

San Joaquin County Pretrial Services Report

Submitted March 2020



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EXECUTIVE SUMMARY

San Joaquin County is regarded as a national leader in pretrial services. The county operates and funds Pretrial Services, within the Probation Department, to assess the likelihood of pretrial failure, provide information to the court to assist with release decisions, and monitor defendants in the community to mitigate the risk of pretrial failure. San Joaquin has further demonstrated its commitment to effective pretrial services by analyzing performance and outcome measures and publishing findings in an annual report.

County leaders are dedicated to continually reviewing Pretrial Services to ensure its policies are aligned with best practices. To assist with this, the San Joaquin Probation Department partnered with the Crime and Justice Institute (CJI) at Community Resources for Justice to conduct a Pretrial Services evaluation to provide the following information:

- 1) An understanding of the Pretrial Services Units;
- 2) A comprehensive view of how Pretrial Services Units are functioning; and
- 3) An analysis of the Pretrial Services Units' strengths and opportunities for change.

To complete the evaluation, CJI analyzed system data provided by the County, conducted a review of pretrial policies, and collected information through observations and interviews with Pretrial Services staff and other pretrial stakeholders. An overview of the results is included in the next section and a more detailed description of the findings can be found in the body of the report.

Findings and Recommendations

San Joaquin County adheres to many national pretrial best practices. Pretrial Services uses an evidence-based pretrial risk assessment to inform the release decision, the 24-7 Pretrial Assessment Unit staff are trained to score the assessment consistently and accurately,¹ and the Pretrial Monitoring Unit offers monitoring in the community as a safe alternative to pretrial detention. The San Joaquin Probation Department has also worked to create strong relationships with the Sheriff's Office and communicates with stakeholders throughout the system to increase transparency.

During the assessment, CJI found the following opportunities for the County to build on their many strengths.

The Pretrial Assessment Unit assesses the majority (73%) of eligible defendants, and may be able to expand eligibility to provide the court with additional information for more defendants.

Due to limited resources, San Joaquin does not assess people with certain misdemeanor charges (instead they are released on a promise to appear bond). This practice represents an efficiency

¹ The validation analysis included an evaluation of how staff scored the assessment. Staff scored fictional scenarios with reliability.

since those with misdemeanor charges are released prior to arraignment so a pretrial report is not needed for the court hearing.

The assessment rate for those with felony charges could potentially be increased to provide the court with pretrial reports for more defendants at arraignment. The Pretrial Assessment Unit should maximize the number of cases in which judges and attorneys have additional information to make individualized bail determinations at arraignment. Not only will this provide the Judiciary with more information for the release decision, but if the defendant is released, he or she can be matched with appropriate interventions in the community.

Based on Pretrial Services policy, the majority of defendants assessed receive a detention recommendation.

The large proportion of defendants who receive a risk score of 4 or more and therefore get a detention recommendation is an indicator that detention is not the limited exception, as suggested by American Bar Association's legal framework,² but instead normal practice.

The County should review release policies on the VPRAI score and resulting recommendations and consider expanding the criteria for eligibility for release. The County should review and revise the detention recommendation in policy in an effort to operate based on the presumption of release and utilization of detention as the exception. Additionally, Pretrial Services should consider revising the policy that indicates defendants who do not participate in the interview automatically receive a detention recommendation. Per the National Association of Pretrial Services Agencies (NAPSA) release standards, defendants should not be excluded from consideration for pretrial release and monitoring if they decline the interview.³

Interventions provided to defendants may not be the least restrictive conditions necessary for the defendant to appear in court and not obtain new charges.

While the Probation Department follows the risk principle, some defendants may have more restrictive monitoring conditions than necessary to ensure pretrial success; this is counter to the 'least restrictive recommendations' provided by the pretrial legal framework. This is particularly evident with the use of GPS, which has not been found to be effective in reducing pretrial failure. For this reason, GPS should only be used on a case-by-case basis.

² American Bar Association. (2007). Standards for criminal justice: pretrial release, third edition. Retrieved from https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_toc/

³ National Association of Pretrial Services Agencies. (2019). Standards on pretrial release, fourth edition. Washington, DC.

Overrides within Pretrial Services policy may not be achieving intended results.

Pretrial staff generally follow the VPRAI policy recommendations, but may override the recommendations pre-arraignment if there is a threat to public safety or if the defendant lives with the victim of the alleged crime. These individuals are detained prior to arraignment.

More than half of released defendants where pretrial staff overrode the recommendations based on risk score (suggesting detention) were released by the judge post-arraignment on their own recognizance without monitoring. Leadership should review override criteria and determine whether the policies can be adjusted to allow the release of some of these individuals pre-arraignment. This reduction in pre-arraignment detention could save money for the county.

ACKNOWLEDGEMENTS

San Joaquin County proactively sought to complete a thorough, data-driven evaluation of the Pretrial Services program within the Probation Department. CJI conducted the evaluation to identify strengths and opportunities for improvement.

CJI would like to acknowledge the following stakeholders for their contributions to this assessment: the Probation Department, Sheriff's Office, Judiciary, District Attorney's Office, Public Defender's Office, and community based organizations. Their collective input is a testament to their dedication to ongoing improvement and aligning San Joaquin County's system with evidence-based pretrial practices.

In particular, we would like to thank Chief James and her leadership team for spending time explaining the pretrial program, making time for staff to meet with us and ensuring the right data were made available. Staff from both the Pretrial Monitoring Unit and Pretrial Assessment Unit were helpful and welcomed the opportunity to have CJI staff shadow them in their daily operations.

INTRODUCTION

San Joaquin is a national leader in pretrial. The County operates and funds two Pretrial Services Units under the Probation Department to assess the likelihood of pretrial failure, provide information to the court for the release decision, and monitor defendants in the community to mitigate the risk of pretrial failure (failure to appear and/or new criminal arrest). San Joaquin has demonstrated its commitment to improving pretrial interventions by collecting and analyzing performance measures and publishing an annual report. The Probation Department leadership functions as a cohesive group and personnel at all levels demonstrate commitment to ongoing improvements and sustaining sound pretrial practices.

Pretrial staff, along with the Probation Department leadership, are dedicated to ensuring their pretrial policies and practices are aligned with practices that research has shown to be effective. To provide data-driven and research-based recommendations, CJI conducted an assessment to provide:

- 1) An understanding of the Pretrial Services Units;
- 2) A comprehensive view of how Pretrial Services Units are functioning; and
- 3) An analysis of the Pretrial Services Units' strengths and opportunities for change.

The Pretrial Services assessment revealed opportunities for pretrial improvement at each decision point in the pretrial process. Each of these decision points – assessment, pretrial release recommendation, and pretrial monitoring – present an opportunity to determine appropriate options and interventions for defendants. By reviewing each decision point, the San Joaquin Probation Department can increase program effectiveness, effectively utilize limited resources, maintain defendants' rights, and improve outcomes.

METHODOLOGY

The Pretrial Services assessment included two data collection phases: (1) a quantitative analysis of the program and (2) a qualitative assessment of the program.

Quantitative Analysis: CJI collected data from the San Joaquin Sheriff's Office, Judiciary, and Probation Department. The timespan of each dataset provided differed, but all of the analysis was of data for the period of time between 2014 and 2017. For this assessment, CJI examined data from October 27, 2014 (the date the program was implemented) through December 31, 2017. San Joaquin provided the following data elements to evaluate the different decision points for Pretrial Services:

- Demographic information (race, sex, employment, marital status)
- Booking records (booking date, time, arresting agency, reason, charges)
- Risk assessment data (assessment date, time, risk score and level)
- Release records (release date, time, reason)

- Case information (case filing date, charges filed, disposition date, findings)
- Pretrial monitoring information (supervision level, GPS status, overrides, holds)

Qualitative Analysis: The qualitative assessment included reviewing documents; interviewing stakeholders; and observing booking, pretrial services staff, and court.

Document Review

CJI gathered information on pretrial practices such as assessment and monitoring policies, assessment forms, bail laws, bail schedule, release authority, pretrial release options, and community interventions.

Stakeholder Interviews

CJI asked staff and leadership from the Probation Department, Sheriff's Office, District Attorney's Office, Public Defender's Office, and Judiciary about a range of issues related to Pretrial Services, including if and how defendants are assessed, what information is provided to release decision makers, and what processes are in place to mitigate defendants' risk of re-arrest and failure to appear during the pretrial period. CJI also engaged in a group discussion about services available in the community during public meetings of the County's Community Corrections Partnership (CCP).

Observations

CJI traveled to San Joaquin County on three different occasions to conduct the evaluation, which included observations of the pretrial staff, booking officers, and arraignment.

CJI used the results of both the quantitative and qualitative analysis to guide the findings and recommendations in this report.

Pretrial Services Overview

The San Joaquin Probation Department formalized Pretrial Services in October 2014, creating the Pretrial Assessment and Monitoring Units. The goal of implementing Pretrial Services was to use pretrial interventions more efficiently and to reserve detention for defendants who pose a risk to the community or a risk to not appear in court. Pretrial staff assess defendants, make release recommendations, and monitor defendants. Each of these roles were examined and the findings are presented in this report.

The Pretrial Assessment Unit is staffed 24-7 and is located within the San Joaquin County jail's booking department. As a part of the jail's booking process, the Sheriff's Office provides arrest information to Pretrial Services for defendants arrested on new charges. The Pretrial Assessment Unit then uses policy to determine whether a defendant is eligible for an interview and risk assessment.

San Joaquin County follows best practices by using a pretrial risk assessment to provide objective and standardized information for release decisions.

When a defendant is screened as eligible, the Pretrial Assessment Unit collects information on the defendant and conducts an interview in the jail booking area. Prior to the interview, staff provide a disclaimer explaining the purpose of the interview, how the information will be used, and advises the defendant not to disclose information related to their charges. This disclaimer is critical to protect defendants' rights and adheres to national pretrial best practices.⁴ During the interview, staff ask questions to learn more about a defendant's employment, residential, and financial status. Through this interview, assessment staff collect the information required to score the Virginia Pretrial Risk Assessment Instrument (VPRAI). The VPRAI is a pretrial risk assessment used to identify defendants' risk of failure to appear (FTA) or new criminal arrest (NCA) during the pretrial period. Pretrial staff provide the VPRAI risk score along with supplemental information from the pretrial interview and criminal history to the court to inform the release decision.

The courts allow the Pretrial Assessment Unit to automatically release eligible defendants with certain VPRAI scores (0-2) to expedite release for defendants who are low risk for pretrial failure. Figure 1 provides the release recommendations based on risk score per policy.

Figure 1: Pretrial release recommendations based on VPRAI score

Risk Score	Recommendation
0	Release before arraignment and provide court reminders
1	Release before arraignment and provide basic pretrial monitoring
2	Release before arraignment and provide enhanced pretrial monitoring
3	Detain pending arraignment; recommend Global Positioning System (GPS) and intensive pretrial monitoring
4+	Detain pending arraignment and recommend detention

While policy outlines the pretrial recommendations based on risk score, Pretrial Services staff can choose to override these recommendations pre-arraignment given supplemental case information. There are two instances where policy requires an override: when a defendant lives at the same address as the alleged victim and when the assessment staff have additional information about the defendant that indicates they may pose a risk to public safety. If staff wish to override the risk score pre-arraignment, designated staff must approve the override. In addition to the overrides, any defendant arrested by the Operation Ceasefire initiative or for charges under Penal Code (PC) 1319⁵ will not be released pre-arraignment.

"The Pretrial Monitoring Unit is fantastic. Pretrial Officers will always see clients when they stop by the office and staff are never intimidating towards the clients."

-Interviewee from the Courts

⁴ National Association of Pretrial Services Agencies. (2019). Standards on pretrial release, fourth edition. Washington, DC.

⁵ PC1319 is a list of violent offenses in California.

The Pretrial Monitoring Unit provides a range of alternatives to detention, from court reminders to intensive monitoring with GPS. This unit has staff available to monitor defendants when they are released from detention and placed in the program. Staff meet defendants during normal business hours Monday through Friday and if a defendant appears in the office, pretrial staff will meet with the defendant (i.e. they will not be turned away for not having an appointment). Figure 2 includes the different levels of monitoring that are driven by the VPRAI score and court order. If a defendant violates their monitoring conditions, the Pretrial Monitoring Unit has the authority to administer sanctions when appropriate and inform the court of the violations.

Figure 2: Pretrial monitoring levels

Risk Score	Release Recommendation	Supervision Type	Reporting Requirements
0	Release before arraignment	Reminder Only	- Defendant calls Pretrial Services within 2 days post-release to review conditions - Receives court reminders
1	Release before arraignment	Basic Monitoring	- Defendant calls Pretrial Services within 2 days post-release to review conditions - Receives court reminders - Reports via telephone at least 1 time a week
2	Release before arraignment	Enhanced Monitoring	- Defendant reports in-person within 2 days post-release - Receives court reminders - Reports in-person at least 1 time a week
3	Release after arraignment	Intensive Monitoring	- Defendant reports in-person within 2 days post-release - Receives court reminders - Reports in-person at least 1 time a week - Monitored by a GPS unit - Subjected to field visits
4+	Detain ⁶	N/A	N/A

⁶ The recommendation to detain indicates defendants are not eligible for the pretrial program.

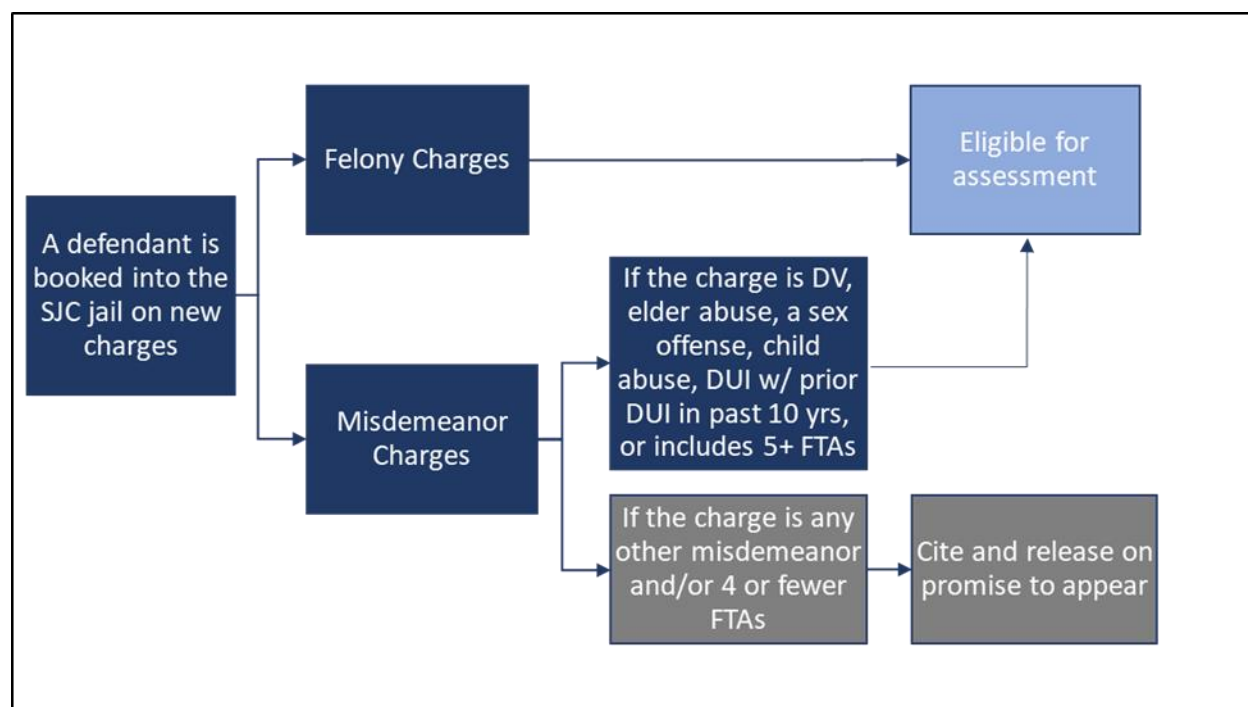
FINDINGS

CJI analyzed the data provided by San Joaquin County as well as the stakeholder interviews and system observations to compile the following findings. This report highlights the County's strengths and offers recommendations on potential areas for improvement. All recommendations are grounded in national standards and evidence-based practices for pretrial agencies from sources such as the American Bar Association (ABA) and NAPSA standards for pretrial release, the National Institute of Correction's (NIC) pretrial services outcome and performance measures, and pretrial research.

Risk Assessment

Pretrial Services policy determines a defendant's eligibility for an assessment. Policy states that defendants receive a risk assessment if they are booked into the jail on new felony charges or certain misdemeanor charges. The process for determining a defendant's eligibility for a risk assessment is outlined in Figure 3.

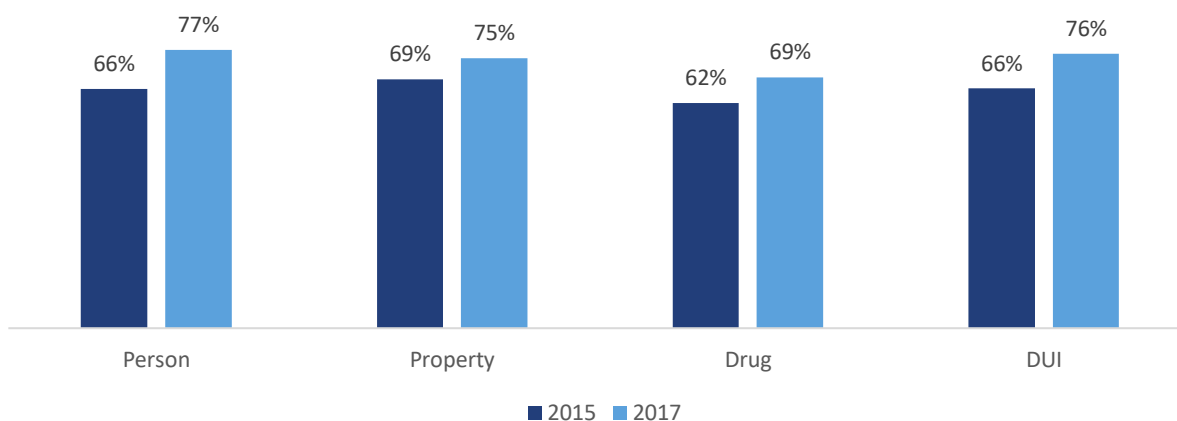
Figure 3: VPRAI eligibility criteria



In addition to the reasons listed in Figure 3, a defendant who is uncooperative (e.g. refuses to answer interview questions), on suicide watch, in segregation for any reason, or posts bond before the Pretrial Assessment Unit has time to complete the assessment may not receive a risk assessment.

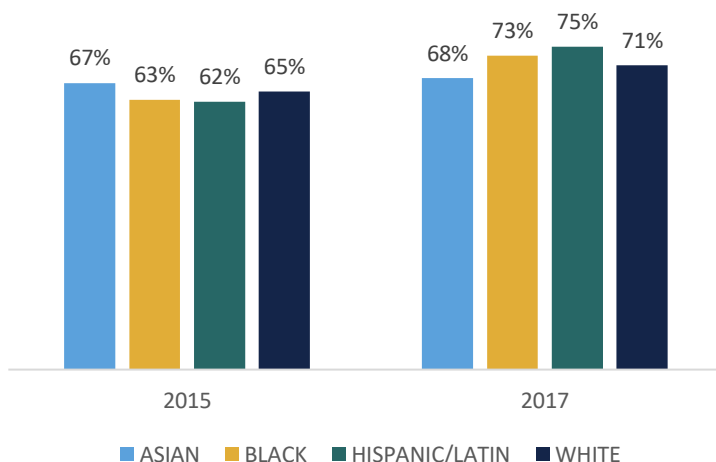
If a defendant meets all eligibility requirements, the Pretrial Assessment Unit conducts an interview and completes the risk assessment. Since 2015, the percent of eligible defendants assessed has risen—about 73% of eligible defendants received a risk assessment in 2017, compared to 61% in 2015. The assessment rate has risen over time as the eligibility for certain charges has fluctuated.

Figure 4: Assessment rates for person, property, drug, and DUI offenses increased from 2015-2017



The majority (71%) of defendants with felony charges were assessed. Even so, San Joaquin has an opportunity to assess more felony defendants and provide additional information to the Judiciary for the release decision. The eligibility rates for all of the charge types in Figure 4 increased between 2015 and 2017.

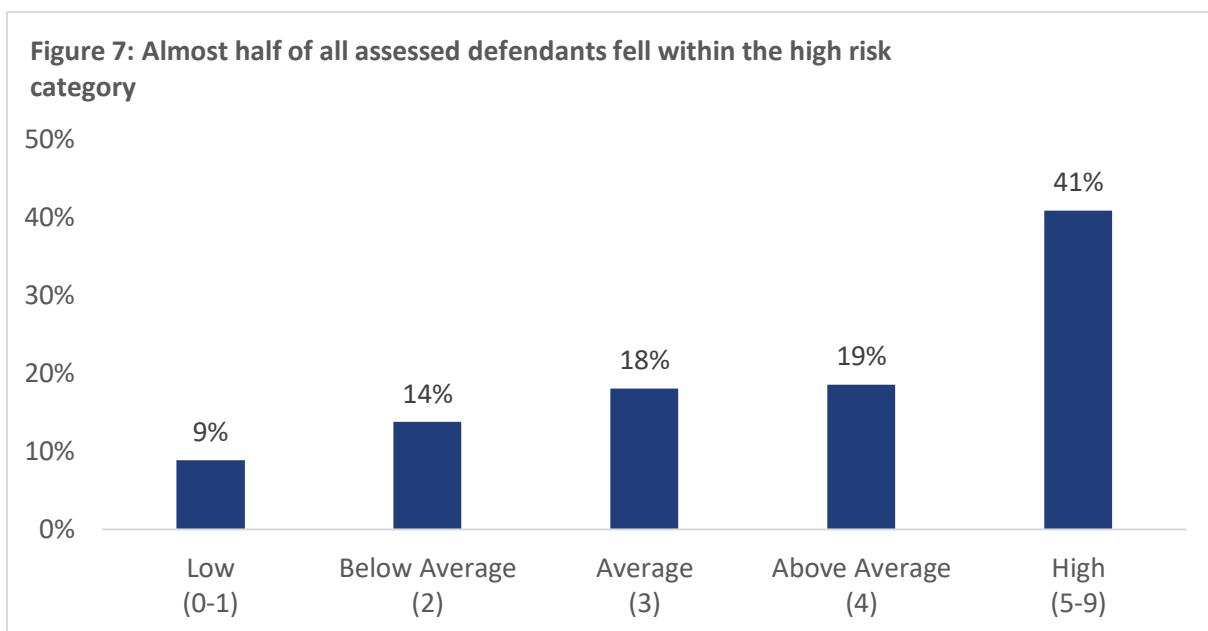
Figure 6: Assessment rates remained stable across racial groups from 2015 - 2017



In addition to charge type, CJI also reviewed the assessment rate by race. In 2015, Asian and White defendants were assessed at the highest rates (67% and 65%, respectively), followed by Black (63%) and Hispanic defendants (62%). Assessments rates for all racial groups increased from 2015 to 2017 and remained fairly stable across groups (see Figure 6). Hispanic defendants experienced the largest increase in assessment rate during this time.

Risk Scores and Levels

In San Joaquin County, the distribution of risk scores and risk levels remained consistent from 2014 to 2017. Over this time period, as demonstrated in Figure 7, low risk was the smallest group with 9% of defendants, and high risk was the largest group (41% of defendants). The nature of the VPRAI scoring leads to a higher proportion of defendants being assessed as high risk (with any score over 4 falling into the high risk category). The study sample demonstrated a similar distribution.

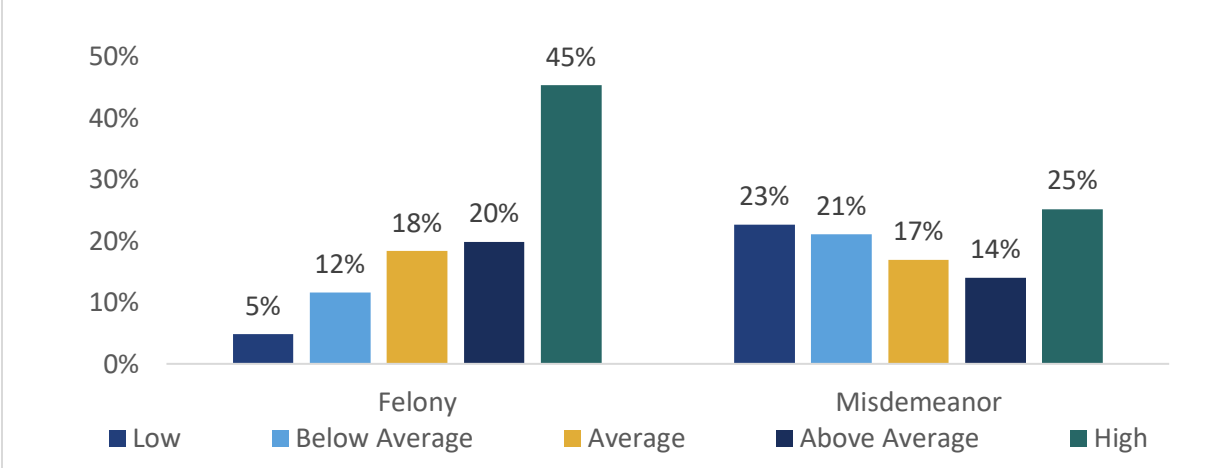


Women tended to have lower VPRAI risk scores than men (an average of 3.7 versus 4.2). White and Black defendants tended to have the highest scores (with an average of 4.3 and 4.2 respectively), while Hispanic defendants had an average score of 3.9 and Asian defendants had an average score of 3.5.

Risk levels varied significantly by the degree of the assessed person's lead charge.⁷ As shown in Figure 8, the largest groups of defendants with felony (45%) or misdemeanor (25%) charges were classified as high risk.

⁷ Lead charges are the most severe charge at booking for each defendant.

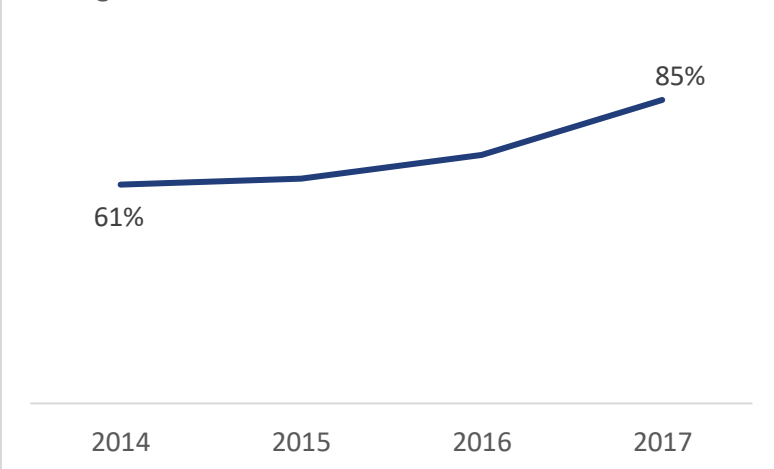
Figure 8: High risk was the most common risk level for felonies and misdemeanors



Assessment Timing

Since the implementation of the risk assessment in October 2014, the average time⁸ between booking and assessment decreased significantly (94%). Since the implementation date, 72% of defendants were assessed within one day of booking. The percent of assessments done within a day has steadily increased over time (Figure 9). This improvement may be due to the Pretrial Assessment Unit increasing the number of

Figure 9: Assessments completed within 1 day of booking increased 61%



defendants who agree to participate and successfully complete a VPRAI interview at booking. Pretrial Services provided Motivational Interviewing training to Pretrial Assessment Unit staff and have worked to advertise the program to decrease defendant refusal rates since implementation. In some cases the Pretrial Assessment Unit is unable to assess eligible defendants because of uncooperative behavior or other circumstances (e.g. mental health crises, substance use). The Pretrial Assessment Unit may conduct an assessment for these individuals after booking if requested by the court.

⁸ The average time between booking and assessment contains several outliers that increase the average time. For example, the assessment may occur a week or more after booking when the court requests an assessment post-arraignment.

Recommendations

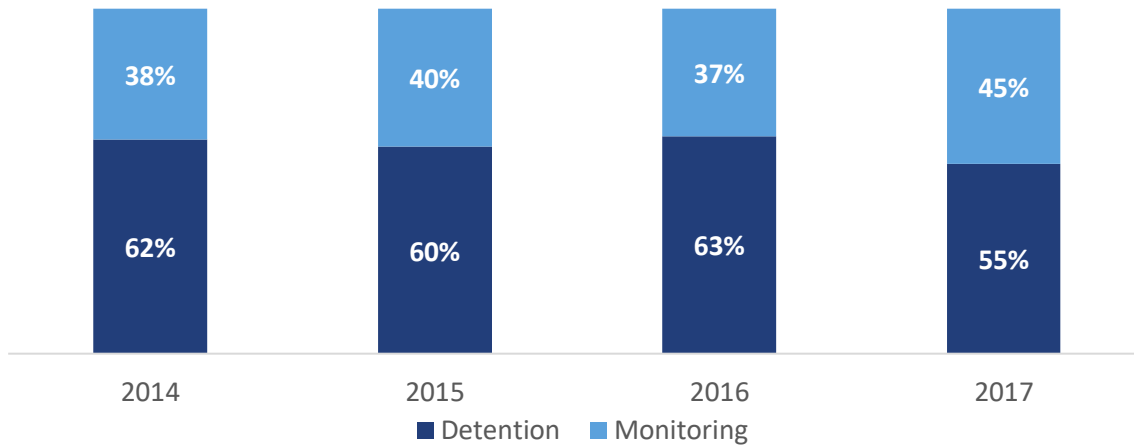
- The majority (72%) of all eligible defendants receive a risk assessment and 71% of defendants charged with felonies are assessed. Although the Pretrial Assessment Unit is assessing a high percentage of individuals, there may be ways to maximize the cases in which judges and attorneys have risk assessment information to make an individualized release determination. Not only will this provide the Judiciary with more information for the release decision, but it can also inform what interventions are used in the community if the defendant is released.
- The average risk score for all defendants was in the above average to high risk categories, indicating there may be room for improvement in the categorization of risk. The County should use statistical analysis to examine the risk levels, determine whether risk is appropriately identified for the population, and adjust if needed.

Release Decision

Pretrial Services assesses eligible defendants as they are booked in the jail. Defendants have the ability to decline participation in the risk assessment as it is voluntary. If a defendant does not participate in an interview, policy indicates they are not eligible for pretrial release and will automatically be detained (if they cannot post monetary bail). Assessment staff indicated that defendants usually want to cooperate if it may result in an earlier release.

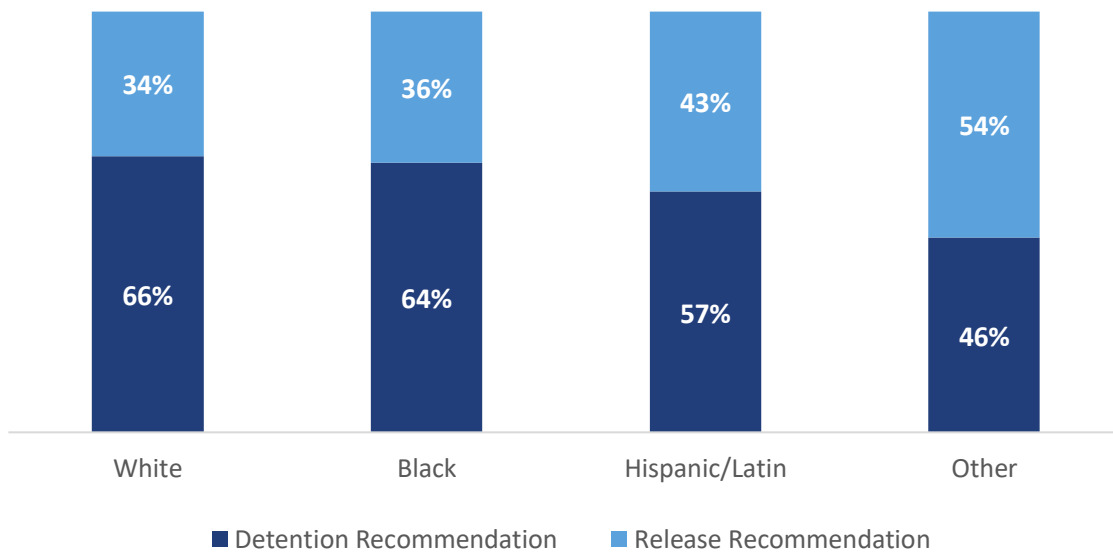
According to Pretrial Services policy, defendants who fall into the low and average risk levels (risk scores 0-3) are recommended for release and defendants who fall into the above average or high risk levels (risk scores 4 and above) are recommended for detention. Figure 10 shows that more than half of defendants qualified for a detention recommendation based on their risk score alone. This percent decreased in 2017, but the majority (55%) still fell within the detention recommendation. Given the large proportion of individuals who qualify for a detention recommendation based on their VPRAI score, there is opportunity to reevaluate policy and potentially recommend release for more defendants.

Figure 10: Defendants are more likely to receive a detention recommendation than a release recommendation based on the VPRAI score



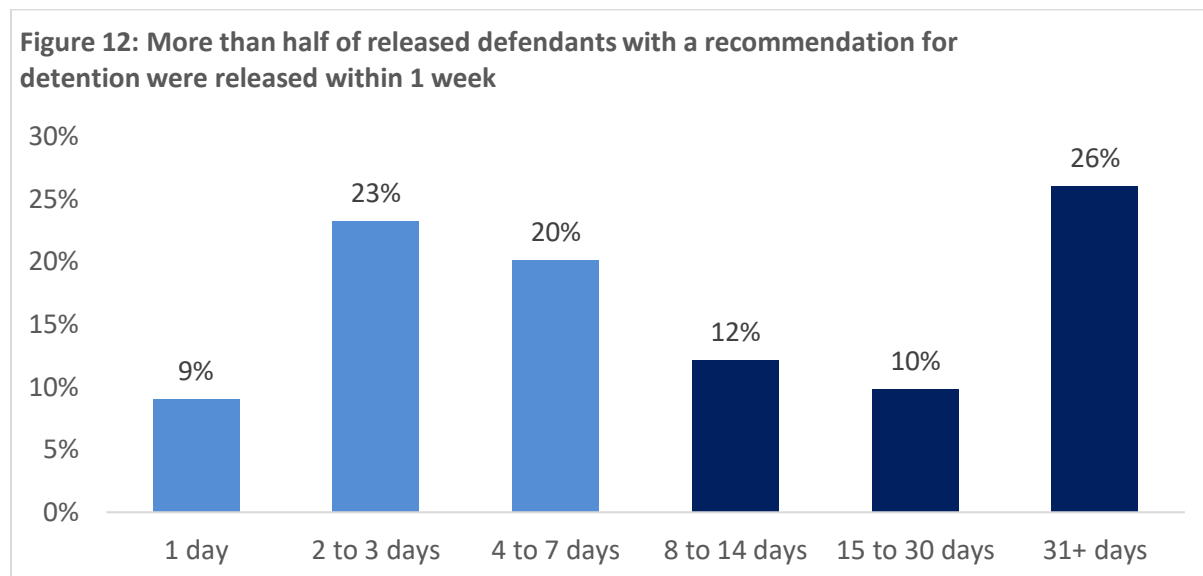
As shown in Figure 11, White and Black defendants had higher average risk scores than other racial groups, meaning they have higher detention recommendation rates.

Figure 11: White and Black defendants are more likely to receive a detention recommendation



Many stakeholders said Pretrial Services and judges closely follow recommendations based on the VPRAI score, particularly when the recommendation is for detention. Yet, more than half of released defendants with a score of 4 or higher were released from jail within one week (see Figure 12). This indicates a proportion of defendants were released into the community (whether it is because they were released pretrial or released post-conviction) even though their risk score was

within the highest risk categories. This shows some of these defendants are released anyway and could be released sooner, mitigating undesired consequences related to detention.



Research shows that pretrial detention can lead to poor outcomes for the defendant, both in disposition outcomes⁹ and lower safety rates.¹⁰ By releasing more defendants to Pretrial Monitoring early in the process, judges could improve pretrial outcomes while increasing efficiency within the pretrial system and alleviating capacity concerns in the jail.

Overrides and Exclusions

As mentioned previously, there are two main reasons within Pretrial Services policy that allow authorized staff to detain a defendant pre-arraignment regardless of risk score: the defendant lives with the victim and to protect public safety. There may be other reasons staff may override the VPRAI recommendation pre-arraignment as long as it is recorded by Pretrial Services. CJI received override data for defendants who were released to pretrial or on their own recognizance. These data spanned 2014 to 2017, and almost all released defendants subjected to an override were detained *prior to arraignment*. In fact, only three of 359 of those released with overrides were able to post bond and were subsequently released prior to arraignment.

Fifty-eight percent of the defendants with overrides who were released *post-arraignment* had a score of 0-2 on the VPRAI. This is an indicator that policies can be adjusted to release individuals pre-arraignment rather than wait for the arraignment hearing.

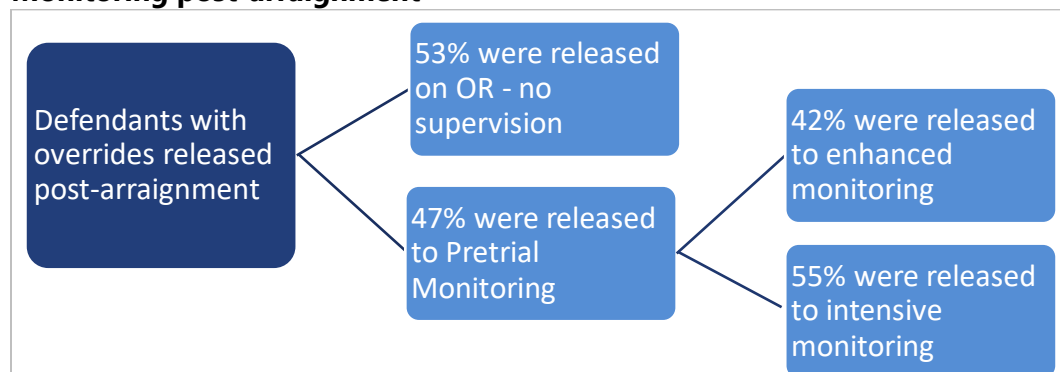
More than half (53%) of defendants with overrides who were released post-arraignment were released on their own recognizance, indicating the judge did not believe monitoring was

⁹ Lowenkamp, C. T., VanNostrand, M., & Holsinger, A. M. (2013). The hidden costs of pretrial detention. Laura and John Arnold Foundation.

¹⁰ Heaton, P., Mayson, S., & Stevenson, M. (2017). The downstream consequences of misdemeanor pretrial detention. Stanford Law Review, 69, 711.

necessary despite the Pretrial Assessment Unit override of the risk score pre-arraignment (see Figure 13). The County has an opportunity to review policy to determine if the current pre-arraignment override criteria are necessary.

Figure 13: Defendants with overrides released on own recognizance (OR) or Pretrial Monitoring post-arraignment



Several interviewed stakeholders expressed support for reviewing the policy of automatic detention when the defendant resides with the victim. From 2014 to 2017, the vast majority of released defendants with Pretrial Services overrides (84%) had been overridden because the defendant was living with the victim. These cases are not all domestic violence related; in fact, 27% of the cases are not. San Joaquin County may consider reviewing this part of the override policy. Stakeholders indicated that Pretrial Services may be able to reduce the number of overrides by working with individuals to find another place to stay and releasing them earlier, when appropriate.

Judicial Release Decision

If a defendant is not released prior to arraignment, a judge makes the release decision based on statute, professional discretion, and information provided by the Pretrial Assessment Unit. At initial arraignment, the judge may decide to release a defendant on their own recognizance or to Pretrial Monitoring regardless of the Pretrial Services recommendation, overrides, or automatic holds.

San Joaquin County Judges indicated they appreciate having the risk scores and the additional information Pretrial Services provides for the arraignment. Many stakeholders indicated the judges follow pretrial recommendations, particularly when the recommendation is for detention. While these data were not available, CJI observed judges in court and they stated on record that the bail would not be adjusted due to the risk score.

Several judges expressed an interest in learning more about how the VPRAI is scored to better understand the risk score and recommendation.

Recommendations

- Pretrial assessment staff inform defendants that the interview is voluntary and discuss how the information the defendant provides will be used. If a defendant refuses to participate in the interview, policy dictates they will receive a detention recommendation. Pretrial assessment staff should continue to explain the pretrial risk assessment process. Probation may consider revising the policy that defendants who do not participate in the interview receive a detention recommendation. Per the NAPSA release standards, defendants should not be excluded from consideration for the program if they decline the interview.¹¹
- Based on policy alone, the majority of assessed defendants receive a detention recommendation, indicating detention recommendations are not the limited exception, as suggested by legal framework,¹² but instead normal practice. San Joaquin should review the VPRAI release policies and consider expanding the criteria to release more defendants. In particular, the County should consider revising the automatic detention recommendation in policy and determine how the VPRAI can be used to determine appropriate interventions to mitigate pretrial failure risk within the community.
- Overrides may not be achieving the intended results. More than half of released defendants with overrides are released post-arraignment on their own recognizance without monitoring. The Probation Department should review the override criteria and determine whether the policies can be adjusted to release individuals pre-arraignment rather than post-arraignment.
- Judges and other stakeholders requested additional information on the risk assessment. Pretrial Services may have the opportunity to present to the Judiciary and attorneys on pretrial best-practices including the use of a risk assessment. This presentation should include the development of the VPRAI, what is included in the assessment, how the risk score is calculated, and how it informs policy.
- CJJ recommends tracking overrides. In addition, concurrence rates should be tracked to determine whether interventions are more (or less) severe than what Pretrial Services recommended.

¹¹ National Association of Pretrial Services Agencies. (2019). Standards on pretrial release, fourth edition. Washington, DC.

¹² American Bar Association. (2007). Standards for criminal justice: pretrial release, third edition. Retrieved from https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_pretrialrelease_toc/

Defendants Released on Pretrial Monitoring

When a defendant is booked in the jail, they are screened to determine eligibility for pretrial monitoring or release on their own recognizance. Many defendants charged with misdemeanors will be released on their own recognizance without pretrial monitoring. Most defendants also have the option to post a monetary bail amount, which is based on a bail schedule. Very few offenses are not eligible for bail.¹³

The Pretrial Assessment Unit recommends pretrial monitoring when defendants score a 0, 1, 2, or 3 on the VPRAI. However, defendants may be placed on pretrial monitoring by a judge regardless of their risk score or charges. There are four types of pretrial monitoring: court reminders only (VPRAI score 0), basic (VPRAI score 1), enhanced (VPRAI 2), and intensive monitoring (VPRAI 3). The majority of defendants were placed on enhanced (42%) or intensive (46%) monitoring.

All defendants placed on Pretrial Monitoring receive court reminders. During intake, Pretrial Monitoring staff ask defendants the preferred method (i.e., call, text, email, letter) to receive court reminders. Staff will then provide court notifications through the preferred method prior to each court hearing. This practice is a strength as research indicates court reminders can increase court appearance rates.¹⁴

As displayed in Figure 14, the majority of defendants who scored a 0 to 3 were placed on the level of monitoring recommended for their risk score. Those who were released and scored a 4 or more were typically placed on either enhanced or intensive supervision.

Figure 14: Monitoring levels match VPRAI recommendations for the majority of defendants

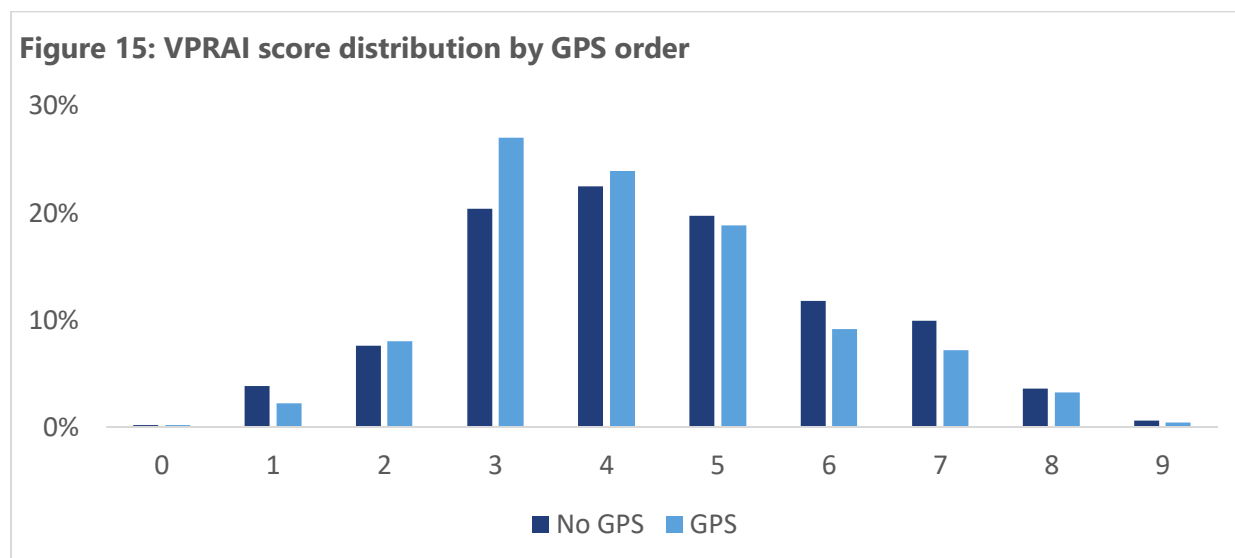
Score	Score Matches Level of Monitoring
0	85%
1	82%
2	83%
3	72%

Pretrial staff are permitted to request drug tests, but only when necessary. Pretrial Services recognizes drug testing is not a proven risk reduction strategy and drug testing has the potential to increase the likelihood of technical violations. Therefore, policy indicates that drug tests should be used "sparingly."

¹³ California Penal Code § 1270.5 prevents anyone charged with an offense punishable by death to be admitted to bail. The San Joaquin bail schedule also indicates escape and attempted escape are not allowed bail.

¹⁴ Bechtel, Lowenkamp, Holsinger, and Warren. (2016). A meta-analytic review of pretrial research: Risk assessment, bond type, and interventions. *American Journal of Criminal Justice*, 42(3), 443-467.

Defendants with a risk score of 3 are recommended for intensive pretrial monitoring with GPS post-arraignment. However, no matter the VPRAI score, any defendant can be placed on GPS by a judge. The average VPRAI score for those placed on GPS was 4.23 and 4.43 for those who were not. Figure 15 demonstrates the score distribution for those who are ordered to GPS, versus those who are not.



Failure rates are similar for those on GPS and not on GPS, so GPS may not have the anticipated impact on pretrial success. This finding is not surprising as research has not determined that electronic monitoring is a successful intervention in reducing pretrial failure.¹⁵

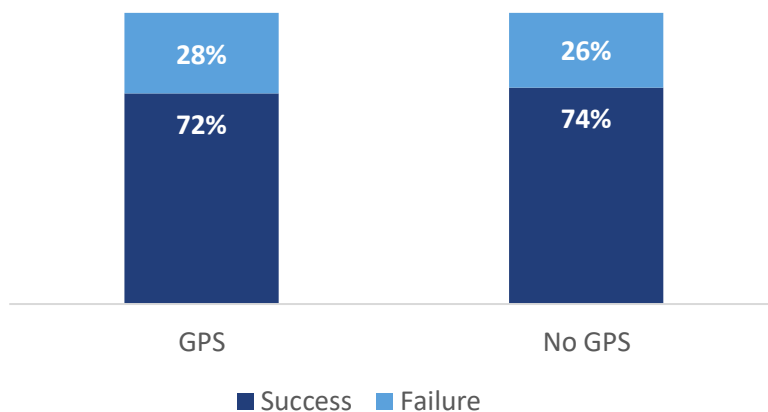
The GPS policy was a point of contention among many stakeholders. Defendants ordered to GPS are passively monitored, meaning staff are only observing location restrictions during business hours. If a defendant were to visit a victim's home (which is prohibited by the location order) on a Friday evening, pretrial staff would not know until Monday morning. Not only are those on GPS passively monitored, but only a small percentage of defendants have location requirements. During a site visit, one probation officer in the Pretrial Monitoring Unit indicated he had approximately 70 defendants on GPS and only 12 had location restrictions. This means 58

¹⁵ Bechtel, Lowenkamp, Holsinger, and Warren. (2016). A meta-analytic review of pretrial research: Risk assessment, bond type, and interventions. *American Journal of Criminal Justice*, 42(3), 443-467.

defendants on this officer's caseload had an ankle monitor, but no restrictions on where they could go.

Home visits are allowable by policy, yet Pretrial Monitoring Officers (who are commissioned Probation Officers) indicated during interviews in 2018 that they do not conduct these visits. While research is needed to indicate whether home visits effectively mitigate negative outcomes, some staff expressed frustration at not being able to complete these visits when they are allowed by policy.¹⁶

Figure 16: Success and failure rates are similar for those on GPS and those who are not



Recommendations

- While the Probation Department recognizes supervision should follow the risk principle, some interventions placed on defendants may not follow the 'least restrictive conditions' guidelines necessary for the defendant to appear in court and not obtain new charges. The Probation Department should review the reporting requirements for defendants to ensure the least restrictive conditions are placed on the defendant. In particular, the Department should only recommend GPS when it will assist in ensuring public safety or court appearance.
- Following pretrial best practices, the Pretrial Monitoring Unit provides court reminders to all defendants placed in the program. The program is responsive to the defendant's preferred method for reminders. To reduce failures to appear and unnecessary delays in the court process, court reminders should be provided to all defendants in San Joaquin regardless of participation in the Pretrial Monitoring program.

RECOMMENDATIONS

San Joaquin County adheres to national pretrial best practices in many ways. Pretrial Services uses an actuarial pretrial risk assessment to inform the release recommendation, staff score the assessment consistently and accurately, and the majority of pretrial recommendations tailor conditions of release to an individual's risk of pretrial failure. Pretrial Assessment Unit staff are available 24-7 to screen defendants as they are booked into the jail, which allows eligible defendants to be released as soon as possible. The San Joaquin Probation Department has also

¹⁶ The Probation Department indicated they were understaffed at the time of the interviews and have since hired another officer and are completing home visits.

worked to create strong relationships with the Sheriff's Office and communicates with stakeholders to increase the effectiveness of the pretrial system.

In an effort to continually improve pretrial practices, the County asked CJI to identify areas for potential improvement for Pretrial Services. After analyzing the data, CJI recommends the following:

1. Identify ways to maximize the number of cases in which judges and attorneys have sufficient information to make an individualized bail determination at arraignment. Not only will this provide the Judiciary with more information for the release decision, but if the defendant is released, he or she may be matched with appropriate interventions in the community.
2. Use statistical analysis to examine the VPRAI risk levels, determine whether risk is appropriately identified for the population, and adjust if needed.
3. Probation should consider revising the policy that defendants who do not participate in the interview receive a detention recommendation. Per the NAPSA release standards, defendants should not be excluded from consideration for the program if they decline the interview.¹⁷
4. Review the VPRAI release policies and expand the criteria to release more defendants. In particular, the County should review and revise policy to follow the legal framework and presume release while using detention as an exception.
5. Review override criteria and determine whether the policies can be adjusted to release individuals pre-arraignment rather than wait for the arraignment hearing.
6. Present to the Judiciary and attorneys on pretrial best-practices including the use of a risk assessment. This presentation should include the development of the VPRAI, the contents of the assessment, how the risk score is calculated, and how it informs policy.
7. Track overrides and track concurrence rates to determine whether interventions are more (or less) severe than what Pretrial Services recommended.
8. The Probation Department should review the reporting requirements for defendants to ensure the least restrictive conditions are placed on the defendant. In particular, the Department should only recommend GPS when it will assist in ensuring public safety or court appearance.
9. Court reminders should be provided to all defendants to reduce failures to appear and unnecessary delays in the justice system.

¹⁷ National Association of Pretrial Services Agencies. (2019). Standards on pretrial release, fourth edition. Washington, DC.

APPENDIX A: IDENTIFYING VARIABLES

Dataset Identifiers						
Identifier	Risk Assessment Data	District Attorney Data	Judiciary Data*	Booking Interview Data	Sheriff Data*	Pretrial Services Unit Data*
Probation ID	Exists			Exists		Exists
FCE_caseno		Exists	Exists			Exists
IPID	Exists		Exists		Exists	Exists
BookingNumber	UNIQUE			UNIQUE**		
PoliceReference			Exists			
PretrialCaseNumber	UNIQUE					
PersonID		UNIQUE				
BookingID					Exists	
CJIS CaseNum					Exists	
CII	Exists				Exists	

* No unique ID

** Unique after reformatting

APPENDIX B: DATA COLLECTION

Data requests were submitted to the San Joaquin Sheriff's Office, Judiciary, and Pretrial Services. All three agencies responded to the requests, providing files with case-level data needed to evaluate the various Pretrial Services decision points. The case-level data included:

- Demographic information (race, sex, employment status, and marital status)
- Booking records (booking date, time, arresting agency, reason, and charges)
- Risk assessment data (assessment date, time, and risk score and level)
- Release records (release date, time, and reason)
- Pretrial monitoring data (level of monitoring and overrides)

APPENDIX C: STUDY DESIGN

Several data files were received from San Joaquin Sheriff's Office, Judiciary, and Pretrial Services that were merged to create three datasets for analysis. These are described below.

Dataset 1 – Bookings, Assessments, and Releases

Booking, assessment, and release data were included in three separate files that were merged into one.

Two booking records files were provided by the Sheriff's Office: 1) "Sheriff CUSINS Booking 2012-2018" and 2) "San Joaquin County Pretrial System Assessment 2012-2017". Each booking record in the files included identifying variables (booking number, IPID, CII, and case number), demographics (race, sex, date of birth, education, marital status), booking charges, court charges, booking date and time, booking reason, release date and time, release reason, and arresting agency.

The first file, "Sheriff_CUSINS Booking 2012-2018" contained booking records at the case level. This file contained 230,494 records which after initial analysis revealed the following:

- There were occasionally multiple case numbers, booking times, and booking reasons associated with single booking ID. Contacts from the San Joaquin County Sheriff's Office confirmed that the earliest booking time was the individual's actual booking time, so when multiple records were associated with a single booking, variables associated with the first booking time were used in the analysis.
- There were often multiple cases, release times, and release reasons associated with a single booking. Contacts from the Joaquin County Sheriff's Office confirmed that the latest release time was the record that was associated with an individual's physical release from jail, so when multiple release times and reasons were associated with a single booking, variables associated with the last release time were used in the analysis.

The second file, "San Joaquin County Pretrial System Assessment 2012-2017" contained records of assessments, organized at the booking level. This file contained 136,834 records.

- Booking and court charges were each condensed into one column in the original data, so they were split into multiple columns to allow for matching at the individual charge level.
- Some ID variables were not formatted consistently when compared to datasets from other sources, so they were cleaned for consistency to facilitate merging.

The two files were filtered to merge by booking number, resulting in 135,280 matches at the unique booking level. Then, the files were split into two data subsets – one containing booking charges and one containing court charges. Each file was restructured such that each charge/booking combination would exist as its own record (i.e., each booking record with multiple

charges would be repeated once for each charge) to allow for matching by charge statute. Then, the file was merged with a file that contained a directory of charge types, sub-types, and degrees based on California statutes. This allowed for further analysis of the charges at booking and filed at court.

Once merged, each file was again flattened to the booking level, summarizing the data to maintain the initial booking time and type, the most severe charge type and degree, and the final release time and type, as well as the various demographic and identifying variables. The data sub-set used to analyze bookings, assessments, and releases is the Sheriff's data by booking charge, which also contained 135,280 individual bookings. The Sheriff data by court charge was used to determine whether charges recorded at booking were eventually filed in court, or whether they were dropped. This file was then filtered to bookings that occurred after the pretrial policy implementation date of 10/27/14, resulting in 70,180 unique booking records used in the analysis.

Once the Sheriff booking data were cleaned, merged, and flattened, the following variables were calculated and appended to the dataset:

- Length of stay (time between booking and release)
- Booking year (the year extracted from the booking date, used for analyzing data by year)

The third file was received from the Probation Department, and contained risk assessment data, which included identifying variables (probation ID, IPID, CII, pretrial case number, booking number), demographics (race, sex, date of birth), booking date and time, domestic violence holds, assessment date and time, risk score, risk value, and charges.

This file was unique at the assessment and booking levels (25,085 records, 21,174 in the post-implementation period), and was able to be merged directly into the Sheriff booking data by booking number. All records that were present in the Sheriff data set were kept, regardless of existing matches in the assessment data set, resulting in the same number of records (70,180). The ratio of booking numbers with matches in the assessment data booking numbers that only existed in the booking data was used to calculate the assessment rate. After removal of duplicates and records with missing information, this resulted in a total of 21,021 assessment records.

Once merged with the Sheriff's data, the following variables were calculated and appended to the dataset:

- Whether the individual was assessed
- Time between booking and assessment

Dataset 2 – Attorney Information

Attorney information was provided in a single file ("Defense Attorney_Court Data Revised.xlsx"). This dataset consisted of two case-level identification variables (FCE case number and a longer version of the FCE case number), a person ID, an attorney/client ID, the attorney's assignment type (public defender, court appointed, or private), and the attorney's start date. None of these IDs were unique, but each case's attorney history could be determined.

Case-level attorney history was determined by comparing the attorney start dates with various key dates, in this analysis release date. Release dates from the booking dataset were matched with cases in the attorney dataset by FCE case number. Attorney upon release date was determined by filtering this dataset to records where the attorney's start date was before the release date, and then defined as the type of last type of attorney whose start date was prior to release.

FCE case numbers were not consistently formatted across all datasets (specifically with regards to leading zeros), leading to a significant number of unmatched cases even after attempts to make the formatting more consistent. Attorney information could be matched in 7,155 cases (10.2% of the total). It is not possible to determine to what degree this is due to data quality versus defendants simply not being assigned attorneys at any point in their case.

Dataset 3 – Pretrial Monitoring Information

The third dataset used in this analysis was provided by the Pretrial Program in a single file (FTA_Data.xlsx). This file contained 8,363 records maintained manually by the pretrial program. This file has its own unique identified column ("County"), but also provides the probation ID ("A#") the FCE case number ("Court Case #"), and the assessment date. Unfortunately, formatting issues make this information difficult to match to other data. For example, in some cases two case numbers are entered on the same line whereas at others the record is repeated for each case. In many cases trailing zeros in case numbers are left off, resulting in ambiguous case numbers that could be linked to multiple records in other files. There were 1,333 (16%) cases that had missing case numbers entirely. Of the remaining 7,030, 79% had case numbers that were formatted consistently with other datasets (CR-YYYY-###[##]).

Two additional files were used to match the pretrial data to other records: A cross reference file ("Case Number Cross Reference.xlsx") provided by the court and records of assessment responses ("Assessments Responses.csv") provided by the pretrial program. Both these files contain a unique pretrial case number that does not exist in other datasets, but uniquely identifies each pretrial assessment. They also each contain the probation ID and FCE case numbers. The assessment records include the assessment date.

Records from the case number cross reference and the assessment responses were matched using the pretrial case number, creating a list of FCE case numbers, pretrial case numbers, booking numbers, probation IDs, and assessment dates.

Due to inconsistencies in the pretrial data set, two different merge strategies were utilized. First, assessment records were matched to the pretrial data using FCE case numbers. Second, assessment records were matched to the pretrial data using a combination of assessment date and probation IDs, resulting in two datasets. These datasets were then combined and duplicates were identified and deleted using a combination of pretrial case numbers, probation IDs and assessment dates. This resulted in 4,189 records (50% of the original file) with any matching data in other datasets. Of these records, matching pretrial case numbers could be found in 3,337 assessment and booking records.

APPENDIX D: ELIGIBILITY AND ASSESSMENT RATE RE-CALCULATION

CJI initially calculated a pretrial risk assessment rate as part of the San Joaquin County pretrial and system assessment reports to quantify the scope of the pretrial program relative to the number of bookings. The assessment rate was calculated by taking the total number of assessments from January 1, 2016 to December 31, 2017 and dividing it by the total number of bookings during the same period, yielding a 30% assessment rate. However, this rate did not address whether Pretrial Services assessed all the individuals who were eligible under their criteria. Specifically, the Probation Department indicated that to focus their resources, policy requires that Pretrial Services only perform risk assessments on defendants with:

- New felony charges
- New misdemeanor domestic violence charges
- New misdemeanor sexual offense charges
- New misdemeanor child abuse charges
- New misdemeanor elder abuse charges
- New misdemeanor DUI charges with a prior DUI in the past 10 years
- Any new misdemeanor charges and 5 or more prior failures to appear (FTAs)

All other defendants are cited and released on their own recognizance.

Because the number of eligible defendants is smaller than the total number of defendants, San Joaquin County's Pretrial Services team was concerned that the 30% assessment rate did not accurately reflect the assessments done as part of their program. Pretrial Services also noted that the calculation should not include bookings prior to full implementation of their pretrial program on July 1, 2016.

To address these concerns, CJI performed additional analysis to estimate the portion of *eligible* defendants who received assessments, as opposed to the entire population. CJI excluded defendants booked before July 1 2016. Further, the pool of defendants was limited to those with new charges, and CJI reviewed the charges listed at booking to determine which would be eligible for risk assessments. This process was straightforward for felony and most eligible misdemeanor charges: all felonies were included as well as misdemeanor charges that clearly indicating domestic violence, a sex offense, child abuse and/or elder abuse. While CJI did not have access to the full case history necessary to directly determine whether a defendant had a DUI in the past 10 years, defendants with prior DUI convictions and new DUI charges have automatic enhancements applied to their case. These automatic enhancements have the same 10-year lookback as the pretrial risk assessment eligibility criteria, so all these enhancements were also included in the eligibility criteria.

There was no way to determine whether an individual had five or more prior FTAs with the data supplied by San Joaquin County. This means that the re-calculated assessment rate may be higher than it would be if these criteria were included.

The re-calculated assessment rate for eligible defendants as defined above is 72%, and 71% for felony defendants. Broken down by year, the assessment rate was 70% in the last 6 months of 2016 and improved in 2017 (73%).

CJI also performed several checks to ensure that data collection inconsistencies were not driving this result. The methods used to calculate the assessment rate were vulnerable to two distinct errors:

1. The booking and assessment data were from two different data sources. The sheriff's department provided booking data and the probation department provided assessment data. These datasets had different unique identifiers, so matching them required a key. If a significant portion of the assessment records could not be matched to booking records, it would indicate that the assessment rate was biased downwards due to a failure to consistently match assessment records to booking records.

To address this issue, CJI examined the number of assessments dropped when merging the two data files together (assessments were dropped when a matching booking record could not be found) and determined that this occurred in less than 0.1% of cases. This means that unmatched assessment records have a very small impact on the overall assessment rate.

2. CJI classified charges as eligible or ineligible manually using the charging statutes included in the booking file. If there were inconsistencies in how these charges were listed in each individual booking record, it could lead to eligible charges being missed, biasing the assessment rate upwards.

To address this issue, CJI examined how many bookings were not classified as eligible or ineligible and found that this occurred in 0.2% of cases. This means that inconsistently entered charging information had a minor impact on the overall assessment rate.