



NATIONAL INSTITUTE OF CORRECTIONS

Measuring What Matters

Outcome and Performance Measures
for the Pretrial Services Field

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The National Institute of Corrections
Pretrial Executives Network

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Acknowledgments

The National Institute of Corrections' (NIC) Pretrial Executive Network includes directors of established pretrial service programs nationwide. Its mission is to promote pretrial services programming as an integral part of state and local criminal justice systems. Its goals are to make pretrial programming relevant in national criminal justice funding, training, and technical assistance; encourage expanded research in the pretrial field; and identify best and promising practices in the pretrial release and diversion fields.

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Foreword

This monograph presents recommended outcome and performance measures and mission-critical data for pretrial service programs. It is hoped that these suggested measures will enable pretrial service agencies to gauge more accurately their programs' effectiveness in meeting agency and justice system goals. The contributors to this monograph believe the recommended elements are definable and measurable for most pretrial service programs and are consistent with established national pretrial release standards and the mission and goals of individual pretrial programs. The monograph defines each measure and critical data element and identifies the data needed to track them. It also includes recommendations for programs to develop ambitious but reasonable target measures. Finally, the monograph's appendix lists examples of outcome and performance measures from three nationally representative pretrial service programs.

SUGGESTED OUTCOME MEASURES AND DEFINITIONS

Appearance Rate: The percentage of supervised defendants who make all scheduled court appearances.

Safety Rate: The percentage of supervised defendants who are not charged with a new offense during the pretrial stage.

Concurrence Rate: The ratio of defendants whose supervision level or detention status corresponds with their assessed risk of pretrial misconduct.

Success Rate: The percentage of released defendants who (1) are not revoked for technical violations of the conditions of their release, (2) appear for all scheduled court appearances, and (3) are not charged with a new offense during pretrial supervision.

Pretrial Detainee Length of Stay: The average length of stay in jail for pretrial detainees who are eligible by statute for pretrial release.

SUGGESTED PERFORMANCE MEASURES AND DEFINITIONS

Universal Screening: The percentage of defendants eligible for release by statute or local court rule that the program assesses for release eligibility.

Recommendation Rate: The percentage of time the program follows its risk assessment criteria when recommending release or detention.

Response to Defendant Conduct: The frequency of policy-approved responses to compliance and non-compliance with court-ordered release conditions.

Pretrial Intervention Rate: The pretrial agency's effectiveness at resolving outstanding bench warrants, arrest warrants, and capiases.

SUGGESTED MISSION CRITICAL DATA

Number of Defendants Released by Release Type and Condition: The number of release types ordered during a specified time frame.

Caseload Ratio: The number of supervised defendants divided by the number of case managers.

Time From Nonfinancial Release Order to Start of Pretrial Supervision: Time between a court's order of release and the pretrial agency's assumption of supervision.

Time on Pretrial Supervision: Time between the pretrial agency's assumption of supervision and the end of program supervision.

Pretrial Detention Rate: Proportion of pretrial defendants who are detained throughout pretrial case processing.

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Introduction

Performance Measurement: *Assessing progress toward achieving pre-determined goals, including information on the efficiency with which resources are transformed into goods and services (outputs), the quality of those outputs and outcomes, and the effectiveness of operations in terms of their specific contributions to program objectives.*

—National Performance Review, *Serving the American Public: Best Practices in Performance Measurement* (Washington, D.C.: Executive Office of the President, 1997).

The National Institute of Corrections' (NIC) Pretrial Executive Network includes directors of established pretrial service programs nationwide. The Network's mission is to promote pretrial services programming as an integral part of state and local criminal justice systems. Its goals are to make pretrial programming more prominent in national criminal justice funding, training, and technical assistance; encourage expanded research in the pretrial field; and identify best and promising practices in the pretrial release and diversion fields.

In 2010, the Network identified the need for consistent and meaningful data to track individual pretrial services program performance. Current information on pretrial programming is limited and usually does not describe individual program outcomes.¹ National data specific to pretrial program outcomes and performance would help individual programs measure their effectiveness in achieving their goals and objectives and in meeting the expectations of their justice systems. Consistent with public- and private-sector best practices,² pretrial services program outcome measures, performance measures, and mission-critical data would tie into the individual agency's mission, local justice system needs, state and local bail laws, and national pretrial release standards.

In October 2010, the Network commissioned a working group to develop suggested pretrial release outcome and performance measures and mission-critical data. This included identifying performance indicators based on the above-mentioned factors and recommending strategies for programs to develop ambitious but attainable measure targets. The working group relied on the Network's accepted definitions of outcome and performance measures and mission-critical data. They are presented here as follows:

Outcome measure: An indicator of an agency's effectiveness in achieving a stated mission or intended purpose.

Performance measure: A quantitative or qualitative characterization of performance.

Mission-critical data: Supporting data in areas strategically linked to outcome and performance measures. These data track progress in areas and on issues that supplement specific measures.

Scope of Outcome and Performance Measures

A central issue for the Network is whether certain recommended measures—such as appearance and safety rates—are indicators more of overall justice system performance than of the performance of individual programs. Appearance rates depend as much on the number of released defendants, their degrees of risk, and the number of court appearances (potential failure points) set as on the pretrial program's risk assessment and supervision protocols. Moreover, a pretrial services program's recommendation for release

or detention is not binding. In making pretrial release or detention decisions, courts consider other factors (such as strength of the evidence) that are not included in most risk assessment models. None of these external factors is fully under a pretrial program's control. However, the Network believes the measures identified are critical measures of pretrial program success and should be considered as individual agency indicators. Programs should use target measures to recognize and offset these external factors.

Supporting Business Practices

Outcome and performance measures require an organizational structure that supports critical function areas, includes adequate resources for risk assessment and risk management, and fosters strong collaborative relationships within the local criminal justice system and the broader community. For the suggested measures, the Network recommends the key organizational elements for pretrial services programs identified by national standards promulgated by the American Bar Association (ABA)³ and the National Association of Pretrial Services Agencies (NAPSA).⁴ These include:

- Policies and procedures that support the presumption of release under the least restrictive conditions needed to address appearance and public safety concerns.
- Interviews of all detainees eligible for release consideration that are structured to obtain the information needed to determine risk of nonappearance and rearrest and to exercise effective supervision.
- Risk assessment schemes that are based on locally researched content and applied equally and fairly.
- Recommendations for supervision conditions that match the defendant's individual risk level and specific risks of pretrial misconduct.
- Monitoring of defendants' compliance with release conditions and court appearance requirements.
- Graduated responses to defendants' compliance and noncompliance.
- Tracking of new arrests occurring during supervision.
- Court notification of program condition violations and new arrests.
- Timely notice to court of infractions and responses.
- Monitoring of the pretrial detainee population and revisiting release recommendations if defendants remain detained or if circumstances change.

Outcome Measures

Appearance Rate

Appearance rate measures the percentage of supervised defendants who make all scheduled court appearances. This is the most basic outcome measure for pretrial service programs. Nearly all such programs have as part of their mission the goal of maximizing appearance rates among released and supervised defendants. Program assessment and supervision strategies seek to minimize each defendant's risk of nonappearance. Further, state and local bail statutes and provisions encourage court appearance to promote the effective administration of justice and to bolster public confidence in the judicial system. Finally, national standards on pretrial release identify minimizing failures to appear as a central function for pretrial programs.

The recommended data for this outcome measure are cases with a verified pretrial release or placement to the pretrial program and the subset of this population that have no bench warrants or capiases issued for missed scheduled court appearances. Depending on its information management system, the program may also track the appearance rate of various defendant populations—such as those charged with violent crimes or those released conditionally, financially, or on personal recognizance—although the primary group targeted should be defendants released to the agency's supervision.

Pretrial programs should count all cases with issued bench warrants and capiases under this outcome measure, including instances when defendants subsequently return to court voluntarily and are not revoked. The recommended *pretrial intervention* performance measure allows programs to gauge their efforts in resolving warrants. As a supporting business practice, pretrial

services programs may also calculate and keep an adjusted appearance rate that considers defendant voluntary returns and warrant surrenders that the program brings about.

Safety Rate

Safety rate tracks the percentage of supervised defendants who are not charged with a new offense during the pretrial stage. A *new offense* is defined here as one with the following characteristics:

- The offense date occurs during the defendant's period of pretrial release.⁵
- It includes a prosecutorial decision to charge.
- It carries the potential of incarceration or community supervision upon conviction.

At least 36 states and the federal judicial system factor a defendant's potential threat to the public or to specific individuals into the pretrial release or detention decision. National pretrial release standards also identify public safety as a legitimate pretrial concern for local justice systems.

The recommended data for this outcome measure are the number of defendants with a verified pretrial release or placement to the pretrial program and the subset of this population with no rearrests on a new offense. Depending on the program's information capabilities, the outcome measure should include recorded local and national arrests. As a supporting business practice, pretrial programs also may track separate safety rates by charge type (for example, misdemeanors, felonies, or local ordinance offenses), severity (violent crimes, domestic violence offenses, or property crimes), or by various defendant populations.

Concurrence Rate

Concurrence rate is the ratio of defendants whose supervision level or detention status corresponds to their assessed risk of pretrial misconduct. Conditions of supervision recommended and imposed do not have to match exactly; however, the overall supervision level should be comparable. For example, a recommendation for release on personal recognizance with no conditions and a subsequent conditional supervision release with a requirement to report to the pretrial services program weekly would not be defined as concurrent. This measure counts only defendants eligible by statute for pretrial release⁶ and is presented in the following matrix (exhibit 1):

Exhibit 1. Matrix of Assessment Versus Release Level

ASSESSED LEVEL	RELEASE LEVEL			
	Low	Medium	High	Detention
Low	X			
Medium		X		
High			X	
No Release				X

Concurrence rate is an excellent measure of success in helping courts apply supervision levels that match the defendant’s identified risk level. This is a recognized best practice in the criminal justice field. (It is assumed that the individual pretrial program does not overtly attempt to fit its release/detention recommendations to a perceived court outcome.) The measure also complements appearance and safety rates by allowing pretrial programs to track subsequent failure by defendants originally recommended for detention.

The recommended data for this outcome measure are the number of release and detention recommendations and subsequent release and detention outcomes.

Success Rate

Success rate measures the percentage of released defendants who are (1) not revoked for technical violations due to condition violations, (2) appear for all scheduled court appearances, and (3) are not charged with a new offense during pretrial supervision. The measure excludes defendants who are detained following a guilty verdict and those revoked due to non-pretrial-related holds.

The recommended data for this outcome measure are the total number of defendants released to the program and the subset of this population that experiences no condition violations, failures to appear, or rearrests. Depending on the pretrial program’s information system, revocations may show up as subsequent financial release or detention orders.

Pretrial Detainee Length of Stay

Detainee length of stay represents the average length of jail stay for pretrial detainees who are eligible by statute for pretrial release. This is a significant outcome measure for the estimated 27 percent of pretrial programs that are located within corrections departments⁷ and that have missions to help control jail populations, and it is a performance measure for other pretrial programs.

The recommended data for this outcome measure are admission and release dates for all pretrial-related jail detentions. *Release* as defined here is the defendant’s full discharge from jail custody.

Performance Measures

Universal Screening

Universal screening reflects the percentage of defendants eligible for release by statute or local court rule that a program assesses for release. *Screening* includes any combination of pretrial interview, application of a risk assessment instrument, or measurement against other established criteria for release recommendation or program placement.

This measure conforms to national standards that encourage full screening of release-eligible defendants⁸ and state bail statutes that mandate release eligibility for certain defendant groups. When measuring screening, jurisdictions should go beyond initial arrest and court appearance and consider all detainees who become eligible for pretrial release consideration at any point before trial. (These screens may occur at initial arrest or court hearings and be submitted to the court once the defendant becomes eligible for release.)

The recommended data for this performance measure are the total number of release-eligible defendants and the subset of this population that the pretrial program screened.

Recommendation Rate

Recommendation rate reflects how frequently the pretrial program follows its risk assessment criteria when recommending release or detention. There are two potential data sources for this performance measure:

1) The pretrial program's total number of recommendations during a specific time frame and the number of these recommendations that conform to the release or detention level identified by the risk assessment.

2) The percentage of overrides to the risk assessment scheme.

Response to Defendant Conduct

Response to defendant conduct measures how often case managers respond appropriately (by recognized policy and procedure) to compliance and noncompliance with court-ordered release conditions. This measure conforms to national standards for pretrial supervision⁹ and evidence-based practices in criminal justice for swift, certain, and meaningful responses to defendant and offender conduct.

Response to defendant conduct requires pretrial programs to have in place clear definitions of compliance and noncompliance with conditions of supervision and procedures outlining appropriate case manager responses. The recommended data for this measure are the number of identified technical violations and the percentage of these violations with a noted appropriate staff response. This includes administrative responses by staff and recommendations for judicial action.

Pretrial Intervention Rate

The *pretrial intervention rate* measures the pretrial program's effectiveness at resolving outstanding bench warrants, arrest warrants, and capiases. The measure tracks the percentage of:

- Defendants with outstanding warrants who self-surrender to the pretrial program, court, or law enforcement after being advised to do so by the pretrial program.
- Arrests brought about by pretrial program staff of supervised defendants with outstanding warrants.

Mission-Critical Data

Number of Defendants Released by Release Type and Condition

The *number of defendants released by release type and condition* tracks the number of defendants released by court-ordered release type, for example, personal recognizance, conditional supervision, or unsecured bond. For releases to the pretrial program, the data also track the frequency of individual release conditions.

Caseload Ratio

The *caseload ratio* is the number of supervised defendants divided by the number of case managers. The data include the pretrial program's overall caseload rates and rates for special populations such as defendants in high-risk supervision units, under specialized calendars, or under high-resource conditions such as electronic monitoring and global positioning surveillance.

Time From Nonfinancial Release Order to Start of Pretrial Supervision

Time from nonfinancial release order to start of pretrial supervision tracks the time between a court's order of release and the pretrial program's assumption of supervision. Data collected include the jail release date for cases involving initial detention or the actual date of the judicial order for defendants already in the community, and the first contact date with the pretrial program following release or the new judicial order.

The issuance of the judicial order is the most accurate indicator of the official start of pretrial agency supervision. However, evidence shows that too few pretrial programs receive timely notification of orders from the court to make this a practical indicator of when the agency first exercises supervision authority over the defendant. Therefore, the Network recommends the first contact date with the pretrial agency as a more realistic data source.

Time on Pretrial Supervision

The *time on pretrial supervision* is measured by the length of time between the pretrial program's assumption of supervision authority and the end of program supervision. Supervision begins with the defendant's first contact with the pretrial program and terminates following case disposition or the issuing of new release or detention requirements.

Pretrial Detention Rate

The *pretrial detention rate* is the proportion of pretrial defendants who are detained throughout pretrial case processing.

Setting Targets

Performance goal: A target level of an activity expressed as a tangible measurable objective, against which actual achievement can be compared.

—National Performance Review, *Serving the American Public: Best Practices in Performance Measurement* (Washington, D.C.: Executive Office of the President, 1997).

A performance target is a numeric goal for an outcome or performance measure; for example, an appearance rate of 90 percent for all released defendants. It is a specific gauge of performance achieved against performance expected. Well-defined, ambitious, and attainable performance targets can help organizations deliver expected services and outcomes and identify needed programmatic and system strategic changes. Conversely, static or unreasonable targets can encourage lower expectations, thereby minimizing the program's influence as a system partner, or burden organizations with objectives that are inconsistent with its mission and resources.

Adopting the SMART Method

Given variances nationwide in defendant populations, court operations, and justice system practices, the Network believes recommended universal targets for each stated measure is impractical. Instead, the Network recommends that individual programs adopt the SMART (specific, measurable, achievable, realistic, and time-bound) method of setting effective targets.

SPECIFIC

Specific targets are clear and unambiguous. They describe exactly what is expected, when, and how

much. For example, a specific target for universal screening would be: "Interview 95 percent of defendants eligible by statute for pretrial release." Because the targets are specific, the pretrial program can easily measure progress toward meeting them.

MEASURABLE

An effective target answers the questions "how much" or "how many." Each target must be a set number or percentage that can be measured. Further, each target must be based on existing and retrievable data. Programs must assess their information management capacity to determine a target's feasibility.

ACHIEVABLE

Targets must be within the capacity of the organization to achieve while challenging the organization to improve its performance. They should be neither out of reach nor below an acceptable standard. Targets set too high or too low become meaningless and eventually worthless as indicators. The organization's most recent past performance (approximately the past 2 years) usually is a good indicator of what is feasible—at least as a beginning target.

REALISTIC

Realistic targets consider an organization's resources and the areas it actually can influence.

TIME BOUND

Effective targets have fixed durations—for example, a calendar or fiscal year—that allow time to achieve or calculate the outcome or performance measure.

Other Recommendations for Targets

- When establishing initial targets, set a minimum target and a stretch target. The minimum target should be one the program believes is the most manageable, whereas the stretch target would serve as the rate the program would strive to accomplish. Programs also can set a minimum target for the first year or two of performance measurement and a stretch target for future years.
- Consider trends to establish a target baseline. If past data exist for performance on a particular measurement, examine those data for trends that can serve as a baseline for setting targets for future performance.
- Use “SWOT” analysis to gauge the program’s internal *strengths* and *weaknesses*, as well as its external *opportunities* and *threats*. Consider target rates that can help build on strengths and leverage opportunities as well as minimize weaknesses and threats.
- Get feedback from stakeholders; their expectations can yield insights in setting appropriate targets.
- If available, consider the performance targets of comparable pretrial programs. The appendix to this monograph includes sample outcome and performance measures.
- Consider current or planned internal or external initiatives that may affect established or potential targets.

Notes

1. For example, see T. Cohen and T. Kyckelhahn, *State Court Processing Statistics Data Limitations* (Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 2010).
2. National Performance Review, *Serving the American Public: Best Practices in Performance Measurement* (Washington, D.C.: Executive Office of the President, 1997); National State Auditors Association, *Best Practices in Performance Measurement: Developing Performance Measures* (Lexington, KY: National State Auditors Association, 2004); Center for Performance Management, *Performance Measurement in Practice* (Washington, D.C.: International City/County Management Association, 2007); National Center for Public Performance, *A Brief Guide for Performance Measurement in Local Government* (Newark, NJ: Rutgers University, 2001).
3. American Bar Association, *Criminal Justice Standards on Pretrial Release: Third Edition* (Washington, D.C.: American Bar Association, 2002).
4. National Association of Pretrial Services Agencies, *Standards on Pretrial Release: Third Edition* (Washington, D.C.: National Association of Pretrial Services Agencies, 2004).
5. This excludes arrest warrants executed during the pretrial period for offenses committed before the defendant's case filing.
6. This excludes defendants detained on statutory holds, probation or parole warrants, or holds and detainers from other jurisdictions.
7. J. Clark and D.A. Henry, *Pretrial Services Programming at the Start of the 21st Century: A Survey of Pretrial Services Programs* (Washington, D.C.: U.S. Department of Justice, Bureau of Justice Assistance, 2003).
8. NAPSA Standard X-3; ABA Standard 10-4.2 (A)
9. NAPSA Standard 4.3; ABA Standard 10-1.10 (f)

Appendix A: Examples of Pretrial Release Program Measures

Pretrial Services Agency for the District of Columbia

OUTCOME MEASURES

- Rearrest rates: overall and for violent and drug crimes, for drug users and nonusers.
- Failure to appear (FTA) rates overall and by drug users and nonusers.
- Percentage of defendants remaining on release at the conclusion of their pretrial status without a pending request for removal or revocation due to noncompliance.

PERFORMANCE MEASURES

Risk Assessment

- Percentage of defendants who are assessed for risk of failure to appear and rearrest.
- Percentage of defendants for whom the Pretrial Services Agency (PSA) identifies eligibility for appropriate appearance and safety-based detention hearings.

Supervision

- Percentage of defendants who are in compliance with release conditions at the end of supervision.
- Percentage of defendants whose noncompliance is addressed by PSA either through the use of an administrative sanction or through recommendation for judicial action.

Treatment

- Percentage of referred defendants who are assessed for substance abuse treatment.
- Percentage of eligible assessed defendants placed in substance abuse treatment programs.
- Percentage of defendants who have a reduction in drug usage following placement in a sanctions-based treatment program.
- Percentage of defendants connected to educational or employment services following assessment.
- Percentage of referred defendants who are assessed or screened for mental health treatment.
- Percentage of service-eligible assessed defendants connected to mental health services.

Partnerships

- Number of agreements established and maintained with organizations and/or programs to provide education, employment, or treatment-related services or through which defendants can fulfill community service requirements.

Note: Outcome and performance measure targets are being revised for fiscal years 2011–13.

Multnomah County (Portland, OR) Pretrial Services

OUTCOME MEASURES

- Percentage of interviewed defendants released on their own recognizance who return to court.

PERFORMANCE MEASURES

- Number of days from court referral to the Pretrial Services Program (PSP) to PSP's decision to accept supervision (Target = 7 Days).
- Rate of negative case closures—new arrests or FTA warrants.
- PSP rate of acceptance or denial of defendant supervision.

Kentucky Pretrial Services Department

OUTCOME MEASURES

- Appearance rate (Target=90%).
- Public safety rate (Target=90%).
- Supervision compliance rate (Target=85%).

PERFORMANCE MEASURES

- Investigation rate (Target=85%).
- Verification rate (Target=85%).
- Release rate by risk level:
 - Low (Target=85%).
 - Moderate (Target=75%).
 - High (Target=50%).

- Affidavit of indigence completion rate* (Target=95%).
- 24-hour reviews (Target=100%).

* The Pretrial Department is mandated by statute to complete affidavits on all defendants that request a public defender.

MISSION CRITICAL DATA

- Number of pretrial interviews.
- Pretrial interview rate.
- Pretrial release rate.
- Number of defendants who are placed on conditional release.
- Number of defendants who report to the department.
- Number of defendants who are drug tested.
- Risk levels of supervised defendants.
- Defendant-to-case manager ratio.
- Savings to individual counties for department services.
- Number of defendants who receive pretrial diversion.
- Number of diversion community service hours completed.
- Amount of restitution paid to victims through diversion placements.

Appendix B: National Institute of Corrections Pretrial Executive Network

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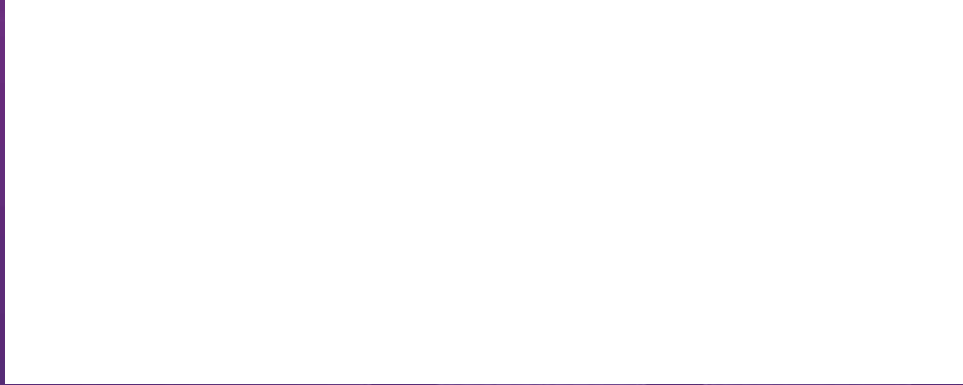
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