

So, We Know The Pretrial Assessment Score. Now What?

Turning Pretrial Assessment Findings Into a Recommendation and Supervision Plan

NAPSA Fundamentals Curriculum Session 4



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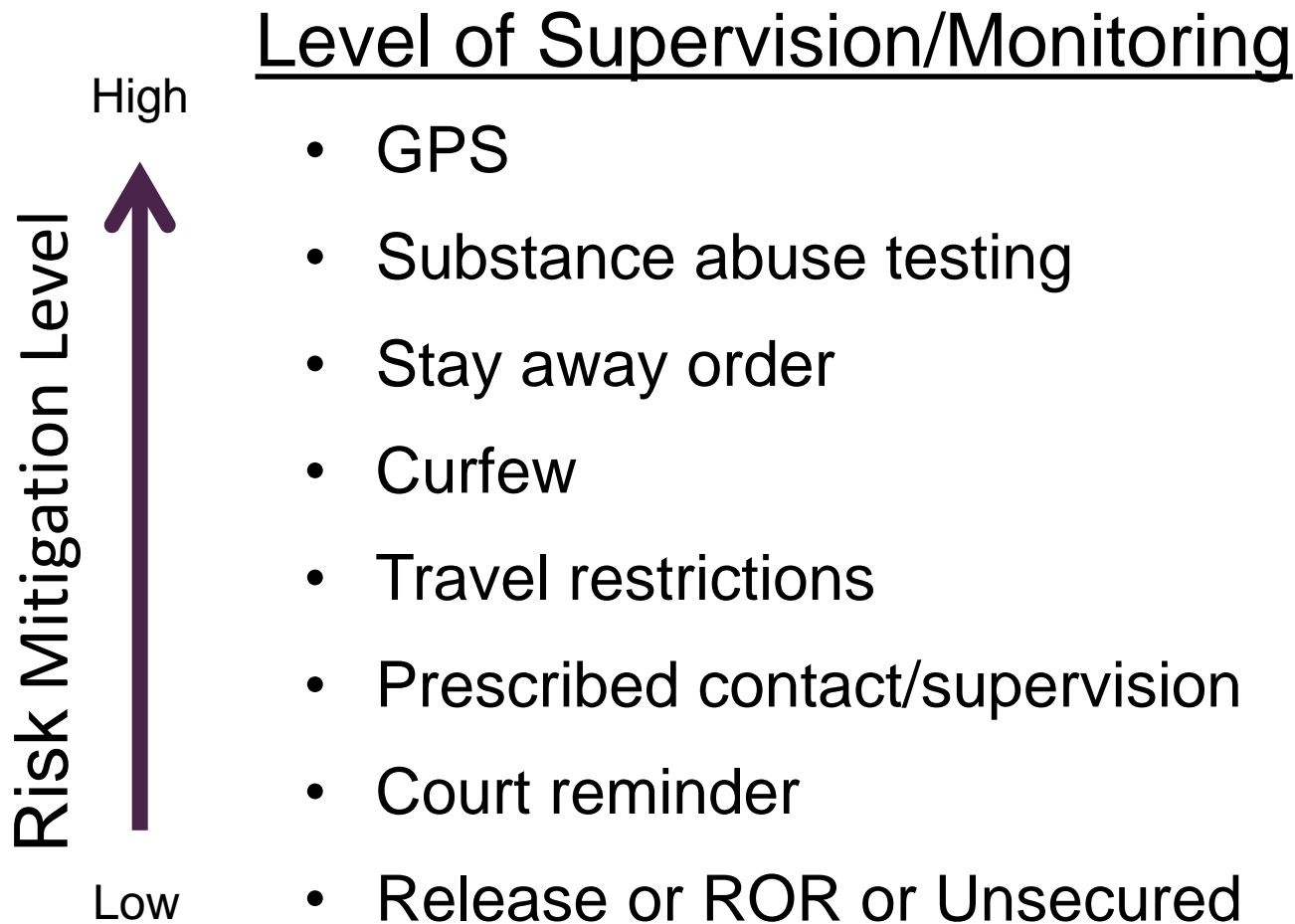
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**10th Annual Texas Association of Pretrial Services
(TAPS) Conference
May 14, 2025**

Bail Options

- Non-Financial
- Financial
- Preventive Detention

Non-Financial Options





Financial Options

- 10% Deposit
- Full cash
- Commercial surety
- Property

Preventive Detention

- At least 27 states, the federal system and DC, currently allow for detention without bail in certain circumstances in non-capital cases
- Must allow for due process hearing
- Detention authority used sparingly in jurisdictions that have it

In 2020, Washington DC detained pretrial only 842 defendant's out of 10,163 (3% misdemeanors, and 24% of the felons for a total of 8% detention rate). That's a 92% release rate!

How Should These Options Be Used?

- Presumption of release on the least restrictive conditions necessary to reasonably assure safety and appearance
- Research shows putting restrictive conditions on lower risk defendants is counterproductive

2011 VanNostrand, Rose, and Weibrecht, State of the Science of Pretrial Release Recommendations and Supervision, Pretrial Justice Institute

2013 VanNostrand and Lowenkamp, Exploring the Impact of Supervision and Pretrial Outcomes

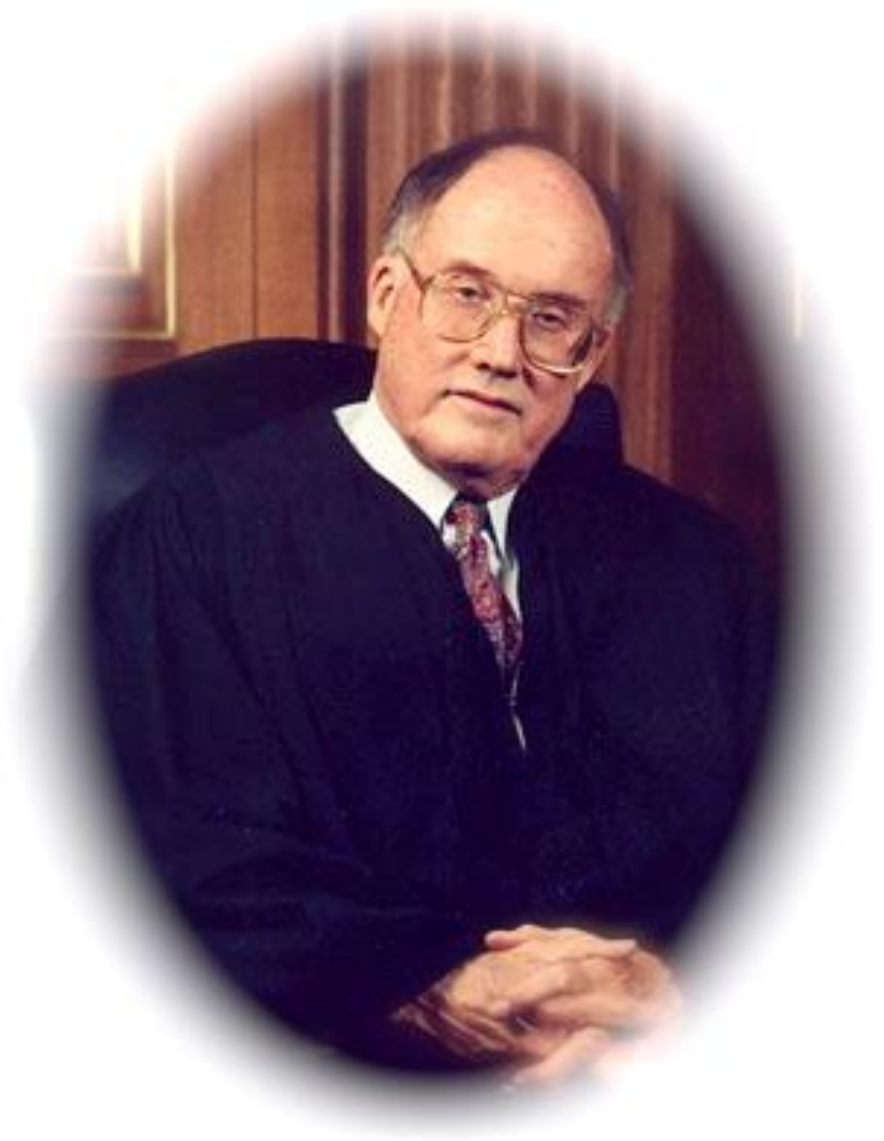
Use of Financial Conditions

Only when non-financial conditions are insufficient to reasonably assure appearance

Not to protect the safety of the community

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

-Chief Justice
William Rehnquist
U.S. V. Salerno,
481 U.S. 739
(1987)

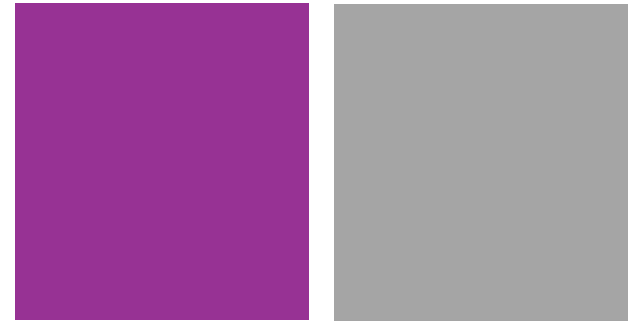


How Are These Options Used?

- 72% of felony defendants nationwide have a financial bond set in their cases
- 24% receive a non-financial bond
- 4% held without bond

2009 Brian A. Reaves, U.S. Department of Justice, Felony Defendants in Large Urban Counties, 2009-Statistical Tables, at 15, 20

Money Bond Release Rate Felony Cases

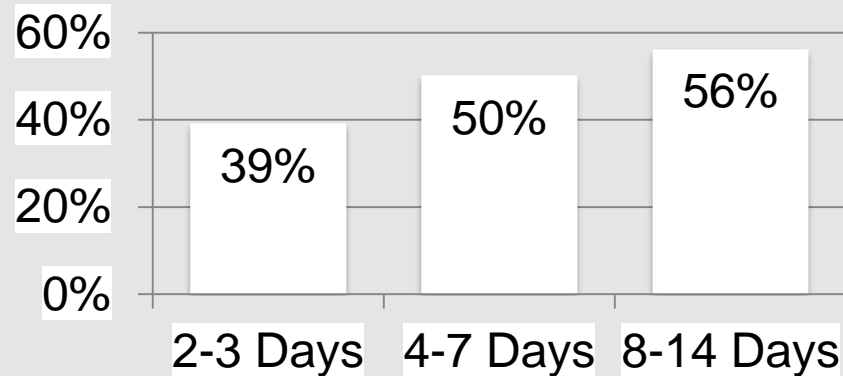


Defendant Released	Defendant Not Released
53%	47%

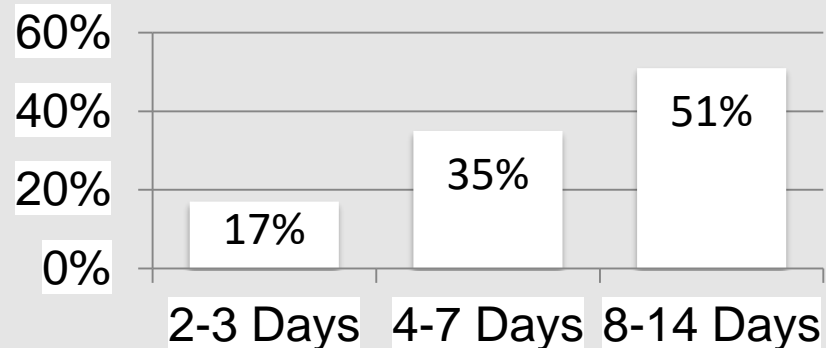
- For defendant's ordered to financial bail, only half are able to make release
- The release decision is now delegated to a commercial bail agent, and creates the inequities resulting from cash bail

Impact of Short-term Pretrial Incarceration

Increase in New Criminal Arrest Low-Risk Defendants*



Increase in 2-Year Recidivism Low-Risk Defendants*



Outcomes of Pretrial Incarceration

Compared to defendants released at some point prior to trial,
defendants held for the entire pretrial period had:

4x greater likelihood
of being sentenced
to jail

3x greater likelihood of
being sentenced to
prison

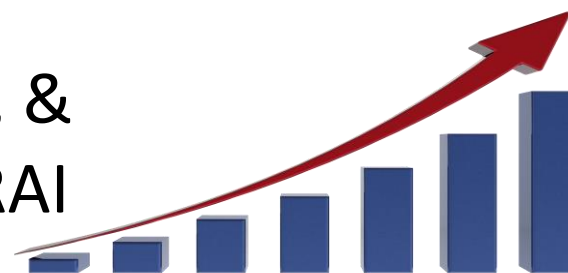
3x longer jail
sentences

2x longer prison
sentence

General Data & Release Outcomes

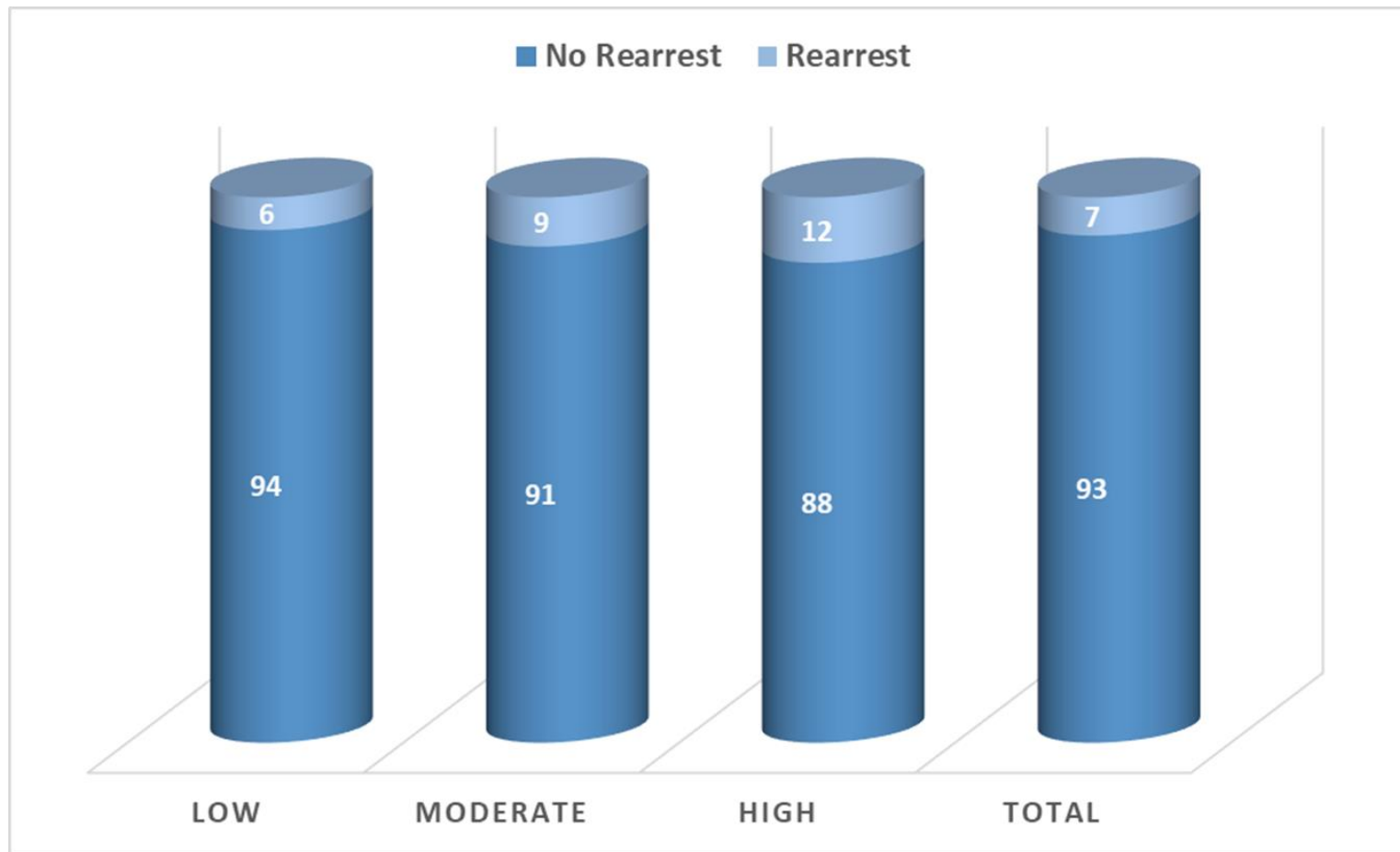
- Evidence based practices and highly effective pretrial service programs have shown overall FTA rates of around 10% with new criminal activity at approximately 11%.
- The rate for FTA & NCA has been shown to increase as the risk level increases.

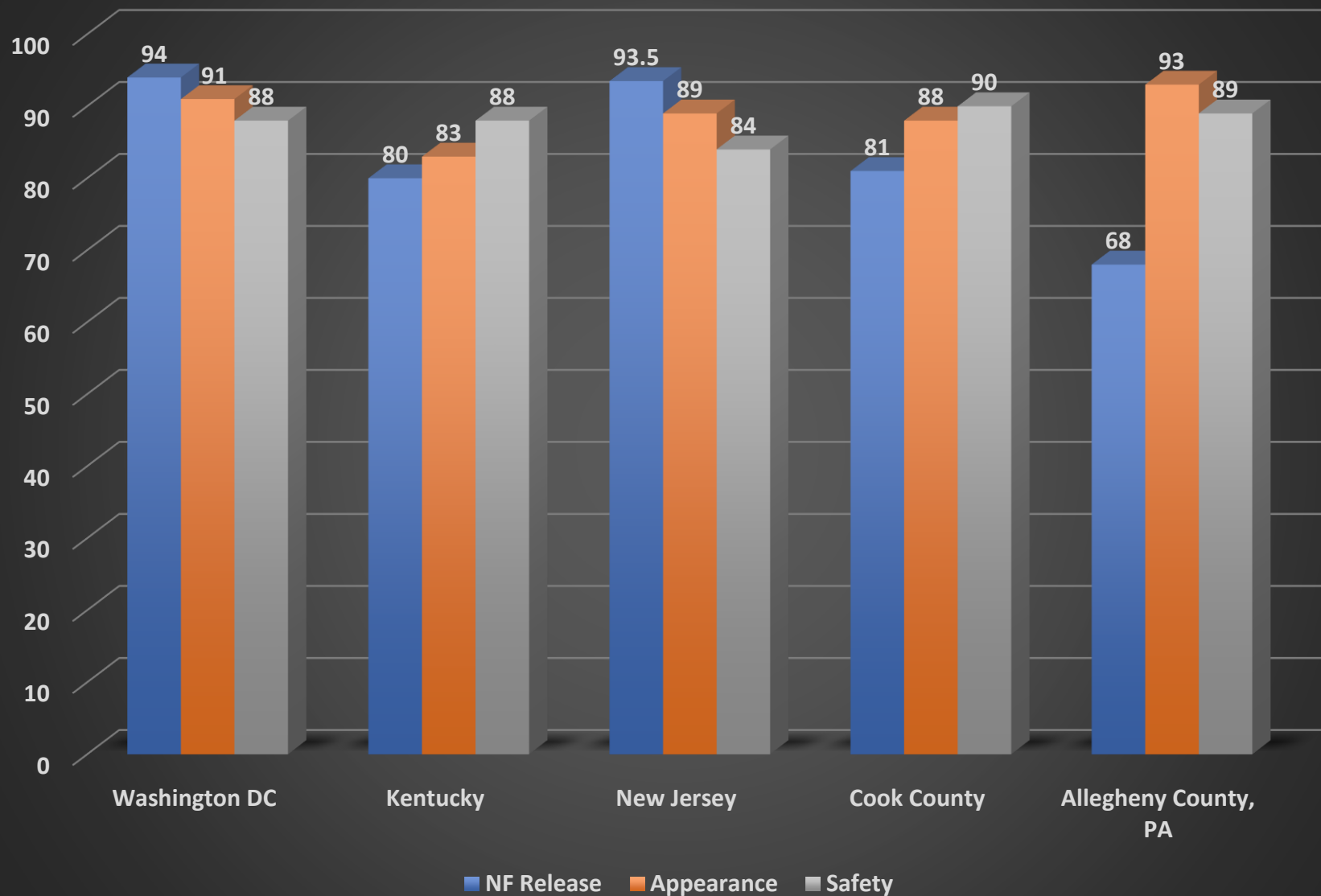
Supervision, Risk Level, & Compliance Rates: VPRAI



Total VPRAI Cases				Any Failure		FTA		New Arrest		Technical Violation	
VPRAI Risk Level	VPRAI Score	N	%	N	Rate	N	Rate	N	Rate	N	Rate
Low	0-1	1661	11.5	77	4.6	26	1.6	34	2.0	30	1.8
Below Average	2	2691	18.7	229	8.5	62	2.3	81	3.0	130	4.8
Average	3	3524	24.5	479	13.6	128	3.6	183	5.2	257	7.3
Above Average	4	3168	22.0	578	18.2	143	4.5	204	6.4	344	10.9
High	5-9	3338	23.2	819	24.5	220	6.6	288	8.6	508	15.2

Kentucky Statewide Data – Rearrests & Risk Mitigation Level





Developing Your Praxis



- Praxis: is the process by which a theory, lesson, or skill is enacted, embodied, or realized
- Pretrial Assessment has been proven to be predictive for pretrial misconduct and success, however the research does not provide a formula or guidance on actual recommendations

Developing Your Praxis

- Meet with stakeholders to adopt a current pretrial assessment tool or develop one
- Once a pretrial assessment is selected with the defined risk levels, decide what type of recommendation and supervision level is appropriate for your jurisdiction
- Balance acceptable risk mitigation with known data on FTA rates, new criminal activity rates, and technical violation rates

Developing Your Praxis

- Recommendations should not include financial bail – Avoid color codes (Red/Green)
- Recommendations should include release eligibility, supervision consideration, and could indicate possible differential levels of supervision
- Specific conditions should be assigned individually
- Many jurisdictions apply recommendations based on risk mitigation level and offense category

Praxis Supervision Recommendations

- Each agency must define each supervision level in conjunction with their agency resources
- Be careful of over supervising as caseloads may skyrocket

New Orleans Public Safety Assessment Model Decision-Making Matrix and Release Recommendations

Decision-Making Matrix							
		<i>New Criminal Activity (NCA) Score</i>					
		NCA 1	NCA 2	NCA 3	NCA 4	NCA 5	NCA 6
<i>Risk of Failure to Appear (FTA) Score</i>	FTA 1	Risk Level 1	Risk Level 1				
	FTA 2	Risk Level 1	Risk Level 1	Risk Level 2	Risk Level 3	Risk Level 4	
	FTA 3		Risk Level 2	Risk Level 2	Risk Level 3	Risk Level 4	Risk Level 5
	FTA 4		Risk Level 2	Risk Level 3	Risk Level 4	Risk Level 4	Risk Level 5
	FTA 5		Risk Level 3	Risk Level 3	Risk Level 4	Risk Level 5	Risk Level 5
	FTA 6				Risk Level 5	Risk Level 5	Risk Level 5

Step 1: Pretrial Services completes PSA and provides FTA and New Criminal Activity (NCA) scores

Step 2: Apply the scores from Step 1 to the Decision-Making Matrix to determine the risk level

Step 3: Use the risk level in Step 2 to determine release and supervision recommendations

New Orleans Release & Supervision Recommendations

Release & Supervision Recommendations					
	Risk Level I	Risk Level II	Risk Level III	Risk Level IV	Risk Level V
Release Recommendation:	Release (ROR if eligible) No Supervision	Release (ROR if eligible) Administrative Supervision	Release (ROR if eligible) Standard Supervision	Release (ROR if eligible) Intensive Supervision	Detention Hearing If released: Maximum Supervision
Court Date Reminder Texts**	✓	✓	✓	✓	✓
New Arrest Checks		Monthly	Monthly	Monthly	Monthly
Face to Face Contact		Initial	1x/month	2x/month	At least 3x/month
Phone Contact		1x/month	1x/month	2x/month	2x/month

**Note: the presence of a Violent Activity flag increases a defendant's risk by one level, e.g. from Risk Level I to Risk Level II*

***Court date reminder texts will be sent by the City to defendants 48 hours in advance of upcoming court dates*

Virginia Praxis

Risk Level	Recommendation	VPRAI: Charge Category				
		Non-Violent Misd.	Driving Under the Influence	Non-Violent Felony	Violent Misd.	Violent Felony or Firearm
Level 1	Bail Status	Release	Release	Release	Release	Release
	Pretrial Supervision	No	No	No	No	Level II
	Special Conditions	No	No	No	No	As Needed
Level 2	Bail Status	Release	Release	Release	Release	Release
	Pretrial Supervision	No	Monitor	Monitor	Monitor	Level III
	Special Conditions	No	No	No	No	As Needed
Level 3	Bail Status	Release	Release	Release	Release	Detain
	Pretrial Supervision	Monitor	Monitor	Level I	Level I	No
	Special Conditions	No	No	No	As Needed	N/A
Level 4	Bail Status	Release	Release	Release	Release	Detain
	Pretrial Supervision	Level I	Level I	Level II	Level II	No
	Special Conditions	No	As Needed	As Needed	As Needed	N/A
Level 5	Bail Status	Release	Release	Release	Detain	Detain
	Pretrial Supervision	Level II	Level II	Level III	No	No
	Special Conditions	As Needed	As Needed	As Needed	N/A	N/A
Level 6	Bail Status	Detain	Detain	Detain	Detain	Detain
	Pretrial Supervision	No	No	No	No	No
	Special Conditions	N/A	N/A	N/A	N/A	N/A

Virginia Supervision Levels

Risk Level	Recommendation	VPRAI: Charge Category				
		Non-Violent Misd.	Driving Under the Influence	Non-Violent Felony	Violent Misd.	Violent Felony or Firearm
Level 1	Pretrial Supervision Level	Monitor	Monitor	Monitor	Monitor	Level II
Level 2	Pretrial Supervision Level	Monitor	Monitor	Monitor	Monitor	Level III
Level 3	Pretrial Supervision Level	Monitor	Monitor	Level I	Level I	Level III
Level 4	Pretrial Supervision Level	Level I	Level I	Level II	Level II	Level III
Level 5	Pretrial Supervision Level	Level II	Level II	Level III	Level III	Level III
Level 6	Pretrial Supervision Level	Level III	Level III	Level III	Level III	Level III

Virginia Supervision Levels

Level	Supervision Strategy
Pretrial Monitoring	<ul style="list-style-type: none">✓ Court date reminder for every court date✓ Criminal history check before court date
Pretrial Supervision Level I	<ul style="list-style-type: none">✓ Court date reminder for every court date✓ Criminal history check before court date✓ Face-to-face contact once a month✓ Special conditions compliance verification
Pretrial Supervision Level II	<ul style="list-style-type: none">✓ Court date reminder for every court date✓ Criminal history check before court date✓ Face-to-face contact every other week✓ Special conditions compliance verification
Pretrial Supervision Level III	<ul style="list-style-type: none">✓ Court date reminder for every court date✓ Criminal history check before court date✓ Face-to-face contact every week✓ Special condition compliance verification

Indiana Release & Supervision Matrix

June 8, 2018

PRETRIAL RELEASE AND SUPERVISION MATRIX TEMPLATE				
Risk Level	Offense Level			
	Non-violent Misdemeanor*	Non-Violent Felony*	Violent Offense**	Murder, Treason***
Category 1	ROR	ROR and Supervision Level 1	Supervision Level 2	Not Bailable
Category 2	ROR	ROR and Supervision Level 2	Supervision Level 3	Not Bailable
Category 3	ROR and Supervision Level 1	ROR and Supervision Level 3	Supervision Level 3	Not Bailable

Release conditions should be the least restrictive to ensure court appearance and protect public safety. Every released pretrial defendant will receive court date reminders. Release on recognizance (ROR) means release without financial obligation. Factors relevant to risk of nonappearance considered by the court can be found at IC 35-33-8-4(b).

Supervision Levels

- Level 1—at least one contact every two weeks; monthly criminal record check
- Level 2—at least one contact and one face-to-face meeting every month; monthly criminal record check; other conditions pursuant to a court order
- Level 3—at least two contacts and two face-to-face meetings every month; monthly criminal record check; other conditions pursuant to a court order

*A person arrested for an alcohol-related offense should be detained for the minimum number of hours shown in the blood/breath alcohol level chart in IC 35-33-1-6.

**A court may not release a person arrested for a crime of domestic violence on bail until at least 8 hours from the time of the person's arrest. IC 35-33-8-6.5.

**A court may not admit a sexually violent predator defendant, a person charged with child molesting, or a person charged with child solicitation to bail until the court has conducted a bail hearing in open court. IC 35-33-8-3.5(c).

***Murder or treason shall not be bailable, when proof is evident, or the presumption is strong. Indiana Constitution, Article 1, Section 17. See: *Fry v. State*, 990 NE2d 429 (Ind. 2013).

Note: this matrix does not apply to arrestees with detainers (i.e. probation violators, parole violators, ICE holds, out-of-county warrants etc.)

Indiana Pretrial Violation Response Template

June 8, 2018

PRETRIAL VIOLATION RESPONSE MATRIX TEMPLATE

		Violation Severity Level		
		Low	Medium	High
Risk Level	Category 1	Low Response	Low Response	Medium Response
	Category 2	Low Response	Medium Response	High Response
	Category 3	Medium Response	High Response	High Response

Low Violations: show a lapse in judgment and do not cause harm to self or others

Examples: late for appointments/call-ins, insufficient UA sample, failure to report police contact, failure to report address change

Medium Violations: show disregard for court orders and pretrial supervision and do not cause harm to others

Examples: missed appointment, missed drug test, positive drug test, repeated low severity violations

High Violations: show willful or repeated disregard for court orders and pretrial supervision, and/or cause a risk of harm to self or others

Examples: new criminal arrest/charge, missed court date, failure to comply with no contact order, absconding from home detention/EM, possession of a weapon in violation of a court order, failure to complete violations response, repeated moderate severity violations

Low Response options (examples): verbal warning, review release conditions with defendant, increased reporting

Medium Response options (examples): meet with defendant in person, increase supervision level, increase services, notice to defense counsel and prosecutor, increase drug screens, treatment referral

High Response options (examples): file violation notice with court

Pretrial Services Release Assessment Decision Guide, Diagram A

Pima County, Arizona

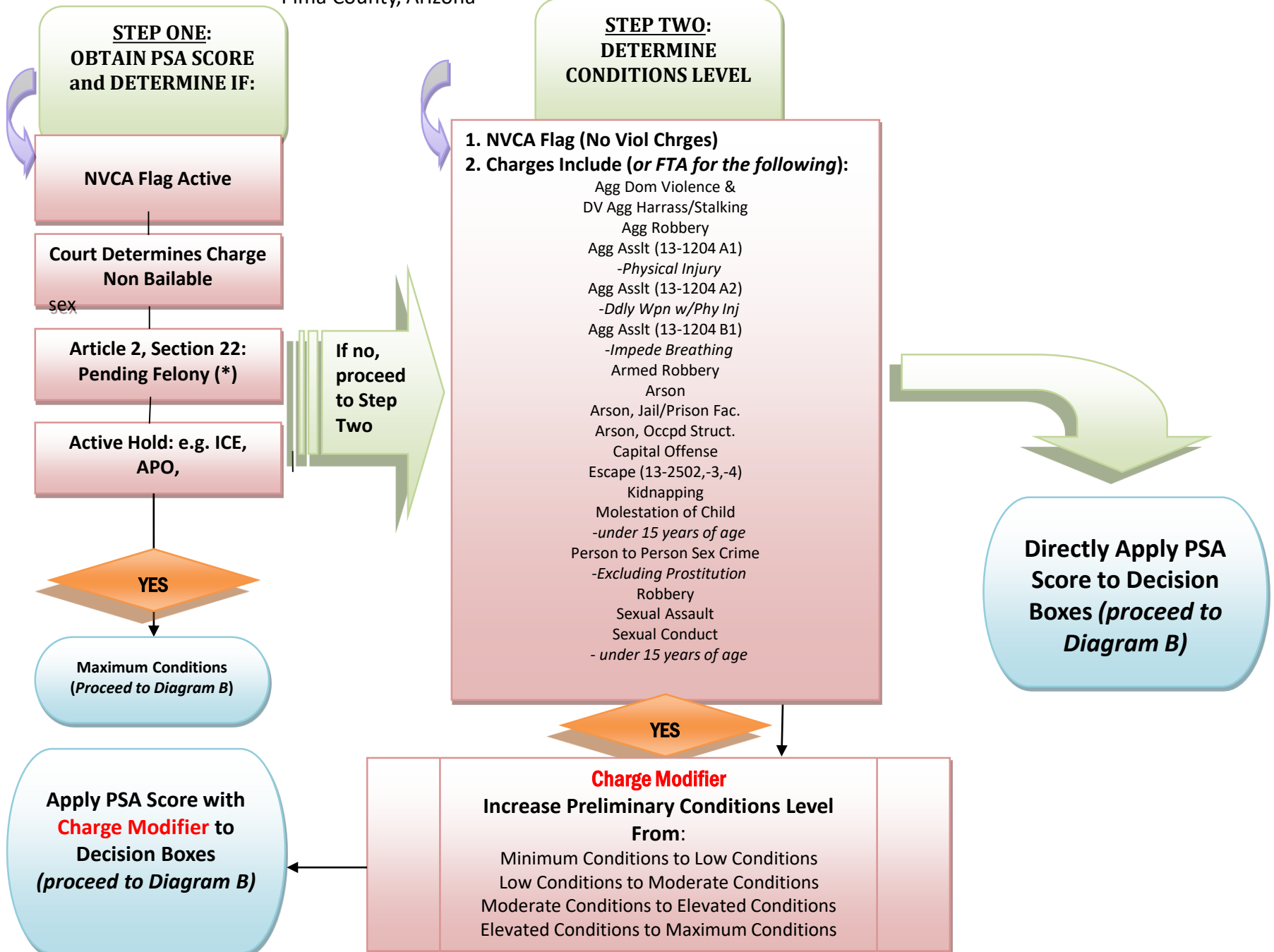


Diagram B: Decision Boxes

(1) Apply PSA Score and Addendum A Rules

(2) Once Condition Level is Determined, See **Diagram C** for Policy and Supervision Guidelines

	NCA 1	NCA 2	NCA 3	NCA 4	NCA 5	NCA 6	
FTA 1	<div> <div>N = 2720</div> <div>Minimum Conditions</div> <div>NCA 2.5%</div> </div>	<div> <div>N = 1392</div> <div>Minimum Conditions</div> <div>NCA 4.6%</div> </div>					
FTA 2	<div> <div>N = 354</div> <div>Minimum Conditions</div> <div>NCA 3.5%</div> </div>	<div> <div>N = 3373</div> <div>Minimum Conditions</div> <div>NCA 4.1%</div> </div>	<div> <div>N = 2519</div> <div>Minimum Conditions</div> <div>NCA 7.1%</div> </div>	<div> <div>N = 1154</div> <div>Low Conditions</div> <div>NCA 8.7%</div> </div>	<div> <div>N = 27</div> <div>Moderate Conditions</div> <div>NCA -----</div> </div>		
FTA 3		<div> <div>N = 2163</div> <div>Minimum Conditions</div> </div>	<div> <div>N = 2562</div> <div>Low Conditions</div> </div>	<div> <div>N = 1781</div> <div>Moderate Conditions</div> </div>	<div> <div>N = 342</div> <div>Elevated Conditions</div> </div>	<div> <div>N = 71</div> <div>Maximum Conditions</div> </div>	
FTA 4		<div> <div>N = 1203</div> <div>Low Conditions</div> <div>FTA 13.9%</div> </div>	<div> <div>N = 1512</div> <div>Moderate Conditions</div> <div>FTA 15.4%</div> </div>	<div> <div>N = 1912</div> <div>Elevated Conditions</div> <div>FTA 17.3%</div> </div>	<div> <div>N = 1153</div> <div>Maximum Conditions</div> <div>FTA 16.3%</div> </div>	<div> <div>N = 210</div> <div>Maximum Conditions</div> <div>FTA 18.3%</div> </div>	
FTA 5		<div> <div>N = 39</div> <div>Moderate Conditions</div> </div>	<div> <div>N = 1002</div> <div>Elevated Conditions</div> </div>	<div> <div>N = 1652</div> <div>Elevated Conditions</div> </div>	<div> <div>N = 1216</div> <div>Maximum Conditions</div> </div>	<div> <div>N = 401</div> <div>Maximum Conditions</div> </div>	
FTA 6				<div> <div>N = 227</div> <div>Maximum Conditions</div> <div>FTA 34.3%</div> </div>	<div> <div>N = 255</div> <div>Maximum Conditions</div> <div>FTA -----</div> </div>	<div> <div>N = 604</div> <div>Maximum Conditions</div> <div>FTA 25.3%</div> </div>	

Release types are:

1) Release on Personal Recognizance 2) Release Under Supervision 3) Release Not Recommended

Oakland County Praxis Framework

GRID 1

MISDEMEANOR CHARGE ONLY

(Punishable up to 93 days in jail)

Risk Level	Bond Type	Bond Amount	Supervision	Conditions of Release
Low	Personal Bond	Low	None	None
Below Average	Personal Bond	Low	None	None
Average	Personal Bond	Low	None	None
Above Average	Personal Bond	Moderate	Standard	As Needed
High	10% Cash Surety	Low	Intermediate	As Needed

GRID 2

NON-VIOLENT FELONY CHARGE & HIGH MISDEMEANOR CHARGES

(Any High-Court Misdemeanor Offense punishable over 93 days in jail)

Risk Level	Bond Type	Bond Amount	Supervision	Conditions of Release
Low	Personal Bond	Low	None	None
Below Average	Personal Bond	Moderate	None	None
Average	Personal Bond	Moderate	Standard	As Needed
Above Average	10% Cash Surety	Moderate	Intermediate	As Needed
High	Cash Surety	Moderate	Intensive	As Needed

GRID 3

VIOLENT FELONY CHARGE

(See Violent Felony Charge List For Applicable Charges)

Risk Level	Bond Type	Bond Amount	Supervision	Conditions of Release
Low	Personal Bond	High	Intermediate	As Needed
Below Average	10% Cash Surety	Low	Intermediate	As Needed
Average	10% Cash Surety	Moderate	Intermediate	As Needed
Above Average	Cash Surety	High	Intensive	As Needed
High	Cash Surety	High	Intensive	As Needed

Measure Your Outcomes

- Assess your performance outcomes, risk mitigation classification, and failure rates to determine if release & supervision recommendations should be changed
- Track deviations
- Check for racial bias
- Consult the pretrial assessment creator for recommendations before making changes

Michigan Praxis Framework 2022

Risk Level	Misdemeanor < 93 Days Jail	High Misdemeanor and Non-Violent Felony	Violent Felony
Low (0-2)	Release	Release	Release with Conditions
Average (3-5)	Release	Release with Conditions	Release on Recognizance Not Recommended ²
High (6-9)	Release with Conditions	Release on Recognizance Not Recommended ¹	Release on Recognizance Not Recommended ²

¹ Defendants charged with a high misdemeanor or a non-violent felony, who score a risk level 6-9, are not recommended for release on recognizance. If the defendant is able to post bail or make release, the court may wish to consider conditions aimed at mitigating the defendant's risk to public safety and/or risk of failure to appear.

² Defendants charged with a violent felony scoring average or high risk level are not recommended for release on recognizance. If the defendant is able to post bail or make release, the court may wish to consider conditions aimed at mitigating the defendant's risk to public safety and/or risk of failure to appear.

End of Part I

Questions?

Part II

Case Scoring Exercise:
Application of Risk Mitigation
Level, Conditional Release, &
Defining Supervision Levels

Matrix Discussion & Case Study

- Each group apply case examples of defendant's risk mitigation score & recommendation/supervision outcome (Ten-minute time limit)
- Each group share courtroom presentation and appropriate recommendations for conditional release
- Each group to share their supervision level definition

Supervision Level Creation

- Create supervision levels assuming the organization has exceptional resources
- Organization has adequate staffing
- Organization uses differential levels of supervision
- The organization uses the Michigan Praxis Framework 2018

Supervision Level	Description
Monitoring	Court date reminder notices
Standard	Weekly reporting by telephone, court date reminder notices
Intermediate	Weekly reporting by telephone, monthly in-person reporting to case manager or kiosk, drug/alcohol assessment and placement in monitoring or treatment if indicated, court date reminder notices
Intensive	GPS monitoring, weekly in-person reporting to case manager or kiosk, drug and alcohol assessment and placement in treatment or monitoring if indicated, court date reminders

Supervision Definition Example

Supervision & Risk Level Example

Risk Mitigation Level	Misdemeanor Non-Assaultive	Misdemeanor Assaultive	Felony Non-Assaultive	Felony Assaultive
1	No active supervision	No active supervision, stay away order	No active supervision	Standard, stay away order
2	No active supervision	No active supervision, Stay away order	No active supervision	Standard, stay away order
3	No active supervision	No active supervision, Stay away order	Standard	Intensive, stay away order
4	Monitoring	Monitoring, stay away order	Intermediate	Intensive, stay away order
5	Standard	Intensive, stay away order	Intensive	Intensive, stay away order

Defendant	Points	Risk Level
George Torres	2	2
David Cramer	3	3
Michelle McComb	4	4
Wayne Richter	1	1

Pretrial Assessment Scores

Michigan Praxis Framework 2021

Risk Mitigation Level	Misdemeanor < 93 Days Jail	High Misdemeanor and Non-Violent Felony	Violent Felony
Low (0-2)	Release	Release	Release with Conditions
Average (3-5)	Release	Release with Conditions	Release on Recognizance Not Recommended ²
High (6-9)	Release with Conditions	Release on Recognizance Not Recommended ¹	Release on Recognizance Not Recommended ²

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END OF SESSION 4

QUESTIONS?