

BAIL

- 969.01 Eligibility **for release**. (1) Before conviction. A defendant arrested for a criminal offense is eligible for release under reasonable conditions designed to assure his or her appearance in court, protect members of the community from serious bodily harm, or prevent the intimidation of witnesses. Bail may be imposed at or after the initial appearance only upon a finding by the court that there is a reasonable basis to believe that bail is necessary to assure appearance in court.
- The judge shall first consider the likelihood of the defendant appearing for trial if released on his or her own recognizance.

- 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.”

Foundation

» Issue - Pretrial Risk

- Risk is inherent in pretrial release
- 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
- 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”
 - Measuring risk = Risk Assessment Instrument
 - Managing risk = Praxis

Foundation

- » **Goal - Apply Evidence-Based Decision Making to Pretrial Release & Detention through Universal Screening including Risk Assessment and Praxis**
 - **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**

Foundation

» Risk Assessment Development

- Develop pretrial risk assessment tool for use by Milwaukee County which classifies risk of pretrial failure (Failure to Appear & New Criminal Activity) for all pretrial defendants EXCEPT domestic violence
- Data used for analysis provided by Justice 2000 & WCS and includes all (3,202) defendants released between January 1, 2009 and December 31, 2010 to
 - Alcohol and Other Drug Abuse (AODA) program
 - Pretrial Mental Health program
 - GPS program
 - Pretrial OWI program

Foundation

» Risk Assessment Development

- Examine available common predictors of pretrial outcome (FTA & NCA)
- Best predictors of pretrial outcome
 - Cases Filed
 - Prior Failure to Appear in Court
 - Arrested While Out on Bond
 - Employment/Primary Caregiver
 - Residence
 - UNCOPE Score (measure of risk for substance abuse or dependence)

Foundation

» Praxis

- Praxis contains 7 grids
- Not applicable to domestic violence
- Not applicable to homicide

Foundation

» Praxis

▪ 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	Yes	Yes	Yes
Criminal History/CJIS Check	Yes	Yes	Yes

Foundation

» Praxis

▪ Drug/PBT Testing

Condition	Authorized when the defendant:
Drug Testing	Is eligible for supervision according to the Praxis AND Scores 3 or greater on UNCOPE
Portable Breathalyzer Testing	Is eligible for supervision according to Grids 1-4 of the Praxis AND Scores 3 or greater on UNCOPE OR Is eligible for supervision on OWI Grids 5-6

Foundation

» Praxis

▪ GPS/SCRAM Monitoring

Condition	Authorized when the defendant:
GPS Monitoring	Qualifies for Intensive Supervision on Grids 2-4 OR Concern exists for victim safety/no contact monitoring
SCRAM Monitoring	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 AND ONE OF THE FOLLOWING IS TRUE Scores 3 or greater on UNCOPE On pretrial release for OWI Is charged with 4 th or greater OWI offense

SCREENING DATA

January 1, 2012 – January 1, 2015

- **Booked subject to screening** 63,836
- **Screened** 56,905
- **Percent Screened** 89%
- **Praxis Adherence Rate** 74%
- **Overall Pretrial Release Rate** 75%
- **Pretrial Supervision (all programs)** 14,928

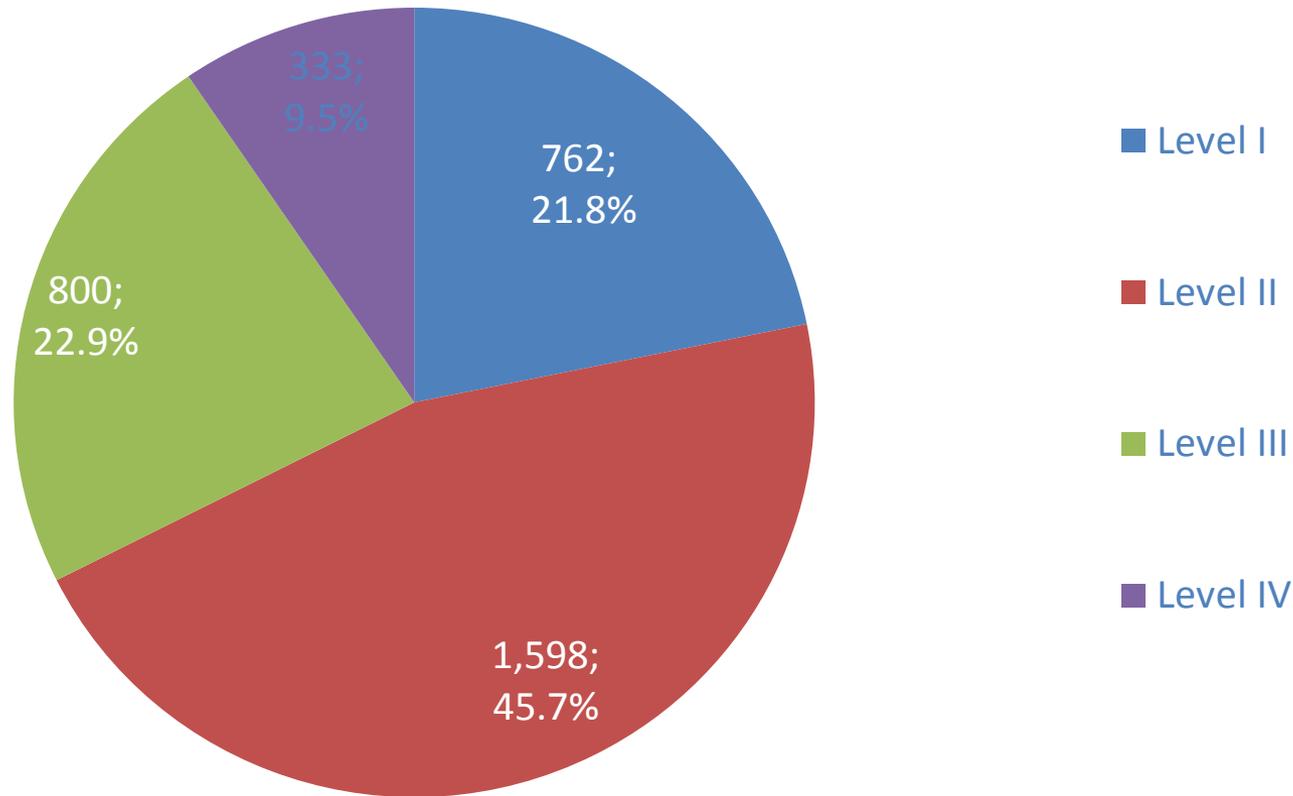
Data Analysis – Description

» Released Cases by Grid and non-Grid

	N	Released
Misdemeanor and Criminal Traffic	911	88%
Misdemeanor-Risk of Injury (Excluding DV)	342	83%
Misdemeanor Operating While Intoxicated	119	78%
Felony (Excluding OWI & Risk of Injury)	695	76%
DV Charges Felony	808	76%
Felony Operating While Intoxicated	42	57%
Felony-Risk of Injury (Excluding DV & non-OWI)	545	50%
Felony Risk of Injury AND Felony OWI	4	25%
Homicide Charges	27	11%
All	3,493	75%

Data Analysis – Description

» Risk Level Distribution for all Cases



Data Analysis – Description

» Release Rates by Risk Level

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

Data Analysis – Description

» Consistent with Praxis

- Recommendation Followed

Bond Type	Bond Amount	Supervision
89%	74%	86%

Data Analysis – Description

» Consistent with Praxis

▪ Adherence 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%

N = 2,658

Data Analysis – Outcomes

Data Analysis – Outcomes

» Felony

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

Data Analysis – Outcomes

» Misdemeanor

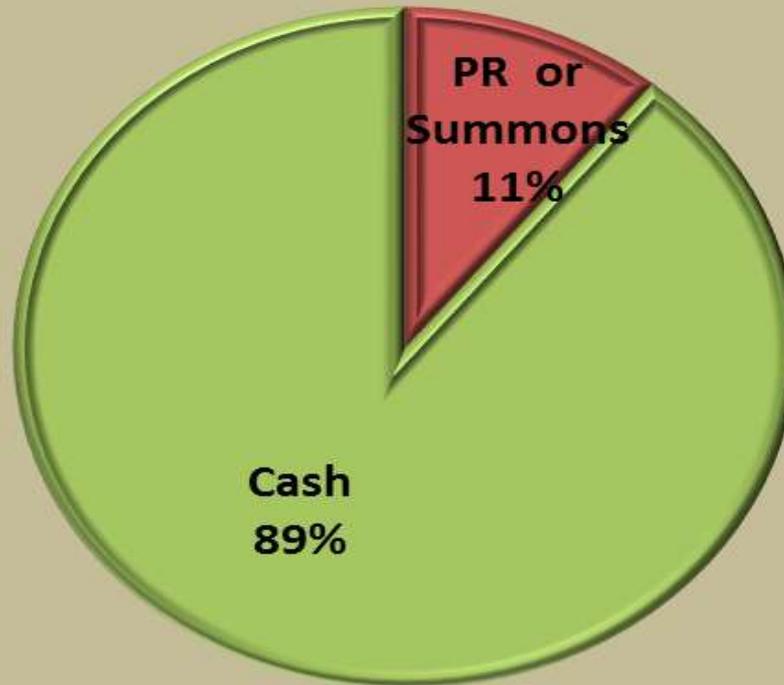
- No New Criminal Activity - 84%
- Court Appearance Rate - 62%

Sample information

- CASES DISPOSED IN THE GUN COURT IN 2013-2014 IN WHICH AT LEAST 1 CHARGED COUNT WAS FELON/ADJUDICATED DELINQUENT IN POSSESSION OF FIREARM-941.29(2), 941.29(2)(A), 941.29(2)(B)
- 538 CASES MEETING THIS CRITERIA WERE DISPOSED DURING THE TIME PERIOD
- 267 OF THE 538 CASES WERE INCLUDED IN THE SENTENCING ANALYSIS
- 101 OF THE 538 CASES ISSUED IN 2014 WERE INCLUDED IN THE PRETRIAL ANALYSIS

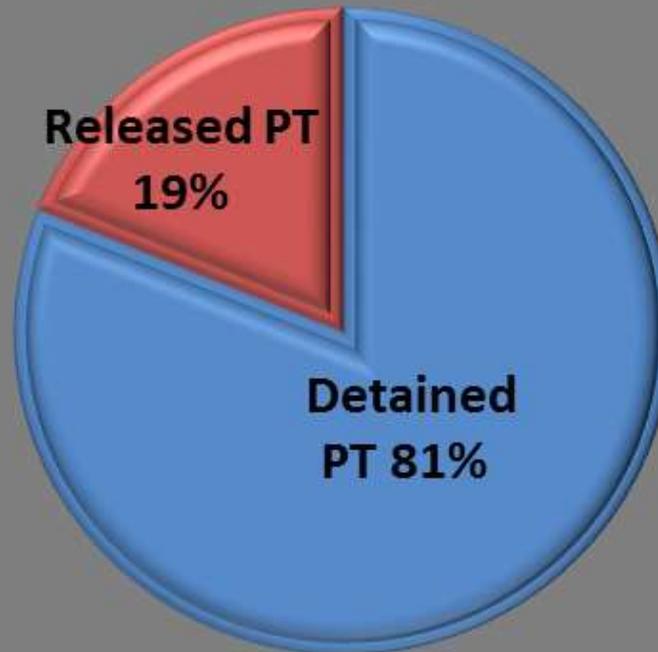
Felony Gun Cases-Pretrial Bail Decision

Average Bail=\$6,793/Median Bail=\$7,500



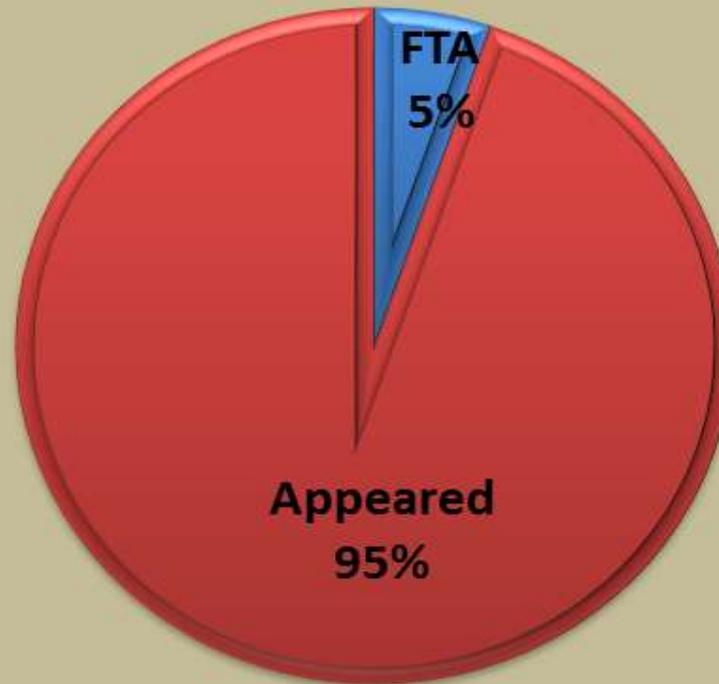
n=101 Cases issued in 2014

Felony Gun Cases-Pretrial Bail Decision Outcomes



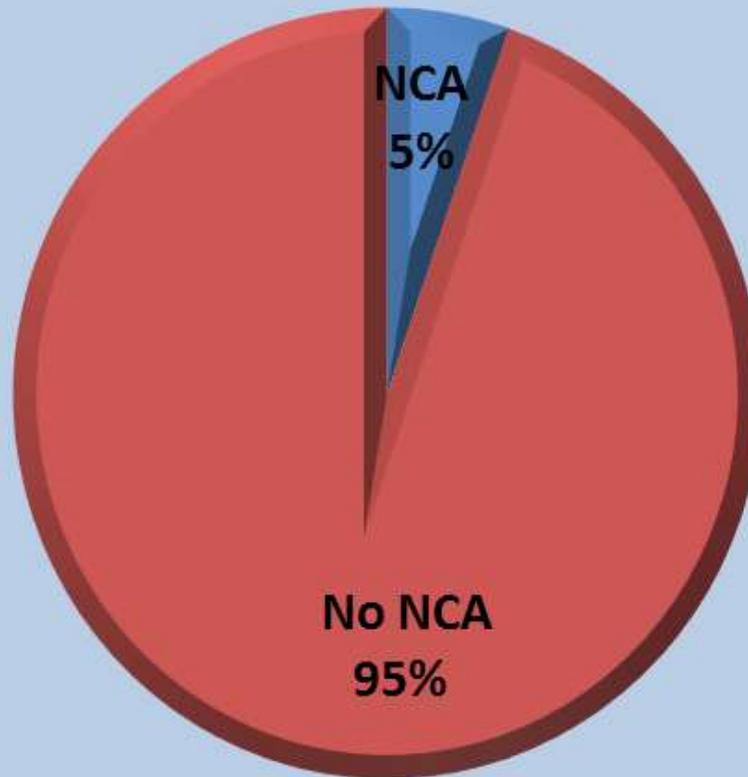
n=101 Cases issued in 2014

Felony Gun Cases-Pretrial Appearance Rate



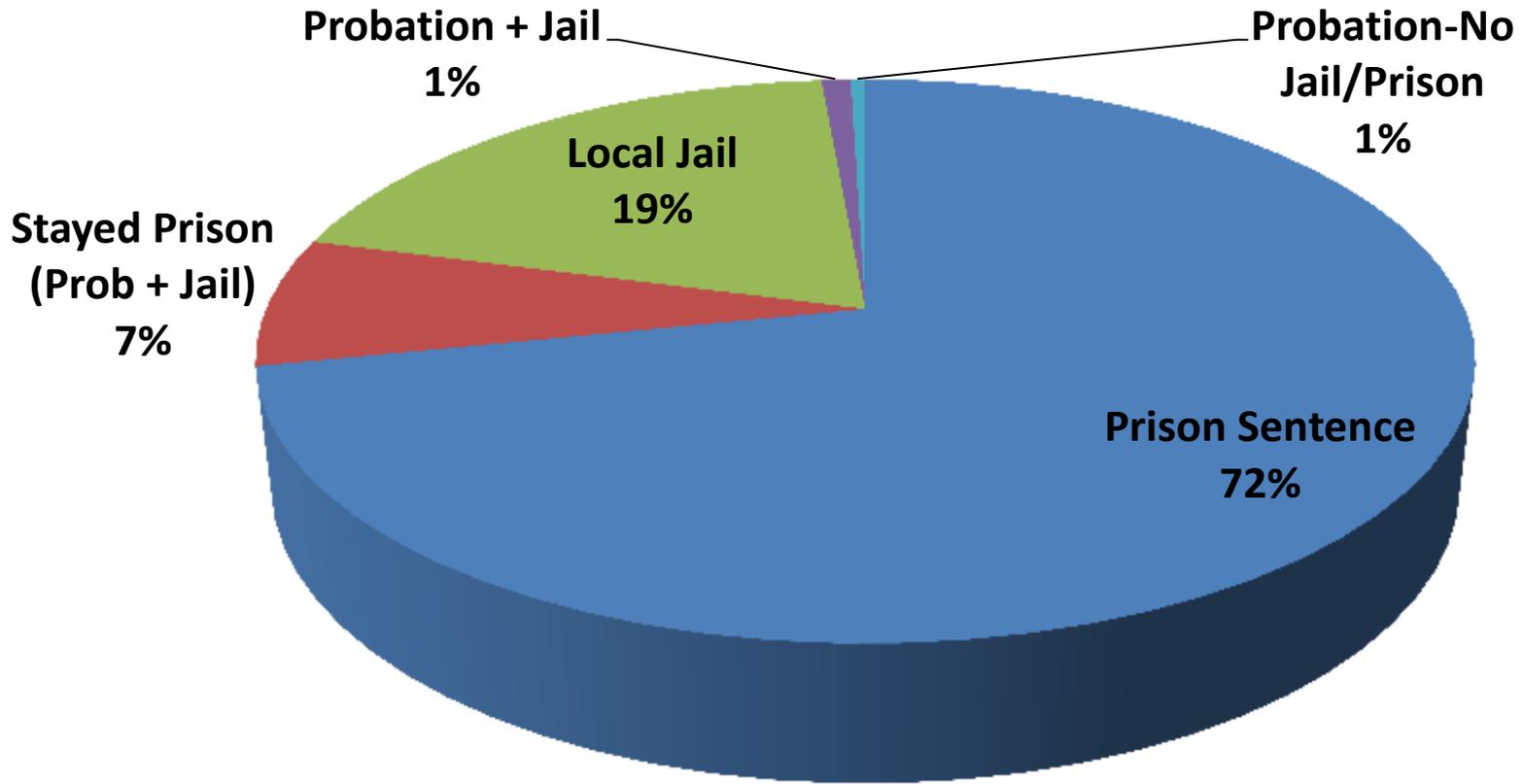
n=101 Cases issued in 2014

Felony Gun Cases-Pretrial No NCA Rate



n=101 Cases issued in 2014

SENTENCE TYPE



PRISON SENTENCES

Prison Sentences

n=155

Initial Confinement

Average

35 Months

Median

24 Months

Term of ES

Average

36 Months

Median

30 Months

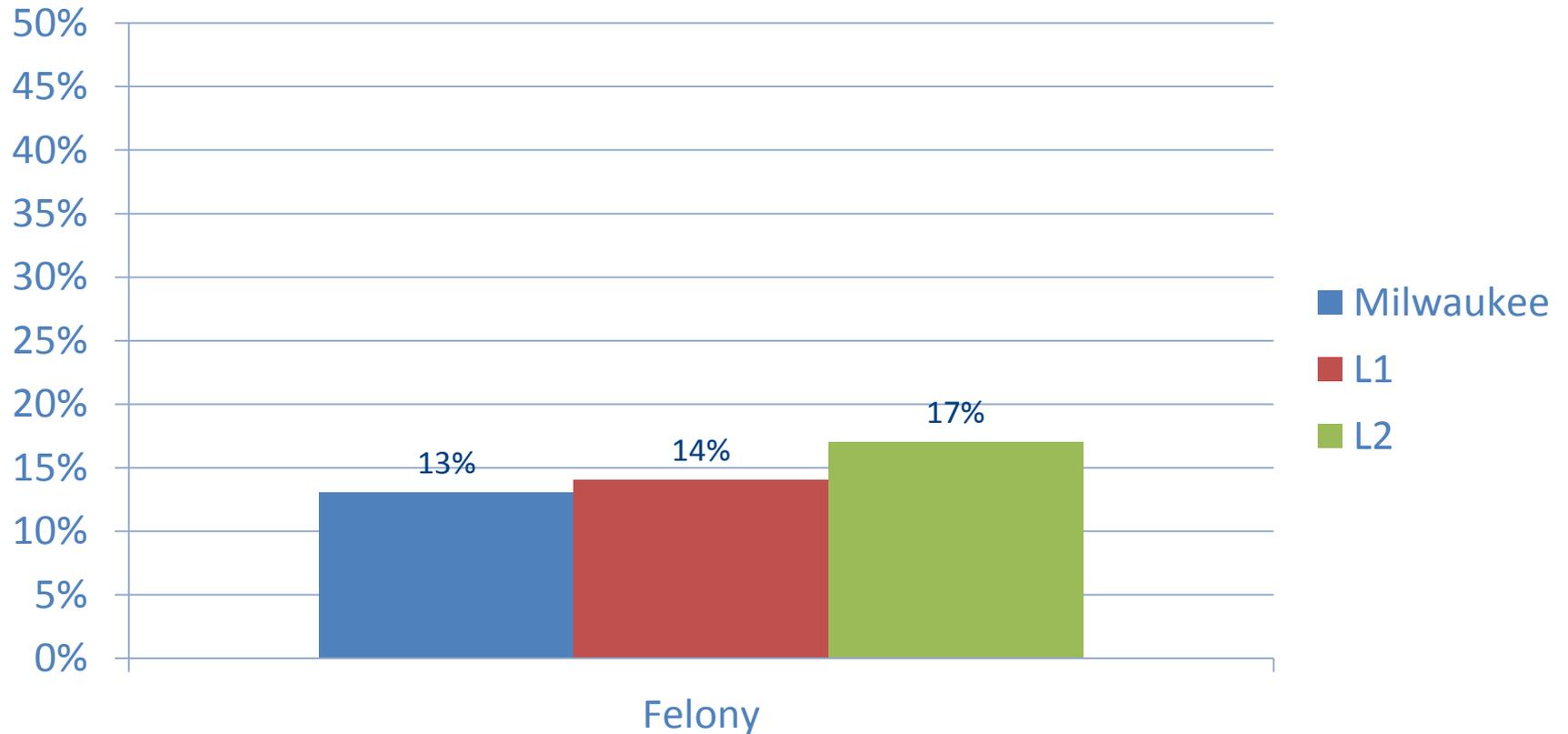
Data Analysis – Outcome Comparison

Data Analysis – Outcome Comparison

- » **Baseline data was not available for Milwaukee**
- » **Identified 3 similarly situated localities for comparison – ‘universal screening’, risk-based, locality size, crime rate**
- » **Compared outcomes – by misdemeanor and felony for 2 of 3 localities (1 locality only reported merged outcome)**

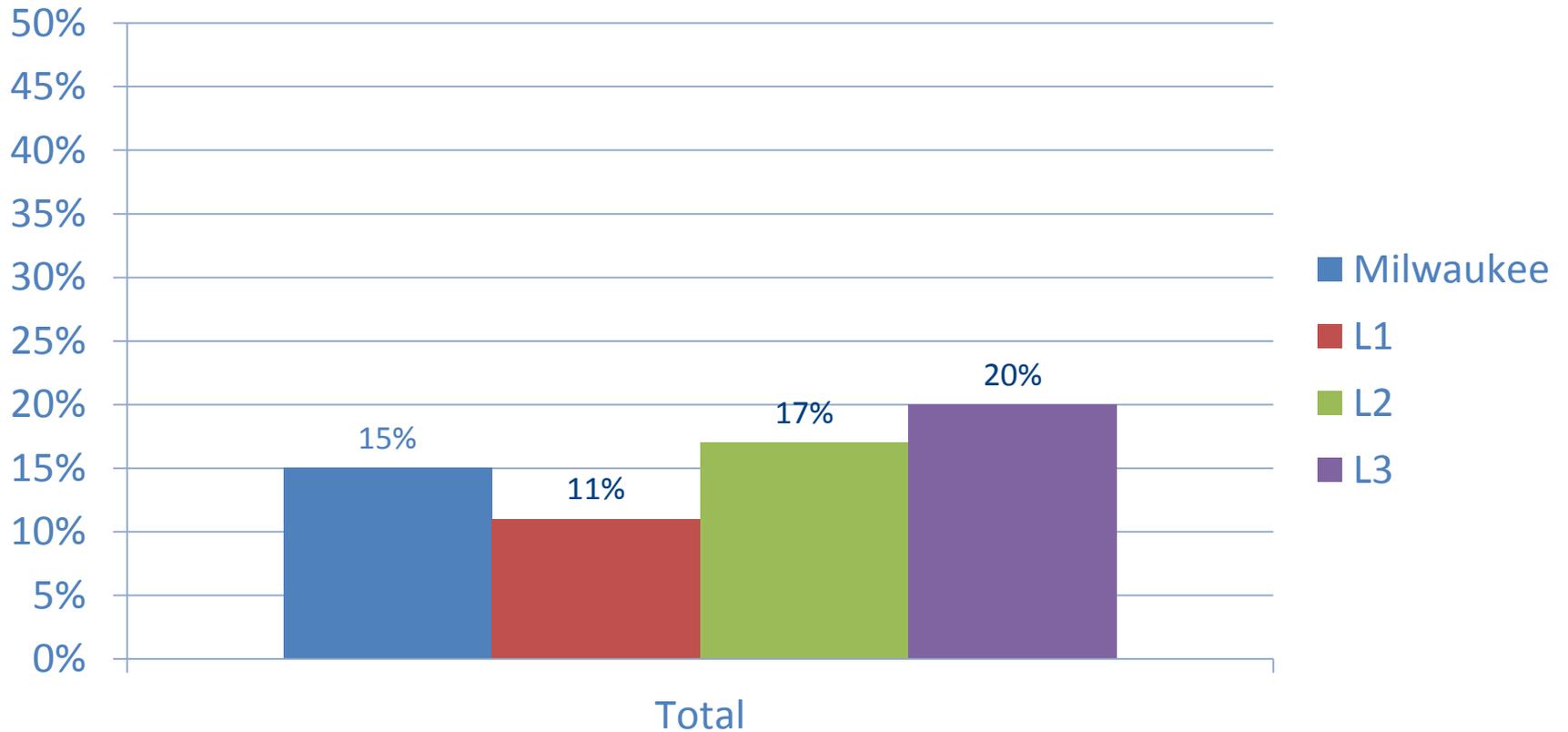
Data Analysis – Outcome Comparison

» NCA Rates by Locality, Felony



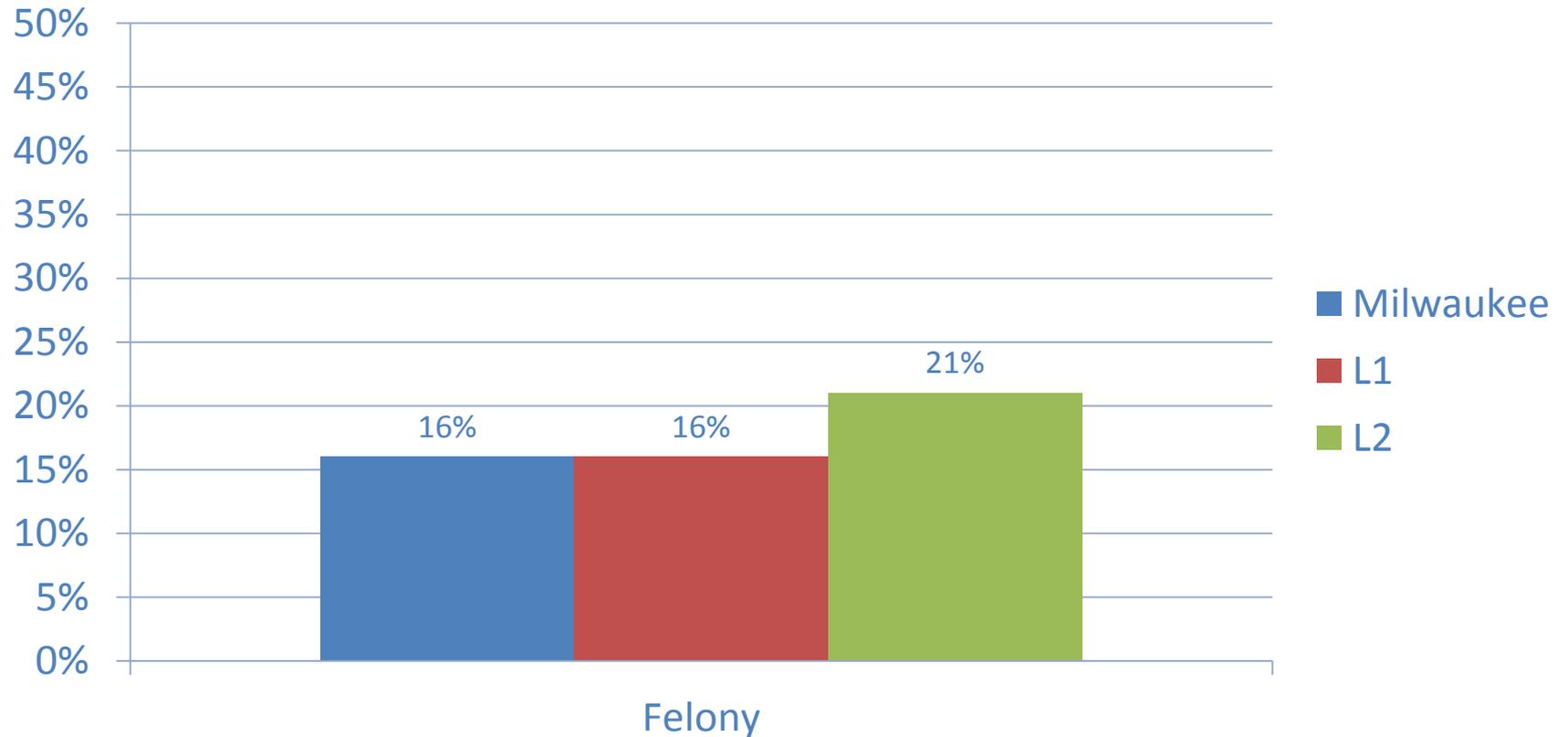
Data Analysis – Outcome Comparison

» NCA Rates by Locality, Total



Data Analysis – Outcome Comparison

» FTA Rates by Locality, Felony



Data Driven Recommendations

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**

Stakeholder Benefits, Challenges, Q&A

» Benefits

- Improves consistency and reduces disparity in release and bail decisions
- Similarly situated defendants are much more likely to receive similar release and bail decisions
- Very positive in terms of basic fairness and public perception
- Risk assessment and praxis work well in a large majority of cases
- Judicial discretion is used when needed to avoid unintended outcomes
- Taken as a whole there is much that is working well with Risk Assessment/Praxis

Stakeholder Benefits, Challenges, Q&A

» Challenges – Charges/Circumstances

- Extradited on current charge
- Ice holds
- Exclude felony sexual assaults and armed robberies

	N	FTA Rate	NCA Rate	Either Rate
Sex Offense	27	7	7	15
Armed Robbery	24	8	13	17
Burglary	17	12	18	29
All	68	9	12	19
All Grid 4	271	10	12	20

- Include homicide in the praxis

Stakeholder Benefits, Challenges, Q&A

» Challenges – Risk Assessment

- Items/Circumstances not considered
 - Multiple counts on same filing not counted in risk assessment
 - NCIC records
 - Age of prior record
 - Age of the defendant
 - Juvenile records