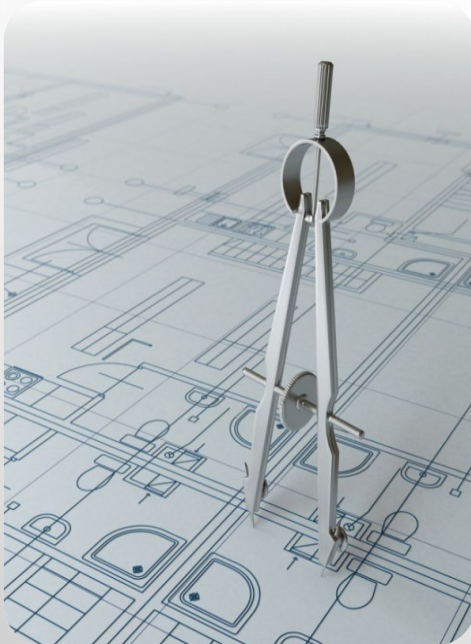# MEASURING WHAT MATTERS: OUTCOME AND PERFORMANCE MEASURES FOR THE PRETRIAL FIELD

Michael Kainu

Unit Chief, Office of Planning, Policy and Analysis
Pretrial Services Agency for the District of Columbia

NAPSA Atlantic Region Director

Texas Association of Pretrial Services

May 5, 2022

THE PROBLEM

"Busy Work:" Activity meant to take up time but not necessarily yield productive results.

(The American Heritage® Dictionary of the English Language, Fourth Edition copyright ©2000)

"BUSY DATA"…

THE ISSUE

*Many pretrial programs don't know **what** data are critical in measuring their relevance in an evidence-based criminal justice system or their successes in meeting strategic performance goals and outcomes. For many pretrial programs—and criminal justice programs in general—the focus is on "busy data," not results-oriented and strategic information.*

*Most pretrial programs don't know **how** to measure what truly matters to them, stakeholders or the public.*

BOTTOM LINE: Pretrial services programs must move from "data building" to "performance management."

Success

Verification

Criminal History

Safety

Reporting

Needs Assessment

Court Date

Disposition

Detention

Caseload

Incentives

Release

Staffing

Sanctions

Defendant

Victim Support

Case time

Case

Accountability

Drug Testing

Risk Assessment

Client

PR

Bail

Electronic Surveillance

Substance Abuse

Appearance

Mental Health

Community

Supervision

Service

Dual Diagnosis

Inputs and Outputs

Outcomes

From this...

To this...

DEFINTIONS

The National Institute of Corrections Pretrial Executive Network developed the following definitions of outcome and performance measures and mission critical data which have been adopted in the pretrial field.

Outcome Measures: An indicator of how well an organization achieves it stated mission or intended purpose (e.g. Release Rate/Appearance Rate)

Outcome Measures are quantitative (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.

DEFINITIONS (CON'T)

- *Performance Measure*: A quantitative or qualitative characterization of performance. (e.g. Response to Δ Conduct, Universal Screening)

  Performance Measurement is the process of tracking progress toward achieving mission and goals, including information on how well resources are transformed into goods and services, the quality of outputs and outcomes, and the effectiveness of operations in meeting program objectives.

  Performance measures gauge operational goals that support the mission.

- *Mission Critical Data*: Supporting data in areas strategically linked to outcomes and performance. These data track progress in areas and on issues that supplement specific measures. (ex. Caseload Ratios)

SUGGESTED OUTCOME MEASURES

1. *Release Rate*

2. *Appearance Rate*

3. *Public Safety Rate*

4. *Success Rate*

SUGGESTED PERFORMANCE MEASURES

1. *Universal Screening*

2. *Recommendation Rate*

3. *Response to Defendant Conduct Rate*

4. *Pretrial Intervention Rate*

5. *Supervision Success Rate*

6. *Concurrence Rate*

SUGGESTED MISSION CRITICAL DATA

1. Number of Defendants Released By Release Type and Condition

2. Caseload Ratio

3. Time from Nonfinancial Release Order to Start of Pretrial Supervision

4. Time on Pretrial Supervision

5. Pretrial Detention Rate

OUTCOME MEASURES

RELEASE RATE

Definition: The percentage of defendants who secure release pending case disposition.

Recommended Data: The total number of individuals arrested for criminal offenses and the subject of those individuals who secure release pending case disposition.

$$\text{Release Rate} = \frac{\text{Defendants Securing Release Pending Disposition}}{\text{Arrested Individuals}} \times 100$$

"Bail" includes release by court, law enforcement, or corrections authorities and any financial and nonfinancial bail type.

"Criminal Offense" includes any charge that carries a possible sentence of incarceration or community supervision upon conviction.

"Release" is defined as discharge pretrial for law enforcement custody.

"Disposition" includes the end of the pretrial stage.

The Pretrial Services Agency should calculate and keep separate release rate outcomes by bail type (secured, unsecured, nonfinancial) and assessed risk level.

APPEARANCE RATE

Definition: The percentage of released defendants who make all scheduled court appearances pending case disposition.

Recommended Data: All filed criminal cases with a verified pretrial release before case disposition and the subset of that data having no bench warrants or capiases issued for a missed scheduled court appearance.

$$\text{Court Appearance Rate} = \frac{\text{Defendants Who Appear for all Scheduled Court Appearances}}{\text{Defendant Securing Release Pending Disposition}} \times 100$$

The Pretrial Services Agency also may track appearance rates for defendant subgroups, such as by type of release and assessed risk level.

Agencies should count all cases with issued bench warrants/ capiases under this outcome measure, including instances when defendants subsequently return to court voluntarily or are not revoked.

The Pretrial Services Agency should calculate and keep an adjusted appearance rate that considers defendants' voluntary surrenders and surrenders that the Pretrial Services Agency helps facilitate.

PUBLIC SAFETY RATE

Definition: The percentage of released defendants who are not charged with a new criminal offense pending case disposition.

Recommended Data: All individuals with a verified pretrial release before case disposition and the subset of these individuals who are not charged with a new criminal offense while the original pretrial case is pending.

$$\text{Public Safety Rate} = \frac{\underline{\text{Defendants Not Charged with a New Criminal Offense Pending Disposition}}}{\text{Defendant Securing Release Pending Disposition}} \times 100$$

"New Offense" is defined as one of the following characteristics
- An offense data that occurs during the defendant's period of pretrial release.
- A prosecutorial decision to charge.
- The potential of incarceration or community supervision upon conviction.

The Pretrial Services Agency also may track public safety rates for defendant subgroups, such as by type of release or assessed risk level.

The Pretrial Services Agency may track separate safety rates by charge type (e.g. misdemeanors, felonies or local ordinance offenses) or severity (violent crimes, domestic violence offenses or property crimes)

The outcome measure should include recorded local and national arrests resulting in charges by a prosecutor.

SUCCESS RATE

Definition: The percentage of released defendants who appear for all scheduled court appearances and are not charged with a new criminal offense pending case disposition.

Recommended Data: All individuals with a verified pretrial release and the subset of that population how (1) appear for all scheduled court appearances and (2) are not charged with a new criminal offense pending disposition.

$$\text{Success Rate} = \frac{\underline{\text{Defendants Who Make All Scheduled Court Dates and Have No New Charges}}}{\text{Defendant Securing Release Pending Disposition}} \times 100$$

PERFORMANCE MEASURES

UNIVERSAL SCREENING

Definition: The percentage of defendants eligible by statute and screened for release by the Agency.

Recommended Data: The percentage of defendants eligible for bail by statute and the subset of these individuals screened by the Pretrial Services Agency for release.

$$\text{Universal Screening} = \frac{\text{Defendants Screened by the Pretrial Services Agency}}{\text{Bail} - \text{Eligible Defendants}} \times 100$$

Screening includes any combination of pretrial interview, application of a risk assessment instrument, or measurement against other established criteria for release recommendation or program placement.

RECOMMENDATION RATE

Definition: The percentage of the Pretrial Services Agency's bail recommendations that match its risk assessment results.

Recommended Data: The total number of defendants screened by the Pretrial Services Agency and the subset of these recommendation that match a defendant's assessed risk level.

$$\text{Recommendation Rate} = \frac{\text{Recommendations Matching Assessed Risk Level}}{\text{Total Number of Recommendations}} \times 100$$

"Bail Recommendation" is the recommendation for type and conditions of bail the Pretrial Services Agency makes to the court at the initial hearing where bail is considered.

"Validated Pretrial Risk Assessment" is an instrument used to predict the likelihood of future court appearance and arrest-free behavior pretrial. It is empirically developed and validated using a defendant population.

"Assessed Risk Level" is a structured, categorical rating of a defendant's likelihood of future court appearance and arrest-free behavior pretrial.

RESPONSE TO DEFENDANT CONDUCT RATE

Definition: The percentage of time the Agency responds to defendant conduct regarding court-ordered release conditions.

Recommended Data: The total number of defendant compliant and non-compliant events to court ordered conditions and the subset of these events with a recorded policy-appropriate agency response.

$$\text{Response to Defendant Conduct Rate} = \frac{\text{Pretrial Agency Response}}{\text{Compliant and Non-Compliant Events}} \times 100$$

.

PRETRIAL INTERVENTION RATE

Definition: The percentage of outstanding bench warrants/capiases issued and the subset of these events with a recorded resolution initiated by the Pretrial Services Agency.

Recommended Data: The total number of bench warrants/capiases issued and the subset of these events with a recorded resolution initiated by the Pretrial Services Agency.

Pretrial Intervention Rate= $\dfrac{\text{Bench Warrants of Capiases Issued Resolved by Agency Efforts}}{\text{Issued Bench Warrants/ Capiases}}$ **X 100**

.

SUPERVISION SUCCESS RATE

Definition: The percentage of released defendants who are compliant at case disposition with court-ordered conditions.

Recommended Data: The total number of defendants supervised by the Pretrial Services Agency and the subset of these defendants who are compliant with court-ordered conditions at case disposition.

$$\text{Supervision Success Rate} = \frac{\text{Defendants Compliant with Supervision Requirements}}{\text{Defendants Supervised by the Pretrial Services Agency}} \times 100$$

Supervision success rate defines "success" as overall compliance to court-ordered release conditions, regardless of how:

1) How the Court may terminate supervision
2) The defendant's appearance rate or public safety rate outcomes.

CONCURRENCE RATE

Definition: The percentage of defendants who court-ordered bail corresponds with their assessed risk level

Recommended Data: The percentage of bail decisions that adhere to a defendant's assessed risk level.

$$\text{Concurrence Rate} = \frac{\text{Defendants with Risk Appropriate Bail}}{\text{Total Number of Bail Decisions}} \times 100$$

Each ordered supervision condition should match the assess level of risk. For example, an assessed risk level suggesting own recognizance release with no conditions and a subsequent bail condition of regular reporting to the Pretrial Services Agency weekly would not be concurrent.

MISSION CRITICAL DATA

Number of Defendants Released by Release Type and Condition

The number of court-ordered release types, for example, personal recognizance, conditional supervision or unsecured bond. For releases to the pretrial program, the data also track the frequency of individual release conditions.

Caseload Ratio

The number of supervised defendants divided by the number of case managers. The data include the pretrial program's overall caseload rates and rates for special populations such as defendants in high-risk supervision units, under specialized calendars or with high-resource conditions such as electronic monitoring and Global Positioning Surveillance.

Time from Nonfinancial Release Order to Start of Pretrial Supervision

Time between a court's order of release and the pretrial program's assumption of supervision. Data here are the jail release date for cases involving initial detention or the actual date of the judicial order for defendants already in the community and the first contact date with the pretrial program following release or the new judicial order.

Time on Pretrial Supervision

Time between the pretrial program's assumption of supervision and the end of program supervision. Supervision begins with the defendant's first contact with the pretrial program and terminates following case disposition or the issuing of new release or detention requirements.

Pretrial Detention Rate

Ratio of pretrial defendants who are detained throughout pretrial case processing.

METRICS FOR EQUITY

Ensuring that all individuals receive fair and equitable treatment is a requisite for America's justice system. To meet the mandate for equal and equitable justice, pretrial practioners must ensure their policies and procedures do not create or exacerbate unequal treatment and outcomes.

Besides using outcome and performance metrics, practitioners must also ensure that functions critical to bail decisions and outcomes are free of bias. This includes:

- Validating pretrial RAIs to safeguard against disparities in risk levels and recommended conditions of bail;
- Limiting the use of residence, employment and number of criminal arrests or convictions as aggravating or mitigating factors in pretrial recommendations;
- Restricting in-person reporting requirements as conditions of bail to medium-to-high risk defendants.
- Prohibiting conditions of supervision that impose a cost to defendants or expose them to detention for inability to pay fee for services (e.g. GPS).

A WORD ABOUT TARGETS…

A *performance target* is a numeric goal for an outcome or performance measure. For example, an appearance rate of 90 percent for all released defendants. It is a specific gauge of performance achieved against performance expected. Well-defined, ambitious and attainable targets can help programs deliver expected services and outcomes and identify needed programmatic and system strategic changes. Conversely, static or unreasonable targets can encourage lower expectations and minimize a program's influence in as a system partner or burden it with objectives that are inconsistent with its mission and resources.

To help set ambitious but reasonable outcome and performance targets, the NIC Pretrial Network recommends programs adopt the **SMART** method **(specific, measurable, achievable, realistic and time-bound)**.

SPECIFIC

Specific targets are clear and unambiguous. They describe exactly what is expected, when, and how much. For example, a specific target for universal screening would be: "interview 95% of defendants eligible by statute for pretrial release." Because the targets are specific, the pretrial agency can easily measure progress toward meeting them.

MEASUREABLE

An effective target answers the questions "how much" or "how many" or "what percentage". Each target must be a set number or percent. Further, each target must be based on existing and retrievable data. Programs must assess their information management capacity to determine a target's feasibility.

ACHIEVABLE

Targets must not be either out of reach or below an acceptable standard. Targets set too high or too low become meaningless and eventually worthless as indicators. The organization's most recent past performance (around the last two years) usually is a good indicator of what is feasible—at least as a beginning target.

REALISTIC

Realistic targets consider an organization's resources and the areas it actually can influence.

TIME-BOUND

Effective targets have fixed durations—for example, a calendar or fiscal year—that allow time to achieve or calculate the outcome or performance measure.

How Measurement Promotes Results

o Shifts the organization's focus from activities to results, from *how a program operates* to the *good it accomplishes;*

o Frees leaders to lead;

o Focuses and motivates management and staff on common goals and purposes;

o Identifies what works and what's promising;

o Positions organization within the system and community as successful, increasing support and resources.

Lessons on Effective Implementation

o Tie measures to mission, goals and objectives. Use performance measurement to track progress and direction toward strategic objectives.

o Avoid busy data—use results for big mission-driven things. Data should be the foundation for new initiatives, budgets, strategic planning, and priorities.

o Leaders lead! In high performing organizations, management is active in measurement creation, articulating mission/vision/goals, and disseminating expectations and results. However, Management *must see* a value in measurement if they are to commit.

o 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.

Lessons on Effective Implementation

○ Create measurement systems that are positive, **not punitive**. 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 repair or replace what doesn't. **That said….**

○ Tie compensation, rewards, and recognition to performance measurements. Most high functioning agencies link performance evaluations and rewards to specific measures of success; they tie financial and nonfinancial incentives directly to performance. Such a linkage sends a clear and unambiguous message to the organization about what's important.

○ Share results with staff, customers, and stakeholders. Excluding sensitive or protected data, performance measure results should be openly and widely shared.

Lessons on Effective Implementation

o Programs must identify outcomes and indicators. Measures imposed by outsiders may not meet the desired criteria. However…

o Agencies should seek input when identifying program outcomes. Staff, customers, and partners can point out important outcomes.

o Data collection and analysis pose technical challenges. Hiring a technical expert often will often save time, offer reassurance and improve results.

o Trial-run the measurement system. The trial run must last long enough to encompass all key data collection points and must involve at least a representative group of program participants. Expect that the trial run will identify problems; that's the point.

MeasuringWhat Matters:
Outcome and Performance Measures for the Pretrial Services Field:

https://s3.amazonaws.com/static.nicic.gov/Library/033331.pdf