

National Conference of State Legislatures Risk-based Pretrial Site Visit Denver Pretrial Services

September 10 , 2014

Overview of the day

- Introductions
- CCJJ and Colorado New Law
- Denver Pretrial Overview
- Theory meets Practice
 1. Bail Setting- Courtroom Observation
 2. Jail intake and risk assessment
 3. Supervision Intake

Events Leading to the Colorado's New Law

- National movement toward legal and evidence-based practices (LEBP)



- Local Improvements
- Events in Colorado running counter to LEBP
 - Prop 102
- CCJJ Bail Subcommittee

Colorado Criminal and Juvenile Justice Commission (CCJJ)

CCJJ Bail Subcommittee Work:

- Did not work in a vacuum/diverse membership
- Studied the history
- Studied the appropriate use of bail terms
- Studied the social science research
- Studied the law, including model statutes
- Studied the ABA Standards
- Came to realize: the traditional money bail system kept lower risk persons in jail, allowed higher risk persons out (often with no supervision); \$ was the primary cause; we have evidence-based solutions for addressing this issue.

CCJJ Work

Three recommendations:

(1) increase use of EBP, including risk assessment;

(2) reduce use of \$ and bail schedules;

(3) increase use of pretrial services functions

The new law was designed and drafted to incorporate these recommendations

Colorado Bail Law Changes 2013 (HB13-1236)

- Definition of bail 16-1-104
- Eligibility/Bailable Offenses 16-4-101
- Setting and Selection of Bond/Criteria 16-4-103
- Types of Bond- 16-4-104
- Cond of Release – 16-4-105
- Pretrial Programs- 16-4-106

16-1-104 Definition of Bail

- Old definition was bail = money: new definition is bail = security (like a pledge) which can be a bond with or without money
- Recognizes that money is a financial condition of release, which must be assessed for legality and effectiveness like all other limitations on pretrial freedom.
- Other states face same dilemma
- Impact: Money is no longer a given – in fact, it is considered more restrictive and less desirable than other conditions of release

Section 16-4-103 Selection and Setting of Bond/Criteria

- Substantially different – meant to implement CCJJ recs.
- “Shall/must” versus “may” even though recs were not mandatory
 - Shall determine type of bond and conditions of release
 - If practical and available, the court shall use an empirically developed risk instrument
 - Presumption of release with appropriate and “least restrictive conditions”

16-4-104 Types of Bond

- Old law: PR and CPS
- New law: (a), (b), (c), and (d) types
- Subsection (c) type meant to be used sparingly:
“necessary”

Important Provisions Concerning Secured Money Conditions

- Before a judge sets any secured financial condition, the judge shall: presume that the defendant is “eligible for release on bond with the appropriate and least restrictive conditions” (§ 16-4-103 (4) (a)); determine the sufficiency of the financial condition to ensure court appearance and public safety, “taking into consideration the individual characteristics of each person in custody, including the person’s financial condition” (§ 16-4-103 (3) (a)); find that the condition is “reasonable and necessary to ensure the appearance of the person in court or the safety of any person or persons in the community” (§ § 16-4-104 (1) (c), 16-4-105 (7)); “consider all methods of bond and conditions of release to avoid unnecessary pretrial incarceration” (§ 16-4-103 (4) (c))

16-4-105 Conditions of Release

- Statutory conditions largely unchanged except for presumptive minimum \$ amounts
- Refers back to Section 104 when setting secured money condition (“reasonable and necessary”

16-4-106 Pretrial Service Programs

- Separate section
- Encourages districts without programs to develop the functions, and districts with them to improve the functions whenever possible using LEPB
- One way to do this is to implement research based risk assessment

Denver Pretrial Services

- Administered by Department of Safety/Division of Community Corrections
- Comprised of Investigation and Supervision Units

Pretrial Services

- Prior 2006 – Pretrial Services provides information to felony advisement court for purposes of bond setting and release on personal recognizance
- 2006 – Pretrial Services expanded to include a supervision unit. Initial funding provided by the Denver Crime Prevention and Control Commission
- 2010 – Pretrial Services begins to provide information for municipal domestic violence cases
- 2011 – Pretrial Services expands services to include individuals charged with a DUI/DWAI with priors in response to legislation (HB1189) which requires monitored sobriety as a condition of bond
- 2012 Implementation of Empirically Developed Pretrial Risk Assessment (CPAT)/Supervision Level Matrix
- 2013 Implemented DV risk assessment (ODARA)
- 2014 Begin Work in 4C Investigative holds and expanded General Sessions workload

Pretrial Investigation Unit

- Provide services 365 days a year
- Completed over 10,000 (>8,000 for first appearance) bond reports in 2012
- Interview all arrested defendants (Felony, DV, DUI with priors)
- Beginning 2014 work in courtroom 4C for Investigative Holds and further work in General Session Court
- Administers Pretrial Risk Assessment (CPAT)
- Completes ODARA on all Domestic Violence cases (Begin in 2013)
- Completes a criminal history review
- Makes recommendation for bond type and release condition/s at first appearance
- Enters Defendant information on all MPO

Pretrial Supervision Unit

- Provide community based case management/supervision
 - Guides defendants to comply with conditions of bond
 - Maintains system to remind defendants of next Court appearance
 - Monitors bond conditions; Provides communication with the Courts for defendant compliance with court orders.
 - As alternative to pretrial incarceration allows defendants to support families and contribute to community
- On-call after hours for EHM response and weekend releases
- > 1500 Defendants under Supervision

The CPAT - New and Improved Way

- First empirically-derived pretrial risk assessment tool in Colorado
- Developed using data from defendants in Denver and nine other CO counties
- 12-item instrument
- The items are the most accurate predictors of pretrial misconduct in CO
- Items are scored based on information obtained from:
 - Interview with the defendant
 - Databases (CO Judicial Branch; NCIC/CCIC)
- Total score ranges from 0 (lower risk) to 82 (higher risk)

CPAT Items and Scoring

	<u>Item</u>	<u>Range</u>
1.	Having a Home or Cell Phone	0 to 5 points
2.	Owning or Renting One's Residence	0 to 4 points
3.	Contributing to Residential Payments	0 to 9 points
4.	Past or Current Problems with Alcohol	0 to 4 points
5.	Past or Current Mental Health Treatment	0 to 4 points
6.	Age at First Arrest	0 to 15 points
7.	Past Jail Sentence	0 to 4 points
8.	Past Prison Sentence	0 to 10 points
9.	Having Active Warrants	0 to 5 points
10.	Having Other Pending Cases	0 to 13 points
11.	Currently on Supervision	0 to 5 points
12.	History of Revoked Bond or Supervision	0 to 4 points
	Total Range	0 to 82 points

CPAT Risk Scoring

Risk Category	Risk Score	Public Safety Rate	Court Appearance Rate	Percent of Defendants
1	0 to 17	91%	95%	20%
2	18 – 37	80%	85%	49%
3	38 – 50	69%	77%	23%
4	51 - 82	58%	51%	8%
(Average)	30	78%	82%	100%

CPAT Use

- Using the CPAT is an evidence-based practice and consistent with the new statute -- “LEBP”
- Confirming/validating data on CPAT’s accuracy
- Only predicts pretrial behavior.
- Should not be used for any purpose other than pretrial risk assessment (program screening, pleas, sentencing, etc.)

Denver City and County Pretrial SMART Tool (Supervision Matrix Assessment & Recommendation Tool)

Pretrial Supervision Levels and Recommendation Matrix

Primary Charge and CPAT Category	F1 Person (VRA)	F2 Person (VRA)	F2	F3 Person (VRA)	F3 DF1	F4 Person (VRA)	F4 DF2	F5-F6 DF3-4	M1 DM1-2	Domestic Violence (Odara < 3) 5%-27% Recidivism	Domestic Violence (Odara 4-6) 41%-59% Recidivism	Domestic Violence (Odara 7-13) 70% Recidivism
Category 1 Score: 0 to 17 (87% Success) 91% Public Safety, 95% Court Appearance	IntM	Bas XX	Bas XX	Bas XX	Adm XX	Adm XX	Adm	Adm	Adm	Bas	Enh	IntM
Category 2 Score: 18 to 37 (71% Success) 80% Public Safety, 85% Court Appearance	IntM	Enh	Enh	Bas XX	Bas XX	Bas	Adm	Adm	Adm	Bas	Enh	IntM
Category 3 Score: 38 to 50 (58% Success) 69% Public Safety, 77% Court Appearance	IntM	Enh	Enh	Enh	Enh	Enh	Bas XX	Bas	Bas	Bas XX	Enh	IntM
Category 4 Score: 51 to 82 (33% Success) 58% Public Safety, 51% Court Appearance	IntM	IntM	Enh	IntM	Enh	IntM	Enh XX	Enh XX	Enh XX	Enh XX	IntM	IntM

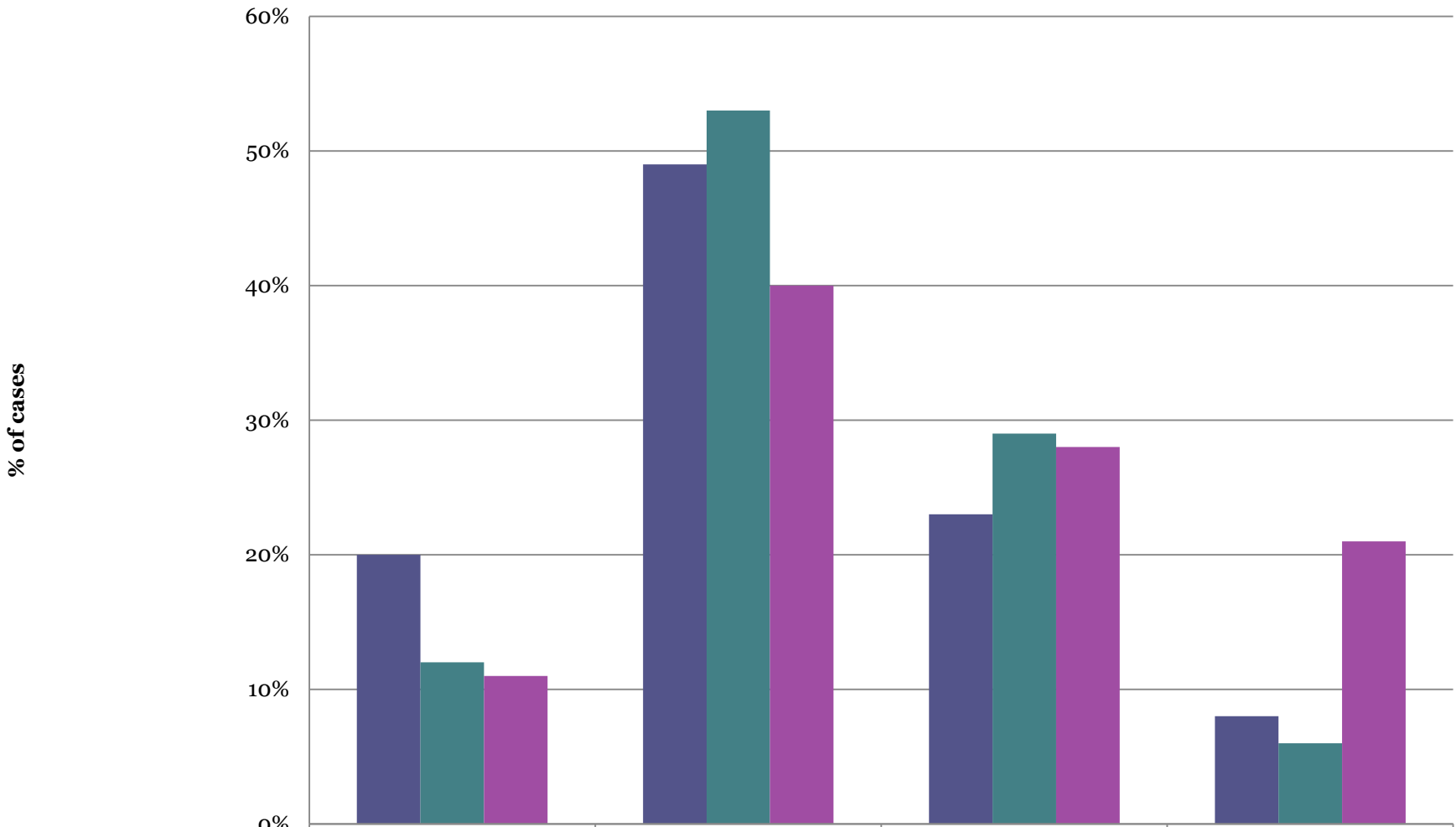
Administrative (Adm)	Basic (Bas)	Enhanced (Enh)	Intensive w/t E (IntM)
Court Reminder Calls	Court Reminder Calls	Court Reminder Calls	Court Reminder Calls
Notification of new arrest	Notification of new arrest	Notification of new arrest	Notification of new arrest
Telephone check-in after court appearances	Check-in physically after court appearances	Check-in physically after court appearances	Check-in physically after court appearances
	Telephone check ins as needed	Telephone check ins 1 to 4x per month (30 days)	Coordinate Telephone check ins in conjunction with case mgmt meetings
	Case Management meetings as needed	Case Management meetings 1 to 2x per month (30 days)	Case Management meetings 1 to 4x per month (30 days)
	Substance Testing if ordered	Substance Testing if ordered	Substance Testing if ordered
			Electronic Monitoring/Surveillance

- Substance Testing (if applicable) may include: breathalyzer (BA), urine screen (UA and ETG), and home alcohol testing. Substance testing and frequency will be determined by the Pretrial Officer. Treatment agency testing will be administered no more than one time per week and no less than one time per month. Home alcohol testing will be administered no more than three times per day and no less than one time per day.
- Electronic monitoring/surveillance supervision can include basic curfew monitoring, GPS tracking with exclusion zone compliance and transdermal alcohol monitoring.
- A Pretrial Officer will modify telephone check in, case management meeting and substance testing requirements based on performance while under pretrial supervision. This can include movement within Administrative, Basic and Enhanced Supervision levels. Movement to/from Intensive with Electronic Monitoring Supervision will require a court order.

DUI Supervision Levels

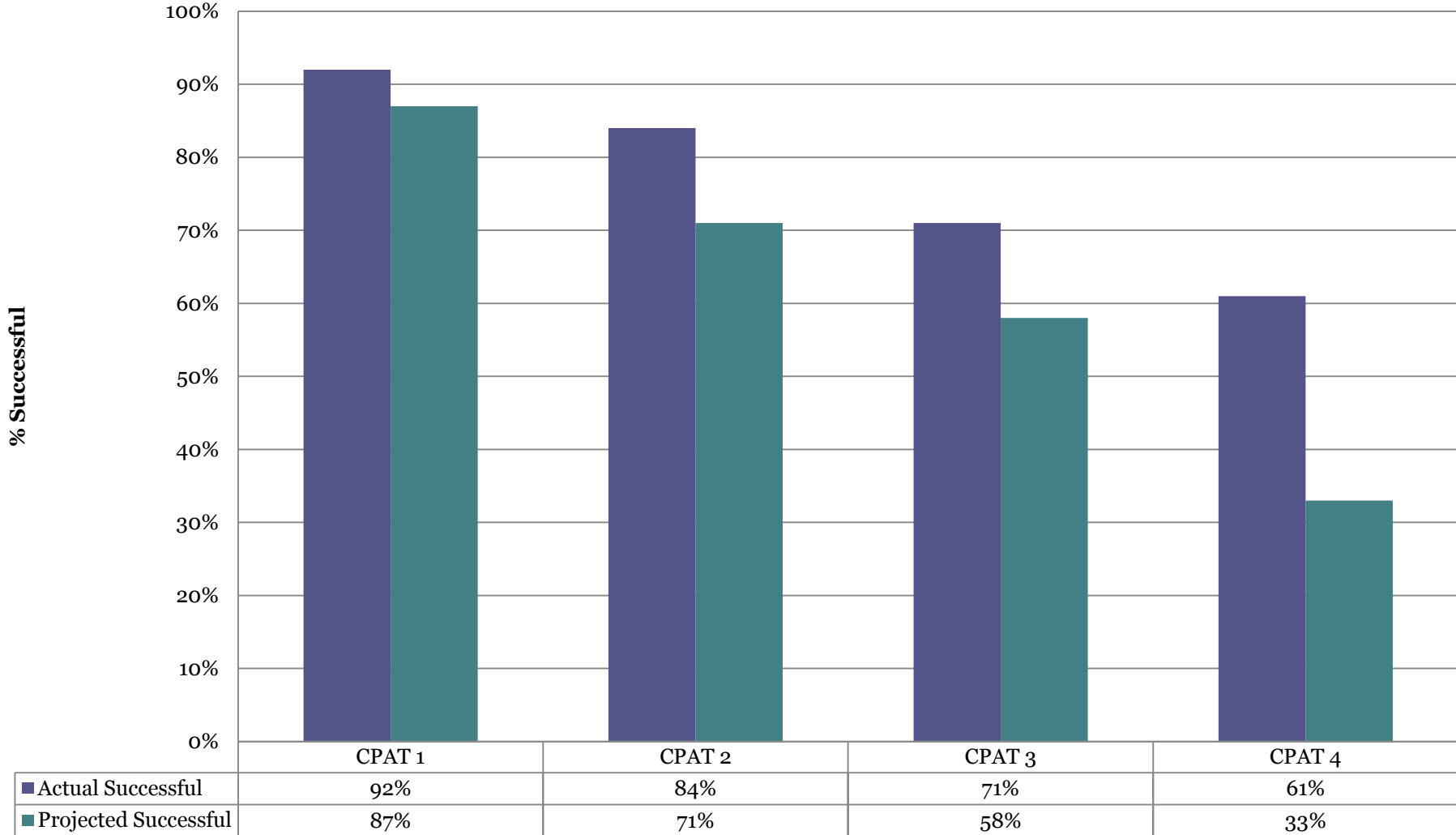
DUI: First-time offender No supervision	DUI: one prior offense Level I (six to twelve UA/BA per month)	DUI: two prior offenses Level II (twelve UA/BA per month or Home alcohol testing)	DUI: Three or more prior offenses Level III (Transdermal Alcohol Device)
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Denver CPAT Data 10/8/12-10/31/13 (7700 Assessments)

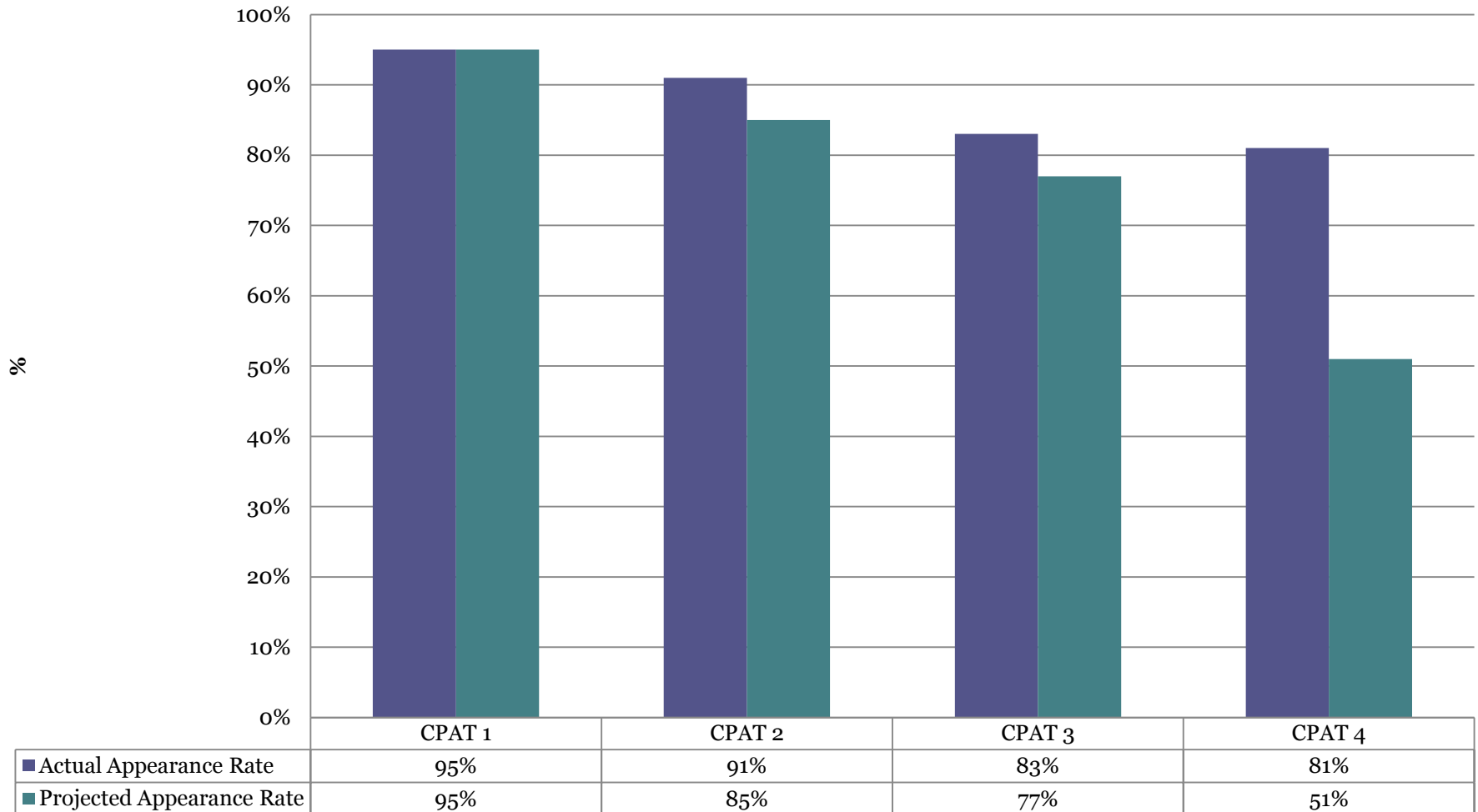


■ CISPR Projected Statewide	20%	49%	23%	8%
■ CISPR Projected Denver	12%	53%	29%	6%
■ CPAT Denver	11%	40%	28%	21%

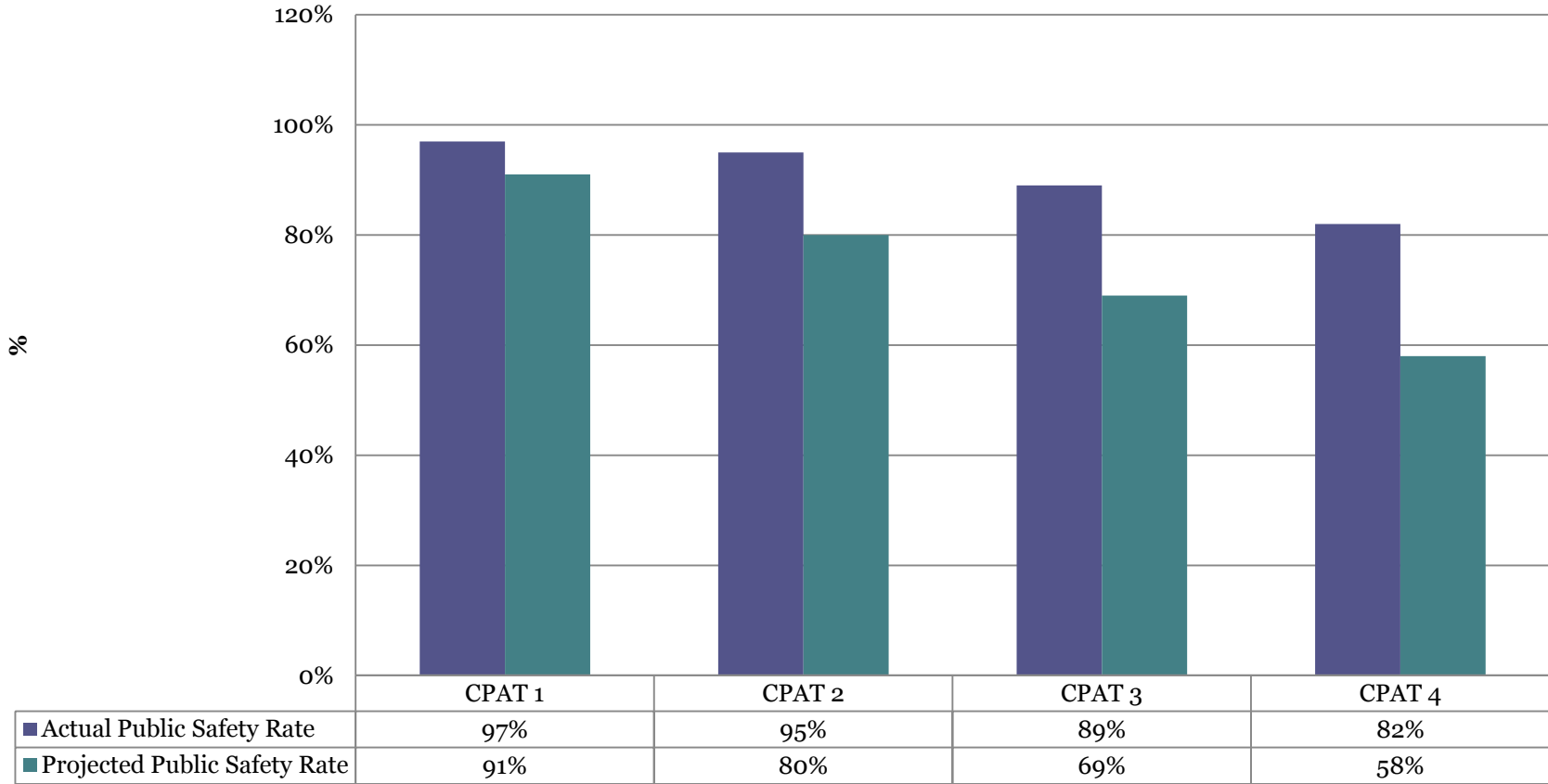
CPAT Termination Data
10/8/12-10/31/13
N= 2224 total cases closed



Appearance Rates by CPAT Category Cases Termined 10/8/12-10/31/13



Public Safety Rate CPAT Term Cases 10/8/12-10/31/13



CO Bail Practices

Three purposes/outcomes of Bail:

1. Maximize public safety
and
2. Maximize court appearance
while
3. Maximizing safe release

	Risk Level	
Location	Lower/Medium	Higher
Community	Yes	No
Jail	No	Yes

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