

Bail Reform National Landscape

Ameshia Cross
Director of State
Policy



Pretrial Justice Institute

- Advance safe, fair, and effective juvenile and adult pretrial justice practices and policies that honor and protect all people
- Work with policymakers and system stakeholders
- Work at the national, state and local levels
- Funded by government, philanthropy, and private citizens



The urgency of now



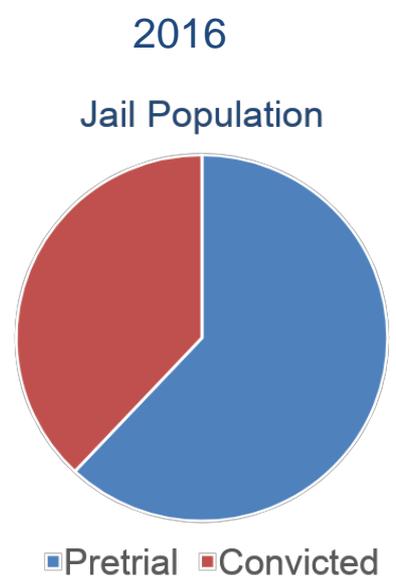
- **Hundreds of thousands of legally innocent people languish in jails on any given day simply because they can't afford bail.**
- The use of money bail is one of the most troubling features of our deeply unequal justice system.
- Many of the nearly [half a million unconvicted people](#) confined in jails on any given day are there because they can't afford to pay bail. As people await court hearings behind bars, sometimes for months or even years, they suffer from inadequate medical care and even [dangerous conditions](#), and many lose their jobs and housing.
- They and their families are also targets for the \$2 billion-per-year for-profit bond industry, which [routinely exploits people](#) — disproportionately people of color — in desperate situations.
- There is a rising movement to fight the bail system from multiple angles



The pretrial population in jail



Total jail population = 223,551



Total jail population = 740,700



**Unconvicted inmates account for
95% of jail growth since 2000. Most
of them are unable to post bail.**



Pressure for change building
on several fronts



Research

- Just a few days in jail raises likelihood of new criminal activity.
 - Those held pretrial much more likely to be convicted, receive incarceration sentences, and get longer sentences.
 - Willful failures to appear and arrests for new violent criminal activity are rare.
 - Those released without money do just as well as those released with money.
-

Stakeholder Support



- Conference of Chief Justices
- American Judges Association
- International Association of Chiefs of Police
- National Sheriffs Association
- Association of Prosecuting Attorneys
- American Council of Chief Defenders
- National Association of Criminal Defense Lawyers
- National Association of Counties



Bi-Partisan Political Support



- Sen. Rand Paul & Sen. Kamala Harris co-sponsored bail reform legislation
- Right on Crime & ACLU working toward bail reform
- PJI partnered with Charles Koch Institute on polling



Legislation and Court Rules

- Alaska
- California
- Colorado
- Connecticut
- Delaware
- Illinois
- Indiana
- Maryland
- Mississippi
- New Hampshire
- New Jersey
- New Mexico



Litigation

- Money-based bail practices successfully challenged in several states:
 - Alabama
 - California
 - Georgia
 - Louisiana
 - Missouri
 - Texas



SUCCESSFUL MODELS



New Jersey



Features of new law:

- Took effect 1/1/17
- Eliminated bond schedules
- Established statewide pretrial services, with statewide assessment tool
- Established a hierarchy of release options, with secured bonds being the last resort
- Created detention without bond for those with unmanageable risks



2017 Data from NJ

- 142,663 criminal cases
 - 69% released by law enforcement
 - 31% booked into jail, with most released at 1st appearance
 - Overall pretrial release rate of 94%, detention without bail = 6%
- 44 money bonds ordered (0.1% of those booked; 0.03% of all cases)

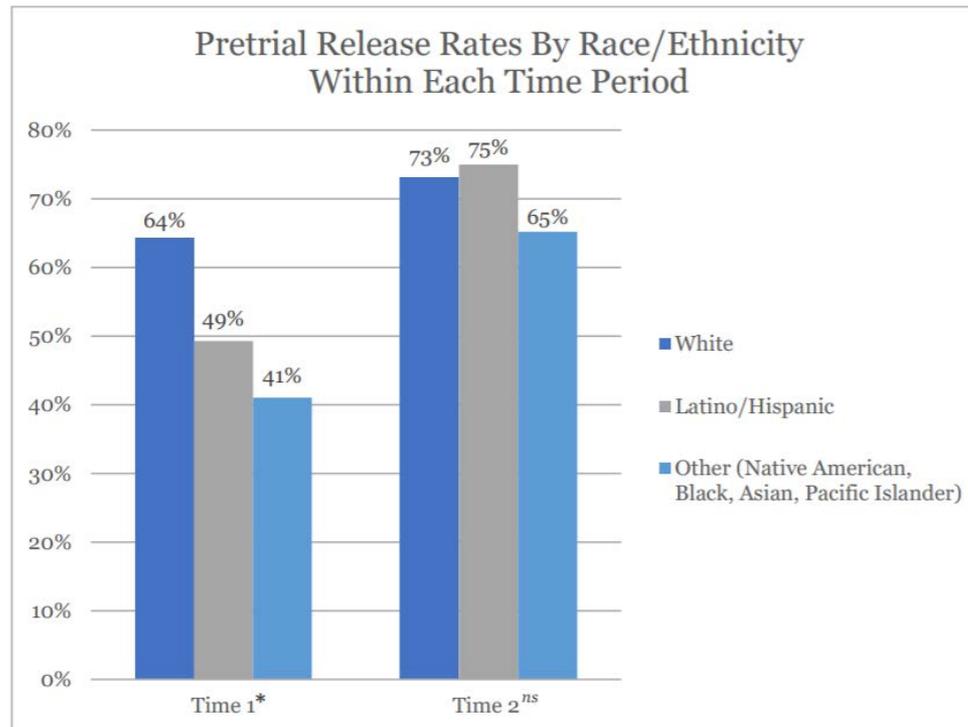


Yakima County, WA

- Established a pretrial services program
- Implemented a pretrial assessment tool



Impact: Yakima County, WA



^{ns} Chi-square test was not significant, $p > .10$

* Chi-square test was significant at $p < .05$

Bail, Money Bond, and Bond Schedules

Ohio Supreme Court Task Force to
Examine the Ohio Bail System

Sue Ferrere

Technical Assistance Manager

January 23, 2019



Learning Objectives

- Understand history & definitions
- Review effectiveness
- Grasp collateral consequences
- Discuss emerging case law



Definitions

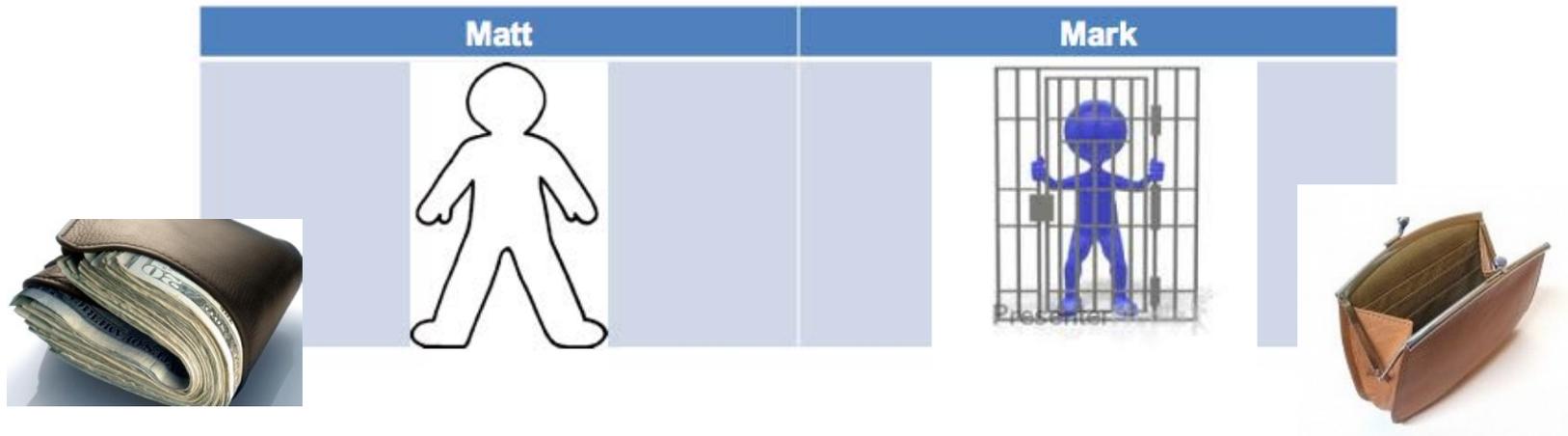
- **Bail** – process of release
 - **Money bond**
 - Unsecured – pay only if fail to appear
 - Secured – pay to be released
 - **Bond schedule** – List of pre-determined amounts, based on charged offense
-

History & Bail/No Bail

- Statute of Westminster (1275)
 - ***Bailable*** – release
 - Personal sureties
 - Unsecured bonds
 - ***Not bailable*** – detain
 - Judiciary Act of 1789 contains bail/no bail (release/detain) scheme
 - 1898 First commercial surety opens
-

Money Distorts Bail

Past	Present
Bailable = out of custody	Bailable = should be out of custody, but many are in
Un-bailable = in custody	Un-bailable = should be in custody, but many are out



Effectiveness: Money Bonds

- Only legal obligation is to court appearance
- *Unsecured* as effective as *secured* bonds for court appearance & public safety

Bond type & court appearance rates



Risk Level	Unsecured Bond	Secured Bond
1 (Lowest)	97%	93%
2	87%	85%
3	80%	78%
4 (Highest)	43%	53%
Average	88%	81%

Bond type & public safety rates



Risk Level	Unsecured Bond	Secured Bond
1 (Lowest)	93%	90%
2	84%	79%
3	69%	70%
4 (Highest)	64%	58%
Average	85%	76%

See Jones, M. *Unsecured bonds: The as effective and most efficient pretrial release option*. Pretrial Justice Institute, 2013.



Collateral Consequences: Secured Money Bonds



- Creates racial and socioeconomic disparities
- Increases jail bed usage

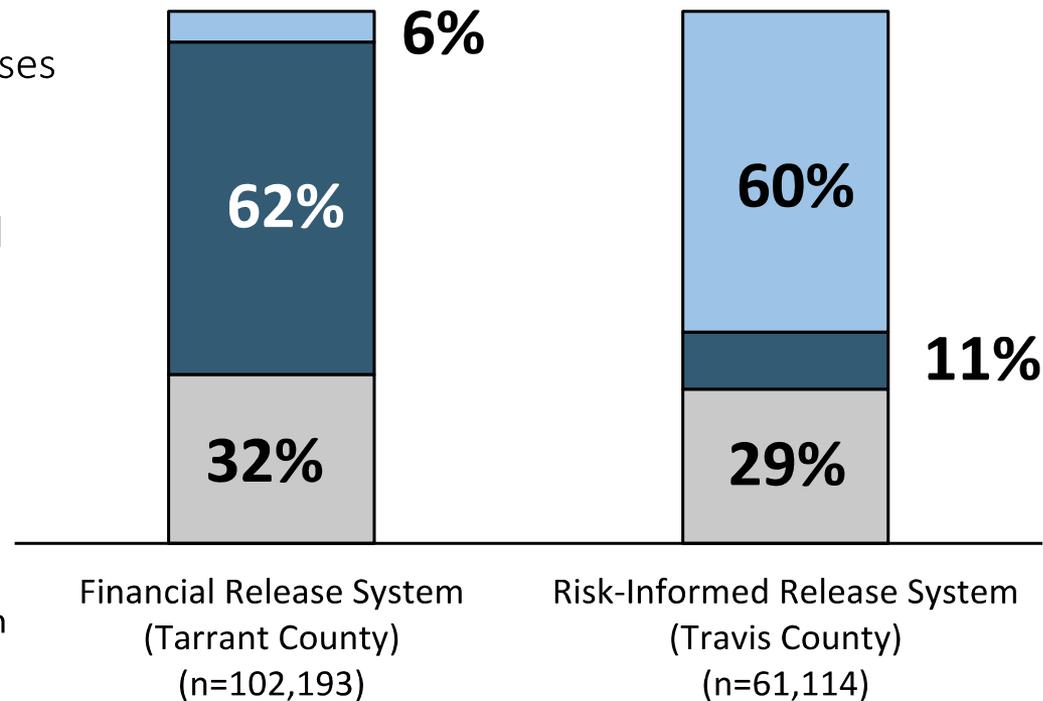
See *Unsecured bonds: The as effective and most efficient pretrial release option*. Pretrial Justice Institute, 2013.

A Tale of Two Texas Counties

Figure 15. Type of Bond Issued

The risk-informed pretrial system releases ten times more defendants from jail without financial bail requirements.

- Personal Bond
- Cash or Surety Bond
- Detained to Disposition



See: *Liberty and Justice: Pretrial Practices in Texas* (2017)

A Tale of Two Texas Counties



Table 5. Bail Forfeiture among Defendants on Bond

	Financial Release System (Tarrant County) (n=69,906)	Risk-Informed Release System (Travis County) (n=43,612)
BAIL FORFEITURE	11.6%	17.5%
Low-Risk Defendants	9.0%	13.2%
High-Risk Defendants	2.6%	4.3%

Table 6. New Criminal Activity among Defendants on Bond

	Financial Release System (Tarrant County) (n=69,906)	Risk-Informed Release System (Travis County) (n=44,169)
NEW CRIMINAL ACTIVITY	13.5%	11.1%
Non-Violent Criminal Activity	10.8%	8.7%
Violent Criminal Activity	2.7%	2.4%

See: Liberty and Justice: Pretrial Practices in Texas (2017)

Unnecessary Pretrial Incarceration Does Harm

Three individuals likely to succeed on release are booked into a jail...

Joe	John	Jack
		
Stays 1 day	Stays 3 days	Stays 5 days
	John is 39% more likely than Joe to be arrested on new criminal activity while on pretrial release	Jack is 50% more likely than Joe to be arrested on new criminal activity while on pretrial release



Research: The Effects of Pretrial Detention



- Pretrial detention increases likelihood of FTA , NCA, and post-disposition recidivism (up to 2 years)
 - Longer the detention, greater the increase
 - Effect is greatest for individuals likely to be successful on release
 - Detained defendants more likely than released defendants to be convicted and receive
 - Incarceration sentence
 - Longer incarceration sentence
 - Higher rates of suicide
 - Higher rates of overdose upon release
 - Personal and economic impacts
-

2012 FELONY & MISDEMEANOR BAIL SCHEDULE (July 1, 2012)

For all unscheduled felonies, the bail amount is \$15,000. For all unscheduled misdemeanors, the bail amount is \$3,000. For all unscheduled infractions, the bail amount is \$100. NOTE: All attempts of an offense (whether listed as "attempt," "atl.," or "364F") have the same bail amount as the offense itself.

NOTE: "W" indicates that bail amount applies to all subsections of the listed statute, or subsection. Offenses subject to P.C. Section 12.70.1 are marked in this schedule with a single asterisk (*).

Attached at the end of this schedule are two conversion charts related to Penal Code's weapon offenses. The first table is the conversion from the old statute to the current section. The second table is the conversion from new statutes to the old. The intent of this bail schedule is to set bail based on the current statute. In the event that the old statute is reference in the booking process, you are to set the higher bail based on these conversion tables, and NOT to set bail as a default.

FELONY OFFENSES -- PENAL CODE

OFFENSE	DESCRIPTION	BAIL
91.1 * #	Treason	set by judge
91	Bribery	40,000
91.5 (b)	Bribery of public officer or employee (if theft of thing given or offered would be grand theft)	40,000
98	Taking bribes	40,000
99	Receiving bribe/threatening officer	40,000
99 (a)	Threats to the life of an official or judge	50,000
99	Bribe gov. official	40,000
92	Bribing judges or juror	40,000
93(a)	Accepting bribe by judge or juror	40,000
915 (a)	Offering false oaths/documents for filing	40,000
918 (a)	Perjury	40,000
918a	Perjury by documents	40,000
918.1	False police report	40,000
926	Perjury	40,000
927	Subornation of perjury	40,000
928*	Perjury - capital case	set by judge
936.1 * #	Preventing or dissuading a victim or witness from testifying	75,000
937(b)	Inducing false testimony	50,000
939 (a)	Threats of force or violence against witness or victim	75,000
940 (a)	Threaten witness	50,000
949.10 #	Resisting officer & causing death or serious bodily injury	50,000
969	Bribery of councilman, supervisor, etc.	40,000
969(c)(4)	Violation of order connected with domestic violence with previous conviction for violating domestic violence order	40,000
982 (a)(1-5)	Conspiracy (to commit specific felony). When no felony is specified, bail is \$ 15,000	same as underlying
983(a)(9)	Conspiracy to commit any crime against president, vice-president and others	300,000
989.22 (a)	Participation in street gang activity	25,000
989.26 #	Gang activities	40,000
989.28	Transferring control of firearm to gang member	50,000
987 * #	Murder first degree	set by judge

FELONY BAIL SCHEDULE - PENAL CODE (cont.)

- No ratio
- Violate
- Uncons
 - Equa
 - Due p

Equal Protection



U.S. Department of Justice

Statement of Interest: Varden v. City of Clanton

- “It is the position of the United States that, as courts have long recognized, any bail or bond scheme that mandates payment of pre-fixed amounts for different offenses in order to gain pre-trial release, without any regard for indigence, not only violates the Fourteenth Amendment’s Equal Protection Clause, but also constitutes bad public policy.”



O' Donnell v. Harris County, TX



- Money bail system violates “equal protection rights against wealth-based discrimination” and Due Process Clause of the U.S. Constitution.
- Money bail not more effective than nonfinancial or unsecured conditions of pretrial release in ensuring court appearance

Over 11,500 people charged with misdemeanors have been released without money bond through June 2018.

From Houston Chronicle 1/17/19

**Harris County judges unveil drastic new plan
for releasing defendants on no-cash bail**
By [Gabrielle Banks](#)

Updated 9:41 pm CST, Thursday, January 17, 2019

- All misdemeanors released on recognizance
 - Exceptions for bond violators, repeat DUI, and family violence
-

Humphrey: CA Court of Appeals

- It is the trial judge’s “responsibility to ensure that a defendant not be held in custody solely because he or she lacks financial resources.”
- That duty cannot be met by relying on a fixed bail schedule that effectively results in pretrial detention orders.

Holland v. Rosen (NJ)

- A right to bail does not mean a defendant automatically gets to pay money to go free before trial.
 - There is no federal constitutional right to deposit money or obtain a corporate surety bond to ensure a criminal defendant's future appearance in court as an equal alternative to non-monetary conditions of pretrial release.
-

New Jersey



- Effectively eliminated money bail in 2017
 - Pretrial assessment
 - Preventive detention with due process protections
 - Statewide pretrial services
- Of 44,000 cases in 2017, only **44** were required to post money (0.1%)



New Jersey by the Numbers



- 142,663 criminal cases
 - 69% released by law enforcement
 - 31% brought to jail (~44,000)
 - 19% of them detained through due process
 - Overall pretrial release rate = 94.2%
- Pretrial jail population *down* 26%
- Crime rate (incl. violent) *down*



Alaska

- Moved away from monetary conditions
 - Implemented assessment, pretrial services
 - Results
 - Increased recognizance and unsecured bond
 - Release rates
 - Before: 48%
 - After: 75%
 - Court appearance rates steady (~87%)
 - Decreasing disparities in release (prelim)
-

Pretrial Goals and Secured Bonds



Maximize	Intent	Legality	Effectiveness
Court appearance	“skin in the game”	Binding	Questionable
Public safety	None	N/A	Not demonstrated
Liberty	To facilitate	Violates 14 th amendment	Impedes; uses jail beds
Fairness/equity	Treat those charged with same offense similarly	Violates individualized determination (<i>Stack</i>)	Creates inequities



Pretrial Assessment

Ohio Supreme Court Task Force to Examine the Ohio Bail System

Sue Ferrere

Technical Assistance
Manager

January 23, 2019



Learning Objectives

- Review pretrial assessment
- Compare & contrast
- Understand context
- Sample statutory and court rule language



Trivia

Pretrial assessments give judges information about a defendant's likelihood of:

1. _____

2. _____



TRIVIA
C H A L L E N G E



What is Pretrial Assessment?

- Tool that gives judges information about an individual's likelihood of

(1) failing to appear

(2) engaging in criminal activity during pretrial release



Pretrial Assessment *An Actuarial Tool*

It gives probability of success/failure for a *group of like individuals* and not any one individual. It is limited to information relevant to pretrial decision making.

Know your numbers
Know your risk

Take Our Heart Disease Risk Assessment.

GO NOW →



"In this case, a new high score is not a good thing."

What is it Good For?



- ❖ More informed, objective decisions
- ❖ Supports legal and evidence-based pretrial
- ❖ Improves pretrial outcomes
- ❖ Reduces disparities inherent to money-based and subjective systems of release

-Best tool we have for conditioning release-

Common Factors

Criminal History

- Current charge(s)
 - Outstanding warrants at time of arrest
 - Pending charges at time of arrest
 - Active community supervision at time of arrest
- History of arrest/convictions
 - History of failure to appear (FTA)
 - History of violence

Socioeconomic Factors

- Residential stability
- Employment stability
- Community ties
- Substance abuse



OHIO RISK ASSESSMENT SYSTEM – PRETRIAL ASSESSMENT TOOL

ORAS-PAT



ORAS-PAT



- University of Cincinnati Center for Criminal Justice Research (UC Corrections Institute)
- Part of suite of assessment tools
- June 2006 - June 2007 sample
- Multiple pretrial agencies (two states?)
- Sample 342 (452)

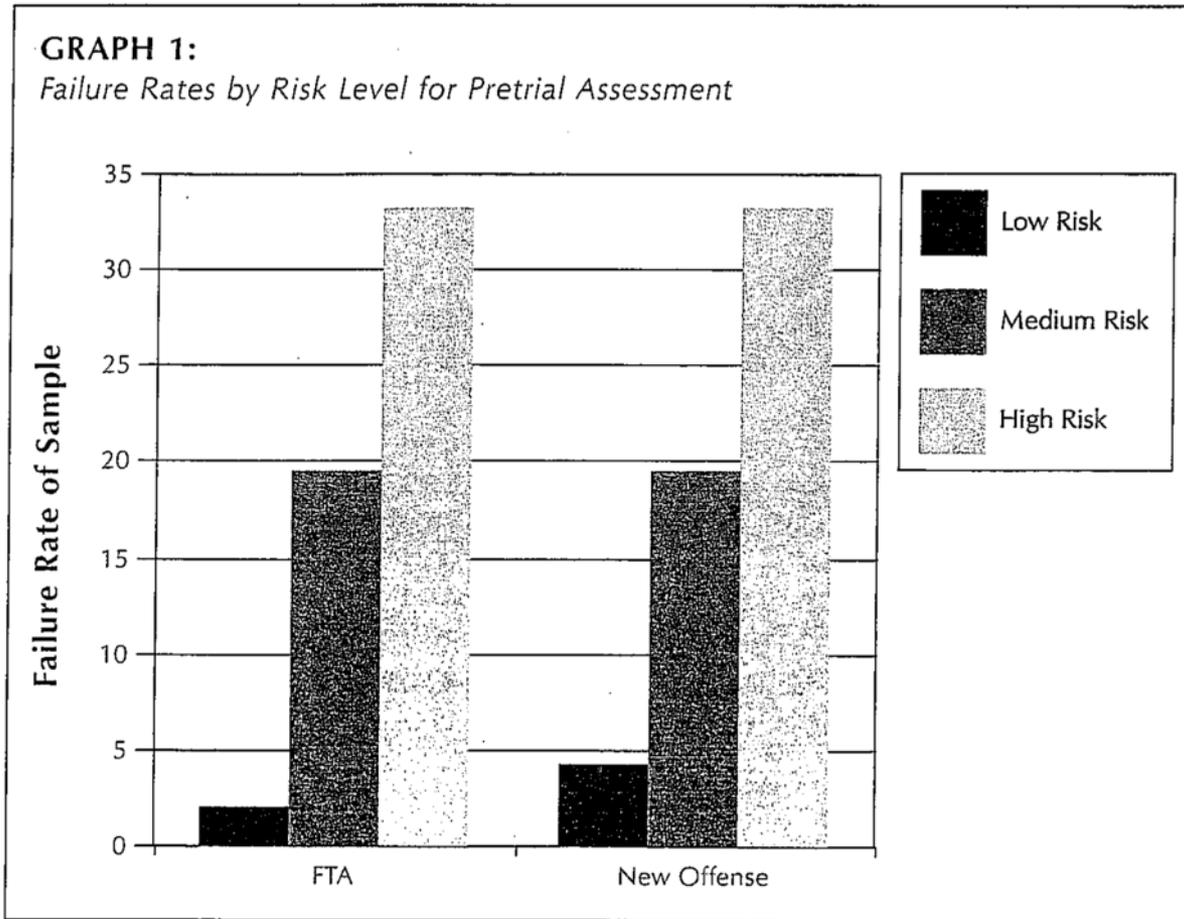
ORAS-PAT Instrument



Pretrial Items		Verified
1. Age at First Arrest 0=33 or older 1=Under 33	<input type="text"/>	<input type="checkbox"/>
2. Number of Failure-to-Appear Warrants Past 24 Months 0=None 1=One Warrant for FTA 2=Two or More FTA Warrants	<input type="text"/>	<input type="checkbox"/>
3. Three or more Prior Jail Incarcerations 0=No 1=Yes	<input type="text"/>	<input type="checkbox"/>
4. Employed at the Time of Arrest 0= Yes, Full-time 1= Yes, Part-time 2= Not Employed	<input type="text"/>	<input type="checkbox"/>
5. Residential Stability 0=Lived at Current Residence Past Six Months 1=Not Lived at Same Residence	<input type="text"/>	<input type="checkbox"/>
6. Illegal Drug Use During Past Six Months 0=No 1=Yes	<input type="text"/>	<input type="checkbox"/>
7. Severe Drug Use Problem 0=No 1=Yes	<input type="text"/>	<input type="checkbox"/>
Total Score:		<input type="text"/>

Scores	Rating	% of Failures	% of Failure to Appear	% of New Arrest
0-2	Low	5%	5%	0%
3-5	Moderate	18%	12%	7%
6+	High	29%	15%	17%

ORAS-PAT: Validation



VIRGINIA PRETRIAL RISK ASSESSMENT INSTRUMENT

VPRAI



VPRAI



- Commissioned by the *Virginia Department of Criminal Justice Services* in response to Pretrial Services Act of VA General Assembly (1994/1995)
 - Collected data for one year July 1998 - June 1999
 - ~2,000 cases
 - Collected exhaustive data on characteristics of case, criminal history
 - Predictive factors weighted to determine a “score”
 - Ongoing revision and validation
-

VPRAI vs. VPRAI-R

VPRAI

Factor	Points (Weight)
Charge Type	1
Pending Charge(s)	1
Criminal History	1
Two or more Failures to Appear	2
Two or more Violent Convictions	1
Length at Current Residence	1
Employed/ Primary Caregiver	1
History of Drug Abuse	1

VPRAI-R

Factor	Points (Weight)
Charge is felony drug, theft or fraud	3
Pending Charge(s)	2
Criminal History	2
Active community supervision	2
Two or more Failures to Appear	1
Two or more Violent Convictions	1
Unemployed at time of arrest	1
History of Drug Abuse	2

.....
 Total possible points: 9

14

Dispersion of Scores

VPRAI

Risk Level (Score)	Any failure %
1 (0-1)	4.6
2 (2)	8.5
3 (3)	13.6
4 (4)	18.2
5 (5-9)	24.5

VPRAI-R

Risk Level (Score)	Any failure %
1 (0-2)	6.1
2 (3-4)	9.8
3 (5-6)	14.9
4 (7-8)	21.4
5 (9-10)	29.3
6 (11-14)	37.1



What do Scores Mean?

VPRAI-R Score	Pretrial Success Rate	Court Appearance Rate	Public safety Rate	Technical Compliance Rate
0-2	94%			
3-4	90%			
5-6	85%			
7-8	79%			
9-10	71%			
11-14	63%			



VPRAI-Validation (2016)



- VPRAI (N=14,382)
 - Statistical validity & practical utility of VPRAI
 - Race and gender neutrality of VPRAI
 - Statistical validity & practical utility of new risk factors
 - VPRAI-Revised
 - Statistical validity & practical utility of VPRAI-R
 - Re-do weighting and risk levels for VPRAI-R
 - Race and gender neutrality of VPRAI-R
-

VPRAI Race Validation



- Overall failure rates of sample
- Individual factors, found all but one to be statistically significant (*lived at residence one year* not for people of color)
- Tested race as predictor of failure



VPRAI-R

Comparison of Risk Level Any Failure Rates across Racial Groups

Risk Level	People of Color	White
	Any Failure %	
1	7.2	5.2
2	10.3	9.2
3	15.2	14.8
4	20.1	22.7
5	27.8	31.0
6	35.9	37.7
Base Rate	15.3	15.2



PUBLIC SAFETY ASSESSMENT

PSA



Public Safety Assessment



Assessing Pretrial Risk without a Defendant Interview

Marie VanNostrand, Ph.D.
Christopher T. Lowenkamp, Ph.D.

- 1.5 million cases
- 300 jurisdictions

November, 2013

Public Safety Assessment



RELATIONSHIP BETWEEN RISK FACTORS AND PRETRIAL OUTCOMES

Risk Factor

| FTA | NCA | NVCA |

1. Age at current arrest

2. Current violent offense

Current violent offense & 20 years old or younger

3. Pending charge at the time of the offense

4. Prior misdemeanor conviction

5. Prior felony conviction

Prior conviction (misdemeanor or felony)

6. Prior violent conviction

7. Prior failure to appear in the past two years

8. Prior failure to appear older than two years

9. Prior sentence to incarceration

Note: Boxes where an "X" occurs indicate that the presence of that risk factor increases the likelihood of that outcome for a given defendant.

The PSA relies solely on the above nine variables. It does not rely on factors such as race, ethnicity, or geography.

PSA Score Scales

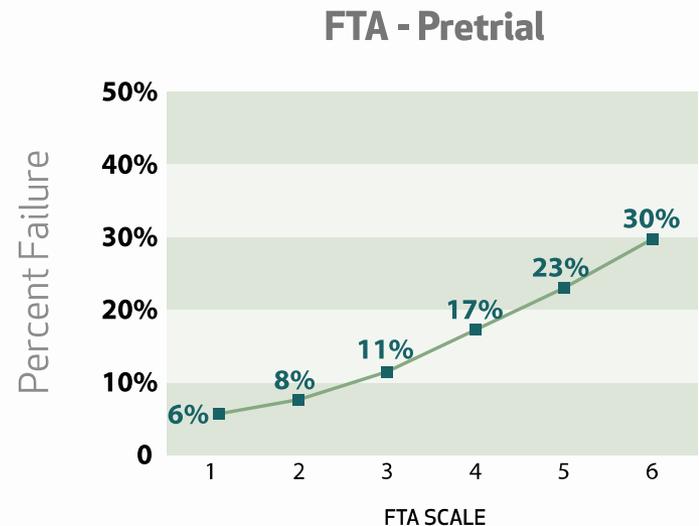
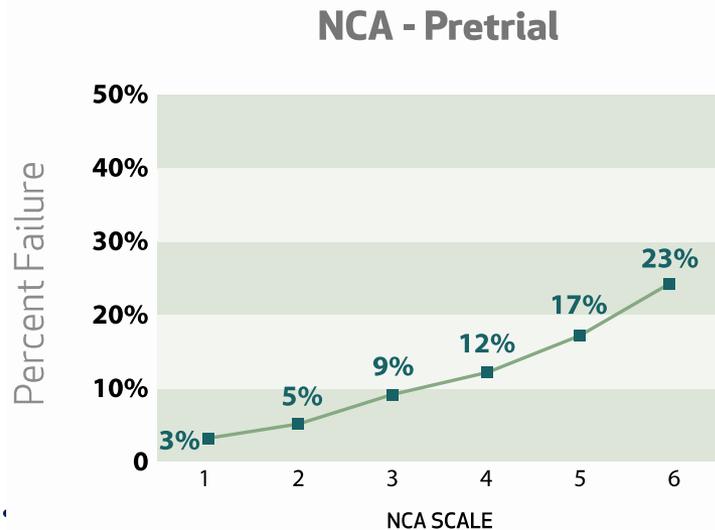


FTA Raw Score	FTA 6 Point Scale	NCA Raw Score	NCA 6 Point Scale	NVCA Raw Score	NVCA Flag
0	1	0	1	0	No
1	2	1	2	1	No
2	3	2	2	2	No
3	4	3	3	3	No
4	4	4	3	4	Yes
5	5	5	4	5	Yes
6	5	6	4	6	Yes
7	6	7	5	7	Yes
		8	5		
		9-13	6		

PSA – Results from KY

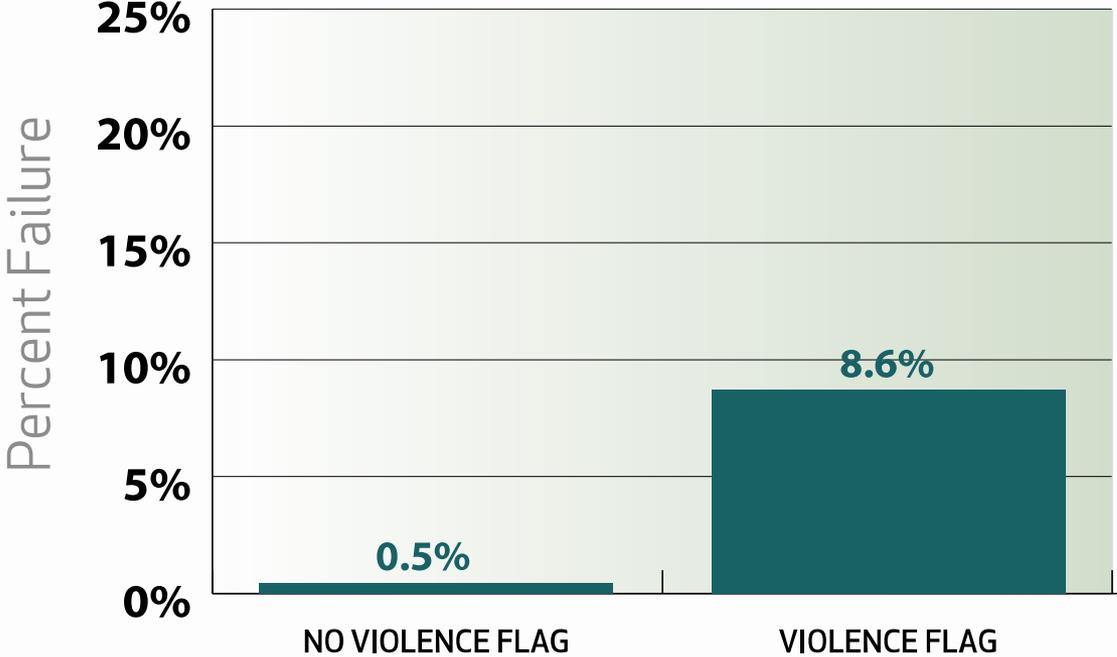
NEW CRIMINAL ACTIVITY AND FAILURE TO APPEAR

The new criminal activity (NCA) and failure to appear (FTA) scales classify a defendant's risk from one to six, with one representing the lowest risk and six representing the highest. As can be seen in the graphs below, the scales accurately group defendants according to the risk they pose of being arrested for new criminal activity or failure to appear while on pretrial release. With each increase in risk score, defendants become significantly more likely to fail.

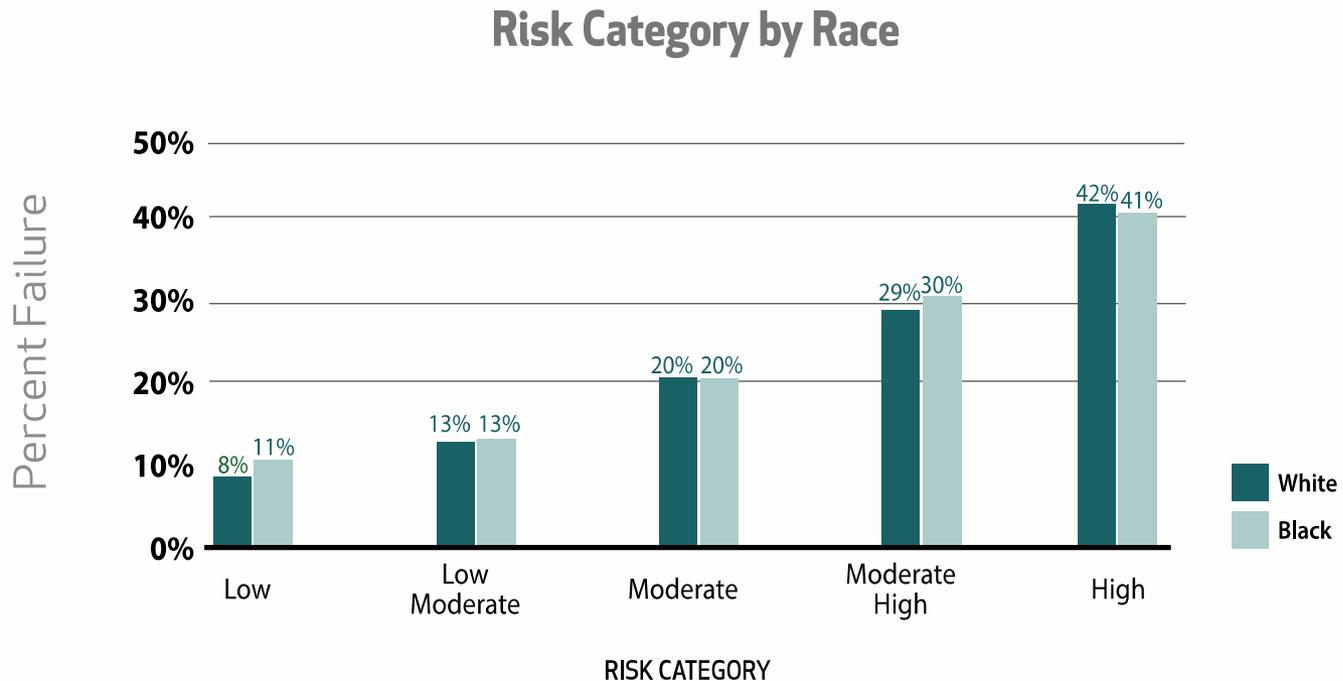


PSA - Results from KY

New Violent Criminal Activity - Pretrial



PSA – Results from KY



3 In Kentucky, over 96% of the population is either black or white. As a result, other racial groups are not sufficiently represented in the sample to perform the analysis.

Points of Comparison

- Demographics
- Factors & Definitions
- Transparency
- Statistical rigor
- Usefulness
- Interview
- Potential for perpetuating or exacerbating disparities

How do we choose a pretrial assessment tool?

Pretrial Assessment in Context



- A tool
- Tools don't make decisions (judges do)
- ***Not driver of in/out***
- Mainly to condition release

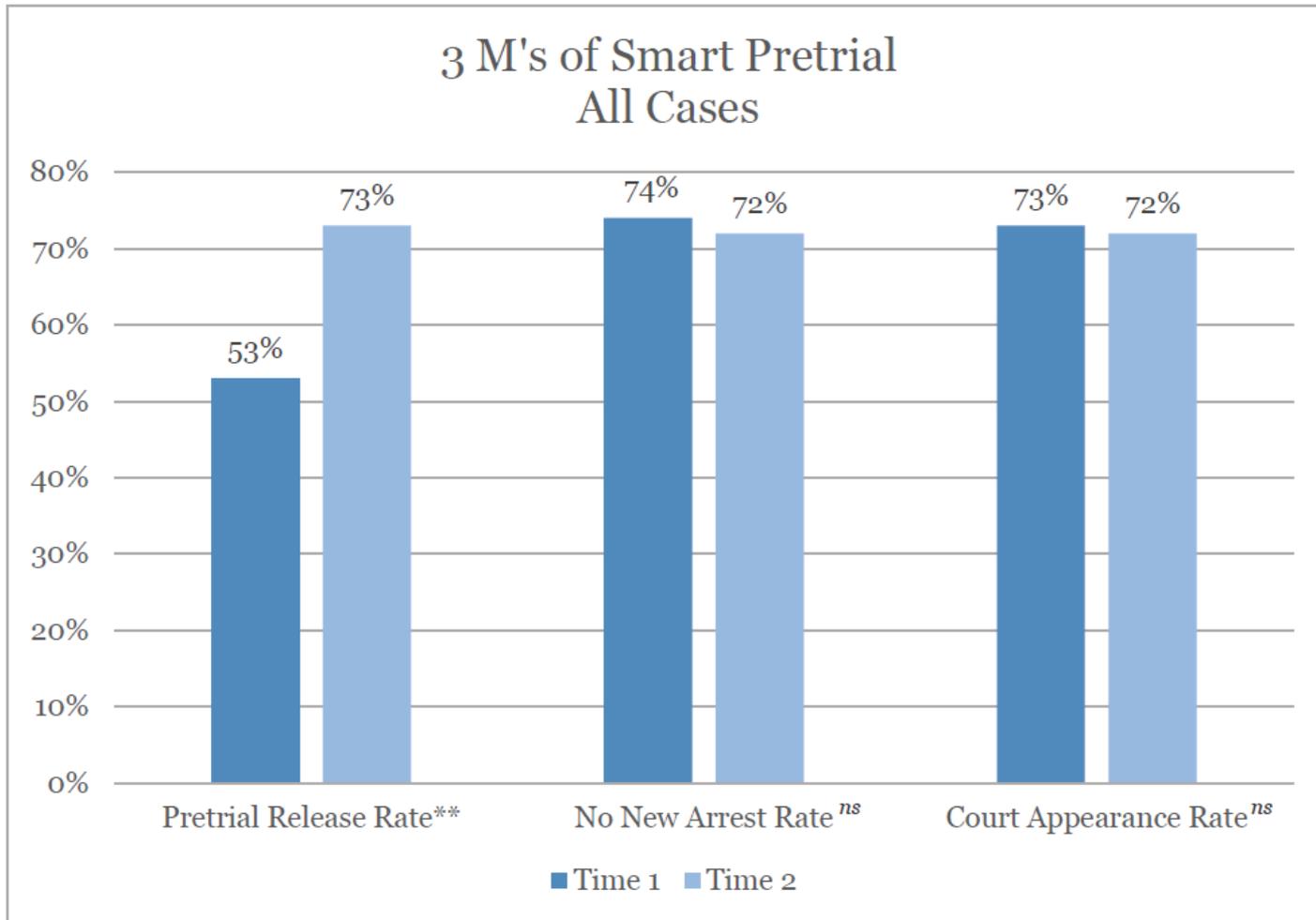
An effective pretrial *system* needs more than a good assessment tool.

A Smarter Pretrial System

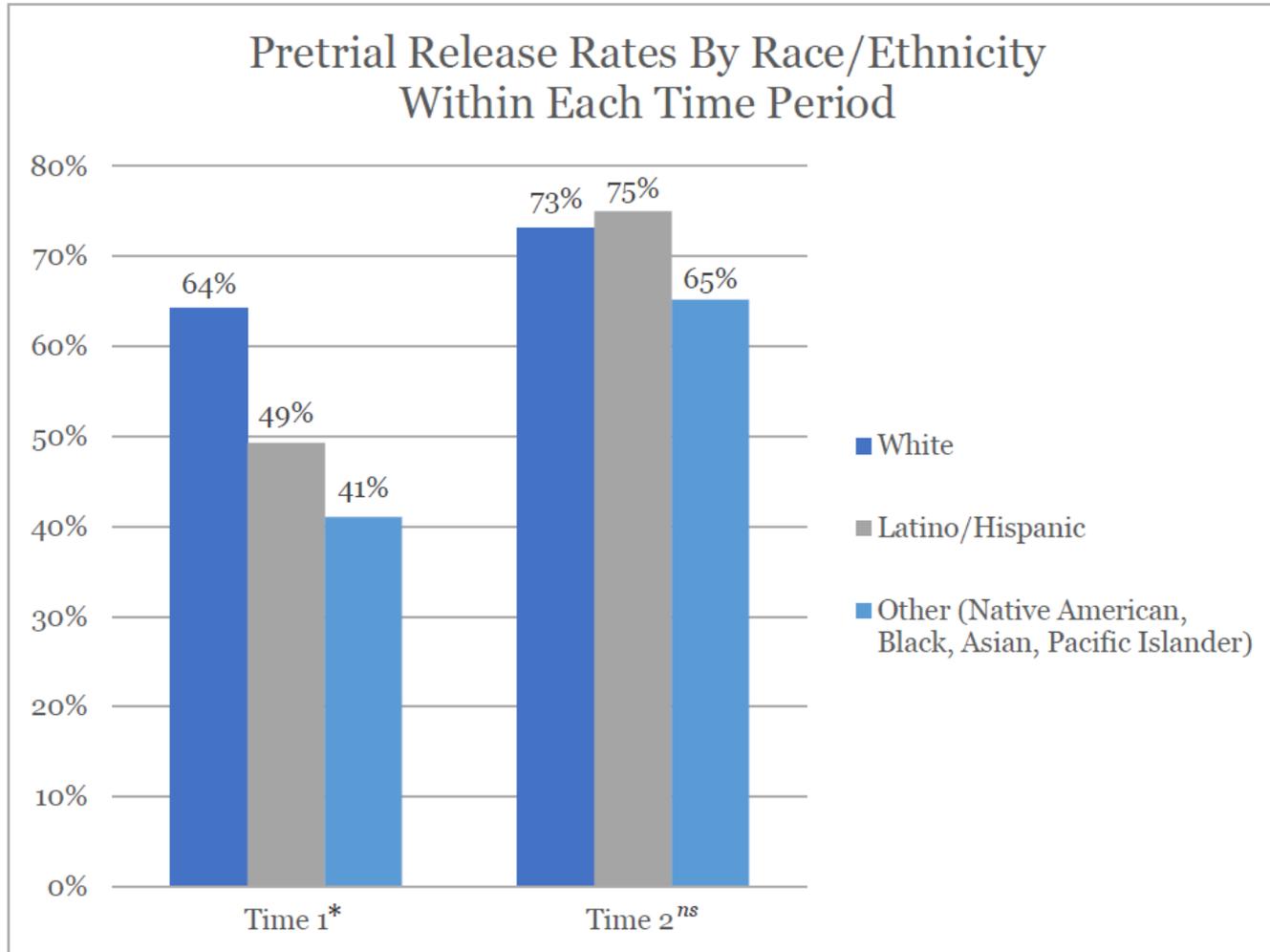


- The **immediate release** of eligible persons on citations.
 - **Actuarial pretrial assessment** for likelihood of flight and danger to the community.
 - The **early review of charges** by a seasoned prosecutor.
 - The **presence of defense counsel** at the earliest hearing that could result in pretrial detention.
 - Detention occurs through an adversarial hearing where the individual is provided **full due process**.
 - Court reminder protocols, community-based **supports**, and/or diversion for released individuals.
-

More Effective Pretrial System: Yakima Co., WA



More Equitable System: Yakima Co., WA



Pretrial Assessment in Statutes



- 15 states authorize courts to use assessment
- 6 states require assessment



Assessment in Rules & Statutes



- Target population
 - Application
 - For detention eligible, as “further limiting process”
 - All others – condition release
 - Describe features of tool
 - Relevant outcomes
 - Transparent
 - Validation
 - Mechanism for approval or vetting of tools
 - Time provisions for detention
-

TARGET POPULATION & APPLICATION

Sample Language



Example: Colorado

- Colorado [CO Rev Stat § 16-4-103 \(2016\)](#)
- (b) In determining the type of bond and conditions of release, if practicable and available in the jurisdiction, the court shall use an empirically developed risk assessment instrument ...

Example: New Mexico Court Rule



In determining **the least restrictive conditions of release** that will reasonably ensure the appearance of the defendant as required and the safety of any other person and the community, the **court shall consider** any available results of a pretrial risk assessment instrument approved by the Supreme Court for use in the jurisdiction, if any, and the financial resources of the defendant.

Who Gets Assessed? New Jersey



Criminal Justice Reform: A Step-by-Step Guide

Complaint

The defendant is fingerprinted by law enforcement and a criminal history is collected from various statewide databases. The information allows prosecutors and law enforcement to make a quick and informed decision about whether to authorize a summons or request a warrant from the court.

Summons Issued

The defendant is not subject to Criminal Justice Reform.

Warrant Issued

The individual is arrested and transported to county jail. The defendant is subject to Criminal Justice Reform.

Defendant Released

The defendant is given a date to appear in court.

Public Safety Assessment

Pretrial services staff prepare a release recommendation to the court based on a Public Safety Assessment (PSA) and other factors. The PSA uses the defendant's prior criminal and court history to assess the likelihood that the defendant will fail to appear in court or commit another crime. There is a recommendation of no release for certain crimes such as murder, and some crimes involving guns or weapons.

NJ Court Rule 3-3

- **(e) Offenses Where Issuance of an Arrest Warrant Is Required.** An arrest warrant shall be issued when a judicial officer finds pursuant to R. 3:3-1(a) that there is probable cause to believe that the defendant committed murder, aggravated manslaughter, manslaughter, aggravated sexual assault, sexual assault, robbery, carjacking, or escape, or attempted to commit any of the foregoing crimes, or where the defendant has been extradited from another state for the current charge.
 - **(f) Offenses Where Issuance of an Arrest Warrant is Presumed.** Unless issuance of a summons rather than an arrest warrant is authorized pursuant to paragraph (g) of this rule, an arrest warrant shall be issued when a judicial officer finds...
-

CA SB 10



Most misdemeanors released without assessment

1320.8. A person arrested or detained for a misdemeanor, other than a misdemeanor listed in subdivision (e) of Section 1320.10, may be booked and released without being taken into custody or, if taken into custody, shall be released from custody without a risk assessment by Pretrial Assessment Services within 12 hours of booking.

DESCRIBING TOOLS & VETTING TOOLS

Sample Language



Example: Colorado

Colorado [CO Rev Stat § 16-4-103 \(2016\)](#)

(b) In determining the type of bond and conditions of release, if practicable and available in the jurisdiction, the court shall use **an empirically developed risk assessment instrument** ...

Alaska Language

- ALASKA: The statewide pretrial services program must use “a risk assessment instrument that is objective, standardized, and based on analysis of empirical data and risk factors relevant to pretrial failure, that evaluates the likelihood of failure to appear in court and the likelihood of rearrest during the pretrial period, and that is validated on the state’s pretrial population.” Alaska Stat. § 33.07.020 (5).

Example Language: NJ

- [NJ Rev Stat § 2A:162-25 \(2014\)](#)
 - The pretrial risk assessment shall be conducted using a **risk assessment instrument approved by the Administrative Director of the Courts** that meets the requirements of this subsection.

Example Language: CA SB 10



- Counties required to adopt a validated assessment tool
 - “Validated risk assessment tool” means a risk assessment instrument, selected...from the list of approved pretrial risk assessment tools maintained by the CA Judicial Council.
 - Describe the elements of “validation,” ...and address the identification and mitigation of any implicit bias in assessment instruments.
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