive an individual of their liberty when they simply do not pose a danger to their community (Binder, Cape, & Namoradze, 2015, p. 177). The reform process of Brazil's Criminal Procedure Code (CPP) certainly had a positive outcome, because the creation of those three laws that are closely related to the right to effective defense will end up benefitting not only the accused, but those individuals in pre-trial detention as well.

Criteria:

- It respects human rights
- It is definable
- It is affordable for the country's budget
- It ensures public safety
- It should not result in profits for private entities, beyond reasonable salaries

Reference:

Binder, A., Cape, Ed and Namoradze, Z. (2015). Effective Criminal Defence in Latin America. Translated from the Spanish Bogota, Colombia: Dejusticia. 1-542. http://eprints.uwe.ac.uk/27773

3. **Title:** Código de Procedimiento Penal, art. 261 - Asistencia Legal de Brasil **[**Criminal Procedure Code, art. 261 - Brazil's Legal Assistance]

Description: According to Criminal Procedure Code, art. 261, the presence of an attorney that represents the accused during any part of the judicial phase, as well as the execution of the sentence, is considered mandatory. Whenever the accused does not appoint an attorney, the Criminal Procedure Code, art. 263, states that the judge will go on and appoint the individual a public defender or *ex officio* attorney. Public defenders are officials who are licensed to practice law and are usually selected upon the basis of a public competition. Additionally, the public defender must have had passed an entrance exam to the Brazil Bar Association. On the other hand, *ex officio* public defenders are those individuals that form part of an agreement between both the Public Defence Office and the OAB-SP (Attorney Bar Association of Brazil), and are available to be appointed to those cases that are sent through the Public Defence Office whenever the accused does not have an attorney to represent them. When it comes to salaries, the beginning salary for public defenders is approximately $5,000 USD monthly, meanwhile the wages of *ex officio* defenders are $367.48 USD for a single criminal trial and $152.28 USD during the execution phase of the trial. In 1988, the Federal Constitution established that all state public defense offices must provide legal assistance to those individuals considered to be underprivileged in cases of state justice. However, the state of São Paulo only instituted the Public Defence Office in the year 2006. With the creation of the São Paulo Public Defence Office, those who provided legal assistance had the option of moving their career path to that of a public defender, but the results were frustrating, if not sad at first (Binder, Cape, & Namoradze, 2015, pgs. 184-186).

Results: When that option first arose, 87 of 350 legal service providers who had worked in the Legal Assistance Office ended up moving to work in the São Paulo Public Defence Office. That may not seem like a lot, but at the time it was a huge improvement. According to the Public Defence Office, in 2013, after five separate contests, the state ended up hiring six hundred and six defense attorneys→ 301 in the capital and 305 in the other court districts. As more time passed, São Paulo chose to open up a sixth competition in order to fill another ninety vacancies. Of that total, 185 work in the criminal area, and 88 of those are located within the capital. Furthermore, the shortage of public defenders led to law schools in Brazil going on to establish legal clinics where students work under the guidance of licensed attorneys, who in turn are solely responsible for the proceedings. That kind of activity is offered through an agreement in which law schools sign with the Public Defence Office, as well as with non-governmental organizations (NGOs) or even public organizations, so that those individuals who cannot afford an attorney can be provided with one. In addition to those positive outcomes, Brazil's Criminal Procedure Code ended up establishing two guidelines, which benefit this practice and help keep it running strong. First, individuals that have a monthly family income that is below nine hundred USD, or three minimum monthly salaries, do in fact qualify for free legal assistance and are admitted. On the other hand, those individuals who are accused in a criminal proceeding who do not appoint a private attorney have the right to a public defender, *but* if the defendant is found to make more money than stated above, then they will be requires to pay the attorney's wages [Criminal Procedure Code, art. 263] (Binder, Cape, & Namoradze, 2015, pgs. 185-188). That stipulation is key, because that will leave the public defenders to represent those individuals, such as pre-trial detainees, who can't truly afford them, and those accused that have the money to pay for a private attorney will have to do so if they want representation.

Criteria:

- It respects human rights
- It is definable
- It is affordable for the country's budget
- It ensures public safety
- It should not result in profits for private entities, beyond reasonable salaries

Reference:

Binder, A., Cape, Ed and Namoradze, Z. (2015). Effective Criminal Defence in Latin America. Translated from the Spanish Bogotá, Colombia: Dejusticia. 1-542. http://eprints.uwe.ac.uk/27773

4. **Title:** Sistema Nacional de Defensa Pública de Colombia **[**Colombia's National System of Public Defence]

Description: Since 2005, only attorneys that the SNDP has hired as public defenders, law graduates, who had been undertaking their seminar in which they provided free legal services in public entities within the SNDP, and law clinic students have been allowed to offer any kind of criminal legal services and representation as part of State-funded legal services [Law 941 of 2005, arts. 16 and 17]. Those attorneys act under guidance of the SNDP for nine months, where they work for free as defense attorneys in areas of civil, criminal, administrative, and labor law. In order for the attorneys to be admitted as an apprentice in the SNDP, they must accredit having completely their legal studies, completion of courses, provide their resume, as well as pass an interview or examination. When it comes to law students, law school faculty end up supervising those students who choose to partake in clinics that have an agreement with the Ombudsman, who administer the State's legal assistance. Students have the ability to offer any kind of legal advice and representation in criminal matters in which municipal judges act as trial or legal control judges, but they are forbidden from acting as representatives for victims and co-defendants in the same criminal case. When it comes to qualifying as a public defender, the attorney must have a post-graduate degree that is directly related to the defense program that the individual is interested in, and have at least two years' experience in the area of the program that the individual is thinking of applying to. After evaluating the candidates, the Ombudsman will hire them with a yearly, renewable contract, and under that contract the attorney will receive a monthly salary of approximately $1,970 USD. That salary is considered high compared to the average Colombian income, but it is actually low compared to the salaries of private attorneys outside the Ombudsman. For example, according to the National Department of Statistics (DANE), the average monthly salary of a worker in the former sector was around $725 USD, but an attorney with a post-graduate degree earned $2,140 USD. Furthermore, the law that organizes the SNDP went on to determine three conditions under which an individual may use public defense services, but there is only one condition the results in the defendant receiving the services free of charge, and that is when the individual does not have the resources or social capacity to afford a private attorney [Law 941 of 2005]. Basically, in cases in which defendants lack economic means to afford a technical defense, public defense is considered absolutely free (Binder, Cape, & Namoradze, 2015, pgs. 233-237).

Results: Colombia's SNDP became extremely popular and favorable that the Ombudsman wanted to make sure that those defendants who couldn't afford a private attorney were still receiving the best defense possible. For example, the Ombudsman requires public defenders to attend weekly academic training, where they can develop their defense strategies [Law 941 of 2005, art. 40, 41, and 42]. The sessions are weekly meets to provide updated information on all different kinds of criminal defense issues. Those training sessions would certainly pay off, because the demand for public defense had increased as the number of individuals entering the system continued to rise. The report *La defensoría pública en cifras* (2008) went on to indicate that public defenders play a leading role in the first hearings of the criminal process. For example, between 2005 and 2007, public defenders ended up addressing 75% of all indictment hearings. Lastly, the Ombudsman indicated that between 2006 and 2012, in 61% of the cases assigned to the public defenders, the defense began with a detained defendant (Binder, Cape, &

Namoradze, 2015, pgs. 238-241). With that being said, the SNDP is a great practice that should continue on and the fact that the Ombudsman requires so much training to prepare its public defenders for trial proves that it will certainly contribute to the reduction in Colombia's number of pre-trial detainees.

Criteria:

- It respects human rights
- It should not result in profits for private entities, beyond reasonable salaries
- It ensures public safety
- It is definable
- It is affordable for the country's budget

Reference:

Binder, A., Cape, Ed and Namoradze, Z. (2015). Effective Criminal Defence in Latin America. Translated from the Spanish Bogota, Colombia: Dejusticia. 1-542. http://eprints.uwe.ac.uk/27773

5. **Title:** USAID/Colombia's Justice Reform and Modernization Program→ Implementation of Law 906

Description: Law 906 was enacted in the year 2004, but it did not take full effect until 2005. The law introduced a number of changes to Colombia's Criminal Procedure Code, which in turn led to an approved justice system. One of the major changes that Law 906 created was a reduction in the prosecutors "judicial powers" and identified which exact actions involving fundamental rights would require prior or ex-post approval by judges. Furthermore, the Law declared that detention may only occur without a bench warrant in flagrante cases, which are cases where the alleged perpetrator is apprehended on the spot, or caught "red-handed", that prosecutors must present a detainee before a judge for charging within 36 hours of their capture, and finally *must* "justify" any of their searches that take place. It took some time for the State to get the legal framework right, but once it was done, the overriding objectives of Law 906 went into effect. The first overriding objective of Law 906 was to ensure better protection of due process rights of the defendant, while the second revolved around eliminating the reliance on written records and exchanged of written motions. The third overriding objective of Law 906 was to speed to all of the case processing through the introduction of strict limit limits post-detention or post charging (USAID, 2010, pgs. 9-10). These three overriding objectives led to the Public Defense Office hiring 2,300 more defenders. Moreover, additional hearing rooms were constructed in order to encourage oral hearings and audio equipment was introduced to allow the taping of the hearings. That way records of the hearings would be able to be kept on CDs for the courts to use them, which in turn would replace all written transcripts (USAID, 2010, pgs. 9-10).

Results: The USAID (United States Agency for International Development), after being awarded a $36 million dollar grant, contributed towards the start-up of the Law 906 implementation program in Colombia. As of early 2010, Law 906's four-stage regional implementation had finally been completed. For example, hearings were held according to the new rules that were put into place, which included a first step "legalizing" any search or seizure that was ordered by the prosecutor, the three-part "combo" hearings (the legalization of the capture, the charging of the defendant, and the discussion of any pre-trial security measures such as regular detention, release on recognizance, house detention, etc.) that were required to be heard by a preliminary hearing judge, and finally the indictment, preparatory hearing, and trial (USAID, 2010, pgs. 10-11). Whenever audio equipment was found to be available, it was used to capture hearings and create permanent records on CDs for future use. Furthermore, in the pre-trial hearings that were observed by the USAID, there seemed to be a particular emphasis on ensuring the defendant's rights had been respected, which was certainly a positive change. The 36-hour rule proved to be a problem when suspects are detained far away from where the judge is located, but USAID's provision of equipment for distance audio-visual conferencing has clearly lessened that issue. Additionally, one of the most visible changes, and one where USAID support has been extremely instrumental, has been the development of the Public Defender's Organization. Not only has USAID helped expand the Organization, but they have also supported a training program for defenders and helped developed a virtual training program, so that everyone can participate. Other results that came out of the USAID/Colombia's Justice Reform and Modernization Program is that it appears that flagrante cases are processed at a much quicker rate, that those cases that do not have enough evidence to move forward have been dismissed more rapidly by the prosecutors, and that Public Defenders' workloads have remained

lighter. Lastly, those cases that could not be taken forward, due to lack of evidence or because the objected action did not constitute a crime, were dismissed more rapidly by the prosecutors, and after the start-up of the Law 906 implementation program in Colombia took off, the average times for cases have fallen to just one month (USAID, 2010, pgs. 11-12).

Criteria:

- It respects human rights
- It should not result in profits for private entities, beyond reasonable salaries
- It ensures public safety
- It is definable
- It is verifiable

Reference:

United States Agency for International Development (USAID). (2010). Assessment of USAID/Colombia's Justice Reform and Modernization Program. 1-62. http://pdf.usaid.gov/pdf_docs/Pdacr349.pdf

6. **Title:** Sistema de Información de Gestión Judicial [Judicial Management Information System (MIS)]

Description: An MIS is a compilation of information that is useful to different levels of management to understand what exactly is going on in the parts of the organization that they oversee. A judicial management information system may be manual or automated, quantified or word-based. Basically, the old registry books that many courts continue to use constitute a basic MIS, but as courts evolve and automate it only makes sense to generate most of the information automatically and to have it entered in codified form. Paloquemao, Colombia aims at making the transition to an MIS, because it will allow finer analysis to help management identify, as well as understand, problems and will also allow for the collecting of reports that are able to be easily understood by judges, judicial management, and other member of the government. Fortunately, creating an automated MIS is not considered to be expensive. Most automated system throughout Latin America end up producing few management statistics, but that is simply a result of judicial leadership's lack of interest in the product, and have nothing to do with the associated costs. When it comes down to it, the difficult parts in creating an MIS are the identification of the types of information that will actually be included, the devolvement of a coding system, and the training and supervision that is required of staff in order to ensure correct data entry. Complications can be simplified very easily when attempting to create an MIS. For example, closed, drop-down menus can be used so that the staff can avoid having to enter codes directly, but instead choose among the permitted text entries. That way the word homicide can be entered as h-o-m-i-c-i-d-e, and the machine will end up assigning the numerical code (USAID, 2010, p. 21). Not only will an MIS be beneficial to the State as a way to keep case files together, but if an MIS were to be implemented in another region it will require some tweaks, so that the system can keep track of those individuals in pre-trial detention as well. That way the detainees won't get lost in the system and spend unnecessary time in jail.

Results: Ethiopia, one of the world's poorest countries, ended up using a $3.8 million dollar grant to develop a judicial management information system (MIS). The country not only developed the basic software, but it also ended up computerizing all federal and higher-level regional (state) courts, while financing other equipment, materials, and infrastructure. After Ethiopia's implementation of the MIS, the system now generates one hundred and seventeen basic reports, including all of the average times to disposition of cases (first instance, appeals, and cassation), all forms of dispositions, rates of reversal on appeal, number and length of adjournments, and even the size and composition of backlogs (USAID, 2010, p. 21). Moreover, the system also permits free-form analysis, which reviews the types of cases that are most likely to have above average adjournment rates based upon material, proceedings, or court (USAID, 2010, p. 21). If this kind of system were to be implemented throughout Colombia, the State's court records would be organized in every single way possible. An MIS would be extremely helpful in determining the amount of time it takes the Courts in Colombia to process cases, and could in turn trigger the same positive outcomes that were seen in Ethiopia.

Criteria:

- It ensures public safety
- It is definable
- It is verifiable

- It respects human rights
- It is affordable for the country's budget

Reference:

United States Agency for International Development (USAID). (2010). Assessment of USAID/Colombia's Justice Reform and Modernization Program. 1-62. http://pdf.usaid.gov/pdf_docs/Pdacr349.pdf

7. **Title:** Programa de Casas de Justicia [The Justice House Program]

Description: The jewel of USAID's Colombia justice program has been the creation of the system of local Justice Houses. The Justice House are considered to be "one-stop legal shops" that operate in marginalized, conflictive neighborhoods to provide peaceful solution to everyday arguments. Basically, the Houses are designed to aid in the resolution of common problems, such as child support/custody issues, property disputes, domestic violence, personal injuries, misdemeanors, and even administrative matters (USAID, 2010, p. 25). Even though some Justice Houses vary in design, most incorporate offices of up to fourteen different national and local institutions, including public defenders, local prosecutors, forensic medicine, document registration units, the local human rights ombudsman's office, legal aid, child and family services, ethnic affairs offices, social workers, psychologists, etc. The Justice Houses do not have any judges present and are not considered to be a part of the formal legal or justice system, so they cannot hear or decide any cases. When it comes to criminal matters, the Justice Houses are meant to extend to range of the formal national justice system to the local level and help filter out cases that should more appropriated be resolved outside the courtroom. With respect to civil matters, the Houses essentially promote informal dispute resolution through conflict prevention, community outreach and education, as well as mediation (USAID, 2010, p. 25).

Results: The National Justice House Program was the product of a USAID inter-institutional pilot program developed in 1994. At first only two Justice Houses were constructed, but the program proved to be extremely valuable right off the bat and by 2001 it grew to include nineteen other Houses. Those Justice Houses were built mainly in poor, urban neighborhoods with high incidences of conflict, but that didn't stop the programs progression. By the end of 2011, a total of seventy-five Justice Houses were operating or under construction. Basically, Justice Houses were designed to provide free assistance in a variety of legal matters, but at the same time they were also used for other services, including public registration and the replacement of identification documents. The usage figures for the Justice Houses have risen over the years and have further proven how useful they have been to the poor communities. For example, the highest requests for assistance in 2008 were for family conflicts (29.9%), lost documents (15.8%), and request for information (10.5%). The remaining requests related to small civil and criminal matters, neighborhood disputes, psychological attention, problems of internally displaced populations, and miscellaneous issues. Overall, Justice Houses have been an extremely important inter-institutional resource to address community needs, as well as provide for peaceful resolutions of everyday legal disputes and increased access to different kinds of services, especially in vulnerable neighborhoods. Not only has the Justice House Program elevated the profile of citizen needs to access to justice, but it has provided a valuable mechanism for free legal assistance in a number of different ways (USAID, 2010, pgs. 25-28). When looking at the bigger picture, Justice Houses have had a significant, positive effect on the communities in which they are situated in, and the practice could certainly reduce the number of pre-trial detainees. By preventing the individuals from committing crimes in the first place and by helping those that have already committed small crimes solve them outside of court, the Justice House Program has proven to be beneficial.

Criteria:

- It ensures public safety

- It is definable
- It is verifiable
- It respects human rights
- It is available to the majority of accused

Reference:

United States Agency for International Development (USAID). (2010). Assessment of USAID/Colombia's Justice Reform and Modernization Program. 1-62. http://pdf.usaid.gov/pdf_docs/Pdacr349.pdf

8. **Title:** Tribunales de Tratamiento de Drogas [Drug Treatment Courts (DTCs)]

Description: These courts were created as an alternative to pretrial detention. The model redirects defendants who are charged with drug-related offenses to rehabilitation centers and gives them the proper treatment. DTCs help offenders with the addictive problem as well as help them reintegrate into society. They do this by addressing the causes of the crime and aim to break the cycle of criminal behavior, alcohol and drug dependence, and imprisonment (cicad.oas.org, 2015, p. 28). Moreover, those who benefit from this program are drug-dependent defendants who would have otherwise fallen through the normal processes of the criminal justice system (cicad.oas.org, 2015, p. 28). In many ways the DTC program serves as an alternative to the regular justice system because it offers conditional suspension of proceeding or supervised release when the person is in custody or already serving a sentence (cicad.oas.org, 2015, p. 28). Usually the offender voluntarily spends anywhere between twelve to eighteen months in treatment and has to report to court every week, as well as submit to random drug testing (cicad.oas.org, 2015, p. 28). Once treatment is successfully completed, and the proceeding is suspended, the case will usually be dismissed without prejudice and the offenders criminal record is expunged for that particular offense (cicad.oas.org, 2015, p. 28). Through the program, DTCs help in the reduction of pretrial detention because offenders enter the program for treatment instead of going to jail.

Length of practice: 2010

Main components: Rehabilitation, treatment for drug addicts, as well as decreasing the pretrial population.

Scope: Peru, Argentina, Colombia, and Chile

Results: Drug relapse rate of participants in DTCs ranges from 8% to 26%, lower than the rate for other judicial response systems. Other studies indicate that the best drug treatment courts reduced the rate of reoffending by 45% compared with other methods.

Has it been used in another country: yes

Criteria:

- It respects human rights
- It ensures public safety
- It is verifiable
- It should not result in profits for private entities, beyond reasonable salaries
- It is definable

References:

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9. **Title:** Proyectos Urbanos Integrales [Integral Urban Projects]

Description: Through the peace and reconciliation program, these projects aim to provide services to the public that live in the mountain areas that surround the city, more specifically, areas that have the highest rates of violence. These services include transport, education, housing, as well as creating green spaces for the public (opensocietyfoundations.org, p. 144). Addressing the need for solidarity and the need in reducing inequality, the city worked alongside the civil society organizations, whose knowledge of and legitimacy within their neighborhoods assisted in the ease of the creation of these projects (opensocietyfoundations.org, p. 144). The principle projects undertaken by the *Proyectos Urbanos Integrales* are; 1) housing, which targets low-income areas and commits to raise more housing units with suitable conditions so that people can live in dignity, 2) parks and libraries that open to the public have spaces ranging from reading rooms, exhibition spaces to places where community meetings can be held, 3) schools that provide an opportunity for the les privileged to earn an education, 4) linear parks (parques lineales) since the city of Medellin has such a large number of water streams, they decided to build a more friendly space around them by planting green areas in order to improve the environmental conditions, and 5) mobility roads (corredores de movilidad) are aimed to create more roads that allow for people to move around town better and for the creation of markets (proyectosurbanosintegrales.blogspot.com, 2010). The reason this program can be linked to the pre-trial detention problem is because the areas with the highest crime rates have a higher percentage of people who end up in pre-trial detention. If these areas are targeted and brought assistance then it will drive the violent crime rates down, which in turn will minimize the amount of people in pre-trial detention.

Length of practice: 2002

Scope: Local

Who does it affect: People of Medellin, Colombia

Who's in charge of it: Local government

Results: There has been a gradual decline in homicide rates since the initiative. In 1991 there were 381 murders per 100,000 and over the following 10 years that number halved. Between 2002 and 2007 homicide rates in the city fell from 174 to 29 per 100,000 (opensocietyfoundations.org, p. 144).

Has it been used in another country: No

Criteria:

- It respects human rights
- It is definable
- It ensures public safety
- It is verifiable
- It should not result in profits for private entities, beyond reasonable salaries

References:

Open Society Justice Initiative. (2014). *Presumption of Guilt: The Global Overuse of Pretrial Detention*. https://www.opensocietyfoundations.org/sites/default/files/presumption-guilt-09032014.pdf

Proyectos Urbanos Integrales. (2010). Proyectos Urbanos Integrales: Empresa de desarrollo urbano. http://proyectosurbanosintegrales.blogspot.com/p/que-es-el-pui.html

10. Title: Lay No. 29449 - Monitoreo Electrónico [Law No. 29449- Electronic Monitoring]

Description: Under Peru's program, offenders remain at home wearing a bracelet on their ankle. The house is then equipped with a box that transmits a signal from the bracelet. If the signal is interrupted, or manipulated in any way the receptor sends a signal to the service provider of the monitor through a telephone line. The provider then looks into the reason for the signal and, if needed, sends a report to the office of the Penitentiary Service, who then sends the police to the offender's house. This law also determined that the offender holds complete responsibility to pay for the cost, unless he/she cannot afford it (this is based on the INPE socioeconomic reports), in which case the judge can waive the fee completely or partially (oas.org, 2017). In addition, if the is a failure to provide payment, the offender will have the electronic monitor revoked and be sent to jail. According to the National Prison Council, the monthly cost of using the electronic monitoring device is estimated at 650 *Soles* ($196 USD), while incarceration costs about 1200 *Soles* ($365 USD) (oas.org, 2017).

Length of practice: 2010

Main components of the best practice: Electronic bracelet while the defendant remains at home

Scope: Peru

Who does it affect: Potential pretrial detainees

Who's in charge of it: National government

Cost: About $7 (USD) per day as opposed to $15 per day to keep an inmate in jail (or $196 per month as opposed to $365)

Results: Has reduced the percentage of pretrial detainees, for example in 2007 more than 910 defendants had gone on EM.

Has it been used in another country: Yes, Colombia, Brazil, Chile, and Uruguay

Criteria:

- It respects human rights
- It is definable
- It ensures public safety
- It is verifiable
- It should not result in profits for private entities, beyond reasonable salaries

References:

Tella, R.,D., Schargrodsky, E. (May 23, 2012). Criminal Recidivism after Prison and Electronic Monitoring. 1-58.

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Oas.org. (March, 2017). Rapporteurship on the Rights of Persons Deprived of Liberty Conducts Visit to Peru. http://www.oas.org/en/iachr/media_center/PReleases/2017/029.asp

11. Title: Código Orgánico Integral Penal - COIP [Comprehensive Organic Penal Code]

Description: This code was aimed at reforming existing drug laws, more specifically, it repealed a lot of the Law on Narcotic and Psychotropic Substances (Law 108) in order to 1) bring criminal legislation in line with Article 364, prohibiting any form of criminalization of users of legal and illegal drugs; and 2) redefine the description of the elements of the offenses and the punishments (cicad.oas.org, p. 35). The goal was to lessen or eliminate certain laws in order to see a decrease in arrests, and more so, to see a decline of inmates in pretrial detention. Further, this more proportional treatment on drug offenses lead to the option of applying the principle of *favorabilia sunt amplianda adiosa restrigenda,* which means that penal laws which are favorable to the accused are given retroactive effect, therefore, many inmates previously detained for these types of crimes had the option of release (cicad.oas.org, p. 35).

Length of practice: 2014

Main components of the best practice: Decriminalizing existing drug laws

Scope: Ecuador

Who does it affect: Existing and incoming pretrial detainees

Who's in charge of it: National government

Results: In October, 2014 1,063 inmates were released and since then fewer people have had to go to jail.

Has it been used in another country: Yes

Criteria:

- It respects human rights
- It is definable
- It is available to the majority of accused
- It is verifiable
- It should not result in profits for private entities, beyond reasonable salaries

References:

Elciudadano.gob.ec. (December 17, 2013). The new Penal Code will improve public safety. http://www.elciudadano.gob.ec/en/the-new-penal-code-will-improve-public-safety-2/

Inter-American Drug Abuse Control Commission (CICAD). (2015). Technical report on alternatives to incarceration for drug-related offenses. 1-54.

12. **Title:** Ley 19718 - La Oficina del Defensor Público Criminal [Law 19718 - The Office of the Criminal Public Defender]

Description: The Office of Public Defenders was created by Law 19718 in 2001 and falls under the supervision of the President through the Ministry of Justice (Kauffman, 2012, p. 624). It is led by the National Public Defenders office that encompasses both regional and local public defenders (Kauffman, 2012, p. 624). However, what makes this office different is that it also employs private attorneys as well (Kauffman, 2012, p. 624). These private attorneys work together with the public defenders in an effort to help defendants who cannot afford an attorney. Their main responsibilities and goals include, defending the procedural rights of the of the defendant, representing him/her in court, and providing defendants with information of how law procedures work, while advising them of their options (Kauffman, 2012, p. 624). Further, Public Defenders are free to those defendants who are unable to afford an attorney, and those who can afford are charged on a sliding scale but notably, only 3% of all defendants represented by the Office of Public Defenders make these co-payments (Kauffman, 2012, p. 624).

Length of practice: 2001

Main components of the best practice: Providing free defense

Scope: Chile

Who does it affect: Incoming pretrial detainees

Who's in charge of it: National government

Has it been used in another country: Yes

Criteria:

- It respects human rights
- It is definable
- It is sustainable
- It is verifiable
- It should not result in profits for private entities, beyond reasonable salaries

References:

Kauffman, K. (November 8, 2012). Chile's Revamped Criminal Justice System. 40, 621-643. icmp.int. (November 13, 2014). Chile.

https://www.icmp.int/the-missing/where-are-the-missing/chile/

13. Title: São Paulo de Braços Abertos [Sao Paulo with Open Arms]

Description: The Sao Paulo with Open Arms program launched in 2014. Its purpose is to boost the social re-integration of homeless people and crack addicts who live in the downtown area of Sao Paulo (Miraglia, 2016, p. 9). Many previous efforts to regain public safety of the area were unsuccessful due to the treatment of drug users who were bullied by the system. This led police to arrest more and more addicts, while inhumanely treating them in the process. The use of this approach was unsuccessful in improving public safety, or improving the social and economic life of the neighborhood (Miraglia, 2016, p. 9). However, the emergence of the Sao Paulo with Open Arms Program helped in a way that no other tactic could. The aim was socially reintegrate and restore the lives of drug users who lived on the streets of Sao Paulo (Miraglia, 2016, p. 9). In addition, benefits were provided to them like health care, psychiatrists, psychologists, nurses, occupational therapists, temporary housing, job openings, meals, technical training and daily wages of R15 (approximately $6 USD) (Miraglia, 2016, p. 9). The Sao Paulo with Open Arms program also opened a public safety sector that is overseen by the Municipal Guard. The main focus for this sector is building surveillance and police assistance (Miraglia, 2016, p. 10).

Length of practice: 2014

Scope: Sao Paulo, Brazil

Who's in charge of it: Municipal Health Secretariat, Secretariats of Safety, Labor and Social Assistance

Has it been used in another country: No

Results: One month after launch the program had reduced the use of crack by participants by 50-70 percent (Miraglia, 2016, p. 9). Further, two months into the program, about 10,555 health interventions were conducted and by the end of December 2014 the program was assisting about 500 people (Miraglia, 2016, p. 10). Sao Paulo with Open Arms also had approximately 20 people working under formal contracts and 42 people receiving training courses of whom were also working at the municipality's Green Factory (*Fabrica Verde)* (Miraglia, 2016, p. 10). Additionally, 59 cases of tuberculosis were diagnosed and treated all while 89 people received mental health services (Miraglia, 2016, p. 10). With respect to the public safety sector of the Sao Paulo with Open Arms program, 25 dealers were arrested and over 4,000 crack doses were seized during this timeframe (Miraglia, 2016, p. 10). The reason this relates to pre-trial detention rates is due to the fact that most of the homeless people and drug addicts are committing crimes, which place them in pre-trial detention to begin with. If people are helped through a program such as the Sao Paulo de Bracos Abertos, then the crimes rates stand to decrease, which means less homeless people and drug addicts in pre-trial detention.

Criteria:

- It respects human rights
- It is definable
- It ensures public safety
- It is verifiable

- It should not result in profits for private entities, beyond reasonable salaries

Reference:

Miraglia, P. (2016). Drugs and Drug Trafficking in Brazil: Trends and Policies. Washington, D.C.: The Brookings Institution. https://www.brookings.edu/wp-content/uploads/2016/07/Miraglia-Brazil-final.pdf

14. **Title:** Asistencia Legal - Artículo 138.14 de la Constitución y Código de Procedimiento Penal [Peru's Legal Assistance - Article 138.14 of the Constitution and Criminal Procedure Code (CPC)]

Description: The Peruvian Constitution and laws all recognize that individuals have the right to defense at any stage of the proceeding, from the first steps of the investigation until the entire process is complete [In accordance with article 139.14 of the Constitution and CPC, article IX of Preliminary Title and 71]. Throughout Peru, every single individual has the right to the assistance of a freely chosen attorney or public defender. Therefore, from the time of detention, the accused must have the assistance of an attorney who is considered to be a member of a bar association, either a private attorney or a public defender. In certain cases in Peru, the suspect may be assisted by a pro bono attorney or by legal clinics that are based in universities or civil society organizations (Binder, Cape, & Namoradze, 2015, pgs. 376-377). According to the Law of Public Defence Service, Law 29360, art.2., whenever a detained individual receives public defense services in Peru, the assistance along with the technical counsel is free. Criminal public defenders work in the Directorate General of Public Defence and Access to Justice (DGDPAJ), which is a line agency of the Deputy Minister of Human Rights and Access to Justice (Binder, Cape, & Namoradze, 2015, pgs. 377-378). The DGDPAJ has decentralized bodies in all of Peru's thirty-one court districts, called district offices, and those go on to offer free assistance and services to those individuals without economic resources. When it comes to Peru's spending in legal assistance for criminal matters, the State provides budgetary resources for public defense, while clients continue to pay for private defenses with their own resources. Between the years 2006 and 2014, the DGDPAJ budget ended up increasing once Peru's Criminal Procedure Code was implemented throughout the State. For example, the DGDPAJ's budget is distributed in the following way→ 96.9% for free legal assistance, 2.5% for socio-economic evaluations, and 0.6% for functional supervision and monitoring (Binder, Cape, & Namoradze, 2015, pgs. 377-379).

Results: The increase in the DGDAJ's budget ended up allowing for an overall increase in the number of public defenders throughout Peru. Prior to the Criminal Procedure Reform, Peru had only 283 public defenders in 2003, but after the Criminal Procedure Reform that number has risen to 1,440 nationally by 2014. That increase of human resources has been adopted in order to respond to the growing demands on the CPC in Peru. Furthermore, of that total number of public defenders [1,440], 808 offer services in criminal matters in the State's thirty-one court districts. Of that total [808], 593, or 73%, go on to apply Peru's Criminal Procedure Code in twenty-three court districts that have already implemented this norm, while 187, or 23%, of public defenders practice in the eight court districts with the former inquisitorial criminal procedure, and 28, or 4%, work in penitentiaries, where they continue to address the needs to prisoners (Binder, Cape, & Namoradze, 2015, p. 379). Clearly, the CPC had a major effect on Peru and after its implementation the State's budgetary resources for public defense increased, and that can lead towards a reduction in the number of pre-trial detainees.

Criteria:

- It ensures public safety
- It is definable
- It is verifiable

- It respects human rights
- It is available to the majority of accused

Reference:

Binder, A., Cape, Ed and Namoradze, Z. (2015). Effective Criminal Defence in Latin America. Translated from the Spanish. Bogota, Colombia: Dejusticia. 1-542. http://eprints.uwe.ac.uk/27773

15. Title: Audiencias de Custodia [Custody Hearings]

Description: In an attempt to lower the number of pre-trial detainees throughout Brazil, Federal Law No. 12.403 [commonly known as the preventive measures act] was enacted and came into effect in July 2011 (IDDD, p. 2). According to Law No. 12.403/2011, even when it is considered necessary to safeguard the due process of law, the preventive custody must be the measure of last resort, and the magistrate must always try to apply one of the alternative measures defined in the list of article 319 of the Code of Criminal Procedure: (i) periodic appearance in court on the scheduled date and according to the conditions set by the judge, to inform and justify activities, (ii) prohibition of access to or presence in certain locations, (iii) home confinement, (iv) electronic monitoring, etc. (IDDD, pgs. 2-3). Unfortunately, those legislative efforts have not yet had an impact on the reasoning of judges who still consider a pre-trial detention order adequate procedural disposition. As a result, the Institute for Defense of the Right to Defense (IDDD) began to promote custody hearings as a fundamental step to reduce the number of temporary detainees in Brazil since mid-2011. Custody hearings are important for the protection of the rights of individuals in pre-trial detention. With the adoption of this mechanism, it is considered mandatory to bring the detainee before a judge up to a maximum of twenty-four hours after their arrest, ensuring an effective control of the legal basis of the detention and evaluating the need for pre-trial detention. Basically, by guaranteeing that the detainee appears before a judge can guarantee that a citizen will spend the least amount of time possible in jail, even when an attorney has not yet been appointed. Furthermore, custody hearings represent a flexible tool for obtaining, as well as verifying, precise information on all different kinds of police procedures (Rede Justiça Criminal, 2016, p. 8). The hearings can help investigate mistreatment, torture, and even extortion by police officials at the time of the arrest and prevent them from happening. When it comes down to it, the implementation of custody hearings in Brazil has been considered to be one of the most important initiatives for addressing the problem of arbitrary arrest and torture. The procedure has clearly proven to be an essential tool for reversing the logic of mass incarceration, while also effectively guaranteeing the principles of presumption of innocence and due process law, which in turn will help reduce the overall number of pre-trial detainees throughout Brazil (Rede Justiça Criminal, 2016, p. 8).

Results: Custody hearings have been held in Espírito Santo. In Espírito Santo, 59% of those individuals arrested in flagrante delicto, or caught red-handed cases, were released during the hearing. According to the IDDD, out of the 77 cases of arrest in flagrante delicto, there was 1 case, or 1%, in which the arrest was terminated, 26, or 34%, cases when unrestricted temporary release was granted, and 18, or 23%, cases when the release was contingent upon the use of an electronic bracelet. On the other hand, in 32, or 42%, of the cases arrest was converted to pre-trial detention (IDDD, p. 10). Those statistics show how judges have been more willing to apply one of the alternative measures after the custody hearings have taken place, but there is certainly room for improvement. The IDDD revealed a number of challenges that have to be addressed if there is ever going to be a significant reduction in Brazil's pre-trial detention. For example, the custody hearings need to respect the 24-hour time period, the lack of adequate space for the contact between the defense and the detainee needs to be resolved, and the excessive use of technical language, which hinders the understanding of the procedures needs to be overcome (Rede Justiça Criminal, 2016, p. 9). Once those challenges are improved, custody hearings can

be used more throughout the State, which will end up reducing Brazil's number of pre-trial detainees.

Criteria:

- It ensures public safety
- It is definable
- It is verifiable
- It respects human rights
- It should not result in profits for private entities, beyond reasonable salaries

References:

Rede Justiça Criminal. 2016. Human Rights and Criminal Justice in Brazil. 1-20. http://redejusticacriminal.org/wp-content/uploads/2016/11/JSTMP17_UPR27_BRA_E_Main-FINAL-1.pdf

The Institute for Defense of the Right to Defense (IDDD). Pre-Trial Detainees in Brazil and the Custody Hearing. 1-16. http://www.cnj.jus.br/files/conteudo/arquivo/2016/02/dea49c0ba2487f842717d146bf8d3491.pdf