



Rebooting Pretrial Services in San Diego County

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San Diego County Pretrial Services

has seen it all. From its original multi-agency oversight to present-day operation under our County Sheriff, we've overcome significant hurdles; including a time in recent years when lack of funding eliminated pretrial services altogether – compromising community safety and individual wellbeing across the county. Fortunately, our Sheriff's Department has experience implementing Evidence-Based Assessment programs for booking and release, and we were confident that those programs could be expanded to pretrial services. In 2016, we established our new Pretrial Unit and began working with the DA, PD, and Superior Court to implement *Pretrial 2.0* countywide.

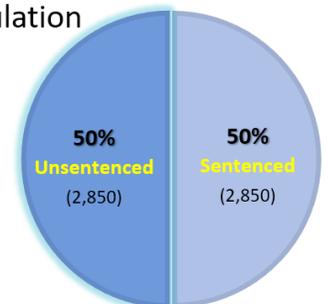
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How Did We Get Here?



A little background...

- History of PTS in San Diego County
- Creation of the Sheriff's PTS unit
- General demographics of jail population
 - 5,700 average daily population
 - Daily average unsentenced 50%



California Legislation

Pretrial reform is often driven or accompanied by legislative changes. In California, this manifested in [Senate Bill 10](#), [Senate Bill 36](#), and a major [Appellate Court decision](#) upholding the need to consider a defendant's ability to pay when setting money bail.

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How Did We Get Here?

Some legislation...

- All persons arrested must be assessed
- Courts must have PTS; misd. crimes to be released
- Enacted Oct. 1, 2019; on hold by Judicial Council

SB-10 [Link to SB-10](#)
Pretrial release/detention = pretrial services

- Due process & equal protection
- Ability to pay
- Nonmonetary alternatives
- Evidence that nonmonetary conditions are insufficient

Humphrey
Pretrial detention & inability to post cash bail
[Link to Opinion](#)

SB-36 [Link to SB-36](#)
Pretrial release = risk assessment tool (pending)

- Assessment tools must be validated by scientifically accepted methods
- Accurate/reliable assessment of risk of FTA + risk to public safety if released
- Minimize disparate impact due to race, ethnicity, gender, age, economic circumstance, and behavior or developmental disability

In a nutshell, [SB-10](#) authorizes a change to California's pretrial release system from a money-based system to a risk-based release and detention system.

SB 10 assumes that a person will be released on his or her own recognizance or supervised own recognizance with the least restrictive nonmonetary condition or combination of conditions that will reasonably assure public safety and the defendant's return to court.

[SB-36](#) adds the requirement that each pretrial services agency that uses a pretrial risk assessment tool must regularly validate the

tool and make specified information regarding the tool publicly available. This includes:

- Any pretrial risk assessment tool used by a pretrial services agency must be validated by January 1, 2021 and on a regular basis thereafter, but at least once every three years.
- Pretrial services agencies must collect specified data regarding any risk assessment tool that it uses.
- Pretrial services agencies must make specified information regarding its pretrial risk assessment tool publicly available.
- Pretrial services agencies must publish a report on its internet website with specified aggregate data. The report must be published by July 1, 2021, and yearly thereafter.
- The Judicial Council must maintain a list of pretrial service agencies that have satisfied the validation requirement and complied with transparency requirements.

In re: [Humphrey](#), the Court of Appeal held that the petitioner was entitled to a new bail hearing at which the trial court inquires into and determines his ability to pay, considers nonmonetary alternatives to money bail, and, if it determines that the petitioner is unable to afford the amount of bail the court finds necessary, follows the procedures and makes the findings necessary for a valid order of detention. In this case, the prosecutor presented no evidence that non-monetary conditions of release could not sufficiently protect the victim or public safety. Furthermore, while the trial court found the petitioner suitable for release on bail, the trial court's order, by setting bail in an amount it was impossible for petitioner to pay, effectively constituted a sub rosa detention order lacking the due process protections constitutionally required to attend such an order.

Collaborating with Stakeholders

Without question, a top consideration when organizing our pretrial services unit was – and continues to be – making sure that we have the right people at the table when discussing and setting policy, determining agency procedures, and implementing our pretrial practice. Since no public safety agency can effectively operate in a vacuum, engaging stakeholders in change efforts goes a long way toward eliminating barriers while increasing opportunities for success. In San Diego County, that includes the Sheriff, District Attorney, Superior Court, Probation, and Public Defender. We found that working with and educating all stakeholders together was much more effective than tackling each agency separately.

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How Did We Get Here?

Stakeholder collaboration...

- Know who to have at the table
- Tackle cross-agency education
- Identify the most important data for all
- Which assessment tool to use?
- Lessons learned...



This cross-agency collaboration was also instrumental in helping to define the data elements to be collected; each agency came to the table with the data needed for their practice and decision-making and we thoroughly vetted every element and how it would be collected and used. Other discussions centered around selection of an assessment tool to assist with pretrial release decisions. Rather than making this decision based on tools already in use or with which the Sheriff's Office was familiar, we opened this up to all stakeholders and set about studying the options they brought forth. After much investigation of available tools, all stakeholders decided that the best route was to work with an [industry-leading supplier of risk and needs assessment instruments](#) to develop a tool specific to the needs and requirements of California pretrial services (see The CAPA, below).

While collaborating with stakeholders is central to moving pretrial reform efforts forward, it isn't all sunshine and roses and we learned a few valuable lessons along the way:

1. Involve key stakeholders at every stage and don't forget to involve lower-line staff from these agencies, too – their perspectives are key as they will be doing much of the actual work.
2. Don't expect big changes all at once; sometimes incremental change works best. If your stakeholders aren't comfortable leaping directly to where you are driving, take fewer steps at first or move a bit slower. Pushing everyone forward at your pace may not be in your long-term best interest and slowing down a bit may actually work for you by giving all stakeholders time to see that smaller changes are working. At the end of the day, success breeds confidence, so collect those small 'wins'.
3. Prioritize collaboration and hard work over how much money is available to fund your effort. If you need assistance with training or technical aspects, look to organizations like the NIC, where help is typically available to agencies that are serious about reform. You will definitely need to invest a lot of time in building your pretrial practice, but desire, determination, and hard work will get you further than a pile of money.

The CAPA

We selected an assessment instrument developed by [equivant/Northpointe](#) and began the work to ensure that it meets all requirements set out in SB-10 and SB-36. This new pretrial assessment tool is called the California Pretrial Assessment, or CAPA.

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California Pretrial Assessment (CAPA)

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← OLD WAY

NEW WAY →

CAPA is based on the COMPAS PRRS-II

- *employment status* removed
- *residence length* removed
- *age* excluded from candidate variables
- *drug history* restricted to information in case file and rap sheet
- “*top charge is a felony property or fraud*” replaces “*top charge is felony*” because SDSO pretrial target population consists mostly of felony defendants
- **summative point scoring** is utilized, making item importance and scoring procedure more intuitive, transparent, and simple

In San Diego County, we are committed to ensuring that bias is not reflected in the CAPA through offender demographic or other 'race proxy' factors and have adjusted it accordingly. Other critical requirements center around transparency; with the CAPA, every line item, scoring, and weighting, as well as details on how each line item is scored, are publicly available.

As depicted in the following slide/table, the CAPA contains seven risk factors with corresponding response categories that determine the 'score' for each factor.

- A useful assessment tool predicts that individuals classified as "high" will have a higher failure rate than the overall failure rate, while those classified as "low" will have a lower failure rate.
- In an unbiased tool the proportion of individuals assigned to the same risk level fail at the same rate across groups (calibration fairness).

Validation of the CAPA in meeting these criteria is underway. We are happy to share progress and outcomes; please see contact information on page 1 and feel free to reach out.

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California Pretrial Assessment (CAPA)

CAPA Item	Response categories	Possible points
1 Number of pending charges or holds	0, 1+	0, 2
2 Top charge is a felony property or fraud offense	No, Yes	0, 2
3 Number of times sentenced to jail 30 days or more	0-2, 3+	0, 1
4 Number of times failed to appear for scheduled court hearing (previous 2 years) *	0, 1, 2+	0, 1, 2
5 Any previous convictions, either misdemeanor or felony *	No, Yes	0, 1
6 History of drug abuse (restricted to information in the case file and rap sheet)	No, Yes	0, 2
7 On probation or parole at time of current offense	No, Yes	0, 1

Data Gathering for Validation

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California Pretrial Assessment (CAPA)

Gathering the data

- Power analysis required 8,000 assessments
- Assessment dates: October 2018 - December 2018
- Initial data set contained ≈8,000 cases
 - 75% misdemeanor
 - 25% felony

	Felony	Misdemeanor
CASE CLOSED	0.21	0.35
DETAINED	0.30	0.05
RELEASED	0.49	0.61
Total	2,524	5,399

Proper validation of an assessment tool requires that *enough of the right data* is gathered to produce meaningful results. This means that your data sources must be accurate and reliable, and you may have to take steps to clean the data to ensure its quality for validation. In San Diego County, the data sources used for validation included the systems: DA, JURIS, and JIMS. We encountered a few issues that needed to be considered in our tests:

- Each source had unique information and information in common with other sources; some common information was not consistent across sources.
- For arrests after the assessment, need to know if it is an arrest for a new offence (NCA) or if it is associated with a previous offense.
- If there's a disposition after assessment, need to verify that the disposition is for offense associated with CAPA. If not, outcome of disposition determines whether defendant stays in study or is removed by the competing event.

Norming the CAPA for Local Populations

We need some material for this + for validation in general?

From Genie's original slide:

- **Original question:** Number of times failed to appear for scheduled court hearing
- **Modified question:** Number of times failed to appear for scheduled court hearing (in previous 2 years)
- **Original question:** Ever arrested/charged with a new crime that resulted in a conviction while on pretrial release
- **Modified question:** Any previous convictions, either misdemeanor or felony

Cut points selected to classify defendants into "Low", "Medium", and "High" risk levels are based on JIMS NCA outcomes.

No data snooping to set cut points for FTA.

Currently, testing NCA JURIS and FTA DA/JURIS combined.

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NAPSA Workshop Q&A