

Effectively Framing the Pretrial Justice Narrative

National Association of Counties

April 14, 2016

Stronger Counties. Stronger America.



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Pretrial Justice at NACo

March 3: The Importance of Legal Counsel in Pretrial

March 17: Using Pretrial Risk Assessment to Guide Release and Detention Decision-Making

April 14: Effectively Framing the Pretrial Justice Narrative

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Today's Speakers



Spike Bradford,
Editor-in-Chief,
Pretrial Justice Institute



Chris Abele,
County Executive,
Milwaukee County, Wis.



George Dunlap,
Commissioner,
Mecklenburg County, N.C.

Framing the Pretrial Justice Narrative

Spike Bradford
Editor-in-Chief
Pretrial Justice Institute



What IS the Narrative?

- The Setting: what we do now, why we do it, and the outcomes we are achieving. [Spoiler alert—they're not very good.]
- Introducing the protagonist: evidence-based, risk-based decision-making.
- Happily ever after: the outcomes we want.

County-focused (or not)

- Framing often is audience-specific.
- County reps speak to a wide range of audiences.
- The basic themes.

Costs

- Immediate costs
 - \$14+ billion for detention
 - Additional health/ mental health costs
 - Jail bed as much as \$200/day
 - Community supervision about \$7/day
- Long-term costs
 - Detained defendants convicted and incarcerated more and for longer.
 - Detained defendants commit more crime later
 - Litigation

Jail is our most expensive tool
and we use it thoughtlessly



At what cost?

One jail bed costs an average of \$60 per day - but can reach upwards of \$200 in some areas.



Pretrial incarceration wastes
\$14 billion
taxpayer dollars
each year.



Safety

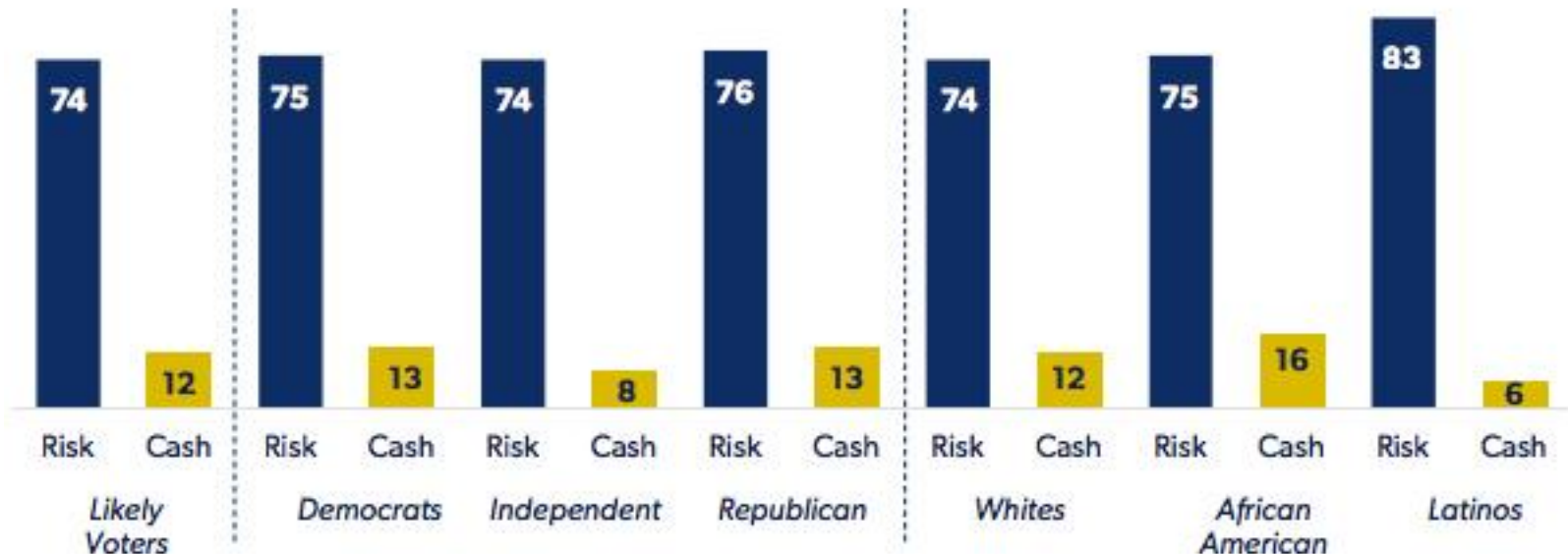
- Research shows that nearly half of the most dangerous defendants buy their way out of jail with little-to-no supervision.
- Bondsmen have no responsibility to safety.
- Unnecessary detention of low-risk people makes them more likely to commit crime.
- Preventive detention & risk-based supervision designed to maximize safety

Public support

- Repeated polling shows high levels of public support for evidence and risk-based pretrial systems, supervision and monitoring and preventive detention.
- Public believes the system is rigged to benefit those with money.
- Public wants low-level defendants out of jail. Jail is for dangerous people, not the poor.

Public believes risk, not money should determine release

Figure 3. Determining Factor for Keeping Someone in Jail Before Trial:
Risk Assessment vs. Cash Bail



Growing movement

- Broad stakeholder support.
- Pretrial reform is an integral part of several large reform initiatives: Safety and Justice Challenge (MacArthur), Smart Pretrial (BJA), 3DaysCount (PJI).
- States and counties have taken on pretrial reform on their own, including in Colorado, Connecticut, New Jersey, Kentucky and more.

Some pretrial partners

Public Welfare
Foundation

MacArthur
Foundation



BJA
Bureau of Justice Assistance
U.S. Department of Justice



COSCA
Conference of State Court Administrators



NIC
National Institute of Corrections



NATIONAL
ASSOCIATION
OF COUNTIES
NACo

ABA
AMERICAN BAR ASSOCIATION

NCJA
NATIONAL CRIMINAL
JUSTICE ASSOCIATION



ACLU
AMERICAN CIVIL LIBERTIES UNION

CRJ
CRIME AND JUSTICE INSTITUTE



National Legal Aid & Defender Association

INNOCENCE PROJECT

NCSC
National Center for State Courts

APA Association of
Prosecuting Attorneys



**THE NATIONAL
JUDICIAL COLLEGE**

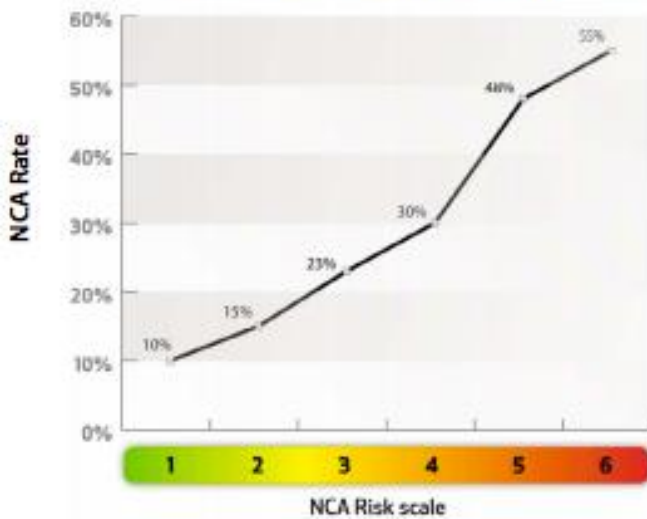
NAPD
NATIONAL ASSOCIATION FOR PUBLIC DEFENSE

Science vs. Guesswork

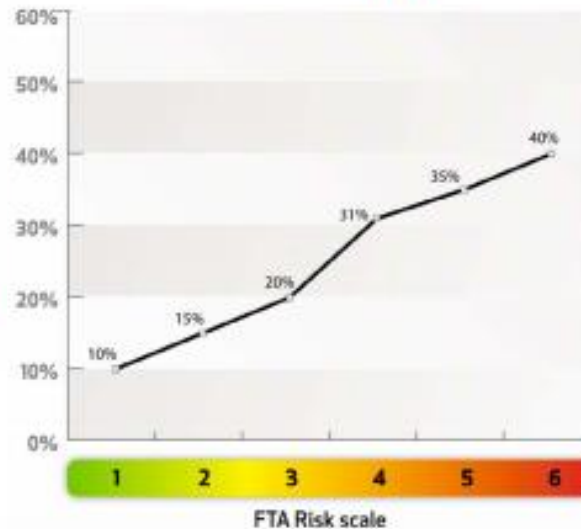
- Money bail is based on assumptions and guesswork.
- Risk-based systems are based on analysis of historical data to more accurately predict pretrial risk.
- These systems should be regularly re-validated to ensure they are as accurate as possible.

Evidence-based risk assessment

New Criminal Activity



Failure to Appear



Efficacy

- Appearance rate & public safety rate
- Muddied data
- Research shows that unsecured bonds are as effective as secured bonds.
- Requiring bond payment prior to release results in poverty-based detention & longer stays prior to release, without regard to actual risk.

Values (system)

- Brings pretrial themes together
- Individual liberty
- Fair
- Fact-based & consistent
- Aligned with constitutional and citizenship values
- Stewardship of public resources and trust

Values (personal)

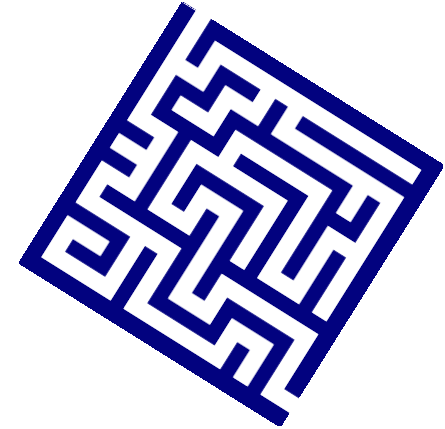
- My brother/sister rule.
- The treatment you would want is not the norm in most systems today.
- Walk yourself through the pretrial process in the shoes of one of nearly half of all Americans who say it would be difficult to afford a \$400 emergency.

Pretrial Themes

- Costs
 - Safety
 - Public/stakeholder support
 - Growing movement
 - Science vs. guesswork
 - Efficacy
 - Values (system & personal)
-

Communicating

- Frameworks Institute
 - Avoid crisis language
 - Avoid the “swamp”
 - Use analogies (maze, gears)
- Decision points
- Find the shared values



Tools

- PJI website has a lot of resources for you
- www.pretrial.org/infostop/comms/
- Reference materials, research, news, etc.



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Milwaukee County Pre-Trial

COUNTY EXECUTIVE CHRIS ABELE

PRE-TRIAL MISSION?

The mission of Milwaukee County Pretrial Services is to reduce pretrial failure to appear and re-arrest rates, enhance public safety, reduce overcrowding at the Milwaukee County Jail, and enhance the processing and adjudication of criminal cases.





PRE-TRIAL BUDGET

\$4.4 million total appropriation

\$4.07 million on property tax levy

\$330k state support for Treatment Alternatives & Diversions Grant
Program

State support dropped in FY 2016; \$350k in property tax levy
supplemented

2.0 FTE

WHAT SERVICES ARE WE DOING?

Universal Screening

TAD Grant Operating

OWI/Scram Program

Pre-Trial Drug Testing

Pretrial Supervision/GPS Monitoring/Release Preparation



COMMUNICATING PRE-TRIAL

Messaging the Need

Framing The Issue for Elected Officials

Engaging the Public





Framing the Pretrial Narrative

Mecklenburg County, North Carolina

GEORGE DUNLAP, COUNTY COMMISSIONER



Agenda

- Changes in Mecklenburg County jail population
- Shift to risk-based decision making
- Role of Mecklenburg County Pretrial Services
- Involvement of Board of County Commissioners



Mecklenburg County: then and now

2008

- Planning to build new jail for \$360,229,000
- Pretrial Average Daily Population: 1,953
- Projected bed capacity need for 2020: 5,111 beds



Inmates sleeping on the floor in an overcrowded direct supervision housing pod.



Mecklenburg County: Then and Now

2016

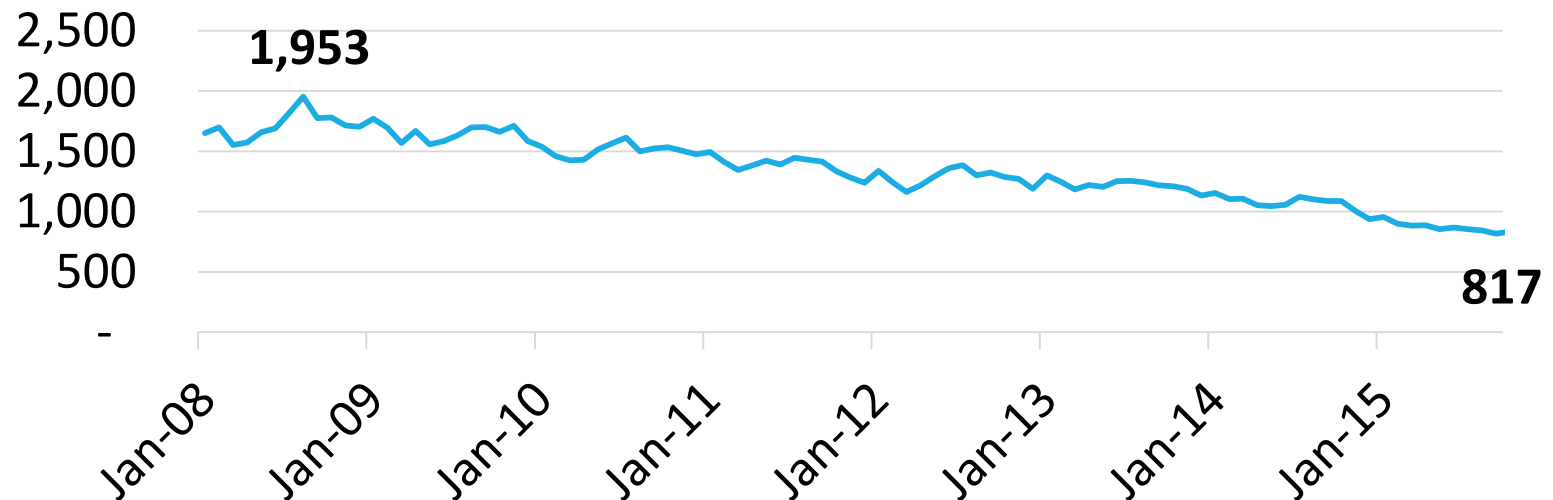
- No new jail
- 2015 closure of the Work Release Center
- 2016 consolidation of adult jail population to Jail Central (main jail) with bed capacity of 1,904
- Pretrial Average Daily Population: 817





Pretrial average daily jail population

January 2008 to December 2015





Questions we started to ask

- Who is in our jail?
- Why are they in our jail?
- Who are we releasing?
- Who are we supervising?
- What are our bond setting practices?





Where we were in 2009...

Charge	Percent given Secure Bond
Driving While License Revoked	99%
Driving While Impaired	95%
Paraphernalia	99%
Resisting Arrest	97%
Possession of Marijuana	98%



Pretrial Services in Criminal Justice Services

A service within our **Criminal Justice Services Department**

CJS Mission: *We lead data-driven decision making, effective programming, and interagency collaboration to reduce criminal justice involvement and strengthen the well-being of our community.*

Pretrial Services Mission: *Promoting smart detention, safe release and effective supervision.*

Program Stats:

- 18 positions
- \$1.6 million budget
- 13,211 assessments completed annually
- Average caseload size: 220



Rationale for Risk-Based Decision Making

- Protect public safety
- Promote objective decisions and reduce biases
- Use system resources wisely
- Use least restrictive conditions to ensure court appearance and public safety
- Preserve legal and constitutional rights afforded defendants





Pretrial Risk Assessment Tool

- The Laura and John Arnold Foundation Public Safety Assessment (PSA) tool uses criminal history data to measure and manage risk:
 - Risk of Failure to Appear in Court (FTA)
 - Risk of New Criminal Activity (NCA)
 - Risk of New Violent Criminal Activity
- The tool is race and gender neutral
- The tool works the way it should and has been validated using Mecklenburg County data

Board of County Commission involvement



- The Mecklenburg Board of County Commissioners (BOCC) sets the Pretrial Services Eligibility Policy
- The Policy establishes local criteria for defendants to be eligible for supervision in the pretrial services program
- Policy revisions were recommended by the District Court Subcommittee of the 26th Judicial District



Changes to Pretrial Services Eligibility Policy



- Removes restrictions not supported by research
- Eligibility for supervision is based primarily on risk level
- High-risk defendants, regardless of charge, are ineligible for supervision services
- Charges related to murder, sex, robbery, or escape are automatically ineligible

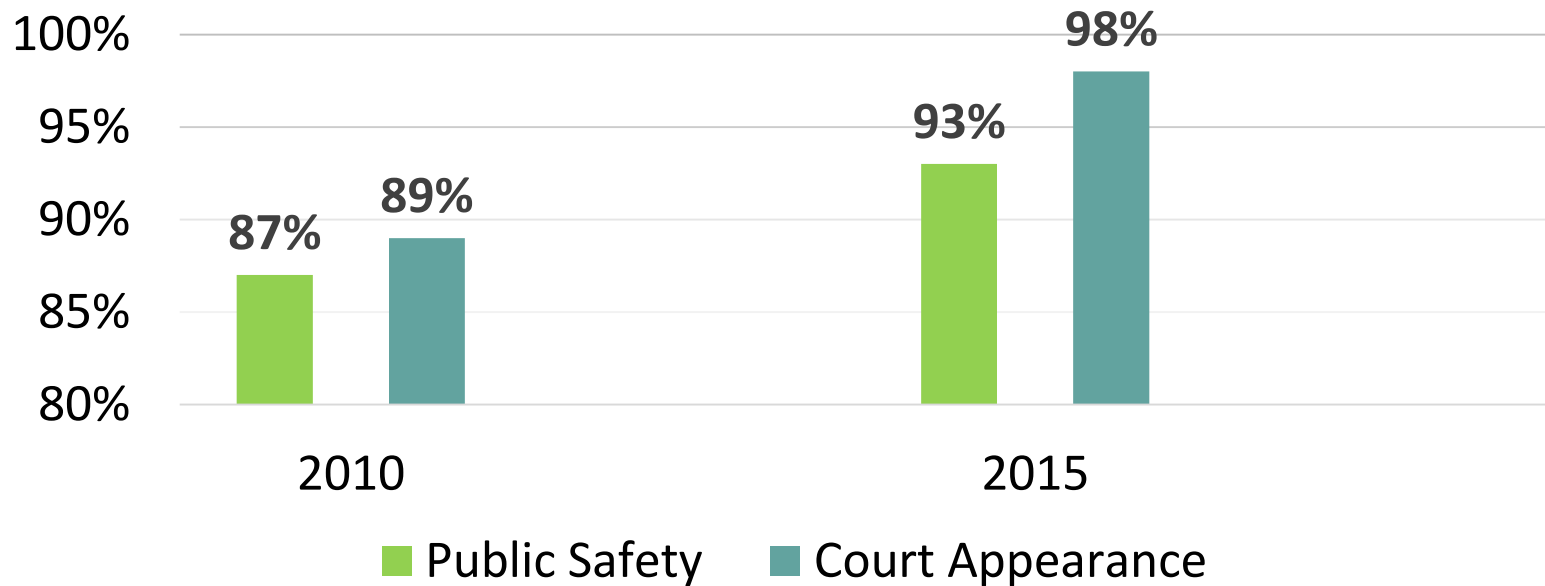


Objective risk assessment

		Release Decision-Making Matrix					
		<i>New Criminal Activity (NCA) Score</i>					
		NCA 1	NCA 2	NCA 3	NCA 4	NCA 5	NCA 6
Risk of Failure to Appear (FTA) Score	FTA 1	WPA or UNSECURED	WPA or UNSECURED				
	FTA 2	WPA or UNSECURED	WPA or UNSECURED	UNSECURED or ADMINISTRATIVE CDPO	SECURED STANDARD / CDPO	SECURED/INTENSIVE / CDPO	
	FTA 3		UNSECURED or ADMINISTRATIVE CDPO	SECURED STANDARD / CDPO	SECURED STANDARD / CDPO	SECURED/INTENSIVE / CDPO	SECURED/DETAIN
	FTA 4		SECURED STANDARD / CDPO	SECURED STANDARD / CDPO	SECURED/INTENSIVE / CDPO	SECURED/DETAIN	SECURED/DETAIN
	FTA 5		SECURED STANDARD / CDPO	SECURED INTENSIVE / CDPO	SECURED/INTENSIVE / CDPO	SECURED/DETAIN	SECURED/DETAIN
	FTA 6				SECURED/DETAIN	SECURED/DETAIN	SECURED/DETAIN



Pretrial outcome measures





The bottom line...

- Significant increase in unsecure bonds
- Jail population has significantly decreased
- Program outcomes are better
- Judges are using objective data to make release decisions
- Public safety has not been compromised





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Mecklenburg County, North Carolina

GEORGE DUNLAP, COUNTY COMMISSIONER

Question & Answer session



- Type your question into the “Questions” box and the moderator will read the question on your behalf.

THANK YOU!

Additional questions or feedback?

Contact Kathy Rowings at krowings@naco.org