

# Minnesota Pretrial Release Evaluation Form and Assessment Tool (MNPAT)



# Session Objectives

- ☞ Understand the purpose of the Pretrial Release Initiative and how it impacts you and your role in the criminal justice system
- ☞ Interpret the Pretrial Release Evaluation Form and Assessment Tool (MNPAT)
- ☞ Prepare for implementation of the MNPAT in your county/region

# Background

- 1993 - Race Bias Task Force Report recommended use of validated risk assessment tools to reduce bias
  - Minn. Stat. 629.74 promulgated after report published
- 2014 – Committee for Equality and Justice (CEJ) recommended study of pretrial risk assessments
- 2016 – Recommendations from Pretrial Release Initiative adopted by Judicial Council
  - *Implement statewide validated tool*
  - *Eliminate the use of bail schedules by judges*
  - *Direct State Court Administrator to review & implement other recommendations*

# Background (continued)

- 2017 – Fourth Judicial District 2015 Tool selected as statewide tool
- 2018 – Judicial Council [Pretrial Release Evaluation Policy 524](#) Approved (March)
- 2018 – Implementation Steering Committee established to implement the MNPAT by the end of 2018

# Legal authority

- ✎ Minn. Stat. § 629.74
  - “The **local corrections department or its designee shall conduct a pretrial bail evaluation** of each defendant arrested and detained **for committing a crime of violence** as defined in [listed statutes]. . . . The **Judicial Council, in consultation with the Department of Corrections, shall approve the pretrial evaluation form to be used in each county.**”
- ✎ Minn. Stat. § § 629.715, subd. 1(a); 629.72, subd. 2(a)
  - When a person is arrested for a **crime against the person or certain stalking or domestic-abuse related crimes, the judge** before whom the arrested person is taken **shall review the facts of the arrest and detention.**

# What has changed?

- ⌘ Judicial Council policy, through workgroup recommendations, makes these changes:
  - Determines what can be on the pretrial evaluation form
  - Sets minimum requirements for tools and tool validation
  - Directs procedure for seeking Judicial Council approval of tools and forms
  - Promotes conversations in local councils about pretrial practices
- ⌘ Project also incorporates changes to MNCIS recording (by Court Administration) that may require judges to clarify what is being ordered
  - ROR, Release on Conditions, Release on Bail/Bond
  - Court administration staff will need training
- ⌘ More educational opportunities on implicit bias, pretrial law and research, regardless of the tool used

# Why are these changes necessary?

- Site visits around MN in 2015-16 found that:
  - There was wide variation in training, education, and knowledge about the tool and form
    - Few stakeholders had been trained on the tool that they were using
    - Nearly all counties lack in-house research personnel, either in corrections or the court, with the skills and experience to conduct validation studies of the risk assessment tool
    - Common lack of knowledge on the factors that are incorporated into the tool scores, how and why factors are weighted, and the research or policy basis for such scoring and weights.
    - Where the same tool was used across different counties, there is wide variation in how the tool score is presented, used, and understood in each county.
    - Less knowledge/information about the tool often leads to less reliance on the tool score, both by judges and those using the tool.

# Process Overview

- Pretrial Agency (probation or designee) completes the defendant interview *or* defendant completes Minnesota Pretrial Questionnaire
- Pretrial Agency calculates the score in the assessment tool
- Pretrial Agency submits the MNPAT to the court (eFS for existing case; follow local process to submit manually when no case exists)
- Judge orders interim conditions (conditions of release)
- Court Administration enters the interim conditions, as ordered, into MNCIS



# Minnesota Pretrial Release Evaluation Form

|   |                                   |   |                     |   |                              |
|---|-----------------------------------|---|---------------------|---|------------------------------|
| Name (Last)   |                                   | (First)   | (Middle)            | Assessment Date   |                              |
| Case #  |                                   |   | County of Residence | Duration<br>yr    mo                                      | Age                          |
| Marital Status  | <input type="checkbox"/> Married  | <input type="checkbox"/> Separated  | # Children:         | Have you ever been in or served in the U.S. armed forces? | <input type="checkbox"/> Yes |
| <input type="checkbox"/> Never Married  | <input type="checkbox"/> Divorced | <input type="checkbox"/> Widowed  | # Dependents:       |   | <input type="checkbox"/> No  |
| <b>Pretrial Assessment Tool Section</b>   |                                   |   |                     |   |                              |
| Pretrial Factor   |                                   |   |                     | Points Assigned   |                              |
| Main Charge:  |                                   |   |                     |   |                              |
| Other Charges:  |                                   |   |                     |   |                              |
| Employment/Income Sources or School Status  |                                   |   |                     |   |                              |
| Current Problematic Chemical Use (see definition)   |                                   |   |                     |   |                              |
| Homeless or Three or More Address Changes in Past Year  |                                   |   |                     |   |                              |
| Age at First Delinquency Adjudication/Conviction  |                                   |   | Age:                |   |                              |
| Criminal Conviction History   |                                   | # Felony Person:  | # Other Felony:     |   |                              |
|   |                                   | # Non-Felony Person:  | # Other Non-Felony: |   |                              |
| Bench Warrants  |                                   | # Last 3 Years:   |                     |   |                              |
| Total Scale Score   |                                   |   |                     | ➔   |                              |
|   |                                   |   |                     | Pretrial Score Risk Ranges                                |                              |
|   |                                   |   |                     | Lower = 0-11<br>Moderate = 12-25<br>Higher = 26+          |                              |
| Current Monitoring Status   |                                   |   |                     |   |                              |
| <input type="checkbox"/> Pretrial Conditional Release   |                                   | <input type="checkbox"/> Probation  |                     | <input type="checkbox"/> Revoked Probation                |                              |
|   |                                   |   |                     | <input type="checkbox"/> Supervised Release               |                              |
| Is the defendant currently assigned to a probation or pretrial officer?                                       |                                   |   |                     | <input type="checkbox"/> Yes <input type="checkbox"/> No  |                              |
| Does the defendant have a pending case (targeted misdemeanor or higher) that has not yet reached disposition? |                                   |   |                     | <input type="checkbox"/> Yes <input type="checkbox"/> No  |                              |
| Comments from Collateral/Victim Sources:  |                                   |   |                     |   |                              |
|   |                                   |   |                     |   |                              |
| Lethality Assessment Conducted  |                                   | If conditions are ordered, probation recommendations for conditions of release: |                     |   |                              |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown                     |                                   | Pretrial Release Initiative   |                     |   |                              |

## Minnesota Pretrial Release Evaluation Form, Page 1

- White section includes Rule 6 related factors used to inform the pretrial release decision.
  - *Factors not statistically validated; no correlation between these factors and pretrial risk*
- Grey section includes MNPAT and score
  - *Statistically validated; factors are statistically correlated to pretrial risk*



# Pretrial Questionnaire

|  <b>Minnesota Pretrial Questionnaire</b>                  |  |                             |                                    |  |
|--|--|-----------------------------|------------------------------------|--|
| Name   |  | (Last)                      | (First)                            | (Middle)   |
| County of Residence  |  | Duration<br>yr mo           | DOB                                | Age  |
| Street Address   |  | Apt #                       | City                               | State ZIP  |
| Mailing Address  |  | Apt #                       | City                               | State ZIP  |
| Employment/<br>Education   | 1. Are you currently employed? .....   |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | If Yes: <input type="checkbox"/> Full-time <input type="checkbox"/> Part-time  |                             |                                    |  |
|  | If Part-time: <input type="checkbox"/> 20+ hrs/week <input type="checkbox"/> Less than 20 hrs/week   |                             |                                    |  |
|  | 2. Do you currently attend school? .....   |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | If Yes: <input type="checkbox"/> Full-time <input type="checkbox"/> Part-time  |                             |                                    |  |
| If Part-time: <input type="checkbox"/> 20+ hrs/week <input type="checkbox"/> Less than 20 hrs/week   |  |                             |                                    |  |
| Housing  | 3. If you attend school and work, do your hours for both total 20 hours or more? .....   |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | 4. If you do not work outside the home, do you receive income from public assistance, social security benefits of any kind, disability benefits, or pension benefits? .....                                    |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | 5. If you do not work outside the home, do you have financial support while you care for children elderly parents, or a relative? .....  |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Substance<br>Use   | 6. Have you had three or more addresses during the past 12 months? .....   |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | 7. Have you moved between friends, family, and/or shelters during the past 12 months? .....  |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | 8. If you do not have stable housing, do you consider yourself homeless? .....   |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | 9. Within the last 12 months have you committed a crime while under the influence of alcohol or mood-altering chemicals? .....   |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Community<br>Ties  | 10. Within the past 12 months have you chosen to enter substance abuse treatment? .....  |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | 11. Within the past 12 months have you been court-ordered to do a chemical health evaluation or receive chemical health treatment? .....   |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | 12. Within the past 12 months, have alcohol or mood-altering chemicals contributed to problems with your intimate relationship, family, work, or school? .....   |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | 13. Have you had an alcohol abuse problem in the last six months? .....  |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Military   | 14. Have you used illegal mood-altering chemicals during the last six months? .....  |                             |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|  | 15. What is your marital status? <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Separated <input type="checkbox"/> Widowed <input type="checkbox"/> Never Married |                             |                                    |  |
| 16. How many minor children or others live with you or receive financial support from you?<br>Children: _____ Others: _____<br>Total ..... |  |                             |                                    |  |
| 17. Have you ever been in or served in the United States armed forces? .....   |  |                             |                                    |  |
| Please enter the name, relationship, and phone number of someone who knows you well:   |  |                             |                                    |  |
| Name   |  |                             | Relationship                       | Phone  |
| Systems Checked (Probation use only)   |  |                             |                                    | P.O.   |
| <input type="checkbox"/> BCA   | <input type="checkbox"/> CSTS  | <input type="checkbox"/> S3 | <input type="checkbox"/> MNCIS/MGA |  |
| <input type="checkbox"/> CISR  | <input type="checkbox"/> GLWS  | <input type="checkbox"/> DL | <input type="checkbox"/> JMS       |  |

∞ Only used when jurisdictions do not have resources to conduct defendant interviews

# What are the MNPAT benefits?

- ∞ The MNPAT identifies the level of risk defendants pose of not appearing for a hearing or committing a crime (lower, moderate, higher)
- ∞ Statistically validated predictor
- ∞ Mitigates implicit bias on non-predictive factors
- ∞ Provides consistent information for attorneys across the state
  - Selection committee recommended salient information not on the MNPAT (e.g. mental health) be argued before the court

# MNPAT Factors

- ∞ Each factor is scored if a defendant meets the noted criteria. The greater the number of points, the greater the impact that factor has on the overall risk score.
- ∞ Criminal conviction history is scored based on each offense (i.e., does not have a maximum score and is thus denoted by “X”)

# MNPAT Factors

| Component  | Weight         | Notes   |
|--|----------------|---|
| Main (most serious) charge   | 3, 6, 9, or 12 | Based on type and severity of offense. See Current Offense Points list.   |
| Employment/income source or school status                            | 3              | Employed less than 20 hrs/week, also not a full time student, receiving public assistance, not a pensioner, or not a financially supported homemaker  |
| Homeless or three or more address changes in past year               | 1              | Homeless or 3 or more addresses during the past 12 months or moved between friends/shelters   |
| Current problematic chemical use                                     | 1              | One or more of the following in the last 12 months: conviction for substance abuse or self or collateral report of past chemical dependency treatments, marital or family problems, or school or work disruptions |
| Age at first felony delinquency adjudication or any adult conviction | 1              | Age at first felony delinquency adjudication or any adult conviction (at or after age 14 and before age 26)   |
| Criminal conviction history  | X              | Each felony person = 9; Each non-felony person = 6; Each other felony = 2; Each other non-felony (excluding traffic) = 1  |
| Bench warrants (FTA)   | 0, 6, or 9     | One or two warrants = 6; Three or more warrants = 9; warrants must be within last three years   |

# Key Characteristics of the MNPAT

- ∞ The MNPAT cannot be changed or adapted by locality.
- ∞ Some factors are assessed through a defendant interview or collected via questionnaire.
- ∞ If any factors are blank, probation or their designee was unable to score that factor.
- ∞ Criminal History score relies on convictions only.
- ∞ Bench Warrant score relies on failure to appear warrants only.
- ∞ Main charge points assessed on charged offense, not arrested offense.
- ∞ Probation does not recommend a release decision.
  - *May offer pretrial conditions if the judge orders conditional release*

# How should the MNPAT be used?



## Minnesota Pretrial Release Evaluation Form

| Name (Last)   |  | (First)   | (Middle)                           | Assessment Date  |   |
|---|--|---|------------------------------------|--|---|
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| <input type="checkbox"/> Never Married  |  | <input type="checkbox"/> Divorced   | <input type="checkbox"/> Widowed   | # Dependents:  | <input type="checkbox"/> Yes<br><input type="checkbox"/> No |
| Pretrial Assessment Tool Section  |  |   |                                    |  |   |
| Pretrial Factor   |  |   |                                    | Points Assigned  |   |
| Main Charge:  |  |   |                                    |  |   |
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| Pretrial Score Risk Ranges  |  |   |                                    | Lower = 0-11<br>Moderate = 12-25<br>Higher = 26+         |   |
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|   |  |   |                                    | <input type="checkbox"/> Supervised Release              |   |
| Is the defendant currently assigned to a probation or pretrial officer?                                       |  |   |                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No |   |
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|   |  |   |                                    |  |   |
| Lethality Assessment Conducted  |  | If conditions are ordered, probation recommendations for conditions of release: |                                    |  |   |
| <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown                     |  |   |                                    |  |   |

Stakeholders should use the tool's "Total Scale Score" for understanding overall risk

- Scored components of the tool are included to understand how the final score was determined



# What does the MNPAT score mean?

## Total score

- 0 – 11 (lower risk): defendant is lower risk for pretrial failure and could be released on their own recognizance
- 12 – 25 (moderate risk): defendant is moderate risk for pretrial failure and could be released with conditions
- 26+ (higher risk) – defendant is higher risk for pretrial failure and could be assessed bail

Pretrial failure = failing to appear at a hearing or committing a crime during the pretrial period

# Judge Orders: Understanding Interim Conditions

## Definitions:

- ☞ **Release with No Bail, Bond, or Conditions of Release (ROR):** Judicial officer orders the defendant to be released from custody without ordering any cash bail, non-cash bond and/or release conditions.
- ☞ **Release with Conditions:** Judicial officer orders the defendant to be released from custody with specific conditions, other than bail or bond.
- ☞ **Post Cash Bail with No Conditions:** Judicial officer orders the defendant to pay cash bail in order to be released from custody. No other condition(s) are ordered.
- ☞ **Post Cash Bail with Conditions:** Judicial officer orders the defendant to pay cash bail in order to be released from custody along with other release condition(s). For example, no same or similar, abstain from alcohol, etc.

# Understanding Interim Conditions (cont.)

- ∞ **Post Non-Cash Bond with No Conditions:** Judicial officer orders the defendant to pay non-cash bond in order to be released from custody. No other condition(s) are ordered.
- ∞ **Post Non-Cash Bond with Conditions:** Judicial officer orders the defendant to pay non-cash bond in order to be released from custody along with other release condition(s). For example, no same or similar, abstain from alcohol, etc.
- ∞ **Post Bail or Bond with No Conditions:** Judicial officer orders the defendant to pay a certain amount in order to be released from custody. The judicial officer does not indicate if the amount needs to be cash bail or non-cash bond. No other condition(s) are ordered.
- ∞ **Post Bail or Bond with Conditions:** Judicial officer orders the defendant to pay a certain amount in order to be released from custody along with specific release conditions. For example, no same or similar, abstain from alcohol, etc. The judicial officer does not indicate if the amount needs to be cash bail or non-cash bond.
- ∞ **Hold Without Bail or Bond:** Judicial officer orders the defendant to remain in custody.

# Local Process Discussion

 Insert local process training here

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 Insert local process training here

# Review Session Objectives

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***Questions or discussion?***