



Measuring and Managing Pretrial Risk

Improving Public Safety, Fairness, and Cost Effectiveness

Mecklenburg County, North Carolina



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Release & Detention Decisions

- » **Approximately 38,000 arrestees are booked into the Mecklenburg County Arrest Processing Center**
 - Mecklenburg County Sheriff's Office, FY 2014 Annual Report
- » **This process initiates the pretrial stage of the criminal justice system & requires a critical decision**
- » **Pretrial release & detention decision**
 - **Whether to release or detain a defendant pending case disposition**
 - **If released, the setting of conditions**

Release & Detention Decisions

- » Goal during the pretrial stage, and especially the pretrial release & detention decision, is to
 - Protect public safety
 - Assure court appearance
 - Honor a defendant's right to pretrial release on the least restrictive conditions

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Release & Detention Decisions

- » Pretrial release & detention decisions carry enormous consequences not only for defendants, but also
 - Safety of the community
 - Rights of victims
 - Integrity of the judicial process
 - Effective utilization of our criminal justice resources

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Release & Detention Decisions

- » Research has shown that release & detention decisions impact
 - Case disposition
 - Likelihood of receiving a sentence to incarceration
 - Length of the sentence to incarceration
 - Public safety pretrial (short term)
 - Public safety post-disposition (long term recidivism)

Pretrial Decisions Determine Mostly
Everything
~ Caleb Foote, 1956

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Release & Detention Decisions

- » Release and detention decision involves pretrial risk
 - Risk is inherent in pretrial release
 - Our system of justice *requires* that we take risk
 - The question is not “do we take risk”
 - The real question is “how do we **measure** risk and how do we **manage** it”

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Measuring & Managing Risk

» Measuring and Managing Risk

▪ Measure Risk

- Employ objective and research-based risk assessments to identify the risk to public safety and failure to appear in court

▪ Manage Risk

- Preventive detention
- Implement supervision and services to mitigate the risk of pretrial failure for released defendants

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Measuring & Managing Risk

» Role of Pretrial Services



Provide
information
to the Court
to assist
them with
the pretrial
release
decision

Measure Risk

Provide
supervision
and services
as ordered by
the Court

Manage Risk

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Measuring & Managing Risk

» Measuring Risk

- A pretrial risk assessment is an objective, research-based instrument that relies on risk factors to predict the likelihood of success or failure for a released defendant pending case disposition
- Intended to inform the decision to release or detain a defendant by measuring
 - Danger posed to public safety
 - Likelihood of appearing in court

» Mecklenburg County implemented the Public Safety Assessment – Court (PSA – Court) in June 2014

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Measuring & Managing Risk

» Measuring Risk

- PSA – Court is a pretrial risk assessment which relies on administrative data (charge, criminal and court appearance history, and criminal justice status) to predict three pretrial failure types
 - Failure to Appear (FTA)
 - New Criminal Activity (NCA)
 - New Violent Criminal Activity (NVCA)
- The tool is racial and gender neutral - it accurately classifies defendants' risk levels regardless of their race or gender, meaning it does not have a discriminatory impact
 - Laura and John Arnold Foundation. Results from the First Six Months of the Public Safety Assessment – Court in Kentucky. July 2014.

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Measuring & Managing Risk

- » Effectively measuring risk allows for
 - Detaining the highest risk defendants
 - Releasing moderate risk defendants with interventions and services targeted to mitigate risk
 - Releasing low risk defendants with minimal or no conditions
- » Mitigating risk requires effective risk management strategies for the moderate and higher risk defendants

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Risk-Based Pretrial System

- » Risk Management
 - Risk management involves adherence to the risk principle
 - Studies have shown [pretrial/post-conviction]
 - Evidence-based interventions directed to moderate and high risk defendants/offenders will result in better outcomes for both defendants/offenders and the community
 - Treatment resources targeted to low risk defendants/offenders produce little, if any, positive effect
 - Crime and Justice Institute and Department of Justice, National Institute of Justice. (2004). "Implementing Evidence-Based Practices in Community Corrections: The Principle of Effective Interventions."
 - VanNostrand, M., & Keebler, G. (2009). Pretrial Risk Assessment in the Federal Court. Federal Probation, 72 (2).

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Risk-Based Pretrial System

» Risk-Based System

- Highest risk defendants are detained
- Moderate risk defendants are released with supervision and services to mitigate risk of pretrial failure
- Lowest risk defendants are released at the earliest point possible with minimal or no conditions

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Risk-Based Pretrial System

» Risk-based systems minimize dual system errors found in many existing pretrial systems

- Defendants who pose a significant risk to public safety are released
- Low risk/non-violent defendants are detained
- In Mecklenburg County
 - Some moderate risk defendants are released without interventions and services intended to mitigate risk
 - Current policy limits the Court's ability to order supervision and services in appropriate circumstances

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Risk-Based Pretrial System

- » The following organizations officially support risk-based pretrial systems and pretrial services:
 - National Associations of Counties (NACo)
 - International Association of Chiefs of Police
 - National Sheriff's Association
 - The National Judicial College
 - Conference of State Court Administrators
 - Association of Prosecuting Attorneys
 - National Association of Criminal Defense Lawyers
 - American Jails Association
 - American Probation & Parole Association

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Risk-Based Pretrial System

- » Benefits of a Risk-Based Pretrial System
 - Improves public safety in the short and long term
 - Enhances the fair administration of justice
 - Better protects the rights of victims
 - Better protects the rights of defendants
 - Reduces the burden on local tax payers
 - Provides for the most effective jail population management of pretrial defendants

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