

Pretrial Justice Network Meeting Agenda

Thursday, February 25, 2021

9:00 am to 12:00 pm

Recording will be available

9:00AM - 9:15 AM Introductions

Present: Eric Anderson Clackamas County, Jessica Beach Yamhill County, Tom O'Connor, Bernadine Marcom Yamhill County, Bruce Tarbox Clackamas County CIDC, Melanie Davis Clatsop County, Allan Palmrose Clatsop County, Adam Griswold Clatsop County, Valerie Adrian Clackamas County, Chris Owen Clackamas County DA, Debbie Spradley Clackamas County Court, Sami Harrington Yamhill County, Shannon Wilson Clackamas County CIDC, Larry Evenson Yamhill County, Stephanie LaCarrubba Multnomah County, Lindsay Thrower Multnomah County, Hank Lobo Columbia County, J.T. Combs Deschutes County, Jeremy Joul Benton County, Jeffrey Hoey Lincoln County, Michael Weinerman CJC, Jessica Roeser OJD DA, Kim Choquette Clackamas County, Lee Eby Clackamas County Jail, Matt Meier Marion County, Kristen Hanthorn Clatsop County, Shane Curry Yamhill Court, Jeremy Jewel Linn County, Larry Evenson Yamhill County, Marie Gainer Lincoln County, Renae Cowan Clackamas County, Nicole Ricker Clackamas County, Cassandra Hernandez Multnomah County, Jodi Merritt Polk County, Chris Owen Clackamas County DA, Karla Upton Multnomah County, Michelle Tabern Yamhill County, Chris Campbell PSU, Kelsey Henderson PSU, Rick Hathaway Multnomah County, Vanessa Marion County, Silas Miers Five Point Solutions, Jim Kellenberg Lincoln County, Andrew Powell, Crystal

9:15 AM -10:15 AM Odyssey Pretrial Dashboard Presentation (Jessica Roesner and Gregory Montgomery, Oregon Judicial Department and Tom O'Connor, CEO, Transforming Corrections)

Only available for OJD staff at this time, not publicly available.

Hearings based program, information from 1/1/2017 forward.

Pilot for criminal cases for Josephine County for court reminders. Has opt in and opt out option.

Several counties interested in access of the program, agreement needs to be made with courts and data validated.

Daily jail data files to Jessica Roeser: jessica.c.roeser@ojd.state.or.us

Reporting Dashboards @ OJD eStats Sharepoint Site

1. Pre-Trial Release

- Case Summary of Pre-Trial Release Hearing Outcomes
- New Offenses Pre-Trial
- Pre-Trial Release Hearing Outcomes by Release Type and Offense Type
- Pre-Trial Release Hearing Outcomes by Hearing Type
- Pre-Trial Release Attorney Caseloads

2. Post-Disposition Release

- Case Summary of Post-Disposition Release Hearing Outcomes
- New Offenses After Probation Violation Hearing
- Post-Disposition Release Hearing Outcomes by Release Type and Offense Type
- Post-Disposition Release Hearing Outcomes by Hearing Type

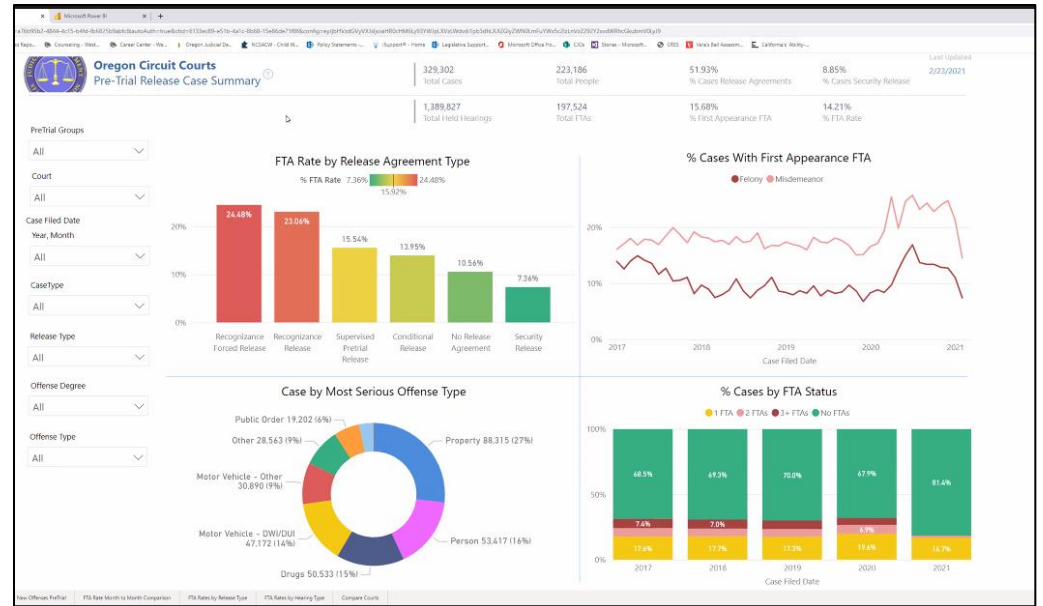
3. Hearings & Workload

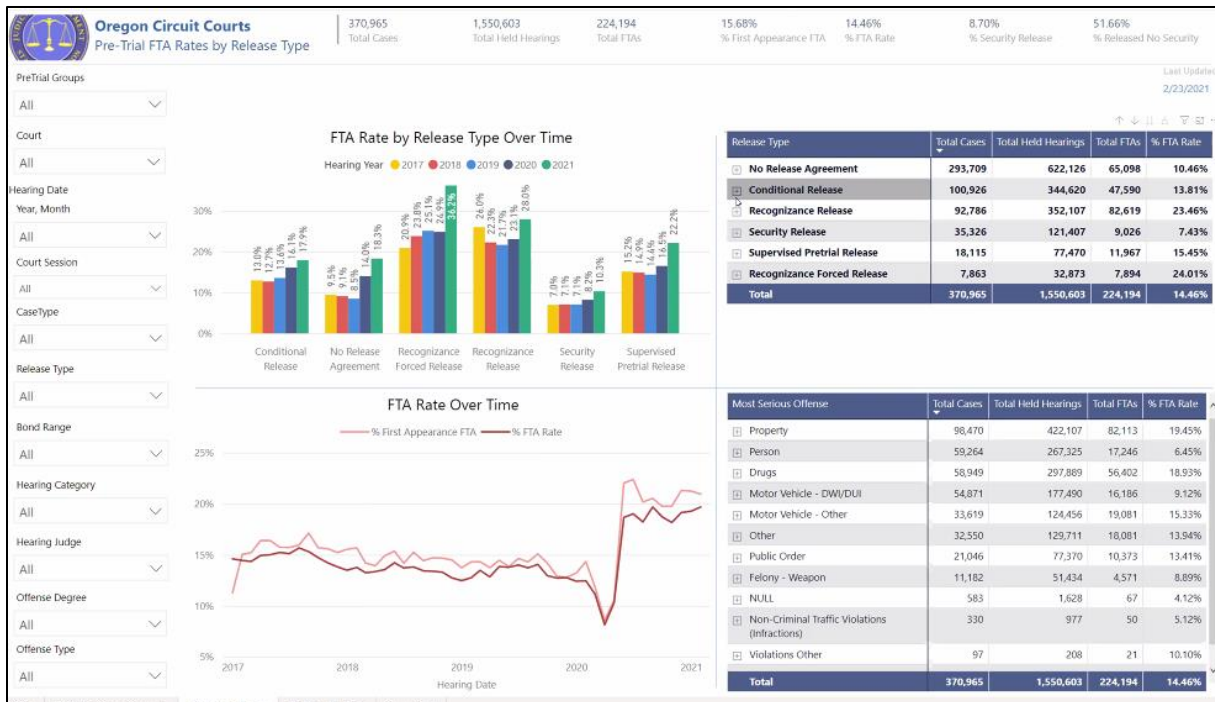
- Case Summary
- Held Hearings Summary
- Held Hearings Detail
- Judicial Workload (Hearings by judge, time on the bench, etc.)
- Rescheduled (Reset/Continued) or Cancelled Hearings
- Future Scheduled Hearings
- Statewide Summary of Hearings Held, Rescheduled, or Cancelled

4. Case/Person Search by SID or Name

(Any defendant who had a hearing held on or after January 1, 2017)

- Summary of number cases, hearings held, FTAs, and active warrants





10:15 AM - 10:30 AM

Break

10:30 AM – 11:10AM

Pretrial Study Phase II results (Dr. Christopher Campbell, Dr. Kelsey Henderson and Dr. Brian Renauer, Portland State University)

Understanding Decisions to Detain

Phase II Aim: **Understanding decisions to detain**

1. Statewide survey for **county process** descriptions
2. Interviews to “**unpack**” **decision-making** in pretrial detention and sentencing
3. **Additional quantitative collection** including secondary criteria to assess extent of pretrial detention effects

Secondary release criteria

- Employment & financial status
 - Nature of family relationships
 - Stable residence
 - Person willing to assist defendant appear in court
 - Strong ties to the community
- And beyond? – e.g., Jail capacity

Understanding Decisions to Detain

Study participants (interview and/or survey)

	Counties Represented of 36	Circuits Represented of 27	Jail/Sheriff or Probation/DCJ or Pretrial-Specific Staff	Judges	Defense Attorneys	Prosecutors
Urban/ Metro	12	12	18	16	5	4
Rural/ Non-metro	19	15	11	11	4	2
Total	31	27	29	27	9	6

1. **Interviews** with legal actors across the state
 - Example questions (judge): Could you walk us through the typical pretrial process (i.e., the decision to release/detain) in your jurisdiction? How do you define risk? What are you concerned about?
2. All interviews **transcribed**
3. **Coding** to uncover **major themes** in responses (e.g., “jail capacity”)

Pretrial Structures

Three core types of pretrial structures across the state: Type A, B, and C

- A. Rely on bail and law enforcement contacts to serve as release and monitoring mechanisms
- B. Partnership where executive branch personnel take over role of releasing and monitoring pretrial defendants
- C. Fewest jurisdictions, OJD pretrial personnel is release officer, or a joint venture between the sheriff's office and the courts.

Each has advantages and disadvantages

- Type B and C most efficient in monitoring pretrial defendants, and collecting/supplying more information (i.e., secondary release criteria) to courts for pretrial decision-making
 - Efficiency can be key for pretrial detainees and suppressing jail issues
- All must identify a baseline aim of the position
 - Err on release (i.e., looking for reasons to keep a defendant)
 - Err on detention (i.e., looking for reasons to release a defendant)

Moving to Risk-Based Decision-making

Pretrial Programs by County Type

	Pretrial program		No pretrial program	
	Monitoring	No monitoring	Monitoring	No monitoring
Rural / Non-metro	4	1	0	12
Urban / Metro	10	0	0	2
	Delegated	No Delegation	Delegated	No Delegation
Rural / Non-metro	4	1	7	5
Urban / Metro	10	0	1	1

Moving to Risk-Based Decision-making

Primary Factors used in Determining Release Ranked by Presence of Pretrial Program

Factor	Number of times factor ranked in "Top 3"		
	Overall	Pretrial program	No program
Criminal history	10	4	6
Pretrial risk level	9	6	3
Abscond history	8	3	5
FTA history	7	6	1
Victim statement	7	4	3
Police report	6	4	2
Out-of-state criminal history	4	2	2
PC affidavit	3	0	3
Protect order history	3	1	2
Supervision history	1	1	0

Factors that Affect Decisions

- Judges and release authorities consider primary and secondary release criteria, local jail capacity, and alcohol/drug and mental health concerns.
- Primary release criteria are most important and include FTA worries, public/victim protection, criminal history, and crime type.
- Most important secondary release criteria are stable residence/community ties.
- Judges and release authorities lack secondary release information unless provided by pretrial officers or risk assessment tools.

"...On the risk to the community side, you know, what's their record look like. How often have they done this kind of crime? What's the nature of the crime? Do they have a prior?
Especially if it's a person crime; those are the ones I'm most concerned about... I mean ***if all you ever do is trespass or, you know, you're taking somebody's money*** or taking stuff out of the garage, stuff like that, ***it's not exactly high risk***. I mean, it might be high recidivism, but the risk of harm is just money. ***That's different than somebody that hurt people and has a history of hurting people*** and maybe has a history of running from the law, and being willing to risk hurting people..."

Factors that Affect Decisions

Focal Concerns Identified as "Very Important" by Judges

Focal Concerns (FC)	Quotes within FC	Very Important	
		Count	Percent
Primary release criteria			
Public/victim protection or safety	142	41	29%
Crime type	249	51	20%
Criminal history	143	41	29%
Failure to appear	263	82	31%
Secondary release criteria			
Employment/financial status	97	14	14%
Social supports	56	6	11%
Stable residence or community ties	99	21	21%
Additional concerns			
Supervision history	90	12	13%
Bail and security	212	5	2%
Risk assessment	190	12	6%
Jail capacity	112	12	11%
Pretrial recommendations, supervision, and conditions	336	21	6%
Substance abuse, addiction, treatment, resources	131	5	4%
Mental health, resources, evaluation, treatment	97	2	2%

Pretrial & Sentencing Relationship

- When afforded pretrial release, the defendant's **opportunity to prove success** on supervision may be a key factor in probation disposition.
- The psychological weight of **jail pushes defendants to accept guilty pleas that include prison time** the longer someone stays in jail.
- That a defendant is in pretrial detention at the time of disposition may be **meaningful in how judges view the dangerousness** of the defendant.
- Cases deemed "**prison presumptive**" according to the sentencing guidelines **weigh heavily on some judges** in making disposition decisions.

"I guess one theory might be that **people who are released pre-sentencing have an opportunity to correct issues which may have brought them before the criminal justice system**. So, if you have somebody who's on pretrial release for several months, they've **completed an inpatient treatment program**, they've **become employed**, that kind of thing. You know, it could have some impact. I guess there is some potential that they could fix some of the problems if they're out, that they would not be able to fix if they're in."

Risk Assessment

- 13 of 31 counties** report using some risk assessment.
- Although risk assessment is viewed favorably and important for pre-arraignment releases by authorized personnel, **risk scores rarely weigh heavily into judicial decision-making**.
- There is greater interest in a "**pretrial package**" associated with risk assessment; e.g., a **pretrial officer who obtains secondary criteria info and provides monitoring** upon release.
- Training on risk assessment is minimal at best** and represents a deficiency the state should help address.

"I'd like to see a **uniform risk assessment**, but I'd also like to still see some **individual argument or statement or presentation made about that particular person**. So, I don't want to just look at a number...and they score a 9/10 on risk assessment without having any other dynamic at all. I don't want to make a decision just based on the number...I prefer more about a person..."

"It would really help to have a release officer. And that is **someone to actually go and interview offenders at the jail and gets information from them**...and reports that information to the court. And part of that could be inclusive of a risk assessment..."

Cash Bail and Bail Reform

- Most counties use a "**standard bail schedule**"; largely similar across counties in the state.
- Judges are **open to transitioning** from financial-based release to **risk-based release**.
- Cash bail is perceived as a tool**; sometimes the only option for release for some defendants.
- Prosecutors questioned "**replacement**" to cash bail, and what will ensure "**skin in the game**".

"**Bail whether it's high or low, kind of a nonissue for most of our indigent clients**. Like they're not, most of them are never going to be able to post bail, **so I know the abolition of cash bail is kind of a sexy thing right now**, but, ...**I encourage you to think carefully about what it would be replaced with** because for all the reasons that, you know, **our indigent defendants of color don't have the things that judges like for pretrial release** and tend to have the things that judges don't like for pretrial release, **if you eliminate cash bail and replace it with something that focuses more on all that same stuff...like that's going to be just as harmful** as the current system, if not more so..."

Adaptations Due to COVID-19

- **Jail capacity big factor**; reduce jail populations through cite and release and forced releases.
- **Mixed relationship to FTA**; lack of repercussions for FTA has negative effect, but **virtual proceedings may curb some accessibility issues**, with possible positive effect.
 - Related to available resources
 - Possible charge banking
- **Pretrial program may have assisted** counties in meeting challenges of COVID-19.

"I don't know what I would have done in our jail if we didn't have pretrial during COVID... First time I had ever heard the word social distancing, first time I had ever heard we need to release everybody in jail, we need to start downsizing the jails, this pandemic is going to kill people and it's going to start with the jails... And then I went right to [pretrial service officer] and I said, how many people do we have in jail that you can do release agreements on and you can help me downsize the jail population."

Project Key Findings

1. Information collected
 - a. Secondary release criteria info contextualized in brief justification
 - b. Reliability is critical in collecting this information
 - Trust between actors is critical regarding this information
 - c. Risk assessments are important, but ought to be tested (validated), trusted, coupled with training
2. Jail capacity is often a major factor for many counties (especially for females)
3. Self-study
 - a. Cash bail reform might be coming – know baseline information
 - b. COVID-19 changes – Monitor FTAs and public safety measures
 - c. What worked well (virtual/call-in arraignments)?
 - d. Charge stacking/banking (especially with misdemeanors)?
4. Issues with MH/SA should consider partnering with DHS
 - a. Helps to ensure defendants can maintain health care (e.g., Medicaid)
 - b. Triage services or alternative stay places (e.g., inpatient/hospitals)

Next Steps

- Quantitative data analyses
 1. Expansion of Phase 1 analyses (9 counties) to statewide data
 2. RQ- What quantitative factors best predict the likelihood of:
 - a. Pretrial detention
 - b. Failure to appear
 - c. Failing pretrial release supervision
- Validation studies
 1. Gauging interest from counties
 2. Counties using the VPRAI or PSC in pretrial decision-making
 3. Data needed from counties?

Questions

Christopher M. Campbell
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Kelsey Henderson
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Brian Renauer
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11:45 AM - 11:55 AM

Pretrial Justice Executive Team Appointments (1-year terms July 1 – June 30)

- **Chair:** Stephanie LaCarrubba
- **Co-Chair:** Eric Anderson
- **Membership Coordinator:** Karla Upton
- **Secretary:** Sami Harrington

11:55 AM - 12:00 PM

Next meeting agenda items

- Roundtable
- Risk assessment validation

Next Meeting:

May 27th 2021 – 9 AM to 12 PM