

# A Framework for Pretrial Justice

ESSENTIAL ELEMENTS OF AN EFFECTIVE  
PRETRIAL JUSTICE SYSTEM AND PRETRIAL  
SERVICES AGENCY

# *Getting Bail Right.*

## BAIL:

### DEFINITION:

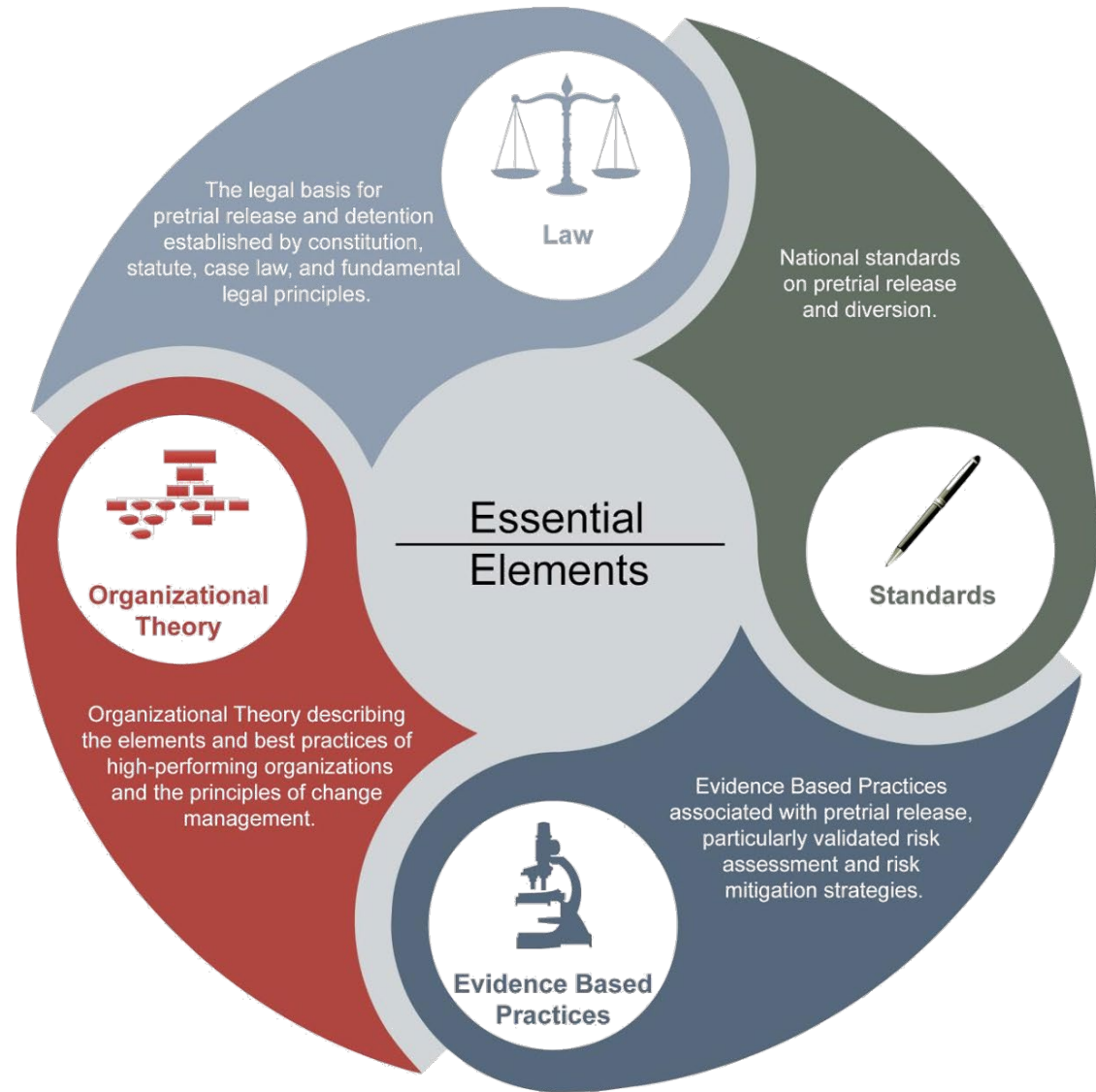
Requirements to reasonably assure a defendant's appearance in court and, where appropriate, public safety.

### TENETS:

1. There is no "right to bail" in most states and the Federal system. (Present in about a quarter of states)
2. Pertains only to appearance and safety concerns
3. Individualized to the defendant's unique characteristics
4. Least restrictive means needed to ensure goals
5. Due process forbids detention on unspecified charges or without due cause.



# The Framework





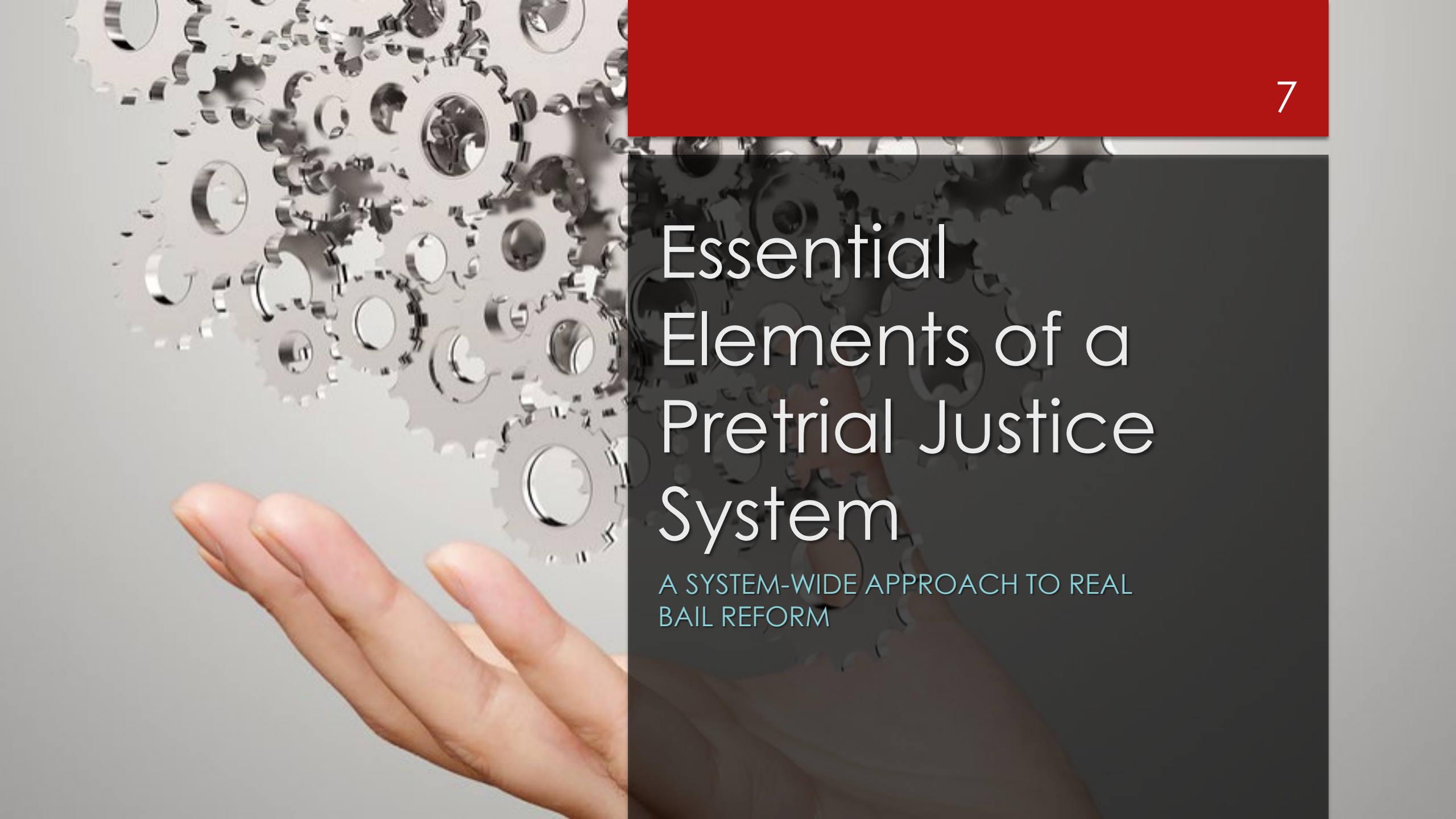
# Elements of a high functioning pretrial system

- Pretrial release and detention decisions based on risk and designed to maximize release, court appearance, and public safety
- Legal framework that includes presumption of least restrictive nonfinancial release; restrictions or prohibition against the use of secured financial conditions of release; and preventive detention for a limited and clearly defined type of defendant
- Release options following or in lieu of arrest
- Defendants eligible by statute for pretrial release are considered for release, with no locally-imposed exclusions not permitted by statute
- Experienced prosecutors screen criminal cases before first appearance
- Defense council active at first appearance
- Collaborative group of stakeholders that employs evidence-based decisionmaking to ensure a high functioning system
- Dedicated pretrial services agency



## Elements of an effective pretrial agency

- Operationalized Mission
- Universal Screening
- Validated Pretrial Risk Assessment
- Sequential Bail Review
- Risk-based Supervision
- Performance Measurement and Feedback



# Essential Elements of a Pretrial Justice System

A SYSTEM-WIDE APPROACH TO REAL  
BAIL REFORM





# “The 3 M’s”

Goal: To Maximize Court Appearance, Public Safety, and Release rates. All other essential elements flow from this defining principle.

Appearance: “Bail set at a figure higher than an amount reasonably calculated to [ensure court appearance] is ‘excessive’ under the Eighth Amendment.” *Stack v. Boyle* 342 U.S. 1 (1951).

Safety: Detention may be authorized when defendants are found “after an adversary hearing to pose a threat to the safety of individuals or to the community which no condition of release can dispel.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).

Release: “In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *Salerno*.



# Legal Foundation

The proper legal framework greatly facilitates maximizing the 3M's, and includes:

1. A presumption of nonfinancial release on the least restrictive conditions necessary to ensure future court appearance and public safety.
2. Prohibition or restrictions on the use of secured financial conditions.
3. Provisions for detention without bail for a clearly defined and limited population of defendants who pose an unmanageable risk to public safety. Detention without bail must include robust due process protections for detention-eligible defendants and those detained.

All three of these components are interrelated and must exist within a legal framework to achieve maximized rates of release, appearance, and public safety.



Neither the Constitution nor our rules of criminal procedure permit a judge to base a pretrial release decision solely on the severity of the charged offense. Bail is not pretrial punishment and is not to be set solely on the basis of an accusation of a serious crime. As the United States Supreme Court has emphasized, “[t]o infer from the fact of indictment alone a need for bail in an unusually high amount is an arbitrary act.” *Stack v. Boyle*, 342 U.S. at 6. (Rule 5-401) requires the judge to make an informed, individualized decision about each defendant and does not permit the judge to put a price tag on a person’s pretrial liberty based solely on the charged offense.

State of New Mexico v. Brown No. 34,531.  
Decided: November 6, 2014



Release on own recognizance. When from all the circumstances the court is of the opinion that the defendant will appear as required either before or after conviction and the defendant will not pose a danger to any person or the community and that the defendant will comply with all conditions of bond, the defendant shall be released on his or her own recognizance.

If the judicial officer determines that the release described in subsection(b) of this section will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, such judicial officer shall order the pretrial release of the person—

Detention. If, after a hearing pursuant to the provisions of subsection (e) of this section, the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial.



(3) A judicial officer may not impose a financial condition under paragraph (1)(B)(xii) or (xiii) of this subsection to assure the safety of any other person or the community, but may impose such a financial condition to reasonably assure the defendant's presence at all court proceedings that does not result in the preventive detention of the person, except as provided in § 23-1322(b).

(4) A person for whom conditions of release are imposed and who, after 24 hours from the time of the release hearing, continues to be detained as a result of inability to meet the conditions of release, shall upon application be entitled to have the conditions reviewed by the judicial officer who imposed them. Unless the conditions of release are amended and the person is thereupon released, on another condition or conditions, the judicial officer shall set forth in writing the reasons for requiring the conditions imposed.



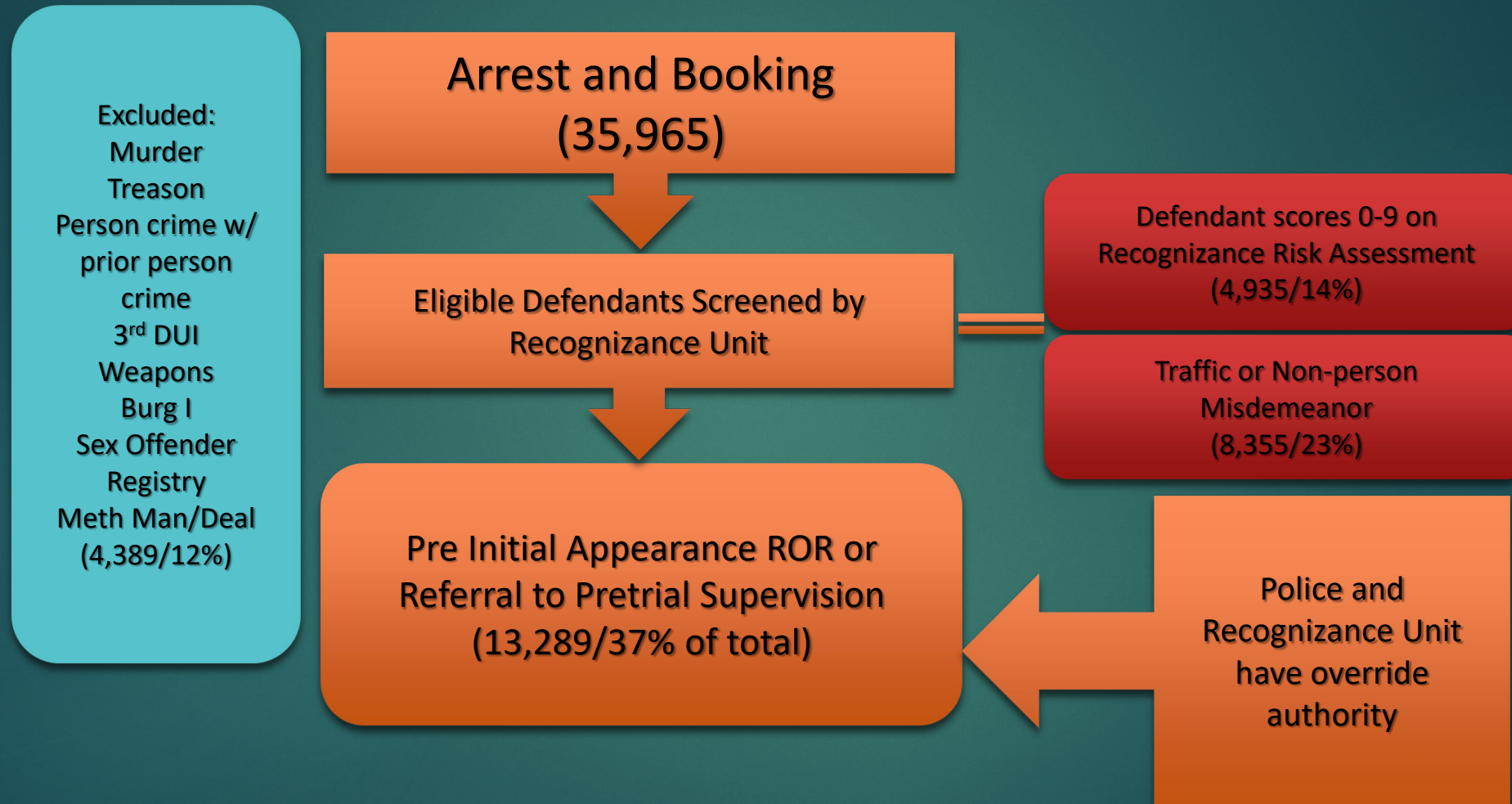
# Release Options Following or in lieu of Arrest

The legal principle of release on the least restrictive conditions starts with the initial contact with law enforcement. High functioning jurisdictions use citation releases or summonses by law enforcement in lieu of custodial arrests for non-violent offenses when the individual's identity is confirmed and no reasonable cause exists to suggest the individual may be a risk to the community or miss the ensuing court date.



# Multnomah County

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# No Locally-imposed Exclusions to Release

Pretrial systems screen all defendants eligible by statute for pretrial release consideration. Local justice systems do not impose limitations on pretrial screening and assessment eligibility beyond those established in the controlling bail law.



# Criminal Case Screening

Trained and experienced prosecutors screen arrest filings before initial appearance to determine the most appropriate action. Early screening helps:

- reduce needless pretrial detention based on bail decisions made using arrest charges;
- aid prosecution in determining the most appropriate recommendations for pretrial release or detention;
- dispose of weaker cases sooner and target resources to higher level cases; and
- identify defendants eligible for diversion and other alternatives to adjudication.

Screening outcomes range from dismissing or reducing charges, offering defendants referrals to diversion or problem-solving courts and preparing bail recommendations for initial court appearance.



# Active Defense Counsel

Defense counsel engaged before initial appearance and prepared to represent the defendant regarding bail.

- The U.S. Supreme Court ruled in *Rothgery v Gillespie County*, 554 U.S. 191 (2008) that the initial bail hearing is a critical stage in the criminal case because liberty is at stake. Therefore, this decision point requires legal representation.
- The American Bar Association's "Ten Principles of a Public Defense Delivery System" recommend that clients are screened for eligibility and defense counsel assigned as soon as feasible after clients' arrest, detention, or request for counsel. Counsel should be furnished upon arrest, detention, or request, and usually within 24 hours thereafter.



We have, for purposes of the right to counsel, pegged commencement to “the initiation of adversary judicial criminal proceedings—whether by way of formal charge, preliminary hearing, indictment, information, or arraignment,” (United States v. Gouveia, 467 U. S. 180, 188 (1984), quoting Kirby v. Illinois, 406 U. S. 682, 689 (1972)). The rule is not “mere formalism,” but a recognition of the point at which “the government has committed itself to prosecute,” “the adverse positions of government and defendant have solidified,” and the accused “finds himself faced with the prosecutorial forces of organized society, and immersed in the intricacies of substantive and procedural criminal law.” (Kirby at 689).

We merely reaffirm what we have held before and what an overwhelming majority of American jurisdictions understand in practice: a criminal defendant’s initial appearance before a judicial officer, where he learns the charge against him and his liberty is subject to restriction, marks the start of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel.

***Rothgery v Gillespie County, 554 U.S. 191 (2008)***



# Collaborative Stakeholders

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Inter-agency coordination that help allocate scarce resources efficiently, reduce jail overcrowding, and increase public confidence in and support for criminal justice processes, enhancing system performance and, ultimately, the integrity of the law.

Coordinating bodies include all three branches of government and other relevant stakeholders and address specific and systemic issues. Within the pretrial context, coordinating bodies analyze current performance (e.g., of detain/release decisions), and suggest opportunities for improvement.

NACo, JMI and BJA (2014). "From Silo to System: The Importance of Criminal Justice Coordinating Councils (CJCCs)" (Webinar).

[http://www.naco.org/sites/default/files/event\\_attachments/NACo%20From%20Silo%20to%20System%20-%20Sept%2024.pdf](http://www.naco.org/sites/default/files/event_attachments/NACo%20From%20Silo%20to%20System%20-%20Sept%2024.pdf).




# 8 Characteristics of Highly Effective Teams

1. A CLEAR AND ELEVATING GOAL
2. RESULTS-DRIVEN STRUCTURE
3. COMPETENT TEAM MEMBERS
4. UNIFIED COMMITMENT
5. COLLABORATIVE CLIMATE
6. STANDARDS OF EXCELLENCE
7. EXTERNAL SUPPORT AND RECOGNITION
8. PRINCIPLED LEADERSHIP

TeamWork: What Must Go Right/What Can Go Wrong,  
Carl E. Larson and Frank M. LaFasto. 1989. Sage  
Publications.



A hand is shown from the bottom left, holding a cluster of interlocking metal gears of various sizes. The gears are silver and have a complex, multi-toothed design. The background is a gradient of light gray to dark gray, with a red rectangular area at the top right.

# Essential Elements of an Effective Pretrial Services Agency

THE BASIC FOR HIGH FUNCTIONING  
PRETRIAL AGENCIES

# Pretrial Services Agencies

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A dedicated pretrial services agency ensures that management of essential functions occurs under a single organization goal and better coordination among elements—for example, ensuring that release recommendations match supervision resources and capacity. A single management structure also provides better staff direction and motivation to critical work priorities and clearer lines of communication. The justice system has also has a single actor responsible for pretrial functions.

Preferably, the pretrial services agency should be a separate, independent entity. Jurisdictions may incorporate pretrial services agencies within a larger “parent” organization, if that component has:

1. a clearly-defined, pretrial service related function as its purpose;
2. staff assigned only to pretrial-related work with pretrial defendants; and
3. management that can make independent decisions on budget, staffing, and policy.



# Pretrial Services Agencies

1. Help courts make informed bail decisions.
2. Promote maximized pretrial release, appearance, public safety, and compliance outcomes.
3. Ensure that release options are realistic, enforceable, and measurable.



Several jurisdictions have legislation authorizing or encouraging pretrial services agencies:

- ☐ Kentucky
- ☐ Federal courts
- ☐ Washington, D.C.
- ☐ Virginia
- ☐ Illinois
- ☐ Colorado
- ☐ Hawaii
- ☐ Nevada
- ☐ New Jersey
- ☐ Vermont
- ☐ West Virginia
- ☐ Alaska



# Assess

- Background investigation
  - Defendant interview
  - Criminal history check
- Validated Risk Assessment
- Recommendations

# Promote

- Supervision
- Monitoring
- Support

# Integrate

- Needs Assessment
- Substance Abuse
- Mental Health

# Measure

- Metrics
- Satisfaction
- Feedback

# Operationalized Mission Statement

A mission statement identifies a program's focus and desired outcomes.

1. Tells the world who you are and why you're important.
2. Guides agency structure and day-to-day operational decisions.
3. Focuses Leadership, Staff and Customers on goals and principles.
4. Gives Management a clear leading message and set of principles.
5. Helps define agencies within a larger organization.



*PSA's mission is to assess, supervise, and provide services for defendants, and collaborate with the justice community, to assist the courts in making pretrial release decisions. We promote community safety and return to court while honoring the constitutional presumption of innocence.*

Pretrial Services Agency for the District of Columbia  
(2008)

*Promote pretrial justice and enhance community safety  
(current)*

### Outcomes

- Appearance
- Safety
- Continued Release

### Strategic Goals

- Judicial Concurrence with PSA recommendations
- Continued compliant pretrial release
- Minimize rearrests
- Maximize court appearance

### Strategic Objectives

- Risk assessment
- Risk-based supervision
- Behavioral Health integration
- Effective agency administration
- Measurement

To promote pretrial justice and enhance community safety







# screening

['skrēniNG]

NOUN

*screenings (plural noun)*

1. the evaluation or investigation of something as part of a methodical survey, to assess suitability for a particular role or purpose.

## Universal Screening

Ensuring Bail Eligibility



# The Rule:

Pretrial services agencies should screen all defendants eligible by statute for bail to make informed, individualized recommendations to the court.





- Screening should occur before the defendant's initial court appearance so that the judicial officer can factor screening results into his or her release decision.
- Screening results also can help determine the defendant's eligibility for pretrial diversion options or the need for referrals to behavioral health or social services programming to augment pretrial supervision.
- Recommendations should not depend on a defendant's participation in a screen



as·sess

[ə'ses]

VERB

1.evaluate or estimate the nature,  
ability, or quality of.

2.evaluate · judge · gauge · rate · estima  
te · appraise ·

form an opinion of · check out · form an  
impression of · make up one's mind  
about · get the measure  
of · determine · [more]

# Re-Thinking Risk

LESSONS FROM RISK ASSESSMENT SCIENCE



# Session Goals

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Define  
Pretrial Risk  
Assessment

- Definition
- Goals
- Best Practices

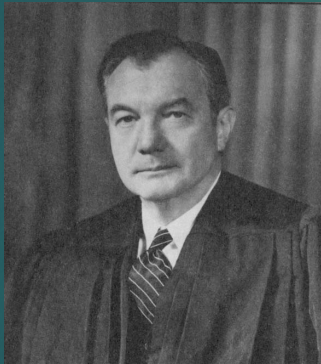


Discuss the  
Nature of  
Pretrial Risk



Analyze  
Real-world  
RAI  
Outcomes

ADMISSION TO BAIL ALWAYS INVOLVES A RISK THAT THE ACCUSED WILL TAKE FLIGHT. THAT IS A CALCULATED RISK WHICH THE LAW TAKES AS THE PRICE OF OUR SYSTEM OF JUSTICE.



Stack v. Boyle 342 U.S. 1 (1951) at p. 8.



# Quiz:

1. What is “pretrial risk”?
2. How likely are defendants to fail?
3. How good are we at assessing risk?
4. What factors are most predictive of pretrial risk?
5. What’s the best method to assess pretrial risk?

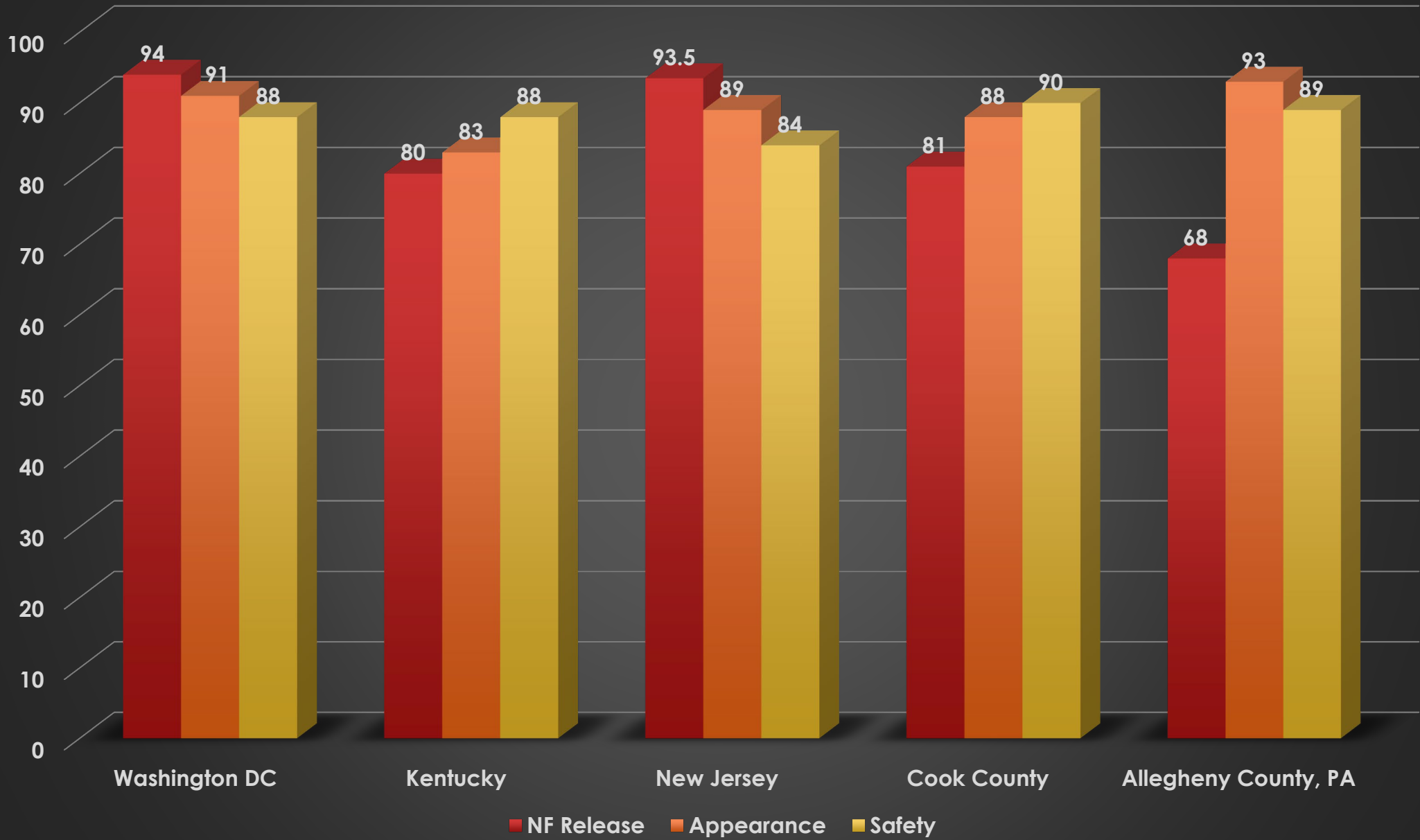


# Defining Risk

A defendant's likelihood of:

- Missing a scheduled court date
- Arrest on a separate criminal offense
  - “global” rearrests
  - rearrests on specific charge types





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# Assessing Risk

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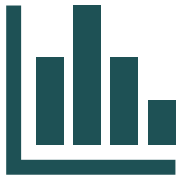
Fourth Generation: Explicit integration of risk/needs management into assessment. The goal extends beyond risk assessment to enhancing supervision and treatment. (Examples: Ohio Risk Assessment System (ORAS), Wisconsin Risk and Needs Tool (WRN), Public Safety Assessment (PSA)).



# Assessing Risk

The consensus from the behavioral science, economic, and criminal justice fields is that *actuarial risk assessment* is the superior method.

Adjusted actuarial assessments—where practitioners have limited and well defined rules to override RAI results—is the preferred actuarial risk assessment technique.



## ASSESS

Gather data  
Apply the tool  
Calculate result



## ADJUST

Consider mitigating and  
aggravating circumstances  
Adjust supervision response as  
needed



## RECOMMEND

Recommend supervision level  
and conditions consistent to  
risk level and other factors



# What's Out There?

- ▶ Court PSA
- ▶ Virginia (VPRAI Revised)
- ▶ Federal Court (FRAI)
- ▶ Ohio (ORAS/PAT)
- ▶ Colorado (CPAT)
- ▶ Florida RAI
- ▶ Alaska
- ▶ Nevada (NPR)
- ▶ Locally-validated assessments
  - ▶ Washington, DC
  - ▶ Allegheny County, PA
  - ▶ El Paso, TX

# Where do PRAIs Come From?

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Bivariate analyses: Identify relationship of independent variables to the dependent variables.

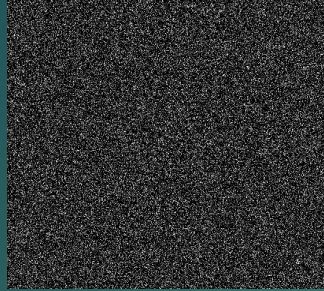
Logistic regression: Measure the strength of relationship between independent and dependent variables.

Weighting of variables on a risk scale.

ROC AUC (Receiver Operating Characteristic/Area under the Curve): Determination of the improvement of risk prediction over chance.

Test on validation set.





## Static

History of FTA

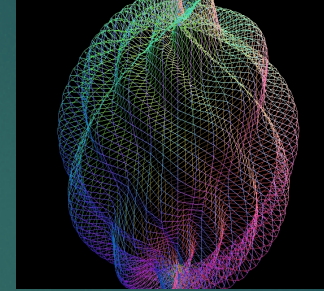
Previous Felonies

Previous Incarcerations

Pending Charges

Previous Misdemeanors

Age



## Dynamic

Substance Abuse

Residence

Employment



- Criminal History
- Instant Offense
- Demographic/Social
- Drug Use (Test Result)
- Criminal Justice Status

FTA



Rearrest

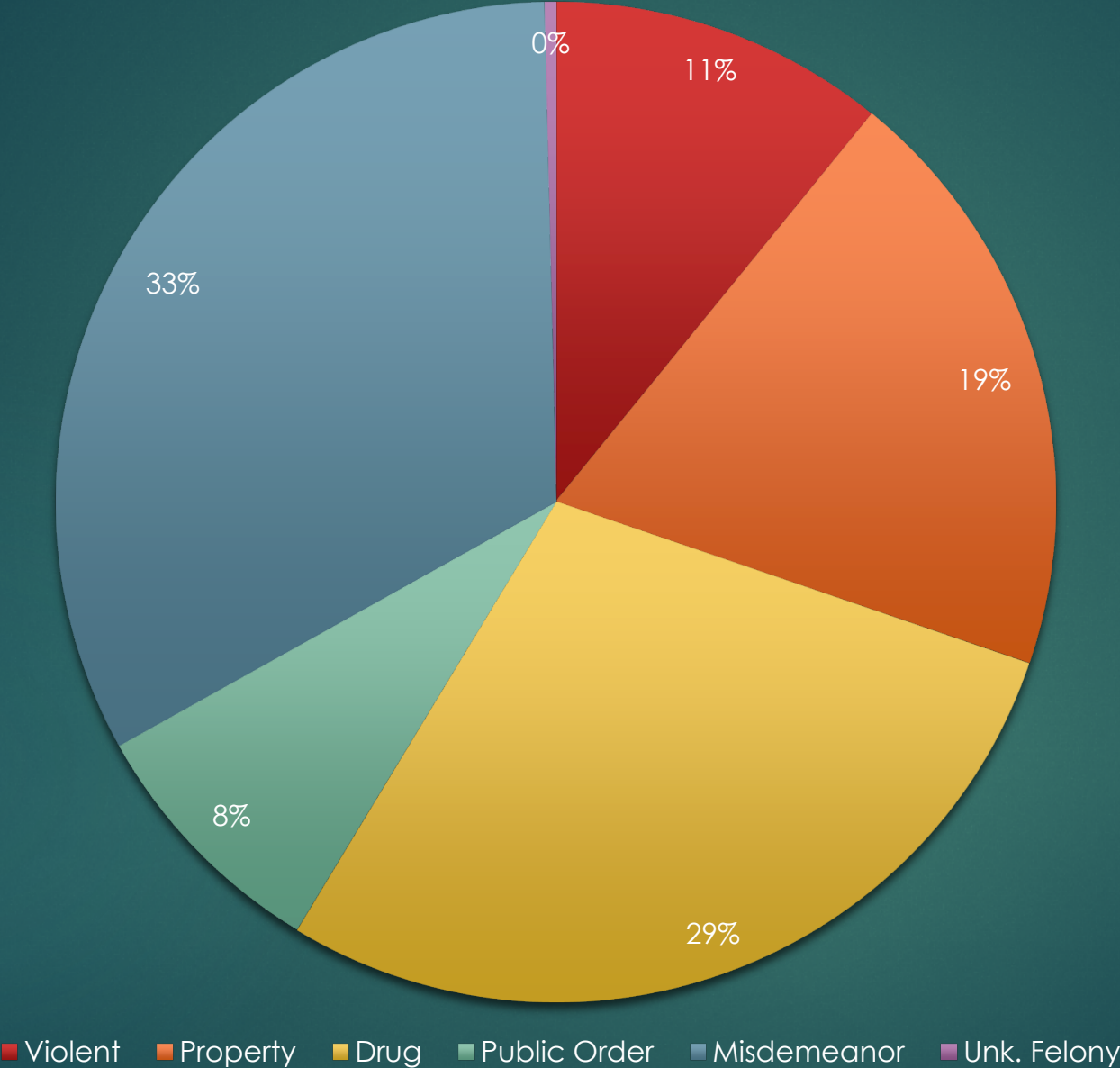






# Rearrest Charge

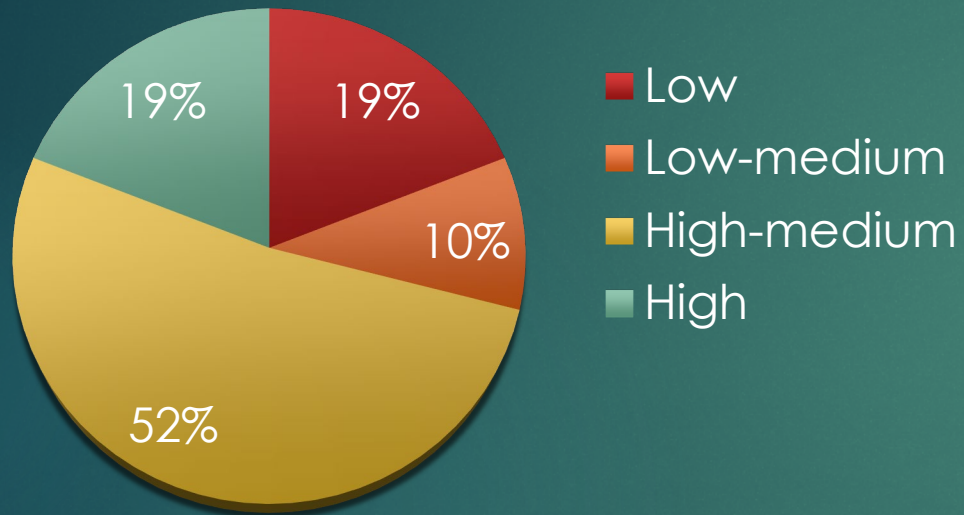
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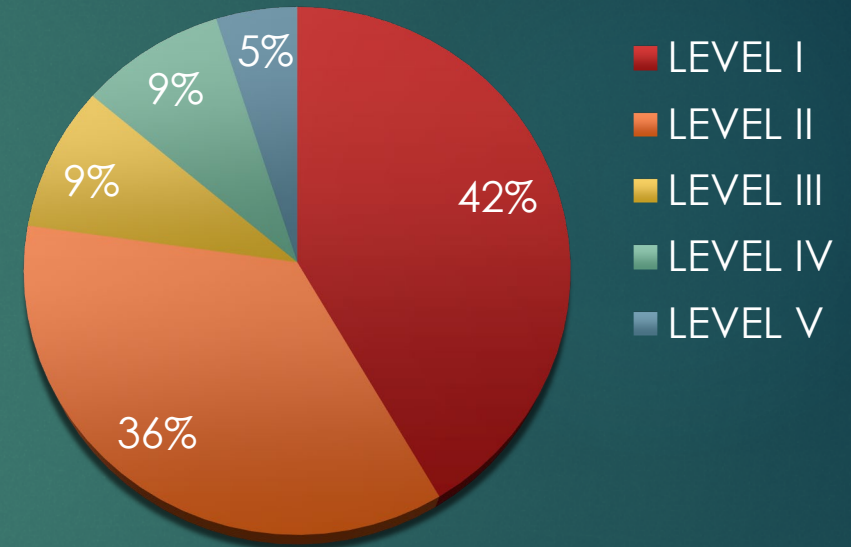
# RAIs: The Results

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## Allegheny County



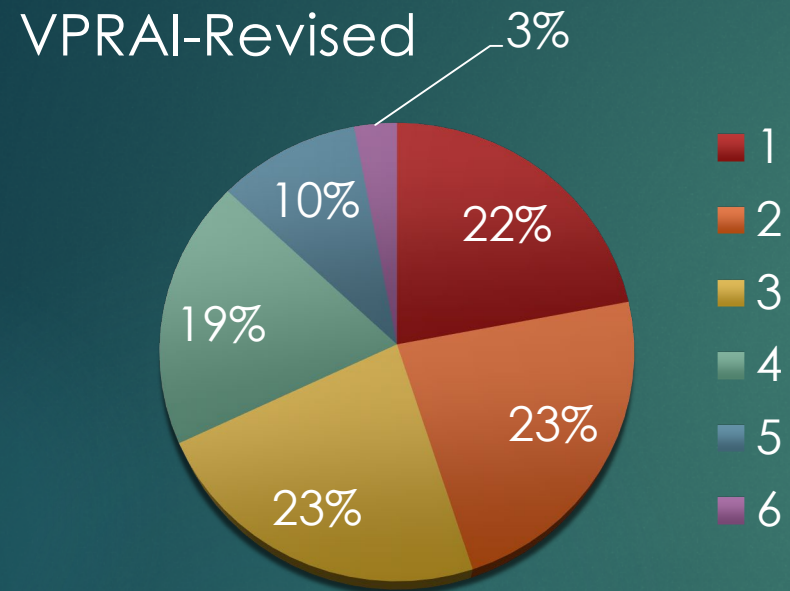
## Harris County



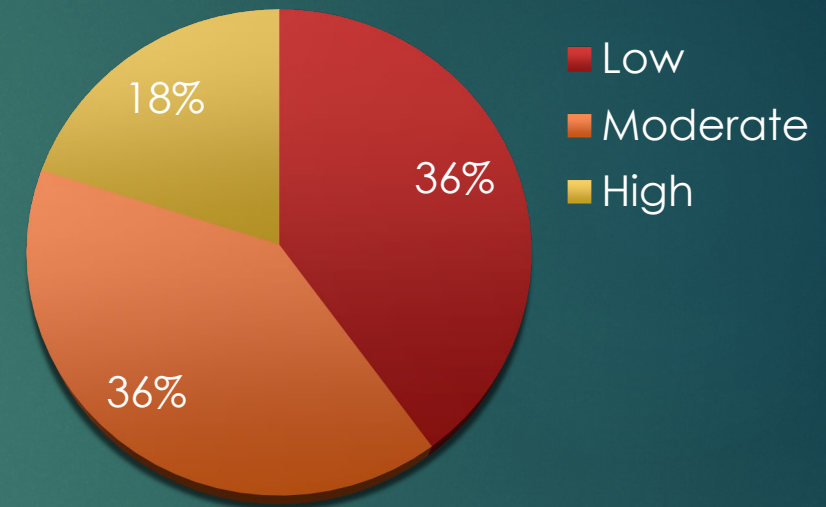


# RAIs: The Results

49



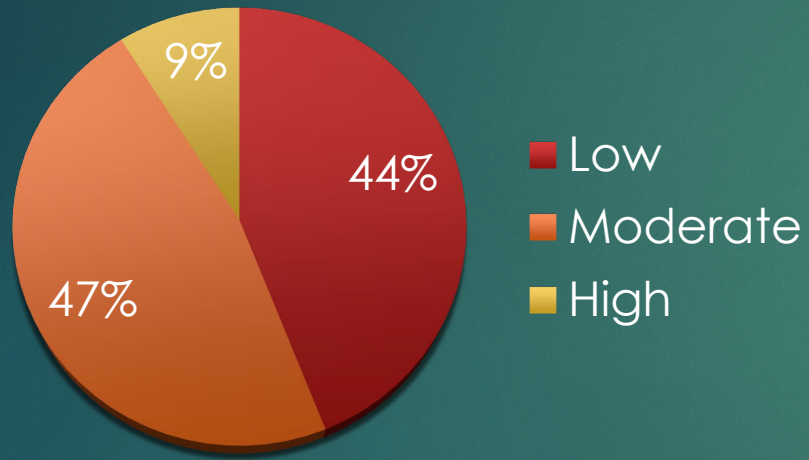
Indiana Risk Assessment System



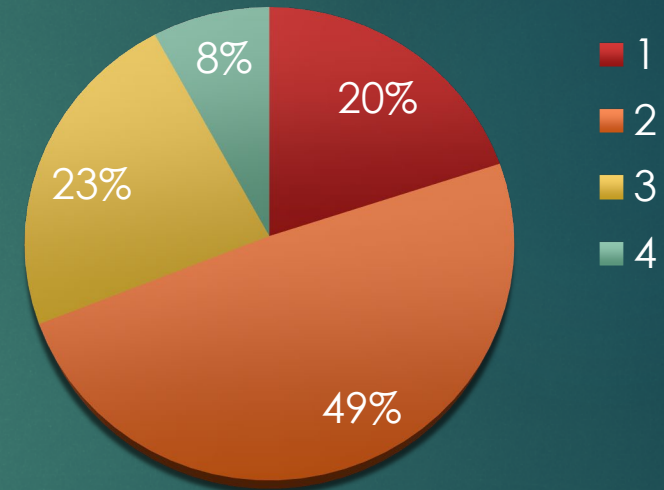
# RAIs: The Results

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Kentucky



Colorado Pretrial Assessment Tool

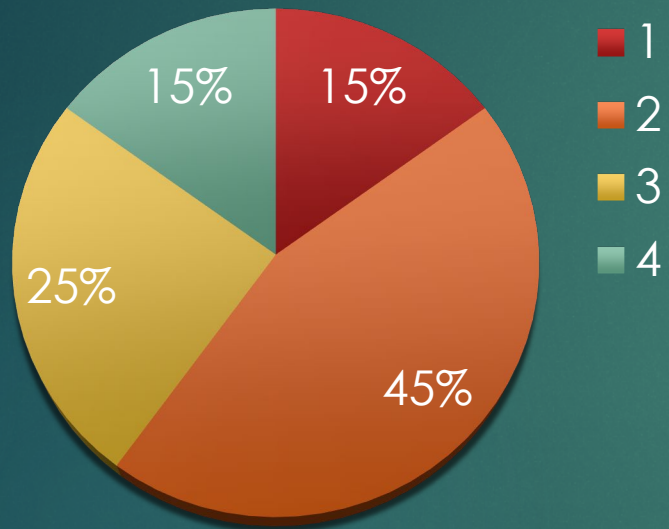




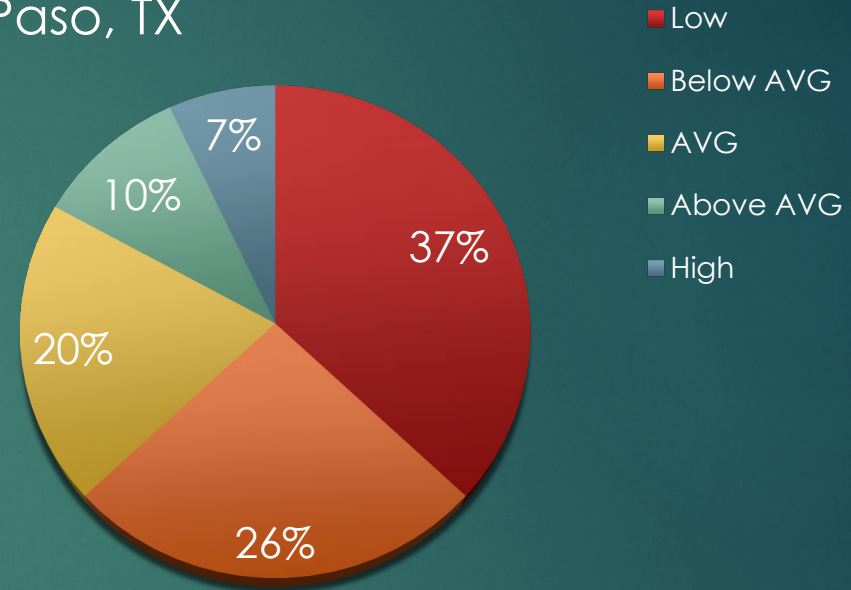
# RAIs: The Results

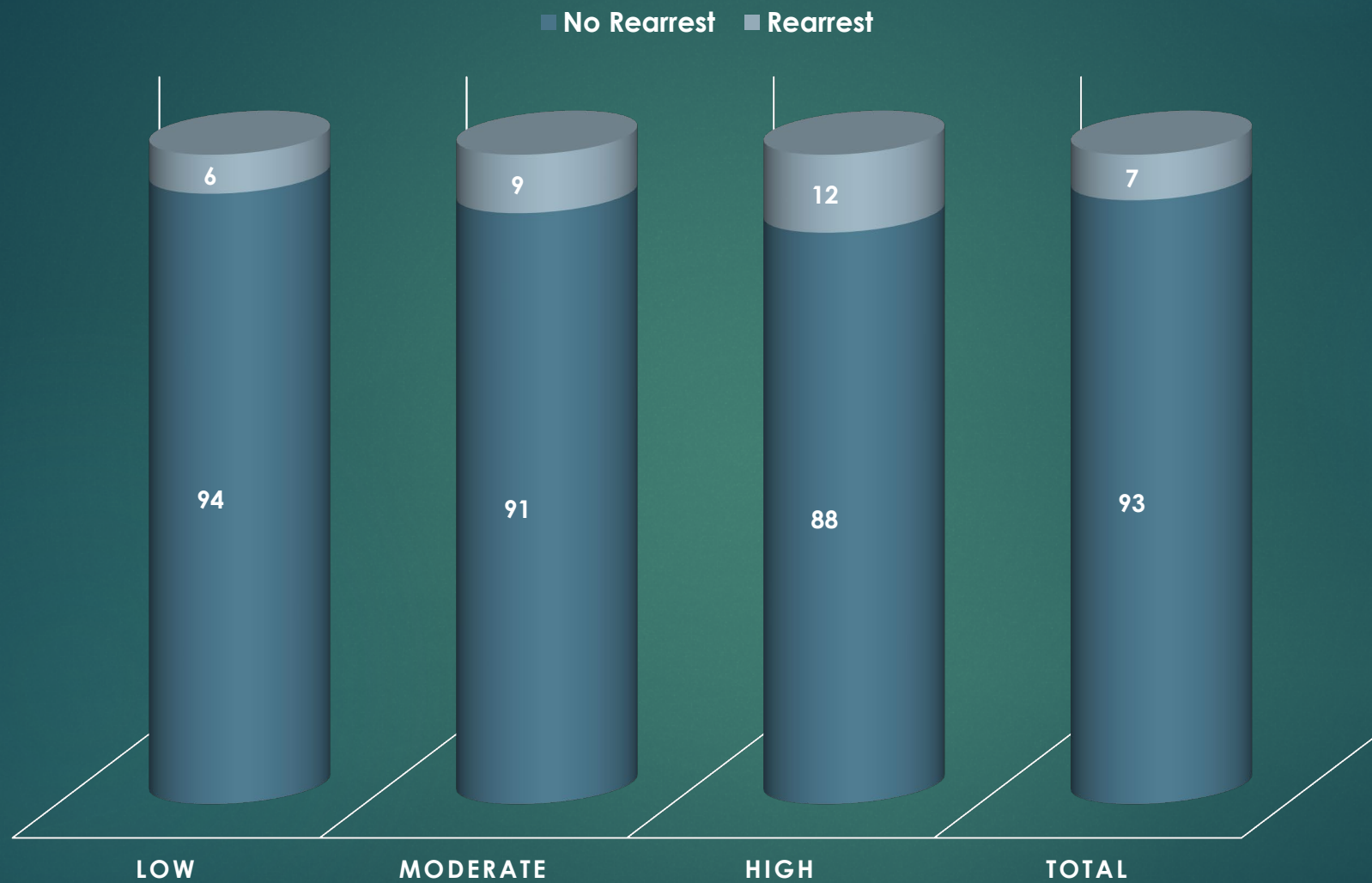
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Weld County

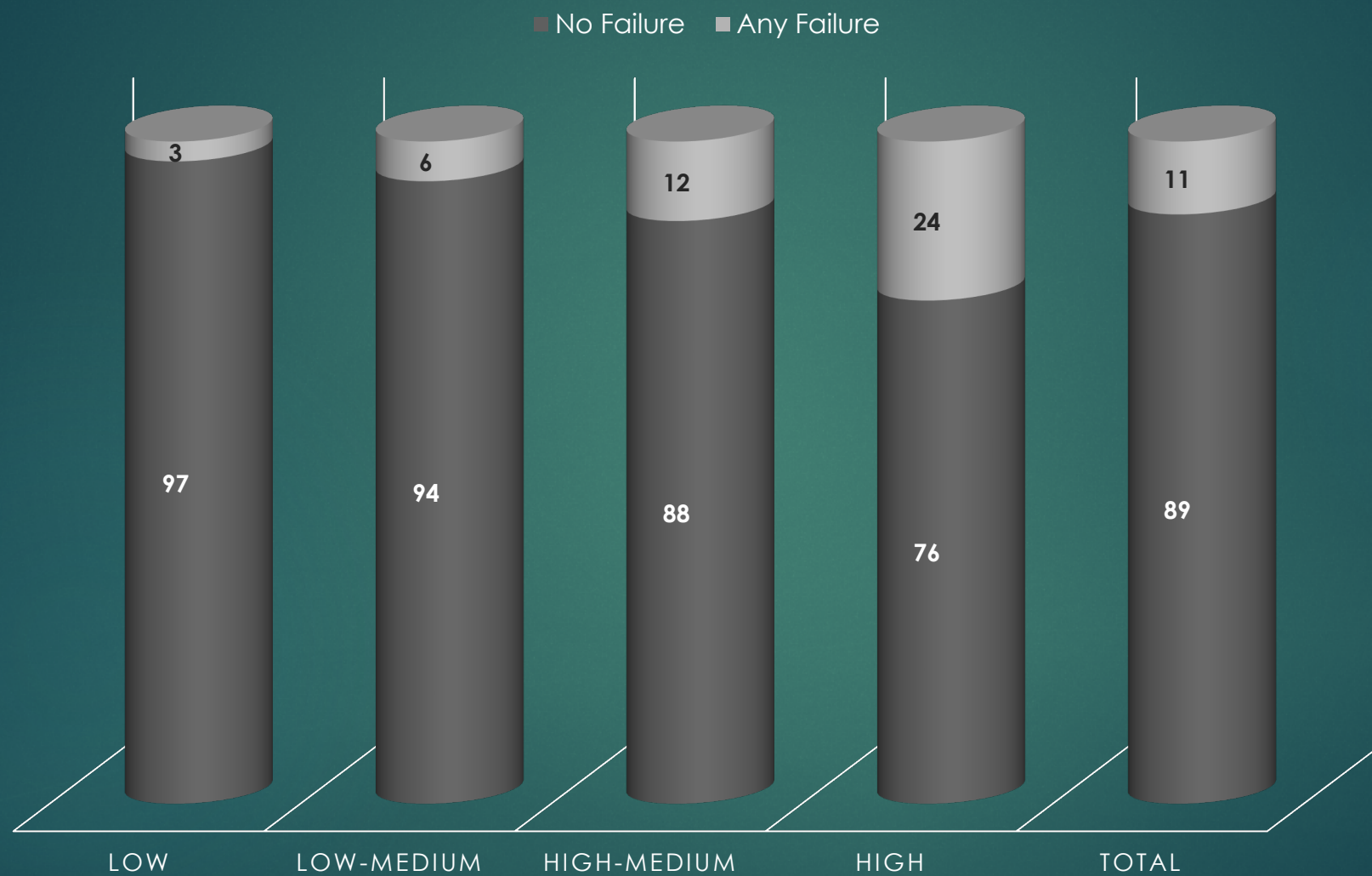


El Paso, TX



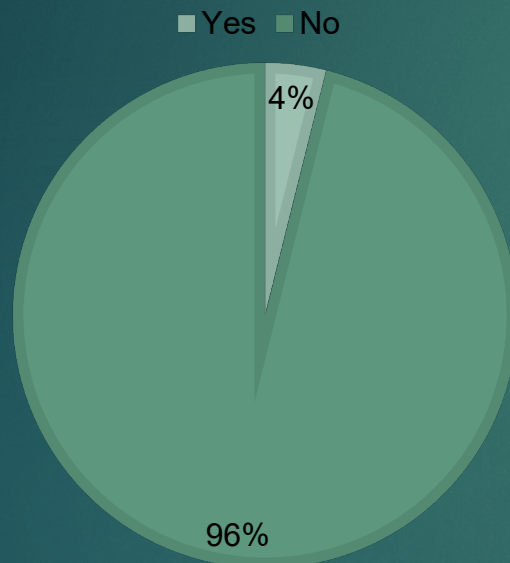




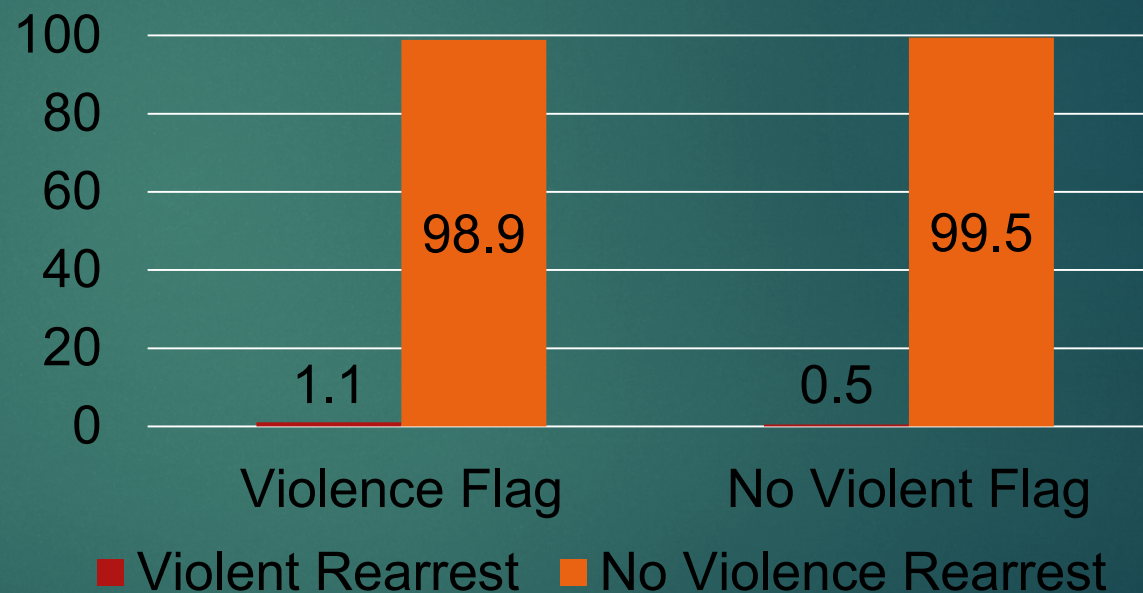


# THE VIOLENCE FLAG

Cook County



## Violent Rearrests by Violent Flag: Cook County





# Cautions

1. RAs show the “group” to which you belong, not your individual risk level
2. The definition of “risk” is relative and not consistent in the research
3. Separate assessments are the better practice, although some risk factors are predictive of both court appearance and arrest-free behavior
4. RAs should not be the final say on release/detention



# Issues

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1. RAs and Pretrial Interviews
2. Locally validated vs. publicly available RAs
3. Supervision to match risk factors and levels
4. When needs play a role
5. Inter-rater Reliability and Quality Assurance
6. Staff Overrides





# Questions?



# DMF Matrix and “Risk Tolerance”

	NCA 1	NCA 2	NCA 3	NCA 4	NCA 5	NCA 6
FTA 1	Level 1 (15.4%)	Level 1 (10.6%)				
FTA 2	Level 1 (1.3%)	Level 1 (7.5%)	Level 2 (8.5%)	Level 2 (11.3%)	Level 3 0	
FTA 3		Level 2 (5.1%)	Level 2 (9.5%)	Level 3 (4.4%)	Level 4 (3.0%)	Level 5 (0.03%)
FTA 4		Level 3 (2.0%)	Level 3 (3.7%)	Level 3 (3.7%)	Level 4 (4.1%)	Level 5 (0.03%)
FTA 5		Level 4 0	Level 4 (0.03%)	Level 4 (1.7%)	Level 4 (2.7%)	Level 5 (1.0%)
FTA 6				Level 5 (0.03%)	Level 5 (0.06%)	Level 5 (1.7%)



sequential

[sə'kwen(t)SHəl]

ADJECTIVE

*screenings* (plural noun)

1. forming or following in a logical order or sequence.

# Sequential Bail Review

## Continuing the Risk Principle



Judicial officers have authority to make determinations regarding bail in all stages of a criminal case, up to and including the trial stage

Federal Bail Reform Act  
18 USC § 3141 (a)



- Notify the Court of continued after the initial pretrial court appearance and offer the Court judicial officer reviewing the bail non-financial options appropriate to the defendant's assessed risk level.
- For detained defendants, notify the court of any new favorable information that would aid in facilitating a defendant's release or information that would affect the defendant's status while on release.
- Encourage defense counsel and prosecutors to notify the agency of changes in circumstances that would affect the defendant's bail status.
- Review the status of released defendants, including a check for new criminal arrests and compliance with conditions of release.

# Session Goals

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Describe  
Pretrial  
Supervision

- Purpose
- Risk Based
- Conditions
- Compliance



Discuss how  
risk  
assessment  
should  
inform  
Supervision  
strategies



Discuss what  
we know  
about best  
and  
promising  
practices



Most defendants will make scheduled court dates and remain arrest-free pending adjudication. The goal of supervision, mitigation, and support strategies is to promote that success among the greatest number of defendants.

Promote Success rather than Manage Risk



# Risk-based Interventions

Using the least restrictive interventions needed to promote court appearance and community safety



Goal: **promote court appearance and public safety.** (Excludes rehabilitation, punishment, restitution)

**Interventions** start with OR and progress as risk levels and behaviors warrant.

Conforms to the Risk Principle and the idea of least restrictive conditioning. **No “blanket” conditioning.**

**Incorporates treatment when needs become risk factors**

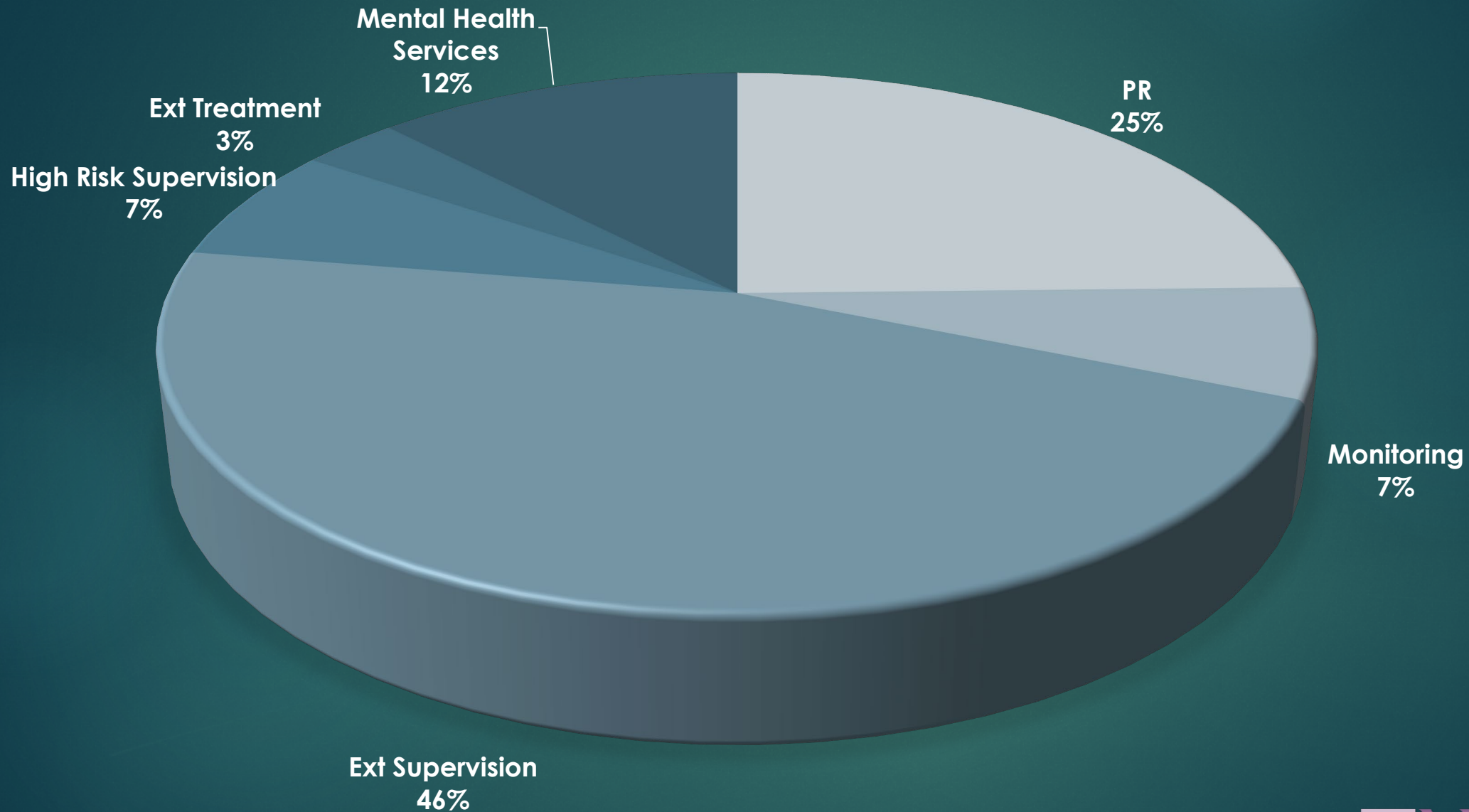
# Supervision Supports

- Effective pretrial supervision includes:
- Notification to defendants of upcoming court dates
  - Early and meaningful responses to defendant conduct
  - Notification to the Court of defendant conduct and the possible need for supervision adjustment



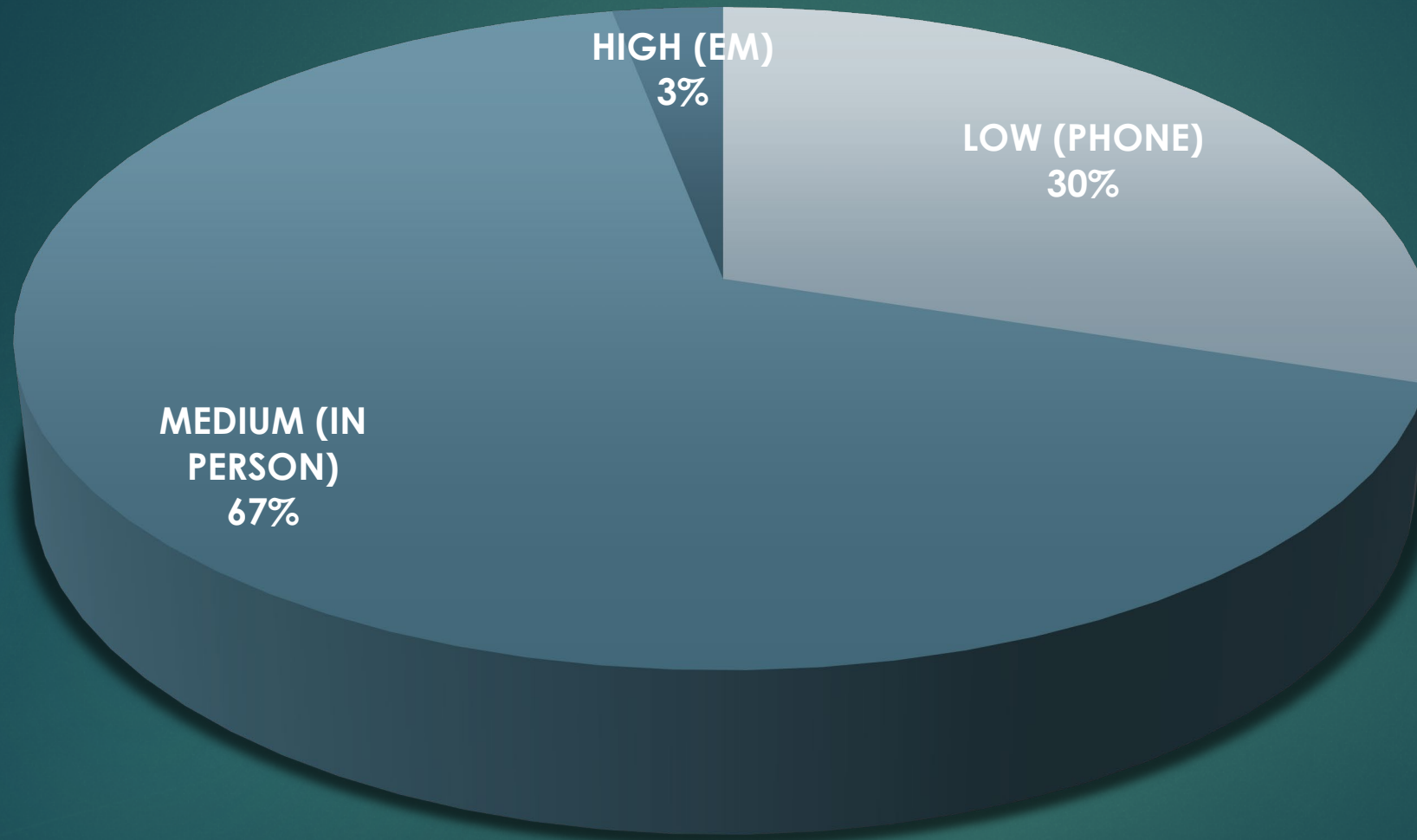
# PSA FOR THE DISTRICT OF COLUMBIA: CASELOADS FY 2015

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# ALLEGHENY COUNTY Pretrial Services: Caseload 11/30/2017 (N=2,476)

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■ LOW (PHONE) ■ MEDIUM (IN PERSON) ■ HIGH (EM)

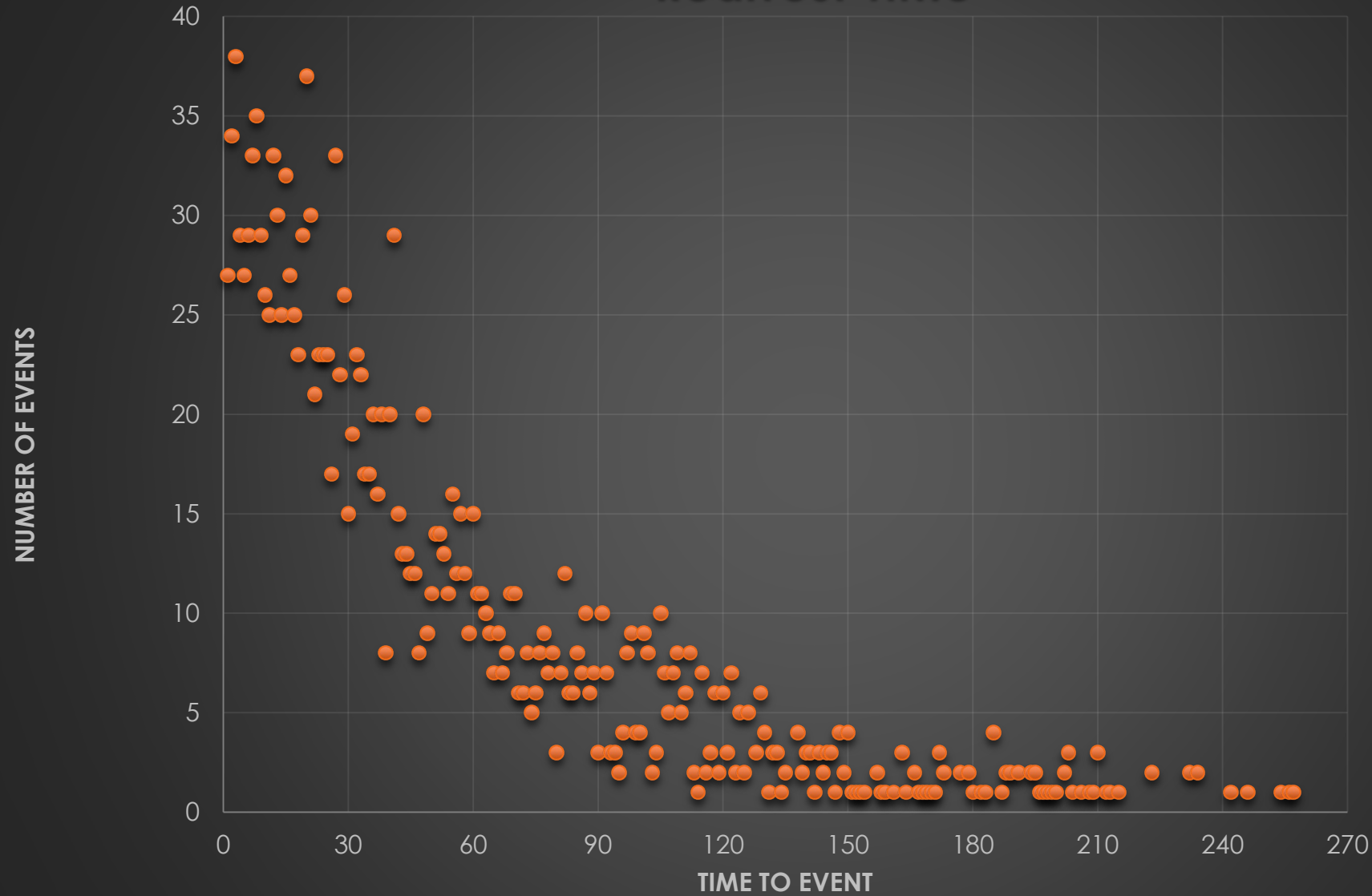




In Kentucky, we are striving to limit costly and unproven options for release. We provide court date notifications and monitor for new criminal activity and court appearance for every defendant released. In the past 12 months, **only 3% of the 135,324 people released before trial were placed on supervision.** We choose to recommend release with minimal supervision for a lot of people and we get good results.

For high-risk defendants—only about 12% of all arrested people—standard supervision in Kentucky entails one contact (either by phone or in person) with the defendant per month, court notification and compliance verification. Even with supervision this minimal, **high-risk defendants only get arrested 14% of the time while on pretrial release and 79% show up for court when scheduled.**

## Rearrest Time





# What We Know

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- The body of knowledge about evidence-based and best Pretrial Supervision practices is still developing.
- Levels of supervision appear to influence outcomes, but the effect of individual conditions is an open question.
- Risk assessment and outcome and performance measurement data suggest that low to moderate supervision levels are appropriate for most defendants.



Supervision levels tied to assessed risk levels greatly improve pretrial outcomes. Conversely, improper supervision produces poor outcomes and wastes resources. (The “risk principle”).

Drawing on data from two states, the Laura and John Arnold Foundation examined the likelihood of new criminal arrest and failure to appear for defendants released pretrial with supervision and those released without supervision. The study found that moderate- and high-risk defendants who received pretrial supervision were more likely to appear in court, and all defendants who were supervised pretrial for 180 days or more were less likely to be arrested for new criminal activity.

Van Nostrand, M. and Lowencamp, C. 2013. *Exploring the Impact of Supervision and Pretrial Outcomes*. New York: LJAF



Supervision levels tied to assessed risk levels greatly improve pretrial outcomes. Conversely, improper supervision produces poor outcomes and wastes resources. (The “risk principle”).

- Moderate and higher risk defendants who were required to participate in ATD (e.g., drug testing, treatment, electronic monitoring) were more likely to succeed pending trial.
- Lower risk defendants who were required to participate in ATD pending trial were more likely to fail pending trial

VanNostrand, M., & Keebler, G. (2009). Pretrial Risk Assessment in the Federal Court. *Federal Probation*, 72 (2)



# Conditions

- ✓ Tied to mitigating risk of nonappearance or public safety
- ✓ Least restrictive
- ✓ Individualized (NO blanket conditions)
- ✓ Research about what specific conditions best mitigate which risk is lacking



# Conditions- The research

## Court Notification (Appearance):

- ✓ Solid evidence-based practice. Should be used as a uniform intervention. Could be the baseline for low/moderate level supervision.



# Conditions- The research

## Drug testing (Appearance, Public Safety):

- Results are mixed and dated. Drug use often is a behavior, not a risk factor. Used when specific drug has a link to pretrial failure. Should not be a blanket condition. Don't drug test alone if there is an IOP or greater treatment need. Keeping up with drug use trends is a must.

## Electronic Surveillance (Safety):

- No evidence of safety benefit, though limited study suggests an appearance outcome benefit. Best used to monitor stay away and curfew conditions. Can encourage nonfinancial release but also increased technical violations. Possible legal issues with targeted populations and costs imposed on defendants.



# Conditions- The research

## Regular Reporting (Appearance):

- No significant research to date. Best used to verify court dates and as a complement to other conditions.

## Treatment (Appearance and Safety):

Let's Talk.



# Issues

1. Infractions versus Violations
2. Addressing failures to appear and arrests
3. Reporting compliance to Court
4. Sequential bail review
5. Need versus Risk





# Questions?

meas·ure

['meZHər]

VERB

1. ascertain the size, amount, or degree of (something) by using an instrument or device marked in standard units or by comparing it with an object of known size.

2. calculate · compute · estimate · count · meter

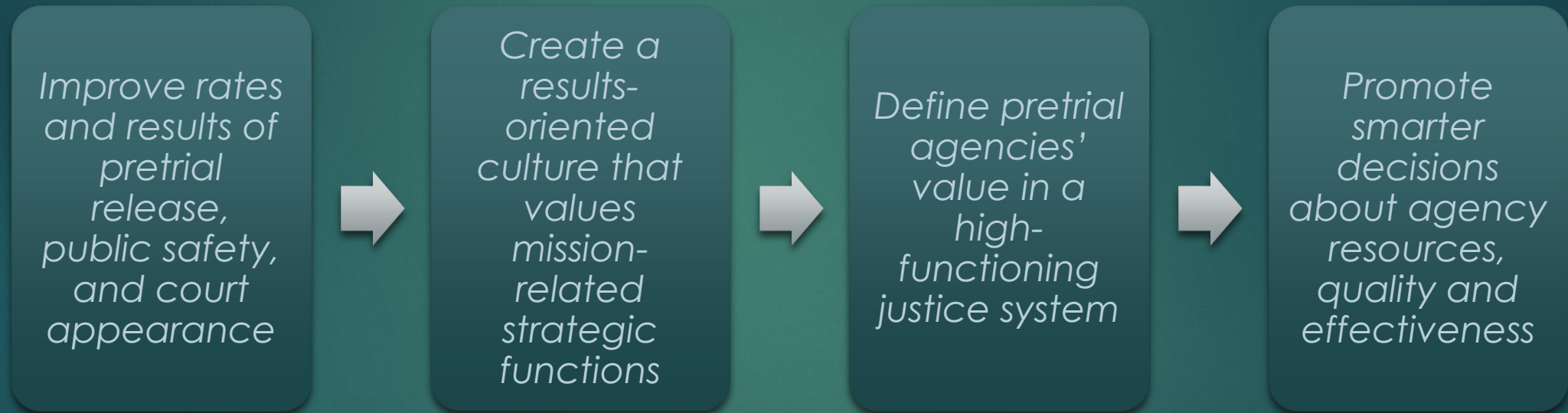
# Measuring for Results

USING OUTCOME AND PERFORMANCE MEASURES  
TO ACHIEVE MISSION AND GOALS



# Session Goals

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*Data are good...*

*...Results are better*



“When you have mastered numbers, you will in fact no longer be reading numbers, any more than you read words when reading books. You will be reading meanings.”

*Harold S.  
Geneen*

“Statistics are used like a drunk uses a lamp post: for support, not illumination”

*Vince Scully*



# The Issue

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*Many pretrial agencies don't know how to define "success" or measure progress towards strategic outcomes. A focus on "busy data" prevents leaders from measuring what really matters to their programs, systems, defendants and communities.*

*BOTTOM LINE: Pretrial Leaders must move from "data driven" to "results oriented."*



# Goals

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- ✓ Achieve better results in public safety, court appearance and defendant accountability
- ✓ Create a results-oriented culture that values mission-related strategic functions
- ✓ Allow pretrial agencies to show through solid performance oriented information their value in a high-functioning criminal justice system
- ✓ Allow better decisions on agency resources, quality and effectiveness



# Measurement Promotes Results

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- Shifts the organization's focus from activities to results, from *how a program operates* to the *good it accomplishes*
- Frees leaders to lead
- Focuses and motivates management and staff on common goals and purposes
- Identifies what works and what's promising
- Positions organization within the system and community as successful, increasing support and resources



**Measures** are numeric (rates, totals) or qualitative (perception, feedback) indicators of how well an organization performs its mission-related and strategic functions.

**Outcome measures** focus on mission

**Performance measures** gauge operational goals that support the mission.



**Inputs:** Resources used to produce goods or services, including human, financial, facility, or material resources. Example: number of defendants supervised, number of defendants needing treatment or community service placements.

**Outputs:** Indicators that count an organization's services and goods. Example: the number of assessments, program placements, sanctions imposed.



**Efficiencies:** Indicators of an organization's achieving a stated target.  
Example: percent of defendants sanctioned for noncompliance.

**Outcomes:** Indicators of the actual impact of an organization's actions. An outcome measure is a means for quantified comparison between the actual result and the intended result. Example: Appearance, safety, success and recidivism.



[www.nicic.gov/library/025172](http://www.nicic.gov/library/025172)



*Appearance rate:* the percentage of supervised defendants who make all scheduled court appearances.

*Recommended Data:* Cases with a verified pretrial release and/or placement to the pretrial program and the subset of this population that have no bench warrants/capiases issued for missed scheduled court appearances.

The appearance rate also may be tracked by various defendant populations, although the primary group targeted should be defendants released to the agency's supervision.



*Safety rate*: the percentage of supervised defendants who are not charged with a new offense during case adjudication. A *new offense* is one:

- whose offense date occurs during the defendant's period of pretrial release;
- that includes a prosecutorial decision to charge; and
- that carries the potential of incarceration or community supervision upon conviction.

This excludes arrest warrants executed during the pretrial period for offenses committed before the defendant's case filing.

*Recommended Data*: the number of defendants with a verified pretrial release or placement to the pretrial program and the subset of this population with no rearrests on a new offense. Programs also may track separate safety rates by charges type (for example, misdemeanors, felonies or local ordinance offenses) or severity (violent crimes, domestic violence offenses or property crimes) or by defendant populations.



*Concurrence rate:* the ratio of defendants whose supervision level or detention status corresponds to their assessed risk of pretrial misconduct. This measure excludes defendants detained on statutory holds, probation or parole warrants or holds and detainers from other jurisdictions.

*Recommended Data:* the number of release and detention recommendations and subsequent release and detention outcomes.



*Success rate:* the percentage of released defendants who are 1) not revoked for technical violations, 2) appear for all scheduled court appearances, and 3) remain arrest-free. The measure excludes defendants that are detained following a guilty verdict and those revoked due to non pretrial related holds.

*Recommended Data:* the total number of defendants released to the program and the subset of this population that experience no condition violations, failures to appear or rearrests.



# Creating Measures

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# Lessons on Implementation

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- Tie measures to mission, goals and objectives. Use performance measurement to track progress and direction toward strategic objectives.
- Use results for mission-driven items. Performance data should be the foundation for new initiatives, budgets, strategic planning, and priorities.
- Create a measurement framework and advertise it at all levels. Everyone must know how measures relate to their work. Accountability is key as is knowing that what you do is worthwhile.
- Create positive measurement systems. Successful performance frameworks are not "gotcha" systems, but learning environments that help the organization identify what works/what doesn't and continue with/improve on what works and fix/replace what doesn't.





# Questions?