
Multnomah County, Oregon

**PRE-TRIAL SERVICES
OVERVIEW**

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association
with

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INTRODUCTION

Pre-Trial Services acts as gatekeeper for the criminal justice system. Pre-trial staff provide vital information to judicial officers to inform the release/detention decision; and monitor, track and supervise individuals who are released pending adjudication. A comprehensive pre-trial program is an indispensable component of a criminal justice system, whose benefits are realized in community safety, system integrity and reduced costs.

Multnomah County has a bifurcated system of pre-trial services. This model, in which cases are sorted by charge severity to either the ACJ Pre-Trial Program, or to the Sheriff operated Close Street Supervision Program, results in a redundancy of effort and works against expeditious release.

This process begins with an Intake interview that is conducted at the time of booking. The Intake Unit has authority to release certain individuals from custody; however, the information about the persons who are not released at this point is not shared with either of the supervision programs. One or both of the supervision units will re-interview the defendant and once more begin assessing their eligibility for supervised release.

This report addresses this dichotomy by recommending the creation of a single screening mechanism and the development of a single continuum of supervision services.

The release of defendants prior to trial should be dictated by an objective assessment of risk. Yet, the existing release decision is not based on a validated set of criteria, nor is it internally consistent, varying from officer to officer.

This report recommends the development of a validated pre-trial risk assessment instrument.

A jurisdiction of Multnomah County's size needs a full-service Pre-Trial Services Program. The services that are currently offered are neither cohesive nor complete. A comprehensive program provides case monitoring and court date notification for ALL defendants released pending adjudication; and, it assists with diversion screening and the assessment of indigency.

This report recommends the establishment of a full-service Pre-Trial Program.

Finally, Pre-Trial Operations must be viewed as a professional, career-option within the criminal justice system. Multnomah County Pre-Trial Services suffers from high staff turn-over, and in both operations is viewed as either a temporary placement or a training ground.

This report recommends that the Pre-Trial Program be made more professional by the appropriate re-classification of staff, the introduction of an automated information system, and the initiation of a comprehensive and standardized data collection effort.

This report presents suggests the consideration of a new Pre-Trial Services model, designed to support fundamental criminal justice objectives. One that will help ensure that release decisions are consistent and based on an objective analysis of risk; that the release of appropriate defendants is accomplished in an expedited fashion; that failure-to-appear rates are kept at a minimum; and that the interests of an efficient and effective criminal justice system are served.

PRE-TRIAL HISTORY

The issue of financial consideration in effecting pre-trial release became a focus of debate in the 1960s. The concern arose that an over-reliance on financial criteria discriminated against poor defendants, and resulted in decisions that were inequitable. This led to the efforts by the Vera Institute to demonstrate that non-financial considerations, such as the community ties of the defendant could be used to make effective release decisions, and eventually resulted in the development of a risk assessment instrument to inform decision-making.

A presumption favoring recognizance release and unsecured bond was first set down in guideline form by the Federal Bail Reform Act of 1966. The Act also required federal judicial officers to consider a defendant's "community ties" when making release decisions in non-capital cases, introduced the concept of conditional release, and authorized an option that allowed the defendant to deposit 10 percent bail with the court. For those cases approved for pre-trial release, the Federal Bail Reform Act instructed the judicial officer to take "the least restrictive" measures to assure appearance. The 1966 Act stipulated that secured bond was to be used only for high-risk defendants. This Federal reform, although not binding in state systems, had a tremendous influence on the evolution of state laws pertaining to pre-trial release.

In 1968, the American Bar Association published the first standards on pre-trial release.

"Pre-trial incarceration should never be resorted to without first exhausting the possibilities of adequate supervision for defendants on conditional release. Conversely, it is equally indefensible to release criminal defendants who might commit new, and in particular dangerous, offenses pending trial without also taking reasonable steps to protect the community against that danger." (ABA, 1985)

In 1970, in response to rising concerns over serious crime, the District of Columbia amended the Bail Reform Act to include considerations of community safety, in addition to the risk of flight, in making release decisions. This reform also provided for "preventive detention" of defendants considered to pose a significant threat to the community. The Comprehensive Crime Control Act, passed by Congress in 1984, formalized the use of preventive detention and the weighting of community safety, as

well as risk, in making release decisions. In 1987, the United States Supreme Court upheld the use of preventive detention as defined in the 1984 Act.

The evolution of pre-trial release law has resulted in enshrining the notion of a presumption of release, and the use of the least restrictive release option to ensure appearance in court and protect the public.

FINDINGS

A. CASE SCREENING

DATA COLLECTION

Over the last two months, data was collected and analyzed in order to gain a better understanding of case flow, workload, and the pre-trial decision-making process. This effort involved a review of historical ‘referral’ data, as well as two data collection exercises.

The ACJ Intake Unit staff completed data collection forms for those defendants booked into Jail over a two-week period in January, 2001, who were interviewed by Pre-Trial “Recog” staff. This sample includes 647 cases.

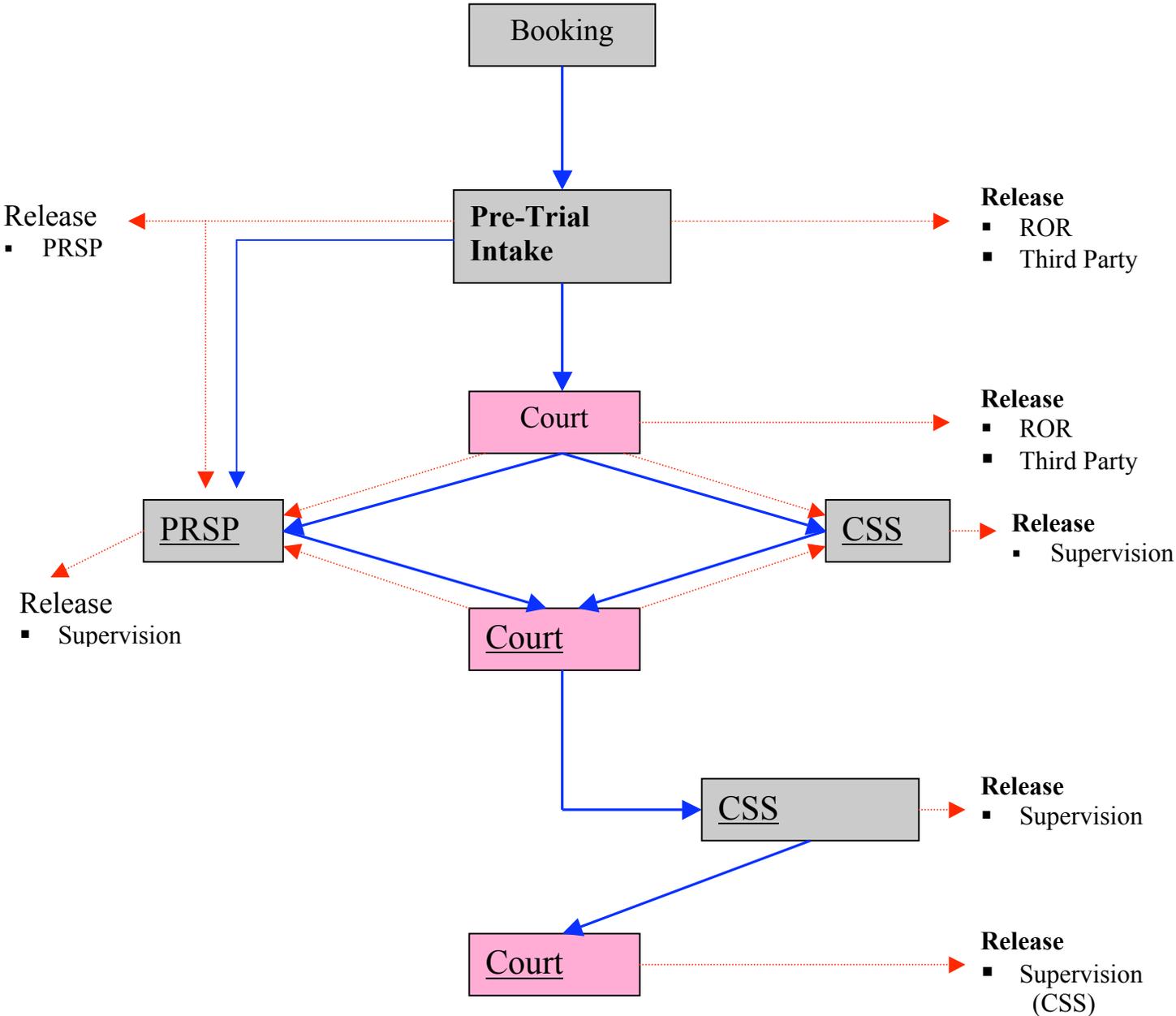
Close Street Supervision staff completed data collection forms for all cases referred to them for screening, over a four-week period in January-February, 2001. This sample includes 122 cases.

Because of staff losses in PRSP, they were not included in the case screening exercise, but did participate in the ‘Population Profile’ and ‘Outcome’ parts of the overall study.

The principal findings are highlighted below.

Pre-Trial cases are routed to one of two Pre-Trial Services Programs

Multnomah County Pre-Trial Case Flow



← = Case referred (defendant in custody)

← = Person released

Note: Defendants may also be released on Bail at any of these points.

PRE-TRIAL INTAKE UNIT

Over the last ten years, the number of Pre-Trial Intake interviews has been relatively stable

Over the last ten years, the number of Pre-Trial Intake interviews has ranged from a low of 19,357 in 1993 to a high of 24,877 in 1995.

Approximately half of all defendants booked into the Jail in 2000 were screened by the Pre-trial Intake Unit.

The Jail booked in 40,311 individuals in 2000. Of those, 20,550 were interviewed by the Intake Unit to determine eligibility for release. Those who were not interviewed included: out-of-county holds, felony parole violations with new felony charges; judicial holds; sentenced defendants; and those whose sole charge was an Immigration offense.

Twenty-two percent (22%) of defendants interviewed by the Intake Unit had, as their most serious charge, a Domestic Violence offense.

Defendants charged with drug offenses made-up the largest category of individuals interviewed, with Domestic Violence (DV) coming in second. Out of 597 individuals interviewed by the Intake Unit over a two-week period in January, 118 had been charged with a DV crime.

One-third of all defendants interviewed for release had been charged with a domestic violence offense or other crime against person.

Charge Distribution at Pre-Trial Intake

Person	10%
DV	22
Property	20
Drug	30
Public Order	7
Traffic	11

Fifty-seven percent (57%) of defendants interviewed by the Pre-Trial Intake Unit were charged with a felony; forty-three percent (43%) with a misdemeanor.

Nineteen percent (19%) of cases reviewed by the Pre-Trial Intake Unit had a Failure-to-Appear charge.

The breakdown of interviewed defendants by ethnicity closely parallels the distribution of the larger population booked into the Jail in 2000.

While the percentage of Hispanics given a Pre-Trial interview is lower than their proportion of total jail bookings, this might be explained by a higher percentage of Hispanics falling in the ‘Immigration Hold’ category, which group does not receive a pre-trial assessment.

Defendant Distribution (By Ethnicity)

	Pre-Trial Intake	Total Jail Bookings
Caucasian	63%	66%
African Am.	22	21
Hispanic	9	12
Asian	2	2
Native Am.	2	2

The percentage of Females interviewed by Intake is slightly higher than their proportion of the total booked population.

Over the last four years, the ratio of females to males at booking has been stable, with females comprising roughly twenty percent (20%) of those booked into Jail. Twenty-three percent (23%) of all defendants who received an Intake interview were female.

The average age of all defendants interviewed was 33 years.

The average release rate for the Intake Unit sample (32%) was consistent with the Unit’s ten-year average.

The ten-year average Release Rate for the Intake Unit is thirty-one percent (31%).

The average release rate for the Intake Unit (for the period 1991 – 2000) has ranged from a low of twenty-eight percent (28%) in 1993, to a high of forty-three percent (43%) in both 1997 and 1998. This overall release rate encompasses both felony and misdemeanor cases, and represents the percentage of defendants that Intake staff released from Jail prior to their first court appearance.

Intake Unit Release Rates
(1991 – 2000)

1991	42%	1996	39%
1992	37	1997	43
1993	28	1998	43
1994	32	1999	37
1995	41	2000	33

Of those released by the Intake Unit, fifty-eight percent (58%) were Released on their Own Recognizance (ROR)

The remainder of the released defendants were referred to PRSP. A small percentage (4%) were released to a Third Party.

The primary reason for Denial of Release was the presence of a Domestic Violence charge

“Domestic Violence” was the reason given of denial of release in forty-eight (48%) of the cases, followed by “Flight Risk.”

Pre-Trial Intake, Denial Reason

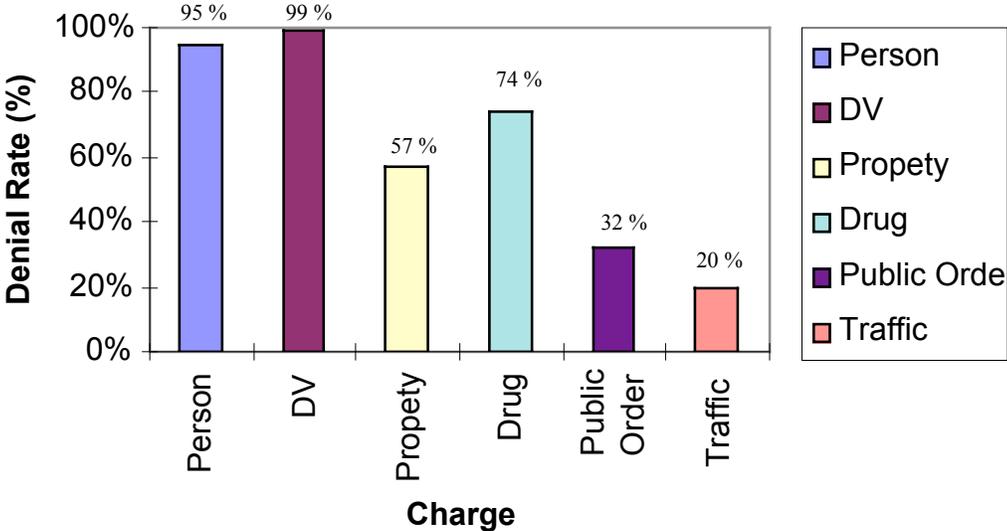
Domestic Violence	48%
Flight	21
Declined Interview	6
Safety	4
False Info. Given	3
Probation Officer Denies	2
Other	16

(Other includes: Coded Bail; Detainer; Pending felony charge; etc.)

Ninety-nine percent (99%) of Defendants charged with a Domestic Violence offense were Denied Release prior to their First Hearing

Denial rates by charge ranged from a high of ninety-nine percent (99%) for Domestic Violence Charges, to a low of twenty percent (20%) for Traffic offenses.

Multnomah County
Intake Unit Denial Rate (by Charge)



Eighty percent (80%) of defendants charged with a felony were Denied Release at Intake

The Denial rate for defendants charged with a misdemeanor was fifty-five percent (55%).

In other words, the Release Rate for defendants charged with a felony was twenty percent (20%); and the Release Rate for defendants charged with a misdemeanor was forty-five percent (45%).

The Denial Rate was fairly consistent across categories of ethnicity

The Denial Rate by ethnicity represents the proportion of each group that was refused release prior to the First Appearance Hearing.

The data does indicate a slightly higher Denial Rate for Hispanics, but without the benefit of a larger sample, or the ability to examine the influence of other constraining factors (such as Immigration holds) for this population, no conclusions can be drawn.

Denial Rate at Intake (By Ethnicity)

Caucasian	67%
African Am.	68
Hispanic	74
Asian	67
Native Am.	64

The Denial Rate was roughly the same for Males and Females

Males experienced a sixty-nine percent (69%) Denial Rate, while females were denied release sixty-seven percent (67%) of the time.

CSS CASE SCREENING

Over the last four years, the average Release Rate of defendants referred and interviewed by the CSS Program, was twenty-two percent (22%)

The average release rate for the CSS Program (for the four-year period for which it was available) was relatively stable, ranging from a low of twenty percent (20%) to a high of twenty-three percent (23%).

CSS Release Rates
(1997 – 2000)

1997	20%
1998	21
1999	23
2000	23

In the CSS Case-Screening Study (n=122) the Acceptance Rate was thirty percent (30%)

If one considers the total number of cases referred to CSS for assessment, the Acceptance Rate is twenty-three percent (23%). If one excludes those cases that were, after referral, deemed not eligible or available for review ('holds,' bailed, etc.) the Acceptance Rate rises to thirty percent (30%).

In the CSS Case-Screening Study, staff did not make a recommendation in approximately one-quarter of all cases referred for review

Those cases for which no recommendation was submitted were either not eligible for review because of 'Holds,' or were no longer available for review because the defendant posted bail, was released on his own recognizance, or because the case was dismissed or resolved.

"No Recommendation" Reason

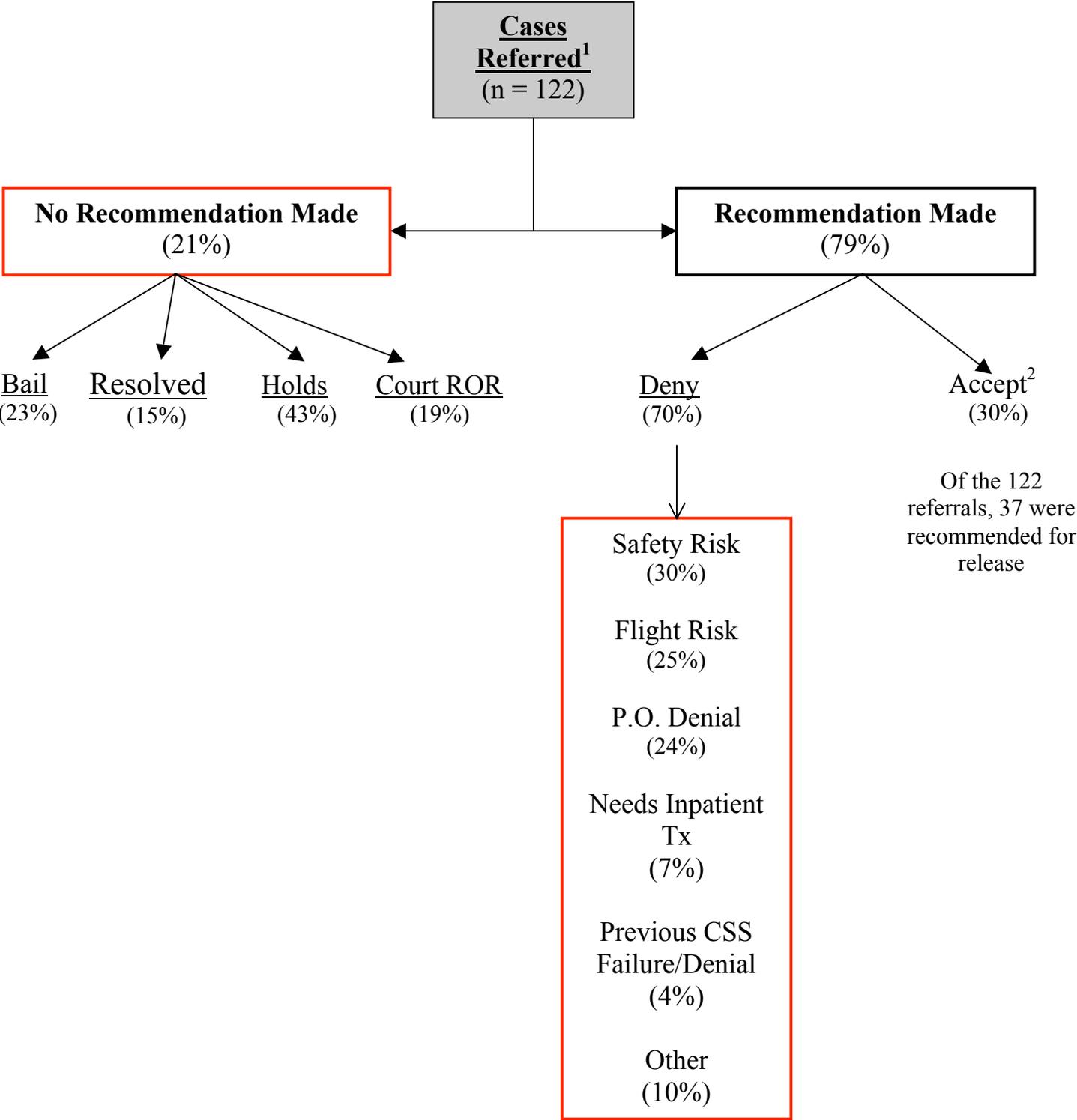
Holds	43%
Bail	23
Case Dismissed/Resolved	15
Court ROR	19

Of those defendants who posted bail before CSS could complete their assessment, seventy percent (70%) had been charged with a domestic violence offense.

In the CSS Study, the highest Denial Rate was for those defendants whose most serious charge was a drug offense

The denial rate ranged from seventy-seven percent (77%) for defendants whose most serious charge was a drug offense, to forty-three percent (43%) for defendants whose principal charge was a Traffic offense.

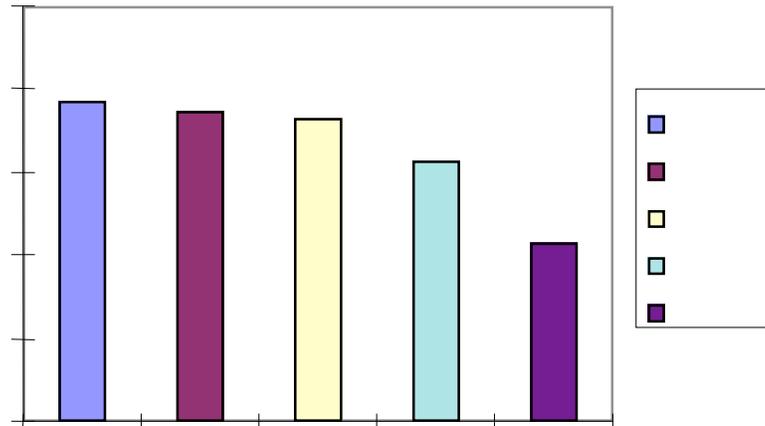
Close Street Case Screening



¹ Represents all cases referred between January 29, and February 26, 2001.

² 24% of all cases referred to Close Street were recommended for acceptance. 30% of those cases which were eligible/available for review were recommended for release

CSS Denial Rate (by Charge)



In the CSS Study, there was no difference in Denial Rate by gender

Considering those cases in which a recommendation was made, the denial rate was seventy-percent (70%) for both males and females.

The Denial Rate for Measure 11 defendants was lower than the overall average

In the CSS Study, while the overall denial rate was seventy-percent (70%), the denial rate for defendants with a Measure 11 offense was sixty-three percent (63%). Measure 11 defendants comprised twenty-five percent (25%) of all referrals.

Overall, the primary reason given for Denial of a case was ‘Flight Risk’

While ‘Flight Risk’ was the primary reason given for denial for cases as a whole, accounting for thirty-four percent (34%) of all denials; for Measure 11 cases ‘Safety Risk’ was most often listed as the reason for denial, explaining fifty-six percent (56%) of those denials.

	<u>Reasons for Denial</u>	
	M. 11 Cases	All Cases
Probation Officer	0	22%
Safety Risk	56%	26%
Flight Risk	25%	34%
Other	19%	18%

There was broad disparity in the Rates of Acceptance/Denial by officer.

The Rate of Acceptance amongst CSS staff ranged from a low of seven percent (7%) to a high of forty-eight percent (48%).

For fourteen percent (14%) of the cases, ‘Needs Inpatient Treatment,’ was either the primary or secondary reason for Denial

In seven percent (7%) of the cases ‘Needs Inpatient Treatment’ was listed as the primary reason for Denial; when factoring in secondary reasons, the percentage rises to fourteen percent (14%). Staff report that Pre-Trial clients referred to inpatient treatment can expect a six to eight week wait before gaining admission.

In the CSS Study, staff noted that thirty-six percent (36%) of defendants would be good candidates for the Restitution Center, if available

The defendants considered good candidates for the Restitution Center were those who, in many cases, were denied release because of stability issues or lack of ties to the community. Measure 11 cases were recommended for this resource at approximately the same percentage as other cases.

B. POPULATION PROFILE

DATA COLLECTION

A data collection exercise was structured to allow a more detailed examination of the population of defendants currently under pre-trial supervision. In January, staff from both pre-trial programs filled out data forms for each open case under their supervision. In total, information for 371 defendants from PRSP and 125 defendants from the CSS Program was collected □ a total of 496 cases.

The distribution of defendants by age and race did not differ greatly between the two programs

The median age for PRSP was 33 years, while for the CSS Program the median age was 30. The distribution by ethnicity was fairly consistent between the two programs, with a slightly higher percentage of African Americans and Asians in the CSS Program, and a slightly higher percentage of Hispanics in the PRSP Program.

Ethnicity of Supervised Pre-Trial Population

	PRSP	CSS
Caucasian	67%	65%
African Am.	24	27
Hispanic	5	3
Asian	2	4
Native Am.	2	1
	100%	100%

The CSS Program had a higher percentage of male defendants than PRSP

Eighty-two percent (82%) of the CSS population were males, compared to seventy-five percent (75%) of the PRSP group.

In the CSS Program, the percentage of defendants charged with Person or Domestic Violence offenses was three times that of the PRSP

Forty-seven percent (47%) of the population under CSS supervision had been charged with either a Person or a Domestic Violence offense, compared to fourteen percent (14%) of PRSP defendants. Conversely, the percentage charged with a Drug offense was, in PRSP, two times that of the CSS Program, with forty-three percent (43%) of all PRSP clients awaiting adjudication on a drug charge.

Distribution of Cases Under Supervision

	PRSP	CSS
Person	5%	38%
Domestic Violence	9	9
Property	25	18
Drug	43	22
Public Order	7	12
Traffic	11	1
	100%	100%

While only nine percent (9%) of the CSS population had a Misdemeanor as their primary charge, Misdemeanants comprised twenty-six percent (26%) of the PRSP caseload

Another indicator of the difference in severity of the two populations is provided by a look at the percentage of the supervised caseload comprised of Measure 11 cases. While Measure 11 cases made-up twenty-three percent (23%) of the CSS group, the PRSP had none.

For in-custody cases referred to the CSS Program, an average 15 days elapsed between the time of case referral and the start of supervision

The fifteen-day average measures the point from which CSS staff receive the case until supervision is initiated. Factoring in the time from booking to referral (an additional seven days, on average), the average time to supervision increases to twenty-three days.

While the court is the source of referral for the CSS Program, in this study the PRSP received seventy-five percent (75%) of its cases as court referrals; the other twenty-five percent (25%) were referred from the Pre-Trial Intake Unit. For PRSP cases, an average 2 days elapsed from the time of referral until the start of supervision, keeping in mind that referrals included the many defendants who were released from the Court to report to PRSP. These cases are assessed and supervision initiated in a single day. PRSP staff estimate the average time to supervision for in-custody referrals in a range of from four days to two weeks.

Contacts with defendants under supervision differed in number and in kind between the two programs

The average number of contacts for defendants in the PRSP study, was two phone contacts per week (the defendant places the call to the office) and no face-to-face contacts. Although face-to-face contacts are required of some defendants, only twelve of the 371 individuals under active supervision in January were listed as receiving this level of staff interaction.

For the CSS Program, the average number of phone contacts was five per week, with an average of less than two face-to-face staff interactions per week.

Defendants in the CSS Program received, on average, one Home Visit over the course of their supervision

CSS does pre-release home checks on all domestic violence, and Measure 11 cases; for defendants with drug or sex-related charges; and for cases in which the defendant does not have an address.

Once accepted for supervision, seventy-eight percent (78%) of defendants had “Home Visits” listed as a condition of supervision. In practice, less than half of all defendants receive a visit during their supervision.

Of those who received a home visit, sixty percent (60%) were visited no more than once.

Approximately forty percent (40%) of CSS defendants are involved in some program, compared to eight percent (8%) of PRSP clients

Each program had a similar proportion of defendants who were concurrently under probation or parole supervision: approximately one-quarter. Beyond that similarity there were differences noted in the issues defendant presented and the manner of response.

CSS staff indicate a higher percentage of clients with alcohol and drug problems (54%) compared to PRSP (38%), and a higher incidence of mental health issues (10%) amongst their population, compared to less than one percent for PRSP clients.

The percentage of PRSP clients given routine urinalysis tests as part of their supervision (39%) corresponds to the percentage with an addiction problem (38%); whereas, for the CSS Program, almost twice the number of individuals with a listed problem are being tested, with a ninety percent (90%) testing rate.

Twelve percent (12%) of the CSS population are currently monitored under electronic supervision. The PRSP Program does not have any clients monitored electronically.

Pre-Trial Population Issues/Treatment

	PRSP	CSS
Concurrent P&P	24%	28%
A&D Problem	38	54
Mental Health Issue	0	10
Electronic Monitored	0	12
U.A. Testing	39	90
Mandated Program	8	37

Of those mandated to participate in a program as a condition of their supervision, the majority were engaged in alcohol and drug treatment. Of those in A&D treatment, most were in an outpatient program. In

total, fourteen defendants were in an in-patient treatment program while awaiting adjudication.

While none of the PRSP clients were listed as having a mental health problem, it cannot be concluded that it does not exist. It may reflect the fact that the brevity of the interview process and the limited face-to-face contact, once supervised, does not lend itself to this assessment.

The average caseload size for CSS staff was 26 defendants; for PRSP the average was 72 defendants

Since the time of this study, the PRSP has lost three positions, and currently caseloads are averaging 120 defendants per pre-trial officer.

C. **OUTCOME DATA**

DATA COLLECTION

Over the last month, a sample of defendants who had been released to pre-trial supervision was examined to secure baseline outcome data and to analyze criminal histories.

Each program completed data forms for a sample of defendants (approximately 100 cases from each program) who had been under active supervision in July, 2000.

The Case Closure Rate was Similar for Both Programs

For both Pre-Trial Programs, roughly three-quarters of pre-trial cases were successfully closed. Seventy-two percent (72%) of the CSS cases were successfully closed; as were seventy-five percent (75%) of PRSP cases.

Correspondingly, the average Failure Rate for the Programs was: twenty-eight percent (28%) for the CSS Program, and twenty-five percent (25%) for PRSP.

Unsuccessful Case Closures

CSS	28%
PRSP	25%

The CSS Case Closure Rate of 72% matched the four-year average of the Program over the last four years (1997-2000). Over those four years, the Closure Rate ranged from a low of sixty-eight percent (68%) to a high of seventy-nine percent (79%).

The Re-Arrest Rate was Similar for Both Programs

Five percent (5%) of the CSS, and three percent (3%) of PRSP defendants were re-arrested for a new crime while under pre-trial supervision.

Re-Arrest Rates

CSS	5%
PRSP	3%

The Failure-to-Appear Rate was Similar for Both Programs

Eleven percent (11%) of the CSS, and fourteen percent (14%) of PRSP cases were terminated unsuccessfully because of 'Program Non-Compliance.' This includes such things as: not reporting to the program; contacting the victim; not attending treatment; etc.

FTA Rates

CSS	11%
PRSP	14%

A higher percentage of PRSP defendants had a Violent Felony Conviction in their History

Eighteen percent (18%) of PRSP defendants had been previously convicted of a violent felony, compared with thirteen percent (13%) of those in the CSS Program.

A significantly higher percentage of CSS defendants had one or more prior felony convictions

While PRSP defendants had a greater percentage of prior Violent Felony convictions, those in the CSS Program had a higher percentage of prior felony convictions. On other variables the two populations were similar. The data broken out below indicates the percentage of defendants who had *one or more* arrests or convictions on their criminal record.

Criminal History Comparison (CSS/PRSP)

	CSS	PRSP
Arrests (Felony) (prior 5 years)	80%	82%
Convictions (Misd.) (prior 5 years)	35	30
Convictions (Felony) (prior 5 years)	61	40
Violent Convictions (no time limit)	13	18

The Failure-to-Appear Histories for Defendants in the Two Programs was Similar

Fifty-one percent (51%) of CSS, and fifty-four percent (54%) of PRSP defendants had one or more prior Failure-to-Appears on their record.

Those Defendants whose Supervision was Terminated for a Failure-to-Appear, had a History of FTA's three to four times the Program Average

CSS defendants who were terminated for an FTA had, on average, four times the prior number of FTA's as the group mean. The defendants with FTA failures in the PRSP Program had, on average, three times the prior number of FTA failures as the group mean.

The Average Time under Pre-Trial Supervision was Slightly over Three Months

The average time under CSS supervision was 3.2 months, and 3.5 months for PRSP.

Avg. Duration of Supervision

CSS	3.2 months
PRSP	3.5 months

SUMMARY OF FINDINGS

- High Percentage of Domestic Violence Cases
- Avg. 23 Days from Booking to CSS Supervision
- Pre-Trial Intake has a 32% Release Rate
- CSS has a 30% Release Rate
- Measure 11 Denial Rate Lower than Average
- 36% of CSS, Candidates for Restitution Center
- Average Pre-Trial Successful Case Closure Rate : 74%
- Average Pre-Trial Re-arrest Rate : 4%
- Those with FTA had More History of FTA's

RECOMMENDATIONS

GOAL: APPROPRIATE RELEASE DECISIONS

Validate the Release Criteria

The existing release criteria have not been formally reviewed since they were implemented, and have never been validated.

The criteria that guide release decisions should be based on those factors that have been demonstrated to correlate with success or failure while on pre-trial release. Multnomah County should conduct a validation study to help select and weight release criteria.

Oregon Statutes require an objective assessment of risk to aid in the determination of pre-trial release. The Court is to take the following factors into consideration:

- (i) *The nature of the charge,*
- (ii) *Prior criminal record,*
- (iii) *Prior appearance history,*
- (iv) *Any facts indicating the possibility of violations of the law if the defendant is released without regulations,*
- (v) *Any facts tending to indicate that the defendant is likely to appear,*
- (vi) *Defendant's employment status and history and financial condition,*
- (vii) *Nature and extent of the family relationships,*
- (viii) *Past and present residences,*
- (ix) *Names of persons who agree to assist the defendant in attending court at the proper time; and*
- (x) *Any facts tending to indicate that the defendant has strong ties to the community (ORS 135.230).*

Establish a Standing Pre-Trial Committee

Multnomah County should establish a standing Pre-Trial Committee. This committee should meet on a regular basis to review pre-trial policies, set benchmarks, and monitor program data. A committee of this kind is most effective when it includes those in a position to set policy for their agency or department. It should at a minimum include:

Chief Judge
District Attorney
Public Defender
Sheriff
Director, ACJ
Police Chief
Pre-Trial Director

GOAL: EXPEDITE RELEASE FROM JAIL

Establish a Single Screening Mechanism

The existing bifurcated Pre-Trial Services model results in redundancies and delays. In this model, a case could be referred to PRSP for an interview, and the defendant deemed to not be a good candidate for their program, resulting in the case being sent back to Court, where it is then routed to CSS for consideration. This two-tiered process creates unnecessary effort and works against the expeditious release of defendants.

The average time between booking and CSS supervision is 23 days

Those defendants not released after the initial ‘Release Interview’ at The Intake Unit, should be routed by the Court to a centralized Screening Unit, whose staff would conduct the more in-dept ‘Release Assessment.’

Cases screened by this Unit would be assessed within rigid time limits, and recommended (if appropriate) for placement along a continuum of supervision services.

More than 20% of all cases referred to CSS were not eligible or available for assessment

Having a single screening point can help expedite the resolution of ‘holds’ as well as other outstanding issues that serve as an impediment to release. CSS is currently receiving a substantial proportion of cases that cannot be acted on because of ‘holds.’

A single screening mechanism can also help standardize release decisions and, by removing the decision from the individual pre-trial officer who will supervise the case, make release decision-making more neutral.

Pre-Trial Staff Should Make Recommendations on All Cases

Currently, Pre-Trial Intake staff do not submit a recommendation to the Court on all cases (e.g. domestic violence). But, given that they are interviewing these cases, the Court should have the benefit of their input.

While there are other references to domestic violence issues in this report, this topic warrants its own review. A comprehensive domestic violence policy needs to be developed, relating to the screening, release and supervision of domestic violence defendants.

Domestic violence cases represented 9% of the total caseload for each of the two supervision programs

Although this preliminary examination of data shows a high success rate for these cases, in that there were no domestic violence homicides, the local prosecution rate for DV cases is low.

There are a number of issues to be addressed at the pre-trial stage for domestic violence cases: cases bailing before the interview; victims bailing out defendants; the use of violence prediction instruments at screening; the determination of supervision level; etc.

Establish Benchmark for Time from Booking to Release

The goal should be to complete the more detailed ‘Release Assessment’ within 48-hours. There will, of course, be some cases for which more time is needed, but the majority of cases should be completed within a two-day period.

The average time between Booking and the Start of PRSP Supervision is six days.

As part of the effort to reduce screening timelines, consideration should be given to making clinical staff available to the Pre-Trial Intake Unit. This kind of back-up support can be invaluable in making accurate and timely release decisions.

Stop Postponing Assessment Until After Grand Jury

Once the case has been referred to PRSP or CSS, it has become a rather common practice to wait until the case has been indicted to initiate the assessment process. This decision delays release.

Have Pre-Trial Staff Assist with Diversion Screening

In many jurisdictions, Pre-Trial Intake staff screen defendants to determine eligibility for Drug Court or other diversion programs. This helps expedite release.

Have Pre-Trial Staff Assist with Indigent Screening

In many jurisdictions, Pre-Trial Intake staff collect information from the defendant to aid in assessing indigency. This assists the Court in making finer distinctions between cases, instead of having to resort to an almost universal determination of indigency and appointment of counsel.

Making use of pre-trial staff for this task can mitigate the workload of traditional court staff in the courtroom and facilitate the resolution and assignment of cases.

Consider Having Pre-Trial Staff Available in Courtroom

Full-service Pre-Trial Programs often station staff in the courtroom to respond to questions from the bench or to expand upon the information provided. This helps ensure quality release decisions, and may expedite releases.

Limit Time Detained to No Longer than Possible Sentence Duration

In our review of pre-trial cases we encountered a few defendants who had been denied release and, at the time we saw the files, had been held in Jail for a period of time (30 days) which was longer than they would serve if sentenced (Trespass II case). These were individuals with mental health problems, who had been denied release because of a lack of stable housing □ which raises questions about options for the mentally ill, that we hope to address in future reports. But for now, a reasonable policy would be to limit time in jail on pre-trial status to the maximum for which they could be sentenced.

Automate the Intake Interview

Pre-Trial Intake staff currently conduct a paper interview. The operation would be made more efficient by having the interview form available in an electronic format.

Gain 24-Hour Access to OJIN

The OJIN access issue affects the entire system, but it is a special hindrance to Pre-Trial Intake Services, where quick decision-making is required and time is of the essence. The Oregon Judicial Information Network (OJIN) is reported to be “down” one-third of the time. Access in the evenings and the weekends is especially difficult. This issue needs to be addressed at the State level.

Have Six Work Stations in Intake Unit

With the four work-stations now available in the Pre-Trial Intake Unit, there is no back-up support if a computer becomes inoperative; nor is there an additional resource at times when the booking numbers are particularly high. A high volume operation such as this needs back-up support in order to ensure the expeditious processing of defendants.

GOAL: REDUCE FAILURE-TO-APPEARS

Court Date Notification

A pre-trial program should provide court date notification to ALL defendants released through their office □ ROR cases, included. The notification should take the form of a written notice of the date, location and time of court appearance, supplemented by a phone-call reminder.

Expand Use of Electronic Monitoring

Electronic monitoring is currently used only in those cases where the defendant is able to pay the \$12 per day that covers operation of the unit. This should not be the limiting factor in utilizing this resource. When comparing the cost of a unit to the cost of one day in jail, electronic monitoring becomes an inexpensive way to mitigate jail impact.

In terms of the cost of this option, there are vendors who will provide service at no cost to indigent defendants; which can be explored.

Have Release Agreements in Spanish

Currently, Release Agreements are only available in English. They should be printed in Spanish and any other languages frequently encountered.

GOAL: DETER CRIMINAL ACTIVITY

A Single Continuum of Supervision

The supervision services currently available in Multnomah County represent two ends of a spectrum. In PRSP, the supervision consists mainly of a couple of phone contacts per week, with domestic violence defendants and a few other select cases receiving face-to-face contacts. On the other end of the spectrum is the more intensive CSS supervision, in which face-to-face contacts are a standard condition, and home visits performed when deemed necessary.

Having two discrete programs does not allow for the movement of defendants along a single continuum of graduated services: there are times when a defendant is complying and supervision can be relaxed, and other times when the best response to non-compliance is the intensification of contacts. Under the existing system a PRSP staff who wanted to move a defendant into the more restrictive CSS Program, would have to bring the case back to Court to effect this change. Multnomah County needs a single continuum of pre-trial services.

Maintain Acceptable Caseload Size

In the beginning of January, when the data collection began, PRSP caseloads were an average of 72 defendants. By February, staff losses had increased caseload size to 120 defendants. This size caseload is too large to be manageable. A recommended caseload size for the kind of cases this unit has under supervision is 50 –75 defendants.

The CSS Program has an average caseload size of 24 defendants.

Make Restitution Center Available for Appropriate Candidates

In our study, CSS staff estimated that almost forty percent of the defendants they reviewed would be good candidates for the Restitution Center, if this resource were available. Many of the defendants identified as potential candidates were denied release by CSS staff because of a lack of stable housing, or the need for more structure, sometimes in the form of inpatient treatment program. But with crisis housing in short supply, and with a 6-8 week wait, on average, to access inpatient treatment, many of these defendants remain in jail. The dedication of a number of beds at The Restitution Center, to be used as a short-term stabilization option, would be one way to increase the pre-trial release rate and relieve pressure on the jail.

Explore the Use of Juris Monitor Technology for Select DV Cases

There are several technologies designed to provide victims the security of an early warning of danger, or an instant alert system. The Juris Monitor system employs an electronic bracelet, worn by the defendant, which sets off an alarm if the wearer comes within 500 ft. of the victim's residence. The alarm is set to simultaneously alert the Juris Monitor operator, the police,

and the probation officer (if relevant). At the same time, a voice channel is activated, which permits an operator to monitor and record all conversations in the home. With this system the victim need not activate the alarm, nor even be home to detect a violation.

GOAL: MAINTAIN STABLE & PROFESSIONAL OPERATION

Review ACJ Staff Classification

The ACJ Pre-Trial Program suffers from high staff turn-over. With staff classified as ‘Corrections Technicians,’ the pre-trial assignment is viewed as the first rung on a career path in Probation and Parole. Yet, Pre-Trial Services occupies a far too important place in the criminal justice system to be viewed as anything less than a professional operation, and a permanent career choice.

Pre-Trial staff must have a high degree of maturity, and the ability to work independently in making sensitive release recommendations. It is a position, both at the Intake and at the supervision level that requires high-end skills. Yet, the current classification, as applied in the larger probation and parole operation, is limited to individuals more often involved in tasks like urinalysis testing and clerical functions, than in the skilled work of screening and monitoring the full-range of defendants who pass through our system.

Pre-Trial staff should be classified at the same level as Probation and Parole officers. ACJ has a total of 21 staff positions (there are currently three vacancies). Nineteen (19) of the twenty-one staff are classified as ‘Corrections Technicians,’ one (1) is classified as an Office Assistant One. The Manager is in a separate classification.

At the Close Street Supervision Program, six (6) staff are classified as Deputy Sheriffs, one (1) person is a Correctional Technician, and two (2) staff are Office Assistants.

Provide Staff Training in Domestic Violence Issues

Pre-Trial Intake staff often take calls from domestic violence victims who are seeking information or are in need of assistance. Training in dealing with these issues is important.

Create a Single Policy Manual

The CSS Program and PRSP operate under two sets of policies. These written policies and procedures differ not only in scope but in detail. The CSS Program has only recently fashioned a limited policy manual. The PRSP has one that is quite comprehensive in procedural detail. In the end, of course, policy and procedure manuals are only meaningful if their dictates are understood and followed by staff.

Along with the move toward a single continuum of services, should come a review and unification of pre-trial policies and procedures.

Implement Quality Control and Review Procedures

In moving toward a single continuum of pre-trial services, procedures should be put in place for a chain of command for reviewing staff decisions or supervision issues that arise in the course of daily activity. CSS Program staff have been operating without a hands-on supervisor for some time. (In January a new Manager was assigned.) The PRSP operates as a self-managed unit.

Comprehensive Data Collection

The data that is collected by pre-trial services is neither standardized nor complete. Basic defendant data is not reported in the aggregate; reasons for case denial are not noted; and outcome data for ROR and other releases is not tracked. The following data should be collected:

Intake

- * Number booked into Jail

- * Number interviewed

- * Defendant characteristics of those interviewed
(age, race, gender, charge type, charge class, M.II)

- * Number recommended for release/diversion

- * Staff Reason for not recommending release
Note: For cases denied release because of a probation officer objection, the Officer's reason should be documented

- * Number actually released/entered into diversion

- * Number released by type of release
(ROR, third party, supervised release, bail)

Supervision

- * Referral Source

- * Time from Booking to Supervision

- * Number supervised (by level of supervision)

- * Number of referral to programs
(A&D, violence counseling, employment services, etc.)

- * Average caseload size

- * Average length of stay

- * Failure-to-Appears by release type

- * Re-arrest by release type

Develop Performance Benchmarks

Operational standards help ensure the highest quality of services. Program benchmarks provide an objective and quantifiable standard against which to measure program performance. The CSS Program has a benchmark for re-arrests (not to exceed 2%) and for positive case closures (80%). Target ‘thresholds’ should be set for other areas. Common pre-trial benchmarks include:

- * Recommendation Rate
- * Judicial Agreement Rate
- * Release Rate
- * Time from Booking to Release
- * Positive Case Closure Rate
- * Failure-to-Appear Rate
- * Re-arrest Rate

The Recommendation Rate describes the percentage of individuals interviewed who are recommended for release by pre-trial staff. Tracking this rate allows changes in policy to be monitored, and helps detect anomalies in decision-making over time.

The Judicial Agreement Rate helps identify the level of conformance between pre-trial and judicial decision-making. For example, a low Agreement Rate might indicate that certain policy assumptions need to be reviewed. National data leads us to expect that, at a minimum, 75% of all defendants recommended for release by pre-trial staff, are released.

Automated Information System

An automated case management system promotes effective case monitoring, and simplifies the analysis of data. These systems have special utility in pre-trial operations where there is an expectation for a quick turnaround of information, and where an immediate response to defendant non-compliance is critical. There are several automated information systems on the market, tailored for pre-trial programs.

Membership in National Association of Pre-Trial Agencies (NAPSA)

Multnomah County should have membership in NAPSA. This affiliation will help Pre-Trial Services stay current with national standards and practices.

ISSUES

- Bifurcated Pre-Trial Services Result in Redundancies and Delays
- Release Decisions Not Based on Validated Criteria
- Release Decision-Making Lacks Consistency
- No Single Mechanism for Screening Cases
- Lack of a Single Continuum of Supervision Services
- Court Date Notification Not Provided for all Cases
- No Comprehensive and Standardized Data Collection
- High Staff Turnover

PRE-TRIAL RISK STUDIES: A SUMMARY OF NATIONAL DATA

In an analysis of the Nation's 75 most populous counties it was found that about a third of defendants who were released from jail prior to case disposition, were either re-arrested for a new offense, failed to appear in court as scheduled, or committed some other violation that resulted in the revocation of their release (Reaves, 1994).

The area of Pretrial Risk Assessment is not as advanced as other areas of risk analysis, such as the work done toward the development of Probation and Parole risk instruments. But a small body of literature does exist, and will continue to expand, as more jurisdictions conduct their own pretrial validation studies.

Failure-to-Appear Risk

In the 1980's one researcher (Eskridge, 1981) reviewed a number of studies that had been conducted to isolate factors associated with pretrial failure-to-appear (FTA). The number of studies showing a correlation between one particular factor and failures-to-appear are presented below:

<u>Factor</u>	<u>% of Studies Showing Positive Correlation</u>
Supervision/Notification	100%
FTA History	100%
Employment	80%
Prior Record	55%
Community Ties	28%
Pretrial Agency Release Rate	0

(Note: While 55% of the studies showed a correlation between current offense and FTA, there was no agreement on the direction of that relationship.)

Based on these findings, Eskridge concluded that strong community ties may not, when taken alone, be a strong predictor of appearance. On the other hand, a prior history of FTA's does seem to predict high rates of failure; while pretrial supervision and notification appears to mitigate non-appearance rates.

A recent NIJ study (1996) has also found that employment and/or school attendance are useful indices for predicting both re-arrest and failure-to-appear.

It is important to note that in no study was there any correlation between the overall release rate of a pretrial agency and its failure-to-appear rate.

The national pretrial analysis of defendants in the Nation's 75 cities showed that defendants who had failed to appear in court at least once on a previous charge, had about twice the FTA rate of those with no prior history.

Re-Arrest Risk

Several studies have examined factors associated with the risk of being arrested for a new crime while on pretrial release (Toborg, 1984; Goldkamp, 1985). The following factors have been found to be correlated with higher rates of re-arrest:

- Current charge is Property offense, Drug offense, Prostitution
- Age (younger defendants had higher rates of re-arrest)
- Unemployed
- Prior convictions/arrests
- Self-reported drug problem
- On probation or parole when arrested on underlying charge

Studies suggest criminal history is the best predictor of re-arrest, with the number of previous arrests or convictions carrying special predictive weight. Other indices of criminal record □ number of previous probation/parole revocations, number of previous incarcerations; had varied predictive power across study sites (NIJ, 1996).

Importantly, the seriousness of the initial arrest charge has been found to have no effect on the probability of re-arrest. Marital status and length of

time living in the community also do not seem to have a large part in predicting risk (NIJ,1996).

Some studies have shown (reviewed in Pryor,1982) that defendants charged with serious offenses have lower rates of pretrial misconduct (both failure-to-appear and re-arrest) than those charged with other offenses, particularly property crimes. And, interestingly, one recent study shows that the more serious the initial arrest charge, the greater the likelihood that the defendant will appear at court (NIJ, 1996).

With respect to prior convictions, one large-scale analysis (Reaves, 1994) showed that defendants with at least one prior conviction were about twice as likely to be re-arrested as those with no prior convictions.

For those defendants re-arrested for a new crime while on pretrial release, about 69% were re-arrested for the same type of offense as the underlying charge.

Drug Testing as a Pretrial Tool

Several years ago a study was conducted in six sites across the Nation to examine the power of drug testing in predicting pretrial failure (Henry, 1999). The results were mixed.

After controlling for other factors, those defendants testing positive for cocaine were linked to increased FTA rates *in some but not all jurisdictions*.

In some, but not all jurisdictions testing positive for opiates was related to higher re-arrest rates.

An unexpected finding in one jurisdiction was that those testing positive for PCP had lower FTA rates.

The researchers speculated that the inability of the tests to predict misconduct may have to do with the tests inability to distinguish between casual and heavy users.

In a separate look, at whether drug testing defendants who are under pretrial supervision reduces misconduct rates, results were also mixed. There was

no difference in FTA or re-arrest rates for defendants randomly assigned to either a 'drug-tested' or 'not drug-tested' group.

The report concludes that while future research should concentrate on determining the effectiveness of drug-testing at the pretrial level, at present it might be best used as a device to identify those who need treatment.

The report makes no mention of the fact that many pretrial programs use drug-testing, not as a predictive tool, but as a way to monitor compliance for defendants under pretrial supervision.

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APPENDICES

Jail Bookings and Pre-Trial Interviews
Interviews as a Percentage of Bookings
Pre-Trial Intake Interviews by Charge Class
Pre-Trial Intake Interviews by Charge Category
Pre-Trial Intake Interviews Person Crimes by Domestic Violence
Pre-Trial Intake and Total 2000 Booking by Race
Pre-Trial Intake Release Rate
Pre-Trial Intake Release Type
Pre-Trial Intake Release Rate by Charge Class
Pre-Trial Intake Denial Rate by Charge Category
Pre-Trial Intake Denial Rate by Race
CSS Release Rate
Close Street Denial Rate by Charge Category
Supervised Releases by Charge Class
Supervised Releases by Charge Category
Supervised Releases Person Crimes by Domestic Violence
Supervised Releases by Race
Supervised Releases by Prior Criminal History
Supervised Releases by Successful Completion
Supervised Releases by Rearrests
Supervised Releases by Failure-to-Appear
Supervised Releases by Failure-to Comply