

Pretrial Services

Pretrial Services and Bond Setting
SAFEHOUSE Committee Presentation
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Objectives

1. Overview of pretrial system/program
2. Review how pretrial release is different than probation and parole
3. History and current practice relating to bonding decisions in Denver
4. Data/Outcomes

What does Pretrial mean?

Criminal Justice System Context

Pretrial is the initial stage of a criminal case which begins with an arrest or citation and concludes with the disposition of charges.

Disposition may include no filing of charges, dismissal, a not guilty finding, or sentencing.

Decisions made at the pretrial stage of a criminal case are governed by constitutional and statutory legal principles that purposely separate this stage of the criminal justice system

How is Pretrial different from Probation or Parole?

Pretrial

- Eligibility (bail) is a constitutional and statutory right
- Individual has not been convicted/Not all pretrial cases will end with a conviction
- Court has statutory limitations on conditions of release
- Administered at local level

Probation

- Post Conviction
- Probation is a sentencing alternative/ privilege
- Court has wider discretion to set conditions
- Administered at both local and state level (Judicial Branch)

Parole

- Post Prison/Felony sentences only
- Convicted
- Parole Board sets conditions of release
- Administered at the state level (Executive Branch)

What does Pretrial Services do?

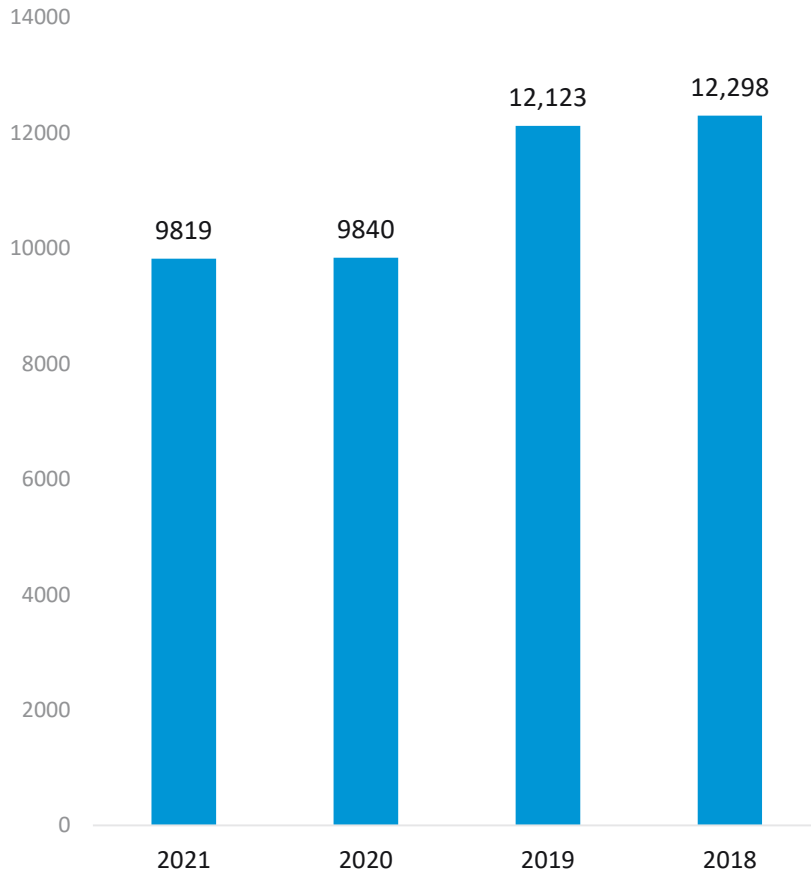
Program Context

Pretrial Services is a program within the Department of Safety's (DOS) Community Corrections agency.

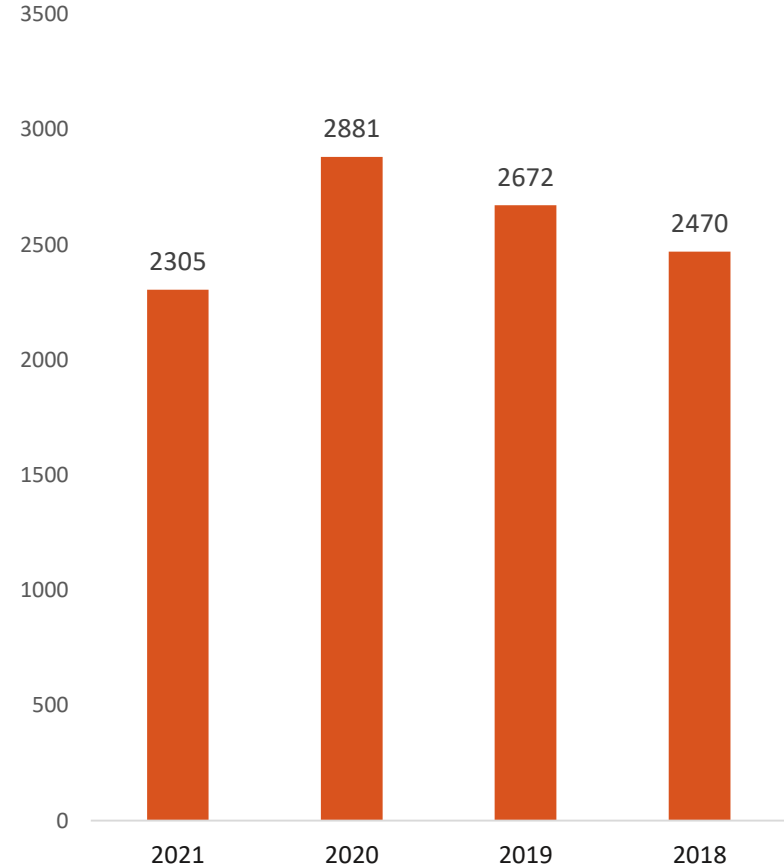
The program prepares information for the Court shortly after a defendant is arrested and booked into jail. The information provided includes an interview with the defendant, information on the offense, prior criminal history, and risk assessment information.

Pretrial Services also provides community-based supervision for released defendants if ordered by the Court.

Annual Bond Advisement Reports Completed



Average Daily Pretrial Supervised Population



Pretrial Legal Principles and Framework

US Constitution & Colorado Constitution

- With very limited exception, pretrial Defendants have a fundamental constitutional and legal right to bail, regardless of the individual's financial status.
- Bail is not punishment. Individuals released on bail are innocent and the pretrial phase of a case is not intended to punish.
- Bail cannot be excessive.
- Limitations on pretrial detention eligibility Section 19 of article II of the Colorado Constitution

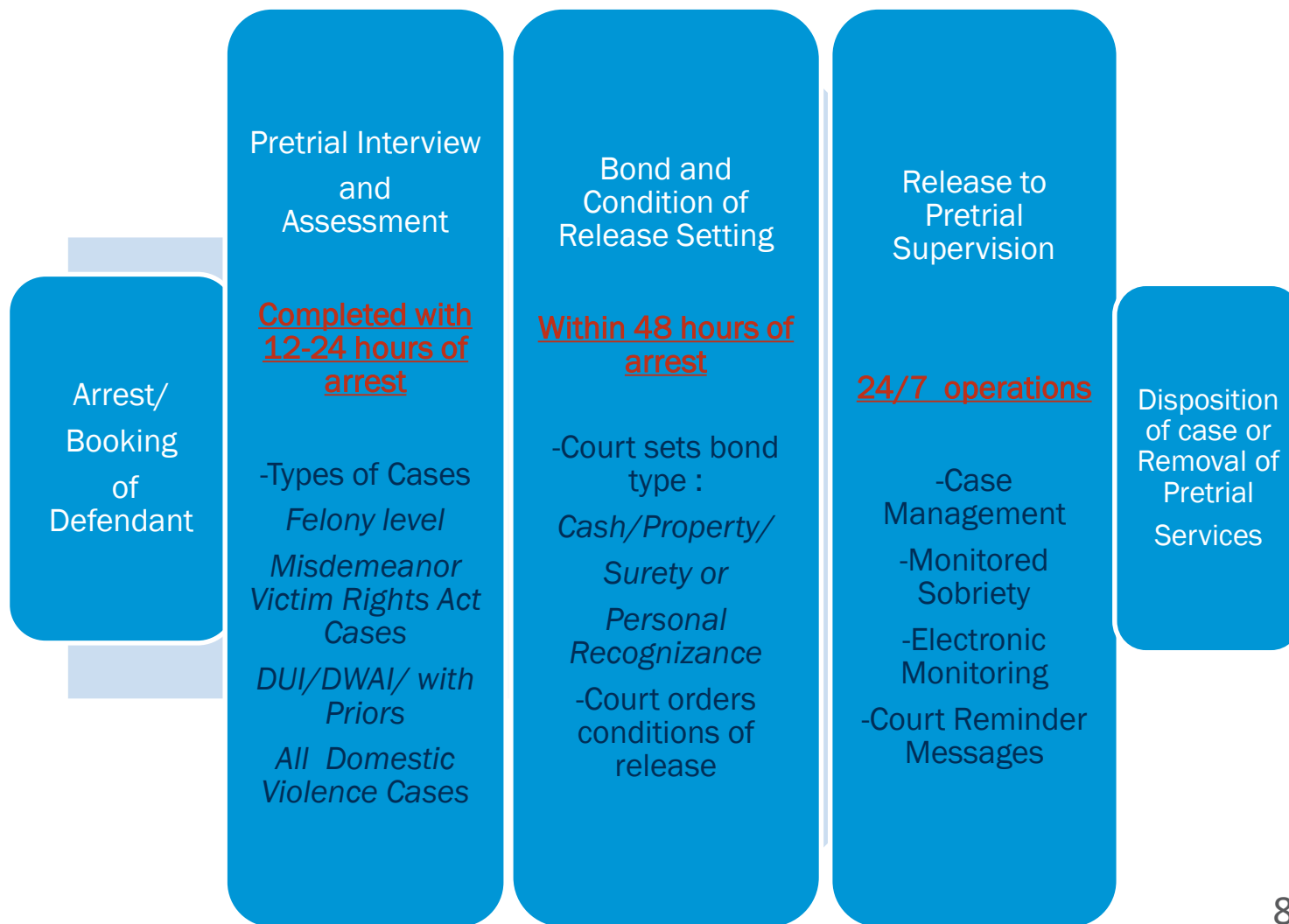
Colorado Statutory Provisions

- CO Rev Stat § 16-4-101 limits who can be detained pretrial
- 2013: Colorado's Bail Statutes were Revised to limit use of financial condition of release (cash bail) and encourage use of research informed tools (Pretrial assessments).
- Presumption of release /Least Restrictive conditions.
- 2019-2021: No money bail for low level offenses/Bond must be set within 48 hours/ Defendant released within 6 hours of posting bond.

Denver Pretrial Services Process

*Victim Rights Act
24-4.1-302(1) C.R.S*

*More Serious Crimes
(i.e. Assault, Sexual
Assault, Menacing,
Agg Robbery.....)*



Bail Reform -Defining the Problem

Each year, nearly 12 million people are booked into U.S. jails, mostly for nonviolent misdemeanors, and more than **60 percent of jail inmates are unconvicted**—largely because of financial barriers to post even small money bond amounts.

Even **three days in jail** can be too much, leaving low-risk defendants less likely to appear in court and more likely to commit new crimes—because of the stress incarceration places on fundamentals like jobs, housing and family connections. (Arnold Foundation study 2013 The Hidden Costs of Pretrial Detention & 2022 The Hidden Costs of Pretrial Detention Revisited)

Meanwhile, some of the **highest-risk defendants to be rearrested or failure to appear go free by posting money bail** under laws that currently hinder judges' ability to detain based on risk.

Pretrial Reform Timeline Denver

- 2011: National Reform Movement-Pretrial Symposium. Attorney General Holder issues a call to action for pretrial justice reform
- 2012: Implementation of Empirically Developed Colorado Pretrial Risk Assessment Tool (CPAT)/Supervision Level Matrix
- 2013: HB13-1236 Colorado Bail Statutes revised (use risk assessment, presumption of release, least restrictive conditions, and less reliance on financial conditions) CCJJ Bail Subcommittee and CCJJ recommendations. CCJJ is the state Commission on Criminal and Juvenile Justice.
- 2013: Implemented Domestic Violence risk assessment Ontario Domestic Assault Risk Assessment (ODARA)
- 2014-2016: Department of Justice SMART Pretrial Grant (System Supervision Matrix Revised)
- 2017: HB17-1338 Holds for municipal cases convert to PR after 48 hours
- 2019: HB1225 No money bail for low level offenses
- 2019: SB19-191 Judicial District plans for bond setting within 48 hours/ Release within 4 hours of posting bond.
- 2021: HB21-1280 48- hour bond hearing by 2022/ Release within 6 hours of posting bond.

Denver Smart Pretrial Demonstration Initiative



- US Department of Justice Grant 2014-2016
- Crime Prevention and Control Commission Involvement
- Denver one of 3 sites in US selected
- Denver formed a multidisciplinary Smart Pretrial Policy Team with representation from the pretrial system stakeholders.
- Technical assistance providers to mapped, measured, and assessed the current pretrial justice processes and developed an action plan based on the identified opportunities for improvement.



Denver Smart Pretrial Demonstration Initiative



Membership included:

Denver District Court
Denver County Court
Denver District Attorney's Office
Denver City Attorney's Office
Office of State Public Defender
Office of Municipal Public Defender
Denver Sheriff Department
Denver Police Department
Crime Prevention and Control Commission
Denver Public Safety
Denver Pretrial Services

Key Outcomes:

Collaborative Process

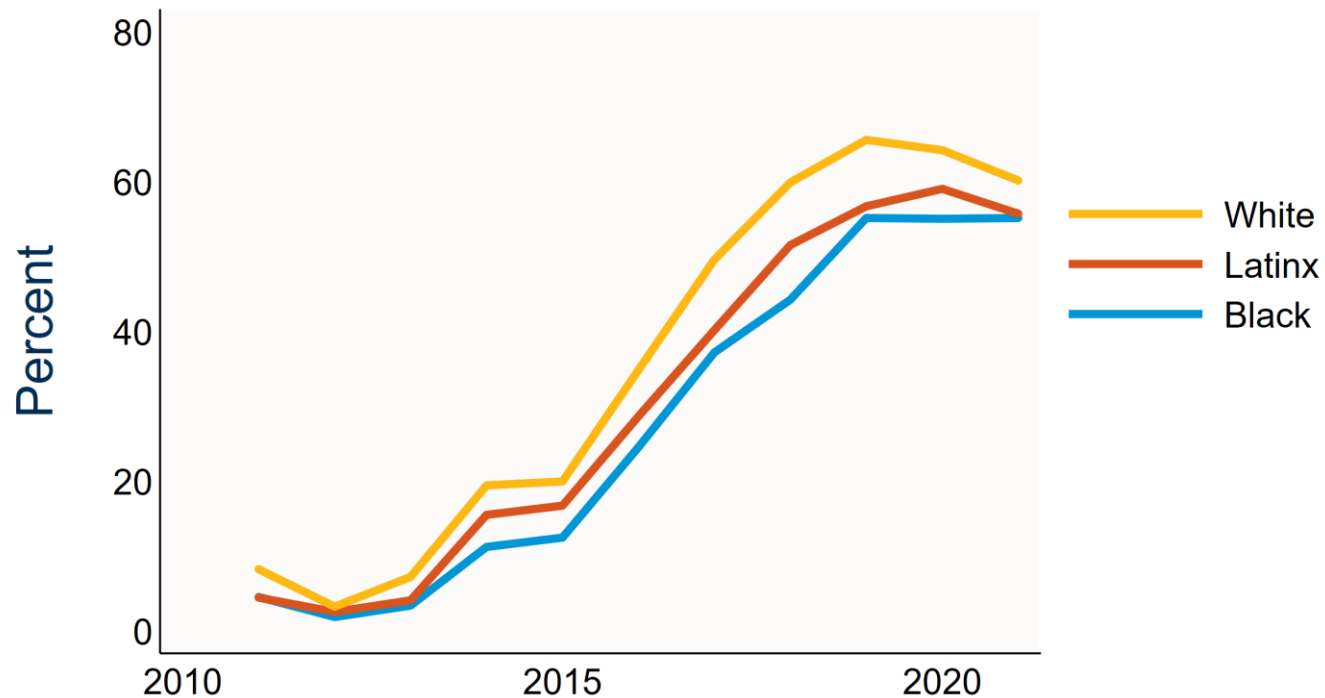
Development of Vision and Guiding Principles
Revised Supervision Matrix

Joint Judicial Order governing Pretrial process in
Denver

Personal Recognizance Bonds

Share of Defendants Granted
Personal Recognizance Bond

2011 to 2021



Colorado Pretrial
Assessment Tool (CPAT)
Validation Study and the
CPAT- Revised
instrument

Improved Predictive
Performance

Equity in Performance
Across Subgroups

Phase One: Retroactive validation of CPAT

Phase Two: Focus Groups and Observations related to the use of the CPAT

Phase Three: Construction, Pilot, Assessment of CPAT- Revised (CPAT-R)

Provide a more predictive tool with equity across all defendant subgroups (race/ethnicity, sex, residential status)

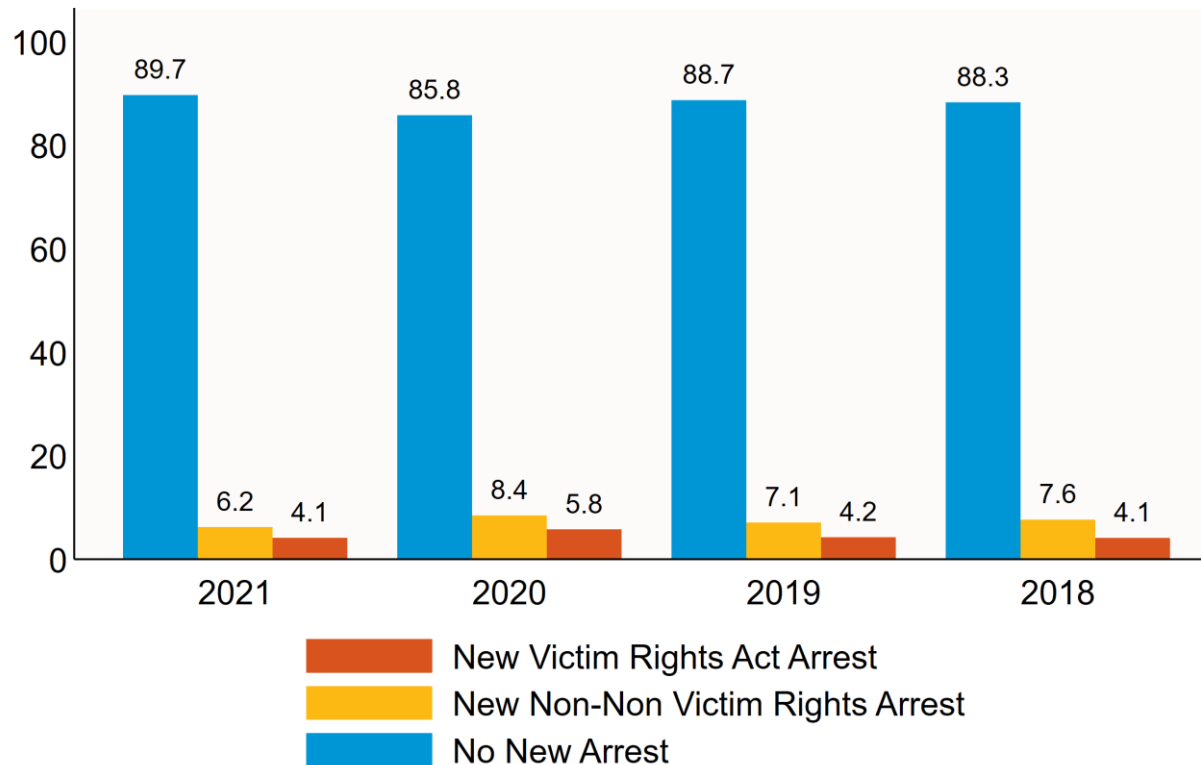
Next Steps in Denver- Working group recommended implementation of CPAT-R. Awaiting final approval from Mayor/Dept of Safety and 2nd Judicial District District Court Chief Judge/ County Court Presiding Judge

Began work in 2018

- Multiple County Collaboration with University of Northern Colorado
- Data included Denver, Boulder, Larimer, Garfield, Mesa, Pueblo, Weld Counties

New Crime Rates during Pretrial Supervision

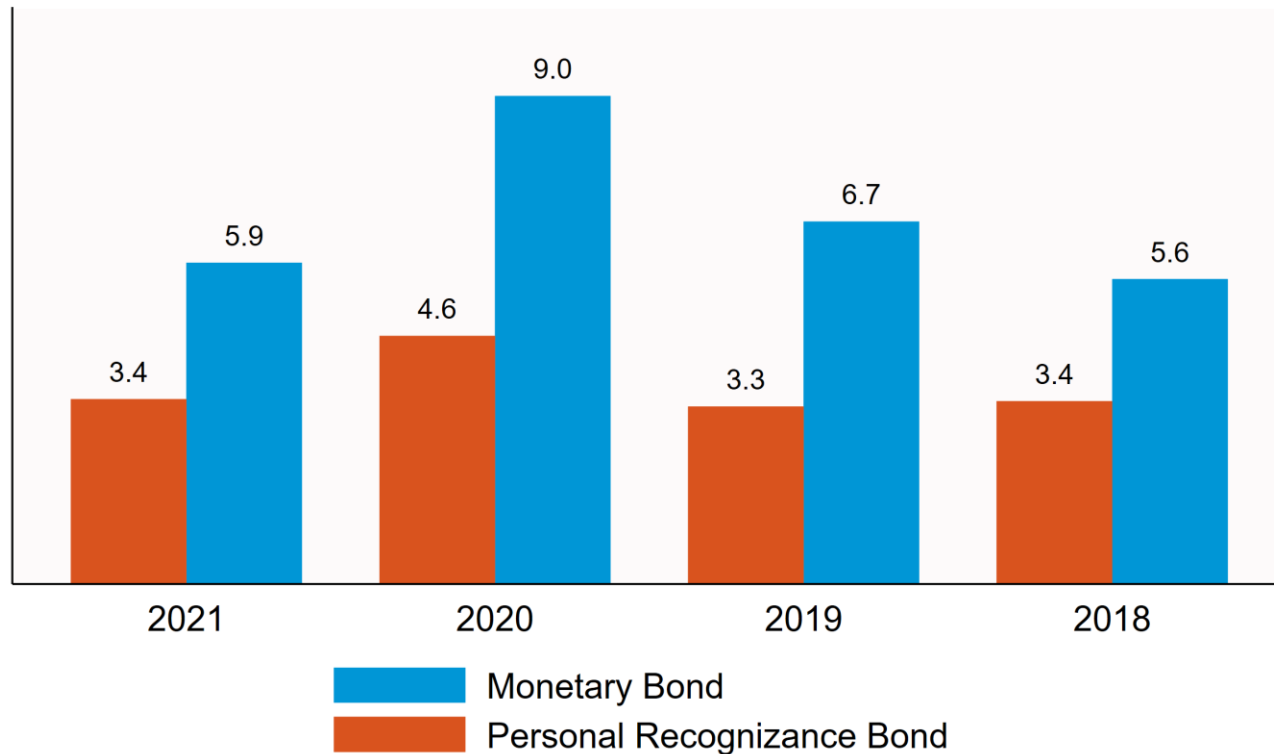
New Crime Rates During Pre-Trial Supervision



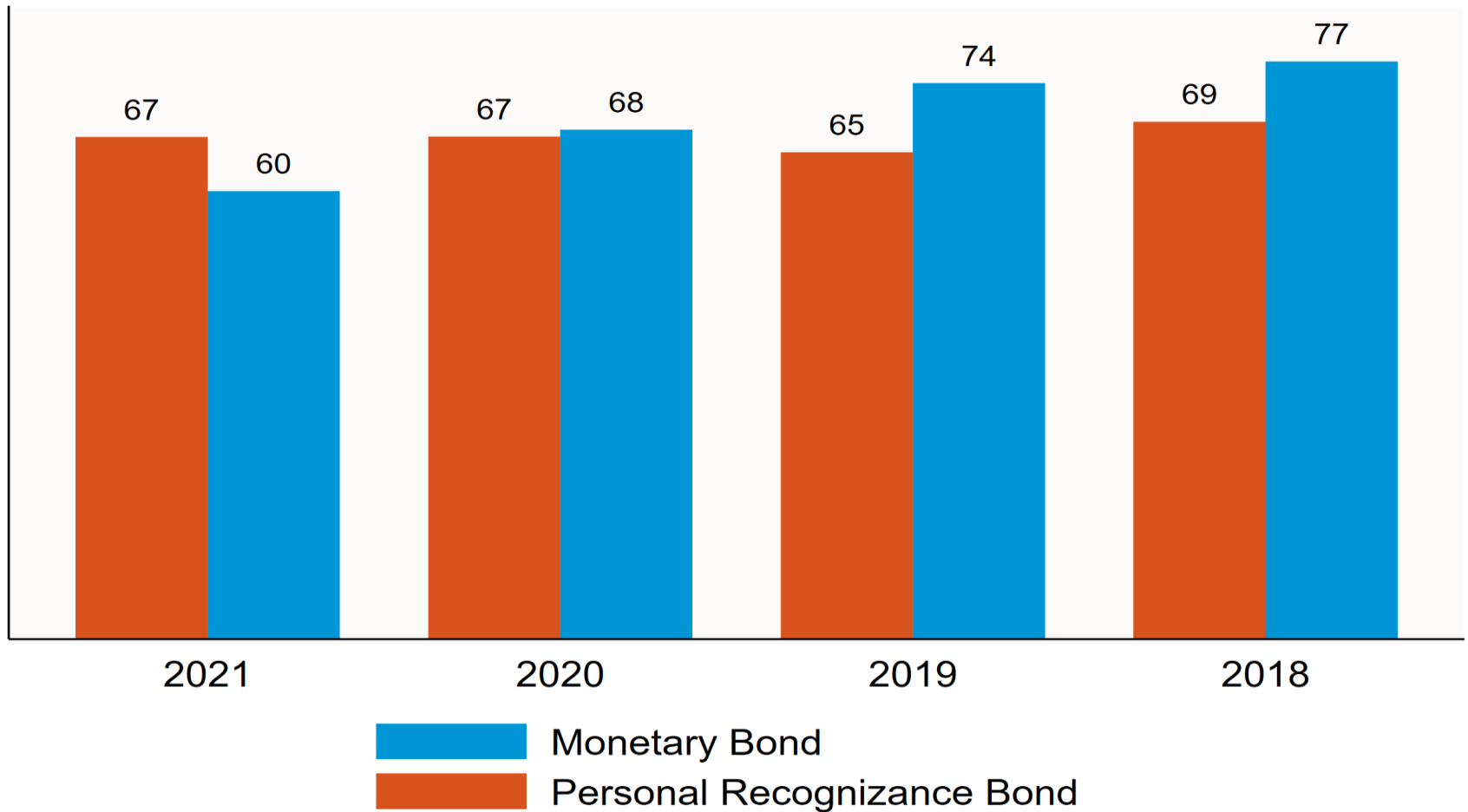
New VRA Arrest by Bond Type

PR vs. Monetary Bond

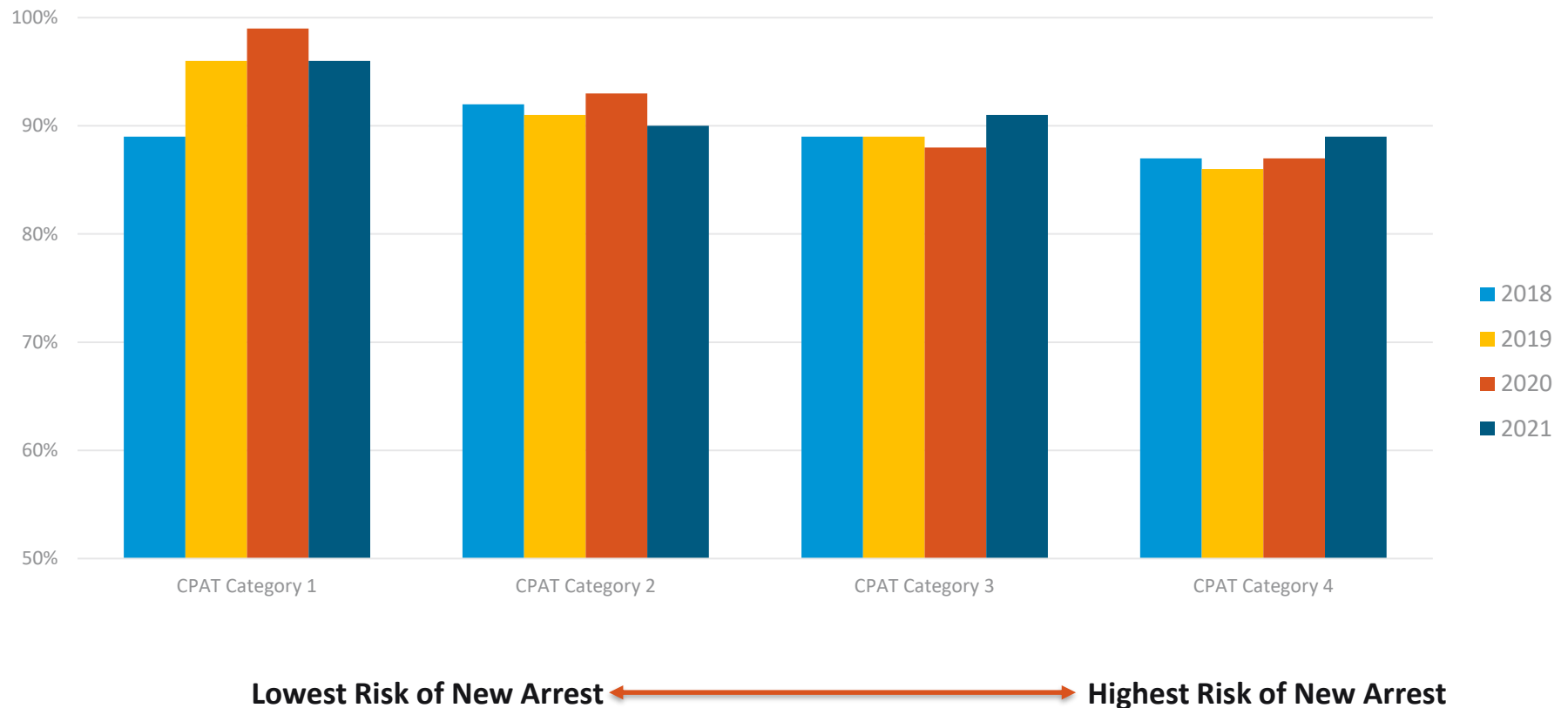
Share of Court Orders With New VRA Arrest
By Bond Type



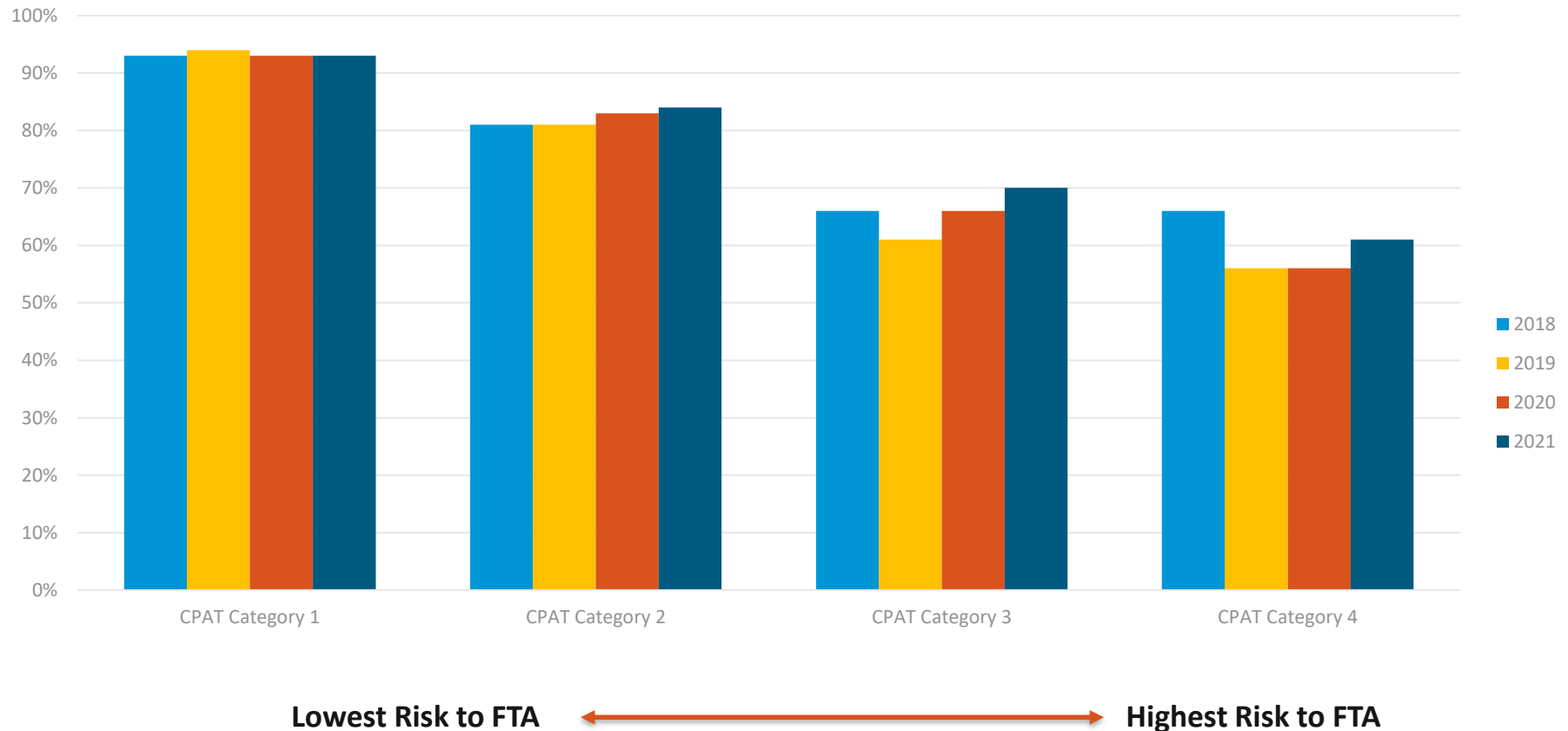
Court Appearance By Bond Type



Rates of No New Arrest by CPAT Category 2018-2021



Appearance Rates by CPAT Risk Category 2018-2021



Current Projects/Opportunities

Behavioral Health Issues Impact Pretrial Failure/Success

- Community Partnerships
- Pretrial Peer Navigator Program in partnership with Tribe Recovery Homes/Second Chance Center
- Community Based Competency Restoration Pilot
- Enhance case management techniques/Implementation of Core Correctional Practices – set of skills used to enhance positive outcomes for justice-involved individuals

Provide Judges the tool of Pretrial detention

- Movement towards a bail/no bail model of Pretrial justice

Questions?