U.S. Department of Justice
National Institute of Corrections

Measuring What Matters

OUTCOME AND PERFORMANCE MEASURES FOR THE PRETRIAL SERVICES FIELD

2nd Edition

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National Institute of Corrections

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U.S. GOVERNMENT
INFORMATION
GPO

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Accession Number: 033331

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Dedication

By Holly Busby and the NIC Pretrial Executives Network

Holly Busby

"If you're going to live, leave a legacy. Make a mark on the world that can't be erased."
—Maya Angelou

Lori Eville, Correctional Program Specialist, did just that. During her twelve years with the National Institute of Corrections (NIC), CPS Eville became one of the most influential and respected voices in the pretrial services and criminal justice fields. She oversaw the development of over 30 publications in the area of pretrial justice and evidence-based decision making; developed pretrial training curricula and e-courses; and provided training and technical assistance to thousands of criminal justice practitioners and stakeholders from all 50 states and U.S. territories. CPS Eville's passion and commitment to the work she did was unmatched as she worked tirelessly to advance pretrial and criminal justice reform.

CPS Eville had a special way of connecting with and bringing people together. It was through these relationships that she was able to do great things. *Measuring What Matters, Second Edition*, is one such example. Through her facilitation of NIC's Pretrial Executive Network, she understood the need for developing standardized data elements for pretrial agencies, resulting in the original *Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field*. Since its publication 10 years ago, many things changed and evolved, and CPS Eville once again, worked with the Pretrial Executives Network to reassess the needs of the field and revise the document to ensure its continued relevance and value to practitioners and stakeholders alike. Although CPS Eville passed away just as the document was in the final stage of completion, there is no question that she would be pleased and proud of the final product.

In this, her final publication, NIC honors, with deep respect and gratitude, the greatness that was CPS Lori Eville. We dedicate this publication to her memory and legacy, as we remain steadfastly committed to advancing the important work she has done.

Holly Busby is Chief of the Community Services Division at the National Institute of Corrections.

***

The Pretrial Executives Network

The Pretrial Executives Network (PEN) dedicates this publication to the memory of Lori Eville. The *Measuring What Matters* series—and much of NIC's pretrial portfolio—was the direct result of Lori's understanding of what the pretrial field demanded and her foresight about what it truly needed. As PEN members, we were all challenged by Lori to be better practitioners.

Lori Eville supported us in times of chaos and celebrated with us in our professional achievements. The PEN became a group of trusted and respected professional confidants with whom she encouraged an openness for fresh perspectives and a safe forum for discussions about best practices and reforms needed to flourish nationally. Lori had a keen ability to listen, challenge others, and offer encouragement while creating a path through the obstacles that appeared insurmountable.

Lori influenced the entire pretrial field tremendously in her all-too-short time with us. Her spirit will continue to guide the PEN and everyone she touched as we strive to make pretrial justice the norm in America's courts.

Acknowledgments

The National Institute of Corrections Pretrial Executive Network (PEN) includes directors of pretrial services agencies nationwide. Its mission is to promote pretrial services programming as an integral part of state and local criminal justice systems. Its goals are to make pretrial programming relevant in national criminal justice funding, training, and technical assistance; encourage expanded research in the pretrial field; and identify best and promising practices in the pretrial release and diversion fields. Network members include:

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The PEN would like to acknowledge and thank the following contributors:

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INTRODUCTION

It is an immutable law in business that words are words, explanations are explanations, promises are promises—but only performance is reality.
Harold S. Geneen[1]

Outcome and performance measurement are hallmarks of high-functioning organizations. Metrics allow organizations to think beyond production and outputs ("how much") to performance ("how efficient") and success ("how valuable"). To encourage the use of metrics in the pretrial field, the National Institute of Corrections (NIC) commissioned its Pretrial Executives Network (PEN) in 2011 to produce appropriate, meaningful, and realistic measures for pretrial services agencies. The result was *Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field*,[2] practitioner-driven metrics to help pretrial agencies gauge their success in meeting their mission and strategic objectives while adhering to the field's recognized standards and best practices.

Since its publication, *Measuring What Matters* has become an integral part of the pretrial literature, not only establishing accepted field metrics but encouraging practitioners to re-think notions such as pretrial "risk," the best strategies to promote success pretrial, and the data needed to gauge agency and system progress.

- In 2012, Colorado codified pretrial outcome and performance measures, using *Measuring What Matters* as a guide.[3]
- The National Association of Pretrial Services Agencies (NAPSA) identified these metrics as an essential element of a high functioning pretrial services agency.[4]
- In a 2020 NIC survey of 41 pretrial services agency directors whose agencies employed outcome and performance metrics, 80 percent of respondents reported using *Measuring What Matters* to inform their metrics. Eighty-five percent used these data for agency strategic planning and 83 percent each used them for internal agency review, quality assurance and quality control, and staff training.
- Outcome and performance metrics have become an integral part of pretrial practitioner training by NIC, NAPSA, and other organizations. Outcome measurement also has been incorporated into the implementation of pretrial risk assessments such as Arnold Ventures' Public Safety Assessment (PSA).

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[1] At https://www.famousquotes.com/author/harold-s-geneen-quotes.
[2] National Institute of Corrections. (2011). *Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field*. Washington, D.C.: National Institute of Corrections.
[3] See CRS 16-4-105 (3) (e) and (3) (f) (e): "Commencing July 1, 2012, each pretrial services program established pursuant to this subsection (3) shall provide an annual report to the state judicial department no later than November 1 of each year, regardless of whether the program existed prior to May 31, 1991. The judicial department shall present an annual combined report to the house and senate judiciary committees, or any successor committees, of the general assembly."
[4] National Association of Pretrial Services Agencies. (2020). *National Standards for Pretrial Release: Revised 2020*. Washington, D.C.: NAPSA.

The decade since publication of the original *Measuring What Matters* has seen a sea change in the pretrial field's landscape:

1. Statewide pretrial services agencies were created in New Jersey and Alaska.[5] While lacking a pretrial statewide structure, populous states such as California and Texas have seen a growth of these agencies at the local level.
2. Federal and state court decisions have reaffirmed the objectives of a legal, fair, and effective bail system, maximizing the rates of pretrial release, court appearance, and public safety. These decisions also prohibit pretrial detention due to a defendant's inability to pay bail and outline due process for detention based on safety concerns.
3. State legislatures nationwide have revised bail laws to comport with these court decisions or to address research showing the legal and financial costs of a wealth-based bail decision.
4. Risk assessment validation studies[6] and an emerging body of literature on court nonappearance[7] are driving pretrial practitioners to re-think the nature and severity of "pretrial misconduct."

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[5] Also, the Indiana Office of Court Services (IOCS) created a process for local jurisdictions to have certify their pretrial services agencies through the IOCS. Certification rules can be found at: https://www.in.gov/courts/iocs/files/iocs-pretrial-services-rules.pdf.

[6] VanNostrand, M. (2003). *Assessing Risk Among Pretrial Defendants in Virginia: The Virginia Pretrial Risk Assessment Instrument*. Richmond, VA: Virginia Department of Criminal Justice Services. Lovins, B. and Lovins, L. (2016). *Riverside Pretrial Assistance to California Counties (PACC) Project Validation of a Pretrial Risk Assessment Tool Report*. Southgate, KY: Correctional Consultants Inc. Laura and John Arnold Foundation (2013). *Developing a National Model for Pretrial Risk Assessment*. Houston, TX: LJAF Foundation. Lowenkamp, C.T. and Whetzel, J. (2009). *The Development of an Actuarial Risk Assessment Instrument for U.S. Pretrial Services*. Federal Probation, Volume 73 Number 2. Levin, D. (2011). *Development of a Validated Pretrial Risk Assessment Tool for Lee County, Florida*. Washington, D.C.: PJI. Austin, J.F. and Allen, R. (2016). *Development of the Nevada Pretrial Risk Assessment System Final Report*. Washington, D.C.: JFA Institute. JFA Institute and Pretrial Justice Institute (2012). *The Colorado Pretrial Assessment Tool (CPAT)*. Washington, D.C.: PJI. Myburgh, J., Camman, C., and Wormith, J.S. (2015). *Review of Pretrial Risk Assessment and Factors Predicting Pretrial Release Failure*. University of Saskatchewan: Centre for Forensic Behavioural Science and Justice Studies. Hedlund, J., Cox, S.M., and Wichrowski, S. (2003). *Validation of Connecticut's Risk Assessment for Pretrial Decision Making*. Central Connecticut State University, Department of Criminology & Criminal Justice. Mamalian, C. A. (2011). *State of the science of pretrial risk assessment*. Washington, DC: Pretrial Justice Institute. Bechtel, K., Lowenkamp, C. and Holsinger, A. (2011). *Identifying the predictors of pretrial failure: A meta-analysis. Final Report.*

[7] See, for example, Corey, E. and Lo, P. (2019). "The 'Failure to Appear' Fallacy." *The Appeal*. https://theappeal.org/the-failure-to-appear-fallacy/. Bernal, D. (2017). "Taking the Court to the People: Real World Solutions for Nonappearance." 59 Ariz. L. Rev. 547, 547 (2017). Bierie, D.M. (2014). *Fugitives in the United States*, 42 J Crim Just 327, 330. U.S. Department of Justice, *Investigation of the Ferguson Police Department* *55 (Mar 4, 2015). Cohen, T.H. and Reaves, B.A. (2007). *Pretrial Release of Felony Defendants in State Courts: State Court Processing Statistics*. Washington, D.C.: Bureau of Justice Statistics. Gouldin, L.P. "Defining Flight *Risk.* 85 U. of Chicago L. Rev. 677 (2018).

5. NAPSA's revised standards on pretrial release outlined new benchmarks for risk assessment, strategies to promote pretrial success for defendants, and measuring outcomes.

As a discipline redefines its goals and strategic objectives, so must its outcome and performance metrics change. To that end—and to ensure that metrics for the field continue to be developed by practitioners—NIC commissioned PEN to assess the current pretrial landscape and revise current metrics to match these new dynamics. This process included internal discussion by PEN members and input via a survey from pretrial services agency directors whose agencies collect performance metrics. PEN member discussions and the survey focused on which measures "work" in the real world, which were problematic, and what other data should be considered to gauge agency outcomes.

The metrics presented here reflect this feedback. Outcomes are now tied to the three principles of bail—maximizing release, court appearance, and public safety—and a more refined definition of system "success" in meeting these objectives. Included commentary discusses how changes in the pretrial landscape over the past decade have helped redefine outcome and performance metrics.

Defining Measures

Performance measurement is the process of collecting, analyzing, and reporting information on how well individuals, organizations, and systems meet stated goals, objectives, and targets. *Measures* are expressed as quantitative (i.e., how often an organization achieves a strategic objective) or qualitative (for example, stakeholder opinion of an organization's work) values of outcomes and performance. This document defines two classes of measures:

1. **Outcome measure:** An indicator of how well an organization achieves its stated mission or intended purpose. These include:
   a. *Release Rate*
   b. *Appearance Rate*
   c. *Public Safety Rate*
   d. *Success Rate*

2. **Performance measure:** A quantitative or qualitative characterization of performance in mission-critical areas, such as assessing defendant risk and addressing defendant compliance to court-ordered conditions. These include:
   a. *Universal Screening*
   b. *Recommendation Rate*
   c. *Response to Defendant Conduct Rate*
   d. *Pretrial Intervention Rate*
   e. *Supervision Success Rate*
   f. *Concurrence Rate*

Supporting Business Practices

Outcome and performance measures require a structure that supports an organization's critical function areas and fosters strong collaborative relationships with stakeholders and the broader community. For these metrics, the PEN recommends the "essential" elements for pretrial services agencies identified by national standards promulgated by the American Bar Association (ABA)[8] and NAPSA.[9] These include:

- Policies and procedures that support the presumption of release under the least restrictive conditions needed to address appearance and public safety concerns.
- Interviews of all detainees eligible for release that are structured to obtain information that assists in the determination of risk of nonappearance and rearrest and to exercise effective supervision.
- Risk assessments based on locally researched content and applied equally and fairly.
- Recommendations for supervision conditions that match the defendant's individual risk level and specific risks of pretrial misconduct.
- Monitoring of defendants' compliance with release conditions and court appearance requirements.
- Responses to defendant compliance and noncompliance to court-ordered release conditions.
- Tracking of new arrests occurring during the pretrial period.
- Court notification of program condition violations and new arrests.
- Timely notice to court of infractions and responses.
- Monitoring of the pretrial detainee population and revisiting release recommendations if defendants remain detained or if circumstances change.
- Notification or reminder calls of scheduled court appearances.

The metrics highlighted throughout this guide will be the information that adds meaning and context to your agency decisions. Let them give you the confidence to take meaningful steps toward building an effective, more accountable pretrial system.

[8] American Bar Association. (2002). *Criminal Justice Standards on Pretrial Release: Third Edition* Washington, D.C.: American Bar Association.
[9] NAPSA (2020).

Release Rate

The percentage of defendants who secure release pending case disposition.

Recommended Data: The total number of individuals arrested for criminal offenses and the subset 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 from 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 by assessed risk level.

Release rate ties to the fundamental principle—outlined in federal and state bail laws and reiterated in recent court decisions—that bail decisions inherently are release decisions. As articulated by the United States Supreme Court, "in our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception."[10]

Generally, bail statutes do not automatically exclude any arrestee population from bail consideration. For example, most state statutes allow denial of bail for defendants charged with capital crimes or treason, but only if the court finds "the proof is evident or the presumption strong that the person is guilty."[11] Other statutes, such as the federal Bail Reform Act, permit preventive detention if the defendant meets certain criteria for detention and after a subsequent pretrial detention hearing.[12]

Pretrial detention most often is the result of a defendant's inability to post a secured financial bail. Nationally, almost 63 percent of jail detainees are un-convicted defendants, mostly on pretrial status.[13] Individuals detained pending adjudication, even for short

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[10] See *United States* v. *Salerno*, 481 U.S. 739 (1987) at 755.
[11] Oregon Revised Statutes and Laws, 135.240, Releasable offenses. https://www.-oregonlegislature.gov/bills_laws/ors/ors135.html (2019) (last accessed October 14, 2020).
[12] 18 U.S. Code § 3142.Release or detention of a defendant pending trial.
[13] Minton, T.D. and Zeng, Z. (2015). *Jail Inmates at Midyear 2014*. Washington, D.C.: United States Department of Justice, Bureau of Justice Statistics. NCJ 248629.

periods, have worse outcomes, such as higher risk of unemployment,[14] higher rates of sentencing disparity,[15] and a greater likelihood of reoffending.[16] Given the adverse effects to individuals of even short-term detention, NIC recommends that jurisdictions track the reasons for pretrial detention and consider appropriate strategies to address them. For example, frequent use of monetary bail for persons charged with misdemeanors and non-violent felonies may indicate the need to develop or improve existing nonfinancial pretrial monitoring and supervision options.

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[14] Schönteich, M. (2010) *The Socioeconomic Impact of Pretrial Detention*. New York, NY: Open Society Foundations.

[15] Leipold, A.D. (2005). "How the pretrial process contributes to unfair convictions." *The American Criminal Law Review*, 42(4): 1123-1165. Stevenson, M. "Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes," Journal of Law, Economics, and Organization 34, no. 4 (2018), 511-42, 516 & 532. Heaton, P., Mayson. S.G., and Stevenson, M. "The Downstream Consequences of Misdemeanor Pretrial Detention," Stanford Law Review 69, no. 3 (2017), 711-94, 717, https://perma.cc/8BB3- 8BPY.

[16] Lowenkamp, C., VanNostrand, M., and Holsinger, A. (2013). *The Hidden Cost of Pretrial Detention*. New York, NY: Laura and John Arnold Foundation. Dobbie, W., Goldin, J., and Yang, C. 2016. *The Effects of Pre-trial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges*. Working Paper No. 22511. National Bureau of Economic Research, Cambridge, MA.

Appearance Rate

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.

$$\text{Court Appearance Rate} = \frac{\text{Defendants who appear for all scheduled court appearances}}{\text{Defendants securing release pending disposition}} \times 100$$

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.

Appearance rate relates to the original goal of bail—to reasonably ensure the accused's presence at scheduled court hearings. This requirement originated in English law, was incorporated into the statutes of the early American colonies, and later included in federal and state bail laws.[17] Moreover, nearly all pretrial agencies have as part of their mission maximizing appearance rates for released defendants.

Results from the PEN survey and feedback from the pretrial field show that appearance rate calculations can be problematic for many systems. NIC's survey of pretrial directors identified consistent and systemic issues regarding how bench warrants and capiases for missed court dates are defined and logged. Individual court calendars may define and log warrants differently, making a systemic outcome measure difficult. Finally, many jurisdictions lack adequate data systems to track defendants released without pretrial services agency supervision.

Jurisdictions should calculate and keep an adjusted appearance rate that considers defendants' voluntary return to court following the issuance of a warrant or capias. This complementary metric recognizes the recent body of literature that suggests that most "failures to appear" involve a defendant's inability to avoid missing a court date rather than intentional abscondence. As one author describes: "…people who miss court dates for

[17] de Haas, E. (1966). *Antiquities of Bail: Origin and Historical Development in Criminal Cases to the Year 1275.* New York, NY: AMS Press, Inc. Schnacke, T. R. (2014). *Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform*. Washington, D.C.: National Institute of Corrections.

reasons beyond their control are counted the same as defendants who intentionally avoid court. While bail theoretically discourages people from joining the latter group, there's little evidence to suggest that absconding is a problem."[18] An adjusted metric will help jurisdictions distinguish between willful abscondence and unintended court nonappearance and ensure that responses to each behavior are treated with appropriate responses.

[18] Corey and Lo (2019).

PUBLIC SAFETY RATE

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.

$$\text{PUBLIC SAFETY RATE} = \frac{\text{DEFENDANTS NOT CHARGED WITH A NEW CRIMINAL OFFENSE PENDING DISPOSITION}}{\text{DEFENDANTS SECURING RELEASE PENDING DISPOSITION}} \times 100$$

"NEW OFFENSE" IS DEFINED AS ONE WITH THE FOLLOWING CHARACTERISTICS:

- AN OFFENSE DATE THAT OCCURS DURING THE DEFENDANT'S PERIOD OF PRETRIAL RELEASE.[19]
- 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 AGENCY ALSO MAY TRACK SEPARATE SAFETY RATES BY CHARGE TYPE (FOR EXAMPLE, 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.

Ninety-five percent of PEN survey respondents ranked the public safety rate as the most common outcome measure they tracked,[20] and all ranked this measure as the most important they calculated.[21] Since 1970, state and federal case law have recognized danger as a proper consideration in bail setting.[22] Virtually all states, the District of Columbia, and the federal courts allow public safety in bail decision-making."[23] To better understand the frequency and nature of newly filed charges during the pretrial stage in their jurisdictions, NIC recommends that pretrial agencies analyze the public safety rate by charge type, charge severity, and defendant populations, such as defendants released to an agency's monitoring or supervision, on financial bail, or on personal recognizance.

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

[20] This compared to 95.1 percent of respondents that recorded the Appearance Rate, 90.2 percent that measured the Success Rate, and 53.7 percent that measured Concurrence rate.

[21] This compared to 100 percent of respondents that measured the Appearance Rate, 93 percent for Success Rate, and 83 percent for the Concurrence Rate.

[22] See *United States* v. *Edwards*, 430 A.2d 1321 (D.C. 1981); *United States* v. *Salerno*, 481 U.S. 739 (1987).

[23] See, for example, New Jersey Criminal Justice Reform Act, P.L. 2014, 2014 N.J. ALS 31 (citing sec. 1 on the release or detention of a defendant pending trial).

It should be noted, however, that current research suggests that most new filed charges during the pretrial stage are for misdemeanor and low-level felony offenses, not dangerous or violent charges that would denote a defendant's heightened threat to public safety. For example:

- A University of Utah validation study of Salt Lake County (Salt Lake City), Utah's pretrial risk assessment found that 85 percent of rearrests were for drug and property charges.[24]
- A 2002 study of felony pretrial defendants showed similar rearrest patterns, with just over one percent of defendants rearrested for a violent crime.[25]
- Less than one percent of felony defendants in Cook County (Chicago,), IL, who appeared in bond court and were released between October 1, 2017 and September 30, 2019 were charged with a new violent offense while in the community.[26]
- Between 2009 and 2015, one percent of federal pretrial defendants were rearrested for a violent offense.[27]
- From fiscal years 2013–2017, 1.6 percent of pretrial defendants in Washington, D.C., were rearrested for a violent charge.[28]

Pretrial practitioners should review the current literature on pretrial crime and use the public safety rate metric to define the nature of pretrial crime in their jurisdictions. This will help ensure that only the most effective—and least restrictive—bail options are used to safeguard community safety.

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[24] Hickert, A. O., Worwood, E. B., and Prince, K. (2013). *Pretrial release risk study, validation, & scoring: Final report*. Salt Lake City, UT: Utah Criminal Justice Center, University of Utah.
[25] Reaves, B.A. (2013). *Felony Defendants in Large Urban Counties, 2009 - Statistical Tables*. Washington, D.C.: United States Department of Justice, Bureau of Justice Statistics. NCJ 243777. http://www.cookcountycourt.org/Portals/0/Chief%20Judge/Model%20Bond%20Court/Q3%202019/2019%20Q3%20MBC%20Public%20Facing%20Dashboard%2011.15.19.pdf. Between 2009 and 2015, one percent of Federal pretrial defendants were rearrested for a violent offense. (Cohen, et. al. at p. 25). From Fiscal Years 2013-2017, 1.6 percent of pretrial defendants in Washington, D.C. were rearrested for a violent charge. Pretrial Services Agency for the District of Columbia. (2018). *Congressional Budget Justification and Performance Budget Request Fiscal Year 2019*. Washington, D.C.: Pretrial Services Agency for the District of Columbia, p. 25. Downloaded from https://www.psa.gov/sites/default/files/FY2019%20PSA%20Congressional%20Budget%20Justification.pdf
[26] http://www.cookcountycourt.org/Portals/0/Chief%20Judge/Model%20Bond%20Court/Q3%202019/2019%20Q3%20MBC%20Public%20Facing%20Dashboard%2011.15.19.pdf.
[27] Cohen, T.H., Lowenkamp, C.T., and Hicks, W.E. "Revalidating the Federal Pretrial Risk Assessment Instrument (PTRA): A Research Summary." Federal Probation September 2018.
[28] Pretrial Services Agency for the District of Columbia. (2018). *Congressional Budget Justification and Performance Budget Request Fiscal Year 2019*. Washington, D.C.: Pretrial Services Agency for the District of Columbia, p. 25. Downloaded from https://www.psa.gov/sites/default/files/FY2019%20PSA%20Congressional%20Budget%20Justification.pdf.

Success Rate

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 WHO (1) APPEAR FOR ALL SCHEDULED COURT APPEARANCES AND (2) ARE NOT CHARGED WITH A NEW CRIMINAL OFFENSE PENDING DISPOSITION.

$$\text{Success Rate} = \frac{\text{Defendants who make all scheduled court dates and have no new charges}}{\text{Defendants securing release pending disposition}} \times 100$$

This iteration of success rate excludes the "not revoked for technical violations due to condition violations" criterion found in the 2011 edition of *Measuring What Matters*. This conforms to feedback from the PEN and the pretrial director's survey about the varying definitions of supervision compliance and the appropriateness of grading as successful defendants who were noncompliant with supervision requirements but not revoked by the court.[29] Survey responses also hinted that issues about defining compliance lessened the use of this metric compared to other outcome measures. The new definition also keeps with NIC's recommendation to link outcome measures to release rates, court appearance, and public safety.

A new performance measure—supervision success rate—allows jurisdictions to track overall supervision compliance as a separate metric.

[29] About 37 percent of survey respondents believed the measure should be revised, the highest percentage recorded for an outcome measure.

Universal Screening

The percentage of defendants eligible by statute and screened for release by the agency.

Recommended Data: The total number 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.

This measure conforms to national standards that encourage full screening of all defendants eligible by statute for bail consideration and state bail statutes that mandate release eligibility for certain defendant groups. When measuring screening, jurisdictions should go beyond initial arrest and court appearance and consider all detainees who become eligible for pretrial release consideration at any point before trial. These screens may occur at initial arrest or court hearings and be submitted to the court once defendants become eligible for release.

Recommendation Rate

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 recommendations 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 court 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.

Recommendation rate reflects how frequently the pretrial services agency follows its risk assessment result when recommending conditions of bail.

A common strategy for pretrial services agencies adopting validated risk assessments is a *recommendation matrix*. These matrices are square grids created by the horizontal alignment of assessed appearance risk levels (lowest to highest) and the vertical positioning of either assessed safety risk levels or charge severity categories. Squares within the matrix are grouped to correspond to each assessed risk level. A separate table lists the conditions that may be appropriate for use with each grouped risk level. Some matrices also identify appropriate circumstances where staff may override a risk level recommendation for lesser or greater levels of supervision.[30]

Pretrial agencies should be mindful that use of a recommendation matrix can encourage "blanket conditioning," the setting of bail conditions based on a group designation (such as risk level) rather than individualized risk. This is counter to the mandate in bail statutes that conditions be specific to a defendant's risk factors and standards for effective pretrial systems and agencies.[31] To safeguard against this, pretrial agencies should ensure that:

- Recommendation matrices do not include high-end conditions such as drug testing and electronic surveillance. As Arnold Ventures, LLC, the developer of the Public Safety Assessment, notes: "Those release conditions should be used sparingly if at all—and

[30] A fuller description and examples of recommendation matrices can be found at https://advancingpretrial.org/guide/guide-to-the-release-condition-matrix/.
[31] NAPSA 2020, Standard 4.5(b) and ABA 2002, Standards 10-5.2 and 10-5.3.

only when a judicial officer has reason to believe they would be effective in improving a specific person's pretrial performance."[32]

- Recommendations for pretrial detention are not included since risk assessments do not identify defendants most appropriate for "no bail" recommendations. Detention should be based on applicable bail law and upon a judicial officer's decision.

Use of a recommendation matrix conforms with the PEN's support for the use of validated pretrial risk assessments in bail recommendations. However, though actuarial risk assessments are the consensus best method to predict future pretrial misconduct, they "cannot anticipate every possible case or scenario."[33] In some cases, other factors not included in the risk instrument may affect a defendant's likelihood of pretrial success and should be considered in the pretrial services agency's recommendation. To address these limited circumstances, pretrial services agencies can adopt "override" procedures, limited and well-defined rules to deviate from assessed risk levels, using mitigating and aggravating information gathered from a pretrial interview, criminal history investigation, or outside sources.[34] The resulting recommendations can include supervision levels and conditions either higher or lower than those associated with the identified risk level.

Recommendation rate calculations display overrides as deviations from assessed risk levels. The PEN recommends that pretrial agencies adopting overrides follow the guidelines identified in NAPSA Standard 4.4 a(ii):

1. Limit overrides to specific and clearly defined circumstances approved by the agency and its stakeholder partners.
2. Do not classify defendants more than one additional classification past the risk assessment result. For example, staff should not re-classify a defendant designated as "low risk" to "high risk."
3. Set a metric to gauge the number of overrides as a percentage of recommendations completed. An override range of 5-15 percent, with deviations to lower and higher supervision levels being about equal, is recommended.[35]
4. Require a supervisor's approval for all recommendations that deviate from the risk assessment result.

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[32] https://advancingpretrial.org/guide/guide-to-the-release-condition-matrix/.

[33] Latessa, E., Smith, P., Lemke, R., Makarios, M., and Lowenkamp, C. (2009). *Creation and Validation of the Ohio Risk Assessment System: Final Report*. Cincinnati, OH: University of Cincinnati School of Criminal Justice Center for Criminal Justice Research.

[34] For example, the Ohio Risk Assessment System/Pretrial Assessment Tool (ORAS/PAT) permits users to consider a set of mitigating and aggravating circumstances following the risk assessment calculation when formulating recommendations to Court. Latessa, et. al. (2009).

[35] 139 Andrews, D., Bonta, J. and Hoge, R. (1990). *Classification for effective rehabilitation: Rediscovering psychology*. *Psychology*, Crim. Just. & Behav., Mar. 1, 1990*;* Austin, J. *The Proper and Improper Use of Risk Assessment in Corrections*, Fed. Sentencing Reporter, Feb. 2004 (recommending a 5-15 percent "override" range); Latessa, et al. (2009).

The recommendation rate is an indicator of an agency's use of validated risk assessment and that agency's ability to use assessment data logically to inform pretrial decisions. The more reliable the risk assessment, the more accurate a recommendation rate will be. Together, risk assessment and informed decision making can support an organizational framework that reduces uncertainty while increasing accountability through the use of reliable data.

Response to Defendant Conduct Rate

THE PERCENTAGE OF TIME THE AGENCY RESPONDS TO DEFENDANT CONDUCT REGARDING COURT-ORDERED RELEASE CONDITIONS.

RECOMMENDED DATA: THE TOTAL NUMBER OF DEFENDANT COMPLIANT AND NONCOMPLIANT EVENTS TO COURT ORDERED CONDITIONS AND THE SUBSET OF THESE EVENTS WITH A RECORDED POLICY-APPROPRIATE AGENCY RESPONSE.

$$\text{Response to Defendant Conduct Rate} = \frac{\text{Pretrial agency response}}{\text{Compliant and Noncompliant event}} \times 100$$

Response to defendant conduct measures how often case managers respond appropriately (by recognized policy and procedure) to defendant conduct regarding court-ordered release conditions. This measure conforms to national standards for pretrial supervision[36] and research that supports swift, certain, and meaningful responses to defendant behavior. To gauge this performance measure, pretrial services agencies need procedures that:

1. Identify and define individual behaviors that are examples of *adherence to* (such as a made in-person report) and *infractions of* (such as a positive drug test result) conditions of release.
2. Identify and define supervision *compliance* (a level of adherence that triggers a recommendation for supervision reduction or termination) and *noncompliance* (a level of infractions requiring court action to increase or terminate the defendant unsuccessfully).
3. Outline appropriate staff responses to adherence and infractions. For example, a positive drug result could be addressed by assessing the need for a defendant to undergo substance abuse treatment while consecutive successful in-person reporting to the agency could result in a reduced reporting schedule or revision from in-person to telephone reporting.

Consistent with NAPSA Standards, pretrial services agencies should recommend modifications to supervision based on a defendant's conduct.[37] These include reduction of supervision levels for compliant defendants and enhanced requirements for those who are noncompliant (for example, treatment assessment and possible placement for those who test positive for drug use). Also consistent with NAPSA Standards, agencies should only recommend termination when a noncompliant defendant misses a scheduled court appearance or is rearrested pretrial.

[36] See NAPSA (2020), Standards 2.9 and 4.6.
[37] See NAPSA (2020), Standard 4.5(a) vi.

Pretrial Intervention Rate

The percentage of outstanding bench warrants or capiases the agency resolves.

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.

$$\text{Pretrial Intervention Rate} = \frac{\text{Bench warrants or capiases resolved by agency efforts}}{\text{Issued bench warrants/capiases}} \times 100$$

Pretrial intervention rate measures the effectiveness of the pretrial agency at resolving outstanding bench warrants and capiases associated with missed court appearances. Bench warrant/capias resolution includes defendants who self-surrender to the pretrial agency and those who surrender to the court or law enforcement after being advised to do so by the pretrial agency. The metric also supports the practices of many courts and pretrial services agencies to respond to missed court dates with non-punitive actions. These include:

- Dedicated "Failure to Appear Units" for proactive resolution of warrants.
- Proactive supervisory responses to missed court appearances through contact with defendant and defense.
- Defendant "self-surrender" protocols and Safe Surrender Programs.[38]
- Court holding of warrants in abeyance until the defendant is notified.
- Specialty courts dedicated to warrant resolution.

The pretrial intervention rate may be used to assess an agency's responsiveness to the public safety needs of a community, including its ability to apply risk assessment data to making accurate and defensible pretrial decisions.

[38] Similar to a program begun in Allegheny County (Pittsburgh), PA, the safe surrender program allows defendants with outstanding warrants to "surrender" to the local pretrial services agency Monday through Friday from 7:30 am to 9:30 am. The pretrial agency then applies a validated risk assessment, prepares a report with a recommendation regarding appropriate bail, and escorts defendants to a special motions court later in the morning.

Supervision Success Rate

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 conditions, regardless of:
1) how the court may terminate supervision
2) the defendant's appearance rate or public safety rates outcomes

This performance measure tracks overall supervision compliance data previously contained in the success rate outcome measure. It uses the same definitions of compliance and noncompliance as defined in the response to defendant conduct rate.

"Success" is defined only by *compliance* (a level of adherence that triggers a recommendation for supervision reduction or termination) or *noncompliance* (a level of infractions requiring court action to increase conditions or terminate the defendant unsuccessfully) and excludes actual court action regarding supervision termination. The supervision success rate excludes the defendant's record of court appearance and arrest-free behavior since these are tracked in separate outcome measures.

Concurrence Rate

The percentage of defendants whose 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 assessed 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.

The concurrence rate measures a justice system's compliance at the pretrial stage with the "risk principle," the idea that levels of monitoring and supervision should correspond to assessed levels of risk.[39] Research at the pretrial stage suggests that supervision levels tied to assessed risk levels greatly improve pretrial outcomes. Conversely, improper supervision produces poor outcomes and wastes resources. Drawing on data from two states, the Laura and John Arnold Foundation—now Arnold Ventures, LLC—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.[40] A study of pretrial defendants in the federal courts found that moderate and higher risk defendants required to participate in supervised pretrial release programming (including drug testing, treatment, electronic monitoring) were more likely to succeed pending trial but lower risk defendants with the same requirements were more likely to fail.[41]

As with recommendation rate, adopting a recommendation matrix along with a fourth-generation pretrial risk assessment instrument can help pretrial services agencies meet the concurrence rate metric.

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[39] Lowenkamp, C.T. and Latessa, E.J. (2004). "Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders." Topics in Community Corrections, pp. 3-8. National Institute of Corrections.

[40] Van Nostrand, M. and Lowenkamp, C. (2013). *Exploring the Impact of Supervision and Pretrial Outcomes*. New York: Laura and John Arnold Foundation.

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

METRICS FOR EQUITY

Ensuring that all individuals receive fair and equitable treatment is a requisite for America's justice systems. A well-established body of research shows that disparities[42] for persons of color exist in areas such as rates of arrests, incarcerations, guilty dispositions, and sentencing severity.[43] At the pretrial stage, nearly seven in ten pretrial detainees are persons of color, with African-American (43%) and Hispanic (19.6%) defendants particularly over-represented.[44] African-American defendants receive on average $7,000 higher bail amounts than white defendants for violent crimes, $13,000 higher for drug crimes and $10,000 higher for crimes related to public order.[45] As a result of disparities in pretrial release, African-American and Hispanic defendants experience worse outcomes than white defendants, such as higher risk of unemployment,[46] higher rates of sentencing disparity,[47] and a greater likelihood of reoffending.[48]

Potential racial, ethnic, and gender disparities in arrest, adjudication, sentencing decisions, and outcomes (and whether these disparities are inherent in justice systems) will continue

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[42] We define "disparity" as the proportion of a racial, ethnic, or gender group within the justice system exceeding that group's proportion in the general population.

[43] Crutchfield, R., Fernandes, A., & Martinez, J. (2010). Racial and Ethnic Disparity and Criminal Justice: How Much is Too Much. *Journal of Criminal Law and Criminology*. Hettey, R. and Eberhardt, J. (2018). The Numbers Don't Speak for Themselves: Racial Disparities and the Persistence of Inequality in the Criminal Justice System. *Current Directions in Psychological Science*. Hinton, E. (2018). An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System. *Vera Evidence Brief*. Kansal, T. (2015). *Racial Disparity in Sentencing: A Review of the Literature*. The Sentencing Project. Rocque, M. (2011). Racial Disparities in the Criminal Justice System and Perceptions of Legitimacy: A Theoretical Linkage. Race and Justice. Starr, S. (2014). Racial Disparity in Federal Criminal Sentences. Journal of Political Economy. The Sentencing Project. (2018). *Racial Disparities in the United States Criminal Justice System. Research and Advocacy for Reform*. Washington, D.C.: The Sentencing Project. Huebner, B.M. and Bynum, T.S. (2008). Role of Race and Ethnicity in Parole Decisions. *Criminology*, Volume:46 Issue:4 pp. 907-938. (NCJ 225315). Devers, L. (2008). *Plea and Charge Bargaining: Research Summary*. Arlington, VA: CSR, Incorporated.

[44] James, D.J. (2004). Profile of Jail Inmates, 2002. Washington, D.C.: Bureau of Justice Statistics. NCJ 201932.

[45] *Ibid*. See also Gelbach, J.B. and Bushway, S.D. *Testing for Racial Discrimination in Bail Setting Using Nonparametric Estimation of a Parametric Model* (August 20, 2011). Available at SSRN: https://ssrn.com/abstract=1990324 or http://dx.doi.org/10.2139/ssrn.1990324

[46] Schönteich, M. (2010) *The Socioeconomic Impact of Pretrial Detention*. New York, NY: Open Society Foundations.

[47] Leipold, A.D. (2005). "How the pretrial process contributes to unfair convictions." *The American Criminal Law Review*, 42(4): 1123-1165.

[48] Lowenkamp, C., VanNostrand, M., and Holsinger, A. (2013). *The Hidden Cost of Pretrial Detention*. New York, NY: Laura and John Arnold Foundation.

to be an important topic in criminal justice.[49] To meet the mandate for equal and equitable justice, pretrial practitioners must ensure that their policies and procedures do not create or exacerbate unequal treatment and outcomes.

To this end, practitioners should use performance metrics to identify areas where inequities might exist and promote an atmosphere where inequitable treatment can be discussed and addressed. For example, outcome measures can identify differences in release, appearance, public safety, and success rates among race, gender, or ethnic groups. These data also can inform discussion on whether identified disparities are systemic in nature. Performance measures can help pretrial services agencies identify internal practices that may contribute to disparate outcomes. For example, recommendation rate can show whether higher level conditions of release are suggested more for persons of color despite risk level similarities. An evaluation of the supervision success rates can determine if reasons for noncompliance are caused by factors related to social disparity, i.e., in-person reporting requiring additional transportation resources or home curfews requiring land-line phones.

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 risk assessments to safeguard against disparities in assessed 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 (thereby saving defendant resources for court appearances)
- Prohibiting conditions of supervision that impose a cost to defendants or expose them to detention for inability to pay fees for services

While not defined by a formula, approaches for deriving and implementing the use of metrics for equity can be developed internally within an agency and tailored to meet the equity focus of specific jurisdictions. When considered alongside other data, metrics for equity can help an organization take a holistic view of its role in a community, potentially unearthing opportunities to foster partnerships and trust among a variety of stakeholders.

[49] A detailed list of studies on racial disparities can be found at: https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system/.

Other Areas for Consideration

Pretrial practitioners also should consider the following strategies when developing or revising outcome and performance measures. These will help ensure that measures are meaningful, easy to communicate, and focused on organization improvement.

1. **Secure buy-in from senior management and employees:** Implementing an outcome and performance metric regimen requires buy-in from an agency's senior management. The use of performance metrics can require a major change in culture for some organizations and may naturally be met with some internal resistance. Senior management must lead this cultural change from the top.

2. **Staff must see a benefit to metrics to accept them fully:** Management should present measures internally in a way that allows staff to "see" themselves and their work in the outcomes. For example, management should tie high court appearance and public safety rates to staff's day-to-day work (e.g., "How do you help the agency succeed?"). Conversely, lower than projected performance should be used as an opportunity to gather staff input on how to improve agency policies and procedures (e.g., "How do you suggest we get better?").

3. **Data requirements must be understood and identified early:** It is common for agencies to set metrics, only to later discover that the data needed for these metrics does not exist or is not easily accessible. For example, many respondents of the PEN survey noted that their jurisdictions lack a consistent definition of "missed court date" or a recognized data value for these events. After defining and adopting metrics, critical next steps are identifying the data needed and verifying if this information is available. If a data element is needed, the agency should help in its development, identifying how and where the data will be collected and stored and who within the agency will be responsible for data integrity.

4. **Share the results:** Agencies should develop regular reporting channels for metric data, both internally to stakeholder organizations and the public. Agencies should present metrics in proper context so that they are perceived and understood appropriately; for example, presenting appearance rates with information on unintended court nonappearance and agency success at resolving failures. Agencies also should use metric presentations to educate internal and external stakeholders and the public about its mission, objectives, and operations.

5. **Revise measures as needed:** Agencies should review, and when needed, revise their metrics regularly. As the PEN has learned from its own experiences with this publication, fields of study evolve as do the agencies and individuals within them. Agencies should ensure not only that metrics still measure what they were created to measure but also continue to measure what matters to their justice systems.

Setting Outcome and Performance Targets

> *The metrics that a company chooses must actually promote the performance it wants… Selecting the right targets is both science and art. If they are too easy, they won't improve performance. If they are out of reach, staff won't even try to hit them. The best targets are attainable, but with a healthy element of stretch required.*
>
> *Carpi, R., Douglas, J. and Gascon, F.*[50]

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 performance targets can help organizations deliver expected services and outcomes and identify needed programmatic and system strategic changes. Conversely, static or unreasonable targets can encourage lower expectations, thereby minimizing the program's influence as a system partner, or burden organizations with objectives that are inconsistent with its mission and resources.

The SMART Method

Given variances nationwide in defendant populations, court operations, and justice system practices, the PEN believes recommended universal targets for each stated measure is impractical. Instead, the PEN recommends that individual programs adopt the SMART (specific, measurable, achievable, realistic, and time-bound) method of setting effective targets.

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 percent of defendants eligible by statute for pretrial release annually." Because the target is specific, the pretrial program can easily measure progress toward meeting it.

MEASURABLE

An effective target answers the questions "how much" and "how many." Each target must be a set number or percentage that can be measured. Further, each target must be based on

[50] *Performance management: Why keeping score is so important, and so hard*. At https://www.mckinsey.com/business-functions/operations/our-insights/performance-management-why-keeping-score-is-so-important-and-so-hard#.

existing and retrievable data. Programs must assess their information management capacity to determine a target's feasibility.

ACHIEVABLE

Targets must be within the capacity of the organization to achieve them while challenging the organization to improve its performance. They should be neither out of reach nor below an acceptable standard. Targets set too high or too low become meaningless and are worthless as indicators. The organization's most recent past performance (approximately the past 2 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.

Other Recommendations for Targets

1. When establishing initial targets, set a minimum target and a stretch target. The minimum target should be one the program believes is the most manageable, whereas the stretch target would be the rate the program would strive to accomplish. Programs also can set a minimum target for the first year or two of performance measurement and a stretch target for future years.
2. Consider trends to establish a target baseline. If past data exist for performance on a particular measurement, examine those data for trends that can serve as a baseline for setting targets for future performance.
3. Use "SWOT" analysis to gauge the program's internal **s**trengths and **w**eaknesses, as well as its external **o**pportunities and **t**hreats. Consider target rates that can help build on strengths and leverage opportunities as well as minimize weaknesses and threats.
4. Get feedback from stakeholders: Their expectations can yield insights in setting appropriate targets. If available, consider the performance targets of comparable pretrial programs.
5. Consider current or planned internal or external initiatives that may affect established or potential targets.

Properly defined and well implemented, performance measures can help organizations meet their mission and strategic objectives and illuminate the path to meaningful improvement. These are critical strategies for pretrial services agencies that are committed to helping their systems improve bail decisions and pretrial outcomes. Measuring for the right results—and using data to help reduce system inequities—are critical elements in making pretrial justice the norm in America's courts.

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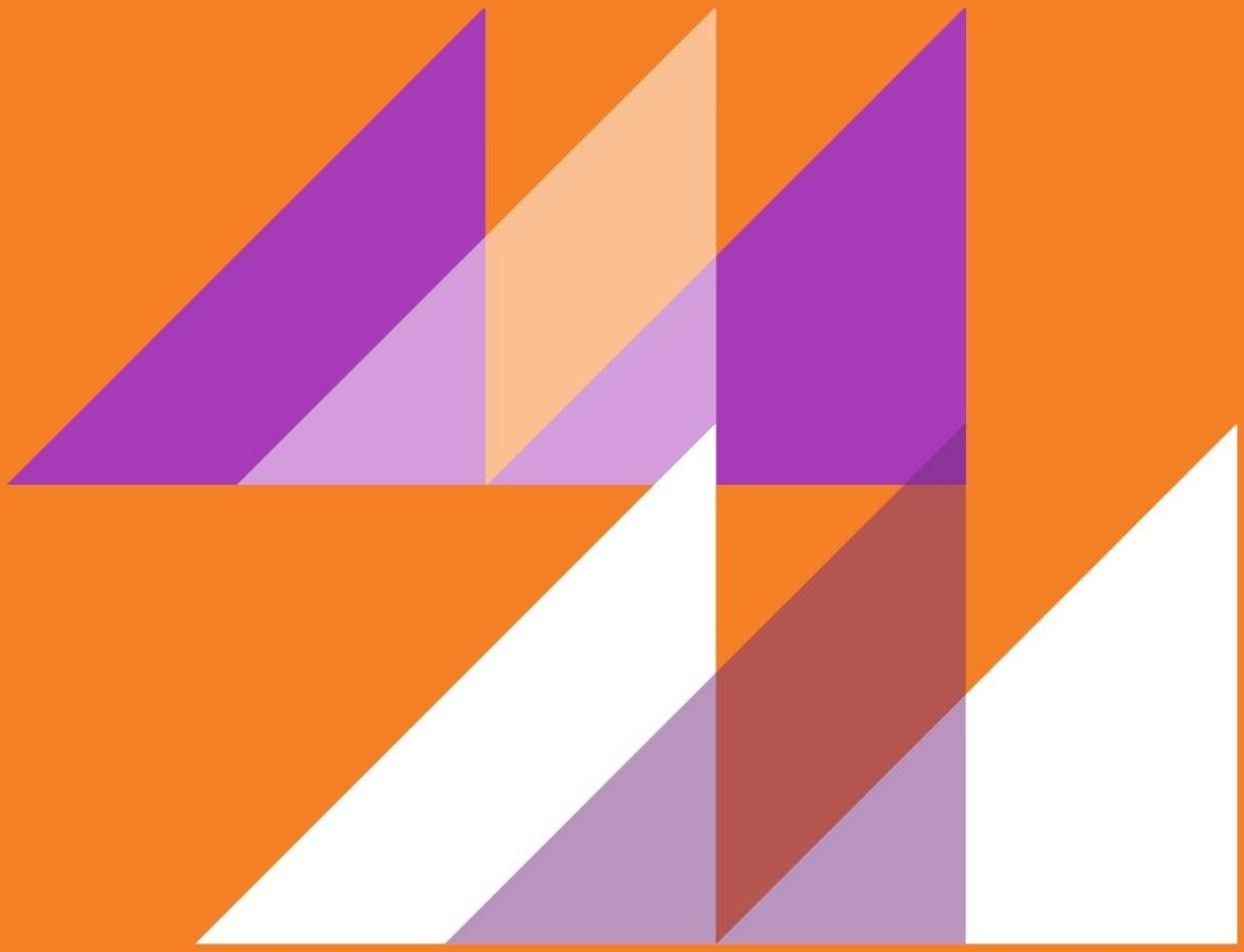
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