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Front-End Justice Reform:
The Role of Risk Assessments in Cost-Saving Justice Reform
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- After the webinar, you will see a pop-up box containing a webinar evaluation survey. Thank you in advance for completing this survey. Your feedback is important to us.
Question & Answer Session Instructions

- Type your question into the questions box at any time during the presentation, and the moderator will read the question on your behalf during the Q&A session.
NACo’s Work on Pretrial Justice

• The Delivery of Pretrial Justice in Rural Areas: A Guide for Rural County Officials

• Jail Population Management: An Elected County Official’s Guide to Pretrial Services

For more information about NACo’s Criminal Justice Programs and to view the recorded webinar, please visit: http://www.naco.org/justice.
Pretrial Justice Resource Page

What is pretrial justice?
Jails throughout the nation have become increasingly expensive to operate and overcrowded, and counties are increasingly being forced to make difficult decisions to maintain due process and public safety in a cost-effective manner. Many counties have found that pretrial justice reforms, such as assessing risk, can successfully reduce their jail populations and lower jail spending without compromising public safety.

Comprehensive pretrial services programs rely upon a validated, evidence-based screening tool to evaluate and assess individuals’ risk factors upon arrest and/or booking in an effort to objectively and impartially inform release decisions and supervision conditions to assure a defendant’s return to court and ensure public safety.

Here are some resources to help you learn more:

**NACo Resources:**

Publications:
- The Delivery of Pretrial Justice in Rural Areas - A Guide for Rural County Officials
- Jail Population Management: Elected County Officials’ Guide to Pretrial Services

Webinars:
- Communicating the Need for Pretrial Justice Reform (10.04.2012)
  - Recording
  - Presentations (PDF)

County News Articles:
- Smart Justice Symposium Explores Better Ways to Manage Pre- and Post-rial Issues (02.11.2013)

http://www.naco.org/programs/csd/Pages/PretrialJustice.aspx
Today’s Speakers:

Elizabeth Simoni
Executive Director
Maine Pretrial Services, Inc.

Hon. Gregory Donat
Judge, Tippecanoe Superior Court #4
Tippecanoe County, Ind.

Commissioner Mary Stern
Yamhill County Commissioner
Yamhill County, Ore.
PRETRIAL RISK ASSESSMENT

Elizabeth Simoni, J.D.
Executive Director
Maine Pretrial Services, Inc.
Pretrial justice policies and practices exist to provide due process to the accused, eliminate inappropriate detention, and maintain community safety.
The purpose of pretrial risk assessment is to identify the likelihood of failure to appear in court and the danger to the community posed by a defendant pending trial.
WHO USES PRETRIAL RISK ASSESSMENT?

• It is estimated that there are between 200 and 300 pretrial programs nationally.

• There is no information nationally about pretrial services in more than 2,000 counties nationally.
Use of an objective and research based pretrial risk assessment

- Strongly recommended by the American Bar Association


- Strongly recommended by the National Association of Pretrial Services Agencies Standards

Best Predictors of Pretrial Failure

- Primary charge
- Pending charges
- Prior misdemeanor arrests
- Prior felony arrests
- Prior failures to appear
- Employment status
- Residence status
- Substance abuse
Maine Pretrial Risk Assessment Instrument

- **Risk Factors**
  
<table>
<thead>
<tr>
<th>Risk Factor</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Charge Type</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>2. Pending Charge(s)</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>3. Criminal History</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>4. Two or More FTA Convictions</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>5. Two or More Violent Convictions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Less than 1yr at Current Residence</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>7. &gt;2 yrs continuous employment/primary child caregiver</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>8. History of Drug Abuse</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

- **Total**

- **Risk Level**
  
  - LOW-1
  - BELOW AVERAGE-2
  - AVERAGE-3
  - ABOVE AVERAGE-4
  - HIGH-5-9
Pretrial Risk Assessments Should

• Be validated to assure accuracy

• Equitably classify defendants regardless of race, ethnicity, gender, or socioeconomic status

• Be consistent with applicable state statutes
Identify the Risk Level

Low Risk defendants can be safely released with limited or no conditions

Moderate Risk and Higher Risk defendants can be best managed by using appropriate release conditions
# System Benefits

## Criminal Justice Benefits:
- More informed release/detention decisions
- Enhanced public safety
- Efficient case processing (reduced failures to appear, reduced pretrial misconduct)

## Taxpayer/Community Benefits:
- Reduction in jail crowding and boarding cost avoidance
- Safer community
- Protection of witnesses and victims
### Cost Savings/Cost Avoidance

<table>
<thead>
<tr>
<th>Maine Pretrial Services</th>
<th>Average cost savings/cost avoidance generated by one full time employee:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Average cost of one full time employee</strong></td>
<td><strong>9,994 bed days saved</strong></td>
</tr>
<tr>
<td>$67,000.00 per year</td>
<td>x $26 day = $259,844</td>
</tr>
<tr>
<td>Oxford County, Maine</td>
<td>minus cost of FTE = $192,844 costs avoided</td>
</tr>
</tbody>
</table>
Maine Pretrial Statewide Savings 2012

• 123,406 bed days saved

• 123,406 x $26 per day = $3,208,556

Minus cost of all pretrial county contracts

($ 1,014,100)

=$2,194,456

TOTAL COST AVOIDANCE FOR MAINE CONTIES CONTRACTING FOR MAINE PRETRIAL SERVICES

$2,194,456
SAVING MONEY CAN STILL BE SAFE

1533 Defendants Released

1516 Defendants Appearing for Court

1427 Defendants with No New Criminal Conduct

- $N=1533$

- $1516=98.8\%$ Appearance rate

- $1427=93\%$ Safety rate
Implementation Issues

• Validation process
• Evidence based
• Training/certification process
• Stakeholder cross training, buy-in needed to prevent “pushback”
• Resource limitations
General Lessons Learned

• Keep data (Resource: NIC’s “Measuring What Matters”)
• Use consistent measurements.
• Involve stakeholders early and often!
• Be knowledgeable about the research.
• Do not use post-conviction tools.
Maine Lessons Learned

• Aroostook County Experience
• Androscoggin County Experience
• Kennebec County Experience

• Overcrowding
  • Capacity
• Stakeholder Shifts
National Association of Pretrial Services Agencies

NAPSA support is available across the United States.
If you need assistance, please contact Elizabeth Simoni, and I will connect you with the appropriate help in your region.
We are glad to offer support anytime!
napsa.org
Elizabeth Simoni, J.D.

Executive Director
Maine Pretrial Services, Inc.
9 Green Street, Suite 3-A
Augusta, Maine 04330
207-831-6849
elizabeth.simoni@mainepretrial.org
Now Speaking...

Hon. Gregory Donat
Judge, Tippecanoe Superior Court #4
Tippecanoe County, Ind.
The Indiana Risk Assessment System: Pretrial Assessment Tool (IRAS-PAT)

### INDIANA RISK ASSESSMENT SYSTEM: PRETRIAL ASSESSMENT TOOL (IRAS-PAT)

<table>
<thead>
<tr>
<th>Pretrial Items</th>
<th>Verified</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Age at First Arrest</td>
<td></td>
</tr>
<tr>
<td>0=33 or older</td>
<td></td>
</tr>
<tr>
<td>1=Under 33</td>
<td></td>
</tr>
<tr>
<td>2. Number of Failure-to-Appear Warrants Past 24 Months</td>
<td></td>
</tr>
<tr>
<td>0=None</td>
<td></td>
</tr>
<tr>
<td>1=One Warrant for FTA</td>
<td></td>
</tr>
<tr>
<td>2=Two or More FTA Warrants</td>
<td></td>
</tr>
<tr>
<td>3. Three or more Prior Jail Incarcerations</td>
<td></td>
</tr>
<tr>
<td>0=No</td>
<td></td>
</tr>
<tr>
<td>1=Yes</td>
<td></td>
</tr>
<tr>
<td>4. Employed at the Time of Arrest</td>
<td></td>
</tr>
<tr>
<td>0=Yes, Full-time</td>
<td></td>
</tr>
<tr>
<td>1=Yes, Part-time</td>
<td></td>
</tr>
<tr>
<td>2=Not Employed</td>
<td></td>
</tr>
<tr>
<td>5. Residential Stability</td>
<td></td>
</tr>
<tr>
<td>0=Lived at Current Residence Past Six Months</td>
<td></td>
</tr>
<tr>
<td>1=Not Lived at Same Residence</td>
<td></td>
</tr>
<tr>
<td>6. Illegal Drug Use During Past Six Months</td>
<td></td>
</tr>
<tr>
<td>0=No</td>
<td></td>
</tr>
<tr>
<td>1=Yes</td>
<td></td>
</tr>
<tr>
<td>7. Severe Drug Use Problem</td>
<td></td>
</tr>
<tr>
<td>0=No</td>
<td></td>
</tr>
<tr>
<td>1=Yes</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Scores</th>
<th>Rating</th>
<th>% of Failures</th>
<th>% of Failure to Appear</th>
<th>% of New Arrest</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>Low</td>
<td>5%</td>
<td>5%</td>
<td>0%</td>
</tr>
<tr>
<td>3-5</td>
<td>Moderate</td>
<td>18%</td>
<td>12%</td>
<td>7%</td>
</tr>
<tr>
<td>6+</td>
<td>High</td>
<td>29%</td>
<td>15%</td>
<td>17%</td>
</tr>
</tbody>
</table>

Total Score: [ ]
The Indiana Risk Assessment System: Pretrial Assessment Tool (IRAS-PAT)

Please State Reason if Professional Override:

Reason for Override (note: overrides should not be based solely on offense):

Other Areas of Concern. Check all that Apply:

- Low Intelligence*
- Physical Handicap
- Reading and Writing Limitations*
- Mental Health Issues*
- No Desire to Change/Participate in Programs*
- Transportation
- Child Care
- Language
- Ethnicity
- Cultural Barriers
- History of Abuse/Neglect
- Interpersonal Anxiety
- Other

*If these items are checked it is strongly recommended that further assessment be conducted to determine level or severity.
The role & impact of
Pretrial Risk Assessments
A county commissioner’s perspective

Mary Stern, County Commissioner
Yamhill County, Oregon
What the heck am I doing here?
Evidence-Based Decision Making Initiative
Yamhill County, Oregon
The Principles Underlying the EBDMI Framework:

- **Principle One:** The professional judgment of criminal justice system decision makers is enhanced when informed by evidence-based knowledge.

- **Principle Two:** Every interaction within the criminal justice system offers an opportunity to contribute to harm reduction.

- **Principle Three:** Systems achieve better outcomes when they operate collaboratively.

- **Principle Four:** The criminal justice system will continually learn and improve when professionals make decisions based on the collection, analysis, and use of data and information.
POLICY TEAM MEMBERSHIP

- Mary Stern, County Commissioner*
- John Collins, Presiding Circuit Court Judge*
- Brad Berry, District Attorney*
- Jack Crabtree, Sheriff*
- Dick Withnell, Citizen
- Carol Fredrick, Defense Attorney
- Debra Bridges, DA Victim Services Coordinator
- Silas Halloran-Steiner, HHS Director
- Ted Smietana, Community Corrections Director (Local Coordinator)
SYSTEM MAPPING

- Comprehensive mapping of Yamhill criminal justice system, from arrest through discharge from supervision

- Completed so that all stakeholders have a fairly comprehensive understanding of all components of local criminal justice system, and so that decisions regarding changes can be made
Decision Points

Arrest Decisions → Pretrial Status Decisions → Charging Decisions → Plea Decisions

Local Institutional Release Decisions ← Local Institutional Intervention Decisions ← Sentencing Decisions ← Discharge from Criminal Justice Intervention

Community Intervention Decisions → Violation Response Decisions
Our 4 Areas of Focus

- **Pre-Trial Justice.** Decision point: pre-trial

- **Sentencing.** Decision points: early disposition, plea agreements, sentencing (violation response).

- **Programming.** Decision points: jail & corrections programming, treatment.

- **Special Needs.** Decision points: pre-trial, sentencing, programming, jail release, violation response, discharge)
EBDMI - Pretrial Services

• Fits with overall Goals of EBDMI.
  • Safer Communities
  • Increased appearance rate
  • Less Pretrial Misconduct – new crime or other
  • Better outcomes (including financial ones)
    • One less ___________
      • Failure to appear.
      • Pretrial crime.
      • Person detained unnecessarily, with associated costs.
      • Dollar spent on unwarranted detention.
Pretrial Action Plan

- Establish data base that measures performance in terms of harm reduction:
  - Accountability: Appearance Rates High
  - Public Safety: Misconduct Rates Low
  - Personal and System Accountability
- Utilize PJI resources (+ others – ABA Standards, e.g.) to identify what works.
  - Data Collection and Report system.
  - Tools.
  - Evaluation of program.
Action Plan
Continued

- Adopt a Risk Assessment Tool
- Correlate Conditions of Release to effective impact on risk reduction and accountability.
  - E.g., UAs, Curfew, Associations, house arrest.
  - Don’t “over monitor”.
- Utilize Technology / Tools
  - Adopt Reminder call system
  - SCRAM, IID, GPS
Other improved methods:

- “Second Look”
- Supervision:
  - Who, why and how to supervise.
- Addressing criminogenic risk factors.
Predicted Improved Outcomes

- Improved Appearance Rate of those Released
- Better informed Risk based decisions as to who released and, if so, under what effective conditions.
- Likely decrease in number detained pretrial = cost savings.
  - May result in some people being detained that might otherwise be released, but in balance, more released under effective conditions.
- Foundation for better decision making at next level
  - Information/data will inform prosecution, defense, court, corrections.
  - Better identification and referral of special needs persons.
  - Opportunities for voluntary early entry into appropriate programs, such as substance abuse treatment.
Virginia Pretrial Risk Assessment Instrument

<table>
<thead>
<tr>
<th>Risk Factor</th>
<th>Criteria</th>
<th>Assigned Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charge Type</td>
<td>If most serious charge for the current offense is a felony</td>
<td>1</td>
</tr>
<tr>
<td>Pending Charge(s)</td>
<td>If the defendant has one or more charges pending in court at the time of the arrest</td>
<td>1</td>
</tr>
<tr>
<td>Criminal History</td>
<td>If the defendant has one or more misdemeanor or felony convictions</td>
<td>1</td>
</tr>
<tr>
<td>Failure to Appear</td>
<td>If the defendant has two or more failure to appear convictions</td>
<td>2</td>
</tr>
<tr>
<td>Violent Convictions</td>
<td>If the defendant has two or more violent convictions</td>
<td>1</td>
</tr>
<tr>
<td>Current Residence</td>
<td>If the defendant has lived at the current residence for less than one year prior to the arrest</td>
<td>1</td>
</tr>
<tr>
<td>Employed/Child Caregiver</td>
<td>If the defendant has not been employed continuously for the previous two years and was not the primary caregiver for a child at the time of arrest</td>
<td>1</td>
</tr>
<tr>
<td>History of Drug Abuse</td>
<td>If the defendant has a history of drug abuse</td>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Risk Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>0-1 points</td>
</tr>
<tr>
<td>Below Average</td>
<td>2 points</td>
</tr>
<tr>
<td>Average</td>
<td>3 points</td>
</tr>
<tr>
<td>Above Average</td>
<td>4 points</td>
</tr>
<tr>
<td>High</td>
<td>5-9 points</td>
</tr>
</tbody>
</table>
## Pretrial Release Authorization Matrix

<table>
<thead>
<tr>
<th>VPRA Risk Level&gt;&gt;</th>
<th>A</th>
<th>B</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CHARGE</strong></td>
<td>LOW RISK (VPRA 0-2)</td>
<td>MEDIUM RISK (VPRA 3-4)</td>
<td>HIGH RISK (VPRA 5-9)</td>
</tr>
<tr>
<td>1. MISDEMEANOR CLASS C</td>
<td>Standard Conditions or $2500 Security</td>
<td>Standard Conditions or $2500 Security</td>
<td>Standard Conditions or $2500 Security</td>
</tr>
<tr>
<td>2. MISDEMEANOR CLASS B</td>
<td>Standard Conditions or $2500 Security</td>
<td>Standard Conditions or $2500 Security</td>
<td>Standard Conditions or $2500 Security</td>
</tr>
<tr>
<td>3. MISDEMEANOR CLASS A</td>
<td>Standard Conditions or $5000 Security</td>
<td>Standard Conditions or $5000 Security</td>
<td>Enhanced Conditions or $5000 Security</td>
</tr>
<tr>
<td>4. DUI W/1 OR MORE DUl CONVICTION, W/1 5 YRS.</td>
<td>Std + DUI Conditions or $5000 Security</td>
<td>Std + DUI Conditions or $5000 Security</td>
<td>Enhanced + DUI Cond. + $5000 Security</td>
</tr>
<tr>
<td>5. DOMESTIC HARASSMENT</td>
<td>Std + DV Conditions + $5000 Security</td>
<td>Enhanced + DV Cond. + $5000 Security</td>
<td>Enhanced + DV Cond. + $5000 Security</td>
</tr>
<tr>
<td>6. FELONY CLASS C</td>
<td>Standard Conditions or $7500 Security</td>
<td>Enhanced Conditions or $7500 Security</td>
<td>Enhanced Conditions or $7500 Security</td>
</tr>
<tr>
<td>7. FELONY CLASS B</td>
<td>Enhanced Conditions or $10,000 Security</td>
<td>Enhanced Conditions or $10,000 Security</td>
<td>Enhanced Conditions or $10,000 Security</td>
</tr>
<tr>
<td>8. FELONY CLASS A</td>
<td>Enhanced Conditions or $20,000 Security</td>
<td>Enhanced Conditions or $20,000 Security</td>
<td>Enhanced Conditions or $20,000 Security</td>
</tr>
<tr>
<td>9. DOMESTIC ASSAULT 3 OR 4 OR MENACING</td>
<td>Enhanced + DV Cond. + $10,000 Security</td>
<td>Intensive + DV Cond. + $10,000 Security</td>
<td>Intensive + DV Cond. + $10,000 Security</td>
</tr>
<tr>
<td>10. FELONY DUI W/ 3RD OR MORE W/10 YEARS</td>
<td>Std + DUI Conditions or $50,000 Security</td>
<td>Enhanced + DUI Cond. or $50,000 Security</td>
<td>Intensive + DUI Cond. or $50,000 Security</td>
</tr>
<tr>
<td>11. VIOLATION OF RESTRAINING ORDER</td>
<td>Enhanced + DV Cond. or $10,000 Security</td>
<td>Enhanced + DV Cond. or $10,000 Security</td>
<td>Enhanced + DV Cond. or $10,000 Security</td>
</tr>
<tr>
<td>14. VIOLATION OF RELEASE AGREEMENT</td>
<td>Standard Conditions + 3x security otherwise applicable</td>
<td>Standard Conditions + 3x security otherwise applicable</td>
<td>Standard Conditions + 3x security otherwise applicable</td>
</tr>
<tr>
<td>15. AGG MURDER/ MURDER</td>
<td>No Release</td>
<td>No Release</td>
<td>No Release</td>
</tr>
</tbody>
</table>

**Pretrial Services Officer (PSO) Authorized to Release. Court can also authorize this in any specific case.**

**Jail Authorized to Release prior to court.**

**Court Release. Court, w/ exceptions, must follow presumption of release under least onerous conditions.**

**No Release. This requires factual finding in some instances.**

*Initial M11 security for up to charges is $150k, + $50k for each charge above 3. Court can reduce to minimum of $50k (or less under extraordinary circumstances). **Requires fact finding of commercial drug factors. Where matrix says “+” security both required at jail, but court can drop security requirement.
Justice Reinvestment Institute Grant

- Yamhill County chosen as a JRI grant recipient.

- Financial grant based on concepts of data-driven management and cost-benefit analysis.

- Grant may fund Pretrial Services Officer IF we can prove the cost efficiencies of our newly implemented strategies, i.e. Show me the money.
Lessons Learned

- Not so simple – EBP knowledge base, acceptance & implementation has been difficult at times
- Be prepared for egos (Lots of Elected Officials)
- Training/QA of Jail Staff
  - Easier with smaller counties
  - Complicated booking process (TCU, MH Screen, VPRAI)
- Ensuring comfort level of those approving releases
- JRI not coming to the immediate rescue
- Need a pretrial data collection system
- PJI assistance provided by JRI invaluable
- Adding a Policy Team Advisor very beneficial
Contacts

Mary Stern, Yamhill County Commissioner
sternm@co.yamhill.or.us

Ted Smietana, Community Corrections Director
smietant@co.yamhill.or.us

Lori Eville, NIC Program Specialist
leville@bop.gov

Questions or Comments
Question & Answer Session Instructions

• Type your question into the questions box at any time during the presentation, and the moderator will read the question on your behalf during the Q&A session.
Thank you for participating in NACo’s webinar.

For more information about NACo’s Criminal Justice programs, visit:
http://www.naco.org/justice

With any questions about this webinar, please contact: mlevine@naco.org