



# A Framework for Pretrial Services Agencies

**THE BASICS OF AN ESSENTIAL ELEMENT FOR PRETRIAL  
JUSTICE**



A pretrial services agency provides courts with background information about individuals at initial court appearances to help inform the bail decision and provides the court with supervision, monitoring, and support options to address identified individual risk factors.

Organization and administration of pretrial services, 18 U.S.C. § 3153 (2019)

Purpose; establishment of pretrial services and services agencies, Va. Code Ann. § 19.2-152.2 (2019)

Pretrial Services Act, 725 Ill. Comp. Stat. 185/0.01 (2019)

DC Pretrial Services Agency, § 23-1321 (2019)

Colo. Rev. Stat. §16-4-106 (2019)



## Pretrial Services Agencies:

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

# Agency Functions



## Assess

Background investigation

- Defendant interview
- Criminal history check

Validated

Outcome

Assessment

Recommendations



## Promote

Supervision

Monitoring

Support



## Integrate

Needs Assessment

Substance Abuse

Mental Health



## Measure

Metrics

Satisfaction

Feedback

# Agency Functions



## Assess

Background investigation

- Defendant interview
- Criminal history check

Validated  
Outcome  
Assessment

Recommendations



## Promote

Supervision  
Monitoring

Support



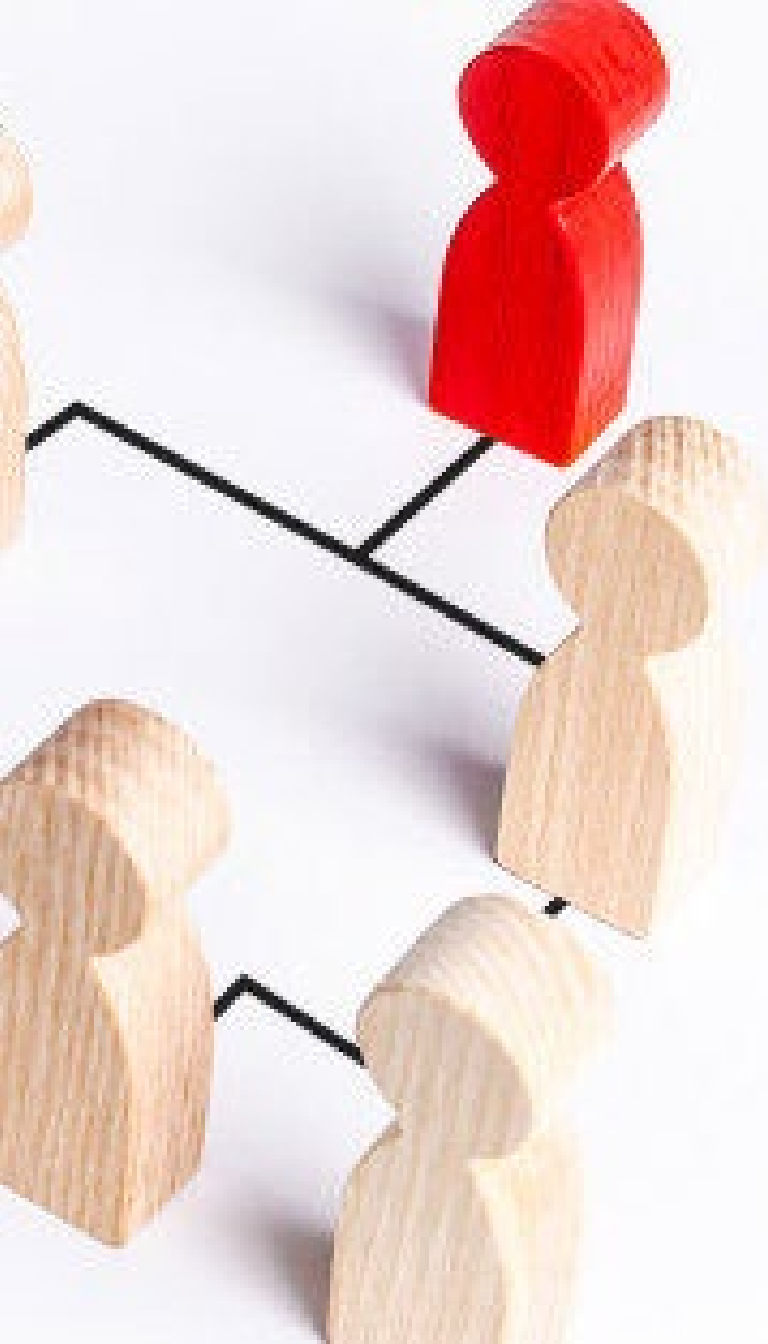
## Integrate

Needs Assessment  
Substance Abuse  
Mental Health

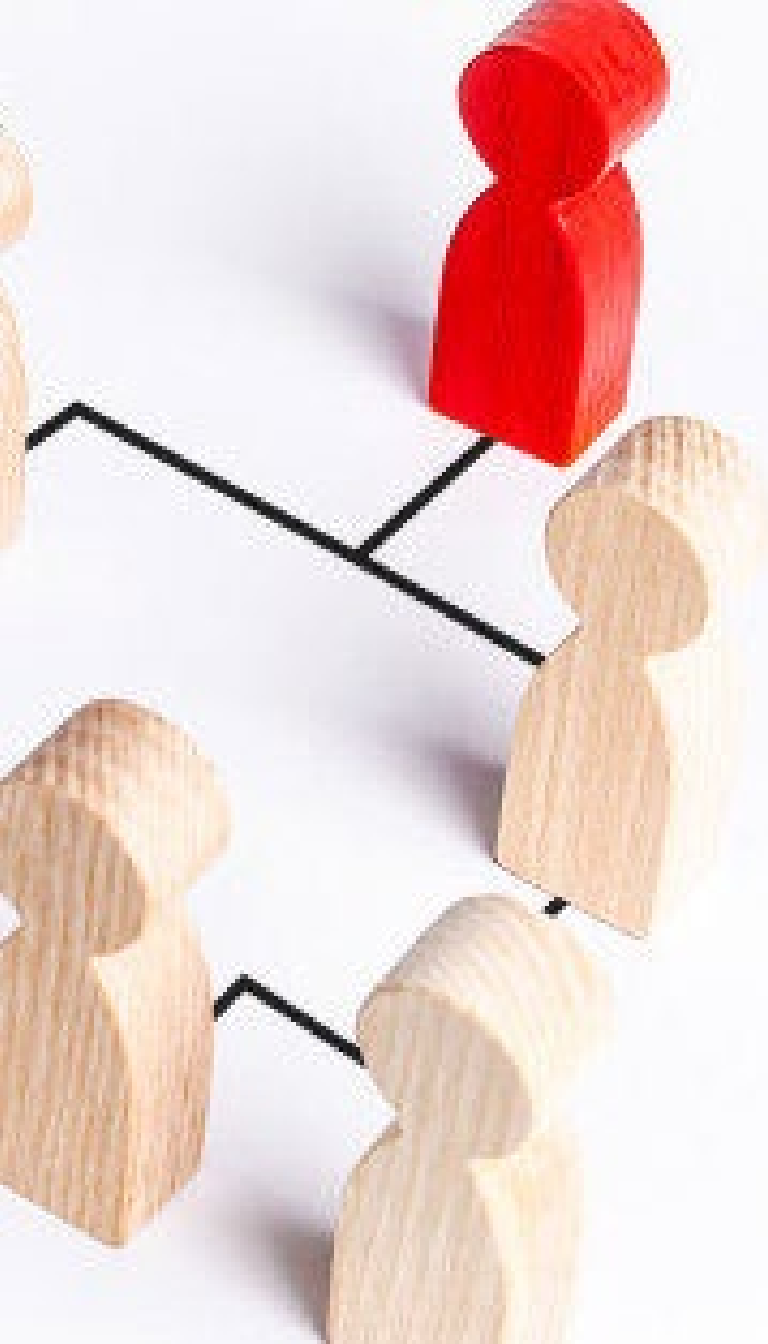


## Measure

Metrics  
Satisfaction  
Feedback



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



## Pretrial Services Agencies:

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

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



---

Illinois: Pretrial Fairness Act, 725 ILCS 110-1.5.

---

New Jersey: Criminal Justice Reform Act, P.L. 2014

---

New Mexico: Rule Set 5 - Rules of Criminal Procedure for the District Courts. 5-401. Pretrial release.

---

Federal Bail Reform Act: 18 USCS § 3142 .

---

Washington, D.C.: D.C. Code § 23-1321(c)(3)-(4) (2019).

---

Kentucky: Ky. Rev. Stat. Ann. § 431.510 (2019).

---

Oregon: Or. Rev. Stat. §§ 135.255, .260, .265 (2019).

---

Wisconsin: Wis. Stat. § 969.12(2) (2019).





---

**Illinois:** Pretrial Fairness Act, 725 ILCS 110-1.5.

---

**New Jersey:** Criminal Justice Reform Act, P.L. 2014

---

**New Mexico:** Rule Set 5 - Rules of Criminal Procedure for the District Courts. 5-401. Pretrial release.

---

**Federal** Bail Reform Act: 18 USCS § 3142 .

---

**Washington, D.C.:** D.C. Code § 23-1321(c)(3)-(4) (2019).

---

**Kentucky:** Ky. Rev. Stat. Ann. § 431.510 (2019).

---

**Oregon:** Or. Rev. Stat. §§ 135.255, .260, .265 (2019).

---

**Wisconsin:** Wis. Stat. § 969.12(2) (2019).

A close-up photograph of a hand turning a dial on a control panel. The dial is dark with the word "RISK" in large, white, serif capital letters, and the word "LEVEL" in smaller, white, sans-serif capital letters below it. The dial is set against a metallic, brushed metal background with various buttons and indicators. The lighting is dramatic, with strong highlights and shadows, creating a sense of depth and focus on the dial.

**RISK**  
LEVEL

## Pretrial Risk

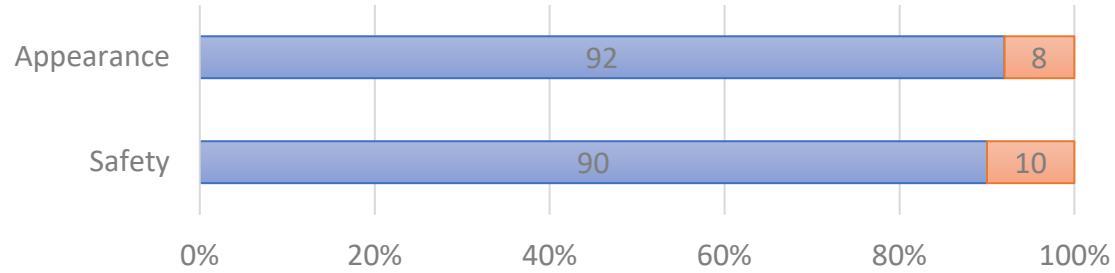
What We Know:  
What We're Learning

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

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

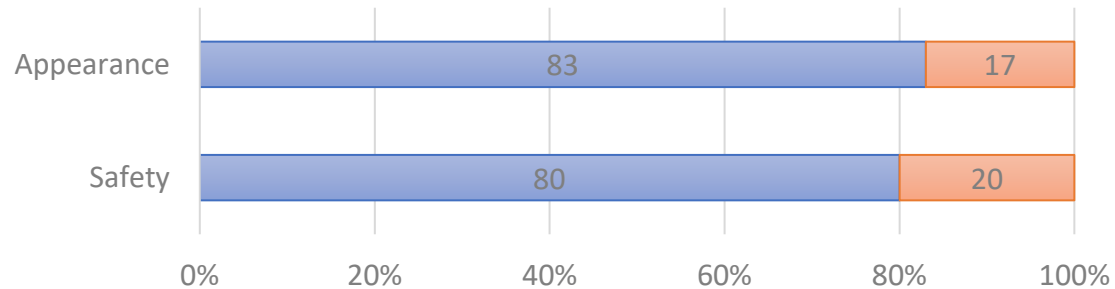


### Appearance and Public Safety Rates by Percentages--Washington, D.C.



*Pretrial Services Agency for the District of Columbia (2022). Congressional Budget Justification and Performance Budget Request: Fiscal Year 2023. (p. 33)*

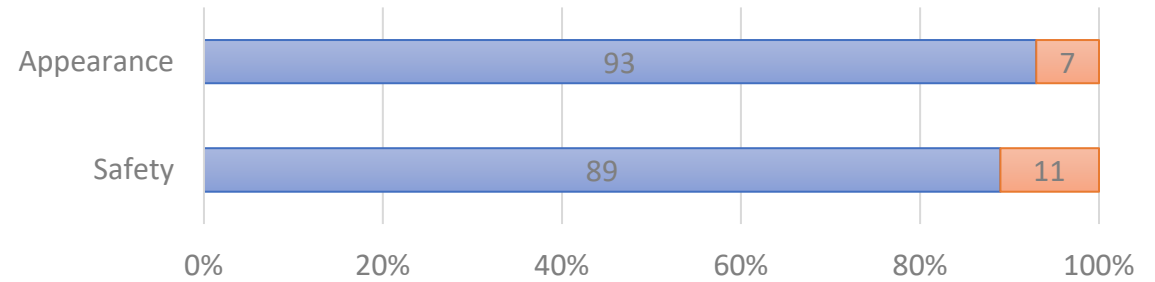
### Appearance and Public Safety Rates by Percentages--Felony Defendants, Cook County (Chicago), Illinois.



*Stemen, D. and Olson, D. (2020). Dollars and Sense in Cook County: Examining the Impact of General Order 18.8A on Felony Bond Court Decisions, Pretrial Release, and Crime. Chicago, IL: John D. and Catherine T. MacArthur Foundation.*

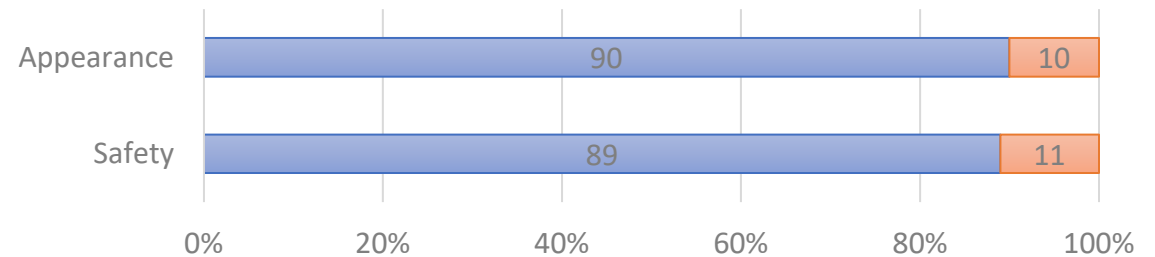
Collins, K. (2018). *Allegheny County Pretrial Services Outcome Reports: 2018*. Pittsburgh, PA: Allegheny County Pretrial Services.

Appearance and Public Safety Rates by Percentages--Allegheny County (Pittsburgh), Pennsylvania.



Grant, G.A. (2019). *Criminal Justice Reform: Report to the Governor and the Legislature*. Trenton, NJ: Administrative Office of the Courts. p. 5-6.

Appearance and Public Safety Rates by Percentages--New Jersey.



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

---

## Static

History of FTA

Previous Felonies

Previous Incarcerations

Pending Charges

Previous Misdemeanors

Age

---

## Dynamic

Substance Abuse

Residence

Employment

---



## **ASSESS**

Gather data  
Apply the tool  
Calculate result



## **ADJUST**

Consider mitigating and  
aggravating circumstances  
Adjust supervision response as  
needed

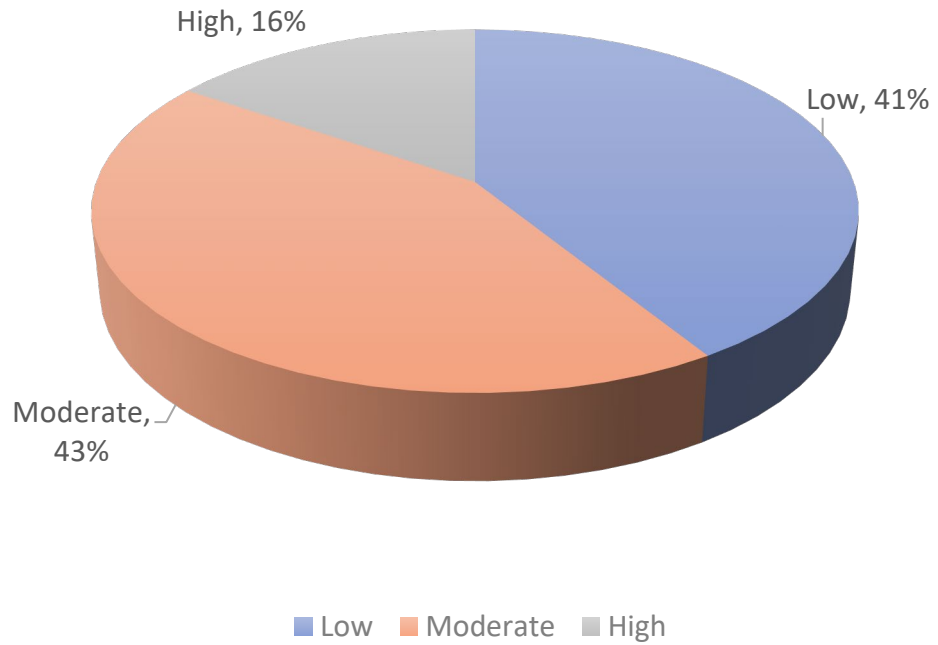


## **RECOMMEND**

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

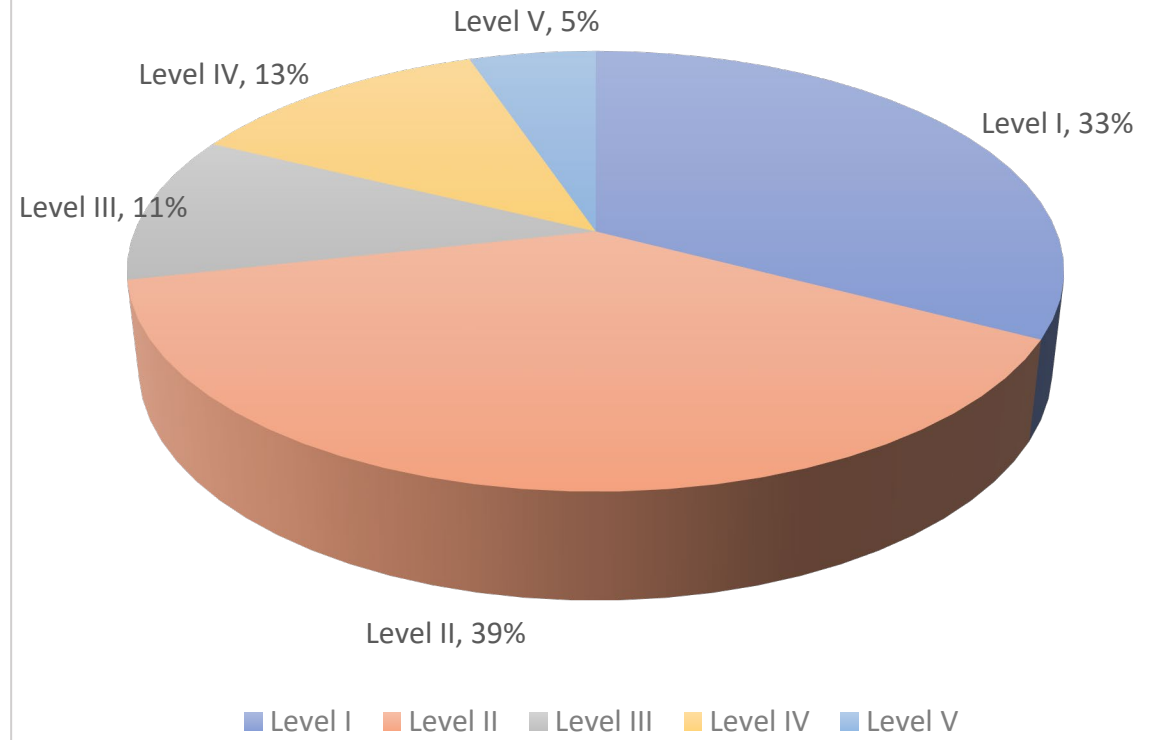


### Monroe County (Bloomington), INDIANA

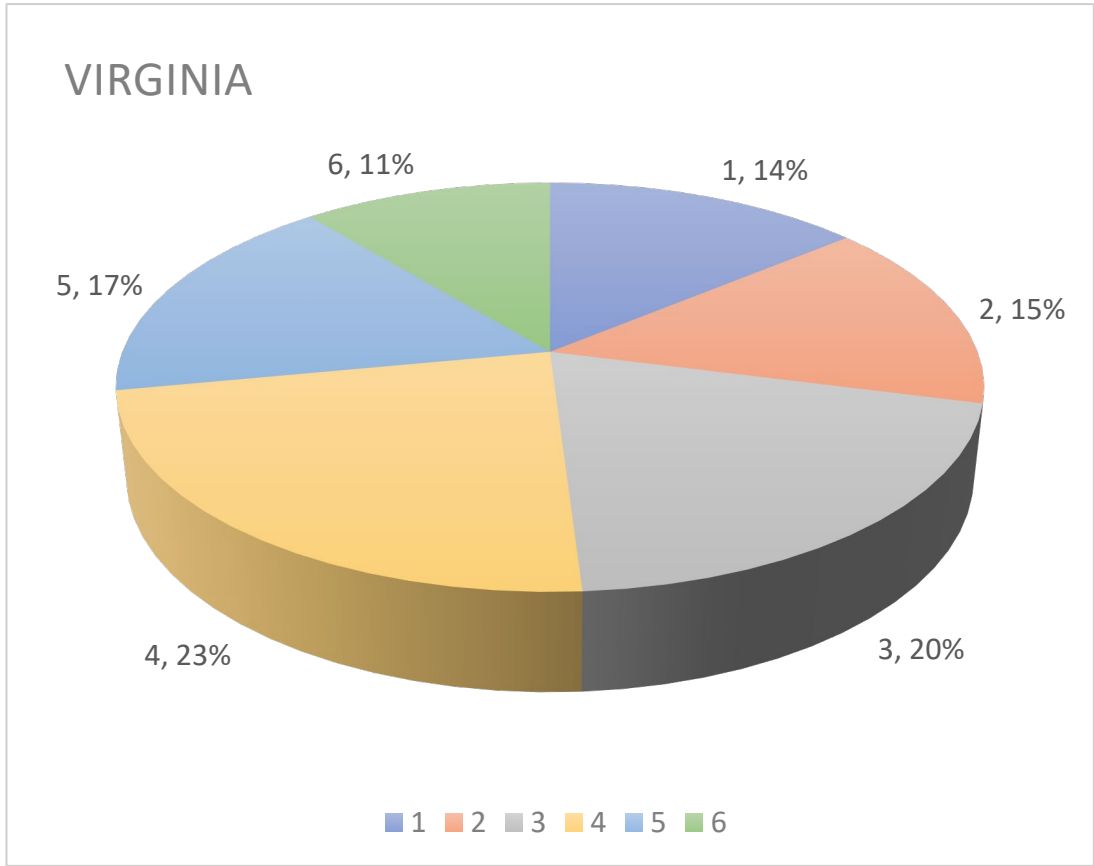


Monroe Circuit Court Pretrial Services  
Performance and Outcome Measures

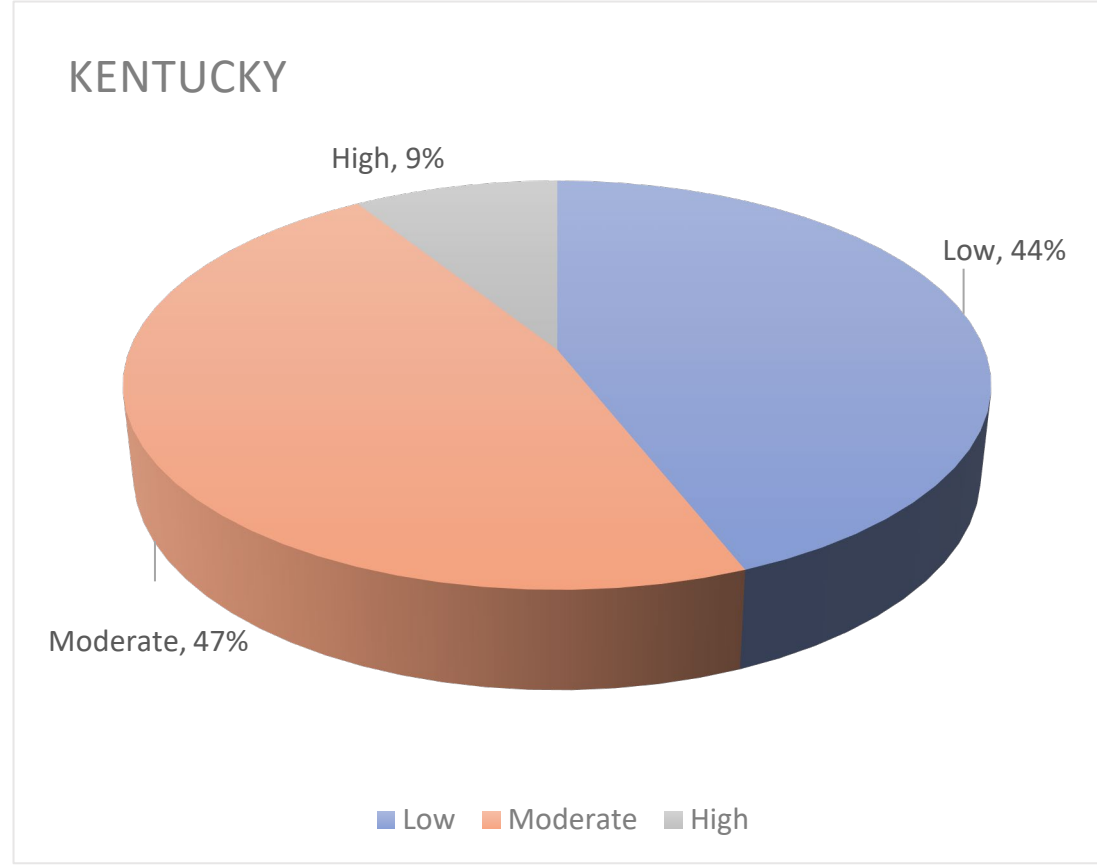
### Harris County (Houston), TEXAS



Harris County Pretrial Services 2020 Annual  
Report.

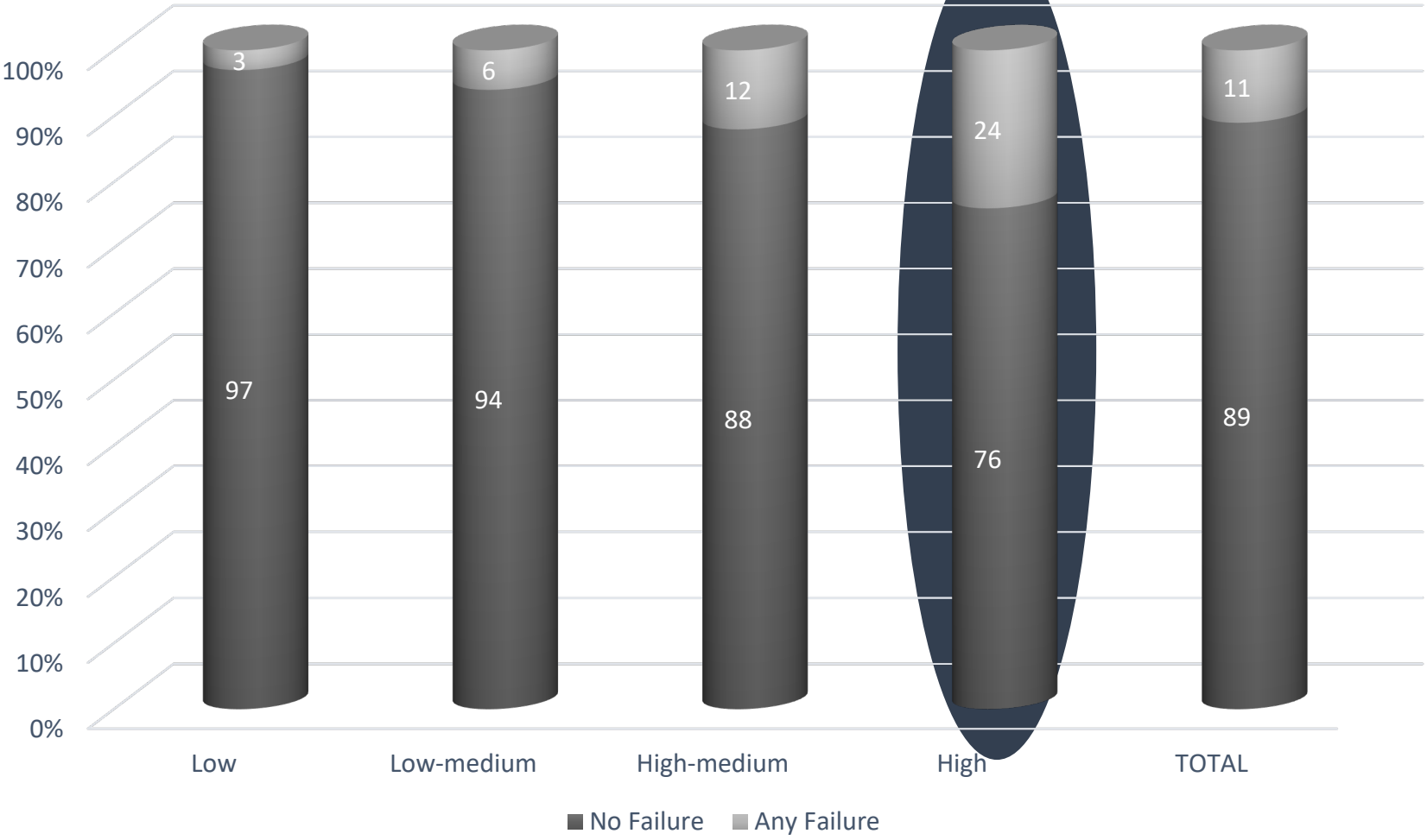


*E-mail correspondence with Kenneth Rose Criminal Justice Program Coordinator, Division of Programs and Services/Adult Justice Programs, Virginia Department of Criminal Justice Services, April 18, 2022. Data from July 2020 to June 2021.*



*E-mail correspondence with Tara Boh Blair, Executive Officer, Department of Pretrial Services, August 31, 2021. Data from Administrative Office of the Courts, Pretrial Services PRIM database as of August 31, 2021.*

# ALLEGHENY COUNTY



# Pretrial Release and New Violent Arrests

---

Less than 2% of felony-charged defendants in large urban counties were rearrested on a new violent charge pending trial.

---

In Cook County (Chicago), Illinois, less than 1% of felony defendants in whose cases were filed from October 2017 to September 2019 were charged with a new violent offense.

---

In FY 2019, only 1% of defendants in Washington, D.C. were rearrested for a violent offense. Separate studies in 2008 found that 9% of rearrests among defendants charged with domestic violence in Washington, D.C. and New York City involved a new domestic violence charge.

---

In 2018, less 1% of defendants in New Jersey were rearrested for a charge defined as violent under state law.

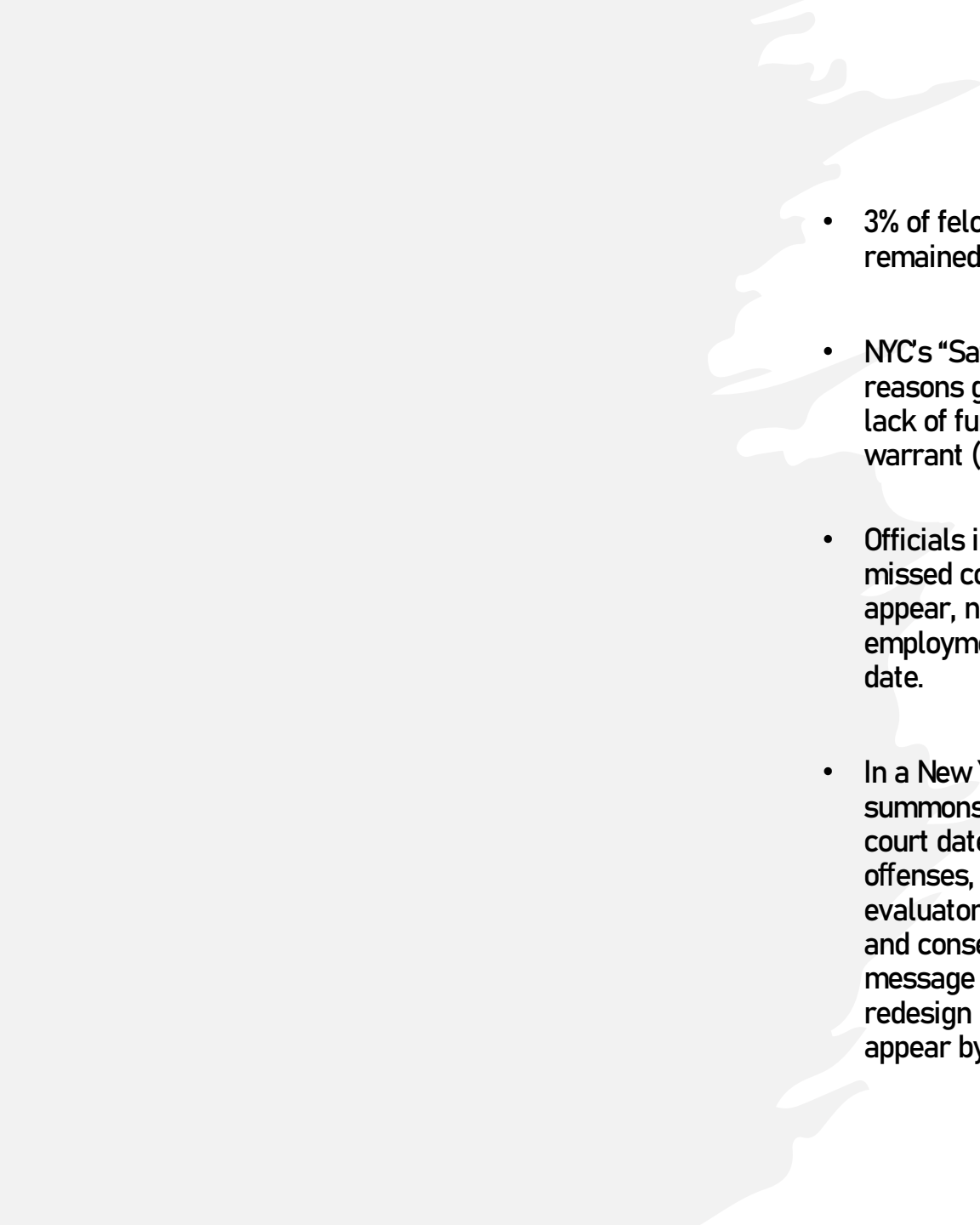
---

In New York City, fewer than 1% of pretrial defendants were rearrested on felony offenses per month in 2021.

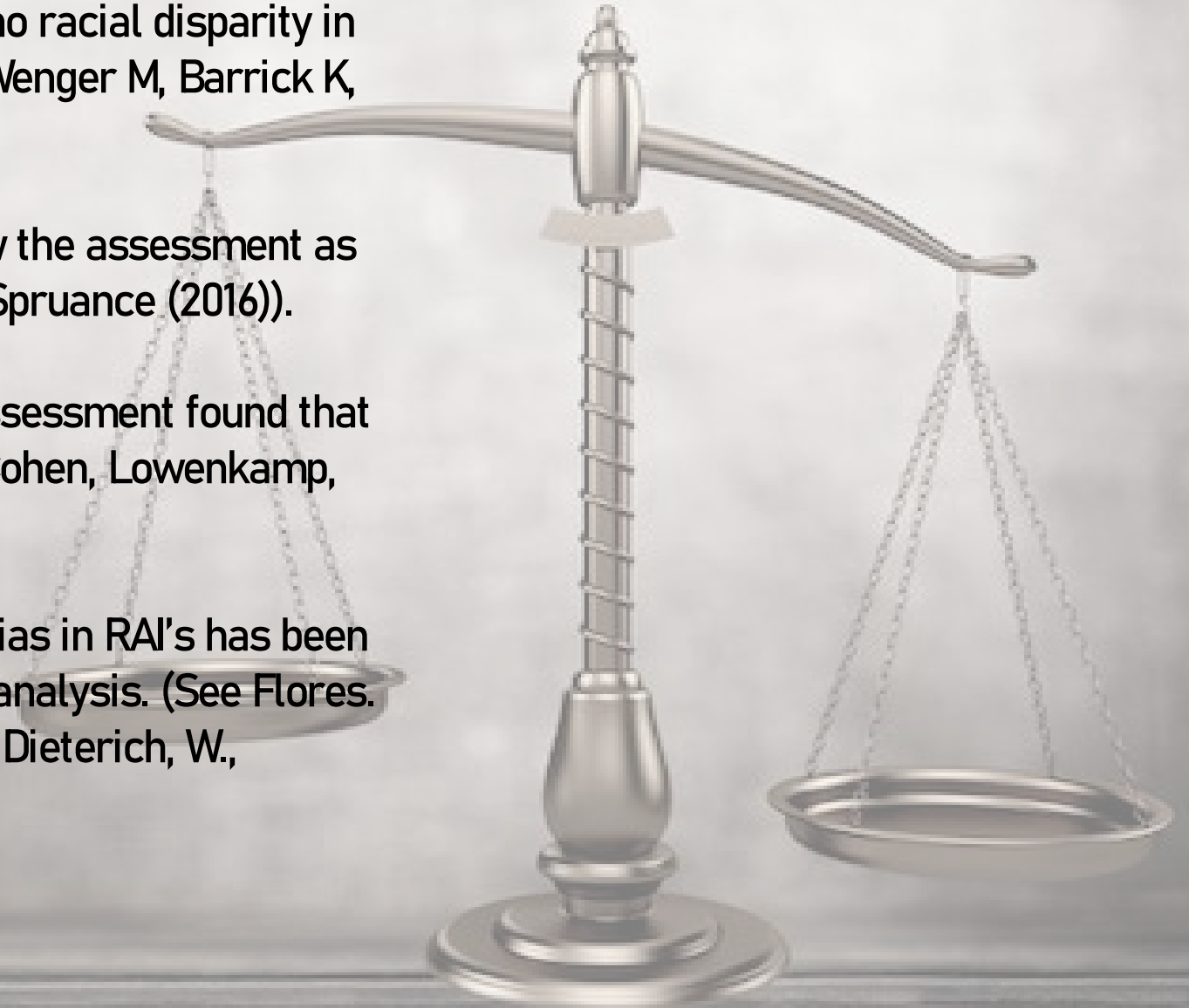


*“[P]eople who miss court dates for reasons beyond their control are counted the same as defendants who intentionally avoid court. While bail theoretically discourages people from joining the latter group, there’s little evidence to suggest that absconding is a problem.”*

Corey, E. and Lo, P. (2019). “The ‘Failure to Appear’ Fallacy.”  
*The Appeal*. <https://theappeal.org/the-failure-to-appear-fallacy/>

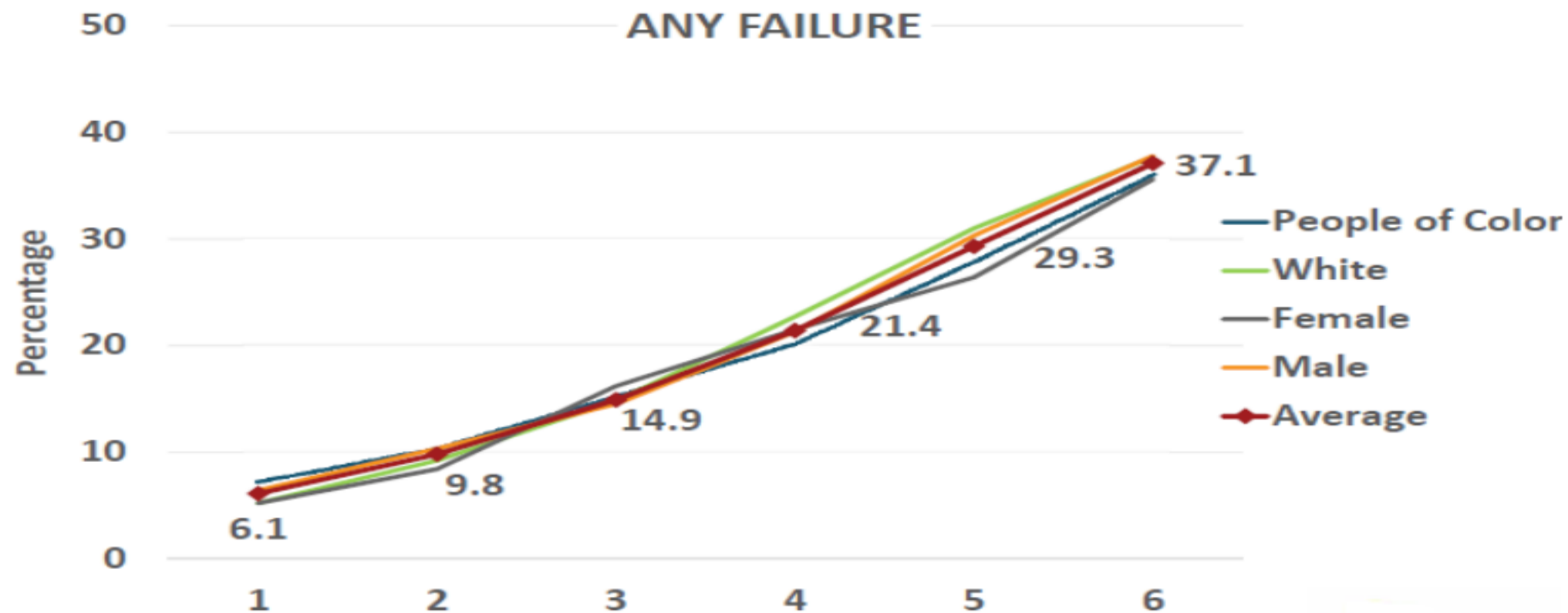
- 
- 3% of felony defendants in large urban counties who missed a court appearance remained fugitives one year after a warrant was issued.
  - NYC's "Safe Surrender" bench warrant resolution program found the most common reasons given by defendants for not surrendering on outstanding warrants were a lack of funds to pay bail or fines (60%) and fear of incarceration on the bench warrant (65%).
  - Officials in San Mateo County (Redwood City), CA identified as common reasons for missed court dates individuals not knowing who to contact to find out where to appear, not understanding the seriousness of the charges, and believing that employment and childcare obligations constituted a valid excuse to miss a court date.
  - In a New York City study on improving appearance rates for individuals released on summons, researchers identified behavioral barriers, including persons forgetting court dates and not seeing court appearance as necessary to resolve minor offenses, that contributed to missed court dates. To minimize these barriers, evaluators redesigned the summons form to highlight the court date, court location, and consequences for failure to appear. The team also implemented follow-up text message reminders for summons court dates. The researchers found that the redesign of the summons form influenced by human behavior reduced failures to appear by thirteen percent (13%).

1. An evaluation of the PSA in Kentucky found no racial disparity in RAI results. (DeMichele M, Baumgartner P, Wenger M, Barrick K, Comfort M. (2020).
2. Revalidations of the VPRAI consistently show the assessment as racially neutral. (Danner, VanNostrand, and Spruance (2016)).
3. A revalidation of the Federal Pretrial Risk Assessment found that instrument neutral on race and outcomes. (Cohen, Lowenkamp, and Hicks. (2018)).
4. The single reference for claims of inherent bias in RAI's has been found to have several methodological flaws analysis. (See Flores. A.W., Bechtel, K. and Lowenkamp, C.T. (2016). Dieterich, W., Mendoza, C. and Brennan, T. (2016)).



# VPRAI-Revised

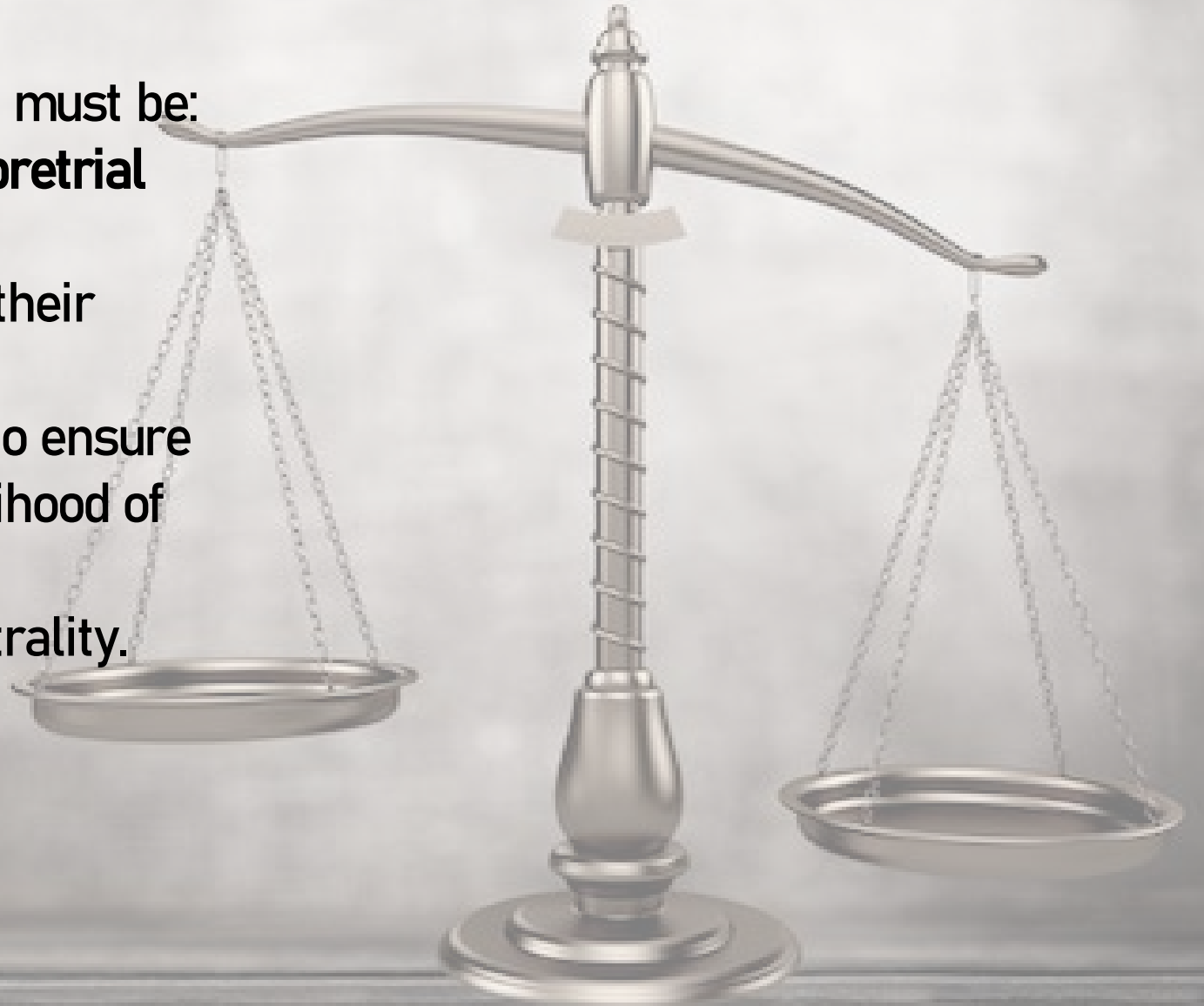
## Race and Gender Neutral





Any pretrial risk assessment instrument must be:

- constructed on empirical data from a **pretrial defendant** population;
- transparent about its risk factors and their weighting;
- validated to the defendant population to ensure its effectiveness in predicting the likelihood of pretrial misconduct; and
- tested to ensure racial and ethnic neutrality.





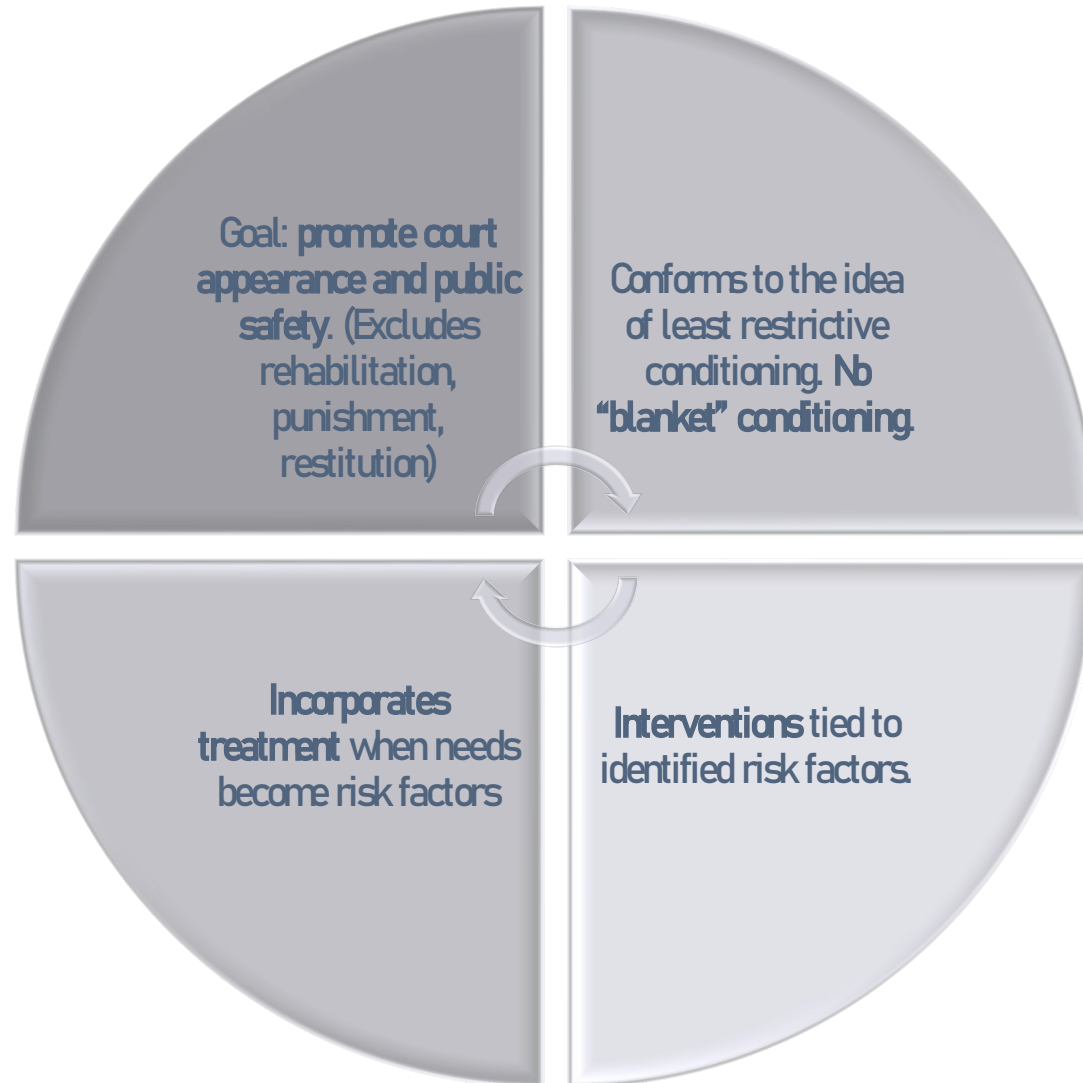
## Pretrial Supervision: Promoting Successful Outcomes

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



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

Promote Success rather than Manage Risk



# Supervision Supports



NOTIFICATION OF  
UPCOMING COURT  
APPEARANCES



EARLY AND MEANINGFUL  
RESPONSES TO INDIVIDUAL  
CONDUCT



NOTIFICATION TO COURT  
OF CONDUCT AND  
POSSIBLE SUPERVISION  
ADJUSTMENTS



MITIGATION  
STRATEGIES



# What We Know

- § The body of knowledge about evidence-based and best Pretrial Supervision practices is still developing.
- § Levels of supervision appear to influence outcomes, but individual conditions appear not to influence outcomes.
- § Risk assessment and outcome and performance measurement data suggest that low to moderate supervision levels are appropriate for most defendants.



# What We Know

The most notable gap in pretrial monitoring literature is the absence of empirical evaluations regarding the effectiveness of common pretrial release conditions and practices on a person's likelihood of appearing in court or remaining arrest-free pretrial. Unevaluated conditions include, among others, no contact orders, curfews, and driving interlock devices. Additionally, how pretrial services agencies respond to people's compliance and noncompliance (or "technical violations") with court-ordered condition has not, to our knowledge, been studied in terms of impact on court appearance and pretrial arrest.

Advancing Pretrial Policy and Research (2021). *Pretrial Research Summary: Pretrial Monitoring (Revised April 2021)*. Washington, D.C.:APPR.

Supervision levels tied to assessed risk levels greatly improve pretrial outcomes.

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

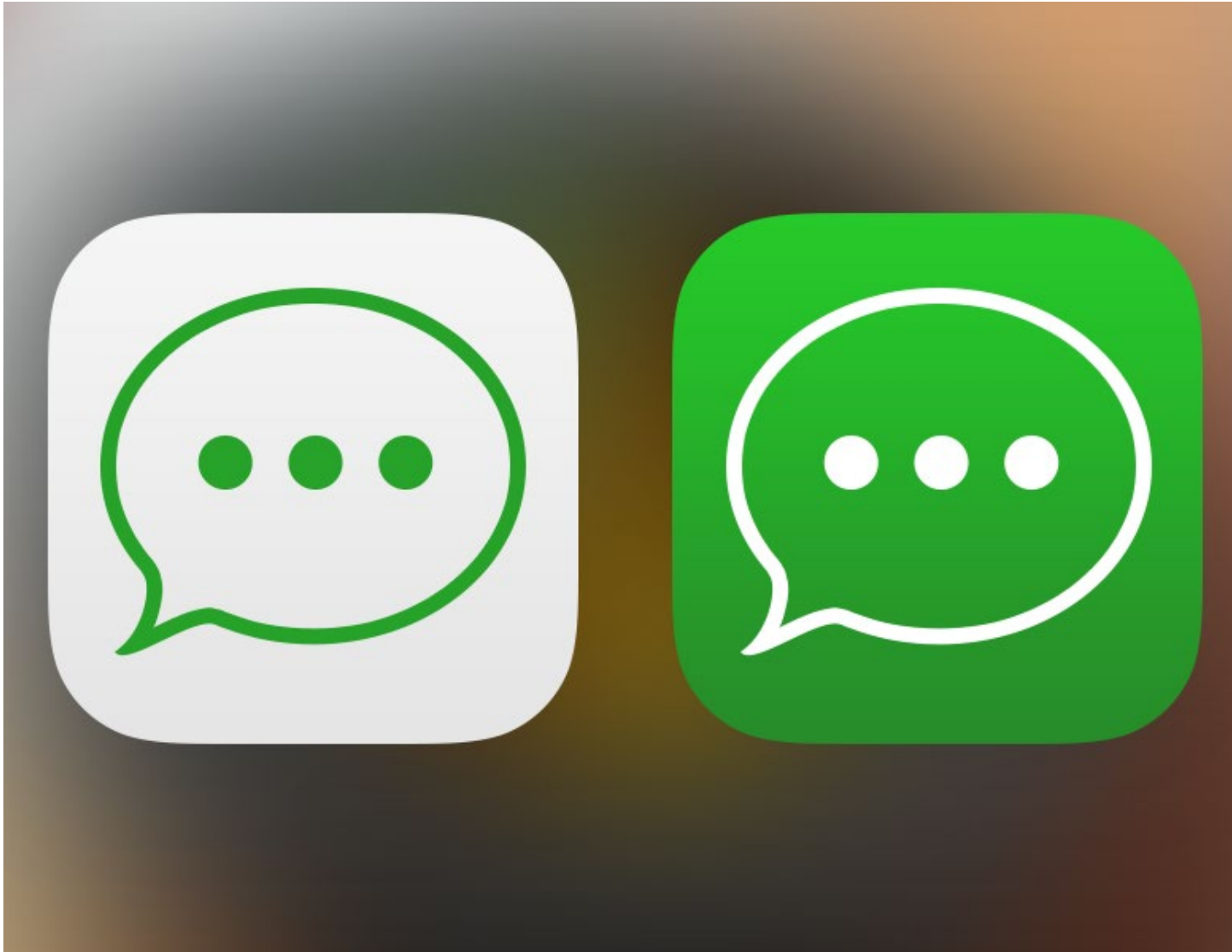
Van Nostrand, M. and Lowencamp, C. 2013. *Exploring the Impact of Supervision and Pretrial Outcomes*. New York: LJAF



Improper matching of supervision and risk levels produce poor outcomes.

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

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



## What We Know about Conditions

### Court Notification (Appearance):

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

## What We Know about Conditions

Drug testing (Appearance, Safety):

Results are mixed and dated. Drug use often is a behavior, not a risk factor. Should not be a blanket condition or a proxy for treatment. Keeping up with drug use trends is a must.



This Photo by Unknown Author is licensed under [CC BY](#)

# What We Know about Conditions

## Electronic Surveillance/GPS (Safety):

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



# What We Know about Conditions

## Regular Reporting (Appearance):

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



## What We Know:

Statewide efforts at improving pretrial systems seem to be the most effective.

Successful improvements usually include pretrial services agencies.

Pretrial misconduct is not prevalent in most defendant populations.

Rearrest on violent crimes is rare.

There is no identifiable population that fails more often than it succeeds.

Risk is easier to predict than it is to supervise.

## What We're Learning:

The likelihood of pretrial misconduct may vary from release to adjudication.

Misconduct may not equal willful or dangerous behavior.

Current supervision strategies and conditions may not match identified individualized risk.

Statutes and Case Law are reiterating the purpose of bail and requirements for legal detention.

Research is forcing us to re-think our definition and perception of pretrial risk.





**Promoting Pretrial Success**  
**A New Model for Pretrial Supervision**



**Incorporating Services and Support**  
**into Pretrial Supervision:**  
**Is There a Best Model?**



**Court Nonappearance and New Case Filings**  
**Redefining Pretrial Misconduct**