



**FY2013 RECOMMENDATION/FY13-BL01 IMPLEMENT EVIDENCE BASED  
DECISION MAKING PRACTICES AND STANDARDIZED BAIL RELEASE  
DECISION MAKING GUIDELINES**

**Status:** Implementation Complete

**Actions/Updates**

**2013 ACTION/IMPLEMENTATION**

Action on this recommendation was completed with the passage of House Bill 13-1236.

**Description**

Judicial districts should implement evidence based decision making practices regarding pre-release decisions, including the development and implementation of a standardized bail release decision making process.

**Agencies Responsible**

**Discussion**

The use of evidence-based practices is essential in all areas of criminal justice to maximize efficiencies and reduce recidivism, including the pretrial release decision making process. Using evidence-based practices at pretrial release is intended to increase the success rate of pretrial detainees, reduce failure to appear rates, reduce recidivism, and reduce jail crowding. Nationally, 60% of local jail populations are pretrial detainees, a figure that has remained relatively stable over time.\* According to the Pretrial Justice Institute, “the pretrial decision affects how limited jail space is allocated and how the risks of non-appearance and pretrial crime by released defendants are managed. The pretrial decision also affects defendants’ abilities to assert their innocence, negotiate a disposition, and mitigate the severity of a sentence.”\*\* Use of empirically developed risk assessment instruments can improve decision making by classifying defendants based on their predicted level of pretrial failure. Those with very high risk scores or high-violence index crimes may be held in jail pretrial but must be afforded a due process hearing.

Research undertaken on pretrial defendants in ten Colorado judicial districts indicates that the vast majority of individuals appear in court and remains crime-free during the pretrial period.\*\*\* This research resulted in the development of the Colorado Pretrial Assessment Tool (CPAT), a four-category risk instrument that identifies the relative risk of pretrial defendants. This instrument is currently being implemented in at least four Colorado judicial districts. Pretrial program staff in these districts have begun working with local stakeholders to identify recommended/suggested release decisions, alternatives to incarceration, and individualized conditions of release based on a defendant’s characteristics such as charge and risk assessment

score. An example of a risk-focused, structured decision making matrix is provided below. This matrix can serve as a starting point for stakeholders in local jurisdictions to modify according to local needs.

## **Footnotes**

\*Minton, T.D. (April 2012). *Jail Inmates at Midyear 2011—Statistical Tables*. Bureau of Justice Statistics, Washington, D.C. Available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/jim11st.pdf>.

\*\*Mamalian, Cynthia. A. (March 2011). *State of the Science of Pretrial Risk Assessment*. Jointly published by the Pretrial Justice Institute and the Bureau of Justice Assistance. Washington D.C. Page 4. Citing Mahoney, Beaudin, Carver, Ryan, and Hoffman (March 2001). *Pretrial Services Programs: Responsibilities and Potential*. National Institute of Justice: Issues and Practices. Washington, D.C.

\*\*\*Pretrial Justice Institute & JFA Institute. (February, 2012). *The Colorado Pretrial Assessment Tool (CPAT), A Joint Partnership among Ten Colorado Counties, the Pretrial Justice Institute, and the JFA Institute*. Pretrial Justice Institute, Washington, D.C. See also Pretrial Justice Institute. (August 2012). *Revised Risk Categories for the Colorado Pretrial Assessment Tool (CPAT)*. Pretrial Justice Institute, Washington, D.C.