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## MONTANA JUDICIAL BRANCH (OCA) Pretrial Program

### A partnership with the Arnold Foundation and Montana Counties

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- The program, required by the 2017 Legislature, establishes the use of an evidence-based detention risk assessment and recommendations for managing defendants who are released awaiting trial. **The project will maximize public safety, maximize court appearance and maximize the appropriate use of release and detention.**
- Currently, judges are using the best information available to make the initial release decision. The Public Safety Assessment provides valuable criminal justice information for the judge to use in making a release decision. Defendants have a constitutional right to have release conditions set by a judge.
- Judges will have available, as a part of the decision-making process, the **Public Safety Assessment**. The PSA is a tool to analyze each defendant's current and prior criminal conduct and previous failure to appear in court. The research based factors, including a focus on violent offenses, provides a judge with additional information about whether a defendant can be successful in the community while awaiting trial.
- Detention should be reserved for those offenders who pose the greatest risk to re-offend or failure to appear at court.
- The Public Safety Assessment and the Montana pretrial supervision model was developed by a MT team of prosecutors, public defenders, court officials and law enforcement personnel.
- The PSA, created by the Laura and John Arnold Foundation, is the gold standard for aiding judges in making evidenced-based decisions about release and release conditions. Extensive information about the PSA is available at: [arnoldfoundation.org](http://arnoldfoundation.org)
- Counties involved in the project will receive state funding to assist defendants awaiting trial to remain law-abiding, at work and participating in necessary support services. Judges will have the tools necessary to release defendants while maximizing public safety and ensuring defendants appear in court.
- Resources might include court reminders, check-ins, electronic monitoring, drug testing and limited use of money bond depending on what is required for each defendant.
- In other jurisdictions that have implemented a pretrial release program using the Public Safety Assessment, the demand on detention facilities has dropped while court appearances have increased.

## Facts about the Public Safety Assessment (PSA)

- The PSA was created using the largest, most diverse set of pretrial records ever assembled 1.5 million cases from approximately 300 jurisdictions across the United States. Researchers analyzed the data and isolated factors that most often exist for defendants who commit a new crime, commit a violent crime, or fail to return to court if released before trial.
- Data has been collected from 300 different cities, counties and 7 state court systems (Colorado, Connecticut, Florida, Maine, Ohio, Virginia and Kentucky) and the District of Columbia
- Data was collected from Federal Pretrial services in all 50 states
- No face-to-face interview with defendant is required
- Assessment consists of 9 risk factors that will accurately determine a defendant's likelihood to: commit a new offense, appear at future court proceedings and flag violent offense while on pretrial release status
- Assessment information is similar to what is collected during a defendant's initial booking
- Assessment administrator must be accurate in reading and interpreting the CJIN/NCIC and the Montana Court Data system
- It is expected that there will be a 24-hour turn-around for completion of the assessment and delivery to the court, prosecutor and public defender
- The PSA is objective. It does not consider subjective factors such as: race, gender, income, religion, education, home address and family
- PSA promotes consistent application of release conditions using a matrix developed by each state/jurisdiction
- The PSA minimizes dual system errors (releasing high risk and detaining low risk defendants)
- Neutral factors can help judges gauge the risk that a defendant poses, they do not impede a judge's discretion or authority in any way. The decision about whether to release or detain a defendant always rests with the judge regardless of the scores produced by the risk assessment

Post-conviction related studies have shown

- Criminal history risk factors, those obtained without an interview, are the strongest predictors of FTA and NCA (new research)
- Pretrial risk assessments that contain only non-interview dependent risk factors are equally predictive as those that include interview –dependent risk factors.
- Research shows the criminal history/system involvement factors are usually the stronger prediction.