



Pretrial Services Agencies: Risk-Informed Pretrial Decision Making in the Commonwealth of Virginia

Presentation to the Virginia Crime
Commission

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Pretrial Services in Virginia

- What is Pretrial Services?
 - Provides critical and timely information to judicial officers to assist with granting or reconsidering bail
 - Provides supervision and monitoring of judicially imposed conditions of bail to mitigate the risk of failure to appear and danger to the community
 - Pretrial supervision is **not** the same as probation supervision and is not intended to be punitive or rehabilitative

Benefits of Pretrial Services

- Benefits of Pretrial Services to Localities
 - Jail populations are properly managed
 - Jail beds are saved for the high risk individuals that cannot be released
 - Localities avoid incarceration costs and can use funds for other needs

Benefits of Pretrial Services

- Benefits of Pretrial Services to Victims
 - Use of validated assessments helps to identify defendants that are more likely to cause harm to victims
 - Mitigates risk through collaborative relationships with Victim Services and law enforcement
 - Aids in enforcement of court orders intended to keep victims safe from defendants during the pretrial stage

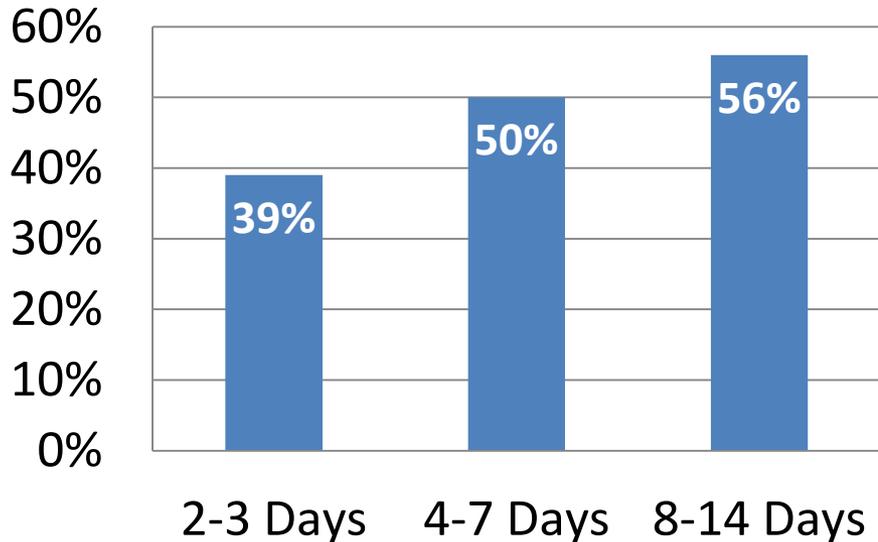
Benefits of Pretrial Services

- Benefits of Pretrial Services to Defendants
 - Maintains responsibilities in the community
 - Family
 - Employment
 - Financial
 - Avoids the deprivation of liberty and the unintended consequences of pretrial detention

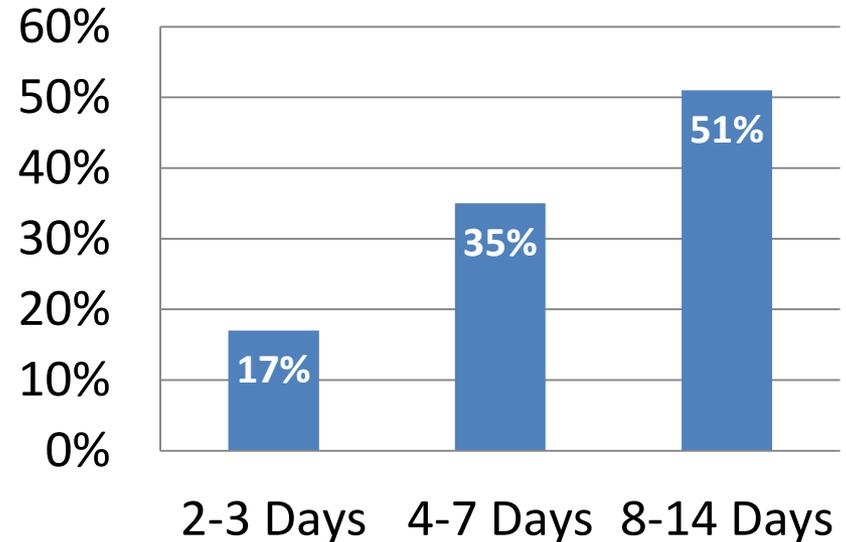
National Research

Implications of Short-term Pretrial Detention

Increase in New Criminal Arrest Low-Risk Defendants



Increase in 2-Year Recidivism Low-Risk Defendants



Lowenkamp, C.T., VanNostrand, M., & Holsinger, A. (2013). The Hidden Costs of Pretrial Detention. Laura and John Arnold Foundation. New York City, NY.



History of Pretrial Services

- Federal Bail Reform Act of 1966

Presumption of release on recognizance

Conditional pretrial release, supervision of released defendants, with conditions imposed to address the risk of flight

Restrictions on money bail, which the Court could impose only if non-financial release options were not enough to assure appearance

History of Pretrial Services

- Federal Bail Reform Act of 1984

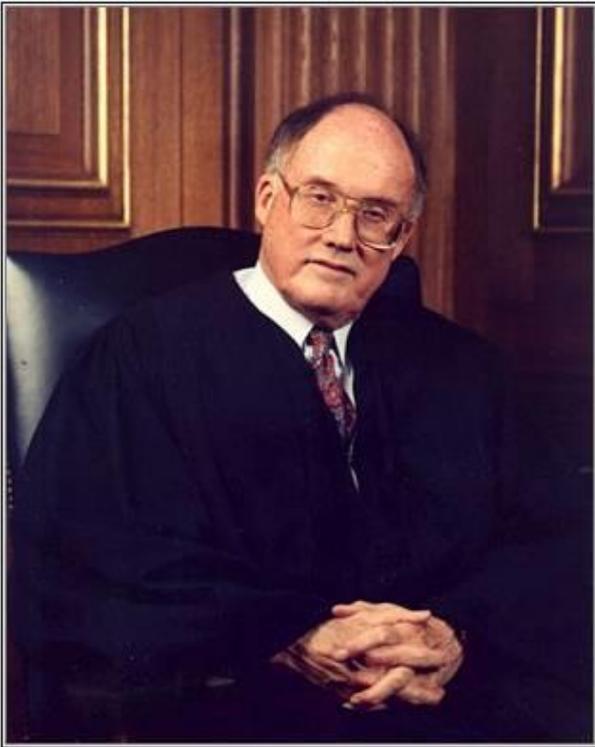
Retained the presumption of release on the least restrictive conditions

Allows for detention of pretrial arrestees based on both court appearance and danger to the community (preventive detention)

Preventive detention allows for pretrial detention in cases when a judicial officer finds that “no conditions or combination of conditions will reasonably assure court appearance of the person in court and the safety of any other person and the community”

History of Pretrial Services

- U.S. v. Salerno (1987)



Chief Justice Rehnquist wrote for the majority in *United States v. Salerno* in 1987 (case that upheld preventive detention):

“In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”

History of Pretrial Services in Virginia

- Pretrial Services:
 - 1970s
 - Locally driven with federal grant funds
 - 1980s
 - Pretrial services authorized and funded in state budget in selected localities
 - 1990s
 - Pretrial Services Act passed in 1995 resulting in the expansion of pretrial services
 - 2000s
 - Funded as a result of approval of jail projects and needs assessment from Community-Based Corrections Plan
 - Southwest Regional Jail
 - Central Virginia Regional Jail

Pretrial Services Intervention Point

Pretrial Stage of the Criminal Justice System

The period of time between summons/arrest and case adjudication is known as the pretrial stage. During this stage defendants enjoy certain rights as found in the law. The legal rights that apply during the pretrial stage can be found in the Constitution of the United States, Constitution of Virginia, case law, and the Code of Virginia.



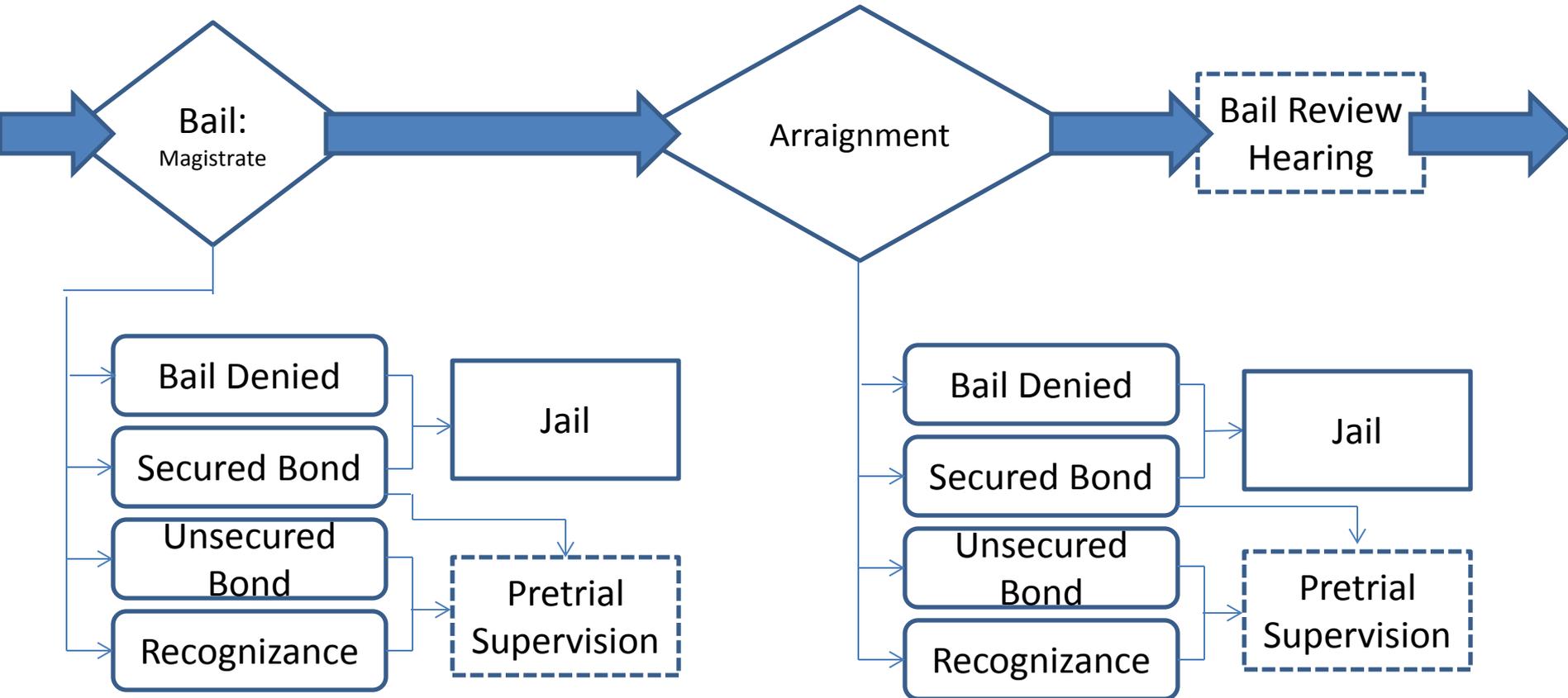
Pretrial Services Intervention Point

Legal & Constitutional Rights (Pretrial Stage)

- 1 Presumption of Innocence
- 2 Right to Counsel
- 3 Right Against Self-incrimination
- 4 Right to Due Process of Law
- 5 Right to Equal Protection Under the Law
- 6 Right to Bail that is Not Excessive

There are many other legal protections provided during this stage, including but not limited to, the requirement of a probable cause determination within 48 hours, the right to confront witnesses, and the right to a fair and speedy trial.

Pretrial Services Intervention Point



Pretrial Services Intervention Point

- First Appearance/Arraignment (Authorization to Reconsider Conditions of Bail)
 - § 19.2-130 “when the court believes the amount of bond or security inadequate or excessive ...”
 - § 19.2-158 “Absent good cause shown, a hearing on bail or conditions of release shall be held as soon as practicable but in no event later than three calendar days, excluding Saturdays, Sundays, and legal holidays, following the making of such motion.”

Pretrial Services Target Population

- Defendants held in custody in jail who are pending trial or hearing
- Defendants charged with a criminal offense, other than one punishable by death
- Defendants must be age 18 or over or, under age 18, have been transferred for trial as an adult

Role & Purpose of Pretrial Services

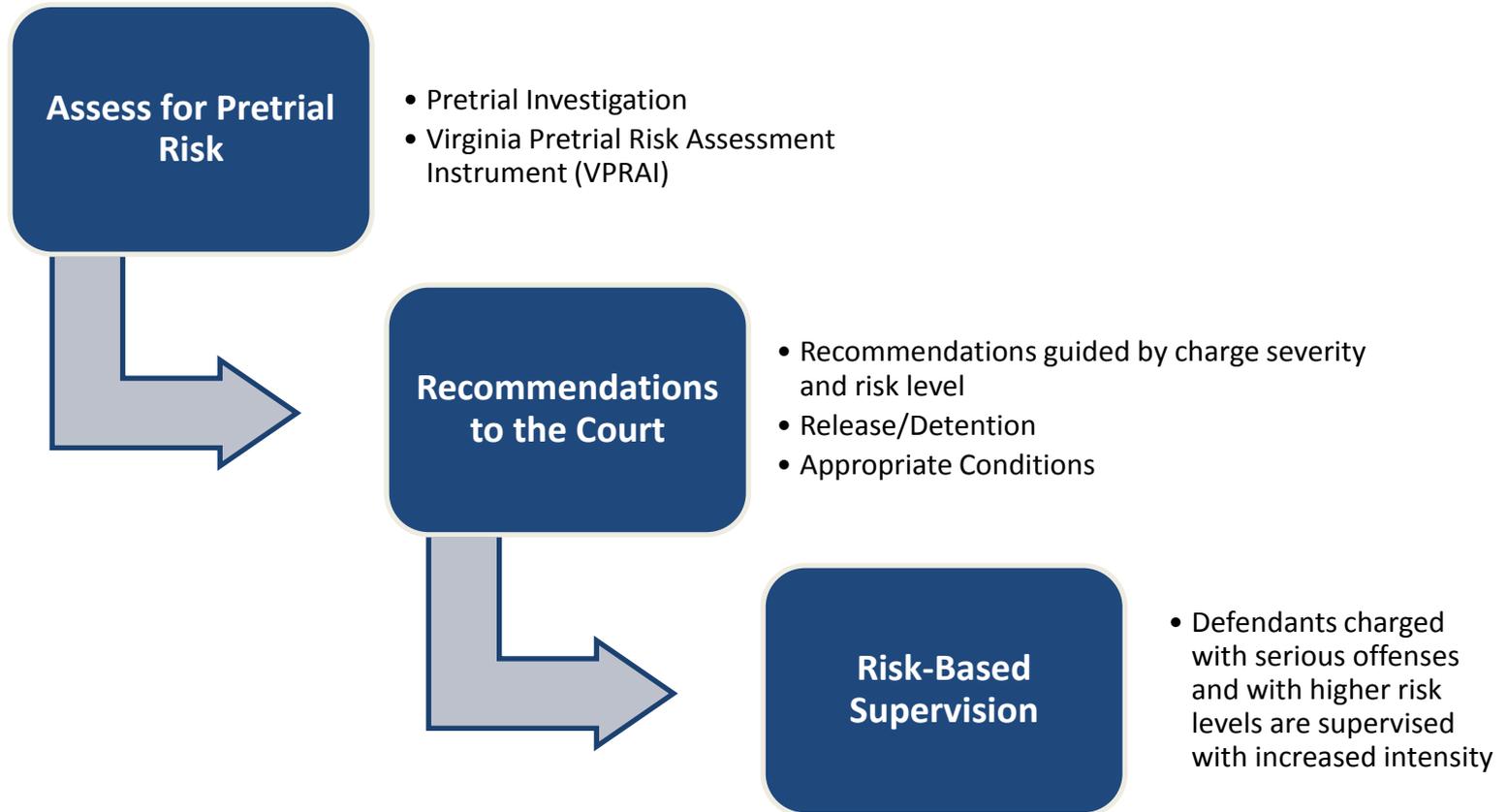
- Assist judicial officers in granting or reconsidering bail pursuant to Article 1 (§19.2-119 et seq.) of Chapter 9 of Title 19.2



Key Pretrial Services Statutes

- **§19.2-152.2** Purpose; establishment of program
- **§19.2-152.4:3** Duties and responsibilities of local pretrial services officer
- **§19.2-152.4:1** Form of oath of office for local pretrial services officer; authorization to seek *capias* or warrant
- **§19.2-152.4** Mandated services

Dedicated Pretrial Services Agency



Pretrial Investigation Report

- Guided by § 19.2-121
- Summarizes the following:
 - Criminal convictions, pending charges, record of criminal justice supervision, residence, employment, military history, behavioral health (substance abuse/mental health)
- Completion of the Virginia Pretrial Risk Assessment Instrument (VPRAI)
- Recommendation for the judicial officer to consider

Pretrial Supervision

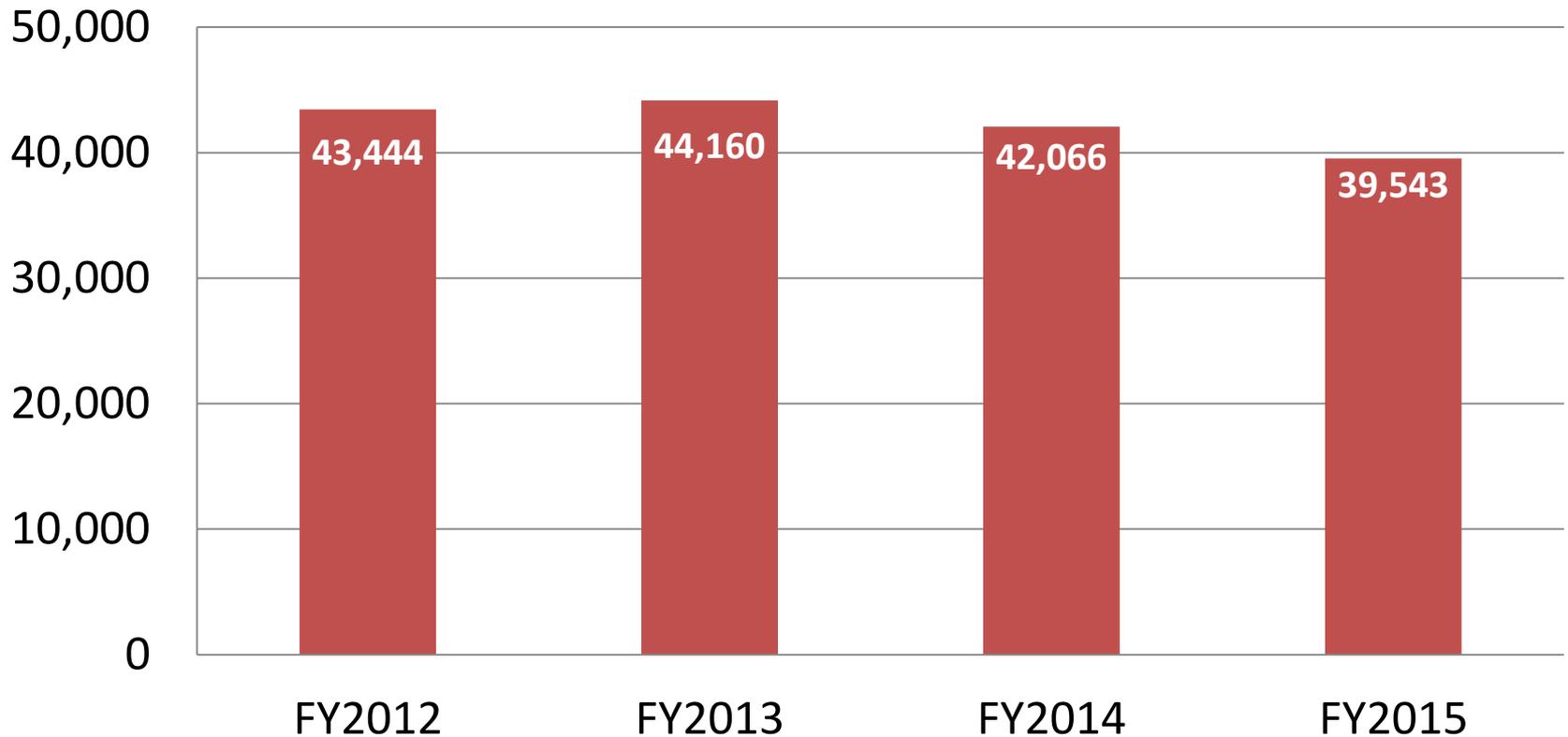
- All defendants on pretrial supervision:
 - Are monitored for:
 - Re-arrest
 - Missed court appearances
 - Are provided with court date notification
 - Supervision contacts based on risk level and most serious charge category include face-to-face and telephone contact
 - Compliance verification of additional conditions ordered by the judicial officer

Pretrial Supervision

- Supervision Contacts Include:
 - Develop a court appearance plan
 - Address the defendant's access to reliable transportation
 - Address strategies to stabilize the defendant's living arrangements
 - Drug/alcohol testing when ordered by a judicial officer
 - Access to community resources:
 - Alcohol and/or substance abuse
 - Mental health
 - Employment
 - Education
 - Medical
 - Family counseling
 - Domestic violence
 - Other

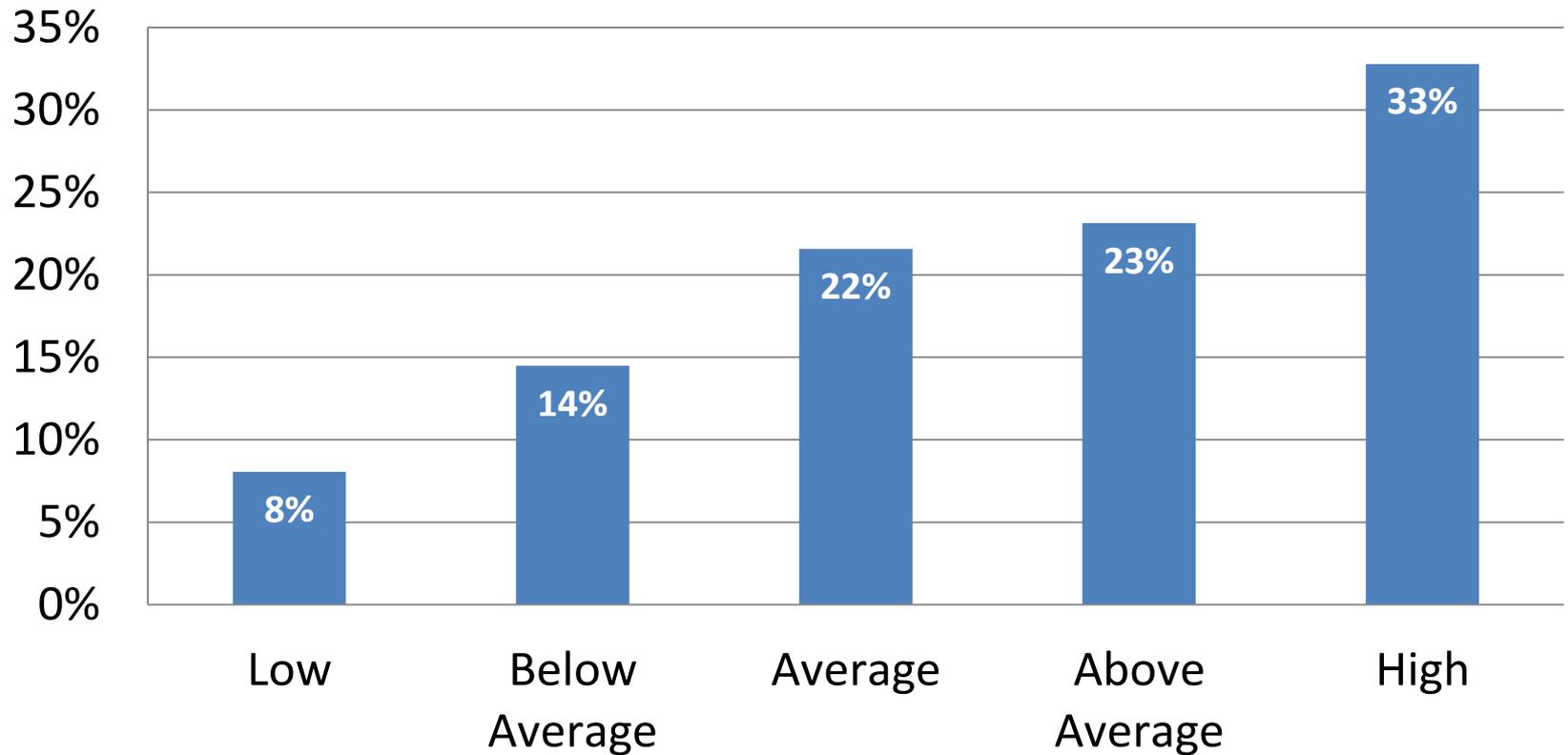
Pretrial Investigations

Defendants Investigated by Pretrial Services
FY 2012-FY 2015



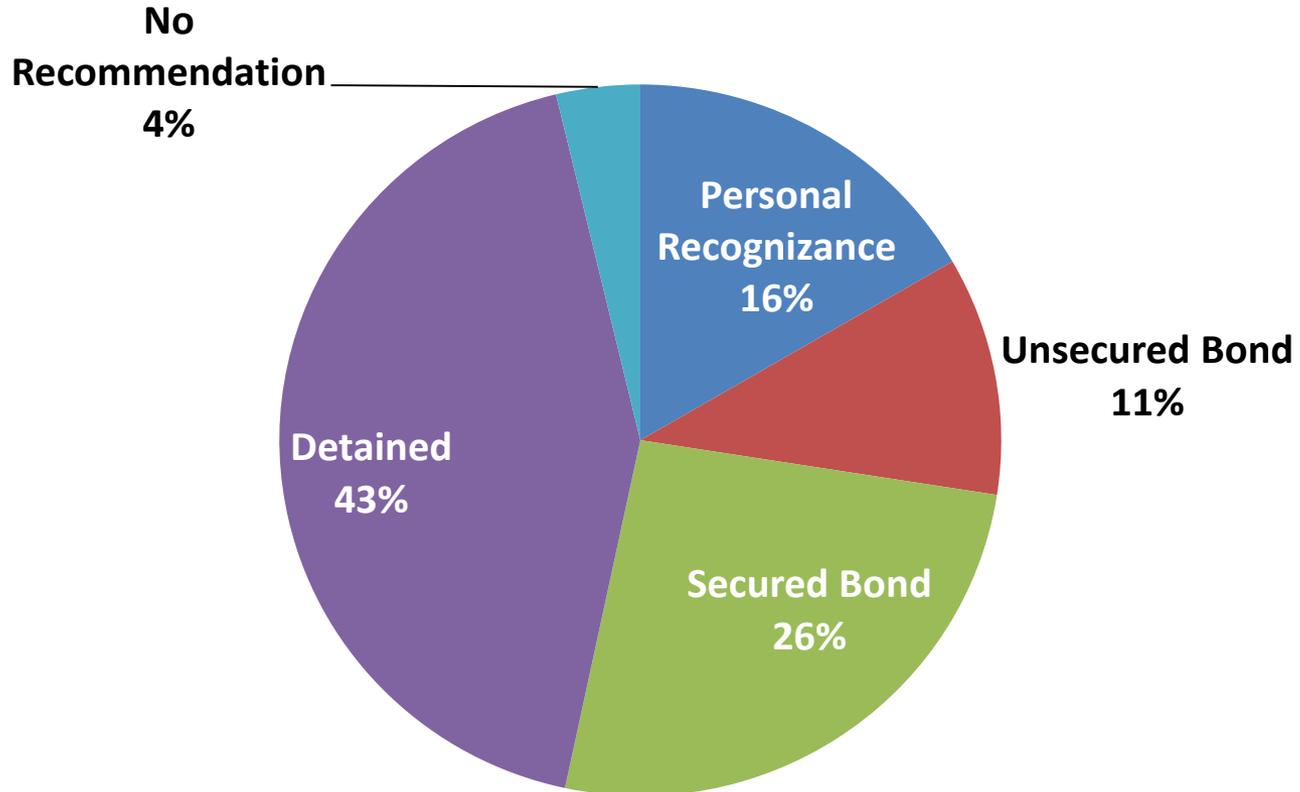
Pretrial Investigations

Risk Distribution of Defendants Investigated by Pretrial Services – FY 2015



Recommendations By Bond Type

Staff Recommendations – FY 2015

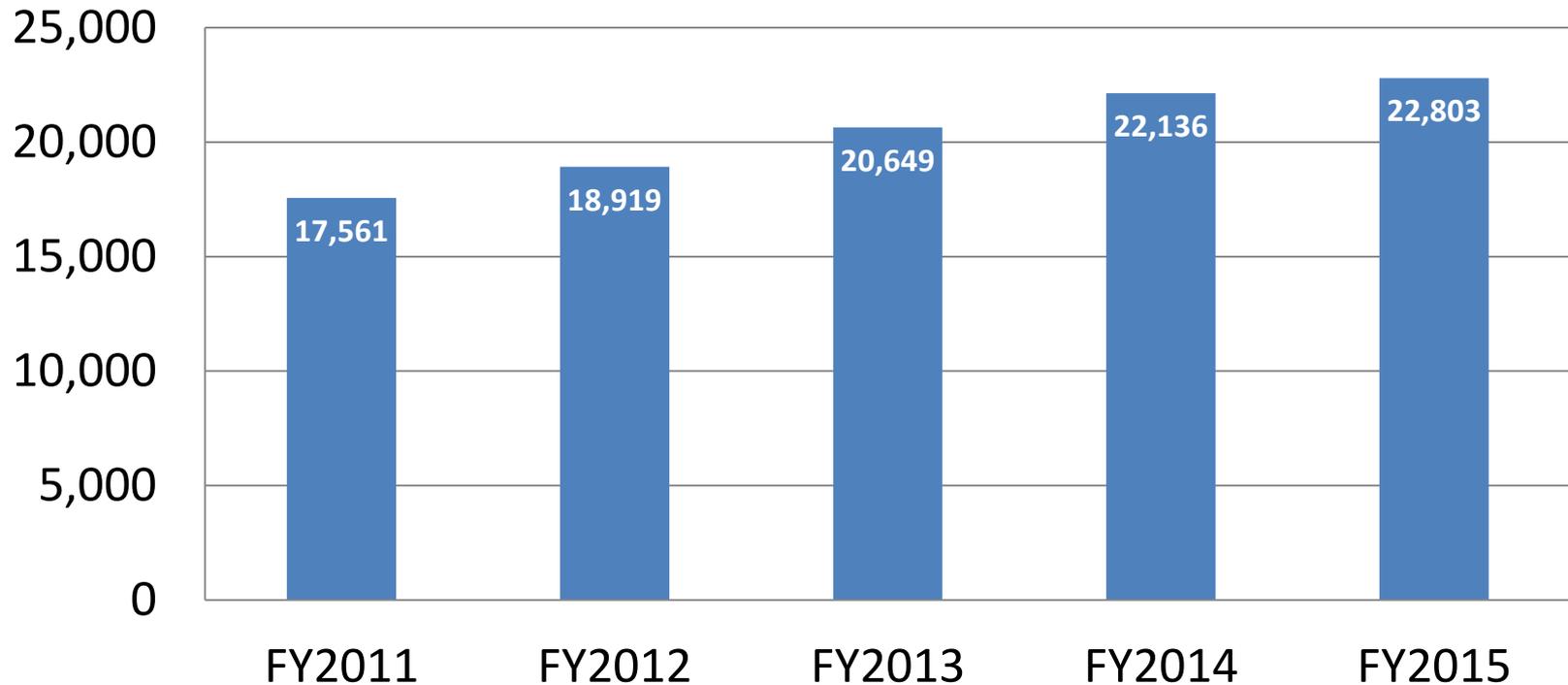


*28% of investigations included a recommendation for pretrial supervision

Pretrial Supervision

Pretrial Services Placements for Supervision

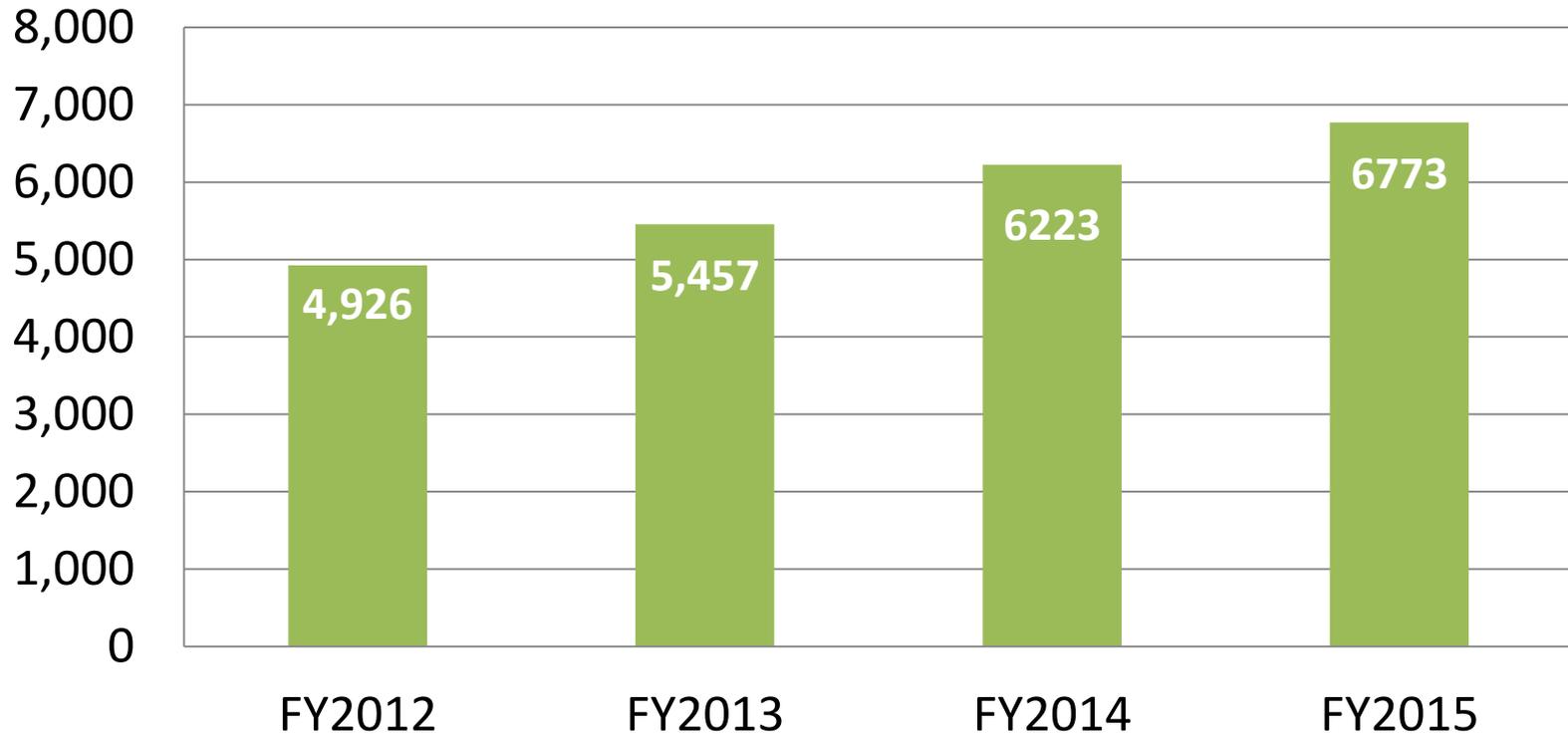
Supervision Placements FY 2011-FY 2015



Pretrial Supervision

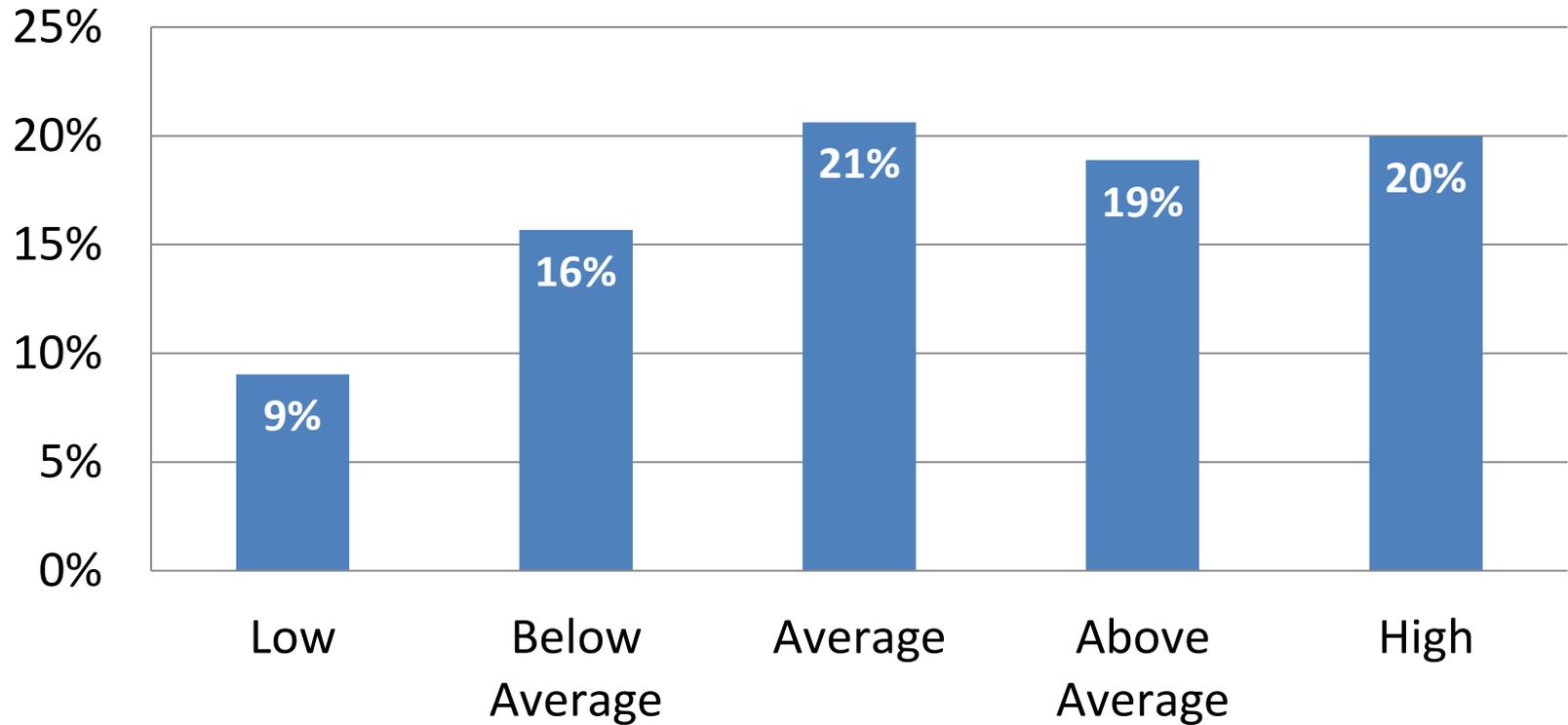
Pretrial Services Supervision Caseload

Average Daily Caseload
FY 2012-FY 2015



Pretrial Supervision

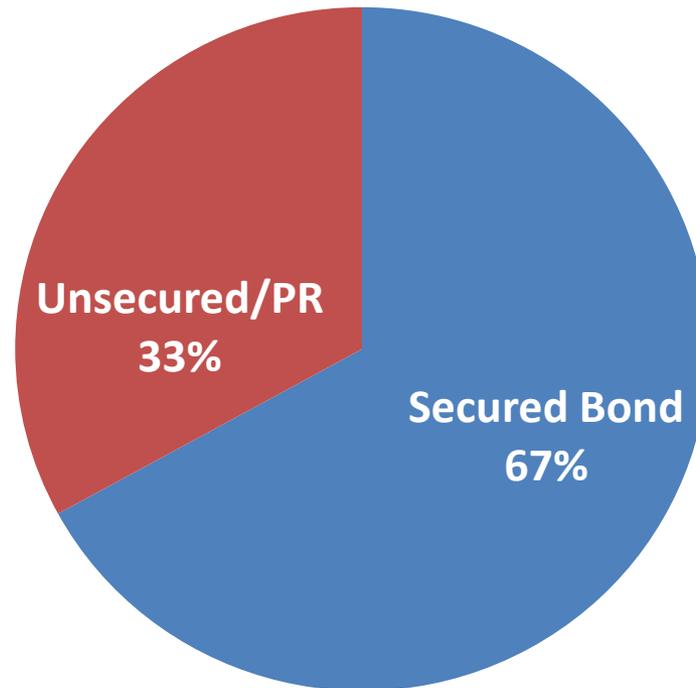
Risk Distribution of Pretrial Supervision Placements
FY 2015



Pretrial Supervision

Pretrial Services Supervision Placements by Bond Type

Placements by Bond Type - FY 2015



Pretrial Supervision Outcomes

Supervision Outcomes by Bond Type

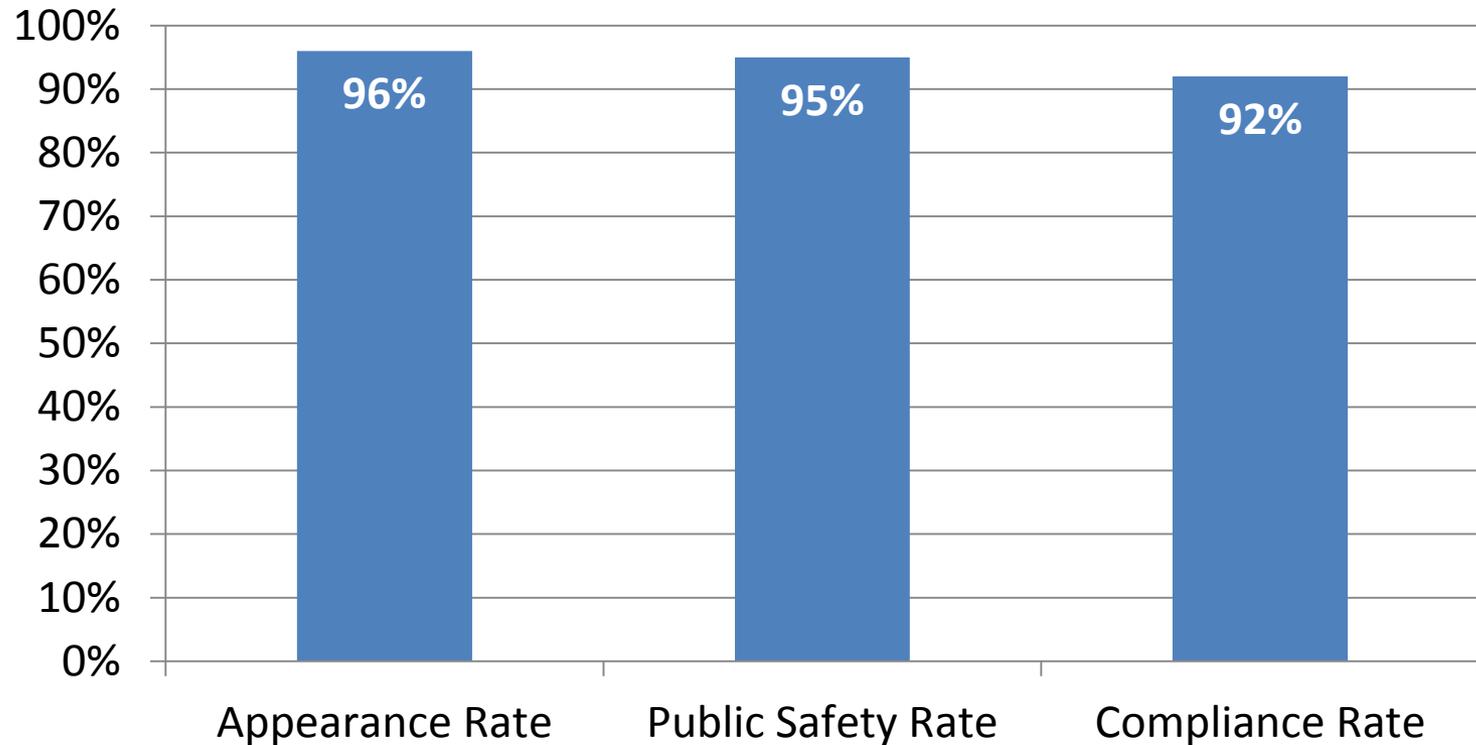
Risk Level	Unsecured Bond Successful	Secured Bond Successful
Low	92.4%	93.4%
Below Average	88.5%	89.7%
Average	85.6%	83.8%
Above Average	80.0%	79.7%
High	75.2%	73.0%
Total	85.4%	83.0%

VanNostrand, M., Rose, K., & Weibrecht, K. (2011). In Pursuit of Legal and Evidence-Based Pretrial Release Recommendations and Supervision. Virginia Department of Criminal Justice Services. Richmond, VA.



Pretrial Supervision Outcomes

Supervision Outcomes FY 2015



Pretrial Risk Assessment

- Purpose of a Pretrial Risk Assessment
 1. Guide and improve the process of predicting a defendant's risk of pretrial failure (failure to appear in court or new arrest)
 2. Provide additional information that helps to individualize bail decisions and supervision strategies that mitigate risk
 3. Pretrial risk assessment does **not** replace a judicial officer or pretrial officer discretion

History of the VPRAI

The Virginia Pretrial Risk Assessment Instrument

- **1995:** The Pretrial Services Act requires the DCJS to develop a pretrial risk assessment instrument
- **1996 to 1999:** Data collection
- **2002:** Instrument developed
- **2005:** VPRAI implemented
- **2009:** VPRAI validation, implementation, & training
- **2016:** VPRAI-R validation and improvement
- **Known nationally as the “Virginia Model”**

VPRAI-Revised

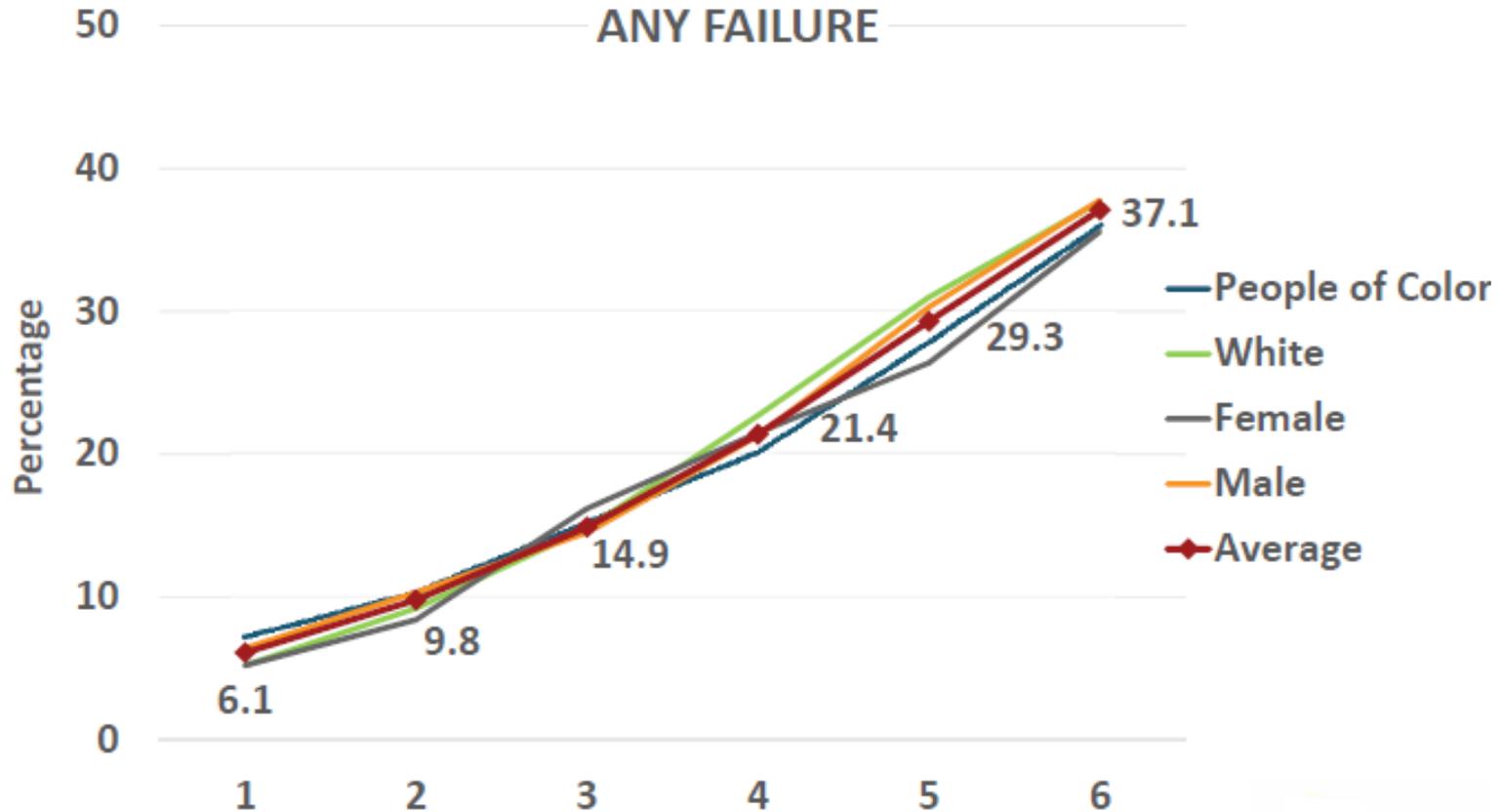
Risk Factor	Weight
Active community supervision	2
Charge is a felony drug, theft, or fraud	3
Pending charge	2
Criminal history	2
Two or more failure to appear	1
Two or more violent convictions	1
Unemployed at time of arrest	1
History of drug abuse	2
Total possible score	14

VPRAI-Revised

Risk Level	Score	Total %	Any Failure %
1	0-2	21.8	6.1
2	3-4	22.9	9.8
3	5-6	22.8	14.9
4	7-8	19.5	21.4
5	9-10	10.0	29.3
6	11-14	3	37.1

VPRAI-Revised

Race and Gender Neutral



Praxis Study

Summary of Research Findings

- The charge category is statistically significantly related to pretrial outcome
- Agencies using Praxis increased nonfinancial release recommendations 2.3 times compared to agencies not using the Praxis
- Judges that were informed by the Praxis were 1.9 times more likely to release defendants on nonfinancial conditions at first court appearance

Praxis Study

Summary of Research Findings

- Praxis supervision level outcomes:
 - 1.2 times less likely to experience any failure
 - » 1.3 times less likely to fail to appear
 - » 1.3 times less likely to experience a new arrest
 - » No more likely and no less likely to have pretrial release revoked due to technical violation

VPRAI-R/Praxis Implementation

- Statewide Implementation will include:

Agency & Staff Training

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graph TD; A[Agency & Staff Training] --> B[Local Stakeholder Collaboration]; B --> C[Database Updates];
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Local Stakeholder
Collaboration

Database Updates

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