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EXECUTIVE DEPARTMENT  
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**December 31, 2014**

Honorable Jack Markell  
Office of the Governor  
12<sup>th</sup> Floor  
820 N. French St.  
Wilmington, DE 19801

**Re: 2014 Annual Report of the Justice Reinvestment Oversight Group**

Dear Governor Markell;

On behalf of the Justice Reinvestment Oversight Group, I am submitting for your consideration the Justice Reinvestment Oversight Group Annual Report for 2014. The report is to be submitted annually pursuant to Executive Order #40. The Justice Reinvestment Oversight Group oversees the Implementation of SB 226 which was passed during the 146<sup>th</sup> session of the General Assembly and signed into law. The Oversight Group, chaired by Justice James Vaughn Jr., met twice during 2014 and reviewed the implementation efforts of courts and criminal justice agencies required by SB 226.

The report summarizes the implementation efforts of courts, the Department of Correction, and the Statistical Analysis Center as required by SB 226. It also includes materials offered as guidance to the Oversight Group by partner the Vera Institute of Justice.

If you have any questions or comments, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Christian L. Kervick".

Christian L. Kervick  
Executive Director

# ANNUAL REPORT OF THE JUSTICE REINVESTMENT OVERSIGHT GROUP FOR 2014

The Justice Reinvestment Oversight Group was created by Executive Order # 40 on June 7<sup>th</sup>, 2013 to ensure the effective implementation of SB 226, the Justice Reinvestment Act. This Annual Report, required by Executive Order #40, is submitted to the Governor, the General Assembly, and the Supreme Court annually on December 31.

Since its inception the Oversight Group has met four times, August 26, 2013, December 4, 2013, April 23, 2014, and August 21, 2014. The Agenda and Minutes for each meeting are included with this report, along with all other presentation materials provided to the Oversight Group.

**Justice Reinvestment Task Force:** Governor Jack Markell created the Delaware Justice Reinvestment Task Force, a predecessor to the Oversight Group, on July 25<sup>th</sup>, 2011, under Executive Order Number Twenty-Seven. The Task Force was charged with conducting a comprehensive examination of Delaware's criminal justice system. The Task Force, which was chaired by the Lieutenant Governor Matthew Denn, included a legislator from each party from each chamber; judicial officers from four courts; the Attorney General; the Public Defender; the Commissioner of the Department of Correction; the Secretary of the Department of Safety and Homeland Security; the Colonel of the Delaware State Police; two representatives of county or municipal law enforcement; the Executive Director of the Victim's Compensation Assistance

Program; and a representative of the Individual Assessment, Discharge, and Planning Teams (I-ADAPT).

With the ongoing assistance and collaboration of the Vera Institute of Justice, the Task Force analyzed Delaware's criminal justice system to determine drivers of corrections populations and costs. The analysis concluded that the following factors were drivers of prison population and prison costs: large pretrial population; lengthy sentences; and a high number of violations of probation.

*Pretrial population* - Delaware is a "unified" state and all of its detained population is housed in its prison system. Data from 2010 indicated that 23% of its prison beds were occupied by "pre-sentenced" individuals. The data analysis further indicated that 14% of the detained population could be candidates for release or community supervision. Delaware, in comparison to similar criminal justice systems, houses a larger percentage of its detainees.

*Length of Stay* – The 2010 analysis determined that Delaware's sentenced inmates serve long sentences when compared with other states. The average prison (greater than 1 year) sentence in Delaware was three years. The national average is about two years.

*Violations of Probation* - The data from 2010 indicated that 39% of admissions to prison (Level V) had a violation of probation as the lead charge. In 2010, 13% of probation violations were for new convictions, 87% were for "technical" violations. In 2010 individuals serving time for VOPs occupied 13% of prison bed space.

The Delaware Justice Reinvestment Task Force completed its work by submitting a report at its final meeting in March, 2012. The Delaware Justice Reinvestment Task Force Consensus Report, attached to this document, recommended legislation to address issues included in the Consensus Report. The Legislature responded by passing Senate Bill 226, the Justice Reinvestment Act, which was signed by the Governor on August 8, 2012. The new law required the Department of Correction and the Courts to make certain changes in how they manage and process individuals under their jurisdiction. In addition, the Statistical Analysis Center was required to complete annual recidivism studies.

**Justice Reinvestment Oversight Group:** On June 7, 2013, Governor Jack Markell issued Executive Order #40, which established the Delaware Justice Reinvestment Oversight Group to ensure effective implementation of SB 226. The Group first met on August 26, 2013. The Oversight Group, which is chaired by the President Judge of Superior Court, includes a legislator from each political party from each chamber of the General Assembly; the Chief Judge of the Court of Common Pleas; the Chief Magistrate; the Secretary of the Department of Labor; the Secretary of the Department of Health and Social Services; and the Commissioner of the Department of Correction (DOC).

Under Executive Order #40, the Oversight Group is charged with reviewing the implementation of SB 226. The Oversight Group may establish reporting requirements for the agencies tasked with implementing SB 226; receive and review reports from those agencies; and establish and review outcome measures related to SB 226. In addition, the Oversight Group may establish funding priorities; identify and recommend statutory or other changes to

facilitate the implementation of SB 226; measure the cost impacts and reallocation of resources if any savings are realized; and undertake such additional studies or evaluations as it deems necessary to further the goals of SB 226.

Attached to this report are the materials submitted at each of the four meetings of the task force by the state agencies and by the Vera Institute of Justice, which provided technical assistance to the Oversight Group. These reports contain the progress reports on all elements of SB 226 implementation and suggestion for further work in 2015.

Attached to this report are the following items, which contain all the implementation data received by the oversight committee:

#### **APPENDIX #1**

APRIL 23, 2014 DELAWARE JUSTICE REINVESTMENT TASK FORCE CONSENSUS REPORT

APRIL 23, 2014 JUSTICE REINVESTMENT OVERSIGHT GROUP MEETING AGENDA

APRIL 23, 2014 JUSTICE REINVESTMENT OVERSIGHT GROUP MEETING MINUTES

APRIL 23, 2014 VERA INSTITUTE OF JUSTICE POWERPOINT PRESENTATION

APRIL 23, 2014 VERA INSTITUTE OF JUSTICE PRETRIAL RELEASE DECISION PRAXES

#### **APPENDIX #2**

AUGUST 21, 2014 JUSTICE OVERSIGHT GROUP MEETING AGENDA

AUGUST 21, 2014 JUSTICE OVERSIGHT GROUP MEETING MINUTES

AUGUST 21, 2014 VERA INSTITUTE OF JUSTICE POWERPOINT PRESENTATION

AUGUST 21, 2014 VERA INSTITUTE OF JUSTICE PRETRIAL RISK ASSESSMENT INSTRUMENT  
VALIDATION MEMORANDUM

AUGUST 21, 2014 VERA INSTITUTE GUIDE TO CALCULATING JUSTICE-SYSTEM MARGINAL COSTS

AUGUST 21, 2014 CJC REPORT

AUGUST 21, 2014 DELJIS: JRI DATA UPDATE POWERPOINT

AUGUST 21, 2014 STATISTICAL ANALYSIS CENTER: PRETRIAL RISK ASSESSMENT AND DOC  
DETAINED ADMISSIONS QUICK LOOK

AUGUST 21, 2014 DOC: JRI OUTCOME MEASURES POWERPOINT

In addition, Recidivism in Delaware: An Analysis if Prisoners Released 2008-2010, the most recent report required under SB 226 from the Delaware Statistical Analysis Center, published September, 2014, can be found online at:

<http://cjc.delaware.gov/sac/pdf/Corrections/Recidivism%20in%20Delaware%3B%20An%20Analysis%20of%20Prisoners%20Released%20in%202008-2010.pdf>.

Most notable for future work of the Oversight Group is the award of nearly \$900,000 in additional federal funding to the Delaware Criminal Justice Council from the United States Department of Justice Bureau of Justice Assistance for further implementation of the recommendations in the Consensus report, including implementation of SB 226. The Oversight Group will be able to obtain continued technical assistance through this grant. The Oversight Group will consider what is available and determine if there is a need.

Finally, per Executive Order #40, it is too early in the implementation of SB 226 to report any significant cost impact or the reallocation of any resources. The Justice of the Peace Courts report that there is no additional costs to the Courts for the use of the Risk Assessment Instrument. They also report that the Courts have not reallocated any personnel as a result of the implementation of the Risk Assessment instrument. The Department of Correction

indicated that it cannot declare a cost impact. It has observed an improvement in the delivery of services through the changes listed in its reports, which are attached.

The Justice Reinvestment Oversight Group is grateful for the support of the Criminal Justice Council in preparing this report, and for the work of the many state agencies involved in the successful and on-going implementation of SB 226, the Justice Reinvestment Act. As can be seen in the depth and breadth of the work outlined in the attachments to this 2014 Annual Report of the Oversight Group, Delaware is committed to data- and research-informed practices to increase public safety, reduce recidivism and generate savings.

## **APPENDIX #1**

**APRIL 23, 2014 DELAWARE JUSTICE REINVESTMENT TASK FORCE  
CONSENSUS REPORT**

**APRIL 23, 2014 JUSTICE REINVESTMENT OVERSIGHT GROUP MEETING  
AGENDA**

**APRIL 23, 2014 JUSTICE REINVESTMENT OVERSIGHT GROUP MEETING  
MINUTES**

**APRIL 23, 2014 VERA INSTITUTE OF JUSTICE POWERPOINT  
PRESENTATION**

**APRIL 23, 2014 VERA INSTITUTE OF JUSTICE PRETRIAL RELEASE  
DECISION PRAXES**



# Delaware Justice Reinvestment Task Force

Consensus Report | March 2012



## Highlights

The Delaware Justice Reinvestment Task Force was convened in July of 2011 by Governor Jack A. Markell to develop data- and research- informed consensus recommendations that will increase public safety, reduce recidivism, and generate savings.

Many of the proposals in this report aim to reduce recidivism—the rate at which those exiting prison commit new crimes. Recidivism is the best measure of a prison system’s effectiveness, and reducing recidivism is the key to public safety. Research shows that the most effective use of corrections dollars is to target moderate- to high-risk offenders, a concept referred to as the “risk principle.” By concentrating prison and supervision resources on these individuals, Delaware will be positioning itself to protect public safety using the best available science.

**KEY CHALLENGES.** Because the state does not measure the recidivism rate, it is not known to what extent those released from prison contribute to the state’s crime rate, which is higher than the national average. Although Delaware’s prison population is not currently growing, the prisons have been consistently over capacity. Without good alternatives to incarceration that will safely reduce the prison population in the future, capital improvements will be necessary.

**KEY ASSETS.** Delaware has a number of existing initiatives and strengths upon which to build. Through the Governor’s I-ADAPT initiative (Individual Assessment, Discharge, And Planning Team), state agencies and community organizations are collaborating to improve reentry outcomes. The Delaware Department of Correction (DOC) already has a number of evidence-based practices in place, such as using a validated assessment tool used to determine probationers’ risk of recidivism. The Criminal Justice Council’s Statistical Analysis Center (SAC) is poised to provide more robust

analysis and support for coordinated criminal justice planning. Other recent changes, including bail guidelines reform, have created opportunities that will allow Delaware to benefit from greater use of evidence-based practices throughout the justice system.

**PRISON DRIVERS.** Extensive data analysis revealed three major factors that sustain Delaware’s correctional population: the high rate of pretrial detention, probation revocations as a result of violations, and long prison stays. Violations of probation are an indication that recidivism may drive the prison population. Therefore, further study of recidivism is required.

**CONSENSUS PROCESS.** Governor Jack A. Markell signed Executive Order 27 in July 2011 to establish the Delaware Justice Reinvestment Task Force as a bipartisan, inter-branch coalition of criminal justice agencies and stakeholders. Assisted by the Vera Institute of Justice, the Task Force has analyzed data and reviewed corrections and community supervision policies and practices in order to develop a package of reforms that will protect public safety and manage the correctional population. The Task Force has worked with I-ADAPT, the Delaware Justice Information System, the Sentencing Accountability Commission (SENTAC), DOC staff, Administrative Office of the Courts, SAC, and the Police Chiefs’ Council.

**IMPACT.** As part of the Task Force’s work, the group reviewed an estimate of the proposals’ impact on bed space and cost. Based on available data and assumptions about population trends, the impact analysis indicates that the proposals are likely to free up resources for reinvestment.

## A Turning Point

Delaware's criminal justice stakeholders are at a crossroads—they want to spend public safety dollars wisely, yet the numbers suggest that the state can get a better return on taxpayers' investments.

In response to the budget crisis beginning in 2008, the Delaware DOC reversed the trend of increasing expenditures and instead reduced its budget. However, trimming operational expenses can have only a limited impact on correctional expenditures.

Delaware's corrections population remains relatively stable.<sup>1</sup> Yet Delaware's facilities are crowded—the state's four facilities are at 111%, 118%, 174%, and 201% of design capacity.<sup>2</sup> Without reductions in population, Delaware will be hard pressed to spend less on prisons and community supervision without endangering public safety.

The state does not currently measure recidivism, and therefore does not know how much crime is committed by repeat offenders. Because policy makers do not have access to timely, reliable data about the system,<sup>3</sup> they cannot make informed decisions about how to invest their limited resources most effectively.

Recidivism may be contributing to the state's high rate of violent crime. Delaware's arrest rate for violent crime is one in 322, compared with one in 529 for the U.S. as a whole.<sup>4</sup> In 2010, Delaware ranked fourth in the nation for its violent crime rate.<sup>5</sup>

Nevertheless, Delaware can take steps to improve public safety. Based on the experience of other states, reducing the crime rate of those exiting prison can have a significant impact on the overall rate of crime and victimization.

## Envisioning the Way Forward

The Task Force's work builds on the efforts of dedicated governmental and nongovernmental organizations and staff. Over the past ten years, the DOC has incorporated evidence-based practices,

such as assessing probationers' level of risk to reoffend and criminogenic need factors.

In 2009, Governor Markell established I-ADAPT, a collaboration among many agencies to coordinate reentry efforts. I-ADAPT has brought community service providers to the table to coordinate reentry planning with state agencies, promising a more seamless transition from prison to the community.

The Justice of the Peace Courts reformed the bail guidelines in 2011, updating their policies and underlining the presumption in favor of release. Judges from the Superior Court and the Court of Common Pleas have created an array of specialty courts that tailor responses to specific populations.

To further these efforts, the state's Criminal Justice Council has begun building capacity. The SAC has plans to provide more robust analysis and support for criminal justice policy makers, including recidivism studies that are slated for release later this year.

In this tradition of striving for effective governance, the Delaware Justice Reinvestment Task Force is advancing recommendations that aim to improve public safety outcomes. The bipartisan group includes legislators, judges, the attorney general's office, the public defender, law enforcement officials, and agency officials.

During an intensive eight-month period, the Task Force considered the factors sustaining Delaware's prison population and discussed ways to reduce recidivism, protect public safety, hold offenders accountable, and contain corrections costs. In this consensus report, the Task Force presents a roadmap to a new approach to the business of corrections in Delaware. Informed by data and research, the state can create and sustain change that will yield benefits in the years to come. In the coming months, the Task Force will create a strategic plan for implementation and seek enactment of these policies through legislation, court rules, and agency action, as required.

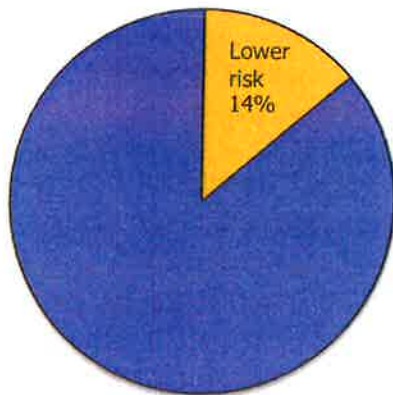
## Factors Driving Prison Population

The Delaware Justice Reinvestment Task Force, with assistance from the Vera Institute of Justice, conducted an extensive review of Delaware's sentencing and corrections data, reviewed policies and practices at state criminal justice agencies, and consulted a wide range of stakeholders to identify the factors sustaining Delaware's prison population.

### Large pretrial population

With 23% of Delaware's prisons taken up by "pre-sentenced" individuals, Delaware uses more of its prison space for detainees than other similar systems.<sup>6</sup> The data analysis revealed that 14% of 2010 detention admissions could be candidates for release or community supervision instead of incarceration while awaiting trial. This "lower risk" group excludes those who might pose a risk of flight or rearrest,<sup>7</sup> indicating an opportunity to release more people on recognizance or with supervision while ensuring public safety.

DETENTION ADMISSIONS IN 2010

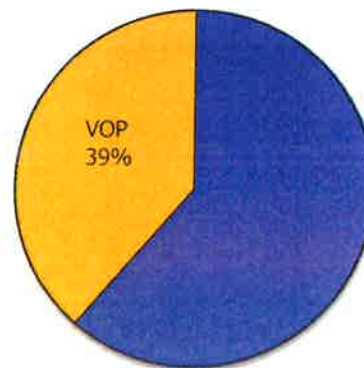


### Violations of Probation

While recidivism data would provide a more complete picture of the rate at which those exiting prison reoffend, the rate of probation violation is an important indication that recidivism drives the prison

population. Those who violate conditions of supervision make up a large portion of the incoming prison population. Thirty-nine percent of admissions to prison (Level V) had a violation of probation (VOP) as the lead charge.<sup>8</sup> While 13% of all probation revocations in 2010 were for new crimes, 87% were for other violations, such as missed appointments, curfew violations, or positive drug tests.<sup>9</sup> In 2010, those serving time for VOPs took up 13% of the system's total bed space.<sup>10</sup> The state has made significant progress in reducing violations of probation since Senate Bill 50 was enacted.<sup>11</sup> However, incarcerating this population still consumes substantial resources; treatment or intermediate sanctions would be more effective and less costly responses.

VOP ADMISSIONS IN 2010



### Long Length of Stay

Delaware prisoners serve long sentences. The average length of stay for Level V prisoners who served over one year (equivalent to "prison" populations in other states), was over 3 years.<sup>12</sup> The national average is about 2 years.<sup>13</sup> Prisoners have limited opportunity to earn reductions in their sentences even when they have made significant steps toward rehabilitation that reduce their risk to public safety.

## Data-Driven Approach to Sentencing and Corrections

The Task Force anchored its proposed policies in the best available research about what works in sentencing and corrections. Outlined below, each policy proposal is linked to the others in a productive cycle designed to deliver results. By concentrating prison and supervision resources on the most violent and high-risk offenders, Delaware will control incarceration costs while protecting public safety.

The Task Force is proposing a set of policies to achieve the following objectives:

1. Concentrate detention resources on high-risk defendants
2. Focus supervision and prison resources on high-risk individuals
3. Hold offenders accountable
4. Reduce barriers to reentry
5. Protect and support victims of crime

### Concentrate detention resources on high-risk defendants

#### ADOPT A PRETRIAL RISK ASSESSMENT TO INFORM FUTURE RELEASE DECISIONS

- Implement an objective assessment instrument that gauges defendants' risk of flight and re-arrest to help magistrates make release decisions. The instrument would incorporate elements to ensure the safety of victims of domestic and sexual violence.
- Provide magistrates with data on rates of re-arrest and failures to appear for scheduled court dates. This would create a track record for release decisions, helping improve future decision making.
- Train magistrates and other stakeholders—such as prosecutors, criminal defense attorneys, and victim service providers—on the administration of the pretrial risk assessment instrument.

- Increase pretrial supervision capacity to ensure adequate supervision for individuals whose risk level indicates that they can be released safely with supervision.

#### INCREASE USE OF CRIMINAL SUMMONSES

- Increase use of criminal summonses through changes in law enforcement agency policies and practices. Using criminal summonses rather than arrest for certain offenses would help reserve detention resources for individuals who pose a risk to public safety.

### Focus supervision and prison resources on high-risk individuals

#### IDENTIFY RISK FACTORS AND ADDRESS THEM

- Assess inmates and probationers for risk and need areas that, if addressed, can reduce recidivism.
- Use assessment information to create case plans for those under correctional control that include services and treatment that address identified needs. These plans would enhance coordination with courts to tailor supervision.
- Improve engagement skills of staff, such as the use of positive reinforcement and motivational interviewing, which research suggests can help staff to be more effective in addressing offenders' criminogenic needs most associated with recidivism.
- Provide adequate programming that is evidence-based and addresses the factors most closely associated with recidivism. The state should require programs in facilities and in the community, including problem solving courts, to be evaluated. Statewide baseline recidivism rates, as well as individual program outcomes, should be analyzed and reported.

#### ENCOURAGE PARTICIPATION IN PROGRAMS THAT REDUCE RISK

- Reduce time on community supervision for those who are complying with supervision conditions



(including completion of programs) by implementing earned compliance credits and eliminating the conditional release period so that time served on probation reflects the judge's sentencing decision.

- Encourage inmates to complete programs associated with reductions in recidivism by awarding credits to decrease time served.

#### SENTENCES INFORMED BY RISK AND NEEDS

- Provide risk and needs assessment information to judges to assist in sentencing decisions, such as identifying individuals who are good candidates for alternatives to incarceration.
- Engage in an intensified review of sentences for drug offenses prior to the 2011 reform for potential modification. This proposal would encourage SENTAC to undertake a review already permitted by Delaware law.

#### Hold Offenders Accountable

- Increase variety, availability, and use of intermediate sanctions for violations of conditions of supervision and document their use. The DOC should provide guidance for probation officers' use of intermediate sanctions so that responses are consistent and proportional to the severity of the violation and the risk posed by the individual.
- Create a sentence guideline for violations of probation that suggests a presumptive maximum. Judges would retain discretion for sentencing individuals determined to have committed serious violations of their supervision conditions.

#### Reduce barriers to reentry

- Expand I-ADAPT program capacity to plan for the successful reentry of a greater number of offenders.
- Support community service providers' use of evidence-based practices.
- Conduct further study of other common barriers to reentry, including restrictions on employment, availability of housing, medical and mental health

care, driver license restrictions, fines and fees, and voting restrictions.

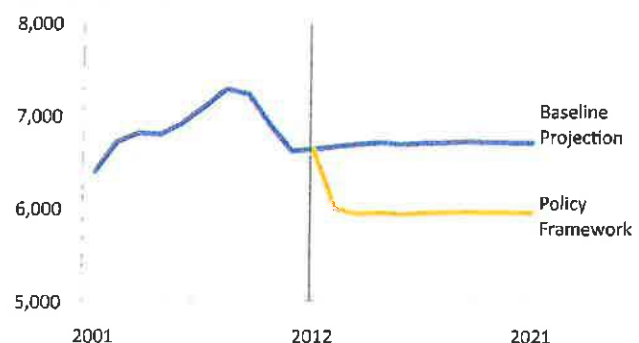
#### Protect and support victims of crime

- Support victims by reducing recidivism and victimization by implementing risk reduction strategies.
- Increase victims' access to offender information through the Delaware State Police Hotline to ensure victim safety at all hours.
- Enhance the DOC's services and responses to victims.
- Ensure victim confidentiality by redacting identifying information from indictments.
- Provide victim-centered programming, such as victim awareness and the effects of trauma.

#### Opportunity for Reinvestment

With the adoption of these policies, preliminary estimates suggest a potential reduction in Delaware's projected prison population by up to 740 beds per year. Avoiding the associated cost of food and medical expenses means that a total of up to \$27,300,000 could be available for reinvestment over the next five years. Sustained population reductions would allow the DOC to close entire housing units or buildings, resulting in further savings and opportunities for reinvestment.

PRISON POPULATION



The Delaware DOC has made significant spending cuts in recent years in response to the budget crisis.

However, these operational cuts can only go so far. To generate further savings requires collaboration among all criminal justice system stakeholders to adopt a more effective strategy for allocating existing resources—such as those advanced here by the Task Force.

Regardless of whether the recommendations generate projected savings, the state has opportunities to reallocate existing funds to programs and practices that produce better outcomes. Rather than paying for pretrial detention, a pretrial release program can improve release decisions and increase public safety. Likewise, investing in the engagement skills of prison and supervision staff instead of marshalling resources to supervise compliant offenders can reduce the likelihood that offenders commit new crimes.

If the state does realize savings from these efforts, the Task Force encourages reinvestment in the priorities identified in this report, especially treatment and program capacity.

## Endnotes

- <sup>1</sup> Delaware Department of Correction Annual Report (2011); Delaware Department of Correction Annual Report (2010); Delaware Department of Correction Annual Report (2009); U.S. Department of Justice, Bureau of Justice Statistics, *Prison and Jail Inmates at Mid-year (2004-2010)*; James F. Austin, Presentation to the Delaware Justice Reinvestment Task Force (Feb. 27, 2012).
- <sup>2</sup> Delaware Department of Correction Annual Report (2011).
- <sup>3</sup> Vera Institute of Justice, Center on Sentencing and Corrections, Memorandum to the Delaware Justice Reinvestment Task Force, “Administrative Data Challenges and Recommendations” (March 8, 2012).
- <sup>4</sup> Federal Bureau of Investigation, U.S. Department of Justice, “Crime in the United States” (2005–2011).
- <sup>5</sup> Federal Bureau of Investigation, U.S. Department of Justice, “Crime in the United States” (2010).
- <sup>6</sup> Suzanne Agha, Presentation to the Delaware Justice Reinvestment Task Force (Nov. 21, 2011).
- <sup>7</sup> Delaware Department of Correction data, 2010; Delaware Justice Information System data, 2010.
- <sup>8</sup> Ibid.
- <sup>9</sup> Suzanne Agha, Presentation to the Delaware Justice Reinvestment Task Force (Dec. 19, 2011).
- <sup>10</sup> Ibid.
- <sup>11</sup> Senate Bill 50, as amended by Senate Amendment No. 3 and Senate Bill No. 150 (2003). The 2003 Probation Reform Law, aimed to reduce the number of revocations to prison for technical violations and standardize and shorten probation terms to make them more manageable for offenders.
- <sup>12</sup> Statistical Analysis Center data, 2009.
- <sup>13</sup> U.S. Department of Justice Bureau of Justice Statistics, National Corrections Reporting Program (2009).

# **JUSTICE REINVESTMENT OVERSIGHT GROUP AGENDA FOR APRIL 23, 2014**

- 1. Welcome and Introductions**
- 2. Minutes from December 4th meeting**
- 3. Implementation Updates**
  - a. JP Courts**
  - b. DOC**
  - c. SAC**
  - d. CIC**
- 4. Oversight Group Annual Report**
- 5. Next Steps**
- 6. Next Meeting**
- 7. Adjournment**

# JUSTICE REINVESTMENT OVERSIGHT GROUP MEETING

## MINUTES FOR APRIL 23, 2014

The Justice Reinvestment Oversight Group met on April 23, 2014 in the New Castle County Courthouse. In attendance were Chair, President Judge James T. Vaughn Jr. of Superior Court, Chief Magistrate Alan Davis, Commissioner Robert Coupe of the Department of Correction, Secretary John McMahon of the Department of Labor, Chief Judge Alex Smalls of the Court of Common Pleas, State Senator Patricia Blevins representing the State Senate, State Representative James Johnson representing the House of Representatives, Drew Fennell representing the Governor's Office, Chuck Huenke and Philisa Weidlein-Crist representing the CJC/Statistical Analysis Center, Ruth Delaney and Nancy Fishman representing the Vera Institute, Jeff Mordock of the Delaware Law Weekly, Chris Kervick, Maureen Monagle, Valarie Tickle and Ron Keen, all of the Criminal Justice Council.

The meeting opened with the approval of the Minutes from the December 2013 meeting.

Under Implementation updates Judge Davis reported that the J.P. Courts began conducting the assessments a week earlier than the 12/31/13 date required by law. He indicated that during the first quarter of 2014 that 4,804 assessments were completed on 3,967 individuals covering 4,602 cases. Multiple assessments were completed on a number of individuals. Judge Davis indicated that the classifications were the result of overrides in 3.7% of the assessments. He reported that some concern had been expressed that the number of low risk assessments being overridden to high risk was high. He added that the instrument or the override process might need to be reviewed. Judge Davis suggested that an independent entity might be advisable to validate the instrument. Judge Vaughn asked at what point an impact by the RAI on the DOC detention population numbers would be measurable. Judge Davis responded that the detention population for 2014 was lower than the total for 2013, but that it has not been determined that use of the RAI was the reason. Commissioner Coupe indicated that the data is complicated but available through DACS. Summarizing, Judge Davis indicated that it could be appropriate to find an academic body such as a university to evaluate the RAI data. He reported that some issues are:

- How to apply significance to the data and who will do it
- Validate the scale used in the RAI
- Develop resources for alternatives to detention
- Validate the RAI



Judge Vaughn suggested that it might be helpful to have someone in charge of statistics. Drew Fennell raised the question of who ultimately have the ultimate responsibility and management of the RAI. Judge Davis finalized the discussion by indicating that there are various reasons that an individual could be held other than a high risk score on the RAI. Two of the reasons are violation of probation charges and return of capias as a RAI is not completed in either instance.

Next, Commissioner Coupe provided highlights of recent Department of Correction implementation of SB 226 efforts. He reported that pre-trial supervision defendants totaled 337 in April which was down slightly from an earlier total of 350. Next, he advised that DOC has decided not to propose legislation which would empower P & P Officers to better supervise pre-trial supervision defendants through administrative sanctions. Commissioner Coupe indicated that since April of 2013 that the DOC had completed 7,735 LSI-R assessments on offenders at Levels 3, 4, and 5. He also reported that the data is being shared with George Mason University staff which is partnering with DOC in utilizing its Risk Need Responsivity (RNR) tool. He added that DOC wants to develop a diagnostic detention center so that diagnostic information regarding offenders would be available to judges prior to sentencing. Regarding Title 11 Section 4334(d) changes that authorize DOC to administratively resolve a technical violation of probation by placing an offender on home confinement for a short period of time, Commissioner Coupe indicated that placing an individual on home confinement for 10 days was not practical administratively. Judge Vaughn raised the question of making adjustments such as extending the home confinement time period. Next, he reported that as a result of the University of Delaware's CPAP assessment, that three programs currently receive good time credits. He added that overall, 25% of supervision terms are discharged successfully early.

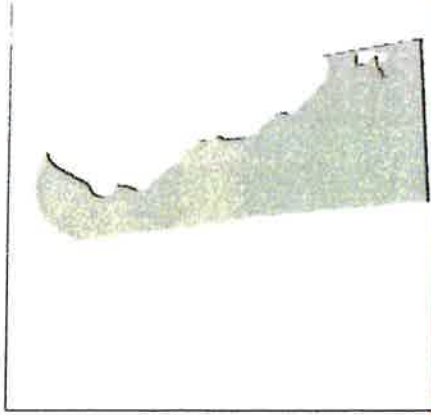
Chris Kervick, Executive Director of the Criminal Justice Council requested that the Oversight Group endorse the formation of a statistics group which would report to the Oversight Group. The Oversight Group approved the statistics group.

Next on the agenda was the presentation of a PowerPoint by Ruth Delaney and Nancy Fishman of the Vera Institute. The presentation included a breakdown of how the \$269,000.00 awarded to Delaware is to be spent. The presentation also included the information that the Bureau of Justice Assistance is implementing Phase III of Justice Reinvestment. Funding is available and the solicitation has been released.

In the discussion that followed, Representative Johnson, said he would like to see if the prison population has been reduced and whether the releases are productive citizens. Judge Alan Davis indicated that costs would increase if 24 hour-7 day a week service in the Justice of the Peace Courts was expanded. Further he requested that needs in the bail process be considered. Specifically, he noted that it would be helpful to have DOC information on repeat offenders available to the J.P. Courts when bail is being set.

The meeting adjourned at 11:30AM.

# Delaware Justice Reinvestment



Oversight Group Meeting, April 23, 2014

Nancy Fishman, Project Director, Vera Institute of Justice  
Ruth Delaney, Program Associate, Vera Institute of Justice

# Agenda

1. Welcome
2. JRI Seed Funding Update
3. Performance Measures Update
4. Reinvestment Update
5. Discussion

# Justice Reinvestment

a **data-driven approach** to reduce spending on corrections and **reinvest** savings in **evidence-based strategies** designed to increase public safety



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

**VERA**  
INSTITUTE OF JUSTICE

**VERA**  
INSTITUTE OF JUSTICE

CENTER ON SENTENCING & CORRECTIONS

Slide 3 • December 4, 2013



# JRI Model



# JRI Seed Funding Update

# SB226 Oversight Group

Executive Order 40, as it relates to seed funding:

*...The Oversight Group shall...*

- b. *Establish funding priorities and submit an application to the U.S. Department of Justice's Bureau of Justice Assistance (BJA) for Justice Reinvestment Initiative seed funding.*



# Seed Funding Request

**What can the funding be used for?**

- To kick-start Phase I policies

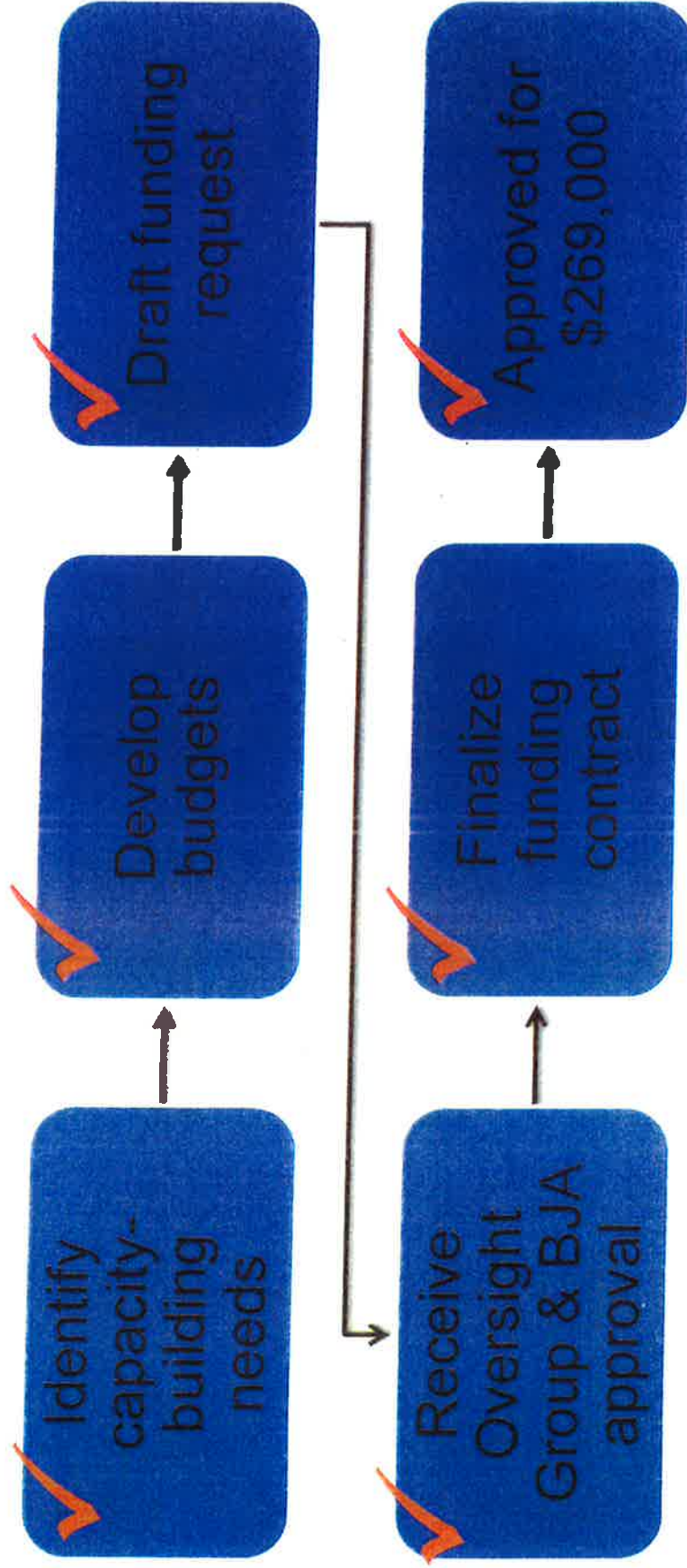
**What does BJA look for?**

- Capacity-building activities

**How much money is available?**

- Approximately \$200,000 to \$400,000

# Seed Funding Request



# Seed Funding Request

Initiative	Agency	Approved funding amount
1. <i>JRI Coordinator</i>	CJC/JP Courts/Oversight Group	\$34,000
2. <i>Effective Interventions Initiative</i>	Delaware DOC	\$160,000
3. <i>Risk-Needs-Responsivity Simulation Tool</i>	Delaware DOC	\$75,000

# Seed Funding Request

Initiative	Agency	Approved funding amount
1. <i>JRI Coordinator</i>	CJC/JP Courts/Oversight Group	\$34,000

CJC has identified several staff to fulfill the roles of the JRI Coordinator:

1. Oversee data collection and reporting on SB 226 Performance Measures
2. Project manage the implementation of the PRAI
3. Complete all BJA reporting requirements related to JRI Seed funds



# Seed Funding Request

Initiative	Agency	Approved funding amount
2. <i>Effective Interventions Initiative</i>	Delaware DOC	\$160,000

1. DOC is contracting with JFA Associates to re-validate its classification tool (\$25,000).
2. CJC has released an RFP for a trainer to assess DOC staff training needs in relation to the implementation of the RNR tool. Proposals are due April 30, 2014 (\$135,000).

# Seed Funding Request

Initiative	Agency	Approved funding amount
3. <i>Risk-Needs-Responsivity Simulation Tool</i>	Delaware DOC	\$75,000

1. DOC has contracted with the Center for Advancing Correctional Excellence to implement the RNR Tool. To date, ACE has:
  - Completed training of DOC staff on administering the RNR Tool
  - DOC is sharing data to enable ACE to completed a review of Delaware offenders' risks and needs using the LSI-R and recidivism data

# Seed Funding Request

Initiative	Agency	Approved funding amount
3. <i>Risk-Needs-Responsivity Simulation Tool</i>	Delaware DOC	\$75,000

Still to come:

1. Additional trainings of DOC staff
2. Completion of a Delaware specific data set, including offender risk and needs, recidivism, and program information
3. Completion of a report on program scoring and recommendations for program improvement and alignment with offender needs



# Performance Measures Update



# SB226 Oversight Group

Executive Order 40, as it relates to performance measures:

*... The Oversight Group shall*

- a. *Review the implementation of SB 226 including, but not limited to:*
  - I. *Establish reporting requirements for the agencies tasked with implementing SB 226;*
  - II. *Receive and review reports from the agencies; and*
  - III. *Establish and review outcome measures related to SB 226....*

# SB 226 Goals

The Justice Reinvestment Task Force grouped SB 226 policies into four broad goals:

1. Concentrating detention resources on high-risk defendants
2. Focusing supervision and prison resources on moderate- to high-risk people
3. Holding offenders accountable
4. Protecting and supporting victims of crime

# Elements of the Performance Measures

1. Outcome Measures that address the **population drivers** identified during the development of SB 226.
2. Performance Measures that address the **implementation** of SB 226 policies.
3. A Dashboard of relevant measures that displays a visual representation of data.
4. The SB 226 Outcome and Performance Measures Guide that lays out the relationship between SB 226 policy changes, the goals of each policy, and the measures that relate each policy.



# Reinvestment Update

# SB226 Oversight Group

Executive Order 40, as it relates reinvestment:

*... The Oversight Group shall....*

- b. Develop a plan for:*
  - i. measuring the cost impacts of SB 226 and*
  - ii. reallocation of resources if any savings are realized.*

# Developing a Reinvestment Methodology

## Elements of reinvestment:

- Types of costs: Average, marginal, and fixed
- Cost avoidance vs. cost savings
- Calculation methodology
- Proposed uses for reinvestment
- Reinvestment approval process



# Discussion

## **MECKLENBURG COUNTY PRETRIAL RISK ASSESSMENT & PRAXIS**

### **Praxis Notes**

1. Non-secured includes Written Promise to Appear, Unsecured Bond, and Custody of Designated Person [N.C.G.S. §15A-534(a)]
2. Secured Bond or Custody of a Designated Organization Supervision Alternative means that the judicial official has set a secured bond with an alternate release option to the Custody of a Designated Organization (Pretrial Services) as authorized by N.C.G.S. §15A-534(a)
3. Special conditions can be ordered for any charge and risk level
4. The praxis does not apply to violent felony charges or probation violations and are not included in any of the grids
5. If the charge is domestic violence related the bond range is doubled

### **Levels of Supervision**

#### **Administrative**

- ◆ Weekly automated phone reporting
- ◆ Post-court kiosk reporting
- ◆ Face-to-face office contact as needed

#### **Standard**

- ◆ Post-release office conference & assessment (within 72 hours)
- ◆ Monthly office contact with pretrial services case manager
- ◆ Weekly automated phone reporting
- ◆ Post-court kiosk reporting
- ◆ Monthly criminal history checks through the Automated Criminal Infractions System (ACIS)
- ◆ Participate in a drug/alcohol testing and monitoring program
- ◆ Participate in a specified substance abuse assessment and any treatment recommended as a result of the assessment

#### **Intensive**

- ◆ Post-release office conference & assessment (within 72 hours)
- ◆ Weekly office contact with pretrial services case manager
- ◆ Weekly automated phone reporting
- ◆ Post-court kiosk reporting
- ◆ Monthly criminal history checks through the Automated Criminal Infractions System (ACIS)
- ◆ Participate in a drug/alcohol testing and monitoring program
- ◆ Participate in a specified substance abuse assessment and any treatment recommended as a result of the assessment



**MECKLENBURG COUNTY PRETRIAL RISK ASSESSMENT & PRAXIS****MECKLENBURG COUNTY, NORTH CAROLINA PRAXIS****Grid 1****Misdemeanor Non-Assaultive and Traffic\***

<b>Risk Levels</b>	<b>Bond Type</b>	<b>Bond Range</b>	<b>Pretrial Supervision</b>
Low (0,1)	Non-secured	\$100-\$1,000	Non-applicable
Below Average (2)	Non-secured	\$100-\$1,000	Non-applicable
Average (3)	Non-secured	\$100-\$1,000	Non-applicable
Above Average (4)	Secured Bond or Release to the Custody of a Designated Organization Supervision Alternative	\$500-\$2,500	Administrative
High (5-9)	Secured Bond or Release to the Custody of a Designated Organization Supervision Alternative	\$500-\$2,500	Intensive

\*If the alleged offense is alcohol related, defendant to be released to a sober adult or released when sober.

**Grid 2****Misdemeanor Assaultive/Domestic Violence Related\* (Including Charges of Communicating Threats and Stalking)**

<b>Risk Levels</b>	<b>Bond Type</b>	<b>Bond Range</b>	<b>Pretrial Supervision</b>
Low (0,1)	Non-secured	\$1,000-\$2,500	Non-applicable
Below Average (2)	Non-secured	\$1,000-\$2,500	Non-applicable
Average (3)	Secured Bond or Release to the Custody of a Designated Organization Supervision Alternative	\$1,500-\$3,000	Administrative
Above Average (4)	Secured Bond or Release to the Custody of a Designated Organization Supervision Alternative	\$2,500-\$5,000	Standard
High (5-9)	Secured Bond or Release to the Custody of a Designated Organization Supervision Alternative	\$2,500-\$5,000	Intensive

\*If domestic violence related the bond range is doubled.

**Grid 3****Felony Non-Violent**

<b>Risk Levels</b>	<b>Bond Type</b>	<b>Bond Range</b>	<b>Pretrial Supervision</b>
Low (0,1)	Non-secured	\$2,500-\$10,000	Non-applicable
Below Average (2)	Non-secured	\$2,500-\$10,000	Non-applicable
Average (3)	Secured Bond or Release to the Custody of a Designated Organization Supervision Alternative	\$2,500-\$10,000	Standard
Above Average (4)	Secured Bond or Release to the Custody of a Designated Organization Supervision Alternative	\$5,000-\$25,000	Standard
High (5-9)	Secured Bond or Release to the Custody of a Designated Organization Supervision Alternative	\$5,000-\$25,000	Intensive

\*The praxis does not apply to violent felony charges or probation violations and are not included in any of the grids.

## **Appendix E: Mecklenburg County, North Carolina**

Pretrial Risk Assessment Praxis

## MESA COUNTY BOND GUIDELINES, Continued

### Legal Principles & Philosophy

- 1) The purpose of a bond is to ensure the defendant's appearance in court and public safety (C.R.S. 16-4-101 to 105). "The purpose of bail is to ensure the defendant's presence at trial and not to punish him before he has been convicted." *L.O.W. v. District Court*, 623 P.2d 1253, 1256 (Colo. 1981)
- 2) The type, amount and conditions of bond should be the least restrictive which are necessary to ensure the defendant's court appearance and public safety. *United States v. Salerno*, 481 U.S. 739 (1987)
- 3) When setting bond, the parties shall consider the following: the Constitutional bond provisions, the statutes concerning bond (C.R.S. 16-4-101 to 107, including the 14 specific factors listed in 16-4-105), and the local bond guidelines, including the CPAT risk level of each defendant.
- 4) Pretrial supervision may be ordered pursuant to C.R.S. 16-4-105, and shall be in accordance with the SMART Praxis, unless otherwise ordered by the court.
- 5) The parties should consult 16-4-105 (1) (m-p.5), for instances where PR bonds are not allowed without D.A. consent.

### Evidence-Based Principles (Best Practices)

- 1) Jurisdictions that implement pretrial supervision strategies based on empirically established risk principles successfully reduce unnecessary detention while maintaining or improving pretrial outcomes.
- 2) Bond decisions shall be informed by the results of an empirical pretrial assessment tool. Defendants should be screened by the Colorado Pretrial Assessment Tool (CPAT), and Domestic Violence offenders should also be screened with a validated domestic violence risk tool.
- 3) The assessments should be reviewed by the appropriate judicial officials and the decision regarding bond and release should be made by a Judge or Magistrate based on the risk assessments, the bond guidelines, input from relevant attorneys, and the judge's professional judgment. The only exception to this is Pretrial Services' release authority, which is approved in the starred categories of the bond guidelines.
- 4) The risk of "moderate" and "higher" risk defendants may be lessened by utilizing appropriate release conditions upon release.
- 5) Higher supervision services should be given to higher risk defendants, and lower supervision or no supervision to lower risk defendants. Higher risk defendants who are under-supervised, and lower-risk defendants who are over-supervised, may cause harm to both the defendant and the community. It is acknowledged that there are exceptions to this principle based on the levels of crimes committed.

### Statement of Collaboration

These bond guidelines were formed collaboratively with input from Mesa County Stakeholders, including Judges from both District and County courts, the Defense Bar, the Public Defender's Office, the District Attorney's Office, the Mesa County Sheriff's Department and Mesa County Pretrial Services. This group of stakeholders agrees to the implementation of these guidelines, as well as an objective review and evaluation of these guidelines to ensure that they accomplish the goals that have been established by our stakeholders.



**Date:** April 15, 2014 – REVISED April 16, 2014

**To:** The Delaware Justice of the Peace Courts Pretrial Risk Assessment Instrument Implementation Group

**Subject:** Pretrial Release Decision Praxes

**From:** The Vera Institute of Justice, Center on Sentencing and Corrections

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The Vera Institute of Justice (Vera) is providing technical assistance to the Delaware Justice of the Peace Courts Pretrial Risk Assessment Instrument (PRAI) Implementation Group as part of Phase II of the Bureau of Justice Assistance's Justice Reinvestment Initiative (JRI). The PRAI Implementation Group is tasked with developing and implementing a pretrial risk assessment instrument in accordance with SB 226, the Justice Reinvestment Act. On January 1, 2014, Delaware's JP Courts implemented the PRAI developed by the PRAI Implementation Group in 2013.

At the January 30, 2014 meeting of the PRAI Implementation Group, members raised concerns about implementation of the PRAI: 1) uncertainty among magistrates about how to translate the risk score produced by the PRAI into bail/release conditions; 2) lack of consistency across courts and judges in interpreting risk and setting risk-based bail/release conditions; 3) difficulty in determining judicial concurrence (the rate at which magistrates set release conditions in accordance with assessed risk<sup>1</sup>) with the PRAI. The PRAI Implementation Group requested assistance from Vera in addressing these implementation issues.

Facing similar implementation challenges, several states and counties have recently developed pretrial tools called "praxes" that link assessed risk and charge type with bail type and amount, intensity of pretrial supervision, and other conditions. These tools enhance judicial decision-making by providing a clear link to assessed risk, while preserving judicial discretion on individual case factors. Researchers in the pretrial field consider these tools a promising practice for managing pretrial risk.<sup>2</sup> Vera interviewed stakeholders in three states and two counties that have developed praxes. This memo includes: I) information gathered from document reviews and interviews with stakeholders engaged in the development or implementation of their jurisdiction's praxis, II) recommendations for implementation, III) comparisons of the elements of each praxis, IV) state and county contacts, and V) example praxes from consulted states and counties.

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<sup>1</sup> National Institute of Corrections. *Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field*. (Washington, DC: U.S. Department of Justice, 2011).

<sup>2</sup> M. VanNostrand. *Using Evidence to Advance Effective Justice Realignment Pretrial*. (California Realignment Conference, 21 September 2011). Conference Presentation.



## I. Implementing a Pretrial Praxis

Vera identified three states and two counties that have developed and implemented decision-making tools to accompany their existing pretrial risk assessment instruments: Connecticut, Kentucky, and Virginia; and Mecklenburg County (North Carolina), and Mesa County (Colorado).<sup>3</sup> Each of these jurisdictions differ from Delaware in that they have pretrial services agencies that administer the risk assessment instrument and use the praxis to make bail recommendations; however, the JP Courts can still draw lessons from their implementation efforts. The following section summarizes how the tools have been used by each state or county's courts and pretrial services agencies.

### A. States

**Connecticut:** In Connecticut, initial bail decisions are made by Bail Services, the state's pretrial services and supervision agency. Except in cases where a person is arrested on a warrant signed by a judge and the bond has already been set or denied by the judge, all defendants have the right to a bail determination by Bail Services. During non-court hours, Bail Services make bail determinations and can order the release of a defendant. This determination can be challenged by the police and revisited by a judge at the defendant's first scheduled court appearance.<sup>4</sup> During court hours, Bail Services staff make bail recommendations to the judge at arraignment. Bail Services also coordinate on-site screenings for substance abuse and mental illness, enabling staff to make additional recommendations for conditions based on needs.

Bail Services staff conduct an interview and investigation using the Court Services Support Division Pretrial Risk Assessment Point Scale, the Financial Bond Rating Scale, and the Bail Program Referral Guide (the state's pretrial risk assessment and praxis) to determine conditions of release. The combined risk assessment/praxis links risk score to a recommended bond or non-financial release. For those scored low risk, meaning zero or above on Connecticut's pre-trial risk assessment instrument, the praxis recommends release with non-financial conditions. For those scored high risk, meaning zero or below, the praxis recommends a surety or 10 percent bond. Bail Services reports that release with non-financial conditions are recommended in 90 percent of cases.<sup>5</sup> Non-financial conditions of release include call-in or in-person reporting, curfews, travel restrictions, no contact regulations, and drug screening/urinalysis. Connecticut reports an 80 percent judicial concurrence rate with the praxis<sup>6</sup> and an 11 percent failure to appear (FTA) rate.<sup>7</sup>

**Kentucky:** Kentucky's Pretrial Service Agency adopted and validated a new risk assessment instrument for use in pretrial decision-making in 2006 and 2010, respectively. Legislation enacted in July 2012 explicitly linked release decisions to risk level as

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<sup>3</sup> See appendix for praxes from Connecticut; Kentucky; Virginia; Mesa County, Colorado; and Mecklenburg County, North Carolina.

<sup>4</sup> State of Connecticut, Judicial Branch, *Adult Services Bail Intake/Assessment Procedures 4.1* (Connecticut: Court Support Services Division, 2013).

<sup>5</sup> James Carrollo, interview, New York, NY, April 8, 2014.

<sup>6</sup> While there is no ideal concurrence rate, rates close to 100 percent can signal that judges are not considering individual factors. Conversely, concurrence rates below 70 percent may signal that judges do not trust praxis recommendations.

<sup>7</sup> James Carrollo, interview, New York, NY, April 8, 2014.

determined by the pretrial risk assessment instrument.<sup>8</sup> Pretrial Services officers interview and assess defendants within 24 hours of arrest and make release recommendations to circuit and district judges, though many jurisdictions strive to do this within 12 hours of arrest. Judges are required to make release decisions within 24 hours of arrest. Pretrial officials are mandated to interview all defendants arrested with a bailable offense, with the exception of those who decline to be interviewed.<sup>9</sup>

For low-risk clients, the praxis recommends unsupervised release. For those assessed as moderate risk, the praxis recommends standard supervision (two in-person contacts per month), and for those assessed high risk, it recommends intensive supervision (weekly in-person contacts). Deviation from the praxis' recommendations requires judicial documentation. Overall, Kentucky's judges release 69 percent of pretrial defendants and order supervision for nine percent of those released.<sup>10</sup> A group of judges, jail officials, and a sample of pretrial offenders review the risk assessment instrument and praxis every two years.<sup>11</sup>

**Virginia:** Under the auspices of the Virginia Department of Criminal Justice Services (DCJS), the commonwealth of Virginia currently operates 29 pretrial service agencies that serve 80 of Virginia's 134 cities and counties.<sup>12</sup> In 2003, DCJS developed the Virginia Pretrial Risk Assessment Instrument (VPRAI), the first research-based statewide risk assessment in the country.<sup>13</sup> The VPRAI is used on all adults arrested for class 1 and class 2 misdemeanors, unclassified misdemeanors that carry a penalty of jail time, or any felony. Defendants arrested for a civil offense, FTA, or *capias*, or a fugitive warrant or warrant of extradition are not assessed.<sup>14,15</sup>

In 2010, DCJS collaborated with the Virginia Community Criminal Justice Association (CCJA) and Luminosity, Inc. to develop a praxis to guide pretrial release decisions. DCJS is currently pilot testing the praxis in several jurisdictions. The VPRAI classifies defendants as low, below average, average, above average, and high-risk. The praxis includes assessed risk and charge type and recommends bond type and supervision level. In determining what conditions to include on the praxis, DCJS staff noted that the praxis may overemphasize bond type, which could skew judges towards the use of monetary conditions. Staff anticipate that modifications that mitigate this will be necessary once the pilot is complete.

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<sup>8</sup> K.R.S. § 431.066

<sup>9</sup> Pretrial Services, *Pretrial Reform in Kentucky*. (Frankfort, KY: Pretrial Services, Administrative Office of the Courts, Kentucky Court of Justice, 2013).

<sup>10</sup> Tara Klute, interview, New York, NY, April 11, 2014.

<sup>11</sup> B. Mahoney, et al., *Pretrial Services Programs: Responsibilities and Potential* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, 2001).

<sup>12</sup> M. VanNostrand and K. J. Rose. *Pretrial Risk Assessment in Virginia*. (Saint Petersburg, FL: Luminosity, Inc., 2009).

<sup>13</sup> M. VanNostrand, K. J. Rose, and K. Weibrecht. *In Pursuit of Legal and Evidence-Based Pretrial Release Recommendations and Supervision*. (Saint Petersburg, FL: Luminosity, Inc., 2011).

<sup>14</sup> Department of Criminal Justice Services. *Virginia Pretrial Risk Assessment Instrument (VPRAI)*. (Richmond, VA: 2009).

<sup>15</sup> The VPRAI is not used on those incarcerated at the time they are charged with a new crime.

## B. Counties

**Mecklenburg County, North Carolina:** Led by the Criminal Justice Advisory Board, the Mecklenburg County Criminal Justice System developed a praxis in 2010 to aid Pretrial Services in recommending conditions of release to magistrates or other judicial officials.<sup>16</sup> In Mecklenburg, Pretrial Services use the County's risk assessment tool in conjunction with the praxis to compile an assessment report, which is submitted to the Court, Assistant District Attorney and the Defense Counsel in cases involving traffic, misdemeanor, and non-violent charges.<sup>17</sup> The praxis includes risk score charge type and recommends bond type and release conditions. The praxis includes assessed risk and charge type and recommends bond type and supervision level. For domestic violence charges, the bond range is doubled.<sup>18</sup> Mecklenburg County reports an 80 percent judicial concurrence rate with praxis recommendations.<sup>19</sup>

**Mesa County, Colorado:** Between 2012 and 2013, the Pretrial Implementation Subcommittee of Mesa County, Colorado implemented a suite of tools to aid in pretrial release decision making:

- *The Bond Practice Summary:* a two-page document that describes the new pretrial process.
- *The Colorado Pretrial Assessment Tool (CPAT):* a validated pretrial risk assessment instrument.
- *The Supervision Matrix Assessment & Recommendation Tool (SMART) Praxis:* The praxis includes assessed risk and charge type and recommends supervision level. It includes a detailed description of the requirements of each level of supervision and links risk score with recommended release conditions. It also breaks out special conditions for DUI defendants.
- *The Bond Guidelines:* this replaces the previous bond schedule and links bond type and amount with supervision level and assessed risk.

The Subcommittee continues to meet and includes representatives from the District Court, County Court, District Attorney's Office, Public Defenders Office, Mesa County Sheriff's Office, and Criminal Justice Services as well as private attorneys, and a data analyst.<sup>20</sup> To produce the praxis, the Subcommittee established work groups to draft praxis prototypes from which the final praxis was developed collaboratively. The Subcommittee continues to meet quarterly to address issues related to implementation and review outcome measures. The Subcommittee reports a 74 percent concurrence rate with praxis recommendations.<sup>21</sup>

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<sup>16</sup> K. J. Rose, R. Mitchell, and M. VanNostrand, *Mecklenburg County Bail Process Re-Engineering* (Saint Petersburg, FL: Luminosity, Inc., 2009).

<sup>17</sup> Luminosity, Inc., *Mecklenburg County Pretrial Risk Assessment & Praxis: Instruction Manual*. (Saint Petersburg, FL: Luminosity, Inc., 2010); also see, *Bail Policy for the Twenty-Sixth Judicial Circuit*. (Charlotte, NC: General Court of Justice Twenty Sixth Judicial Court, 2010).

<sup>18</sup> Luminosity, Inc., *Mecklenburg County Pretrial Risk Assessment & Praxis: Instruction Manual*. (Saint Petersburg, FL: Luminosity, Inc., 2010).

<sup>19</sup> Jessica Ireland, interview, New York, NY, April 3, 2014.

<sup>20</sup> Pretrial Implementation Subcommittee of Mesa County, Colorado. *Mesa County Evidence Based Decision Making Project: Pretrial Implementation Handouts*. (Colorado: Pretrial Implementation Subcommittee of Mesa County, Colorado, April 29, 2013).

<sup>21</sup> Joel Bishop, interview, New York, NY, April 7, 2014.

## II. Recommendations

The following recommendations are drawn from Vera staff's research and interviews with staff at the various implementing agencies.

- *Emphasize supervision and special conditions:* a praxis can be an important tool in the effort to move pretrial release from a financial orientation to one based on risk. Virginia found that emphasizing cash bond on the praxis undermined their efforts to move away from financial conditions.
- *Engage judges:* including a range of judicial officers in the development of the praxis will increase buy-in once it is implemented within the system.
- *Use prototypes:* tasking a workgroup with developing prototypes of praxes can speed the development process. Staff in Mesa County noted that having something to react to increased the productivity of development meetings.
- *Review praxes periodically:* it is important to review praxes on a regular schedule to ensure that the matrices remain relevant to judges. Philadelphia adopted a praxis several years ago, but it fell out of use when it was not updated regularly.
- *Develop a research plan:* decide at the point of implementation what data is necessary to track outcomes/implementation of the praxis. This will ensure that necessary data is collected from the start of implementation.

## III. Praxis Comparison

The following two charts compare the five pretrial praxes described above. Chart A highlights the most prevalent characteristics of each praxis and the similarities and differences across the jurisdictions. Chart B highlights pretrial release conditions, distinguishing between general and special conditions of release. The general conditions are those most often applied to all supervised clients, regardless of score. Special conditions are the recommendations reflective of the client's unique risk factors and needs as defined by additional professional screenings.

<b>A. Pretrial Praxes Elements by Jurisdiction</b>							
States	Separated by Primary Charge	No. of Risk Categories	No. of Supervision Categories	Includes Bond Type	Includes Bond Range	Applies to Violent Felony Offenses	Applies to Domestic Violence Cases
Connecticut		2 <sup>22</sup>		✓	✓	✓	✓
Kentucky	✓	3	3	✓		✓	✓
Virginia	✓	4	3				
Mecklenburg County, NC		5	3	✓	✓		✓
Mesa County, CO		4	3			✓	✓

<b>B. General and Special Pretrial Supervision Release Conditions by Jurisdiction</b>							
	General Conditions				Special Conditions		
	Court Reminders	Criminal History Checks	Alternative Check-in (phone, text, email)	Face-to-Face Check-ins	Urine Screens	Substance Abuse Electronic Devices	GPS Monitoring
Connecticut			✓	✓	✓		✓
Kentucky							
Low-Risk							
Moderate-Risk			✓	✓	✓	✓	✓
High-Risk			✓	✓	✓	✓	✓
Virginia							
Supervision I	✓	✓		✓			
Supervision II	✓	✓		✓			
Supervision III	✓	✓		✓			
Mecklenburg County							
Administrative			✓				
Standard		✓		✓	✓	✓	
Intensive		✓	✓	✓	✓	✓	
Mesa County							
Administrative	✓		✓		✓		
Basic	✓			✓	✓	✓	
Enhanced	✓	✓		✓	✓	✓	
Intensive	✓	✓		✓	✓	✓	✓

<sup>22</sup> Connecticut's Court Services Support Division Pretrial Risk Assessment Point Scale breaks scores into two risk categories (above or below zero). The Bail Guidelines include additional risk levels.



#### IV. State and County Contacts

See the table below for contacts in each of the consulted states or counties.

State/County	Name	Title and Agency	Email	Phone
Connecticut	Jamie Carollo	Bail Regional Manager, Court Support Services Division	<a href="mailto:James.Carollo@jud.ct.gov">James.Carollo@jud.ct.gov</a>	(860) 721-2191
Kentucky	Tara Klute	Director, Kentucky Pretrial Services	<a href="mailto:TaraKlute@kycourts.net">TaraKlute@kycourts.net</a>	(502) 573-2350
Mecklenburg County, North Carolina	Jessica Ireland	Program Manager, Pretrial Services	<a href="mailto:jessica.ireland@mecklenburgcountync.gov">jessica.ireland@mecklenburgcountync.gov</a>	(704) 686-0236
Mesa County, Colorado	Joel Bishop	Pretrial Manager, Mesa County Criminal Justice Services	<a href="mailto:joel.bishop@mesacounty.us">joel.bishop@mesacounty.us</a>	(970) 244-3309
Virginia	Kenneth Rose	Coordinator, Pretrial Services, Department of Criminal Justice Services	<a href="mailto:Kenneth.Rose@dcjs.virginia.gov">Kenneth.Rose@dcjs.virginia.gov</a>	(804) 225-4329

#### V. Examples of Praxes

Appendices A-E include the five pretrial praxes described above.

## **Appendix A: Connecticut**

1. CSSD Pretrial Risk Assessment Point Scale
2. Financial Bond Guidelines
3. Bail Program Referral Guide

## CSSD Pretrial Risk Assessment Point Scale

## Attachment C

	<b>Marital Status</b>	0 = Not Married (includes separated, divorced, and widowed) +3 = Married
	<b>Lives with</b>	0 = Alone +2 = Nonimmediate family or roommate +3 = Immediate family
	<b>Verifiable References</b>	0 = No +2 = Yes
	<b>Means of Support</b>	0 = None or Incarcerated +2 = Reliance on others (includes government support) +4 = Self-reliance (part-time, seasonal, & full-time employment)
	<b>Length of Employment</b>	0 = Less than one year at current job +1 = One year but less than two years at current job +2 = Two or more years at current job
	<b>Total Years Completed</b>	0 = High School or less +2 = More than High School
	<b>Substance/Mental Health Indicator</b>	0 = No -1 = Yes
	<b>Most Serious Charge</b>	-20 = Capital Felony -10 = Class A Felony -9 = Class B Felony -8 = Class C Felony -7 = Class D Felony -6 = Unclassified Felony -5 = Class A Misdemeanor -4 = Class B Misdemeanor -3 = Class C Misdemeanor -2 = Class D Misdemeanor -1 = Unclassified Misdemeanor 0 = Violation
	<b>Prior Failure to Appear</b>	+1 = No prior failure to appears -2 = Prior FTA for a misdemeanor ci -3 = Prior FTA for a felony charge *COUNT PENDING or CONVICTED FTA CHARGES
	<b>Number of Convictions</b>	0 = No convictions -1 = One or two convictions -2 = More than two convictions
	<b>Prior Criminal Record</b>	+2 = No prior record -1 = Prior misdemeanor convictions -2 = Prior felony convictions
	<b>Safety Risk Convictions</b>	0 = Not charged with a Safety Risk Offense and does not have a Safety Risk Offense conviction -2 = Charged with a Safety Risk Offense and has a Safety Risk Offense Conviction
	<b>Safety Risk Pending</b>	0 = Not charged with a Safety Risk Offense and does not have a Safety Risk Offense pending -2 = Charged with a Safety Risk Offense and has a Safety Risk Offense pending
	<b>Dangerous Instrument</b>	0 = No Dangerous Instrument Involved -2 = Dangerous Instrument Involved
	<b>TOTAL POINTS</b>	Below zero: Surety or 10% Bond Zero or more: Nonfinancial form of release

**Bond Rating Scale Form**  
(To be completed when making a surety bond recommendation)

**Offense Characteristics**

Start with the most serious charge on the docket as your frame of reference.  
Rate the severity of the offense(s) based on mitigating and aggravating factors.

Least Severe	←	←	Moderately Severe	→	→	Most Severe
<b>Mitigating Factors:</b> singular charges, nonviolent charges, no injuries or damages, no outstanding warrants or pending charges, good status on probation/parole/treatment, prior treatment success, small quantity of drugs, turned self in on a warrant, history of reliable court appearances				<b>Aggravating Factors:</b> multiple charges, violent charges, outstanding warrants, pending charges, history with same victim, victim injuries, weapons involvement, large quantity of drugs, property damages, threat to public safety, severe substance abuse, poor probation/parole/treatment status, high exposure, chronic history of failing to appear		
+3	+2	+1	0	-1	-2	-3

**Client Risk**

Refer to the Risk Assessment Point Scale. Add up items #1 through #14 and *then exclude item #2; Most Serious Charge;* and circle the corresponding rating below.

Low Risk	←	←	Moderate Risk	→	→	High Risk
(+11 to +19 pts)	(+7 to +10 pts)	(+4 to +6 pts)	(+1 to +3 pts)	(0 to -2 pts)	(-3 to -4 pts)	(-5 to -14 pts)
+3	+2	+1	0	-1	-2	-3

Total rating (sum of Offense Characteristics and Client Risk ratings) = \_\_\_\_\_ (+6 to -6)

**Guidelines for Financial Bond Recommendations**  
(Use Total rating from above)

Charge Type/Class	Rating Scale Total												
	+6	+5	+4	+3	+2	+1	0	-1	-2	-3	-4	-5	-6
Unclassified Misdemeanor	\$500	\$500	\$500	\$500	\$500	\$1,000	\$1,000	\$1,500	\$2,500	\$5,000	\$7,500	\$10,000	\$15,000
Class D Misdemeanor	\$500	\$500	\$500	\$500	\$500	\$1,000	\$1,000	\$1,500	\$2,500	\$5,000	\$7,500	\$10,000	\$15,000
Class C Misdemeanor	\$500	\$500	\$500	\$500	\$1,000	\$1,000	\$1,500	\$2,500	\$5,000	\$7,500	\$10,000	\$15,000	\$20,000
Class B Misdemeanor	\$500	\$500	\$500	\$1,000	\$1,000	\$1,500	\$2,500	\$5,000	\$7,500	\$10,000	\$15,000	\$20,000	\$25,000
Class A Misdemeanor	\$500	\$500	\$1,000	\$1,000	\$1,500	\$2,500	\$5,000	\$7,500	\$10,000	\$15,000	\$20,000	\$25,000	\$50,000
Class D Felony	\$1,000	\$1,500	\$2,500	\$5,000	\$7,500	\$10,000	\$15,000	\$20,000	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
Unclassified Felony	\$1,500	\$2,500	\$5,000	\$7,500	\$10,000	\$15,000	\$20,000	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000	\$200,000
Class C Felony	\$2,500	\$5,000	\$7,500	\$10,000	\$15,000	\$20,000	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000	\$200,000	\$250,000
Class B Felony	\$5,000	\$7,500	\$10,000	\$15,000	\$20,000	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000	\$200,000	\$250,000	\$500,000
Class A Felony	\$7,500	\$10,000	\$15,000	\$20,000	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000	\$200,000	\$250,000	\$500,000	\$1,000,000

**Notes.**

- When the primary charge is a FTA, the bond amount should reflect the most serious charge, either the FTA or underlying charge.
- When a defendant is arrested on a violation of probation, bail staff should use the most serious underlying charge when determining what charge class to use when utilizing the financial bond guideline.

FBG Recommended Bond Amount (refer to the Guidelines above) \$ \_\_\_\_\_

☐ The Bail staff bond recommendation **DOES NOT** exceed the FBG bond recommendation

☐ The Bail staff bond recommendation **DOES** exceed the FBG bond recommendation --- **Circle Reason:**

Bond previously set by court/warrant  
Repeat pattern of non-compliance  
Exceptionally severe charges  
Pattern of repeat behavior in short time period

Extradited from another state  
Parole hold  
Immigration hold

Bail Program Referral Guide			
PERSONAL NEEDS	SERVICE NEED LEVEL HIGH / MEDIUM / LOW	RECOMMENDED PROGRAM	SERVICE
Substance Abuse	<u>High</u> - Three yes in the Substance Abuse section	ABH Provider or JRI Program	Counseling / Intensive Outpatient / LMHA
	<u>Medium</u> - Two yes in the Substance Abuse Section	AIC	TAD
	<u>Low</u> - One yes in the Substance Abuse Section	Bail Supv or AIC	Random Urines
Mental Health	<u>High</u> - Three yes in the Mental Health section	ABH Provider / Jail Diversion	R & R / ASIST / LMHA
	<u>Medium</u> - One or two checked yes in the Mental Health section	AIC / DMHAS / Jail Diversion	R & R / ASIST / LMHA
Education / Employment	<u>High</u> - Less than GED and Unemployed	AIC	Job Services
	<u>Medium</u> - High School equivalency and unemployed	AIC	Job Services
Compliance Needs:			
Support Structure	<u>High / Medium</u> 2 or more checked in this section	AIC	R & R
	<u>Low</u> - one item checked in this section	Bail Supv	Call/ Report
Criminal History	<u>High</u> - 3 or more convictions	ABH	Anger Management
	<u>Medium</u> - 2 prior convictions	AIC	R & R
	<u>Low</u> - 1 prior conviction	Bail Supv	Call / Report
Prior Compliance/ Safety Risk	<u>High</u> - FTA and VOP and Violent Offense	G4S and ABH	EMS and Anger Management
	<u>Medium</u> - FTA OR VOP and Violent Offense	ABH	Anger Management
	<u>Low</u> - FTA OR VOP OR Lengthy Criminal History	AIC	R & R



## **Appendix B: Kentucky**

1. Pretrial Risk Assessment Instrument
2. Pretrial Needs Assessment Instrument
3. Supervision Matrix

**Note:** This form contains the substance of the current pretrial risk assessment in use by AOC's Pretrial Services Division and its Officers. Pursuant to AOC's commitment to ensuring the continued statistical validity of the instrument, the assessment undergoes a review every two years. The current version is undergoing just such a review; if any changes are made, once the new assessment tool is completed, approved and in use, this page will substitute the new version for the old version.

### Pretrial Services Risk Assessment

- |     |   |       |       |
|-----|---|-------|-------|
| 1.  | Does the defendant have a verified local address and has the defendant lived in the area for the past twelve months?  | Y (0) | N (2) |
| 2.  | Does the defendant have verified sufficient means of support?   | Y (0) | N (1) |
| 3.  | Is the defendant's current charge a Class A, B, or C Felony?  | Y (1) | N (0) |
| 4.  | Is the defendant charged with a new offense while there is a pending case?  | Y (7) | N (0) |
| 5.  | Does the defendant have an active warrant(s) for Failure to Appear prior disposition? If no, does the defendant have a prior FTA on his or her record for a misdemeanor or felony charge? | Y (2) | N (0) |
| 6.  | Does the defendant have a prior FTA on his or her record for a criminal or traffic violation?   | Y (1) | N (0) |
| 7.  | Does the defendant have prior misdemeanor convictions?  | Y (2) | N (0) |
| 8.  | Does the defendant have prior felony convictions?   | Y (1) | N (0) |
| 9.  | Does the defendant have prior violent crime convictions?  | Y (1) | N (0) |
| 10. | Does the defendant have a history of drug/alcohol abuse?  | Y (2) | N (0) |
| 11. | Does the defendant have a prior conviction for felony escape?   | Y (3) | N (0) |
| 12. | Is the defendant currently on probation/parole from a felony conviction?  | Y (1) | N (0) |

**Risk Categories:**

**0 to 5 (Low)**

**6 to 13 (Moderate)**

**14 and up (High)**

**Recommend for NFR**

**Recommend for NFR with Supervision (NFC)**

**No recommendation until further assessment**

**Total Risk Assessment Score** \_\_\_\_\_

**Risk Level** \_\_\_\_\_

Education, Employment and Financial Information	
1. Do you feel you could use your time better? <ul style="list-style-type: none"><li>• Yes (1)</li><li>• No (0)</li></ul>	[ ]
2. Are you happy with your current financial situation? <ul style="list-style-type: none"><li>• Yes (0)</li><li>• No (1)</li></ul>	[ ]
3. Were you ever expelled or suspended from school? <ul style="list-style-type: none"><li>• Yes (1)</li><li>• No (0)</li></ul>	[ ]
<b>Total Score in Education, Employment, Financial</b>	[ ]

Family and Social Support	
1. Do you have close family with criminal records? <ul style="list-style-type: none"><li>• Yes (1)</li><li>• No (0)</li></ul>	[ ]
2. Are you satisfied with your current marital or relationship status? <ul style="list-style-type: none"><li>• Yes (0)</li><li>• No (1)</li></ul>	[ ]
3. Do you have family members or friends that offer support or listen when you have problems? <ul style="list-style-type: none"><li>• Yes (0)</li><li>• No (1)</li></ul>	[ ]
4. Are you satisfied with the level of support that you get from your family or friends in times of need? <ul style="list-style-type: none"><li>• Yes (0)</li><li>• No (1)</li></ul>	[ ]
5. Do you have steady living arrangements? <ul style="list-style-type: none"><li>• Yes (0)</li><li>• No (1)</li></ul>	[ ]
<b>Total Score on Family and Social Support</b>	[ ]

### Neighborhood

1. Are there areas in your neighborhood that are prone to criminal activity or have a strong police presence?

- Yes (1)
- No (0)

[ ]

2. Can illegal drugs be found easily in your neighborhood?

- Yes (1)
- No (0)

[ ]

**Total Score in Neighborhood problems**

[ ]

### Substance Use

1. How old were you when you first began drinking alcohol on a regular basis?

- 17 or older (0)
- 17 or younger (1)

[ ]

2. Have you ever used illegal drugs?

- Yes (1)
- No (0)

[ ]

3. What is the longest period that you went without using alcohol or illegal drugs?

- Six months or longer (0)
- Less than six months (1)

[ ]

4. Have you ever taken prescription drugs in a manner that was not prescribed?

- Yes (1)
- No (0)

[ ]

5. Has your drug use prevented you from keeping a steady job?

- Yes (1)
- No (0)

[ ]

**Total Score for Substance Abuse**

[ ]

### Peer Association

1. Do you spend a great deal of time with friends that have a criminal record?

- Yes (1)
- No (0)

[ ]

2. How often do you associate with someone who has a criminal record?

- None (0)
- Rarely (1)
- Sometimes (2)
- Most of the time (3)

[ ]

3. Have you ever been a member of a gang?

- Yes (1)
- No (0)

[ ]

4. What type of organizations are you a part of?

- Pro-social (0)
- Mixture of both pro-social and anti-social (1)
- Anti-social (2)

[ ]

**Total Score for Peers**

[ ]

**Total Score**

[ ]

### Needs Categories

Scores	Rating
0-5	Low Needs
6-11	Moderate Needs
12-17	High Needs
18+	Very High Needs



**Levels of Pretrial Supervision****Administrative**

- One initial face to face contact to explain conditions of release
- Court notification
- Compliance Verification

**Minimal**

- One (1) face to face contact per month
- Court notification
- Compliance Verification

**Standard**

- Two (2) face to face contacts per month
- One (1) additional phone contact per month
- Court notification
- Compliance Verification

**Intensive**

- One (1) face to face contact per week
- One (1) additional phone contact per month
- Court notification
- Compliance Verification

<b>Risk Level</b>	<b>Pretrial Supervision Level</b>
Low and Low-Moderate*	Administrative/Minimal
Moderate and Moderate-High	Standard
High	Intensive

\*Although PTS does not recommend supervision for low risk defendants, if the court orders such, administrative supervision will be utilized for low needs, minimal for moderate needs and standard for high needs.

<b>Risk Level</b>	<b>Needs</b>	<b>Supervision Level</b>
Low	High	Standard
Low	Moderate	Minimal
Low	Low	Administrative
Moderate	High	Intensive
Moderate	Moderate	Standard
Moderate	Low	Standard
High	High	Intensive
High	Moderate	Intensive
High	Low	Intensive

## **Appendix C: Virginia**

Pretrial Praxis

**Pretrial Praxis (Manual Version [Non-PTCC])**

<b>Risk Level/ Charge Category</b>	<b>Traffic: Non-DUI</b>	<b>Non-violent Misd.</b>	<b>Theft/Fraud</b>	<b>Traffic: DUI</b>	<b>Drug</b>	<b>Failure to Appear</b>	<b>Firearm</b>	<b>Violent</b>
<b>Low Risk</b>								
PR or Unsecured Bond	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Pretrial Supervision	No	No	No	No	No	Yes	Yes	Yes
Supervision Level	N/A	N/A	N/A	N/A	N/A	I	II	II
<b>Below Average Risk</b>								
PR or Unsecured Bond	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Pretrial Supervision	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Supervision Level	N/A	N/A	I	I	I	II	III	III
<b>Average Risk</b>								
PR or Unsecured Bond	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Pretrial Supervision	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Supervision Level	I	I	II	II	II	III	N/A	N/A
<b>Above Average Risk</b>								
PR or Unsecured Bond	Yes	Yes	Yes	Yes	Yes	No	No	No
Pretrial Supervision	Yes	Yes	Yes	Yes	Yes	No	No	No
Supervision Level	I	I	II	III	III	N/A	N/A	N/A
<b>High Risk</b>								
PR or Unsecured Bond	Yes	Yes	Yes	No	No	No	No	No
Pretrial Supervision	Yes	Yes	Yes	No	No	No	No	No
Supervision Level	II	II	III	N/A	N/A	N/A	N/A	N/A

**Charge Category Priority Order** – Violent, Firearm, Failure to Appear, Drug, Traffic: DUI, Theft/Fraud, Non-violent Misdemeanor, Traffic: Non-DUI

**Pretrial Praxis Does Not Apply To** – murder, homicide, manslaughter, or similar or an attempt to commit any of these crimes

**Charges That Are Not Praxis Eligible Include** – probation violation, contempt of court, fugitive from justice, escape, immigration violation/detainer, drunk in public, non-support, SO failure to register

**FTA Recommendation** – applies when the underlying charge is NOT violent or firearm, otherwise the violent or firearm category takes precedence

**PR or Unsecured Bond** – [Yes] = Recommended for PR or Unsecured Bond; [No] = Not Recommended

**Pretrial Supervision** – [Yes] = Recommended for Pretrial Supervision; [No] = Not Recommended

**Supervision Level** – [I, II, III] = Recommended Level of Supervision; [N/A] = Supervision not recommended (level not applicable)

## **Appendix D: Mesa County, Colorado**

1. Bond Practice Summary
2. SMART Praxis
3. Bond Guidelines

**See back for further explanations**

COLORADO PRETRIAL ASSESSMENT TOOL (CPAT) RISK CATEGORIES					
Risk Category	Risk Score	Public Safety Rate	Court Appearance Rate	Overall Success Rate	
1	0-17	91%	95%	87%	
2	18-37	80%	85%	71%	
3	38-50	69%	77%	58%	
4	51-82	58%	51%	33%	

	1	2	3	4	5	6	7
CPAT Risk Category ↓	Felony VRA Crimes (C.R.S. 24-4.1-302)	Drug Distribution & Aggravated DARP	Domestic Violence DVSI 11 or Greater	Domestic Violence DVSI 10 or Less	Other Felony Crimes	Misdemeanor VRA Crimes (C.R.S. 24-4.1-302)	Misdemeanor & Traffic
1	Enhanced	Enhanced	Basic	Reminder Calls	Reminder Calls	Reminder Calls	Reminder Calls
2	Enhanced	Enhanced	Enhanced	Basic	Reminder Calls	Reminder Calls	Reminder Calls
3	Intensive	Intensive	Intensive	Enhanced	Basic	Basic	Reminder Calls
4	Intensive	Intensive	Intensive	Intensive	Enhanced	Enhanced	Basic

*See the Crime Column Appendix for details regarding the specific crimes included in each column*

CPAT Risk Category		1	2	3	4	5	6	7
	Felony VRA Crimes (C.R.S. 24-4.1-302)	Drug Distribution & Aggravated DARP	Domestic Violence DVSI 11 or Greater	Domestic Violence DVSI 10 or Less	Other Felony Crimes	Misdemeanor VRA Crimes (C.R.S. 24-4.1-302)	Misdemeanor & Traffic	
1	Cautionary Bond w/PTS	PR with PTS	PR with PTS	PR No Supervision	*PR No Supervision	PR No Supervision	*PR No Supervision	
2	Cautionary Bond w/PTS	Cautionary Bond w/PTS	PR with PTS	PR with PTS	PR No Supervision	PR No Supervision	*PR No Supervision	
3	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	PR with PTS	PR with PTS	PR with PTS	*PR No Supervision	
4	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	PR with PTS	
Cash Only Range	\$100 - \$100,000	\$100 - \$50,000	\$100 - \$10,000	\$100 - \$1,000	\$100 - \$10,000	\$100 - \$1,000	\$0	
Secured Bond Range	\$1,000 - \$1,000,000	\$1,000 - \$500,000	\$1,000 - \$100,000	\$1,000 - \$10,000	\$1,000 - \$100,000	\$1,000 - \$10,000	\$0	



**MESA COUNTY PRETRIAL SMART PRAXIS** Version 3  
(SMART = Supervision Matrix Assessment & Recommendation Tool)

CPAT Categories ↓	1 Felony VRA Crimes (C.R.S. 24-4.1-302)	2 Drug Distribution & Aggravated DARP	3 Domestic Violence DVSI 11 or Greater	4 Domestic Violence DVSI 10 or Less	5 Other Felony Crimes	6 Misdemeanor VRA Crimes (C.R.S. 24-4.1-302)	7 Misd. & Traffic Does not include DUI (see below)
1	Enhanced	Enhanced	Basic	Court Reminder Calls Only	Court Reminder Calls Only	Court Reminder Calls Only	Court Reminder Calls Only
2	Enhanced	Enhanced	Enhanced	Basic	Court Reminder Calls Only	Court Reminder Calls Only	Court Reminder Calls Only
3	Intensive	Intensive	Intensive	Enhanced	Basic	Basic	Court Reminder Calls Only
4	Intensive	Intensive	Intensive	Intensive	Enhanced	Enhanced	Basic

**PRETRIAL SUPERVISION LEVELS**

Pretrial Supervision Description	Court Reminder Calls Only	Basic	Enhanced	Intensive
Fees Charged to the Defendant <i>- Fee waivers are available based on client needs</i>	No fee	\$40 Intake, \$20 p/month	\$40 Intake, \$30 p/month	\$40 Intake, \$40 p/month
CPAT Assessment	✓	✓	✓	✓
Criminal History & Background Information	✓	✓	✓	✓
Intake within 24 hours of release from jail		✓	✓	✓
Orientation with Intake Staff		✓	✓	✓
Orientation with Case Manager			✓	✓
Court Reminders before each Pretrial Court Date	✓	✓	✓	✓
Notification of New Arrest		✓	✓	✓
Case Management Meetings as Needed Only		✓		
Minimum of one Case Management Meeting p/Month			✓	
Minimum of two Case Management Meetings p/Month				✓
Physical Check-in to Pretrial Office minimum of 1x p/month		✓		
Physical Check-in to Pretrial Office minimum of 2x p/month			✓	
Physical Check-in to Pretrial Office minimum of 1x p/week				✓
Physically Check-in with Pretrial After Court Appearances		✓	✓	✓
Treatment evaluation by court order or client request		✓	✓	✓

**DUI SUPERVISION GUIDELINES** (includes DUI, DWAI, DUID, DWAI)

\*\*All supervised DUI cases will be supervised at the Basic supervision level, unless otherwise ordered by the court.

<b>Level 1:</b> No prior DUI convictions in lifetime.	<b>No Pretrial Supervision</b>
<b>Level 2:</b> One prior DUI conviction in lifetime.	<ul style="list-style-type: none"> <li>Two random in-office breathalyzers (BA's) per week or daily in-home breathalyzers (defendant's choice), and minimum of two eye scans and/or urine tests per month.</li> <li>DUI drug cases will receive a minimum of one eye scan and/or urine test per week.</li> <li>If positive test, summon to see the Judge the next working day.</li> </ul>
<b>Level 3:</b> Two or more prior DUI convictions in lifetime.	<ul style="list-style-type: none"> <li>Daily in-home breathalyzers (BA's) and a minimum of two eye scans and/or urine tests per month.</li> <li>Office BA's are allowed at the discretion of the Case Manager, not less than three times per week.</li> <li>DUI Drug cases will receive a minimum of two eye scans and/or urine tests per week.</li> <li>If positive test, summon to see the Judge the next working day.</li> </ul>
Supervision Levels may be adjusted based on the performance of the defendant, financial hardships, etc.	

### ADMINISTRATIVE ORDER 13-01: MESA COUNTY BOND GUIDELINES

The type and amount of bond indicated by the guidelines are presumptions, and the parties should also consider:  
The factors enumerated in CRS 16-4-105, the facts of the case, and the specific circumstances of the individual defendant.

*See the Crime Column Appendix for details regarding the specific crimes included in each column.*

CPAT Risk Category ↓	1 Felony VRA Crimes (C.R.S. 24-4.1-302)	2 Drug Distribution & Aggravated DARP	3 Domestic Violence DVSI 11 or Greater	4 Domestic Violence DVSI 10 or Less	5 Other Felony Crimes	6 Misdemeanor VRA Crimes (C.R.S. 24-4.1-302)	7 Misdemeanor & Traffic
<b>Cat 1</b>	Cautionary Bond w/PTS	PR with PTS	PR with PTS	PR No Supervision	*PR No Supervision	PR No Supervision	*PR No Supervision
<b>Cat 2</b>	Cautionary Bond w/PTS	Cautionary Bond w/PTS	PR with PTS	PR with PTS	PR No Supervision	PR No Supervision	*PR No Supervision
<b>Cat 3</b>	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	PR with PTS	PR with PTS	PR with PTS	*PR No Supervision
<b>Cat 4</b>	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	Cautionary Bond w/PTS	PR with PTS
Cash Only Range	\$100 - \$100,000	\$100 - \$50,000	\$100 - \$10,000	\$100 - \$1,000	\$100 - \$10,000	\$100 - \$1,000	\$0
Secured Bond Range	\$1,000 - \$1,000,000	\$1,000 - \$500,000	\$1,000 - \$100,000	\$1,000 - \$10,000	\$1,000 - \$100,000	\$1,000 - \$10,000	\$0

\***CJSD Release Authority** - Defendants categorized in the starred boxes of the bond guidelines may be released on a \$1000 PR bond at the discretion of Mesa County Pretrial Services.

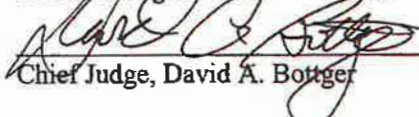
- **Cautionary Bond:** Cases where the CPAT risk profile, combined with the alleged offense, reflects the necessity of heightened judicial scrutiny when deciding the type, amount, and conditions of bond. The Bond Guidelines recommend all Cautionary bonds to include pretrial supervision.
- **Pretrial Services Supervision (PTS)** - Unless otherwise ordered by the court, Pretrial Supervision will be in accordance with the SMART Praxis through Mesa County CJSD.
- If a case could be classified in more than one column due to multiple charges, the more restrictive classification should be chosen.
- Sentence enhancing charges, such as habitual criminal and special offender, should be considered when setting the type and amount of bond.


#### DUI BOND GUIDELINES (includes DUI, DWAI, DUID, DWAI) Bond range for DUI's is \$100 to \$500,000

- **Level 1:** No prior DUI arrests in lifetime. Level 1 DUI's shall be given a summons and released. No pretrial supervision is recommended.
- **Level 2:** One prior DUI arrest in lifetime. Level 2 DUI's defendants shall be arrested, booked into the jail, and released on a PR Bond with PTS.
- **Level 3:** Two or more prior DUI arrests in lifetime. Level 3 DUI's shall be arrested, booked into jail, and held to see a Judge or Magistrate to set bond.
- **Pretrial Supervision (PTS)** shall be ordered for Level 2 and Level 3 DUI's, and shall be in accordance with the SMART Praxis DUI supervision guidelines.

- **Universal Screening:** Defendants booked into the jail on new criminal charges shall not be permitted to bond out of jail until a CPAT (Colorado Pretrial Assessment Tool) report has been completed by Mesa County Pretrial Services, with the exception of Level 2 DUI's. Defendants shall be held until a Judge or Magistrate sets bond, or until they are released by Pretrial Services pursuant to the Bond Guidelines.
- To maintain consistency, unless otherwise stated on a pre-existing warrant, it is suggested that affidavit arrest warrants be no bond holds until a CPAT has been completed. Defendants may then be released by Pretrial Services per the above guidelines, or held until a Judicial Officer sets bond.
- In the event that Pretrial Services is unable to complete a CPAT Pretrial Report, the Judge will set bond based on the available information, and in accordance with the identified crime column and research-based principles. Pretrial Services will not normally complete reports on FTC's, FTA's, Fugitive From Justice, Probation or Parole violations.
- See the reverse side of this document for the legal principles and philosophy, and the evidence-based principles.

These bond guidelines shall be in effect as of April 29, 2013. These guidelines replace Administrative Order 06-07, which is hereby revoked.

  
Chief Judge, David A. Bottger

  
District Attorney, Pete Hautzinger

  
Mesa County Sheriff, Stan Hikey



## SMART PRAXIS – ADDITIONAL INFORMATION

<b>ADDITIONAL COURT ORDERED SUPERVISION SERVICES</b>	
These additional supervision services may be ordered by the court if appropriate for a particular defendant (see CRS 16-4-105).	
<b>Evaluations</b>	Pretrial Services will refer defendants for evaluations based on a court order or voluntary participation. The evaluations may include substance abuse, mental health or domestic violence.
<b>Substance Monitoring</b>	Urine Screens, Eye Scans, Breathalyzers, and Electronic Devices (Alcohol Ankle Monitors and In-Home Breathalyzers).  Unless otherwise ordered by the court, Pretrial Services will decide the method and frequency of the substance monitoring, which will be no less than one time per month, and no more than three times per week. This excludes DUI supervision levels, which are specified in the DUI supervision guidelines.
<b>Fast Track Program</b>	The Fast Track Program may be available for defendants who are in need of substance abuse treatment. Fast Track bonds should be non-liability co-sign PR bonds with CJSD as the approved co-signer. There should be an alternative higher secured bond. Defendants accepted into the Fast Track Program will be assessed and placed in a level of treatment based on their assessed needs, which may include in-patient or out-patient services. The Fast Track Program is available for both alcohol and drug addictions.
<b>Pretrial Work Release</b>	The court may order Pretrial Work Release pursuant to CRS 16-4-105 (3) (d) (VIII). If the court desires the defendant to have the option of participating in the Pretrial Work Release Program, a non-liability co-sign PR bond should be granted with CJSD as the approved co-signer.
<b>GPS Monitoring</b>	Global Positioning System (GPS) Monitoring involves the electronic tracking of defendants' geographical locations. The court should specify "Active" or "Passive" monitoring. "Active Monitoring" is the active, real time monitoring of a defendant's location, and is only reliable in the Grand Valley area. "Passive Monitoring" provides historical geographical information, but it is not real time. Pretrial Services will not monitor defendants outside of the local area unless the court specifically orders passive monitoring.  Exclusion zones should be specified and a minimum of 1,000 yards distance from exclusion zones should be ordered.  If GPS monitoring is ordered and there is at least one month of compliance, Pretrial Services may notify the court and the involved attorneys to consider a removal of the condition.
<b>Electronic Home Monitoring (EHM)</b>	EHM is home curfew monitoring only and involves the defendant wearing an ankle monitor.

<b>ADJUSTMENT OF SUPERVISION &amp; RESPONSE TO VIOLATIONS</b>	
<b>Adjustment of Supervision Levels</b>	Case Managers may adjust to lighter or more intensive levels of supervision and substance testing based on performance. If compliant for at least two months, the case manager may lower supervision and/or substance testing one level, or increase one level if not compliant.  If a DUI defendant participates in treatment and has at least two months of negative substance screens, then supervision may be lowered, but not less than one breathalyzer per week.  Case Managers may discontinue urine screens for DUI cases with at least two months of negative substance tests, with the exception of DUID cases.
<b>Response to Violations</b>	Violation responses will be in accordance with the Mesa County Pretrial Services Response to Violations Guide.

*This document was approved for implementation by the Pretrial Stakeholder Group on April 29, 2013 in conjunction with the new Bond Guidelines.*

## **APPENDIX #2**

**AUGUST 21, 2014 JUSTICE OVERSIGHT GROUP MEETING AGENDA**

**AUGUST 21, 2014 JUSTICE OVERSIGHT GROUP MEETING MINUTES**

**AUGUST 21, 2014 VERA INSTITUTE OF JUSTICE POWERPOINT  
PRESENTATION**

**AUGUST 21, 2014 VERA INSTITUTE OF JUSTICE PRETRIAL RISK  
ASSESSMENT INSTRUMENT VALIDATION MEMORANDUM**

**AUGUST 21, 2014 VERA INSTITUTE GUIDE TO CALCULATING JUSTICE-  
SYSTEM MARGINAL COSTS**

**AUGUST 21, 2014 CJC REPORT**

**AUGUST 21, 2014 DELJIS: JRI DATA UPDATE POWERPOINT**

**AUGUST 21, 2014 STATISTICAL ANALYSIS CENTER: PRETRIAL RISK  
ASSESSMENT AND DOC DETAINED ADMISSIONS QUICK LOOK**

**AUGUST 21, 2014 DOC: JRI OUTCOME MEASURES POWERPOINT**

# **JUSTICE REINVESTMENT OVERSIGHT GROUP AGENDA FOR AUGUST 21, 2014**

- 1. Welcome and Introductions**
- 2. Minutes from April 23rd meeting**
- 3. Implementation Updates**
  - a. JP Courts**
  - b. DOC**
  - c. SAC**
  - d. CJC**
- 4. Data Group Update**
- 5. Next Steps**
- 6. Next Meeting**
- 7. Adjournment**



## **JUSTICE REINVESTMENT OVERSIGHT GROUP MEETING MINUTES FOR AUGUST 21, 2014**

The Justice Reinvestment Oversight Group met on August 21<sup>st</sup> 2014 at 10AM in the New Castle County Courthouse. In attendance were: Chair President Judge James T. Vaughn Jr. of Superior Court, Chief Judge Alex Smalls of the Court of Common Pleas, Representative James Johnson of the State House of Representatives, Secretary John McMahon of the Department of Labor, Commissioner Robert Coupe of the Department of Correction, Drew Fennell representing the Governor's Office, Kathleen Jennings representing the Department of Justice, Peggy Bell of DELJIS, Nicholas Johnson representing the Office of Management and Budget, Ruth Delaney and Vedan Anthony-North of the Vera Institute of Justice, Tom MacLeish, Chuck Huenke, and Philisa Weidlein Crist of the Statistical Analysis Center, Christy Visser, Steve Martin, and Dan O'Connell of the University of Delaware, Jay Lynch representing the Department of Health and Social Services, Samantha Zulkowski of the Department of Correction, Jeff Mordock of the Delaware Law Weekly, and Chris Kervick, Valarie Tickle, and Alexa Scoglietti of the Criminal Justice Council. Ron Keen of the Criminal Justice Council staffed the meeting.

The meeting opened with the approval of the Minutes from the April 2014 meeting.

Chris Kervick opened the Updates section with a report from CJC. He reported that regarding the grant, CJC is up to date with reporting requirements and performance measures. Concerning the Data Group that was created at the last Oversight Group meeting meetings have been held with DELJIS, SAC, and DOC. Referring to the JP Court RAI Status Workgroup Chris indicated that the mission had morphed from the implementation of the RAI to a review of statistics and problem solving. Further CJC staff convened an Ad Hoc Validation Working Group consisting of Dr. Dillard from DSU and Drs. Martin and O'Connell from the UD. Chris also reported that in conjunction with DOC, CJC staff submitted an application to a competitive JRI Solicitation from BJA. The concept requested \$889,000.00 to:

- Validate the RAI
- Establish a Pre-Trial case management system using a non-profit agency
- Fund additional electronic monitoring equipment for DOC
- Pilot the use of check-in kiosks at P&P

Finally, Chris indicated that CJC would develop the shell for a JRI Annual Report to be submitted to the Governor and General Assembly by December 31, 2014.

Peggy Bell presented a PowerPoint comparing Delaware crime data for 2013 with crime data for 2012. Overall the data (UCR and NIBRS) indicated that crime declined in 2013 from 2012. The decline included an increase in drug arrests in 2013. Judge Vaughn added that for Superior Court there was a noticeable decline in murder trials and that the decline overall is consistent with what he has observed in Superior Court.

Next, Commissioner Coupe provided an update regarding DOC efforts. He indicated that as of July 2014, 295 individuals were being supervised under Pretrial supervision. That compares with the July 2013 total of 231 individuals and the 2012 total of 190 offenders. Commissioner Coupe also reported an increase in the use of electronic monitoring equipment. Regarding the use of third party Pretrial Community Supervision, he indicated that a RFP had been posted and that it is to close on September 16<sup>th</sup>, 2014. Reporting on LSI-R Assessments, Commissioner Coupe stated that in 2014 Level 5 had completed 944, Level 4, 655, and Level 3, 3,576 for a total of 5,175. He clarified that the LSI-R is to be completed on inmates who are serving more than one year. He added that they hope to be able to use the LSI-R on detentioners. He added that the Risk Needs Responsivity instrument should assess programs that are available to inmates. The expectation is that the programs offered should reflect the needs of inmates. He offered that the hope is to screen detentioners in order to aid judicial officers with offender decisions. Drew Fennell suggested that the Public Defender's Office has issues with the timing of the assessment. Kathy Jennings responded that a tentative agreement has been reached that the data obtained would not be used until the individual has been convicted. Reporting on staff training, 326 administrators and staff have completed Introduction to Motivational Interviewing, 60 staff members and supervisors have completed Advanced Motivational Interviewing, 54 staff members and supervisors have completed additional Coaching and Coding training, and 22 staff members have completed the Motivational Interviewing instructor training program. Judge Smalls asked if an impact of the officer training had been observed. The Commissioner responded "not yet".

Next, Tom MacLeish opened the Statistical Analysis Center presentation by indicating that the Crime in Delaware report would be finalized in a couple of weeks. Chuck Huenke provided an over view of a memorandum that was distributed Preliminary Information for January to June 2014 Pretrial Risk Assessments. The first table illustrated a breakdown of bail/bond type by risk group of the 9,457 Risk Assessment Instruments completed during the period. The total breakdown was 5,431 cases scored low risk, 3,440 scored medium risk, and 586 cases scored high risk. Another graph provided month by month totals of detained admissions to DOC during the first six months of 2014 and the first six months of 2013. The graph illustrated that detained admissions were lower in each of the first four months of 2014 when compared with the first four months of 2013 higher in May and June of 2014 than they were in May and June of 2013. The total number of detained admissions for the period January

–June 2014 was 8,534, while the total for the same period in 2013 was 8,794. Drew Fennell asked if it can be determined if the flagged items are being utilized appropriately. Chief Judge Smalls asked if the type of cases being overridden can be determined. Chuck Huenke responded that that information can be broken out. Regarding the Bail/Bond type by risk category table, President Judge Vaughn suggested that data covering cash bail for low risk offenders as well as low bail for high risk offenders are categories to examine. For the first six months of 2014, 404 orders to Pretrial Supervision were issued through the Risk Assessment Instrument process. Of that total 179 were classified as Low Risk, 199 Medium Risk and 26 were classified as High Risk. Regarding failure to appear rates, Chuck Huenke indicated that it is hard to calculate as cases are still pending. Kathy Jennings raised the question of whether the appropriate individuals are being detained. She indicated that that is important along with a year to year comparison of detained admissions. Chuck Huenke closed the SAC presentation by indicating that less than one half of detained admissions are detained as a result of an RAI determination. Other contributors to the admissions include probation violations, and capias returns. Finally he concluded that long term detentions are driving detention volume.

Samantha Zulkowski, representing the Department of Correction, gave a PowerPoint presentation on JRI Outcome Measures for the Department of Correction. The presentation was broken down into outcome measures for DOC population in Pretrial Detention, Sentac Level V, Sentac Level IV, and Sentac Levels III-II-I. Throughout the presentation comparisons were made regarding population levels in those categories for FY 2012 and FY 2013. The comparisons included admissions and releases for the various levels. It also included eligibility for assessment using the LSI-R in each level. Also included were types of releases by level and average daily population totals by level. The number of Supervision Plans completed for Level III-II-I offenders was also included. It was noted also that future DACS modules would include the Risk Needs Responsivity Tool and the LSI-R Assessment.

Next, Ruth Delaney and Vedan Anthony-North of the Vera Institute of Justice gave a PowerPoint presentation. The presentation focused on:

- New Research on Pretrial Detention
- PRAI Implementation Update
- Implementation Next Steps

The presentation opened with the impact on New Criminal Arrests for Low-risk defendants of Pretrial detention, and the impact on recidivism for low risk defendants of Pretrial detention. It also included data regarding the positive impact of Pretrial Supervision on Failure to Appear rates for high and moderate risk defendants. The results for low-risk defendants were inconsistent.

Listed as Implementation Next Steps were:

- Provide additional support to judges and magistrates in interpreting and incorporating risk scores into bail determinations.
- Expand Pretrial Risk Assessment Instrument to all Delaware courts.
- Validate the Pretrial Risk Assessment Instrument

Next, Vera presented information regarding a Praxis which is:

- A matrix of risk, bail, and available Pretrial services.
- A reference tool for judges that supports judicial discretion.
- Includes separate charts for crimes of special concern: domestic violence, DUI, etc.

Some examples of a Praxis were provided then next steps for developing a Praxis were offered. The next steps included:

- Convening a work group.
- Develop prototypes.
- Pilot the praxis and obtain feedback from judges.
- Collect and report performance measures.
- Review praxis periodically and adjust as necessary.

Validate the PRAI was the next step offered by Vera. The steps included:

- Convene a work group.
- Identify a researcher.
- Determine data needs.
- Review validation study.
- Adjust domains according to findings.

Chris Kervick offered three next steps for CJC.

- Work on the PRAI validation process.
- Work with the Vera Institute of Justice.
- Develop a shell of the annual report that is to be submitted to the Governor and the General Assembly.

The meeting adjourned at about 12:30PM.

## Delaware Justice Reinvestment



Oversight Group Meeting, August 21, 2014

Ruth Delaney, Program Associate, Vera Institute of Justice  
Vedan Anthony-North, Program Analyst, Vera Institute of Justice



CENTER ON SENTENCING & CORRECTIONS

December 4, 2013

## Agenda

1. Welcome
2. New Research on Pretrial Detention
3. PRAI Implementation Update
4. Implementation Next Steps
5. Discussion



CENTER ON SENTENCING & CORRECTIONS

Slide 2 • August 21, 2014



## Justice Reinvestment

a **data-driven approach** to reduce spending on corrections and **reinvest** savings in **evidence-based strategies** designed to increase public safety



CENTER ON SENTENCING & CORRECTIONS

Slide 3 • August 21, 2014

## New Research on Pretrial Detention



CENTER ON SENTENCING & CORRECTIONS

Slide 4 • August 21, 2014

## Snapshot of Pretrial Detention

- Nationally, jails hold about 744,000 inmates on any one day—and an estimated 9 million unique individuals enter them each year
- Pretrial detainees account for more than 60 percent of jail inmates
- The cost to detain pretrial inmates is estimated at \$9 billion per year
- Among those released pretrial, failure rates are low

## Pretrial Detention and Sentencing

### Defendants detained pretrial:

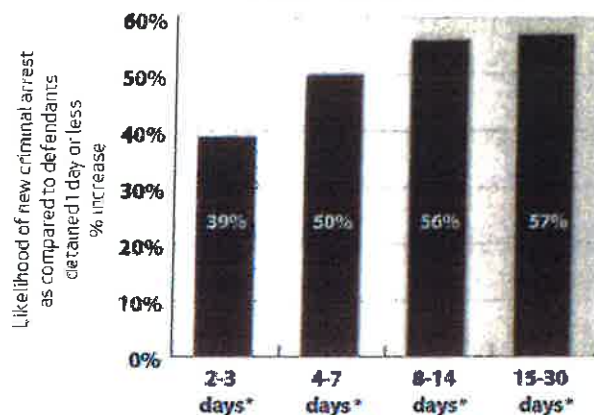
- 4x more likely to be sentenced to jail
- 3x more likely to be sentenced to prison

### Sentence lengths:

- 3x for those sentenced to jail
- 2x for those sentenced to prison

## Pretrial Detention and Re-Arrest

### Increase in New Criminal Arrest Low-risk defendants



\* = statistically significant at the .01 level or lower

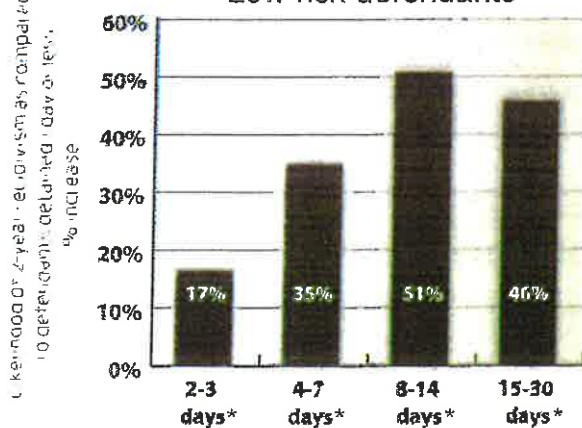
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Slide 7 • August 21, 2014

## Pretrial Detention and Recidivism

### Increase in 2-Year Recidivism Low-risk defendants



\* = statistically significant at the .01 level or lower

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## Impact of Pretrial Supervision

### Pretrial supervision and FTA:

- FTA's were reduced 38 percent in moderate-risk defendants
- FTA's were reduced 33 percent in high-risk defendants
- Inconsistent results were found among low-risk defendants

### Pretrial supervision and re-arrest:

- Re-arrests were 22 percent less likely among those who received 180+ days of supervision
- Not differentiated by risk
- Unknown what types of supervision were effective

## PRAI Implementation Update

## JR Task Force Pretrial Findings

- Nearly a quarter of Delaware's confined population was awaiting trial
- Only 25 percent of detainees were charged with a violent felony
- More than 60 percent of detainees had no capias history
- More than 60 percent of detainees had no FTA history

## Implementation of Pretrial Initiatives

- The PRAI was implemented in JP Courts as of January 2014
- DOC has committed additional staff to pretrial supervision and has admitted nearly 300 new cases to supervision this year
- DOC is issuing an RFP for additional community-based pretrial services for the lowest-risk defendants



## Implementation Next Steps

## Implementation Next Steps

- Provide additional support to judges and magistrates in interpreting and incorporating risk scores into bail determinations
- Expand PRAI to all Delaware courts
- Validate the PRAI

## Support for Bail Determinations

- Tools that support judges in making bail decisions are called "praxes"
- A praxis:
  - Is a matrix of risk, bail, and available pretrial services
  - Is a reference tool for judges that supports judicial discretion
  - Includes separate charts for crimes of special concern: domestic violence, DUI, etc.

## Example Praxis

Appendix D

ADMINISTRATIVE ORDER 13-01: MESA COUNTY BOND GUIDELINES							
The type and amount of bond indicated by the guidelines are presumptions, and the parties should also consider: The factors enumerated in CRS 16-4-105, the facts of the case, and the specific circumstances of the individual defendant. <i>See the Crime Column Appendix for details regarding the specific crimes included in each column.</i>							
CPAT Risk Category	1 Felony VRA Crimes (C.R.S. 24-4.1-302)	2 Drug Distribution & Aggravated DARP	3 Domestic Violence DVSI 11 or Greater	4 Domestic Violence DVSI 10 or Less	5 Other Felony Crimes	6 Misdemeanor VRA Crimes (C.R.S. 24-4.1-302)	7 Misdemeanor & Traffic
Cat 1	Cash Only Range	PR with PTS	PR with PTS	PR No Supervision	PR No Supervision	PR No Supervision	PR No Supervision
Cat 2	Cash Only Range	Cash Only Range	PR with PTS	PR with PTS	PR No Supervision	PR No Supervision	PR No Supervision
Cat 3				PR with PTS	PR with PTS	PR with PTS	PR No Supervision
Cat 4					Cash Only Range	Cash Only Range	PR with PTS
Cash Only Range	\$100 - \$100,000	\$100 - \$50,000	\$100 - \$10,000	\$100 - \$1,000	\$100 - \$10,000	\$100 - \$1,000	\$0
Secured Bond Range	\$1,000 - \$1,000,000	\$1,000 - \$500,000	\$1,000 - \$100,000	\$1,000 - \$10,000	\$1,000 - \$100,000	\$1,000 - \$10,000	\$0

## Example Praxis Continued

PRETRIAL SUPERVISION LEVELS				
Pretrial Supervision Description	Court Reminders Calls Only	Basic	Enhanced	Intensive
Fees Charged to the Defendant: • Fee waivers are available based on client needs	No fee	\$40 Intake \$20 p/month	\$40 Intake \$30 p/month	\$40 Intake \$40 p/month
CPAT Assessment	✓	✓	✓	✓
Criminal History & Background Information	✓	✓	✓	✓
Intake within 24 hours of release from jail		✓	✓	✓
Orientation with Intake Staff		✓	✓	✓
Orientation with Case Manager			✓	✓
Court Reminders before each Pretrial Court Date	✓	✓	✓	✓
Notification of New Arrest		✓	✓	✓
Case Management Meetings as Needed Only		✓		
Minimum of one Case Management Meeting p/month			✓	
Minimum of two Case Management Meetings p/month				✓
Physical Check-in to Pretrial Office minimum of 1x p/month		✓		
Physical Check-in to Pretrial Office minimum of 2x p/month			✓	
Physical Check-in to Pretrial Office minimum of 3x p/month				✓
Physically Check-in with Pretrial After Court Appearances		✓	✓	✓
Treatment evaluation by court order or client request		✓	✓	✓

## Example Praxis Continued

DUI SUPERVISION GUIDELINES <small>includes DWI, DWAI, DWFS, DWFS II</small>	
<small>All supervised DUI cases will be supervised at the Supervision Level, unless otherwise indicated in the notes.</small>	
Level 1: No prior DUI convictions in lifetime	No Pretrial Supervision
Level 2: One prior DUI conviction in lifetime	<ul style="list-style-type: none"> <li>First appearance in office to participate in 12 hr. pre-trial program including breathalyzer and alcohol awareness.</li> <li>DUI Drug cases will receive a minimum of two eye tests and one urine test per week.</li> <li>If positive two minimum to see the Judge the next working day.</li> </ul>
Level 3: Two or more prior DUI convictions in lifetime	<ul style="list-style-type: none"> <li>Daily in-home breathalyzer. BA is and a minimum of two eye tests and one urine test per week.</li> <li>Other BA's are allowed at the discretion of the Case Manager, not less than three times per week.</li> <li>DUI Drug cases will receive a minimum of two eye tests and one urine test per week.</li> <li>If positive two minimum to see the Judge the next working day.</li> </ul>

Supervision Levels may be adjusted based on the participation of the defendant, financial hardships, etc.

## Next Steps: Developing a Praxis

- What are the steps to developing a praxis?
  - Convene a work group
  - Assess supervision and special condition resources
  - Develop prototypes
  - Pilot the praxis and engage judges in providing feedback
  - Collect and report performance measures
  - Review praxes periodically and adjust as necessary

## Expand PRAI to all Courts

- Expanding to all courts:
  - Assessed risk travels with a defendant throughout the system
  - Court of Common Pleas, Family Court, and Superior Court judges can interpret the PRAI
  - Reviews of bail determinations incorporate PRAI scores

## Next Steps: Expand PRAI to all Courts

- What are the next steps to expanding the PRAI to all courts?
  - Identify leaders in each court to champion expansion of the PRAI
  - Convene a workgroup to oversee implementation
  - Train judges on interpreting the PRAI
  - Collect and report performance measures for each court

## Validate the PRAI

- Validation answers two primary questions about the outcomes of defendants assessed using the PRAI:
  - Is the tool predictive of a defendant's FTA for a mandatory court appearance if released into the community?
  - Is the tool predictive of a defendant's risk of NCA prior to case disposal if released into the community?



## Validate the PRAI

- To answer those larger questions, researchers conducting a validation examine:
  - The accuracy of the total score and point-score cut-offs
  - The predictive accuracy of each question on the PRAI
  - The predictive accuracy of the tool among subgroups within Delaware's pretrial population
- Researchers conducting a validation study can also evaluate the correlation between the various types of pretrial release statuses on FTA and NCA outcomes

## Next Steps: Validate the PRAI

- What are the steps to validating the PRAI?
  - Convene a work group
  - Identify a researcher
  - Determine data needs
  - Review validation study
  - Adjust domains according to findings

# Discussion

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Slide 35 • August 21, 2014

**Date:** August 20, 2014

**To:** Chris Kervick, Director, Delaware Criminal Justice Council

**Subject:** Validation of Delaware's Pretrial Risk Assessment Instrument

**From:** The Vera Institute of Justice, Center on Sentencing and Corrections

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## Introduction

SB 226, signed into law in August 2012, requires Delaware's courts to implement a pretrial risk assessment instrument (PRAI) for use in bail decisions. In 2013, the PRAI Implementation Work Group developed and piloted a PRAI for use primarily in Delaware's Justice of the Peace Courts (JP Courts). The tool went into use across all JP Courts in January 2014. On July 21, 2014, members of the PRAI Implementation Work Group and the University of Delaware met to discuss validation of the PRAI. This memo includes information about: I) the purpose of validation, II) data considerations, III) timeframe, and IV) recommendations.

## I. The Purpose of Validation

Validation is a crucial step in the implementation of actuarial risk assessment instruments. The PRAI Implementation Work Group developed the PRAI to include items proven in other jurisdictions to be positively correlated with risk of failure to appear (FTA) and new criminal arrest pre-adjudication (NCA). While items were proven to predict FTA and NCA outcomes elsewhere, validating the PRAI to Delaware's population is a crucial step to determining the predictive accuracy of the tool for the population Delaware will use it on.<sup>1</sup> Through validation, Delaware courts will ask and answer two primary questions about the outcomes of defendants assessed using the PRAI:

1. Is the tool predictive of a defendant's FTA for a mandatory court appearance if released into the community?
2. Is the tool predictive of a defendant's risk of NCA prior to case disposal if released into the community?

To answer those larger questions, researchers conducting a validation examine:

- The accuracy of the point-score cut-offs assigned to the various risk levels and recommend adjustments as necessary.
- The predictive accuracy of the tool among subgroups within Delaware's pretrial population<sup>2</sup>. Certain subgroups' FTA and new criminal arrest rates may be lower

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<sup>1</sup> K. Bechtel, C. Lowenkamp, and A. Holsinger, "Identifying the Predictors of Pretrial Failure: A Meta-Analysis," *Federal Probation* 75, no. 2 (2011): 78-87.

<sup>2</sup> Subpopulations could include women, defendants charged with certain crime types, etc., depending on the jurisdiction's priorities.

Strong collaboration between the courts and the department of corrections is helpful in avoiding the inclusion of poor data.

**Time Sample:** Researchers should be mindful of any variables that might skew the data, such as seasonal crime rate fluctuations. To guarantee the validation reflects the overall predictive success of the PRAI, the data sample should include cases from throughout the calendar year. Conducting a preliminary validation for the first quarter of implementation can build trust in the instrument, but a comprehensive validation should be considered only after 12 months of data are available.

**Historical Data:** While it is possible to use historical data to construct the validation's sample, researchers can only use this approach if each data element on the PRAI has historically been collected and can be retrieved for each individual included in the historical data sample.

**Inter-Rater Reliability:** In jurisdictions that complete their pretrial instruments via in-person interviews with defendants, researchers must consider questions of inter-rater reliability and inconsistencies between the approaches of individual interviewers. Since the PRAI is primarily auto-populated, reliability will be less of a consideration for Delaware. However, Delaware will need to ascertain that the two items that judges score at the first court appearance were in fact scored and entered into the system.

**Release Type:** A validation study can also determine the correlation between certain types of release and pretrial outcomes. Through this process, a jurisdiction may discover that certain types of release are more effective and reducing FTA and NCA prior to adjudication than others. Researchers would look at release type as a subgroup within the larger population of those who have been assessed and released, ensuring that there is an adequate sample size of those released with each possible condition and that all necessary data is available for all defendants in the sample.

### III. Time Frame

The timeline of a validation study varies between jurisdictions depending on a number of factors:

- The ability of researchers to access necessary data;
- The average length of time from arrest to case disposal or other pretrial outcome (FTA, NCA); and,
- The ability of researchers to identify an adequate sample size.<sup>5</sup>

Other considerations include the staffing of the research team and the time needed by the researchers to assess the quality of the data received from the courts.

### IV. Recommendations

The following recommendations are drawn from Vera staff's research and interviews with researchers who have conducted validations of pretrial risk assessment tools.

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<sup>5</sup> This variable is determined by the volume of cases that move through the jurisdiction's courts.

# A Guide to Calculating Justice-System Marginal Costs

MAY 2013



Christian Henrichson • Sarah Galgano



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



# Contents

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marginal cost is the amount of change in an agency's total operating costs **when output** (such as arrests, court filings, or jail days) changes because of changes to policies or programs.

It is impossible to overstate the importance of using marginal costs in a CBA. One of the fundamental errors an analyst can make is using average costs, which usually results in overestimating the costs related to the policy change.<sup>1</sup> **This is because the average cost** includes fixed costs—such as administration and other overhead costs—that policy changes may not affect. (For the **purpose of a cost-benefit analysis**, in some circumstances the average cost is also the marginal cost. See “Prisons and Jails,” page 12, and “Programs,” page 20, for more on these scenarios.)

The average and marginal costs of prison illustrate this important distinction. Nationwide, the average annual per-inmate cost of state prison is about \$30,000.<sup>2</sup> A common misconception is that reducing the prison population by a small amount will translate into \$30,000 per inmate in taxpayer savings. But the average cost includes costs for administration, utilities, and other expenses that will not change when the prison population is slightly reduced. A small change affects expenses such as food, clothing, and medical care: these are the marginal costs associated with a small reduction in the inmate population. The difference between the average and marginal cost of prison is vast. In Massachusetts, for example, the average annual per-inmate cost of incarceration is \$46,000, whereas the marginal cost is only \$9,000 (see Figure 1).<sup>3</sup>

**Figure 1. Annual per-inmate costs of state prison in Massachusetts**



Average cost: \$46,000  
Marginal cost: \$9,000

The **term “marginal cost”** comes from the field of economics, which defines it as the change in total cost when the quantity produced changes by one unit. **However, a cost-benefit analysis** rarely seeks to measure such a minuscule policy effect; it usually measures a more sizable impact (for example, a change in 100 jail beds or 1,000 arrests). Thus, the marginal cost in a CBA is the change in cost caused by the change in policy.

To assess policies with smaller effects on workload, one must calculate the marginal cost of a small change in workload; assessing policies with larger effects requires the use of the marginal cost of a larger change in workload. Cost-benefit analysts often distinguish between these smaller and larger marginal costs as short-run and long-run marginal costs, respectively (see page 6).

## TAXPAYER BENEFITS VERSUS TAXPAYER SAVINGS

Throughout this guide, the economic consequences of a reduction in government workload are called taxpayer benefits rather than taxpayer savings. A decrease in workload—for example, in a prosecutor's caseload—will not necessarily result in more dollars in taxpayers' pockets. It might mean that prosecutors have more time to devote to their remaining cases, and the quality of services may improve—which would be a benefit.\* However, reductions in workload, particularly if they are large, may create the opportunity to reduce staffing levels, a result that may generate taxpayer savings. A CBA can assess whether there will be a taxpayer benefit, but only the budget process can determine whether there will be taxpayer savings.

\*Billy L. Wayson and Gail S. Funke, *What Price Justice: A Handbook for the Analysis of Criminal Justice Costs* (Washington, DC: National Institute of Justice, 1989), 93.

more than one marginal cost could potentially be used in justice CBAs. Costs that change immediately with even a small change in workload are often called **short-run marginal costs** (also called variable costs).<sup>5</sup> When a policy has a larger impact on workload, staffing costs need to be considered, yet it may take time for the government to change these step-fixed costs. Thus, **long-run marginal costs** include the short-run marginal cost as well as the staffing costs that change as governments modify staffing levels in future budget cycles.<sup>6</sup>

Cost-benefit studies of criminal justice initiatives should use the long-run marginal cost when the effect of the policy on workload is expected to change staffing needs. Analysts should use the short-run marginal cost when the policy impact is not large enough to affect staffing.

## How to Calculate Marginal Costs

The marginal costs required to conduct a cost-benefit analysis of a justice policy are rarely available off the shelf. Therefore, analysts must typically make these calculations from scratch. Even if another source provides a marginal cost, analysts must confirm that it is an accurate marginal cost for the policy being studied. Because the marginal cost is specific to the policy context, it is important to understand how this cost was calculated.

Moreover, a cost-benefit analysis will likely require marginal costs for a variety of justice-system resources. For example, if you are studying an investment shown to reduce burglaries, it would likely lead to fewer arrests, fewer court cases, and fewer days in jail. To consider the effect this change will have on justice-system resources requires knowing how many fewer arrests, cases, and days in jail there will be. Figure 3 provides a list of marginal costs commonly used in a CBA to measure the impact on taxpayers. The change in justice-system workload (for example, arrests), is then multiplied by the marginal cost of that activity or resource. (See *Tracking Costs and Savings through Justice Reinvestment* [Urban Institute, 2012] for more information on how to track policy impacts across the justice system.<sup>7</sup>)

Figure 3. Commonly measured taxpayer costs  
in justice-system cost-benefit analyses

- Law enforcement (per arrest)
- Courts (per case)
- Jails and prisons (per inmate)
- Probation and parole (per supervisee)
- Juvenile detention and commitment (per youth)
- Juvenile supervision (per youth)
- Criminal justice programs (per participant)

### GLOSSARY

**MARGINAL COST:** The amount of change in total cost when a unit of output changes

**AVERAGE COST:** The total cost of all output divided by total output

**VARIABLE COST:** The cost that changes directly in proportion to output; also called short-run marginal cost

**FIXED COST:** The cost that remains constant, even when the output changes

**STEP-FIXED COST:** The cost that remains constant for a certain range of output and changes when output exceeds or falls below a certain threshold

**SHORT-RUN MARGINAL COST:** The cost affected as soon as the output changes; also called variable cost

**LONG-RUN MARGINAL COST:** Short-run marginal costs, plus the step-fixed costs that change in the long run as adjustments are made to staffing levels in response to larger changes in output



Figure 5. Top-down example: hypothetical probation case

$$\text{Change in total cost} \div \text{Change in total output} = \text{Annual marginal cost}$$
$$\$550,000 \div 500 = \$1,100$$

$$\text{Annual marginal cost} \div \text{Days per year} = \text{Daily marginal cost}$$
$$\$1,100 \div 365 = \$3.01$$

**When to use the top-down method.** Analysts often prefer this method because the calculations are relatively simple if detailed budget data is available. When the government is delivering only one output (for example, jail beds) the top-down method is a convenient approach so long as the analyst can identify which costs the policy will change.<sup>9</sup> For example, if a corrections department reduces the budget by \$1 million because it closes one housing unit with 100 beds, the marginal cost—using the top-down method—is \$10,000 per bed, per year (\$1 million  $\div$  100 beds = \$10,000).

**Considerations when using the top-down method.** Two potential mistakes can lead to an erroneously high estimation of marginal costs when using this approach. First, the marginal cost will be overestimated if the total cost includes costs that do not pertain to the type of output the analyst is measuring. For example, if other expenses were commingled with probation expenses (such as if juvenile probation costs were included in the above example of adult probation costs), they would be incorrectly included in the cost of adult probation. A second possible mistake pertains to the erroneous inclusion of fixed costs (such as costs of central management), which do not vary as workload changes. When calculating marginal costs in a top-down analysis, fixed costs must first be removed from the total cost. (The above example includes salary and supply costs and excludes costs for administration and other fixed expenses.)

**The bottom-up method.** Use the bottom-up approach to investigate all the costs related to a single unit of output. This typically means identifying all the employees who are responsible for a unit of output (for example, all the staff members who work on a court case), identifying how much time each person spends on that unit of output, and then multiplying this time by the cost of the employees' time spent on that activity (see formula in Figure 6).

Figure 6. Bottom-up formula

$$\text{Time spent on output (hours)} \times \text{Cost per hour} = \text{Marginal cost}$$

and comparable. Costs are comprehensive if they capture all relevant expenses. Costs are comparable if they include all the same components and are adjusted for differences that result because they are incurred at different times.

**Measuring costs comprehensively.** The first principle when conducting a cost analysis is measuring all costs comprehensively. For example, in some jurisdictions, the costs of pensions and other fringe benefits are budgeted in a central account, and these costs would be erroneously omitted if analysts were to investigate only agency budgets.<sup>13</sup> What's more, the costs of many justice programs extend beyond the budget of a single department, such as when a probation department makes use of employment or housing services that a different department provides. If the analysis were to focus solely on the probation department, these employment and housing costs would be overlooked.<sup>14</sup>

In measuring costs comprehensively, take care not to double-count any costs. One way to prevent undercounting and double-counting is to confirm which costs are included in the figures a respondent provides. For example, when working with a jurisdiction that pays for fringe benefits outside the agency budget, do not add these costs yourself and assume that the survey respondent omitted them. (See the survey in the appendix of *The Price of Prisons: What Incarceration Cost Taxpayers* [[www.vera.org/priceofprisons](http://www.vera.org/priceofprisons)], which was used to collect state prison costs; the questions were designed to avoid undercounting or double-counting any relevant costs.<sup>15</sup>)

**Measuring costs comparably.** The second principle of cost analysis is that costs should be comparable, that is, that analysts liken apples to apples. This is a particularly challenging issue when aggregating data from multiple jurisdictions, because each one may define or administer justice activities differently. For example, two jurisdictions might have different names for the same type of program. One way to address this issue when collecting data is to carefully define all terms clearly and accurately when describing programs and activities.

The principle of comparing apples to apples is also essential when collecting data over a multiyear period. First, you must adjust for the effects of inflation when comparing data from the past, and second, you will need to discount future costs to the current period.<sup>16</sup>

**Communication.** Because information about budgets, salaries, and workload can be sensitive, interview subjects (or survey respondents) may be concerned about how analysts will use data and the public will interpret it. You can allay these qualms and earn respondents' trust by clarifying the goals of the analysis through two important steps.

First, when collecting data, clearly explain why you are doing so (that is, how costs relate to the cost-benefit analysis), when the analysis will be published, and which data will be published in the CBA. Providing this kind of context can increase respondents' understanding of your methods and goals and help them prepare for questions that might arise if the costs they share (or those you calculate) differ from other published costs.

*Criminal justice systems vary widely, and it is important that marginal costs are specific to the jurisdiction being studied.*



The marginal cost of incarceration to use in a CBA depends on the estimated change in the size of the inmate population. If the population is expected to change modestly, only variable costs—for things such as food, clothing, and medical care—will be affected. These are the short-run marginal costs. If the size of the inmate population is expected to change considerably, analysts **must consider** the costs of staffing in addition to the short-run costs. These are the long-run marginal costs. Figure 8 illustrates the differences among these costs relative to the average cost of incarceration in Washington State's prisons and jails. Note that short-run marginal costs are lower than long-run marginal costs, which include step-fixed expenses. Long-run marginal costs are lower than average costs, which include fixed expenses.

**Figure 8. Annual per-inmate costs in Washington State, 2009**

	AVERAGE COST	LONG-RUN MARGINAL COST	SHORT-RUN MARGINAL COST
Prison	\$31,446	\$13,921	\$4,495
Jail	\$28,900	\$21,469	\$3,457

Sources: WSIPP's Benefit-Cost Tool for States: Examining Policy Options in Sentencing and Corrections, August 2010.

As described earlier, you can accurately calculate the marginal cost of incarceration using either a top-down or bottom-up approach. A 2009 evaluation of an alternative-to-incarceration program in Pierce County, Washington, determined the marginal cost of jail using both approaches and thoroughly documented the calculations in a manner that can aid other researchers.<sup>7</sup> Using both methods is one way to ensure accuracy and in this study both yielded similar estimates. The top-down approach resulted in a marginal cost of \$56.75 per inmate, per day, and the bottom-up approach resulted in a marginal cost of \$51.51 per inmate, per day. (The average cost is \$84.37 per inmate, per day.) These are long-run marginal costs because they include the step-fixed staffing costs that change when the size of the inmate population changes substantially. This section summarizes the top-down and bottom-up methods for calculating the marginal costs of jail and prison. It also provides a few considerations to keep in mind when calculating these costs.

**The top-down method.** For this approach, you must obtain line-item budget information that is sufficiently detailed to distinguish between the variable, step-fixed, and fixed costs. From the total cost, subtract the fixed costs—that is, those costs that will not change when the inmate population increases or decreases—so that only the variable and step-fixed costs remain. Then divide that number by the average daily population to estimate the long-run marginal cost per inmate. The short-run marginal cost is calculated by dividing the variable costs by the average daily population.

*Short-run marginal costs are lower than long-run marginal costs, which include step-fixed expenses. Long-run marginal costs are lower than average costs, which include fixed expenses.*

Figure 10. Long-run marginal cost of jail in Pierce County, Washington: bottom-up method

LINE	METRIC/COST	VALUE	CALCULATION
a	Beds per pod	84	--
b	8-hour shifts per day	3	--
c	Posts per shift	1.75	--
d	Posts per day	5.25	b x c
e	Relief factor	1.8	--
f	Full time staff per pod	9.45	d x e
g	Average salary and benefits	\$101,456	--
h	Personnel costs, per pod	\$958,759	f x g
i	Personnel costs, per inmate	\$11,414	h ÷ a
j	Personnel costs, per day	\$31.27	i ÷ 365
k	Variable cost, per day	\$17.83	--
l	Long-run marginal cost, per day	\$49.10	j + k

Source: Christopher Murray, *Process Evaluation of Breaking the Cycle*, Pierce County Performance Audit Committee, September 24, 2009.

**Keep in mind.** When calculating jail and prison costs, analysts must also consider how the policy will affect certain segments of the inmate population. For example, if you are studying a policy that affects elderly inmates, you need to investigate the costs specific to that population.<sup>25</sup> Costs also depend on the security level of the facility. In North Carolina, for example, the average cost of a maximum-security bed is 45 percent greater than a minimum-security bed (\$93.57 per day versus \$64.36 per day); in Mississippi, the cost of a maximum-security bed is 100 percent greater than a minimum-security bed (\$102.27 per day versus \$49.50 per day).<sup>26</sup> Similarly, the first few days in jail are the most expensive of a person's incarceration because of the cost of intake.<sup>27</sup>

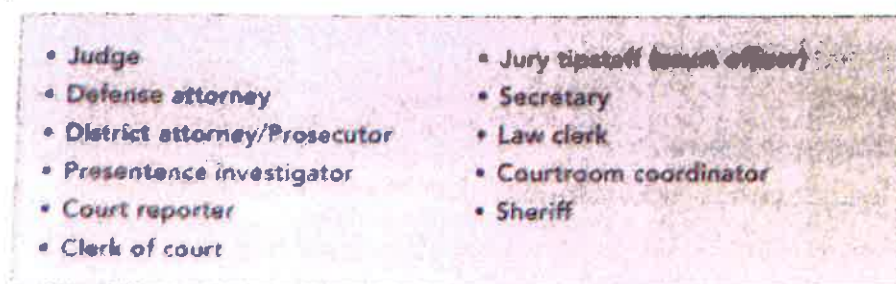
Finally, it is important to note that although the costs of jails and prisons are similar in many ways, it may be more difficult for jails to eliminate step-fixed costs by reducing staffing levels because of the differences between the scale of a local jail and a state prison system. For example, a 5 percent reduction in the prison population might present an opportunity to close a small prison, but a 5 percent reduction in a small local jail would likely be insufficient to change staffing levels.

## PROBATION AND PAROLE

The process of calculating probation and parole costs is similar to the process for prisons and jails because community corrections and correctional facilities both have a structured ratio of people under supervision (or incarcerated) to officers. In probation and parole this ratio is called the **caseload**, which is the average number of people an officer supervises at a given time. The average

*Although the costs of jails and prisons are similar, because of differences in scale it may be more difficult for jails to eliminate step-fixed costs by reducing staffing levels.*

Figure 11. Personnel involved in court cases



• Judge	• Jury tipstaff (court officer)
• Defense attorney	• Secretary
• District attorney/Prosecutor	• Law clerk
• Presentence investigator	• Courtroom coordinator
• Court reporter	• Sheriff
• Clerk of court	

**The top-down method.** One challenge of using this approach is that you need detailed budget and staffing data to discern which costs are for the various types of cases (criminal, civil, etc.) and whether the costs are variable, step-fixed, or fixed. If this data is available, you can use a tool developed by the National Center for State Courts that provides a template to calculate the cost per case. (See Figure 12 for an excerpt from the tool.)

This tool was designed to measure average costs. However, you can also use it to calculate long-run marginal costs if you remove the fixed costs from the total costs. To use the tool, you will need information about the cost of court operations (excluding fixed costs), the number of dispositions for each type of case (such as civil, criminal, or traffic), and the number of employees that work on each type of court case.

For example, if the court spends \$23.8 million annually to dispose of 99,519 cases (see Figure 12), the cost per type of case can be calculated by using the number of personnel who work on each type of case to determine the proportion of court costs incurred for each type of case. In this example, 10.7 percent of court personnel work on criminal cases and therefore the total cost of all criminal cases is \$2.5 million (10.7 percent  $\times$  \$23.8 million = \$2.5 million). Because there were 19,414 criminal dispositions, the cost of a criminal case is \$132 (\$2.5 million  $\div$  19,414 = \$132). See additional instructions and the Excel template at [courtools.org](http://courtools.org).<sup>30</sup>

**The bottom-up method.** Although this approach is more time- and labor-intensive, it may provide a more accurate picture of court costs when investigating areas that involve wide variation in time spent per case. One benefit of the bottom-up approach is that it works well when you need to analyze court activities that involve actors from several agencies.<sup>31</sup> This method requires that you multiply the time spent per case by the hourly cost of labor. You can often calculate the time spent per case through interviews, published workload studies, or researchers' observations in the courts. In general, salaries of government employees are publicly available.<sup>32</sup>

Once you determine the total cost of all the court actors and the average time spent on case hearings, you can calculate the marginal cost. The Urban Institute, for example, has used this methodology to calculate the marginal cost of drug-court hearings. Researchers estimated the hourly cost of the personnel



1. Determine the program process and how participants move through the process.
2. Identify where in the case flow client/agency interactions occur.
3. Identify the agencies involved in each transaction.
4. Determine the resources each agency uses for each transaction.
5. Determine the cost of the resources each agency uses for each transaction.
6. Calculate the cost results.

For details on the TICA bottom-up method, refer to *Enhancing Cost Analysis of Drug Courts: The Transactional and Institutional Cost Analysis Approach*.<sup>34</sup>

**Keep in mind.** The benefit of a reduction in court workloads will not translate into budget savings unless staffing levels are reduced when workload reduces. Instead, it is common for the courts to use these taxpayer benefits to reduce caseloads and backlogs. Such benefits are sometimes described as opportunity resources, because these resources are available for other uses.<sup>35</sup> This type of taxpayer benefit will not typically result in a financial savings; it instead provides the means to benefit the public by lowering caseloads and hastening case-processing times.

## LAW ENFORCEMENT

The cost of law enforcement is an important factor in many justice CBAs because nearly any effect on crime will have an effect on law enforcement. If fewer crimes occur in the future, it follows that there should be fewer arrests, and thus reduced costs.

Because police officers engage in a wide variety of activities, it is usually difficult to calculate the marginal cost of police work by using a top-down approach without conducting regression analysis (see "The top-down method" below). In general, it is better to use a bottom-up approach, investigating the time spent on the activity, and then multiplying that time by the cost of an officer's time.

**The bottom-up method.** You can often calculate the marginal cost of policing by multiplying the time an officer spends on an incident by the cost of the officer's salary and benefits.<sup>36</sup> In Washington State, for example, the Tacoma Police Department has calculated the marginal cost of arresting a person considered a "chronic minor offender" to be \$165.<sup>37</sup> Analysts made this calculation by first estimating that an arrest includes three hours of an officer's time, and then multiplying that by an hourly rate of \$55 (including wages, benefits, and equipment).

Keep in mind that the time it takes to investigate different types of incidents varies greatly. An analysis by the San Diego Police Department found that an average arrest keeps an officer out of service for 5.4 hours, but that certain incidents require much more time than others.<sup>38</sup> For instance, an arrest for public

*If fewer crimes occur in the future, it follows that there should be fewer arrests, and thus reduced law-enforcement costs.*

treatment for substance use.

Calculating the marginal cost of these programs is usually straightforward, **because programs**, almost by definition, have discrete line-item budgets that researchers can use to collect costs. But keep in mind this important consideration when calculating the marginal cost of programs: sometimes the average **cost of a program** is the correct marginal cost for the purpose of a cost-benefit analysis.

**Because** cost-benefit studies sometimes investigate whether it is worthwhile **to begin—or terminate—a specific program**, it is appropriate in these cases to **include fixed costs** if they are a component of a new investment, or could be saved if the program were terminated. Thus, the average cost, which includes **the fixed costs**, is the appropriate cost for the analysis.

When calculating the cost of programs, look out for a common pitfall: although programs are often funded through a single budget, sometimes other entities bear a portion of the cost. It is often helpful to use a structured template to ensure that you measure costs comprehensively. The Substance Abuse Services Cost Analysis Program Cost Module, for example, was developed to measure all costs when researching drug treatment programs.<sup>41</sup> This is a useful tool for estimating costs and can serve as a template for cost-collection instruments for other programs or fields. The sidebar “Know Your Costs” (page 20) provides a checklist to follow when surveying program costs.

The case of technology investments highlights the potential pitfalls of undercounting program costs. When collecting technology costs, be sure to include not only the cost of the technology itself, but also those of maintenance, installation, and personnel needed to manage and use the resource, as well as any additional staff training required.<sup>42</sup>

**Remember** that program costs sometimes have offsetting benefits in other areas of the justice system (for example, an electronic monitoring program that reduces jail costs). In such cases it is important to clarify whether these offsetting benefits are included in the calculation of the cost of the program—that is, whether these savings reduce the cost of the program.

## Recommendations

Analysts and justice agencies can take a number of steps to improve the accuracy of marginal costs and the cost-benefit analyses they support. Analysts should carefully document and explain their calculations and results. Justice agencies should improve the availability of public data that can be used to make marginal-cost calculations.

### ANALYSTS

Because the accuracy of marginal costs is paramount to a rigorous cost-benefit analysis, report all the marginal costs used in a CBA and document the sources and methods used to calculate these costs. Detail on these inputs will foster

*Analysts should carefully document and explain their calculations and results.*

*Justice agencies should improve the availability of public data that can be used to make marginal-cost calculations.*



# Resources

Figure 13. Marginal-cost resources

## METHODS

Additional information on marginal costs is available on the website of the Cost-Benefit Knowledge Bank for Criminal Justice ([cbkb.org](http://cbkb.org)). Figure 13 includes a list of the resources discussed in this guide. Detailed information about the sources and methods used by the Washington State Institute for Public Policy (WSIPP)—a leading producer of justice-related CBAs—is available in the appendices of their cost-benefit reports. (See Appendix D2 in *WSIPP's Benefit-Cost Tool for States: Examining Policy Options in Sentencing and Corrections*.)

## DATA

The most accurate, up-to-date information about justice-system costs will often be readily available from justice agencies. When possible, it makes sense to work directly with public officials to collect this data. Information on justice-system spending is often available on the websites of justice agencies and executive budget offices. These budget documents are often accompanied by information on outputs and workload that can be useful in analyses. Government agencies sometimes publish information about public employee salaries; third-party websites that promote government transparency, such as [sunshinereview.org](http://sunshinereview.org), often aggregate this information.

The federal government collects aggregate data that can be useful when calculating marginal costs. Information on federal, state, and municipal employee salaries is available

### GENERAL SOURCES FOR METHODS

- Cost-Benefit Knowledge Bank for Criminal Justice: [cbkb.org](http://cbkb.org)
- Washington State Institute for Public Policy: [wsipp.wa.gov](http://wsipp.wa.gov)
- Greg G. Chen et al., *Budget Tools: Financial Methods in the Public Sector* (Washington, DC: CQ Press, 2008).
- John K. Roman et al., *Cost-Benefit Analysis and Crime Control* (Washington, DC: Urban Institute Press, 2010).
- Pamela Lachman and S. Rebecca Neusteter, *Tracking Costs and Savings Through Justice Reinvestment* (Washington, DC: Urban Institute, 2012).

### CORRECTIONS

Christopher Murray, *Process Evaluation of Breaking the Cycle* (Pierce County, WA: Pierce County Performance Audit Committee, September 26, 2008).

### COURTS

- CourtTool Measure 10: "Cost per Case," National Center for State Courts
- Dave Crumpton, Shannon Carey, and Michael Finigan, *Enhancing Cost Analysis of Drug Courts: The Transactions and Institutional Cost Analysis Approach* (Portland, OR: NPA Research, October 2004).

### LAW ENFORCEMENT

Julius C. Chaldez, "How to Calculate the Cost of a Youth Arrest" (Washington, DC: National Juvenile Justice Network, November 2012).

### PROGRAMS

Substance Abuse Services Cost Analysis Program (SASCAP), (Research Triangle Park, NC: RTI International).

### DATA RESOURCES

- U.S. Census Annual Survey of Public Employment & Payroll
- U.S. Census Annual Survey of State & Local Government Finances
- Bureau of Justice Statistics Expenditure and Employment Data Collections
- Sunshine Review (information about public employee salaries)

## ENDNOTES

- 1 Douglas C. McDonald, "The Cost of Corrections: In Search of the Bottom Line," *Research in Corrections* 2, no. 1 (1989): 1-25.
- 2 The mean per-capita cost of state corrections institutions was \$28,323 per Tracey Kyckelhahn, *State Corrections Expenditures FY 1982-2010* (Bureau of Justice Statistics, December 2012). The mean per-capita cost of prison—including costs outside the corrections budget, such as underfunded retirement benefits—was \$31,286 in the 40 states analyzed by Christian Henrichson and Ruth Delaney, *The Price of Prisons: What Incarceration Costs Taxpayers* (New York: Vera Institute of Justice, 2012).
- 3 Paul Heroux, "Addressing the prison's budget and population," *Taunton Daily Gazette*, February 17, 2011. <http://www.tauntongazette.com/opinions/43522680/GUEST-OPINION-Addressing-the-prison-s-budget-and-population> (accessed January 9, 2013).
- 4 Greg G. Chen et al. *Budget Tools: Financial Methods in the Public Sector*. (Washington, DC: CQ Press, 2009), 13.
- 5 Steve Aos and Elizabeth Drake, *WSIPP's Benefit-Cost Tool for States: Examining Policy Options in Sentencing and Corrections* (Olympia, WA: Washington State Institute for Public Policy, 2010), 28. <http://www.wsipp.wa.gov/pub.asp?docid=10-08-1201> (accessed January 9, 2013).
- 6 Ibid., 28.
- 7 Pamela Lachman and S. Rebecca Neusteter, *Tracking Costs and Savings through Justice Reinvestment* (Washington, DC: Urban Institute, 2012). <http://www.urban.org/publications/412541.html> (accessed January 9, 2013).
- 8 Ann Netten, "Identifying Costs and Costing Complex Intervention Programs," in *Cost-Benefit Analysis and Crime Control*, edited by John K. Roman, Terence Dunworth, and Kevin Marsh (Washington, DC: Urban Institute Press, 2010), 37.
- 9 Ann Netten, University of Kent, "RE: taxonomy of costs," October 12, 2012, personal e-mail.
- 10 The hourly wage in this hypothetical example assumes that the employee works 365 days per year (\$55,000 ÷ 365 days ÷ 8 hours per day = \$18.84 per hour). In practice, employees have days off and this calculation would require an adjustment that accounts for the number of days per year that each employee is working. This adjustment is called a relief factor. See page 14 of this guide for more information on relief factors.
- 11 Ibid.
- 12 Cost-Benefit Knowledge Bank for Criminal Justice, "Calculating Drug-Court Costs: An Interview with Shannon Carey," September 14, 2011, <http://cbkb.org/2011/09/drug-court-costs-shannon-carey-interview/> (accessed January 9, 2013).
- 13 Henrichson and Delaney, 2012, 4.
- 14 Netten, 2010, 40.
- 15 Henrichson and Delaney, 2012, 22-23.
- 16 Netten, 2010, 44.
- 17 Christopher Murray, *Process Evaluation of Breaking the Cycle* (Pierce County, WA: Pierce County Performance Audit Committee, September 24, 2009). <http://www.co.pierce.wa.us/DocumentCenter/View/1341> (accessed March 8, 2013).
- 18 These calculations are on pages 41-42, Murray, 2009.
- 19 These calculations are on page 42, Murray, 2009.
- 20 These calculations are on page 47, Murray, 2009.
- 21 These numbers have been rounded. Actual computations from *Process Evaluation of Breaking the Cycle* are as follows: Long-run marginal cost (per day) = 27,892,430 ÷ 1,343 ÷ 366 = \$56.75 (see Murray, 2009, page 42). Short-run marginal cost (per day) = 8,739,845 ÷ 1,343 ÷ 365 = \$17.83 (see Murray, 2009, page 56).
- 22 For more information on relief factors, see Camille Graham Camp, *Prison Staffing Analysis: A Training Manual*, (Washington, DC: National Institute of Corrections, 2008), 39.
- 23 These calculations are on pages 43-47, Murray, 2009.
- 24 Murray calculates the variable costs using a top-down approach. The author obtained line-item budgets for the various variable costs (e.g., medical, food, pharmacy) and divided the annual total by the average daily population. (See Murray, 2009, 47).
- 25 *Old Behind Bars: The Aging Prison Population in the US* (New York, NY: Human Rights Watch, 2012), 72. <http://www.hrw.org/reports/2012/01/27/old-behind-bars-0> (accessed January 22, 2013).
- 26 North Carolina Department of Public Safety, *Cost of Supervision for fiscal year ending 2011* (Raleigh, NC: 2011). <http://www.doc.state.nc.us/dop/cost/> (accessed January 25, 2013; Mississippi Legislature's Joint Legislative Committee on Performance Evaluation and Expenditure Review, *Mississippi Department of Corrections' FY 2011 Cost Per Inmate Day* (Jackson, MS: 2011). <http://www.pear.state.ms.us/reports/rpt557.pdf> (accessed January 25, 2013), 1.
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- 28 State of New York, 2010-11 Executive Budget Agency Presentations. Available at <http://www.budget.ny.gov/pubs/archive/fy1011archive/eBudget1011/agencyPresentations/pdf/AgencyPresentations.pdf> (accessed January 3, 2013), 387.
- 29 Judge Linda Ludgate, *The Human Side of Being a Judge: The People Who Make Courts Work*, [http://www.americanbar.org/groups/public\\_education/resources/law\\_related\\_education\\_network/how\\_courts\\_work/peopleandcourts.html](http://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/peopleandcourts.html) (accessed January 22, 2013).
- 30 CourTool Measure 10: "Cost per Case" is available at <http://www.courttools.org/Trial-Court-Performance-Measures.aspx> (accessed April 25, 2013).
- 31 Cost-Benefit Knowledge Bank for Criminal Justice, "Calculating Drug-Court Costs," 2011.
- 32 The salaries for public employees are often available on government websites. Information for public employee salaries, in many states,



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## About the Cost-Benefit Knowledge Bank for Criminal Justice

The Cost-Benefit Knowledge Bank for Criminal Justice (CBKB) helps to broaden the knowledge base of practitioners and policymakers about criminal justice cost-benefit analysis, deepen the knowledge and practice in this area, and support practitioners in building their capacity to promote, use, and interpret cost-benefit analysis in criminal justice settings.

## About the Cost-Benefit Analysis Unit

Vera's Cost-Benefit Analysis Unit provides policymakers with clear, accessible information on the economic pros and cons associated with criminal and juvenile justice investments so that they can identify effective, affordable interventions for their jurisdictions and allocate resources accordingly.

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This guide is available on Vera's website at [www.vera.org/marginalcosts](http://www.vera.org/marginalcosts).

For more information about this report, contact Christian Henrichson at [chenrichson@vera.org](mailto:chenrichson@vera.org).

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MEMORANDUM

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**TO:** JRI OVERSIGHT COMMITTEE  
**FROM:** CHRISTIAN KERVICK  
**SUBJECT:** CJC REPORT  
**DATE:** 9/30/2014

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1. **VERA Grant Activity** -- some Administrative points to report
  - a. CJC is up to date with all required reporting requirements and performance measures
  - b. Grant or Contract with VERA has been extended to 12/31/14
  - c. All funds are being expended as a portion of salary for Ron Keen, Valarie Tickle, Kathleen Kelley. All other expenses are being covered by CJC
  - d. Grant reports can be made available upon request -- feel free to email
2. Last Oversight committee meeting -- **Data Group** was created to address collection of Dash Board Data.
  - a. Multiple group and individual meetings with CJC, SAC, DELJIS, DOC and others
  - b. Resulted in two separate data pools
    - i. P. Bell reporting Crime Statistic snapshots from NIBRS data
    - ii. DOC staff will be reporting detention population and transition data from DACS
    - iii. You will see those presentations shortly
3. **JP Court RAI Status Workgroup** --
  - a. Groups mission morphed from implementation of the RAI to a review of statistics and problem solving
  - b. Discussion of changing the dynamic of the work group to explore validation issues.
  - c. CJC Reported that we would seek the input of a research team and get guidance from the Oversight Committee



4. CJC staff convened **Ad Hoc Validation Working Group** consisting of Drs. Dillard, Martin and O'Connell from DE State University and the University of DE
  - a. Met with the researchers at CJC to discuss the validation
  - b. Forwarded the ad hoc group data from SAC
  - c. Currently working on a methodology and a work plan to include a timetable and a budget.
  - d. Spoke with Dr. Dillard last night – looks like it will be a three-phased project beginning with a reliability study.
  - e. Also asked VERA for some guidance on how other jurisdictions validated risk instruments.
5. In May of 2014, and in conjunction with the DOC, CJC staff submitted an application in response to a **competitive JRI Solicitation from BJA**. It is a 3-year program that totaled \$889,000 to implement (4 components) – If awarded:
  - a. Validation of the RAI
  - b. Pre-Trial case Management system using a Non-Profit agency
  - c. Additional Electronic Monitoring for DOC
  - d. The Pilot use of Check-in Kiosk for P&P
6. Finally, CJC staff will meet in the next few weeks to develop a shell and a draft of the required **JRI Annual report** that is due to the Gov, and Legislature that is due by law on December 31, 2014.



# JRI DATA UPDATE: PRESENTATION TO OVERSIGHT COMMITTEE

Peggy Bell  
Executive Director, DELJIS



## Statewide Totals 2012 vs. 2013\*

Category	2012	2013	Change (increase or decrease)
Murder	57	41	-
Manslaughter	1	3	+
Forcible Sex Offenses	820	835	+
Robbery	1,754	1,420	-
Aggravated Assault	21,064	18,846	-
Arson	234	180	-
Burglary	7,536	6,327	-
Theft	22,969	22,326	-
Vehicle Theft	1,587	1,439	-
<b>TOTAL</b>	<b>56,022</b>	<b>51,417</b>	<b>-</b>

\*according to UCR and NIBRS data



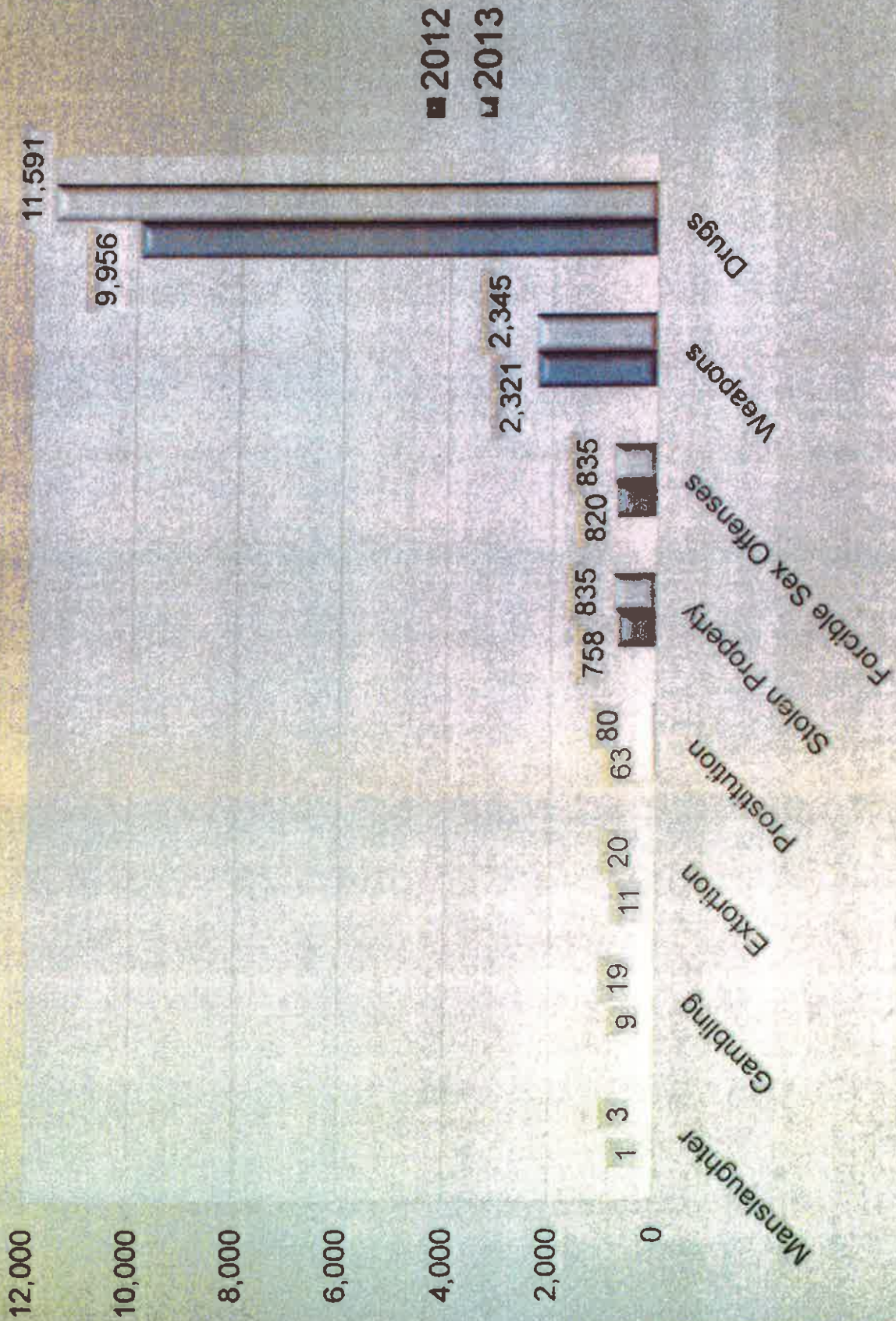
## Statewide Totals 2012 vs. 2013\*

Category	2012	2013	Change (increase or decrease)*
Bribery	9	6	-
Criminal mischief	16,340	13,851	-
Drugs	9,956	11,591	+
Embezzlement	323	299	-
Extortion	11	20	+
Forgery	1,048	891	-
Fraud	6,363	6,224	-
Gambling	9	19	+
Kidnapping	339	340	same
Obscene material	122	119	-
Prostitution	63	80	+
Sex Offenses (non-force)	72	49	-
Simple Assault	17,628	15,755	-
Stolen Property	758	835	+
Weapons	2,321	2,345	+
<b>TOTAL</b>	<b>55,362</b>	<b>52,424</b>	<b>-</b>

\*according to UCR and NIBRS data

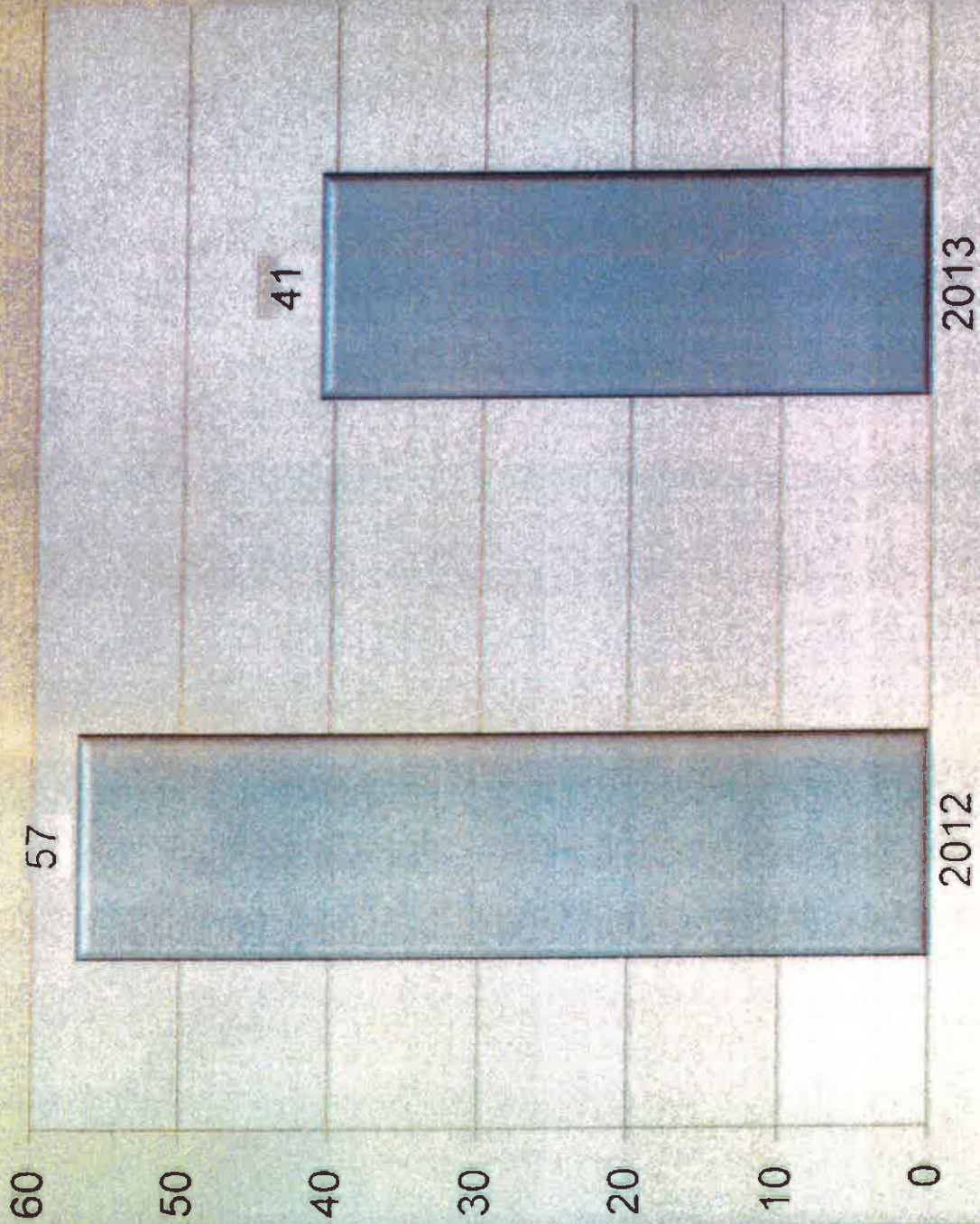


# Crimes that Increased from 2012 to 2013



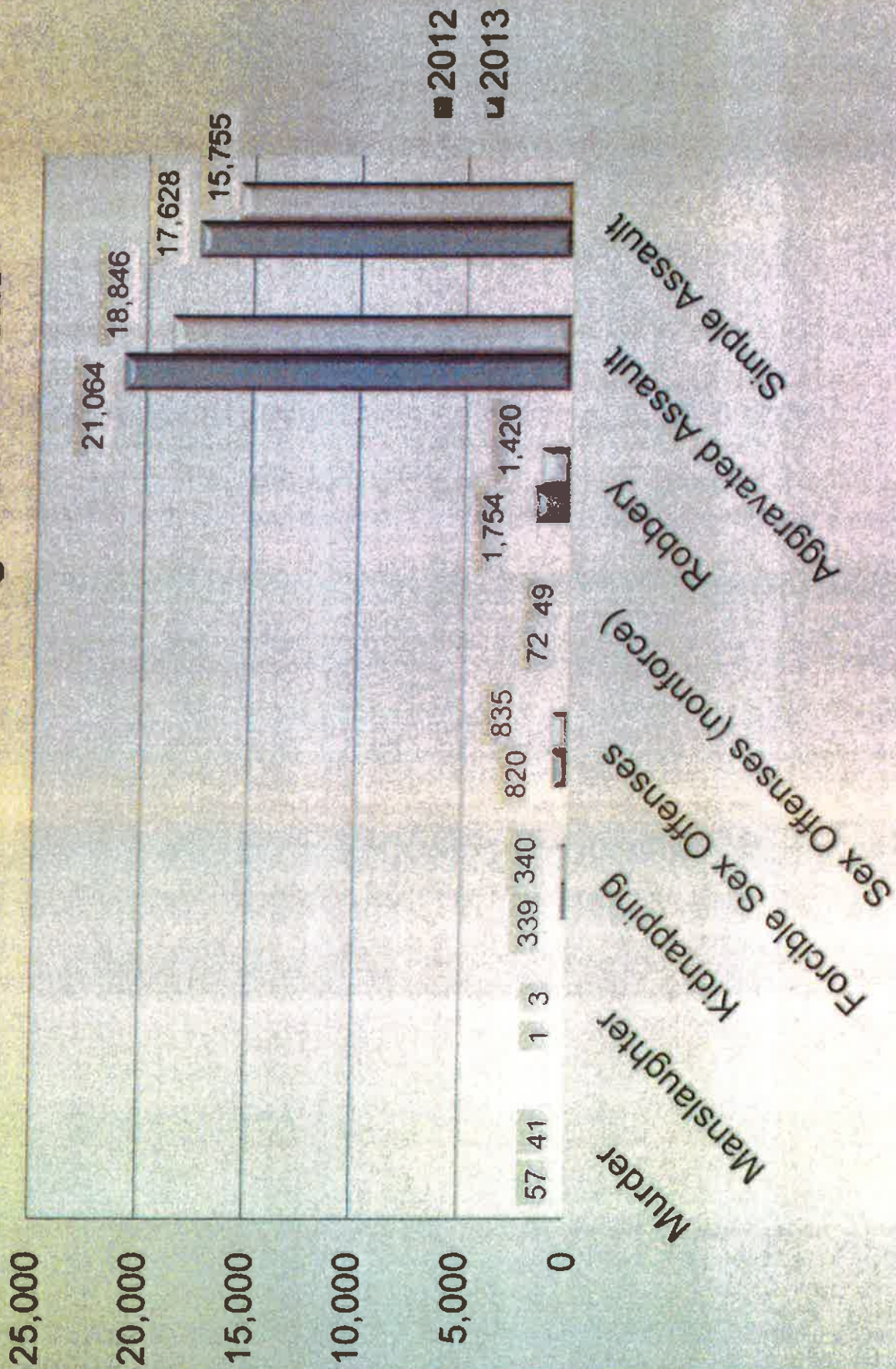


# Murder in Delaware (Yearly Total)



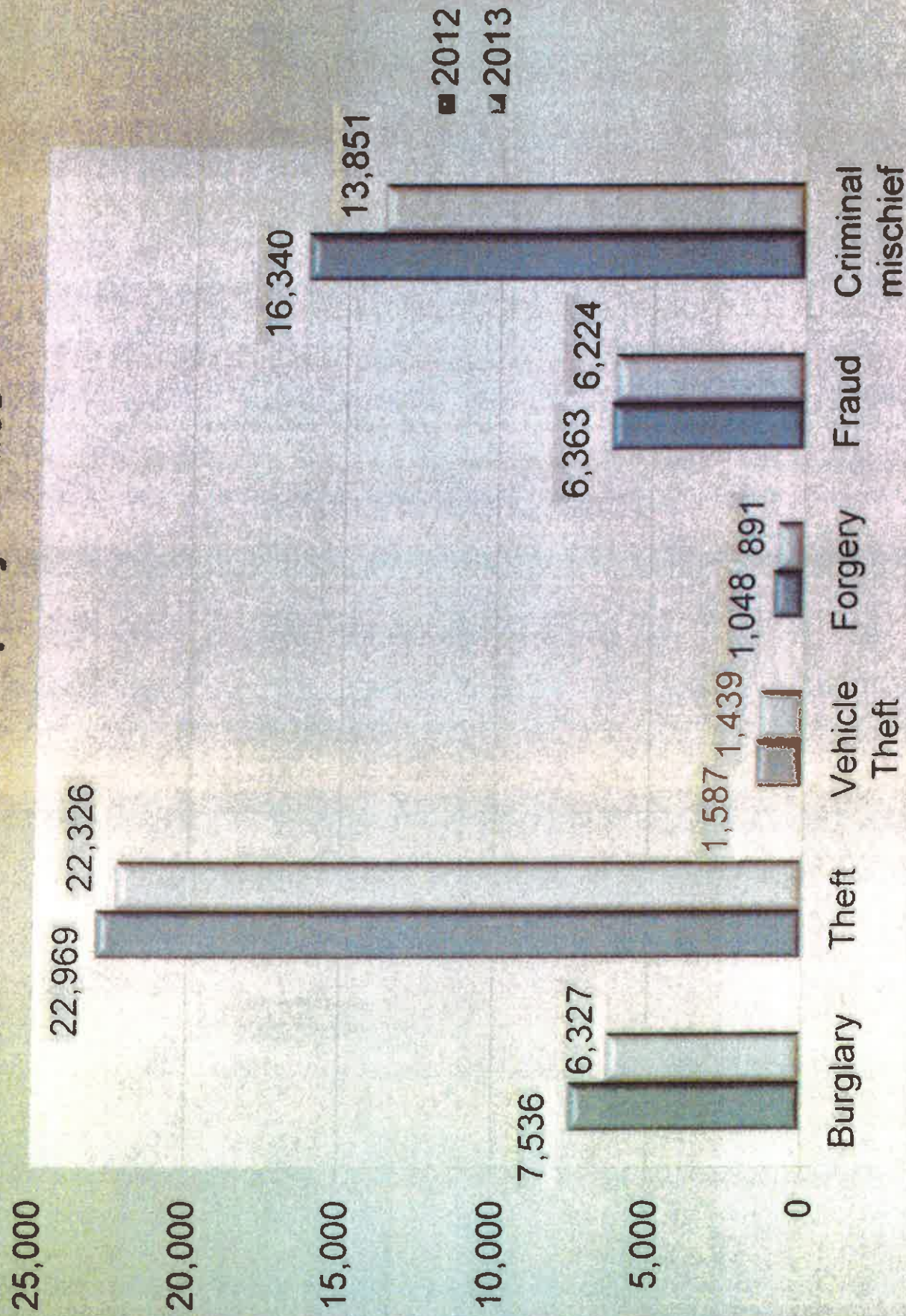


# Selected Crimes Against Persons



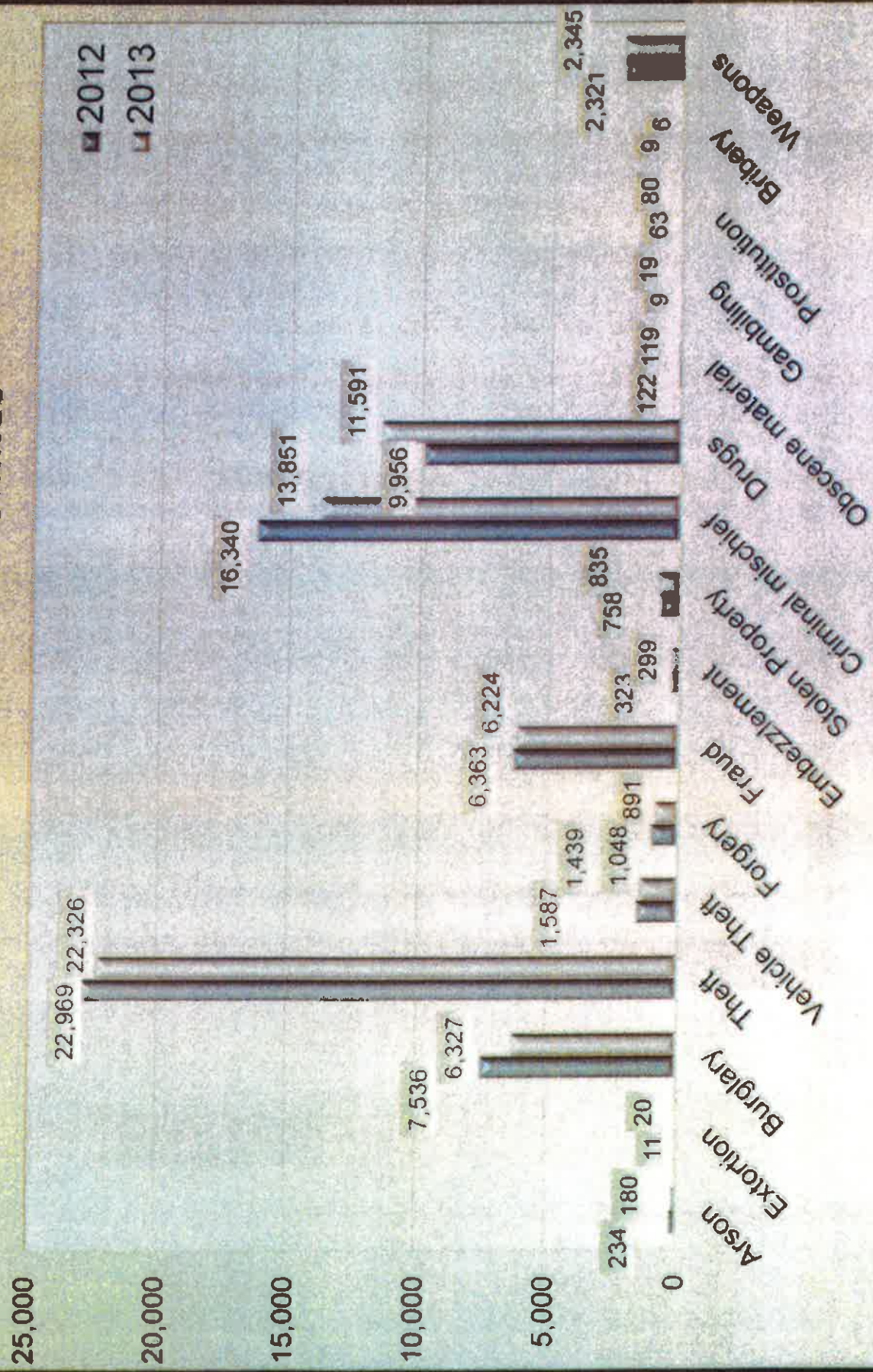


# Selected Property Crimes





# Selected Non-Person Crimes





# Overall

- Reported crime in Delaware has decreased statewide\*

\*Data have not been tested for statistical significance



**Pretrial Risk Assessment and DOC Detained Admissions Quick Look**

The Center collected JP risk assessment data from CJIS for January through June 2014. Risk assessments are done by case, so defendants appearing with multiple cases can have multiple risk assessments in a single court appearance. Raw counts for JP risk assessments in the first half of 2014 showed:

- 9,942 risk assessments
  - 5,722 Low (21 indicated as overridden Lower, 40 indicated as overridden higher)
  - 3,608 Medium (10 indicated as overridden Lower, 94 indicated as overridden higher)
  - 612 High (1 indicated as overridden Lower, 145 indicated as overridden higher)
- 9,566 case numbers
- 7,772 SBI numbers

Counts above include some risk assessments that are to be excluded from analysis due to:

- Multiple risk assessments done by the same court on the same case
  - The JP Risk Assessment Group agreed that the accepted risk assessment in such situations would be the one with the latest timestamp in the series
- Risk assessments done on defendants whose cases were resolved at presentment/arraignment
- Risk assessments done on cases not in the current pretrial risk assessment scope (initial appearance on charges of type and class misdemeanor B or above and DUI of any type)

Making adjustments for excluded risk assessments, raw counts were reduced to the following as preliminary counts for analysis.

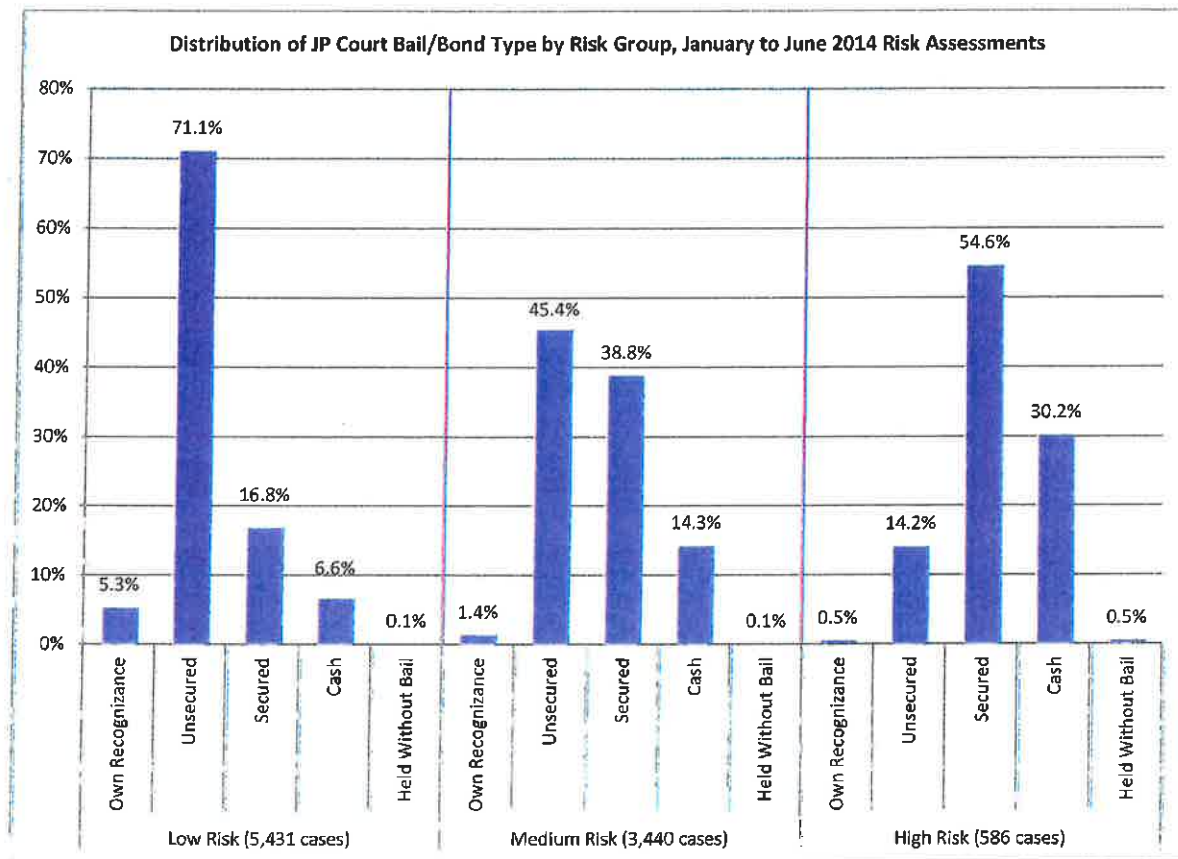
- 9,457 risk assessments on 9,457 case numbers
  - 5,431 Low (19 indicated as overridden Lower, 34 indicated as overridden higher)
  - 3,440 Medium (9 indicated as overridden Lower, 85 indicated as overridden higher)
  - 586 High (1 indicated as overridden Lower, 142 indicated as overridden higher)
- 7,682 SBI numbers

Overrides are low relative to total assessments, but there are areas of concern.

- Nearly one quarter (24.2%) of High Risk ratings were indicated as being due to judicial overrides of the instrument rating
- Some spurious overrides are obvious, such as those in the Low Risk group that are indicated and being overridden higher, and analysis may be impacted by possibilities of unintended overrides or override omissions

For the 9,457 JP risk assessment cases identified for analysis above, the following chart shows the distribution of types of bail/bond set by JP courts by recorded risk level. Bail types can differ for charges within a case, and where that occurs cases are represented by the most stringent bail within each case. Bail types are shown in what is intended to be a hierarchical order from least to most stringent from left to right. In terms of what must be posted for release, this method could be misleading in that large

secured amounts could exceed cash requirements in some of the cash bail group. Within each risk group, bars above each bail type represent the percentage of cases in the group with that type of bail.



By SBI number, there were 7,682 individuals involved in the 9,457 cases represented above. Obviously some individuals had multiples cases in single and/or multiple appearances. The combination of SBI number and distinct risk assessment date was created as a preliminary identifier for associating individuals' appearances with detained admissions. This combination is preliminary because some individuals may have been released after one appearance and rearrested on the same date, or because risk assessments on multiple cases could be spread over two dates when defendants appear at court near midnight. Such situations will have to be resolved through further detailed manual review.

The combination of distinct SBI numbers and assessment dates from 9,457 risk assessments identified:

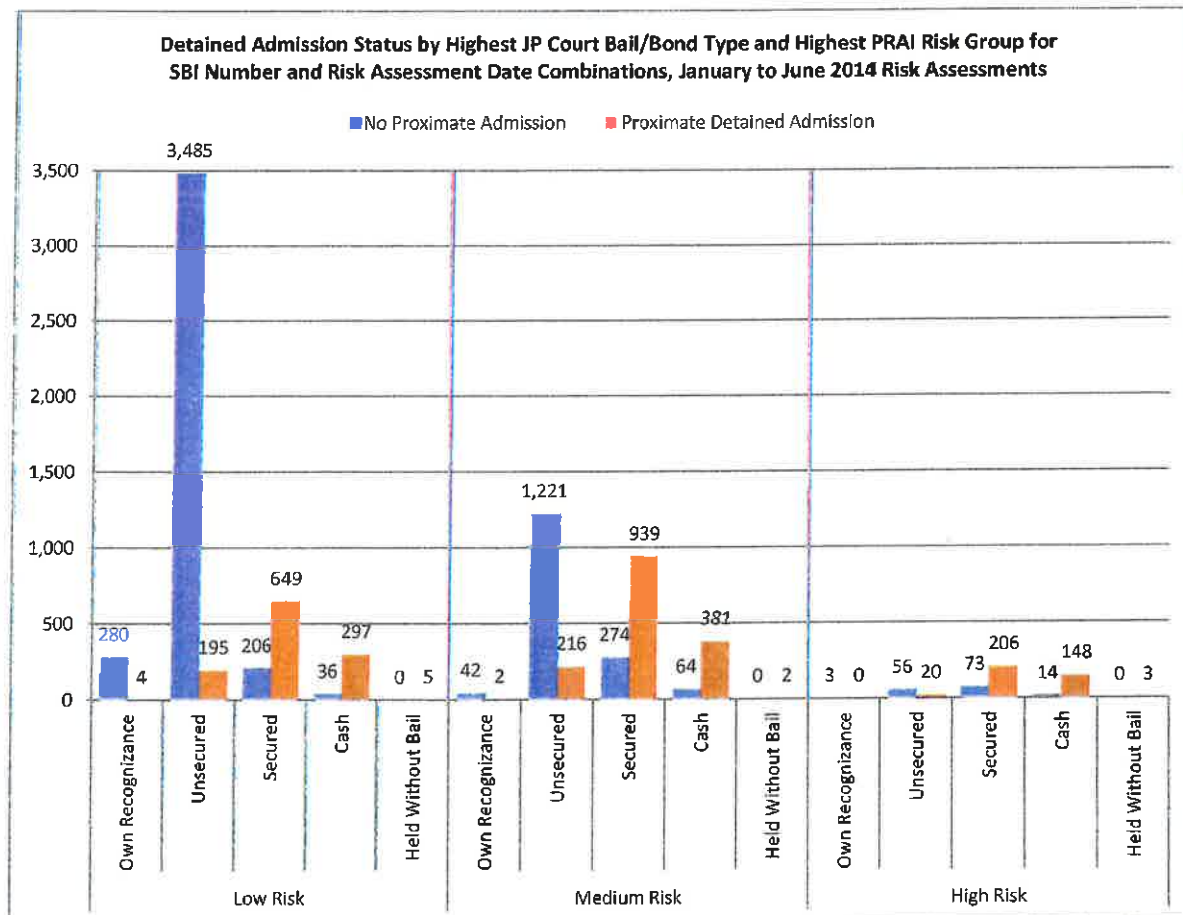
- 8,821 individual/risk assessment date combinations
- 905 individuals with more than one risk assessment date in the first half of 2014
  - 715 individuals with 2 risk assessment dates
  - 159 with 3
  - 20 with 4
  - 9 with 5
  - 2 with 6

In a given appearance with more than one case, the risk assessment instrument can produce different risk levels for the same defendant. An individual could also have different bail types among the cases. With the combination of SBI numbers and risk dates, the maximum risk levels, most stringent bail types, and proximate detained admissions (within one day of the risk assessment) were also compiled. This is only somewhat useful in the association of detained admissions with risk assessments, however. It is important to note that, in addition to appearing for cases with a risk assessment, defendants may have other case activity (e.g., VOP) that could determine whether or not they are detained.

By SBI number and risk date combinations, maximum risk levels and proximate detained admissions are:

- 5,157 Low Risk
  - 1,150 with proximate detained admissions; 4,007 with no proximate admissions
- 3,141 Medium Risk
  - 1,540 with proximate detained admissions; 1,601 with no proximate admissions
- 523 High Risk
  - 377 with proximate detained admissions; 146 with no proximate admissions

The following figure shows the counts above with further breakouts by most stringent bail type.



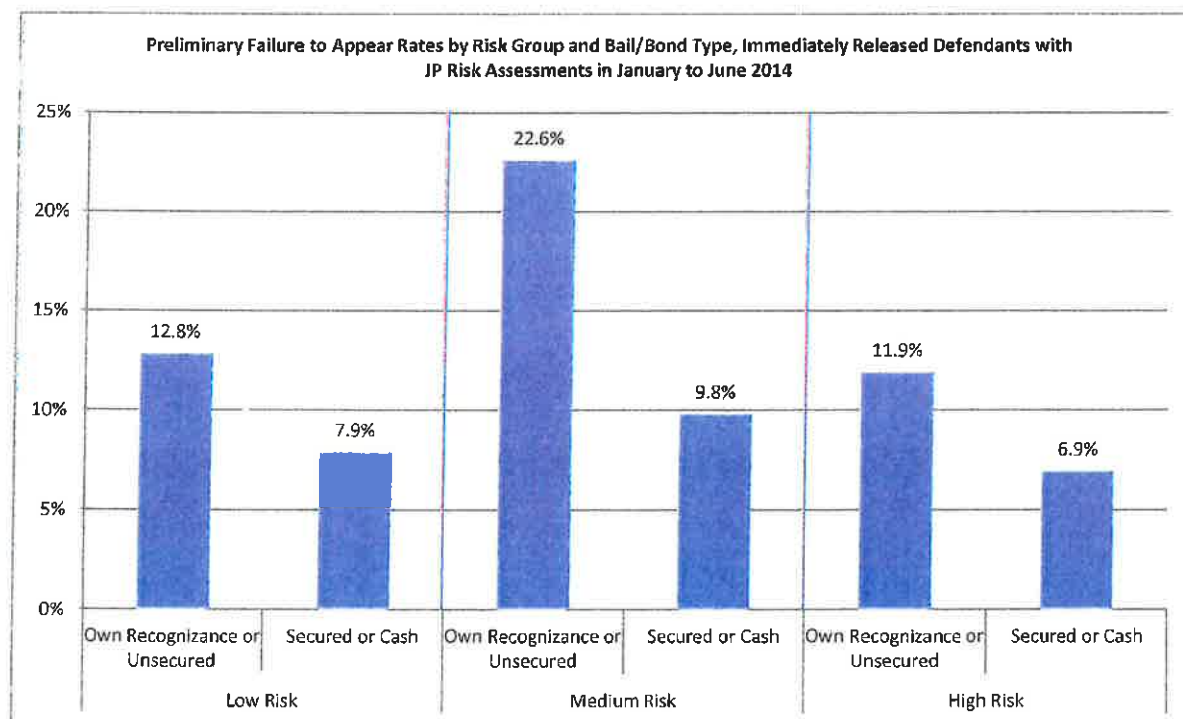
Pretrial supervision has been a topic of discussion in JP Risk Assessment Group meetings. The Center has done very limited analysis on this aspect to date, as identification of references in bail data are still being explored. Under the SBI/risk assessment date combinations, the Center has preliminary counts of 404 orders to pretrial supervision in JP bail conditions for at least one case in the SBI/assessment date. It should be noted that counts of orders to pretrial supervision, even if complete, will not necessarily be consistent with admissions to pretrial supervision. Defendants could be in custody and not yet had an opportunity to report, or they could have been released and failed to report. Breakouts of orders to pretrial supervision by maximum risk group are as follows.

- Low Risk: 179, or 3.5% of 5,157 SBI/risk assessment date combinations
- Medium Risk: 199, or 6.3% of 3,141 SBI/risk assessment date combinations
- Low Risk: 26, or 5% of 523 SBI/risk assessment date combinations

Many of the risk-assessed cases from the first half of 2014 are still pending. Pretrial failure rates will likely increase over time in pending cases. Preliminary work has been done on failure to appear data. Thus far failure to appear rates have been calculated only for SBI/risk assessment date combinations with no proximate detained admission. By maximum risk, preliminary failure to appear rates are:

- Low Risk, 12.5%
- Medium Risk, 19.9%
- High Risk, 8.9%

The following figure shows the failure to appear rates above separated into two bail groups: own recognizance or unsecured, and secured or cash.

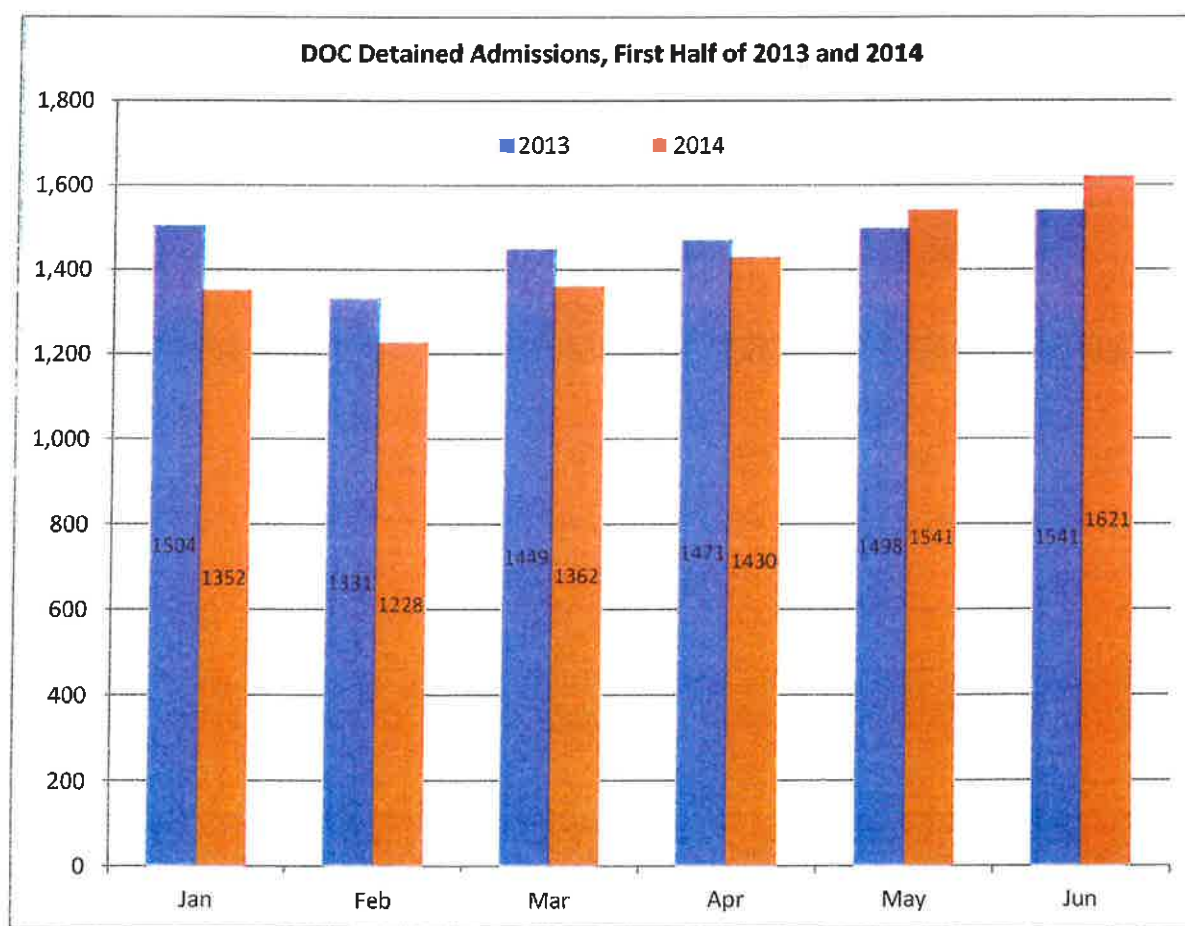




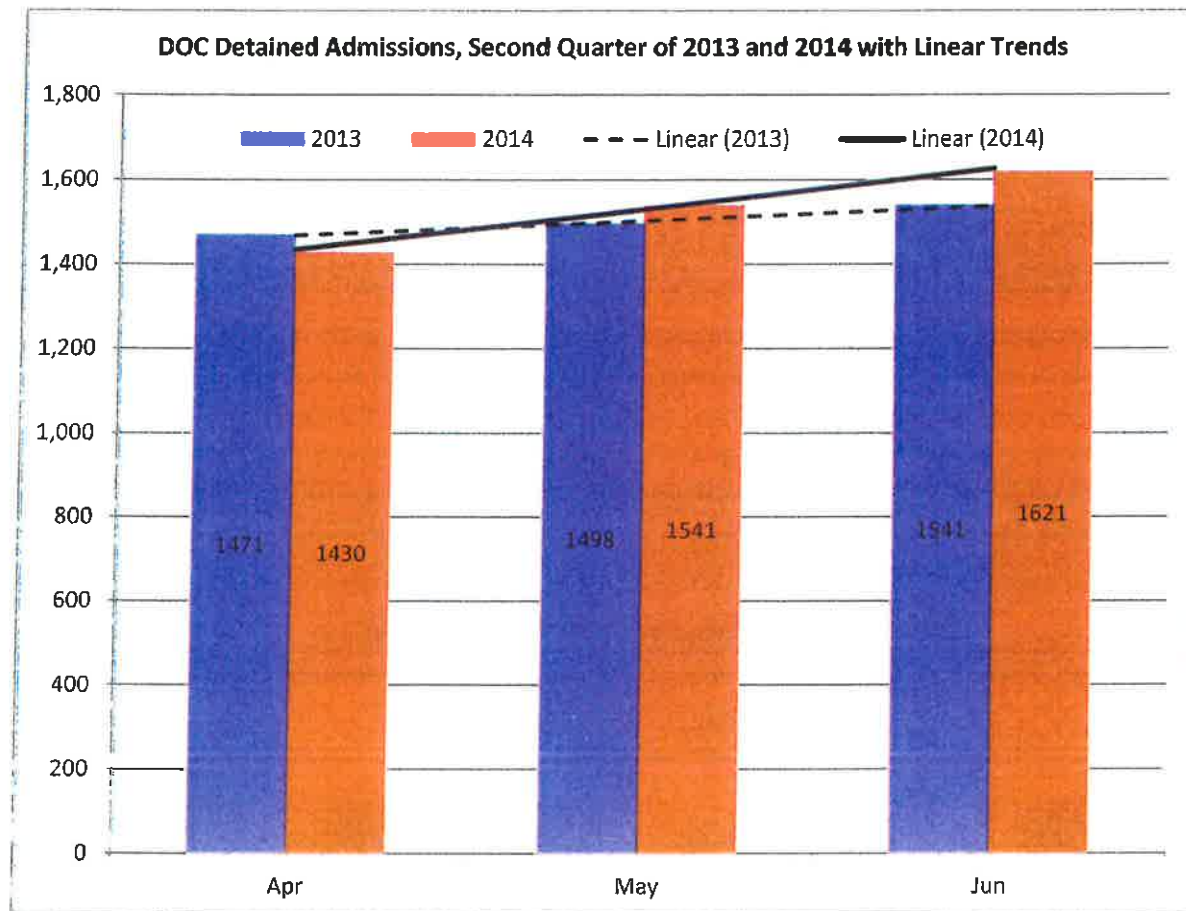
Early observations cannot support firm conclusions about the pretrial risk assessment's impact on DOC populations. Facility populations on June 30, 2014, shown below, were slightly lower than a year ago, but they have recently shown a higher rate of increase than at this time last year. Detained counts in July and August have been near the 1,600 mark, and total facility populations have been around 7,000.

All Facilities (Prisons, VOP Centers, Work Release Centers, DPC)		Detained	Level V					Level IV, holds for lower levels, and unknown	Total
			Jail	Indefinite	Prison (excl. Life/Death)	Life	Death		
6/30/2014 (Monday)	Count	1,522	494	23	3,482	525	17	864	6,927
	% of Total	22.0%	7.1%	0.3%	50.3%	7.6%	0.2%	12.5%	

There were 6,922 distinct individuals admitted to detention in the first half of 2014. It is worth noting that less than half of those individuals had a risk assessment in that period, and detentions may not be associated with risk assessments for some who had them. Monthly DOC detained admissions in 2014 were lower in the first four months compared to 2013, but the difference decreased through the first four months. May and June 2014 admissions were higher than in May and June of 2013. The next chart shows monthly DOC detained admission comparisons for the first six months of 2013 and 2014.



The following chart shows second quarter detained admission comparisons with trend lines for those three months in 2013 and 2014.



## JRI Outcome Measures

August 21, 2014

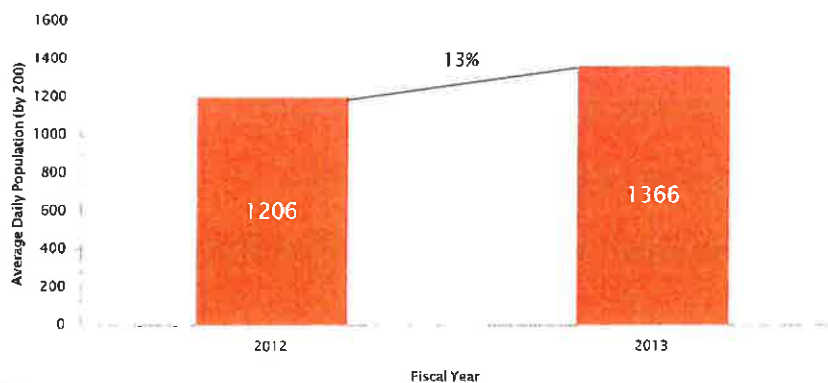
## DOC Background

- ▶ Operates a unified system
- ▶ Serves a dual purpose holding pretrial detainees and sentenced offenders
- ▶ Categorizes five levels of supervision
- ▶ Supervises over 20,000 offenders
- ▶ Provides services to facilitate community re-entry

## Pretrial Detention

## Pretrial Detention

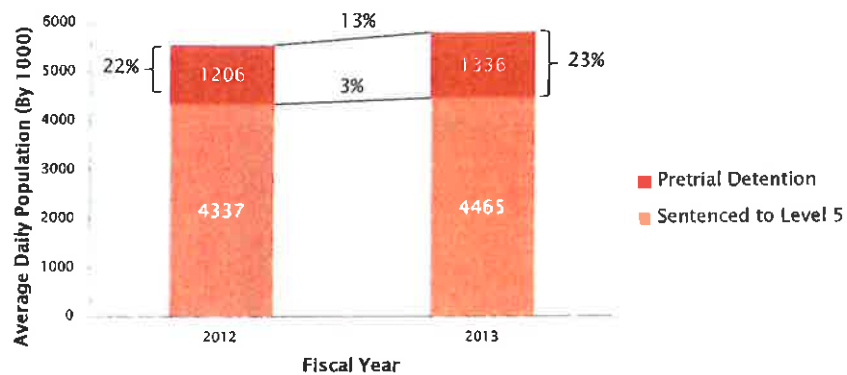
Average Daily Population of Pretrial Detainees





## Pretrial Detention

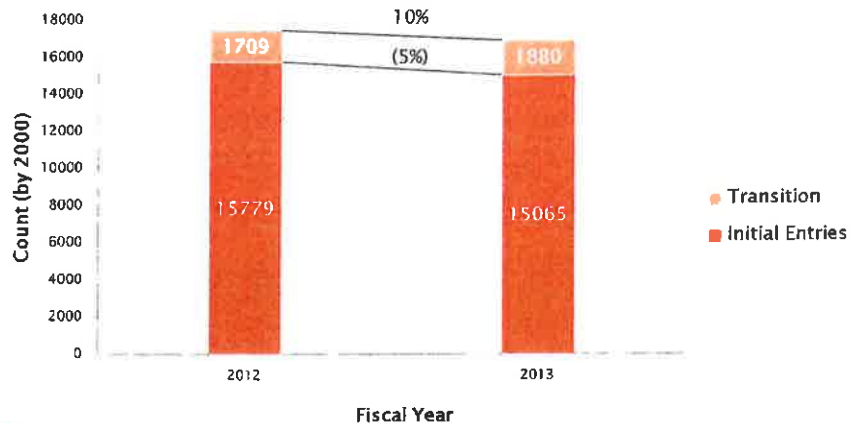
Daily Average of Total Level V Population per Fiscal Year



2012 Total Daily Average = 5543  
2013 Total Daily Average = 5831

## Pretrial Detention

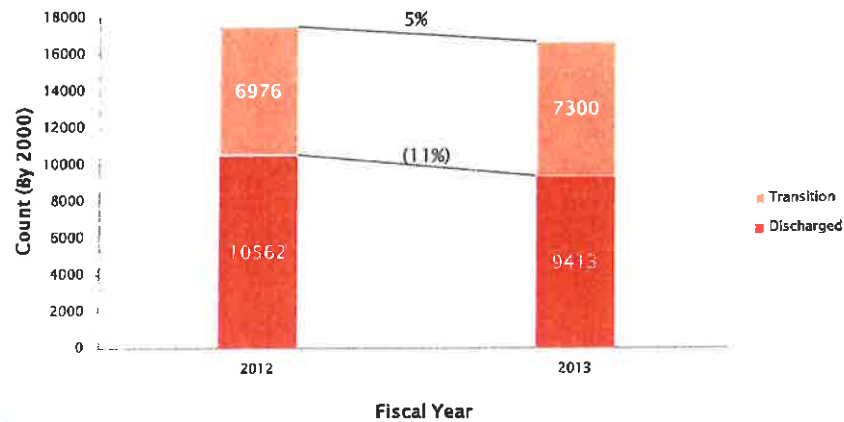
Admissions to Pretrial Detention



2012 Total N = 17488  
2013 Total N = 16945

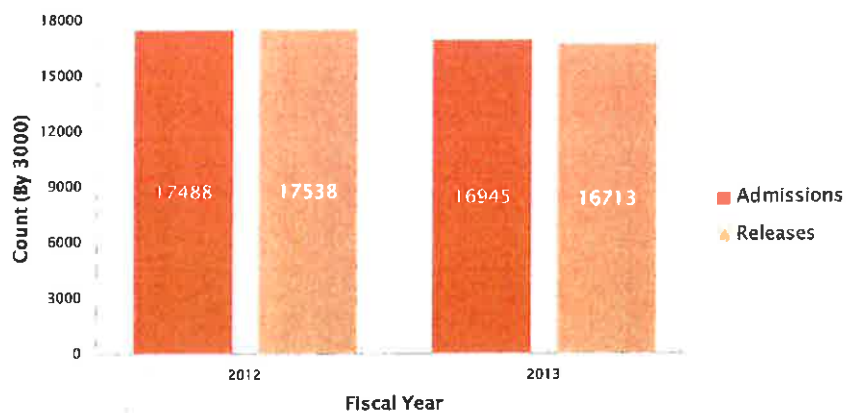
## Pretrial Detention

Releases from Pretrial Detention



## Pretrial Detention

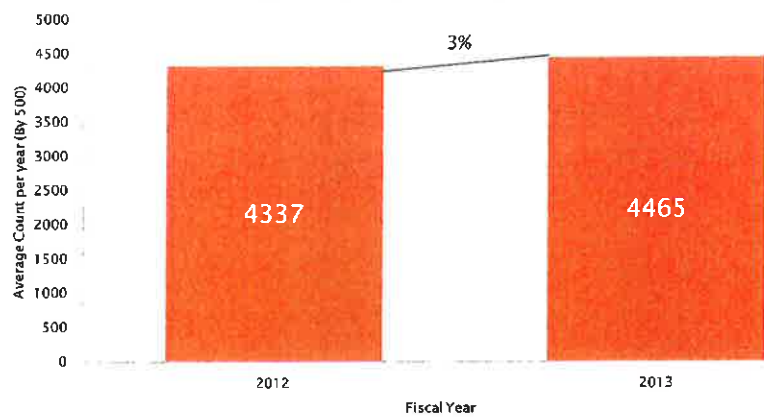
Net Change of Admissions and Releases

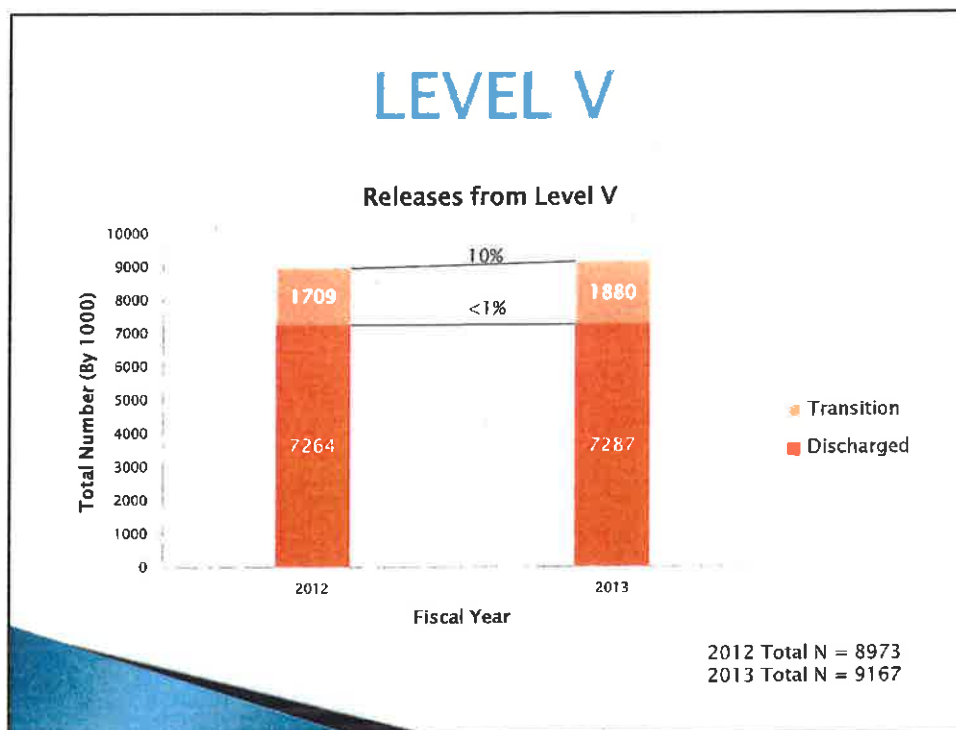
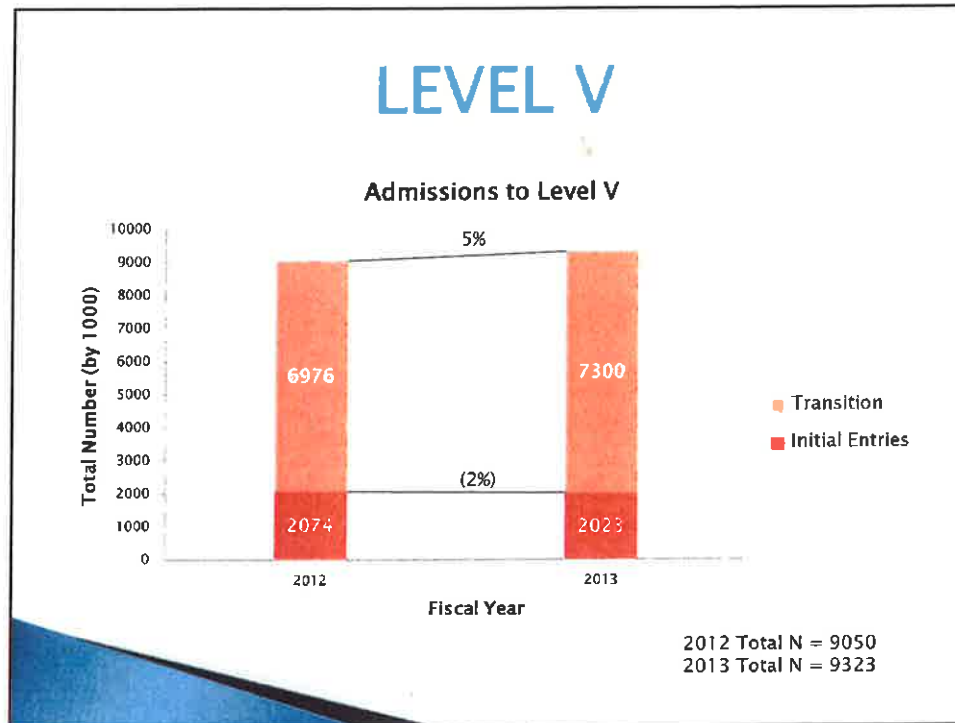


## Level V

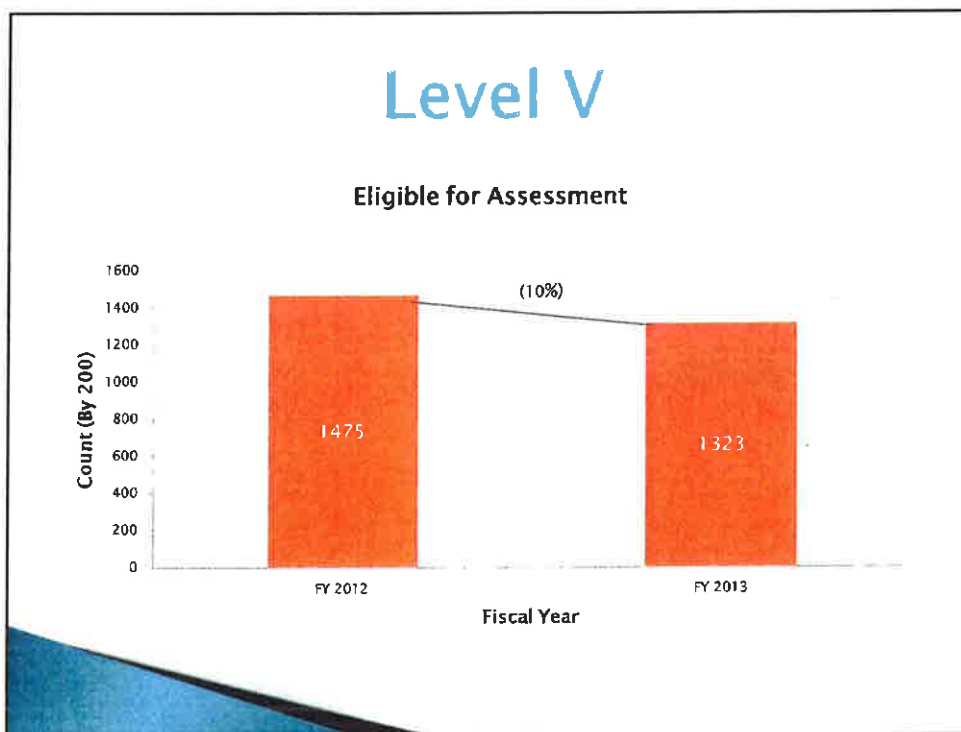
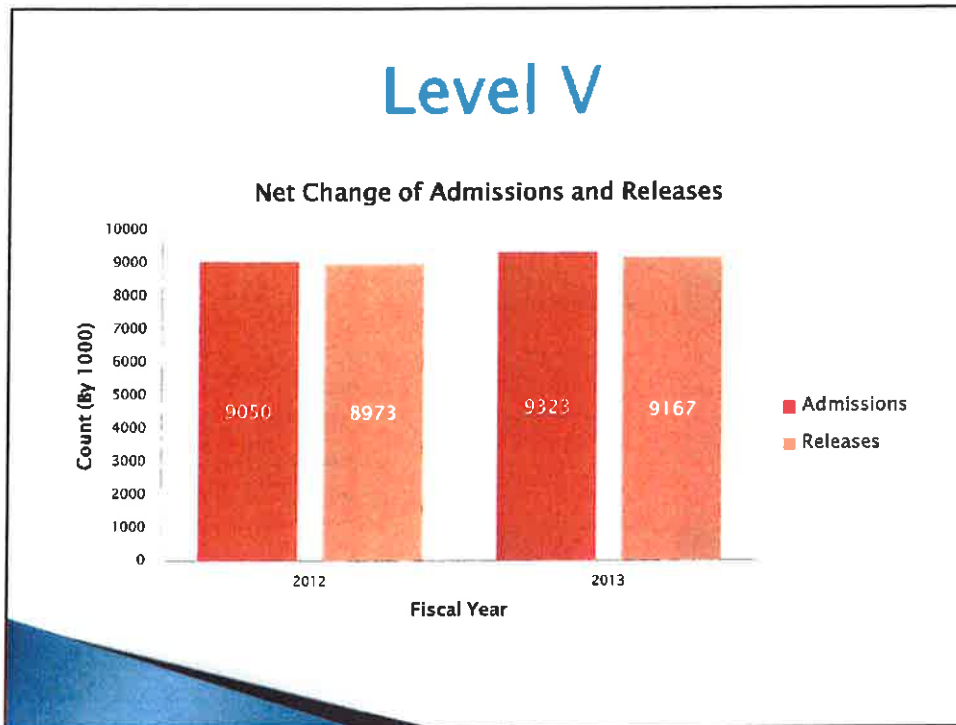
## LEVEL V

Average Daily Population per Fiscal Year



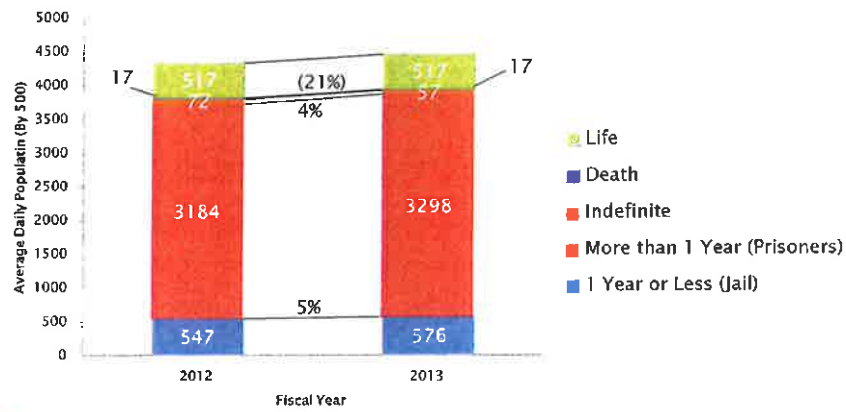






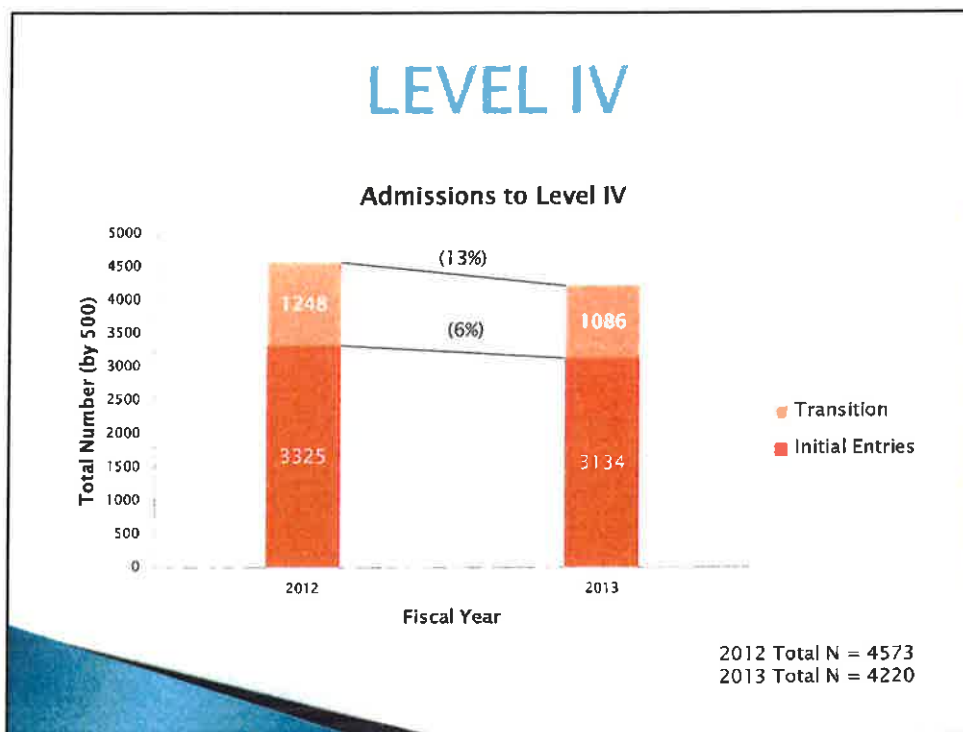
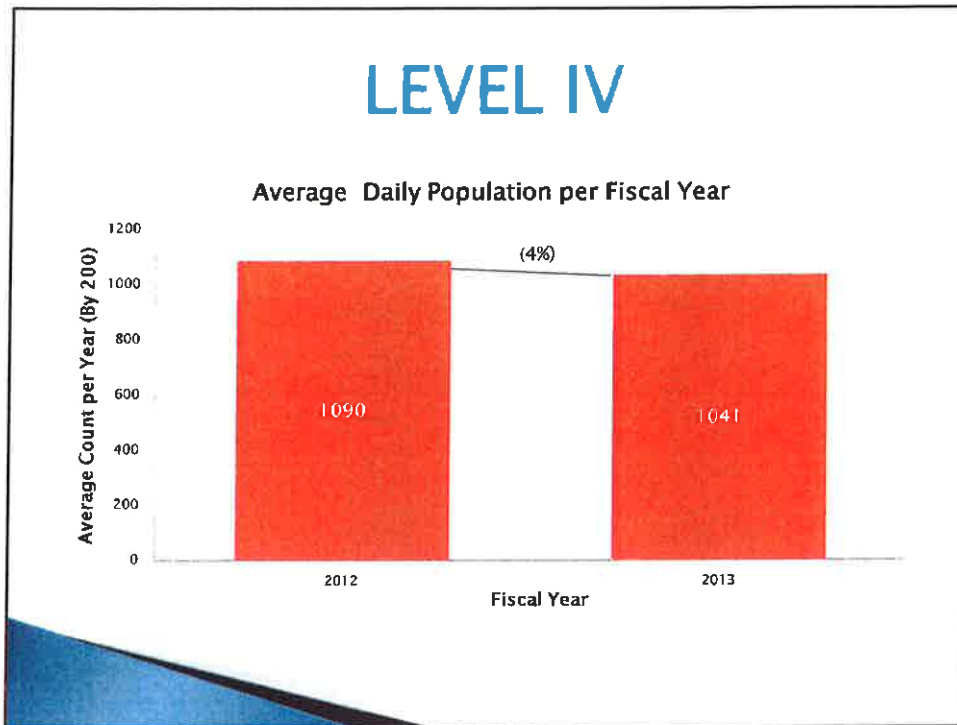
## Level V

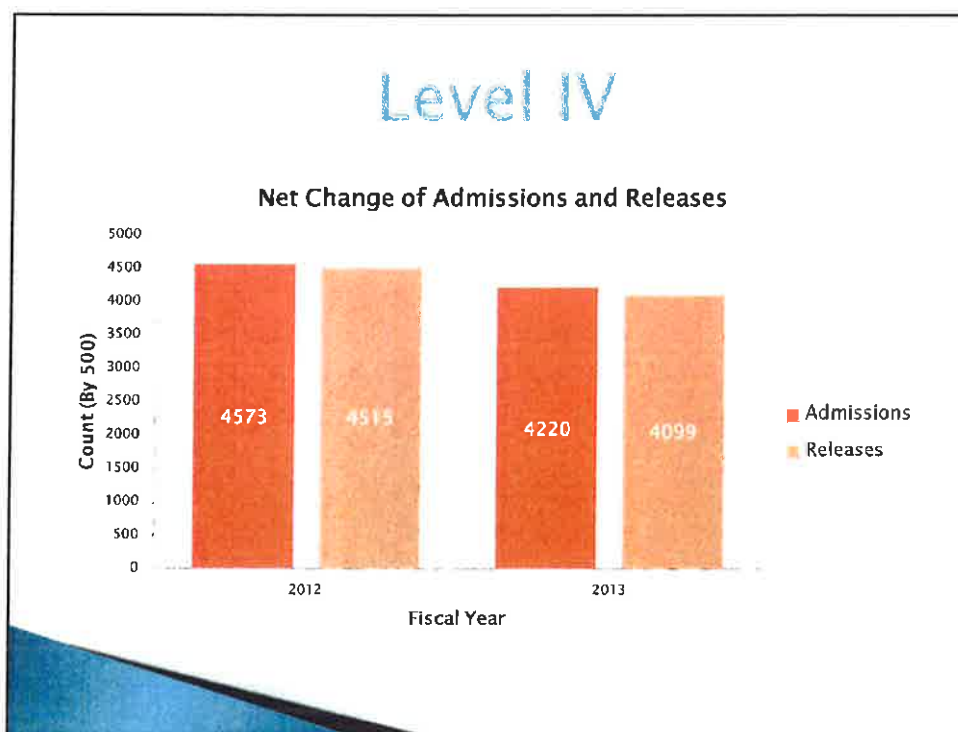
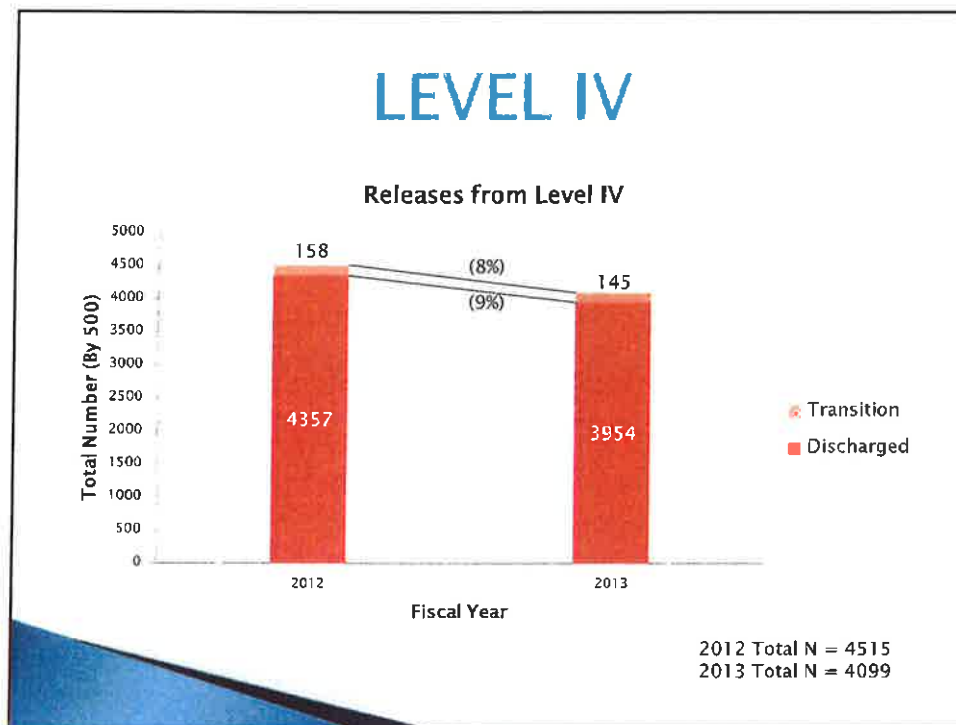
Break Down of Average Daily Level V Sentenced Population per Fiscal Year



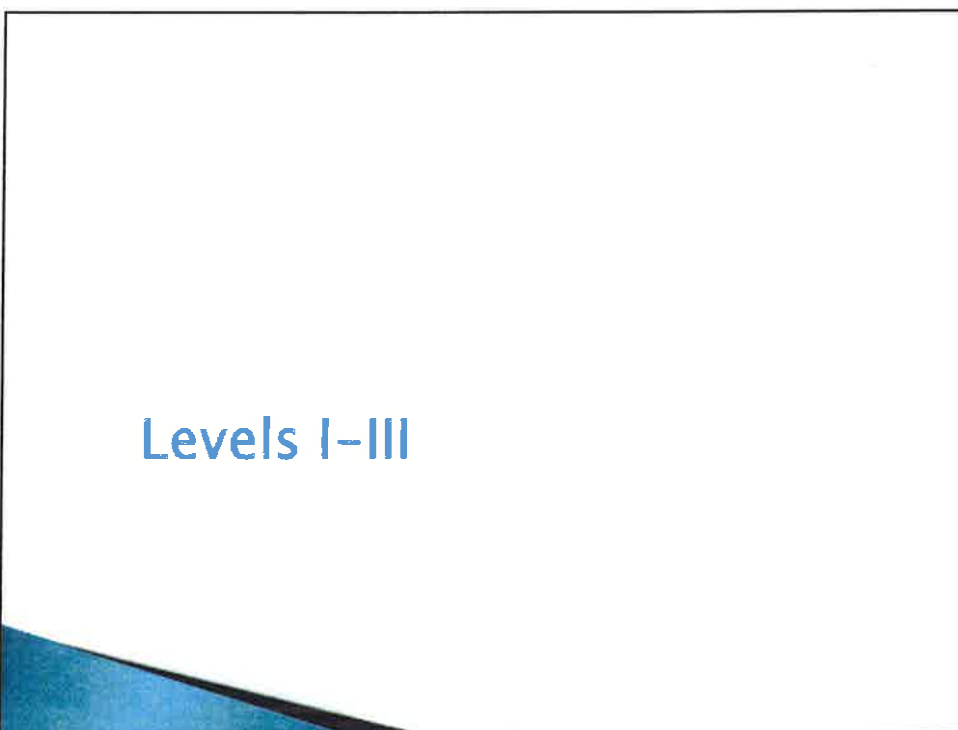
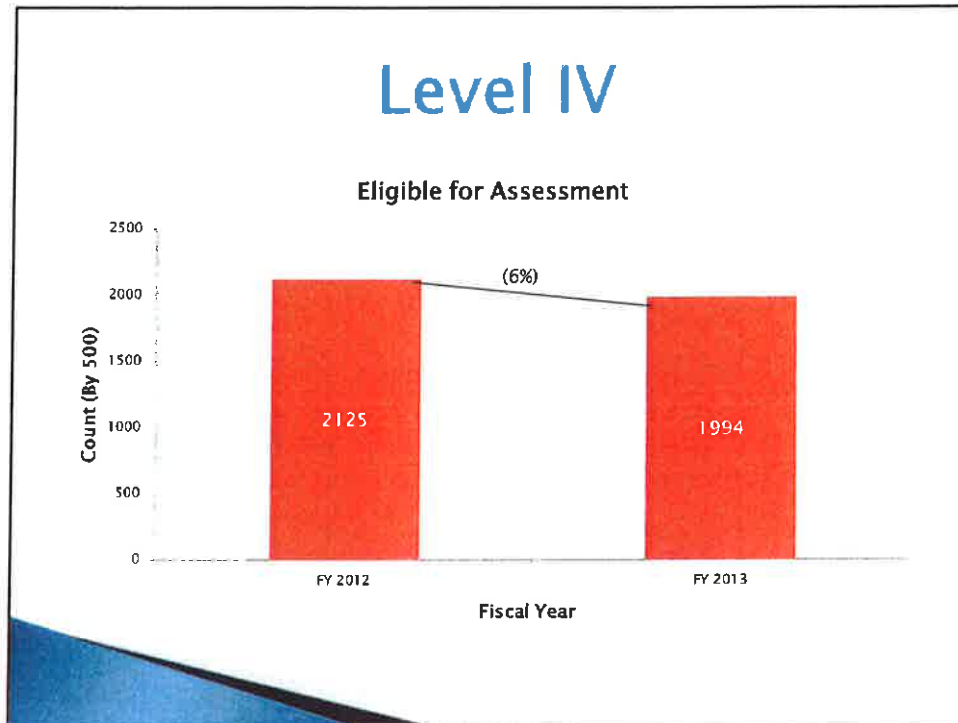
2012 Total N = 4337  
2013 Total N = 4465

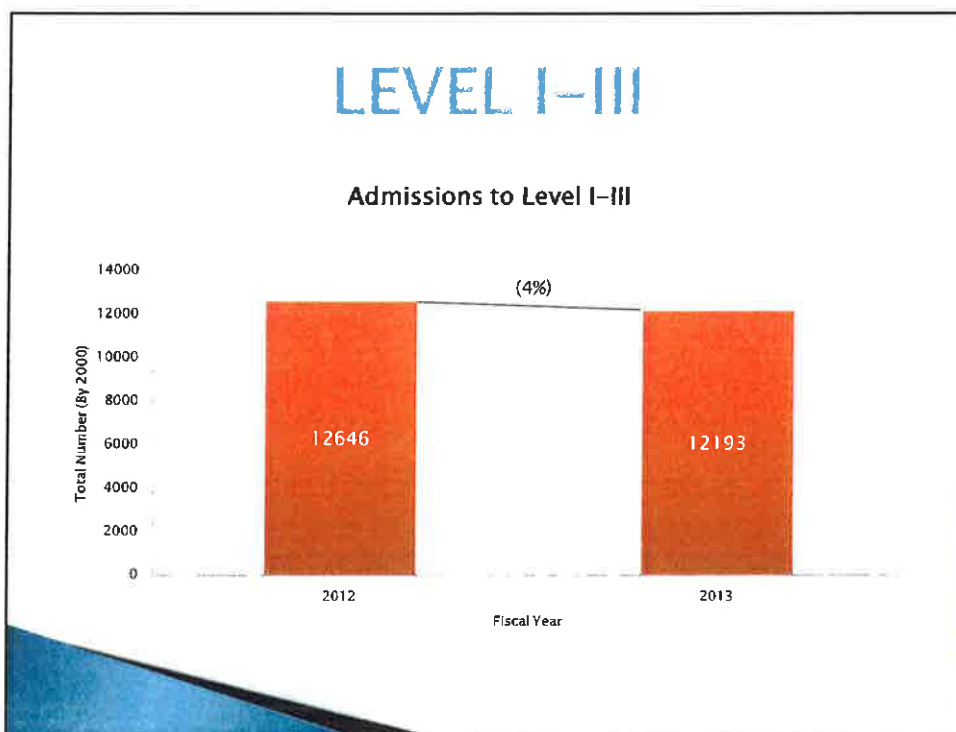
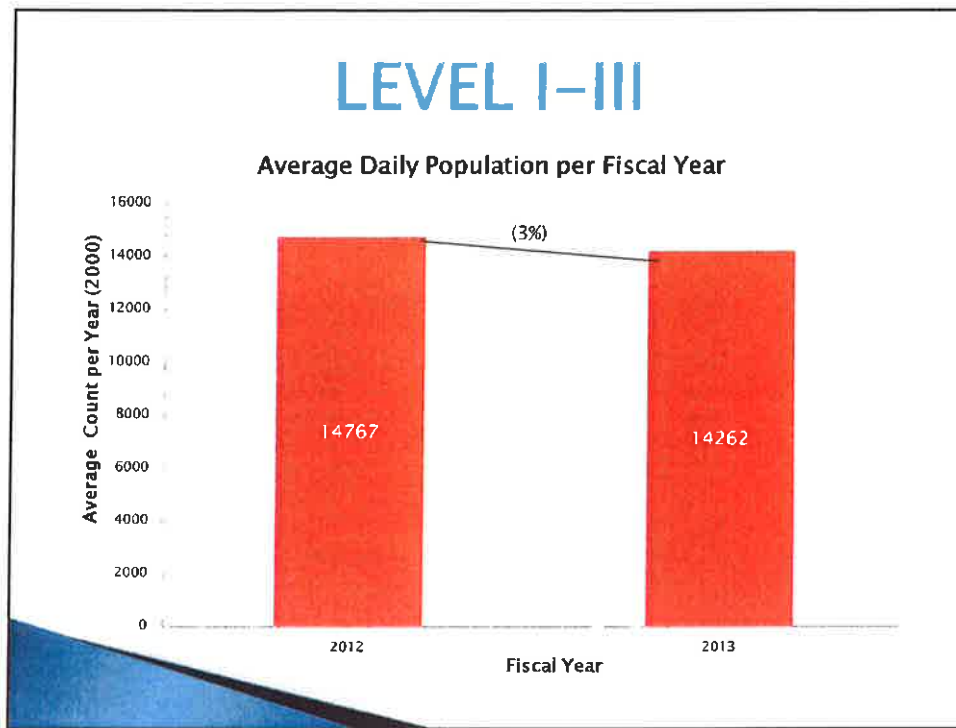
## Level IV

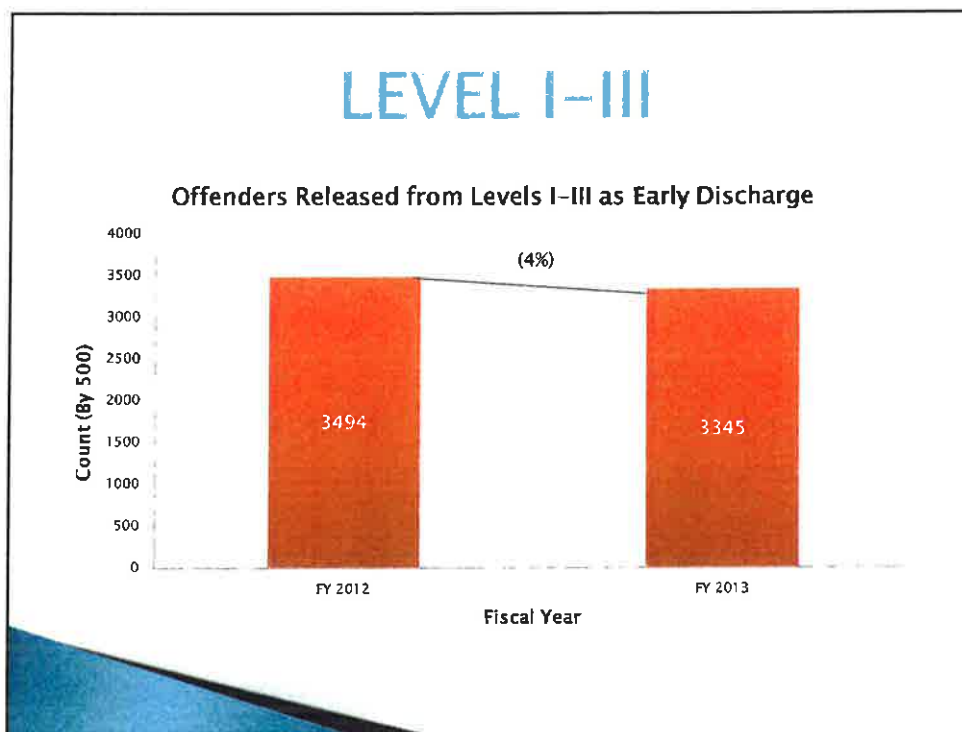
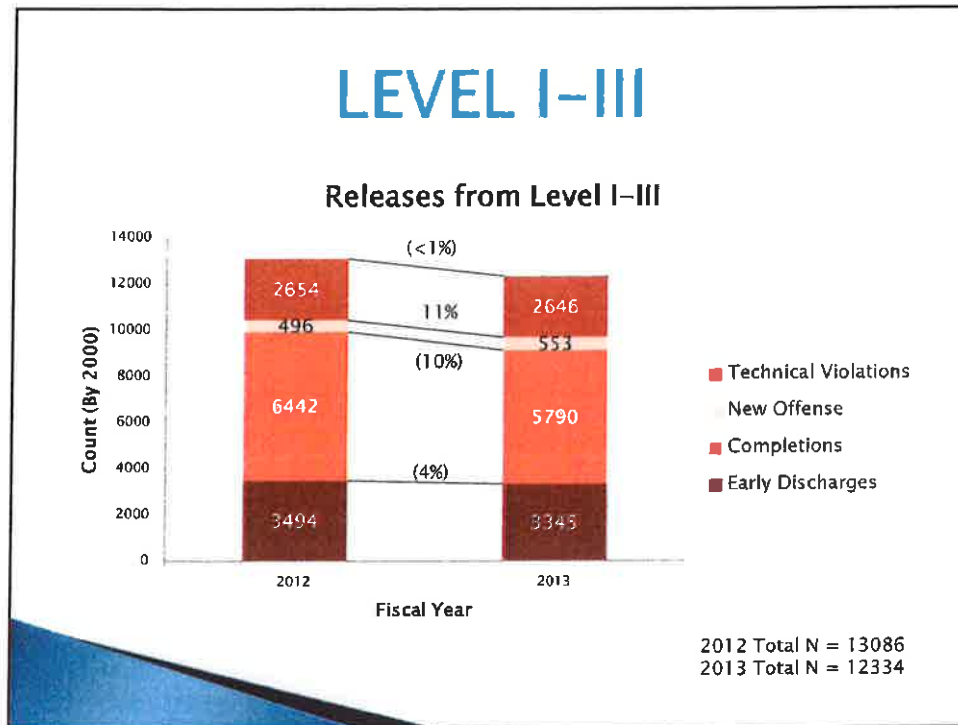


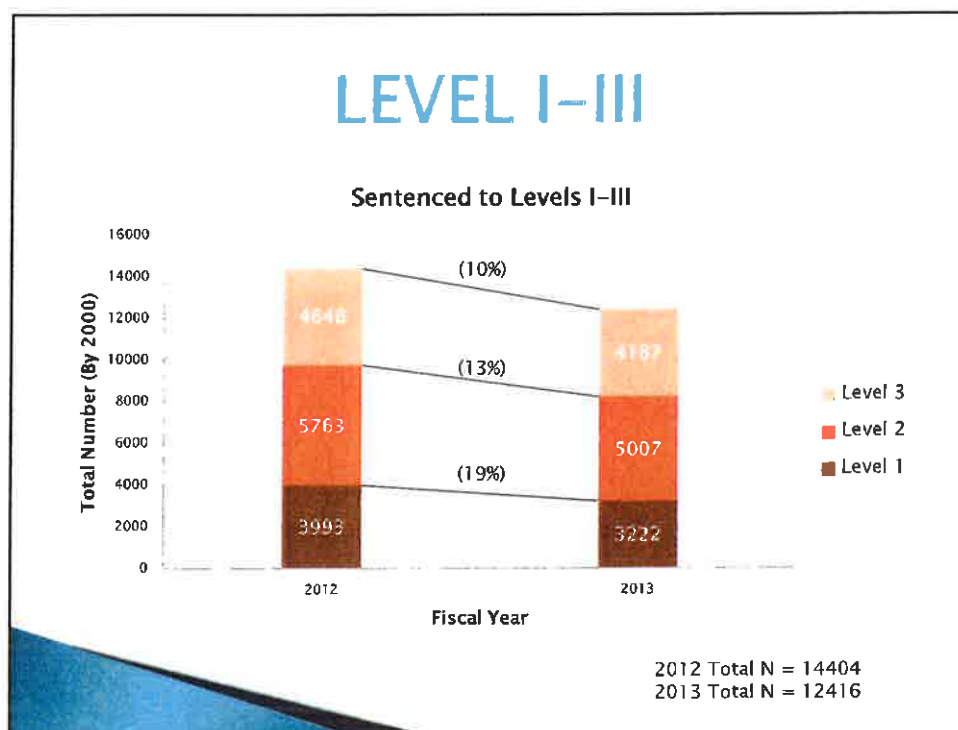
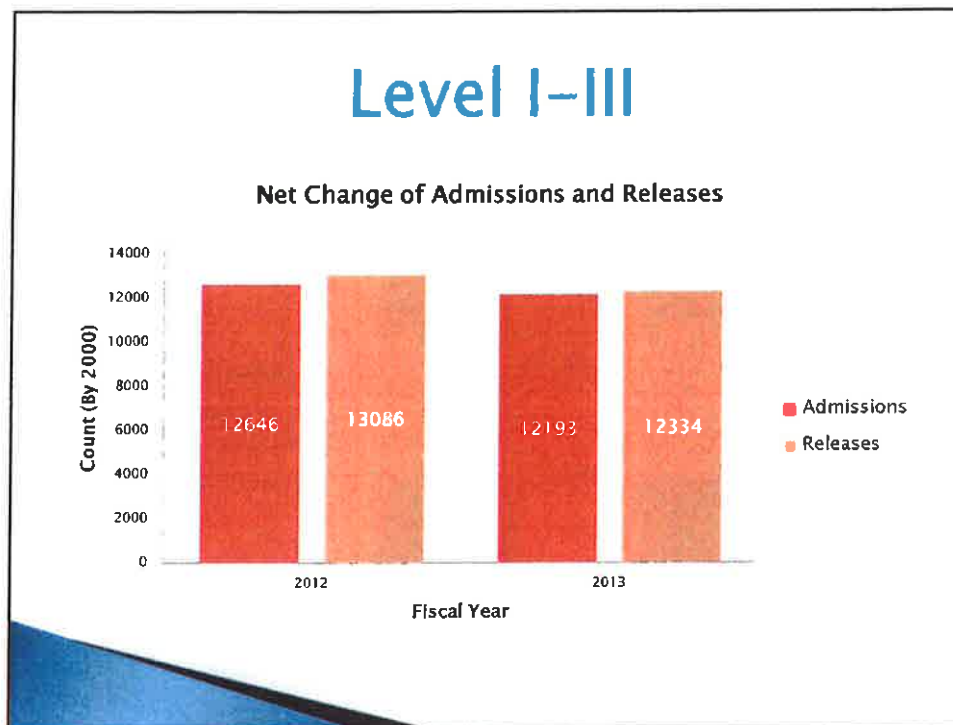




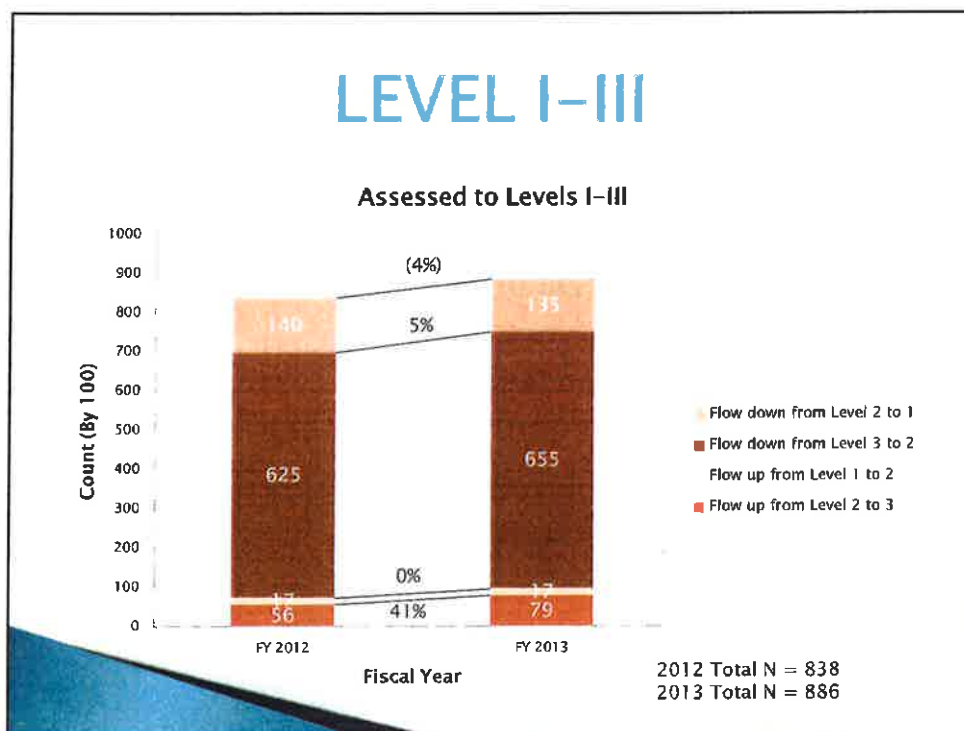
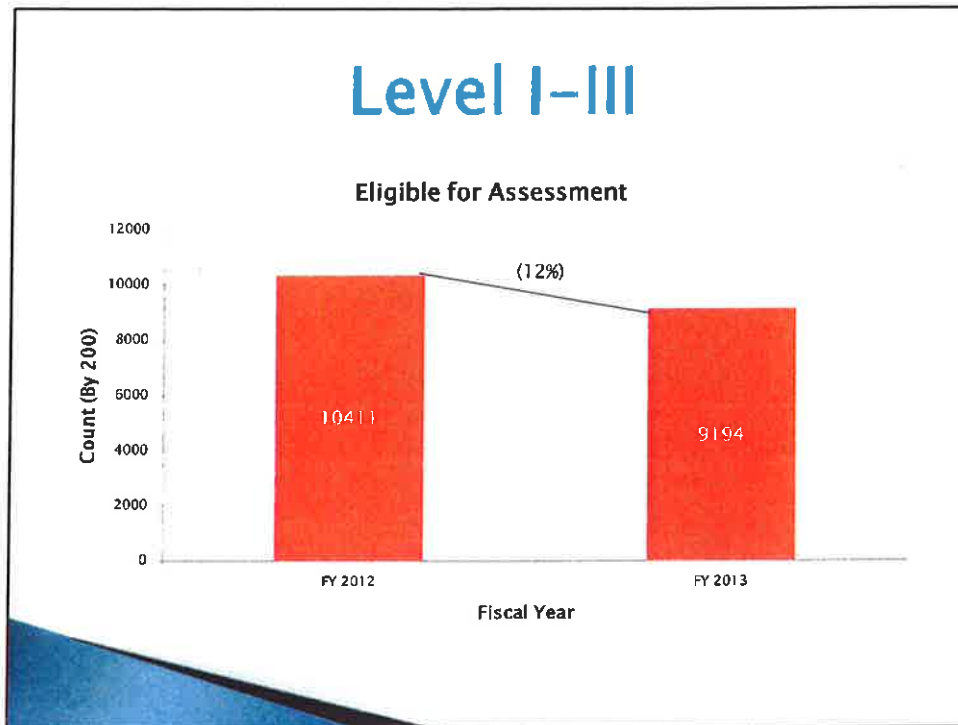




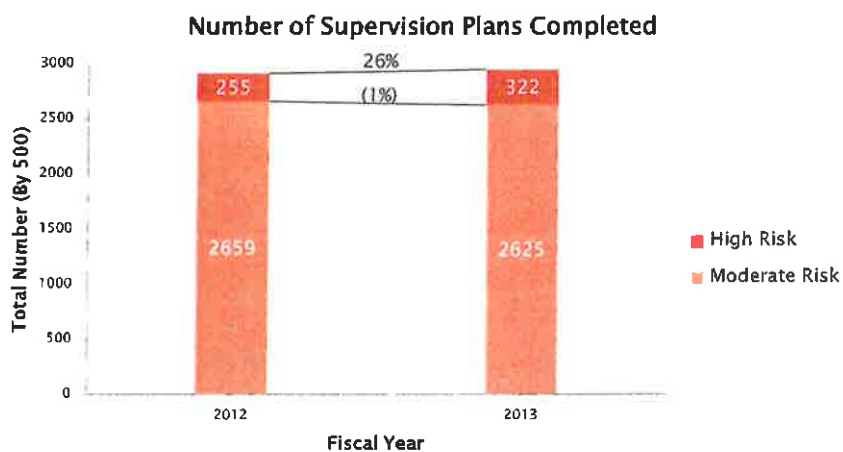








## Level I-III



## Future DACS Modules

- ▶ RNR Tool
- ▶ LSI-R Assessment