



# Essential Elements of a Pretrial Justice System

Evaluation of Pretrial Release  
and Detention in Connecticut



# Session Goals

- ✓ Identify and Approve Objectives of the Ad Hoc Committee
- ✓ Review Elements of a High Functioning Pretrial Justice System
- ✓ Review Elements of a High Functioning Pretrial Justice Agency
- ✓ Identify Strengths and Gaps in current Pretrial Justice System
- ✓ Develop Project Activities and next steps

# Pretrial Justice Framework



# How do we get there?

- Legal Structure to Support the Purpose of Bail
- Develop of a High Functioning Pretrial Justice System
- Support a Dedicated Pretrial Services Agency

# Essential Elements of a Pretrial System

Guiding principle of decisions based on risk

Appearance

Public Safety

Legal Scheme to support in or out decision that are immediately effectuated

Release options following arrest

Cite and Release

Summons vs. Warrant

Speedy prosecutorial case screening

Options for diversions

Specialty Courts

# Essential Elements of a Pretrial System

## Delegated Release Authority

Early

Limited

Risk Based not Money Based

## Initial appearance timeliness and meaningful

Defense

Prosecutor

Judge

## Dedicated Pretrial Services Agency/Function

Assess for Pretrial Risk

Recommendations to the Court

Differential Supervision



# Guiding Principle of Decisions based on Risk

## Goal:

- To reasonably assure Community Safety and Court Appearance
- Maximize Release for appropriate defendants
- Provide legally permissible detention for truly risky defendants

## Supporting Research:

- Most pretrial defendants present low to moderate risks of failure pretrial
- Poor matching of supervision levels to risk levels may increase failure
- Poor detention decisions heighten the risk of future recidivism
- Low to moderate level conditions are effective in addressing risk



# Presumption of Nonfinancial Release & Statutory Preventative Detention

State laws and local court rules stress the least restrictive conditions needed to ensure appearance and public safety. Non-financial release are the court's first option, followed by conditional supervision and financial conditions.

Money is used when non-financial options cannot reasonable assure court appearance. **Statutes prohibit pretrial detention based on money.**

Statutes include risk-based preventive detention. These procedures afford due process for defendants who pose unmanageable risks to public safety or are at high risk of failing to appear in court.

# Release Options Following Arrest

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

Citation in lieu of arrest

Pre-arraignment release screening

Limited and Targeted Delegated Released Authority

# The D.C. Statute

## § 23-1321. Release prior to trial.

(a) Upon the appearance before a judicial officer of a person charged with an offense, other than murder in the first degree, murder in the second degree, or assault with intent to kill while armed, which shall be treated in accordance with the provisions of § 23-1325, the judicial officer shall issue an order that, pending trial, the person be:

- (1) Released on personal recognizance or upon execution of an unsecured appearance bond under subsection (b) of this section;
- (2) Released on a condition or combination of conditions under subsection (c) of this section;
- (3) Temporarily detained to permit revocation of conditional release under § 23-1322;
- (4) Detained under § 23-1322(b).

# The D.C. Statute

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

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

# Speedy Prosecutorial Case Screening

Jurisdictions should ensure that an experienced prosecutor screen criminal cases, preferably before initial court appearance.

- Early case screening allows for appropriate charging or timely dismissal as well as early diversion or problem-solving court eligibility determinations.
- Prosecutors can use the pretrial risk assessment instrument to aid in their bail arguments at the initial appearance, to include details needed to request preventive detention if available.



# Defense Counsel at Initial Appearance

Defense counsel is engaged before initial appearance and is prepared to represent the defendant regarding pretrial release/detention.

- The U.S. Supreme Court has ruled in several opinions that the initial bail hearing is a critical stage in the criminal case because liberty is at stake. Therefore, this decision point requires legal representation.
- Defenders can use the pretrial risk assessment instrument to aid in their bail arguments at the initial appearance, to include offering rebuttal presumptions in cases where that is appropriate.

# Dedicated Pretrial Services Agency

A dedicated pretrial services agency ensures that administration of essential functions occurs under a single organization goal and better coordination of these functions.

A single management structure also provides better staff direction and motivation to critical work priorities and clearer lines of communication. The justice system also has a single actor responsible for pretrial functions.

# Recap

Element	Present	Missing	Improved
Legal Structure to Support the Purpose of Bail	●	●	●
Guiding Principle of Risk Based Decisions	●	●	●
Release Options following release	●	●	●
Presumption of Non-Financial Release	●	●	●
Speedy Prosecutorial Case Screening	●	●	●
Defense Counsel at Initial Appearance	●	●	●
Dedicated Pretrial Services Agency	●	●	●
Performance Measurement	●	●	●

# Essential Elements of a Pretrial Services Agency

1. Dedicated Pretrial Functions
2. Operationalized Mission
3. Universal Screening
4. Validated Assessment Instruments
5. Sequential Bail Review
6. Risk-based Supervision
7. Performance measurement and Feedback



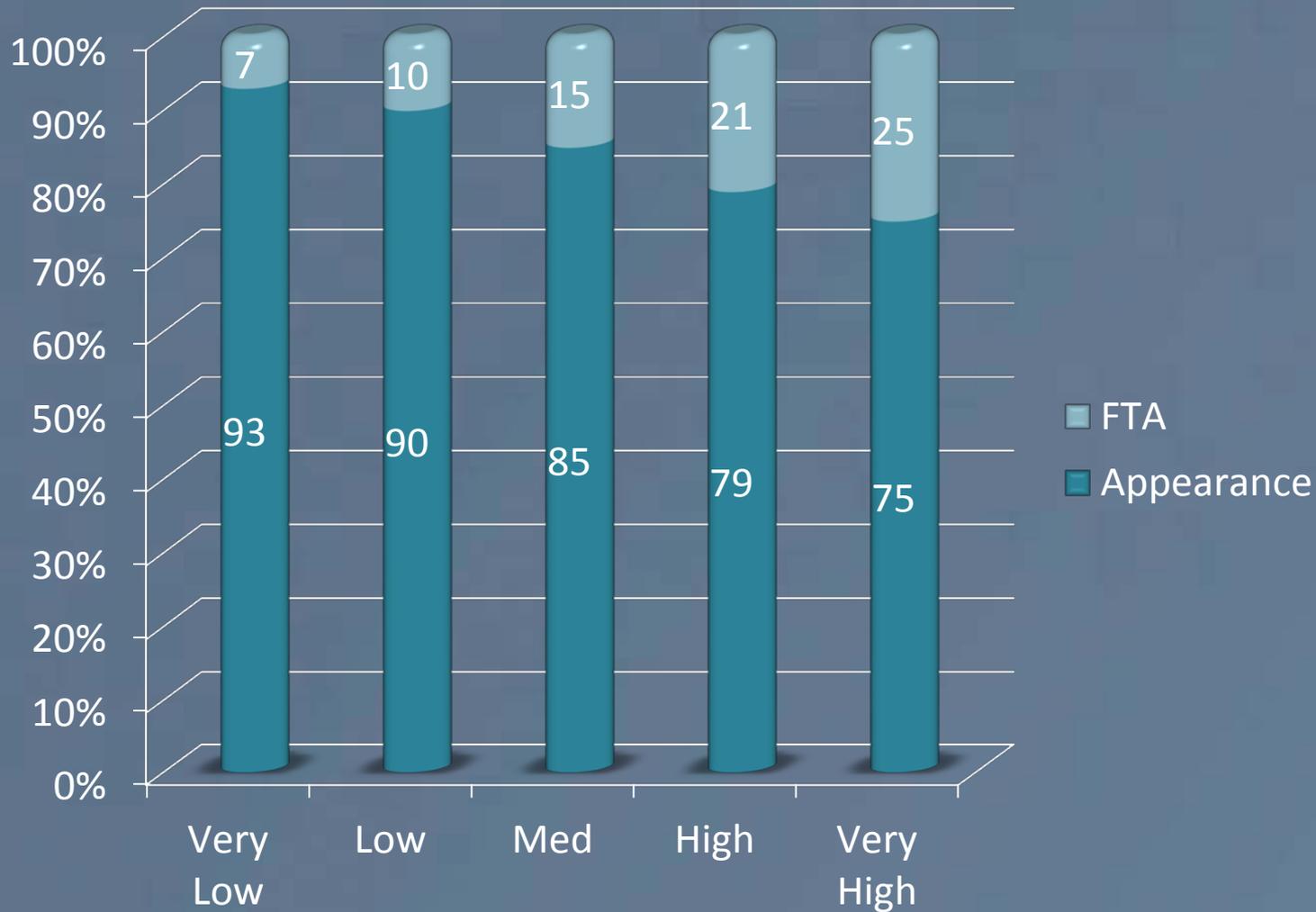
# Validated Assessment Instrument

Effective pretrial programs use validated pretrial risk assessment criteria to gauge individual defendant's suitability for release or detention pending trial.

The assessment is empirically based—preferably using local research—to ensure that its factors are proven as the most predictive of future court appearance and rearrest pending trial.

Separate instruments also may be used to predict the likelihood of new violent offenses, domestic violence charges, substance use disorders and mental health needs.

# Appearance Rate by RAI Level—Washington, DC



# Safety Rate by RAI Level--Kentucky



# Sequential Review of Release/Diversion Eligibility

Screening, assessment and recommendation at multiple decision points from initial appearance to adjudication.

Subsequent screening, assessment and recommendation that focus on new or updated information about the defendant .

Recommendations appropriate to newly assessed risk level.  
Restrictions against conditions more stringent than the defendant's risk level suggests to “encourage” release.

Changes in supervision levels (both more or less restrictive) as a defendant's record of court appearance, arrest-free behavior and condition compliance warrants.

# Risk-Based Supervision

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

According to available research, effective pretrial supervision includes:

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

# Performance Measurement

High-functioning pretrial systems collect and publish pretrial justice performance and outcome measures. At the least, these include:

1. Appearance Rate
2. Safety Rate
3. Concurrence Rate

# Recap

Element	Present	Missing	Improved
Dedicated Pretrial Services Program	●	●	●
Operationalized Mission	●	●	●
Universal Screening	●	●	●
Validated Assessment Instrument	●	●	●
Sequential Review of Release/Diversion Eligibility	●	●	●
Supervision to Match Risk	●	●	●
Performance Measurement	●	●	●

# Next Steps

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- ✓ Gap Analysis
- ✓ Develop Project Goals
- ✓ Develop Work Plan
- ✓ Develop Timeline

# For More Information....

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