



The Essentials of Reform

LESSONS FROM THE
AMERICAN BAIL REFORM MOVEMENT





National Association
of Pretrial Services Agencies



National Institute
of Corrections



Getting Bail Right.

Legal Foundations

Bail decisions are release decisions.

Legal Foundations

Bail is limited to ensuring court appearance and public safety.

Legal Foundations

Presumption of nonfinancial release on the least restrictive conditions necessary to ensure future court appearance and public safety.

Prohibition or restrictions on the use of secured financial conditions.

Provisions for preventive detention for a clearly defined and limited population that pose an unmanageable risk to public safety. Robust “Salerno-style” due process protections.

Admission to bail always involves a risk that the accused will take flight. That is a calculated risk which the law takes as the price of our system of justice. We know that Congress anticipated that bail would enable some escapes, because it provided a procedure for dealing with them. Fed. Rules Crim. Proc., 46 (f).

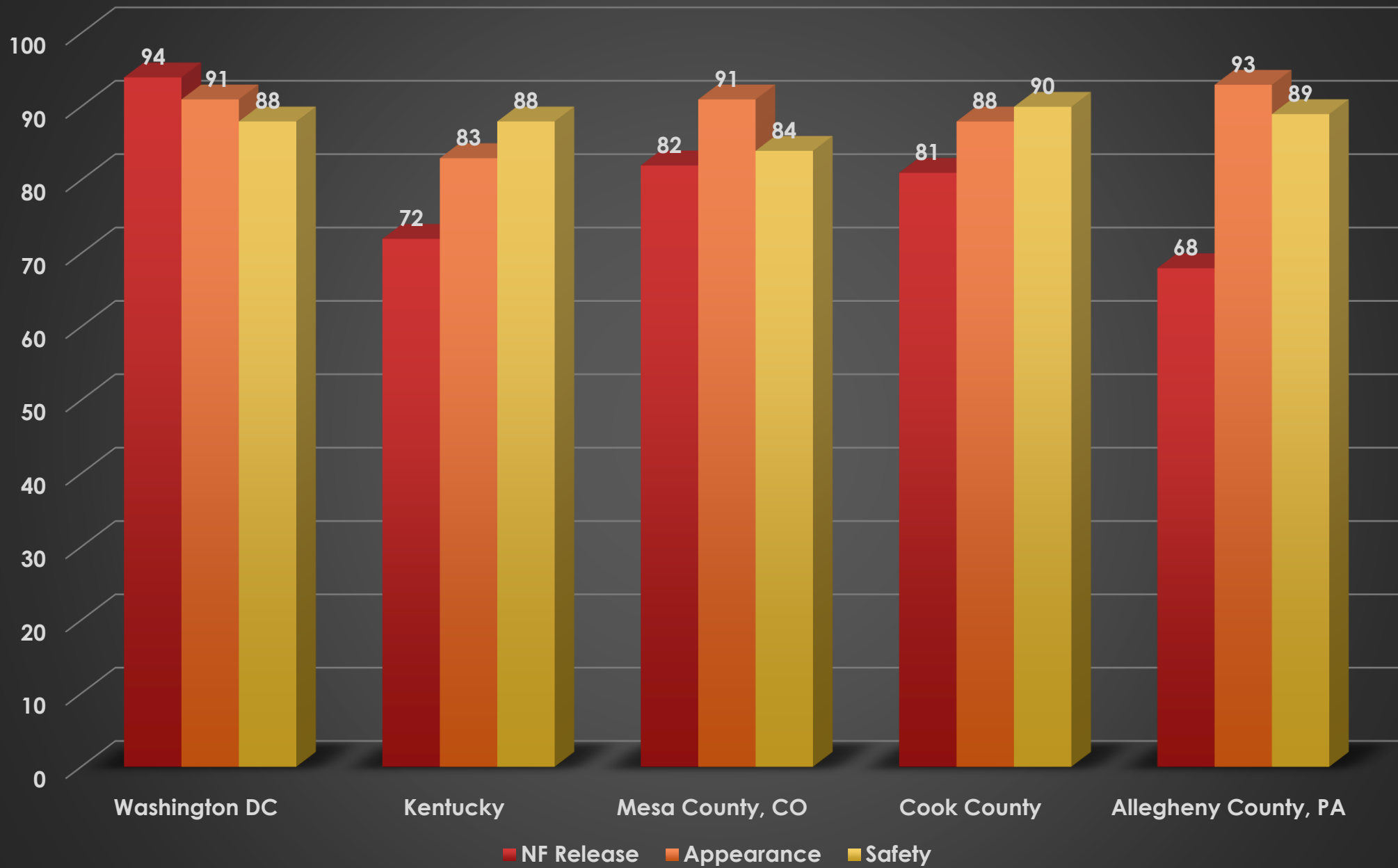
In allowance of bail, the duty of the judge is to reduce the risk by fixing an amount reasonably calculated to hold the accused available for trial and its consequence. Fed. Rules Crim. Proc., 46 (c). But the judge is not free to make the sky the limit, because the Eighth Amendment to the Constitution says: "Excessive bail shall not be required"

Stack v. Boyle (342 US 1, 1951) MR. JUSTICE JACKSON
and MR. JUSTICE FRANKFURTER joins.

The Nature of Risk

1. “Pretrial risk” is the likelihood of missed court appearances and new pretrial crimes
2. “Failure” is not prevalent in most defendant populations
3. Risk prediction—using validated risk instruments—is very accurate

*The presence of risk doesn't make
bail decision-making a gamble*



Dynamic

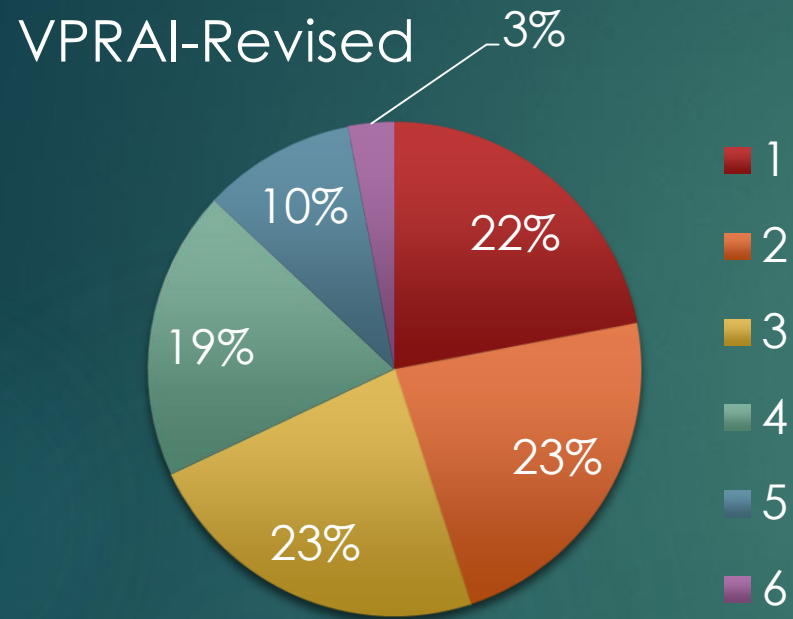
- Substance Abuse
- Residence
- Employment

Static

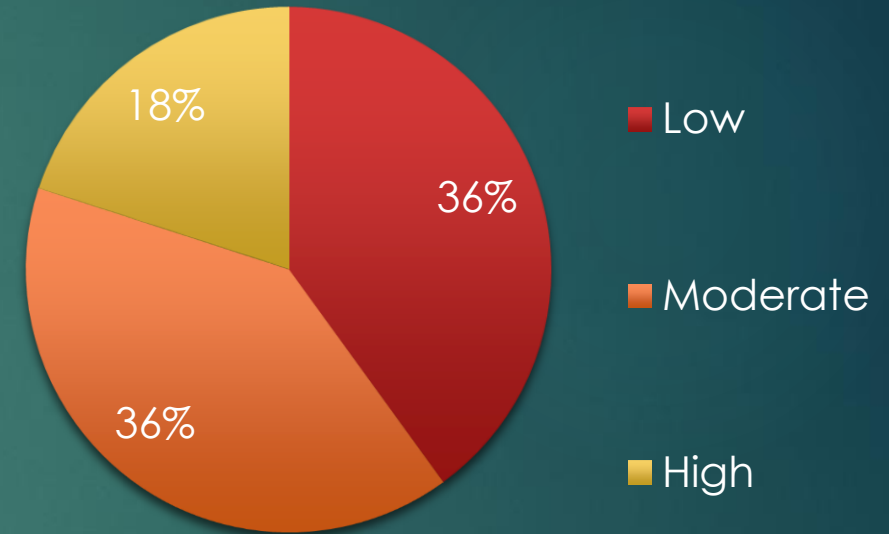
- History of FTA
- Previous Felonies
- Previous Incarcerations
- Pending Charges
- Previous Misdemeanors
- Age

RAIs: The Results

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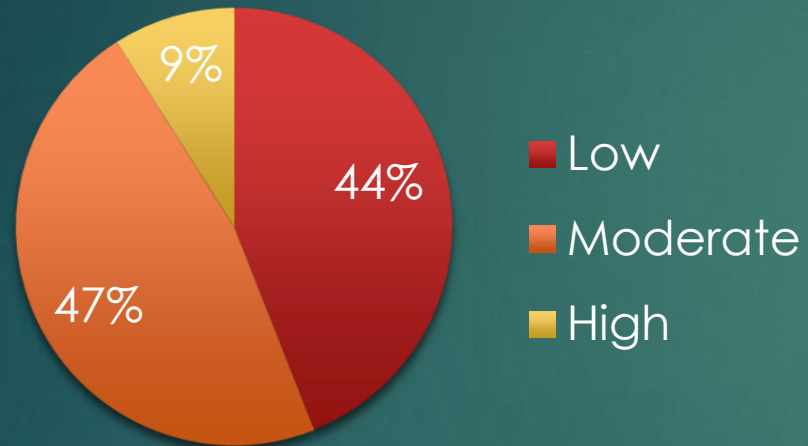
Indiana



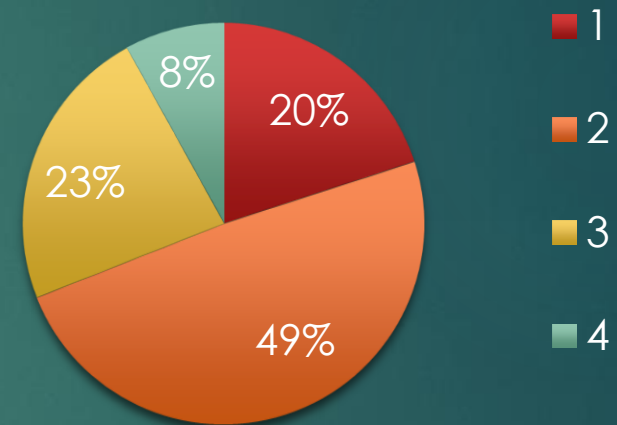
RAIs: The Results

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Kentucky



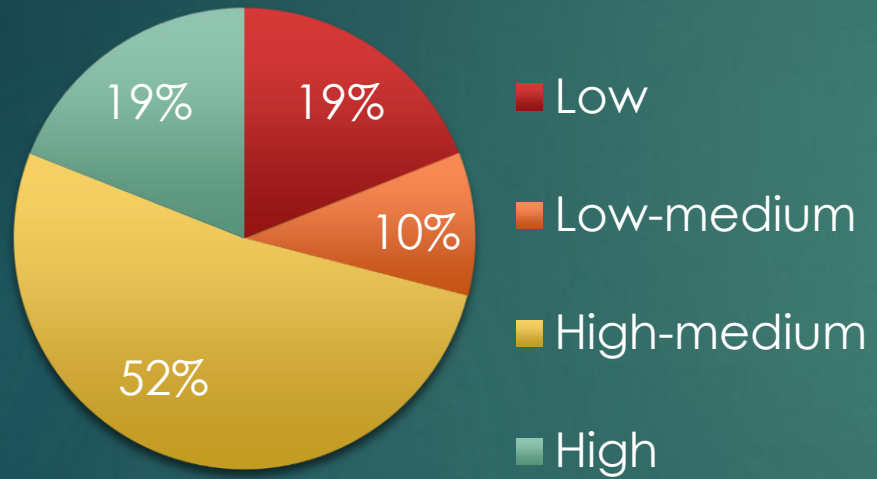
Colorado Pretrial Assessment Tool



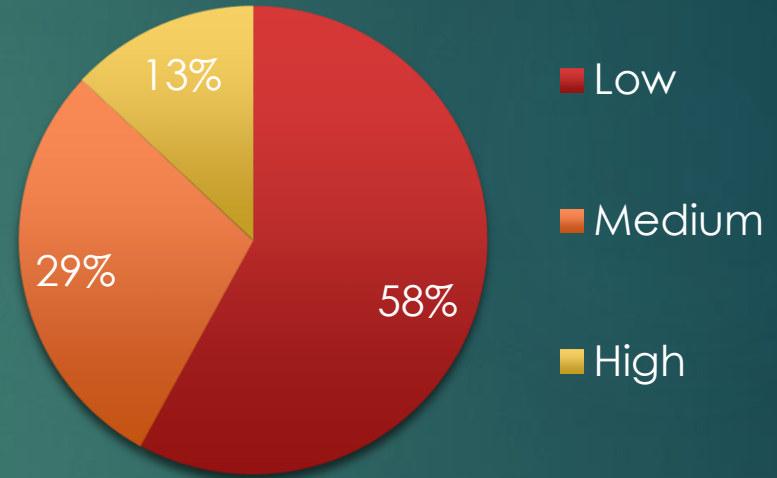
RAIs: The Results

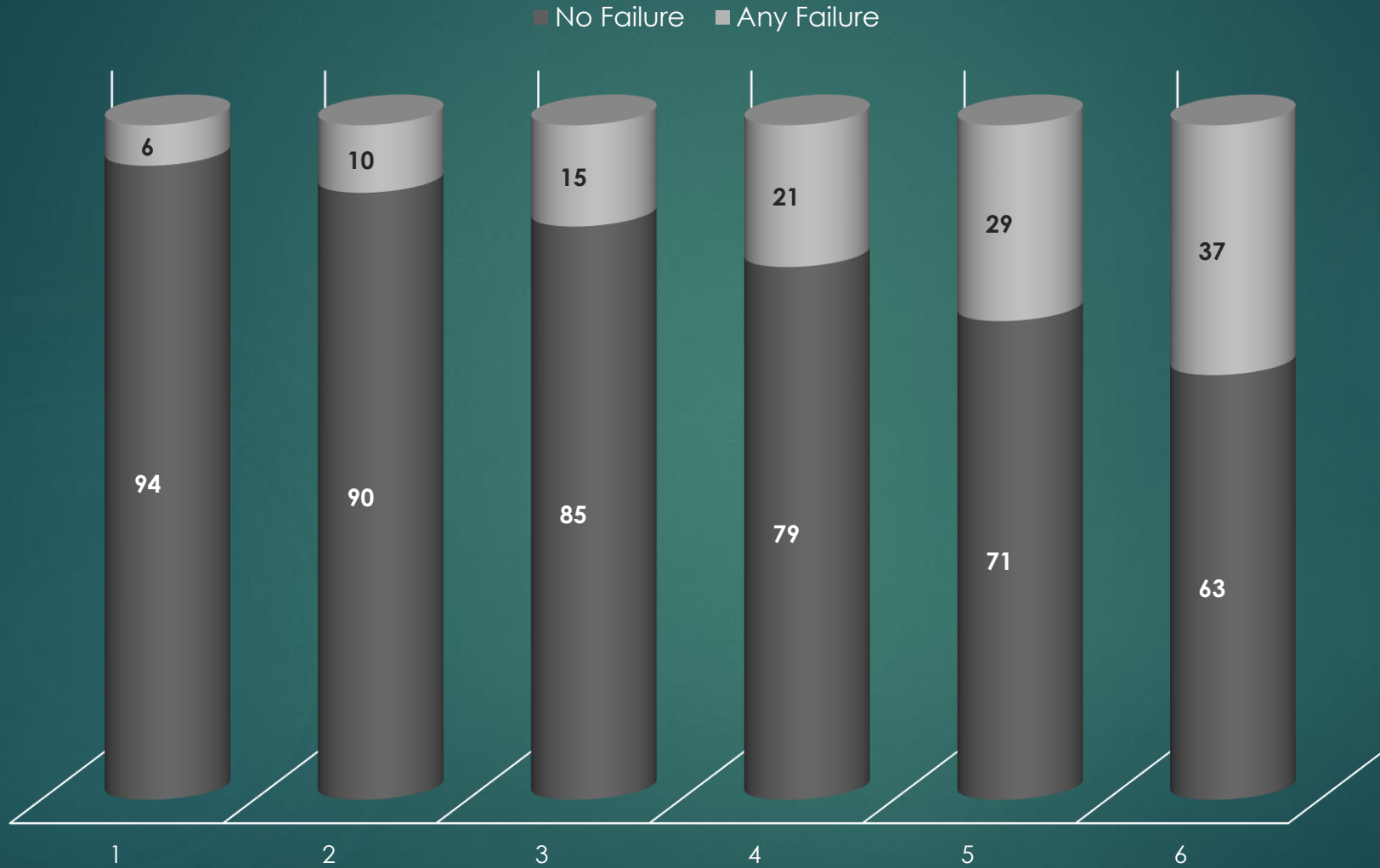
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Allegheny County



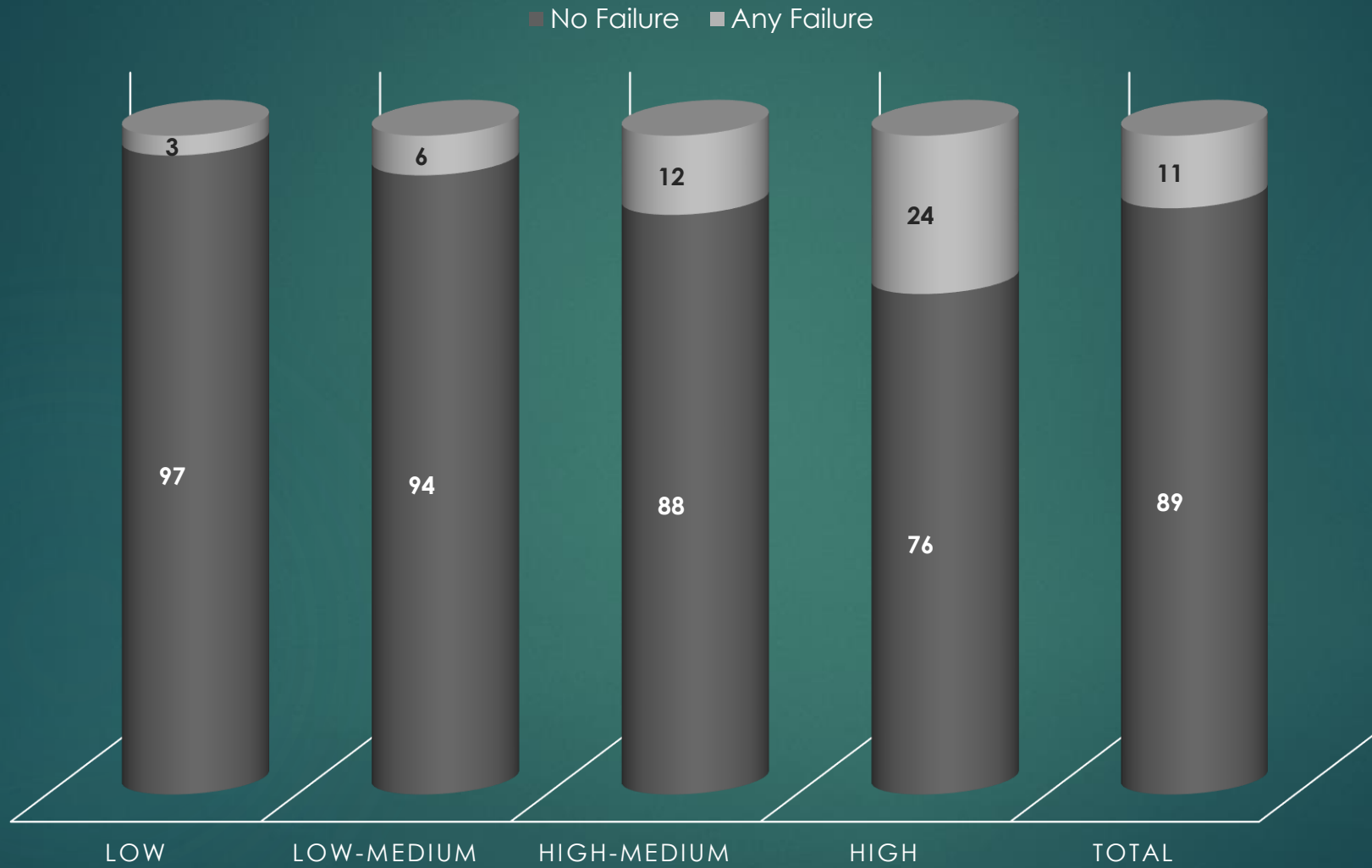
Yamhill County





Appearance Rate=98%
Safety Rate= 95%





The Holistic Approach

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Inter-agency coordination to allocate scarce resources, enhance system performance and meet system-wide goals and objectives.

Coordinating bodies include all branches of government and other relevant stakeholders and address specific and systemic issues.

NACo, JMI and BJA (2014). "From Silo to System: The Importance of Criminal Justice Coordinating Councils (CJCCs)" (Webinar).

http://www.naco.org/sites/default/files/event_attachments/NACo%20From%20Silo%20to%20System%20-%20Sept%2024.pdf.

The Holistic Approach

1. A CLEAR AND ELEVATING GOAL
2. RESULTS-DRIVEN STRUCTURE
3. COMPETENT TEAM MEMBERS
4. UNIFIED COMMITMENT
5. COLLABORATIVE CLIMATE
6. STANDARDS OF EXCELLENCE
7. EXTERNAL SUPPORT AND RECOGNITION
8. PRINCIPLED LEADERSHIP

TeamWork: What Must Go Right/
What Can Go Wrong,
Larson and LaFasto. 1989.
Sage Publications.



Questions?