Evidence-Based Decision Making in State and Local Jurisdictions

National Institute of Corrections

EBDM Overarching Goal

To create a framework for justice systems that will result in improved system outcomes

- **through true collaborative partnerships,**
- **systematic use of research,**
- **and a shared vision of desired outcomes.**

NIC
National Institute of Corrections

Defining: EBP and EBDM

- EBPs are policies and practices supported by research
- Research finding: empirically-based tools predict risk better than professional judgment alone
- EBP: use of a risk tool to determine appropriate amount of intervention
- EBDM is a disciplined approach to using data and research to inform decision making across the justice system
- Whom do we divert?/What do we want to achieve?
- What does the research tell us about the most effective method of achieving our goal?

NIC
National Institute of Corrections

EBDM Principles

Principle 1: The professional judgment of criminal justice system decision makers is enhanced when informed by evidence-based knowledge.

Principle 2: Every interaction within the criminal justice system offers an opportunity to contribute to harm reduction.

Principle 3: Systems achieve better outcomes when they operate collaboratively.

Principle 4: The criminal justice system will continually learn and improve when professionals make decisions based on the collection, analysis, and use of data and information.

NIC
National Institute of Corrections

NIC
National Institute of Corrections

Overview of Local Level EBDM 2008-2013

Phase I

Framework Development

May 2008-March 2010

Phase II

Planning Process

June 2010-August 2011

Phase III

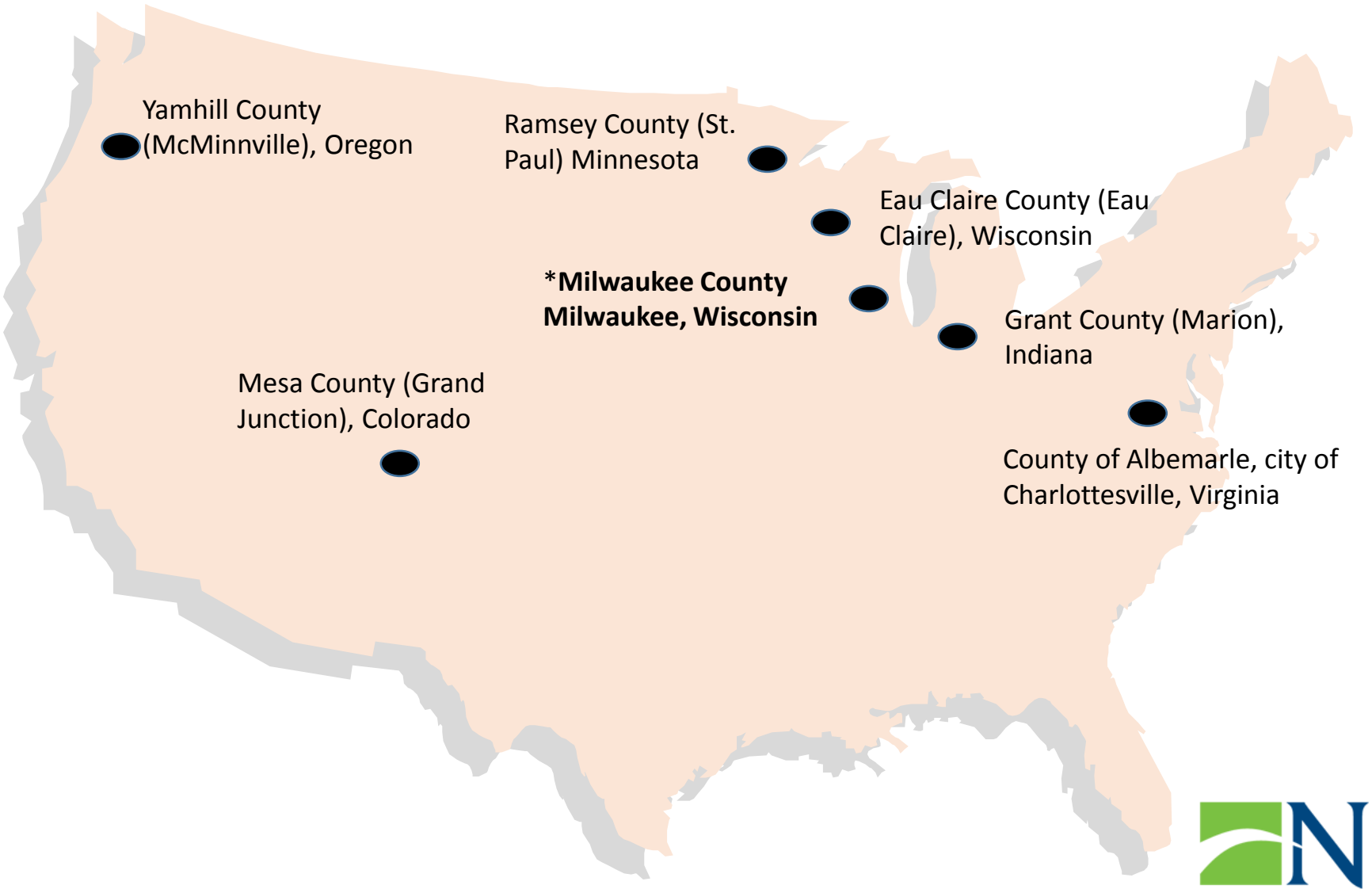
Implementation

August 2011-Dec 2013

- NIC began the *Evidence-Based Decision Making in Local Criminal Justice Systems* initiative in 2008
- In Phase I, we built the EBDM "Framework"
- In 2010, NIC selected seven local jurisdictions from across the country to participate in Phase II
- The same seven sites continued on to the Implementation Phase (Phase III)

NIC
National Institute of Corrections

EBDM Local Sites (Phases II & III)



NIC
National Institute of Corrections

Phase II (Planning) Objectives

Build a genuine, collaborative policy team

Build individual agencies that are collaborative and in a state of readiness for change

Understand current practice within each agency and across the system

Understand and have the capacity to implement evidence-based practices

Develop logic models

Establish performance measures, determine outcomes, and develop a system scorecard

Engage and gain the support of a broader set of stakeholders and the community

Develop a strategic action plan for implementation

NIC
National Institute of Corrections

Phase III (Implementation) Objectives

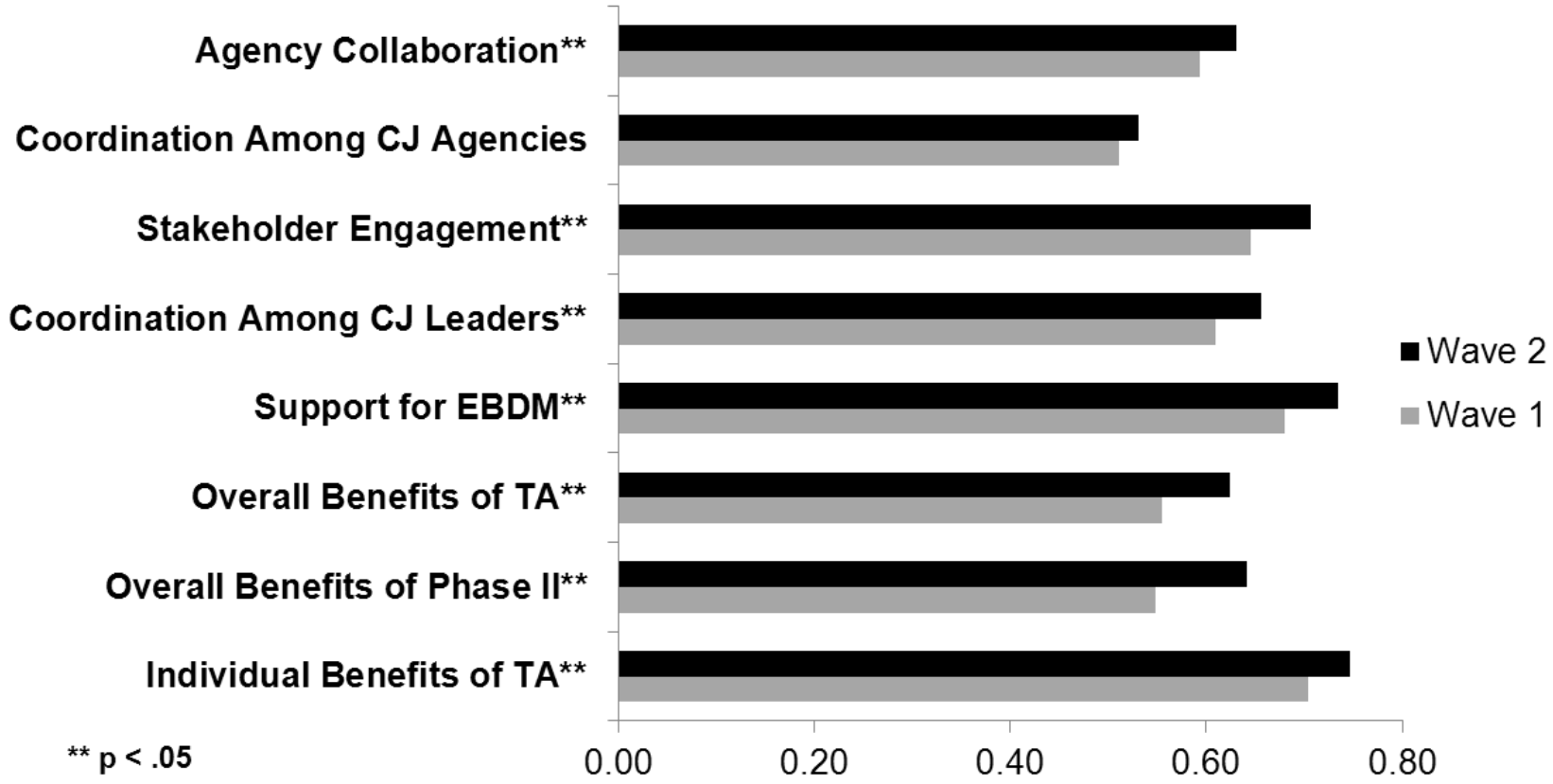
- Collect baseline data on implementation strategies
- Implement change strategies
- Sustain a multi-disciplinary collaborative policy team
- Fully engage agency staff in EBDM, focusing specifically on agency managers and supervisors
- Embed EBDM knowledge system-wide
- Carry out the external stakeholder communication strategy
- Guard against implementation failure
- Measure performance against system-wide scorecard
- Celebrate success
- Institutionalize policy changes
- Expand the number of EBDM change strategies
- Educate and engage in-state colleagues on EBDM
- Share experiences with national colleagues

Urban Institute: Evaluation of Phase II Research Report June 2012

➢Objectives

- Identify critical components of TA
  - Document TA provision in the 7 EBDM sites
- Examine TA impact on site capacity and readiness
  - Collaboration, coordination, knowledge development, support for EBDM
- Assess sites' level of satisfaction with TA delivery
- Identify direct and indirect benefits, challenges, lessons learned

Evidence of the Impact: Strong and Positive



Evidence-Based Reform

Mesa County

Colorado

Joel Bishop 970-244-3309 joel.bishop@mesacounty.us

Key Philosophies

- Well-informed judges make better hold/release decisions than profit-driven bondsmen.
- To enhance public safety, all defendants arrested should be screened with an empirical tool.
- Lower-risk defendants should normally be released on their own recognizance.
- Higher risk defendants who pose a threat to public safety should be held by a targeted judicial decision.
- Money should no longer be a primary stakeholder in this decision process.

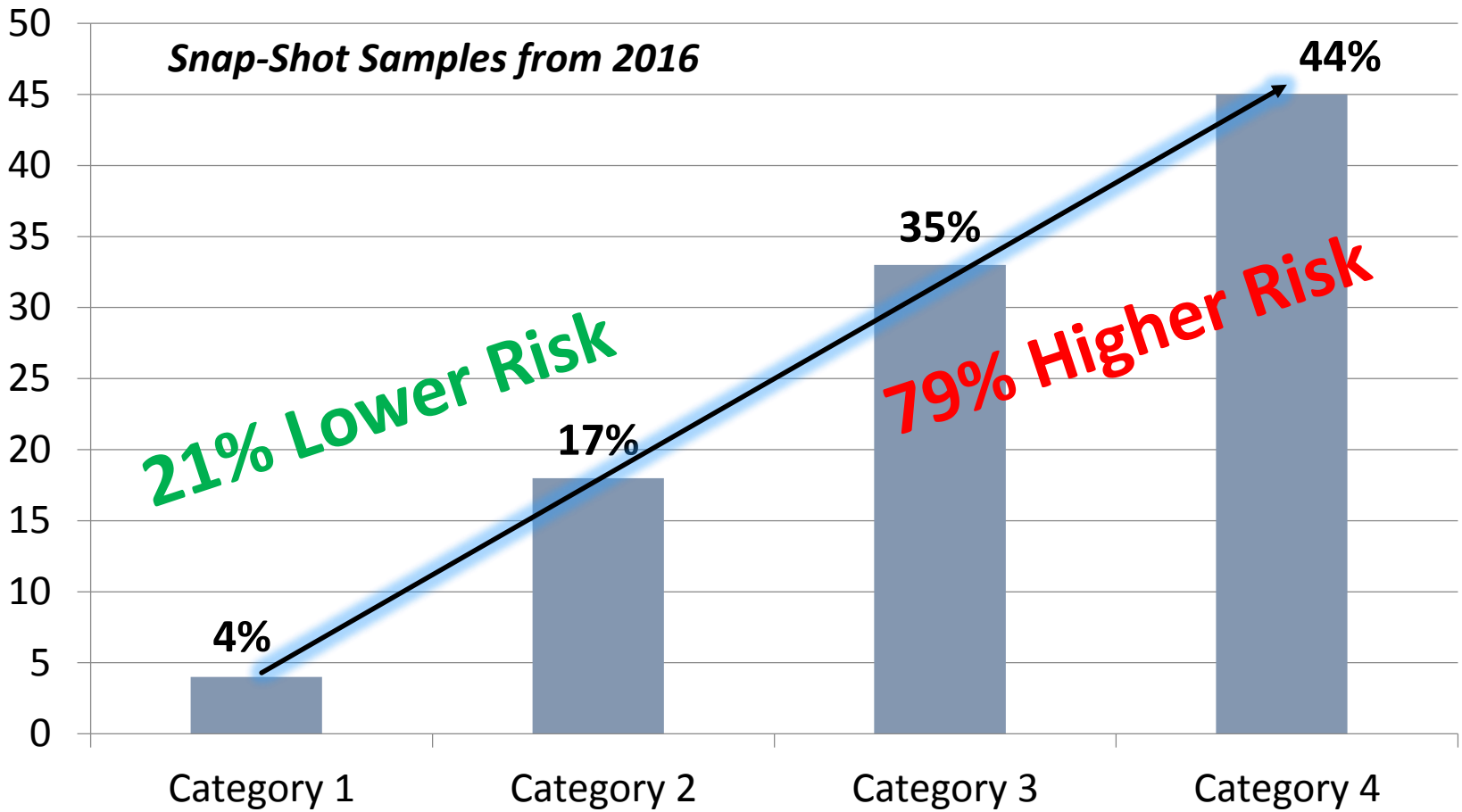
OLD PROCESS

OUT OF JAIL

PAY YOU LATER

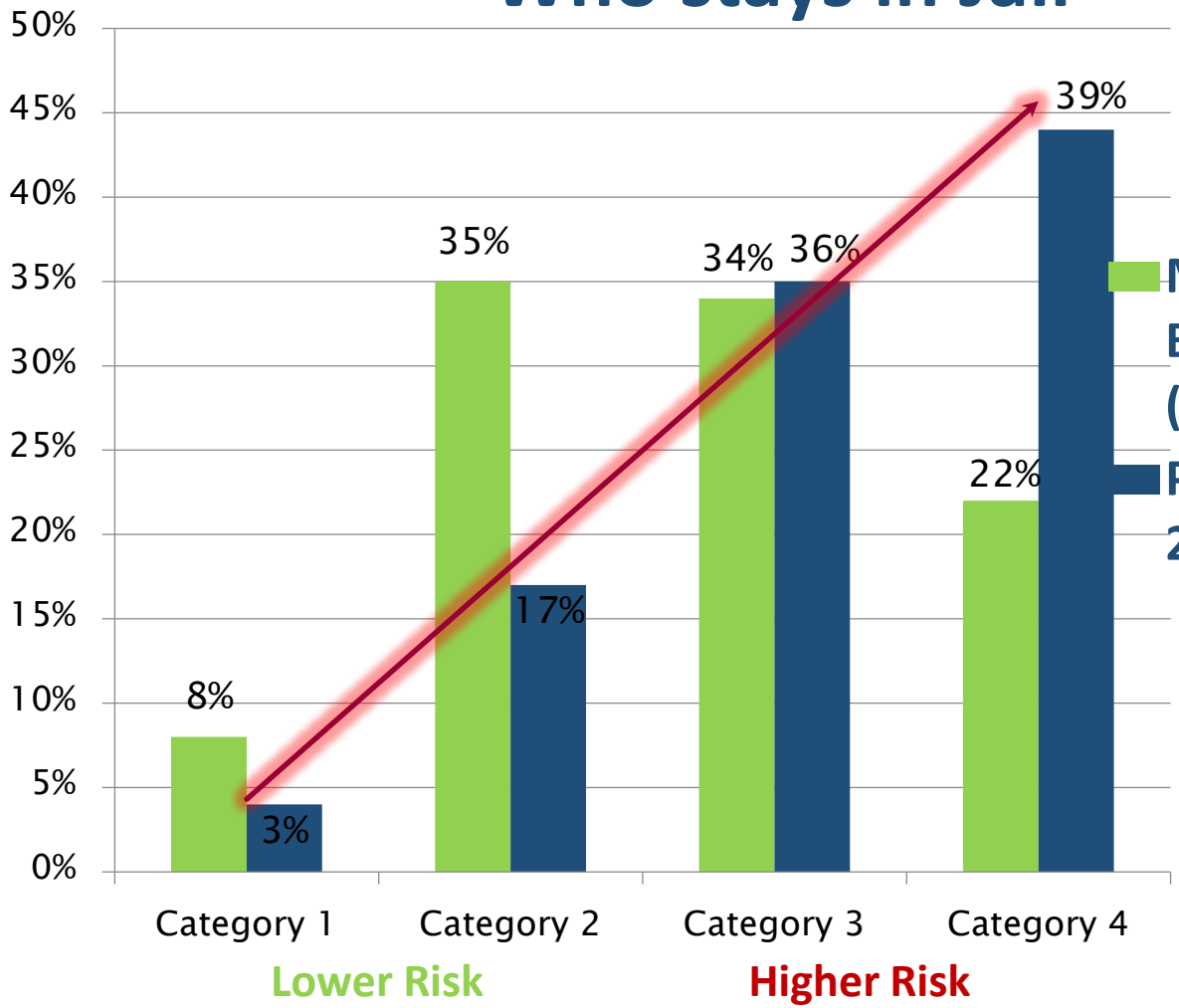
IN JAIL

Mesa County Jail Pretrial Population By Empirical Risk Level



N=649 (snap-shots sampled from 2/19, 4/22 and 5/24 of 2016)
An additional 14% unknown due to inability to interview, refusals to interview , etc.
These numbers include holds that we have no control over, such as ICE holds, Parole holds, etc.

Who is Booked in Jail
verses
Who stays in Jail

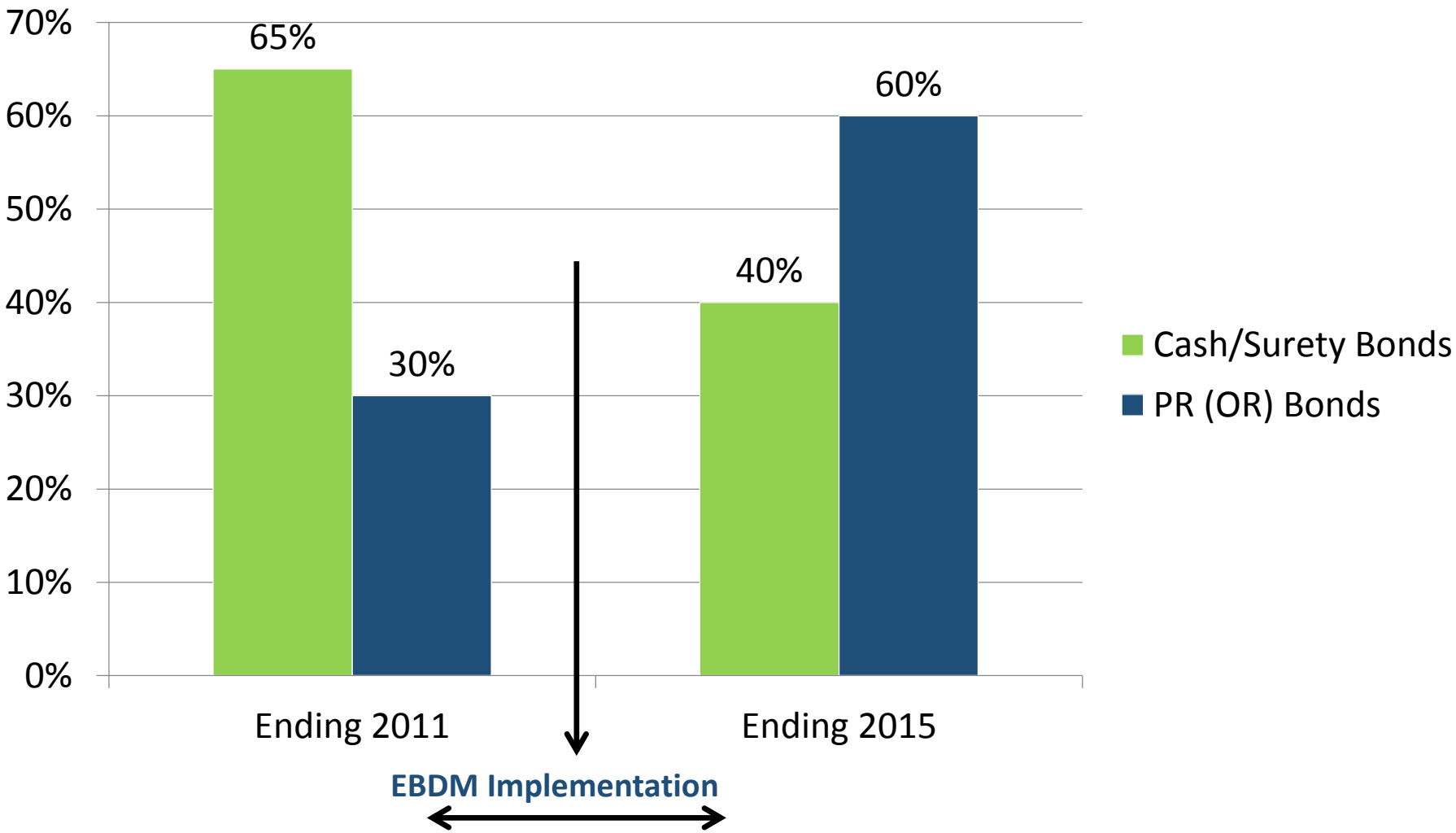


Mesa's Pretrial Booked Population (through April 2016)

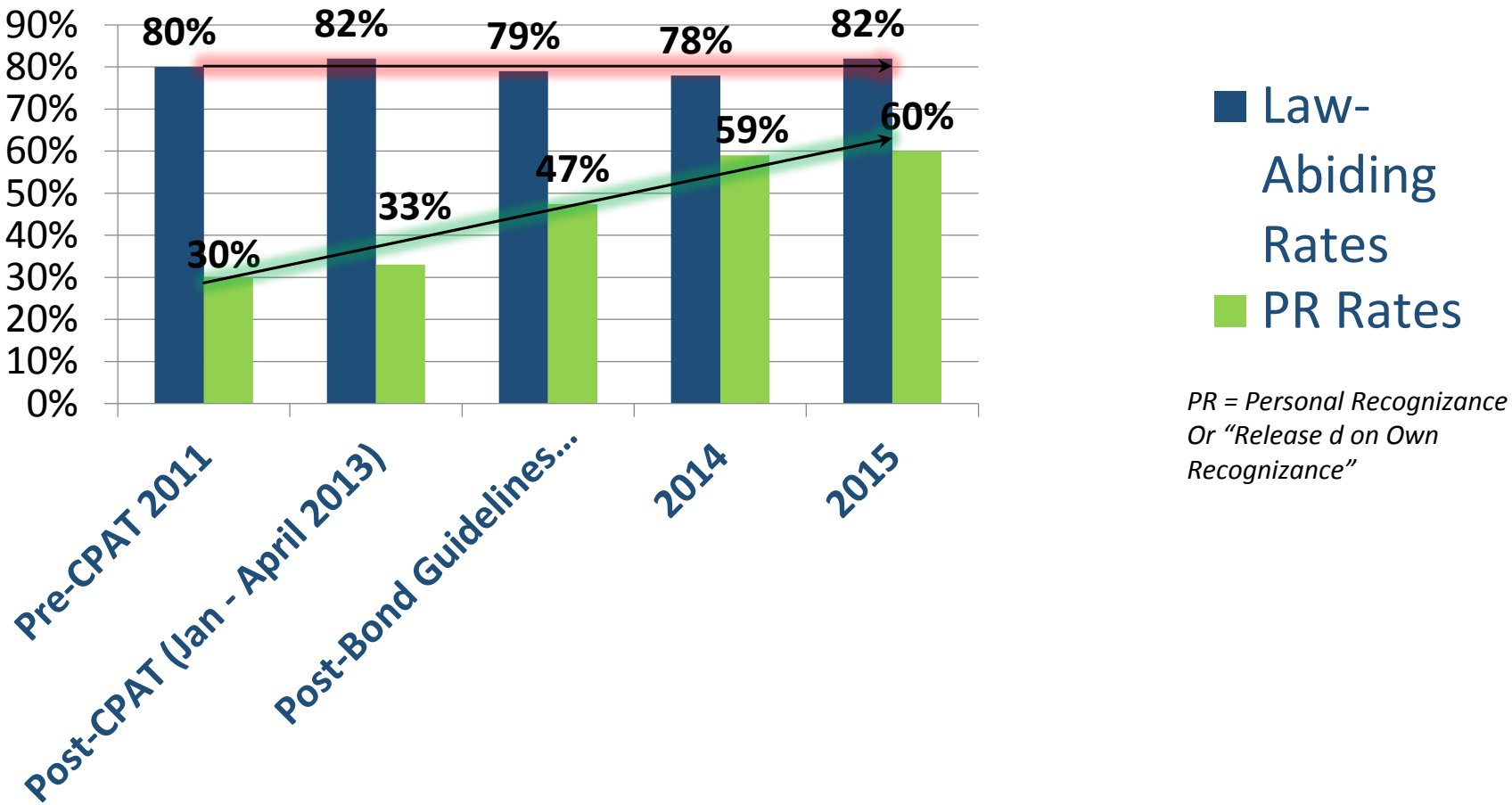
Pretrial Jail Snap-Shot 2016 samples

This Graph Provides Evidence that Judges are making empirically informed, strategic decisions regarding pretrial incarceration.

Mesa County EBDM Project - Changes in Judicial Practices At First Appearance



How has an Increase in PR Rates Affected Public Safety?



PR = Personal Recognizance Or "Release d on Own Recognizance"

**Law-Abiding Rate is Supervised Group Only; The unsupervised group cannot currently be tracked.*

Overview of Statewide EBDM 2013 & Beyond

Phase IV

Preparation for Expansion

Sep 2013 – Dec 2014

- Participate in a process designed to prepare teams within the state for the EBDM planning phase

Phase V

Planning Process

Mar 2015 – Mar 2016

- Engage in EBDM planning activities at state level and in multiple local jurisdictions (i.e., a state team + approx. 5 local teams)

Phase VI

Implementation

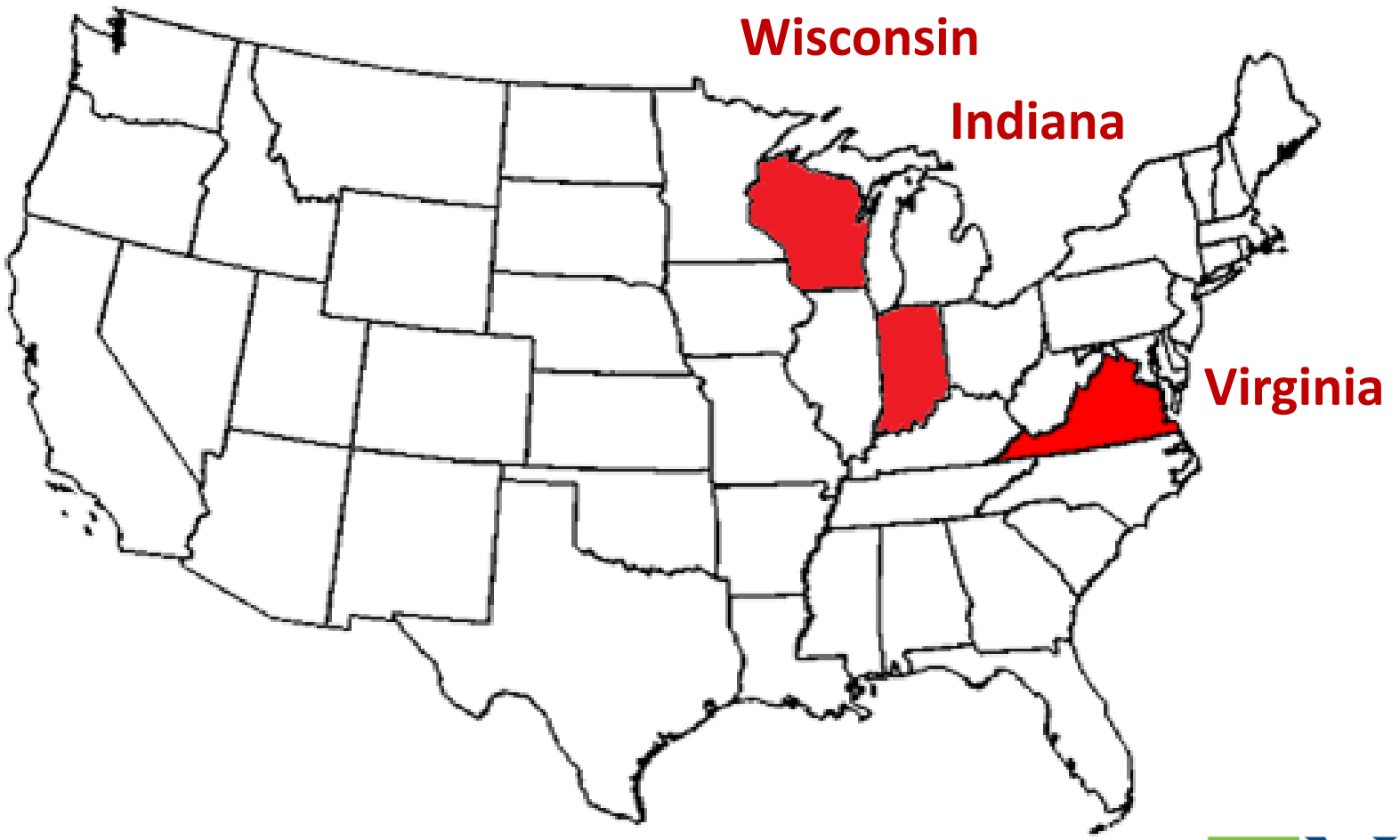
Current Phase

- Engage in EBDM implementation activities at state level and in multiple local jurisdictions

NIC

National Institute of Corrections

Phase V States



NIC
National Institute of Corrections

Participating Jurisdictions

Indiana

- State EBDM Policy Team
- Bartholomew County
- Hamilton County
- Hendricks County
- Jefferson County
- Porter County
- Tipton County

Virginia

- State EBDM Policy Team
- Chesterfield County
  Colonial Heights
- City of Norfolk
- City of Petersburg
- Prince William County/Manassas
- City of Richmond
- Staunton/Augusta
  Waynesboro

Wisconsin

- State EBDM Policy Team
- Chippewa County
- La Crosse County
- Marathon County
- Outagamie County
- Rock County
- Waukesha County

NIC
National Institute of Corrections

Phase VI: Wisconsin Full Implementation

Phase IV

Preparation for Expansion

Sep 2013 – Dec 2014

Phase V

Planning Process

Dec 2014 – Feb 2015

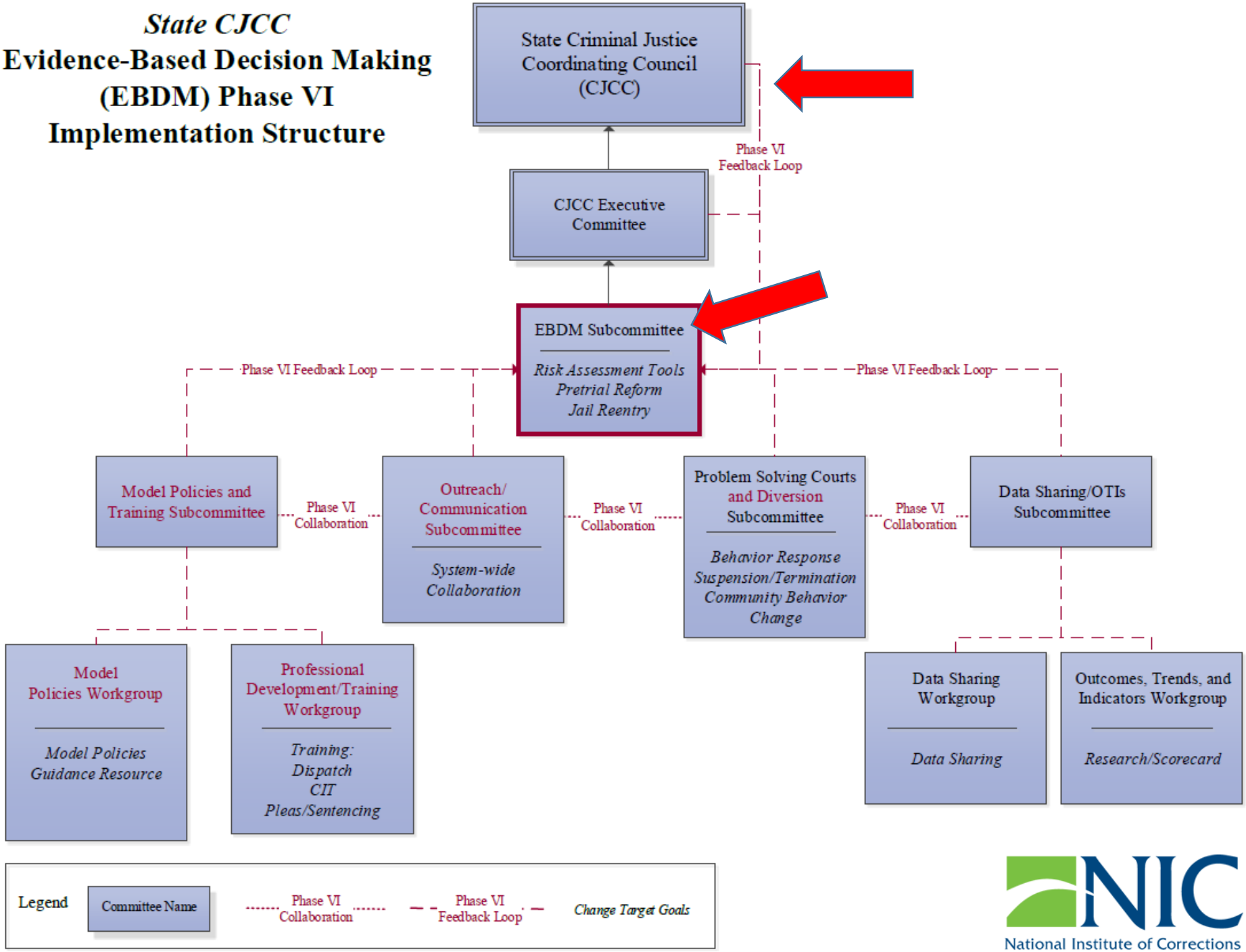
Phase VI

- Wisconsin State Team
- Chippewa County
- La Crosse County
- Marathon County
- Outagamie County
- Rock County
- Waukesha County

NIC

National Institute of Corrections

State CJCC
Evidence-Based Decision Making (EBDM) Phase VI Implementation Structure



National Institute of Corrections

Phase VI: Indiana Pretrial Decision Point Implementation

Phase IV

Preparation for Expansion

Sep 2013 – Dec 2014

Phase V

Planning Process

Dec 2014 – Feb 2015

Phase VI

Current

- Indiana State Team
- Bartholomew County
- Hamilton County
- Hendricks County
- Jefferson County
- Porter County
- Tipton County
- *St. Joseph*
- *Monroe*
- *Allen*
- *Starke*

NIC

National Institute of Corrections

In the
Indiana Supreme Court

FILED
Sep 07 2016, 10:47 am
CLERK
Indiana Supreme Court
Court of Appeals
and Tax Court

Cause No. 94S00-1602-MS-86

Order Adopting Criminal Rule 26

On December 20, 2013, the Indiana Supreme Court created a committee "to study evidence-based pre-trial release assessments and to make recommendations to the Court, including proposed new or amended rules and procedures to facilitate the implementation of such recommendations." The resulting committee consisted of five trial judges, two legislators, four probation officers, a county prosecutor, the Chair of the Indiana State Bar Association Criminal Justice Section, and representatives of the Indiana Prosecuting Attorneys Council and the Indiana Public Defender Council. Based on its evaluation of the resulting impact on public safety, reduced recidivism, reduced taxpayer costs, enhanced reliability and fairness of criminal justice results, the Committee recommended this Court adopt a new rule to urge Indiana trial courts to use evidence-based risk assessments to inform pretrial release decisions.

The primary purpose of monetary bail and other conditions of release from pretrial detention are to maximize the likelihood of an accused person's presence at trial while striving for both public safety and protection of the presumption of innocence. The prompt release of arrestees who do not pose a risk to public safety is associated with reduced recidivism and eliminates unnecessary expenses resulting from the overutilization of local jail resources. The improvement of Indiana's pretrial release practices will (a) encourage and empower trial judges to release arrestees earlier; (b) reduce pretrial detention expenses for local jails and enable many arrestees to return to their jobs and provide support for their families; (c) eliminate the unfair and often protracted incarceration of poor people who don't have the resources to purchase a bail bond or pay a bail deposit; (d) enhance the reliability of guilty pleas; and (e) realize the benefits of reduced recidivism and enhanced public safety that flow from the use of evidence-based risk assessment tools for pretrial release decisions.

Informed by the work and recommendations of the Supreme Court Committee to Study Evidence Based Pretrial Release and the counties volunteering to serve as pilot projects in this effort, this Court hereby adopts the following Rule of Criminal Procedure.

Rule 26. Pretrial Release

(A) If an arrestee does not present a substantial risk of flight or danger to themselves or others, the court should release the arrestee without money bail or surety subject to such restrictions and conditions as determined by the court except when:

(1) The arrestee is charged with murder or treason.

(2) The arrestee is on pre-trial release not related to the incident that is the basis for the present arrest.

(3) The arrestee is on probation, parole or other community supervision.

(B) In determining whether an arrestee presents a substantial risk of flight or danger to self or other persons or to the public, the court should utilize the results of an evidence-based risk assessment approved by the Indiana Office of Court Services, and such other information as the court finds relevant. The court is not required to administer an assessment prior to releasing an arrestee if administering the assessment will delay the arrestee's release

(C) If the court determines that an arrestee is to be held subject to money bail, the court is authorized to determine the amount of such bail and whether such bail may be satisfied by surety bond and/or cash deposit. The court may set and accept a partial cash payment of the bail upon such conditions as the court may establish including the arrestee's agreement that all court costs, fees, and expenses associated with the proceeding shall be paid from said partial payment. If the court authorizes the acceptance of a cash partial payment to satisfy bail, the court shall first secure the arrestee's agreement that, in the event of failure to appear as scheduled, the arrestee shall forfeit the deposit and must also pay such additional amounts as to satisfy the full amount of bail plus associated court costs, fees, and expenses.

(D) Statements by Arrestee

(1) Prohibited Uses: Evidence of an arrestee's statements and evidence derived from those statements made for use in preparing an authorized evidence-based risk assessment tool is not admissible against the arrestee, in any civil or criminal proceeding.

(2) Exceptions: The court may admit such statements:

(a) in a pretrial proceeding involving the arrestee; or

(b) in any proceeding in which another statement made in preparing an authorized evidence-based risk assessment tool has been introduced, if in fairness the statements ought to be considered together.

EBDM Resources

NIC Evidence-Based Decision Making Webpage:
http://nicic.gov/ebdm

Contact Information on Planning and Implementing EBDM:

Lori Eville

National Institute of Corrections

leville@bop.gov

NIC
National Institute of Corrections