

# MILWAUKEE COUNTY'S PRETRIAL RELEASE DECISION PROCESS & PRETRIAL SERVICES RE-DESIGN

PRESENTED TO THE MILWAUKEE COUNTY  
COMMUNITY JUSTICE COUNCIL  
JULY 24, 2013



## WHY DID WE RE-DESIGN OUR SYSTEM?



American Bar Association Standard 10-1.1 “The law favors release of defendants pending adjudication of charges.”

National District Attorneys Association Standards on Pretrial Release 45.2.1 “Whenever possible, release before trial should be on the recognizance of the accused”... “Reliance on money bail should be discouraged and be required only in those cases in which less restrictive conditions will not reasonably ensure the defendant’s appearance.”

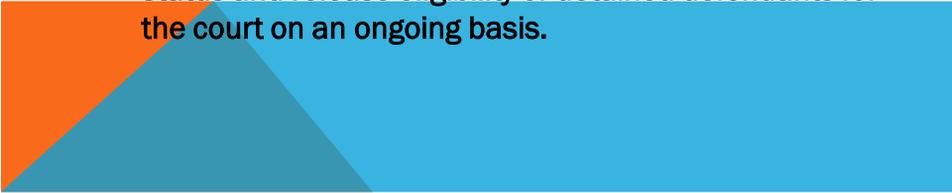
National Association of Pretrial Services Agencies Pretrial Release Standard 1.2 “In deciding pretrial release, a presumption in favor of pretrial release on a simple promise to appear (i.e., release on “personal recognizance”) should apply to all persons arrested and charged with a crime..”

## **NAPSA PRETRIAL RELEASE STANDARD 1.2**

When release on personal recognizance is deemed inappropriate, the judicial officer should assign the least restrictive condition(s) of release that will provide reasonable assurance that the defendant will appear for court proceedings and will protect the safety of the community, victims, and witnesses pending trial. The court should have a wide array of programs or options available for use in assigning such conditions, and should have the capacity to develop release options appropriate to the risks and special needs posed by defendants who are released to the community.

**AMERICAN BAR ASSOCIATION PRETRIAL RELEASE**

**STANDRDS10-1.10(a) & NAPSA STANDARD 1.3** Every jurisdiction should establish a pretrial services agency or program to collect and present the necessary information, present risk assessments, and, consistent with court policy, make release recommendations required by the judicial officer in making release decisions, including the defendant's eligibility for diversion, treatment, or other alternative adjudication programs, such as drug or other treatment courts. Pretrial services should also monitor, supervise, and assist defendants release prior to trial, and review the status and release eligibility of detained defendants for the court on an ongoing basis.

**2009 MILWAUKEE COUNTY JAIL POPULATION  
STUDY**

- One day snap shot of pretrial population June 2009
  - Our average daily population was about 3200
  - 23% of our inmates had bail of < \$500
  - 9.4% of our inmates had bail of \$501-\$1,000
  - 46% of all jail bed days used by pretrial inmates
  - 2008-Pretrial inmates used 478,332 jail bed days
  - 10% reduction = 103,870 jail bed days saved
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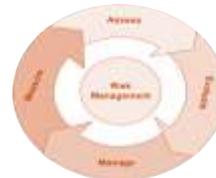
## CHANGES IN PRETRIAL LENGTH OF STAY IN DAYS OVER TIME-PRETRIAL RELEASES (2009-2011 APPLIED RESEARCH SERVICES JRI ANALYSIS)

	2009	2010	2011
FELONY	11	15	15
MISDEMEANOR	6	7	7
CRIMINAL TRAFFIC	4	5	7
ALL OFFENSE TYPES	7	9	9



### Applying EBDM to Pretrial Release & Detention Measuring & Managing Risk – What the Evidence Tells Us

#### ◆ Risk is Inherent in Pretrial Release



- Our system of justice DEMANDS that we take risk for most pretrial defendants
- Question is not IF we take risk – Question is “How well do we MEASURE risk and how well do we MANAGE it”
- Release and detention decisions focused primarily on the charge, not the risk posed
- Pretrial release and detention is often determined by resources not risk
- Enhancing public safety and being good stewards of public funds requires us to manage release and detention based on RISK
- Goal is to balance defendants legal rights with the need to protect the community, maintain the integrity of the judicial process, and assure court appearance

## Applying EBDM to Pretrial Release & Detention

### Shared Goal - Apply Evidence-Based Decision Making to Pretrial Release and Detention

- ◆ Enhance Public Safety
- ◆ Good Stewards of Public Funds
- ◆ Best Utilization of Limited and Precious Resources
  - Jail
  - Pretrial Services
  - Courts
  - Public Defender
  - District Attorney
  - Law Enforcement
  - Treatment Services and Community Resources



## Applying EBDM to Pretrial Release & Detention

### Measuring & Managing Risk – What the Evidence Tells Us

- ◆ Monetary bail does improve court appearance rates for higher risk defendants
- ◆ Monetary bail does not improve court appearance rates for low risk defendants and can have negative consequences
- ◆ Monetary bail does not improve community safety
- ◆ Implementing differential pretrial supervision strategies based on pretrial risk does improve pretrial outcomes
- ◆ Jurisdictions that employ court reminder notification procedures have significantly reduced FTA rates

## Applying EBDM to Pretrial Release & Detention

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### Measuring & Managing Risk – What the Evidence Tells Us

- ◆ **LAW** requires a defendant be released on the least restrictive terms and conditions reasonably necessary to assure court appearance and community safety
- ◆ **RESEARCH** demonstrates that if we follow the law we will achieve the best outcomes (and your shared goal)
- ◆ **PRAXIS** - puts the law & research into practice

*PRAXIS is a tool that puts theoretical knowledge and research into practice*

### RISK PRINCIPLE

- Moderate and higher risk defendants who were required to participate in alternatives to detention (ATD)\* pending trial were more likely to succeed pending trial
- Lower risk defendants who were required to participate in ATD pending trial were more likely to fail pending trial

TO ACHIEVE THE BEST OUTCOMES, PRETRIAL CONDITIONS & MONITORING SHOULD BE BASED ON A DEFENDANT'S RISK FOR PRETRIAL MISCONDUCT (FTA/NCA)



**Grid 4 - Felony-Risk of Injury (Excluding DV & non-OWI Homicides)**

Risk Levels	Bond Type [Range]	Supervision	Supervised Conditions
I	Personal Recognizance [High]	Enhanced	As Authorized
II	Cash [Moderate]	Enhanced	As Authorized
III	Cash [High]	Intensive	As Authorized
IV	Cash [High]	Intensive	As Authorized

**Grid 5 - Misdemeanor Operating While Intoxicated**

Risk Levels	Bond Type [Range]	Supervision	Supervised Conditions
I	Personal Recognizance [Low]	None	None
II	Personal Recognizance [Moderate]	Intensive	Random PBTs
III	Cash [Low]	Intensive	Random PBTs SCRAM Eligible
IV	Cash [Low/Moderate]	Intensive	Random PBTs SCRAM Eligible

**Grid 6 - Felony Operating While Intoxicated**

Risk Levels	Bond Type [Range]	Supervision	Supervised Conditions
I	Cash [Low]	Intensive	Random PBTs SCRAM Eligible
II	Cash [Low/Moderate]	Intensive	Random PBTs SCRAM Eligible
III	Cash [Moderate]	Intensive	SCRAM Mandatory
IV	Cash [High]	Intensive	SCRAM Mandatory

**Grid 7 - Felony Risk of Injury AND Felony Operating While Intoxicated**

Risk Levels	Bond Type [Range]	Supervision	Supervised Conditions
I	Cash [Low]	Intensive	Random PBTs SCRAM Eligible + As Authorized
II	Cash [Moderate]	Intensive	Random PBTs SCRAM Eligible + As Authorized
III	Cash [High]	Intensive	SCRAM Mandatory + As Authorized
IV	Cash [High]	Intensive	SCRAM Mandatory + As Authorized

**NOTE: The Praxis does NOT apply to the following: 1) Non-OWI related homicides, 2) DV cases and 3) Fugitive from Justice Cases. (Persons with these charges will continue to be screened and reports will be published).**

**Bond Type [Ranges]**

Personal Recognizance [Low] = \$0 to \$250  
 Personal Recognizance [Moderate] = \$250 to \$750  
 Personal Recognizance [High] = \$750 to \$2,500

Cash [Low] = \$1 to \$500  
 Cash [Low/Moderate] = \$500 to \$2,500  
 Cash [Moderate] = \$2,500 to \$10,000  
 Cash [High] = Minimum of \$10,000

**Supervision Levels**

	STANDARD	ENHANCED	INTENSIVE
Face-to-Face Contact	Monthly	Every other week	Weekly
Alternative Contact (phone, text, e-mail)	1 x/month	Every other week	NA
Supervised Conditions Compliance Verification	As authorized	As authorized	As authorized
Court Date Reminder	X	X	X
Criminal History/CJIS Check	X	X	X

**Supervised Conditions**

CONDITION	Authorized when:	CONDITION	Authorized when:
DRUG TESTING	-Defendant is eligible for supervision according to the Praxis. <b>AND</b> -Scores 3 or greater on UNCOPE. <b>AND</b> -Has a history of illegal drug use/abuse.	GPS MONITORING	-Defendant qualifies for Intensive Supervision on Grids 2-4. <b>OR</b> -Concern exists for victim safety/no contact monitoring.
PORTABLE BREATHALYZER Testing	-Defendant is eligible for supervision according to Grids 1-4 of the Praxis. <b>AND</b> -Scores 3 or greater on UNCOPE. <b>AND</b> -The defendant has a history of problematic alcohol use/abuse. <b>OR</b> -Is eligible for supervision on OWI Grids 5-6. <b>OR</b> -The defendant qualifies for supervision and the court is ordering absolute sobriety due to allegations of intoxication at time of alleged offense.	SCRAM Eligible	-Qualifies for supervision on Grid 5, Risk Level III or IV, Grid 6, Risk Level I or II or Grid 7 Risk Level I or II. <b>AND ONE OF THE FOLLOWING IS TRUE</b> -Scores 3 or greater on UNCOPE. -Already on pretrial release for an OWI at time of alleged new OWI. -Is charged with 4 <sup>th</sup> or greater OWI offense.
Absolute Sobriety	-Defendant has an UNCOPE Score of 3 or greater and alcohol is the primary substance used. <b>OR</b> -The police report and/or criminal complaint indicate the defendant was intoxicated at the time of arrest. <b>OR</b> -The defendant is charged with an OWI case and qualifies for supervision.		

**2012 UNIVERSAL SCREENING****Screening Metrics****From 1/17/2012 though 12/31/2012**

Metric	Result
Booked Subject to Screening	18,956
Of those Booked, Screened	16,853
Declined/Unable - Interview	2,100
Pending	3
Percent Screened	88.9%

## Screening Outcomes

From 1/17/2012 though 12/31/2012

Outcome	Total	Percent
Administrative Release	558	3.3%
Assigned Court Hearing	125	0.7%
Book and Release	22	0.1%
Intake Court Hearing	10,052	58.8%
No Process	3,318	19.4%
Posted Bail Prior to Charging/Appearance	1,777	10.4%
Probable Cause Expired	206	1.2%
Probable Cause Not Found	25	0.1%
Release Order In	1,021	6.0%
<b>Report Totals:</b>	<b>17,104</b>	



## 2012-PRETRIAL SUPERVISION ADMISSIONS

Admissions by Praxis Supervision Level

Program Unit	None	Standard	Enhanced	Intensive	Missing	Total
GPS	8	22	88	77	1	196
OWI	98	11	3	445	8	565
Pretrial	225	1511	1159	556	6	3,457
<b>Totals</b>	<b>331</b>	<b>1544</b>	<b>1250</b>	<b>1078</b>	<b>15</b>	<b>4,218</b>
	7.8%	36.6%	29.6%	25.6%	0.4%	



## Admissions by Risk Category

Program Unit	I	II	III	IV	Missing	Total
GPS	48	60	39	48	1	196
OWI	116	319	99	23	8	565
Pretrial	411	1,459	1,116	467	4	3,457
<b>Totals</b>	<b>575</b>	<b>1,838</b>	<b>1,254</b>	<b>538</b>	<b>13</b>	<b>4,218</b>
	13.6%	43.6%	29.7%	12.8%	0.3%	

## Admissions by Risk Score

Program Unit	Risk Scores											Total
	0	1	2	3	4	5	6	7	8	9	Missing	
GPS	10	22	16	14	32	14	19	20	36	12	1	196
OWI	4	33	79	128	102	89	53	46	19	4	8	565
Pretrial	35	133	243	504	505	450	565	551	338	129	4	3,457
<b>Totals</b>	<b>49</b>	<b>188</b>	<b>338</b>	<b>646</b>	<b>639</b>	<b>553</b>	<b>637</b>	<b>617</b>	<b>393</b>	<b>145</b>	<b>13</b>	<b>4,218</b>
	1.2%	4.5%	8.0%	15.3%	15.1%	13.1%	15.1%	14.6%	9.3%	3.4%	0.3%	

## BAIL & CONDITIONS

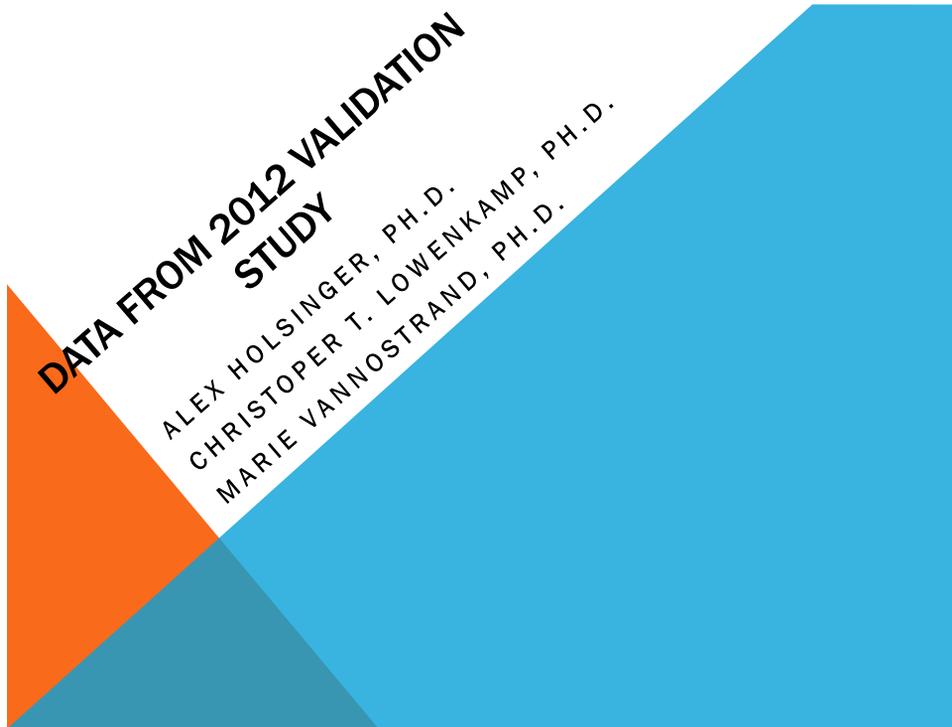
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Bond Types Ordered: Comparison-March 1, 2012-June 30, 2012 to  
Jan/Mar/May-2009

Bond Type	2012		2009	
	Number	Percent	Number	Percent
Personal Recognizance	2,096	60%	302	36%
Cash	1,410	40%	528	64%
<b>Total Cases</b>	<b>3,506</b>	<b>100%</b>	<b>830</b>	<b>100%</b>

Pretrial Supervision Ordered: Comparison-March 1, 2012-June 30, 2012 to  
Jan/Mar/May 2009

PTS Ordered	2012		2009	
	Number	Percent	Number	Percent
Yes	2004	57%	68	8%
No	1502	43%	762	92%
<b>Total</b>	<b>3506</b>	<b>100%</b>	<b>830</b>	<b>100%</b>

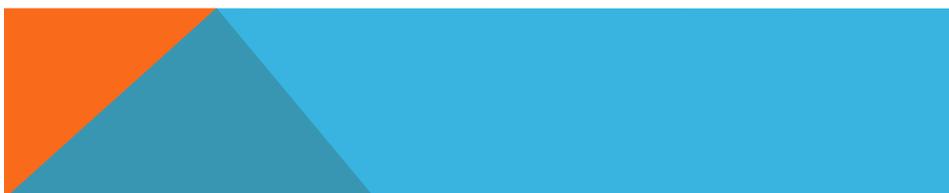


## DATA ANALYSIS – DESCRIPTION

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### » Sample Description

- Individuals booked into the Milwaukee County Jail and interviewed by pretrial March 1, 2012 thru June 30, 2012
- Total cases = 3,493



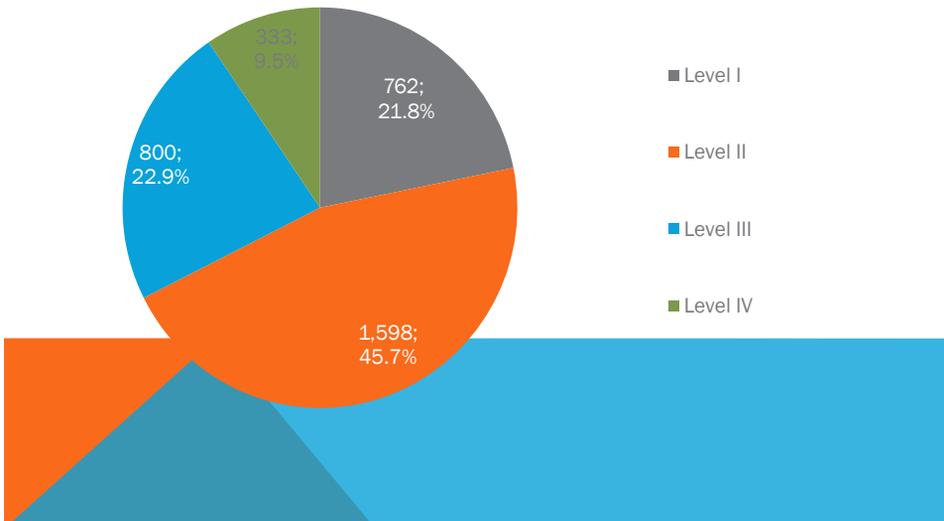
# CASES BY GRID PLACEMENT

## All Cases by Praxis Grid and non-Grid



# DATA ANALYSIS – DESCRIPTION

## » Risk Level Distribution for all Cases



## RELEASE RATES

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Overall Release Rate 75%

Release Rates by Charge Type

Felony 64%  
Misdemeanor 88%

Release Rates by Risk Level

Level I 89.4%  
Level II 74.5%  
Level III 68.8%  
Level IV 59.5%

Release Rates by Praxis Grid

Grid I Misdemeanor & Criminal Traffic (no OWI)	88%
Grid II Misdemeanor-Risk of Injury (no DV)	83%
Grid III Felony (no OWI/no ROI)	76%
Grid IV Felony Risk of Injury (no DV, no non-OWI homicides)	50%
Grid V Misdemeanor OWI	78%
Grid VI Felony OWI	57%
Grid VII Felony Risk of Injury & Felony OWI	25%

## PRAXIS ADHERENCE RATE

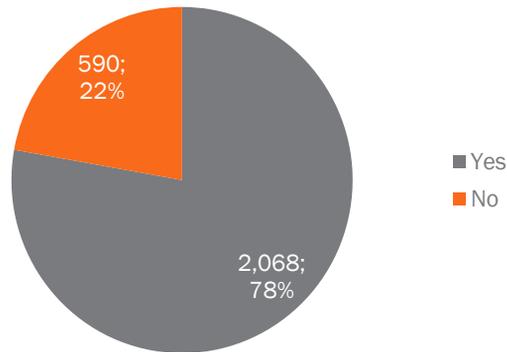
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- » Consistent with Praxis
  - Recommendation Followed

Bond Type	Bond Amount	Supervision
89%	74%	86%

## » Consistent with Praxis

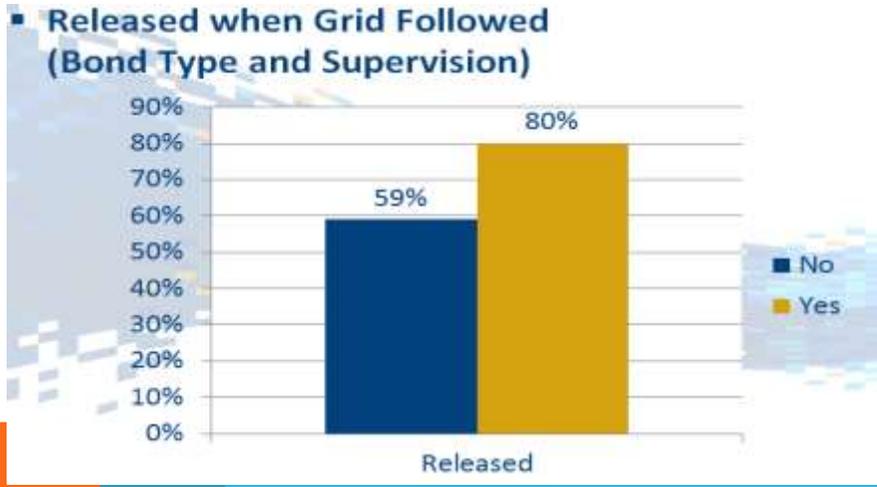
## ▪ Grid Followed (Bond Type and Supervision)



## CONSISTENT WITH PRAXIS-RATE BY GRID

Grid	Adherence Rate
Felony Operating While Intoxicated	86%
Misdemeanor and Criminal Traffic	84%
Felony (Excluding OWI & Risk of Injury)	77%
Misdemeanor-Risk of Injury (Excluding DV)	76%
Misdemeanor Operating While Intoxicated	76%
Felony-Risk of Injury (Excluding DV & non-OWI Homicides)	70%
Felony Risk of Injury AND Felony OWI	25%

### PRAXIS ADHERENCE & RELEASE RATES



**OUTCOMES**

## FELONY

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- No New Criminal Activity - 87%
- Court Appearance Rate - 84%



## MISDEMEANOR

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- No New Criminal Activity - 84%
- Court Appearance Rate - 62%



## FAILURE RATES

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	N	FTA	NCA	Either
Felony	796	16%	13%	25%
Misdemeanor	1,089	<b>38%</b>	16%	46%

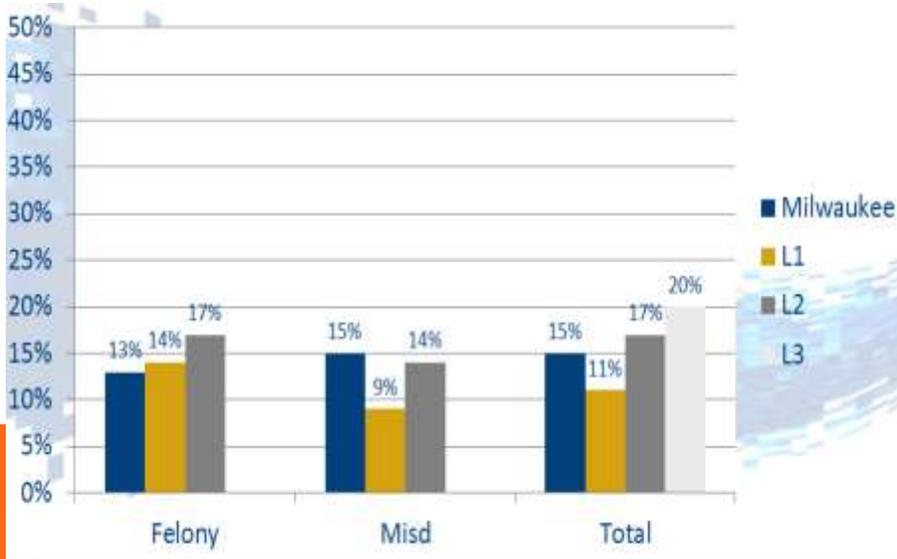


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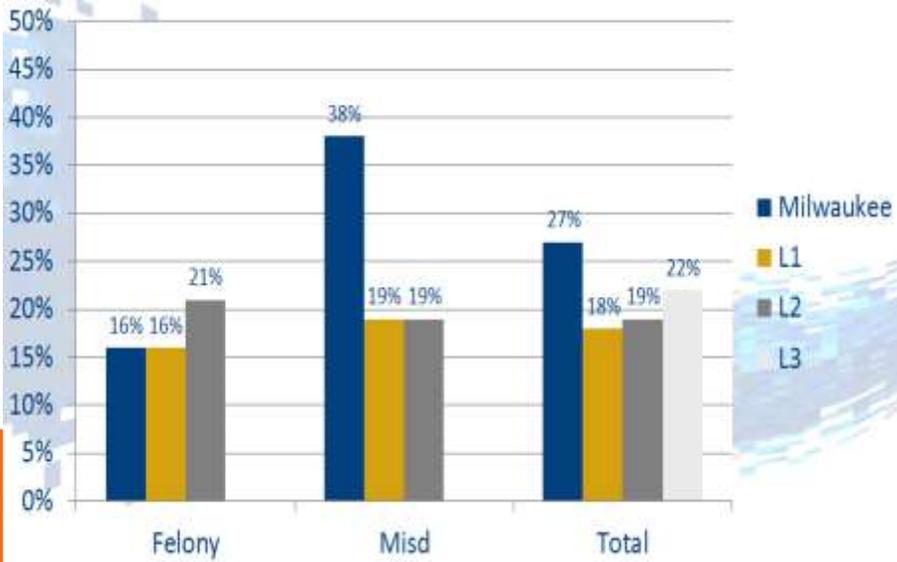
## MILWAUKEE OUTCOMES VS OTHER LOCALITIES



## NCA RATES BY LOCALITY



## FTA RATES BY LOCALITY

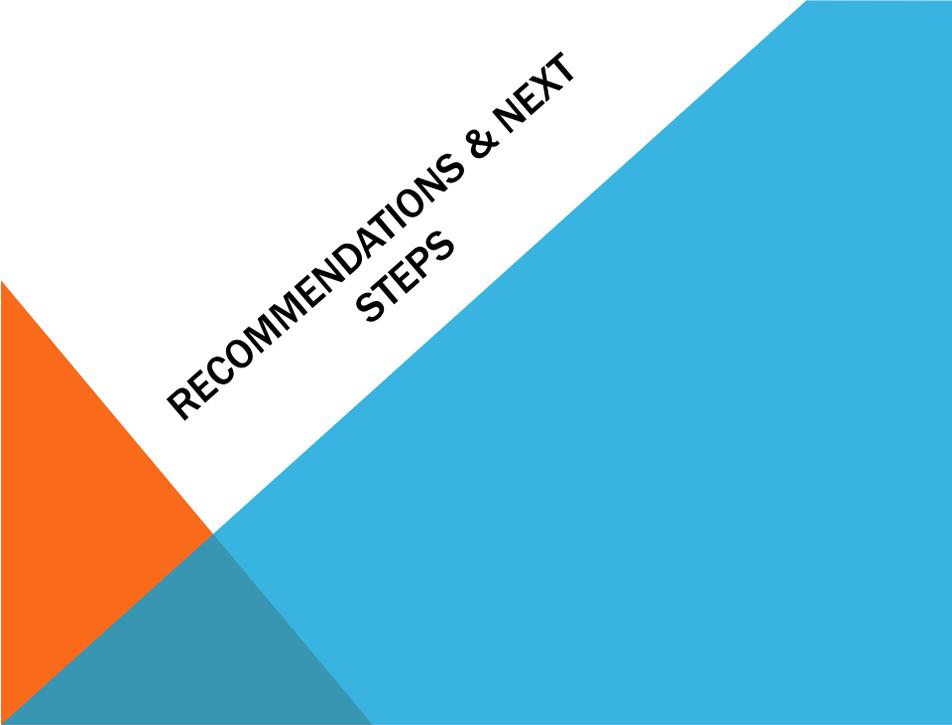




### OUTCOMES BY RISK LEVEL-DV EXCLUDED

Risk Level	FTA	NCA	Either
I	21.2%	12.2%	29.0%
II	25.9%	13.6%	33.9%
III	36.7%	15.8%	45.6%
IV	45.3%	21.4%	54.1%





## RECOMMENDATIONS & NEXT STEPS

### DATA DRIVEN RECOMMENDATIONS

- » **Modifications to the risk assessment are not recommended at this time**
  - » **Modify Praxis for Grid 1 – Level IV to allow for more restrictive release type and/or conditions**
  - » **Treat current charge of FTA differently in all Grids**
    - **E.g., release type and/or conditions should be more restrictive than the original release**
  - » **Consider piloting a DV specific risk assessment**
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## PRAXIS CHANGES EFFECTIVE AUGUST 1, 2013

**Grid 1 - Misdemeanor and Criminal Traffic (Excluding OWI & Risk of Injury)**

Risk Levels	Bond Type [Range]	Supervision	Supervised Conditions
I	Personal Recognizance [Low]	None	None
I-BWR	Personal Recognizance [Moderate]	Court Reminders	None
II	Personal Recognizance [Low]	None	None
II-BWR	Personal Recognizance [Moderate]	Court Reminders	None
III	Personal Recognizance [Low]	Standard	As Authorized
III-BWR	Cash [Low]	Enhanced	As Authorized
IV	Cash [Low]	Intensive	As Authorized

**Grid 2 - Misdemeanor-Risk of Injury (Excluding Domestic Violence)**

Risk Levels	Bond Type [Range]	Supervision	Supervised Conditions
I	Personal Recognizance [Low]	None	None
I-BWR	Personal Recognizance [Moderate]	Court Reminders	None
II	Personal Recognizance [Moderate]	Standard	As Authorized
II-BWR	Personal Recognizance [High]	Enhanced	As Authorized
III	Personal Recognizance [High]	Enhanced	As Authorized
III-BWR	Cash [Low]	Intensive	As Authorized
IV	Cash [Moderate or statutory limit]	Intensive	As Authorized

### NEXT STEPS

- Implement praxis changes and court reminder program for defendants returned on bench warrants
- Evaluate impact of re-design on pretrial ALOS and ADP
- Analyze impact of praxis changes on FTA rate
- STEPS training for PTS staff
- Implement structured violations response protocol