



Federal Pretrial Services

U.S. PROBATION AND PRETRIAL SERVICES

DISTRICT OF KANSAS

History of Federal Pretrial Services

▶ Bail Reform Act of 1966

- ▶ First Major Reform of the Federal Bail System since 1789
- ▶ Fundamental Goal: The prevention of unnecessary detention when conditions of release available to reasonably assure a defendant's Court appearance
 - ▶ Presumption of release on own recognizance
- ▶ Important Issues

▶ Pretrial Services Act of 1982

- ▶ Established Pretrial Services in all federal districts except D.C.
- ▶ Provide the Magistrate Judges with information to make informed bail bond decisions

Bail Reform Act of 1984

- ▶ Retained the protections of the Bail Reform Act of 1966
- ▶ Expanded protections to include the focus on the protection of society from dangerous defendants
- ▶ Established significant standards to detain as flight risk or danger to the community
- ▶ Reserves detention for serious crimes after a full hearing and evaluation of risk

Framework for Pretrial Services

- An officer works for the court and is not aligned with defense or government counsel.
- Use of the least intrusive means necessary to adequately investigate a defendant.
- Confidentiality regulations.
- An officer must recommend and the court imposes the least restrictive conditions to reasonably assure a defendant's appearance in court and the safety of the community.
- A financial bond is only used to address a risk of nonappearance and should not result in the detention of a defendant solely for financial reasons
- The pretrial services report contains only information relevant to the assessment of nonappearance and danger.

Federal Pretrial Supervision

Purpose: To assure compliance with conditions of release and to provide the defendant with services as needed.

- Monitors through personal and/or telephone contact with the defendant and other individuals
 - Home and field contacts
 - Regular case plans
- Refer for contract and non-contract services
 - Second Chance Act
- Assist the defendant with services such as employment, medical, legal, or social services
- Any apparent violation of release conditions must be reported to the court and the U.S. attorney's office
 - Modifications of release conditions.

Alternatives to Detention

- ▶ Bonds: Personal Recognizance Bond, Unsecured Appearance Bond, Secured Appearance Bond
- ▶ Third-Party Custodian: To assist the court in monitoring conditions of release to reasonably assure the defendant's appearance and safety of the community.
- ▶ Substance Abuse Testing: To monitor the defendant for the use of banned substances that may contribute to being a greater risk of nonappearance or danger to the community.

Alternatives to Detention

- ▶ Substance Abuse Treatment: For defendants with substance abuse problems if their appearance and community safety can be reasonable assured with this alternative.
- ▶ Location Monitoring: Provides officers with the capability to enforce and monitor a defendant's compliance with one or more conditions of release. Examples: monitor court-imposed conditions; manage or mitigate defendant risks such as the risk a defendant may pose to a specific person; verify approved defendant locations or provide information about a defendant's movement in the community.
- ▶ Halfway House: For defendants in need of services such as drug and alcohol testing and counseling, employment counseling, and residence and cannot be effectively monitored in a non-custodial environment.

Evidence-Based Practices in Pretrial Services

- ▶ Definition: The Conscientious use of the best evidence available to inform decisions about release, detention and the supervision of individual defendants as well as the design and delivery of policies and practices to achieve the maximum, measurable reduction in a defendant's failure-to-appear and committing offenses while on release.

History of EBP in Federal System

- ▶ In 2004, IBM Consulting Services issued a report commissioned by the AO which recommended we become a results-driven system and develop and maintain infrastructure and management approaches focused on collecting, analyzing and acting on outcome data.
- ▶ In 2009 the Office of Federal Detention Trustee with the support of the Administrative Office sponsored research
 - ▶ Purpose: To identify statistically significant and policy relevant predictors for pretrial outcomes in order to identify defendants best suited for release without jeopardizing the integrity of the judicial process or safety of the community.
 - ▶ Data Set: All pretrial defendants processed by pretrial services between 2001 and 2007. Included all federal districts except the District of Columbia. (565,178 defendant records reviewed.)

Study Recommendations

- ▶ Develop a standardized, empirically-based risk assessment for use by Pretrial Services
 - ▶ Reduce disparity in risk assessment practices and provide the foundation for evidence-based practices
 - ▶ Allow for the development of policy and guidance to Pretrial Services agencies on release and recommendations
- ▶ Policy should reflect the following principles – The Federal Risk Principle
 - ▶ Lower risk defendants are most likely to succeed if released pending trial
 - ▶ Release conditions that include alternatives to detention (with the exception of mental health when appropriate) generally decrease the likelihood for success.
 - ▶ The alternatives to detention program is most appropriate for moderate and higher risk defendants as they allow for pretrial release while generally increasing pretrial success.

(The risk principle applies to the following alternatives to detention: third party custodian, substance abuse testing and treatment, location monitoring, and housing and shelter)

The Pretrial Risk Assessment Tool (PTRA)

- ▶ Based on the study, the Administrative Office of the United States Courts developed the PTRA.
- ▶ The PTRA is an objective, quantifiable instrument that provides a consistent and valid method of predicting risk of failure-to-appear; new criminal arrest; and technical violations

Predictors

Criminal History

- ▶ Prior felony convictions.
- ▶ Prior FTAs.
- ▶ Pending cases.
- ▶ Offense type.
- ▶ Offense severity.
- ▶ Age.

Other

- ▶ Residence status.
- ▶ Employment.
- ▶ Education.
- ▶ Substance abuse.
- ▶ Citizenship status.

PTRA Categories

- ▶ Risk categories were developed with cutoffs set for five categories:

| <u>PTRA Risk Score</u> | <u>PTRA Category</u> |
|------------------------|----------------------|
| 0-4 | 1 |
| 5-6 | 2 |
| 7-8 | 3 |
| 9-10 | 4 |
| 11+ | 5 |

- ▶ Each district was validated and re-validated. The tool works in every district!

Combining the PTRA and the Risk Principle

By determining if the defendant is low, moderate or high risk, we can appropriately apply the risk principle.

PTRA CATEGORY 1

Research suggests that pretrial defendants who fall in this category have a **97%** likelihood of success when released with **minimal conditions**.

PTRA CATEGORY 2

Research suggests that pretrial defendants who fall in this category have a **91%** likelihood of success when released with **minimal conditions**.

PTRA CATEGORY 3

Research suggests that pretrial defendants in this category have an **82%** likelihood of success when released **utilizing alternatives to detention**.

PTRA CATEGORY 4

Research suggests that pretrial defendants who fall in this category have a **72%** likelihood of success when released **utilizing alternatives to detention**.

PTRA CATEGORY 5

Research suggests that pretrial defendants who fall in this category have a **65%** likelihood of success when released **utilizing alternatives to detention**.

How Do We Apply the Risk Principle in Decision Making

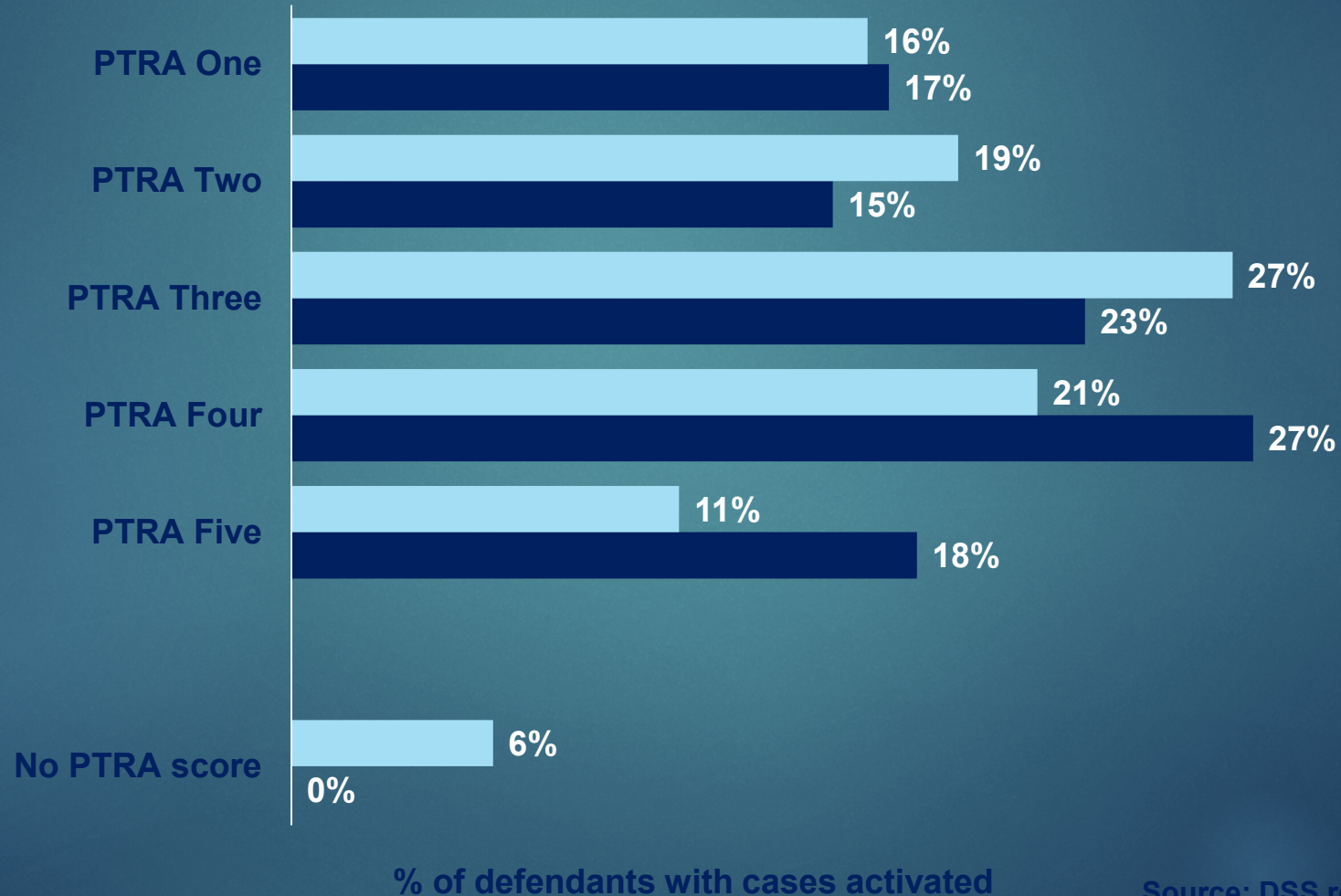
- ▶ The PTRA is not a stand alone tool. It MUST be used in combination with a thorough investigation and the officer's professional judgement.
- ▶ Pretrial Services conducts an investigation, utilizing the PTRA to determine risk level, and then makes a recommendation appropriately applying the risk principle.
- ▶ Consistent with the statute, Pretrial Services recommends and the Court imposes the least restrictive conditions.
 - ▶ Example: Low risk defendant, no identified risks, recommend release with no supervision

Compared to nation, District of Kansas has fewer PTRAs 2s & 3s, but more 4s & 5s.

Distribution of U.S. citizen defendants by PTRAs categories, for cases activated nationally and District of New Mexico, 2016-17

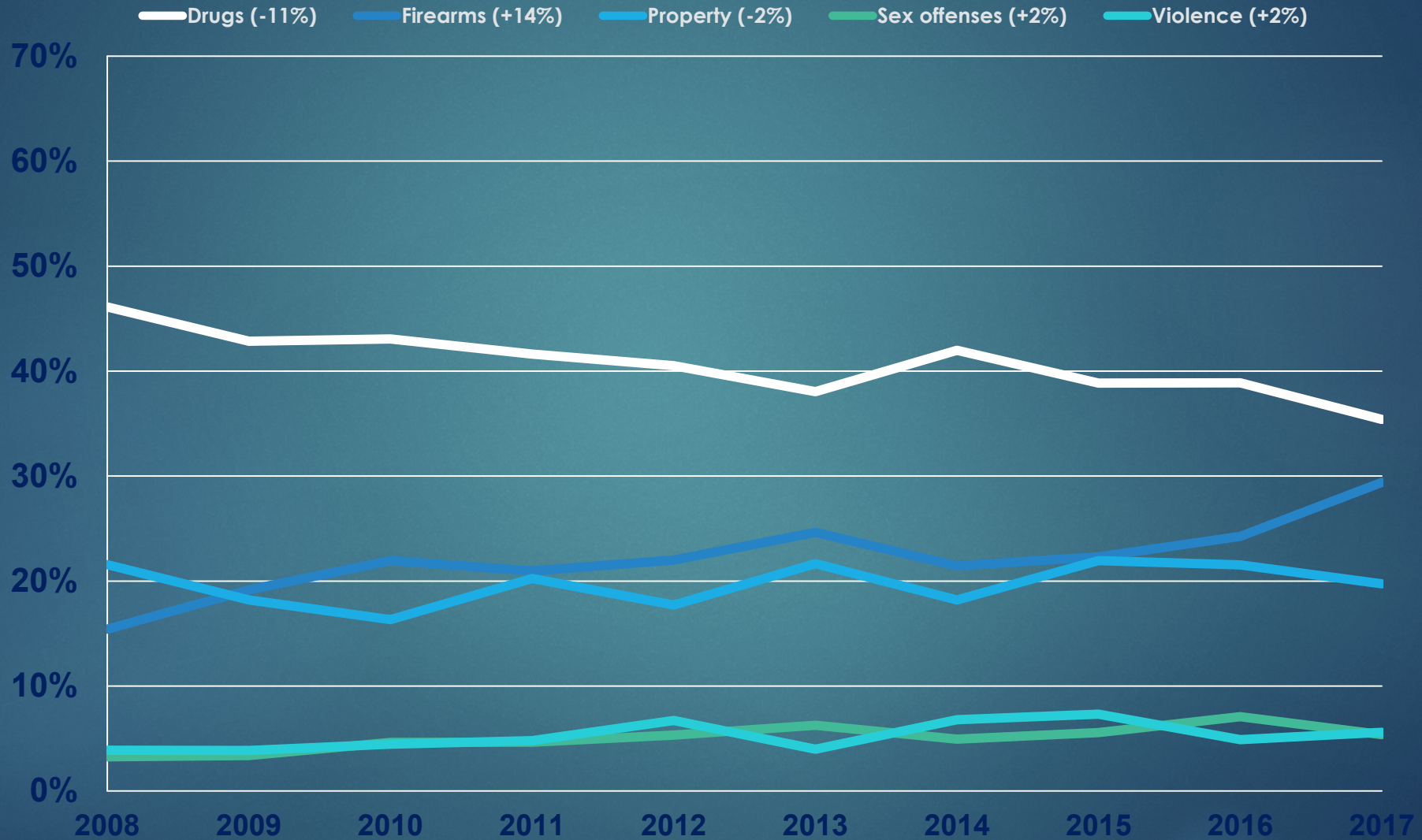
PTRA categories

■ National ■ Kansas



In District of Kansas, drug cases predominate, although there has been a significant increase in firearm offenses.

Selected offense types charged in District of Kansas, fiscal years 2008-2017 (excluding immigration)



Release recommendations

| | # Cases | # Officer Rec Release | % Officer Rec Release |
|--------------|------------|-----------------------|-----------------------|
| PTRA 1 | 24 | 23 | 95.8% |
| PTRA 2 | 20 | 16 | 80% |
| PTRA 3 | 41 | 16 | 39% |
| PTRA 4 | 62 | 18 | 29% |
| PTRA 5 | 48 | 5 | 10.4% |
| TOTAL | 198 | 78 | 40% |

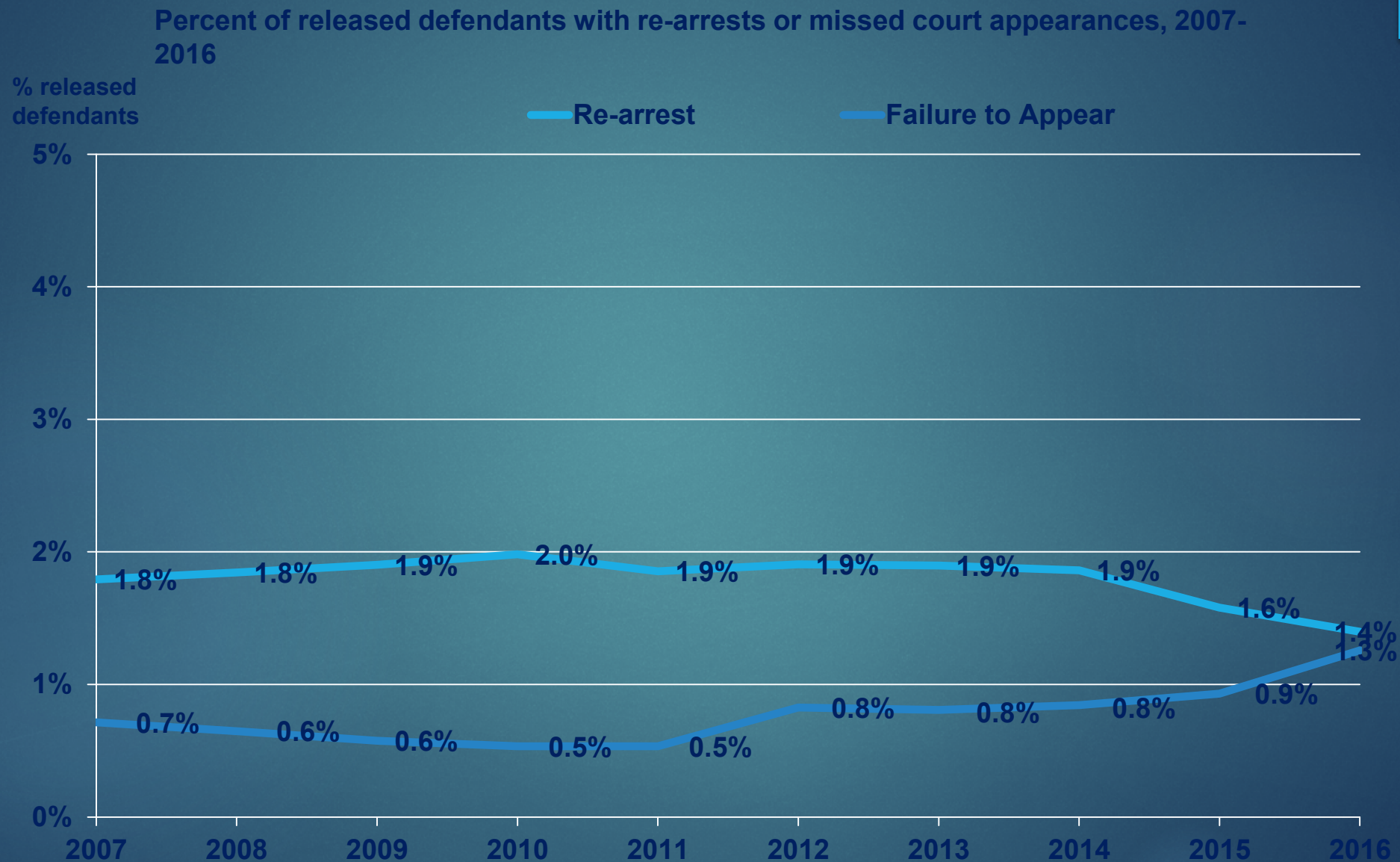
Release recommendations

| | % AUSA Rec Release | % Officer Rec Release |
|--------------|--------------------|-----------------------|
| PTRA 1 | 91.7% | 95.8% |
| PTRA 2 | 70% | 80% |
| PTRA 3 | 26.8% | 39% |
| PTRA 4 | 19.4% | 29% |
| PTRA 5 | 6.3% | 10.4% |
| TOTAL | 31.8% | 40% |

Release recommendations

| | % Actually Released | % Officer Rec Release |
|--------------|---------------------|-----------------------|
| PTRA 1 | 91.7% | 95.8% |
| PTRA 2 | 80% | 80% |
| PTRA 3 | 43.9% | 39% |
| PTRA 4 | 25.8% | 29% |
| PTRA 5 | 12.5% | 10.4% |
| TOTAL | 40% | 40% |

Nationally, ten year trends show stability in percent of defendants re-arrested or who failed to appear



Current Supervision Outcomes

| | National Average | District of Kansas | Actual # of Defs in KS |
|---|------------------|--------------------|------------------------|
| Failure to Appear | .8% | .8% | 2 |
| Rearrest Violations | 1.4% | .8% | 2 |
| Technical Violations (% Revoked) | 3.8% | 10.2% | 25 |

Questions