

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

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<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
June 27, 2023	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Pretrial Risk Assessment and Form 4 Task Force – Report and Recommendations

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#### **FROM:**

Mr. Dave Byers, Chair of the Pretrial Risk Assessment and Form 4 Task force.

#### **DISCUSSION:**

The Arizona Judicial Branch is committed to improving the use of evidence-based practices in the determination of pretrial release and the conditions of pretrial release to promote defendant accountability and community protection. For felony pretrial release determinations, Arizona courts have used the nationally recognized Public Safety Assessment (PSA) instrument since 2015. The PSA provides judicial officers valuable information, which is to be considered in conjunction with other key factors, to determine the risk of flight and propensity for future violent crime on the part of pretrial defendants.

In December of 2022, law enforcement officials wrote to Chief Justice Robert Brutinel, expressing concern over the PSA tool and the Form 4 and how they were being used in pretrial release decisions. An initial meeting was held to discuss those concerns and it was determined that a review of pretrial processes would be appropriate. On January 19, 2023, Chief Justice Brutinel established the Pretrial Risk Assessment and Form 4 Task Force through Administrative Order 2023-20, determining that it is in the best interests of the justice system to evaluate the current use of the PSA instrument and the Supreme Court's Form 4 to determine if any improvements need to be made.

Dave Byers will present the Task Force's Report and Recommendations.

#### **RECOMMENDED ACTION:**

Motion: Recommend the Arizona Judicial Council accept the report of the Pretrial Risk Assessment and Form 4 Task Force's Report and Recommendations.

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

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**Date Action Requested:**

June 27, 2023

**Type of Action Requested:**

- Formal Action/Request  
 Information Only  
 Other

**Subject:**

Pretrial Risk  
Assessment Form 4

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**FROM:**

Mr. Jerry Landau, Special Projects Consultant for the AOC and Judge Pro Tem

**DISCUSSION:**

Mr. Landau will present the recommendations of the Form 4 working group as adopted by the Pretrial Assessment and Form 4 Task Force.

**RECOMMENDED ACTION:**

Adopt the recommendations of the Form 4 working group as adopted by the Pretrial Assessment and Form 4 Task Force.



# PRETRIAL RISK ASSESSMENT & FORM 4 TASK FORCE

REPORT AND RECOMMENDATIONS  
JUNE 2023





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## EXECUTIVE SUMMARY

The Arizona Judicial Branch is committed to improving the use of evidence-based practices in the determination of pretrial release and the conditions of pretrial release to promote defendant accountability and community protection. For felony pretrial release determinations, Arizona courts have used the nationally recognized Public Safety Assessment (PSA) instrument since 2015. The PSA provides judicial officers valuable information, which is to be considered in conjunction with other key factors, to determine the risk of flight and propensity for future violent crime on the part of pretrial defendants.

In December of 2022, law enforcement officials wrote to Chief Justice Robert Brutinel, expressing concern over the PSA tool and the Form 4 and how they were being used in pretrial release decisions. An initial meeting was held to discuss those concerns and it was determined that a review of pretrial processes would be appropriate. On January 19, 2023, Chief Justice Brutinel established the Pretrial Risk Assessment and Form 4 Task Force through Administrative Order [2023-20](#). The Administrative Order outlined that the task force shall evaluate the current use of the PSA instrument and Pretrial Form 4 and determine if any improvements need to be made including:

- a) Policies, procedures, and instructions related to the use of the PSA and the Form 4.
- b) If additional training is needed for all judicial officers conducting hearings for pretrial release determinations.
- c) If additional training is needed for law enforcement officers in the use of the Form 4.
- d) Other system improvements.

The Chief Justice asked the task force to file a report and make recommendations to the Arizona Judicial Council (AJC) no later than October 2023. The report that follows includes those recommendations for the AJC's review and consideration.

## PART I – THE PRETRIAL RISK ASSESSMENT

### EXISTING PRETRIAL RISK ASSESSMENT TOOL AUTHORITY

In 2014, the Arizona Code of Judicial Administration (ACJA) § 5-201 was approved by the Arizona Judicial Council (AJC) and adopted by Administrative Order (AO) 2014-12. This administrative order authorized courts to operate pretrial service programs that incorporate evidence-based practices, including the use of risk assessments for the purpose of making pretrial release decisions, establishing pretrial release conditions, and providing pretrial release supervision. The AJC approved the use of the Public Safety Assessment (PSA), a validated pretrial risk assessment, for use in five pilot site courts in Arizona. On March 26, 2015, after its successful pilot, the AJC approved the use of the PSA as an approved pretrial risk assessment tool for Arizona courts, beyond the five pilot courts in Arizona, as noted in Administrative Order 2015-38.

## FOUNDATIONAL INFORMATION FOR TASK FORCE CONSIDERATION

The Form 4 is a document, codified in Rule 41, Arizona Rules of Criminal Procedure, that law enforcement officers complete and provide to the jail when a person is booked and to the courts at the time of arrest that includes pertinent information surrounding the alleged crime such as victim information, the defendant's demographics, and some historical information on the defendant (when available). More importantly, the form includes a probable cause statement, which is a summary of the conduct of the defendant that the officer believes constitutes a crime and forms the basis for an arrest. Frequently, this is the only information the initial appearance (IA) judicial officer has pertaining to the instant offense at the time of the initial appearance.

In *United States v. Salerno*, 481 U.S. 739 (1987), it was noted that “in our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” The Arizona Constitution provides that nearly all individuals charged with a crime are releasable pending trial:

### **Article 2, § 22, Arizona Constitution**

**Section 22. A. All persons charged with crime shall be bailable by sufficient sureties, except:**

1. For capital offenses, sexual assault, sexual conduct with a minor under fifteen years of age or molestation of a child under fifteen years of age when the proof is evident or the presumption great.
2. For felony offenses committed when the person charged is already admitted to bail on a separate felony charge and where the proof is evident or the presumption great as to the present charge.
3. For felony offenses if the person charged poses a substantial danger to any other person or the community, if no conditions of release which may be imposed will reasonably assure the safety of the other person or the community and if the proof is evident or the presumption great as to the present charge.
4. ...(continues)

Rule 7.2(a) of the Arizona Rules of Criminal Procedure further elaborates on the notion of offenses that are bailable (releasable) as a matter of right, and states that defendants must be released on their own recognizance unless release will not reasonably assure appearance or protect victims, other persons, or the community, in which case the court must impose the least onerous conditions.<sup>1</sup>

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<sup>1</sup> Although the Arizona Constitution, article 2, section 22, and Arizona Revised Statute § 13-3961(A)(2-5), indicate non-bondability (not bailable) for sexual assault, child molestation, sexual conduct with a minor, and a person who has entered or remained in the United States illegally, the 9<sup>th</sup> Circuit Court of Appeals and Arizona Supreme Court have eliminated all of those for being non-bondable solely on the basis of the charge. See *State v. Wein*, 244 Ariz.22 (2018)—Sexual Assault; *Chantry v. Astrowsky*, 242 Ariz. 355 (2017)— Molestation of a Child under the age of 15; *Simpson v. Miller*—Sexual Conduct with Minor; *Lopez-Valenzuela v. Arpaio*, 770F.3d 772, 775,792 (9th Cir.2014), cert denied, 135 S.Ct. 2046 (2015)— struck down article 2, section 22(A)(4) and A.R.S. §13-3961(A)(5) — forbade bail for illegal immigrants.



## PREVENTIVE DETENTION

While it is clear that there is a presumption that most defendants are to be released pending trial, there are exceptions. The Arizona Legislature has enacted laws, and the legislature and the Arizona Supreme Court have adopted procedures for denying release, referred to as *preventive detention*. A.R.S. § 13-3961(D), (E), and Rule 7.4 of the Arizona Criminal Rules of Procedure provides the state with a method to request preventive detention by proving by clear and convincing evidence that the person charged poses a substantial danger to another person or the community and that no condition or combination of conditions of release may be imposed that will reasonably assure the safety of the other person or the community and the proof is evident or presumption great that the person committed the offense for which they are charged. The statute provides that on oral motion of the state, the court shall order the hearing at or within 24 hours of the initial appearance unless a continuance is requested. A continuance that is granted based on the motion of the person shall not exceed five calendar days, but a continuance granted on the motion of the state shall not exceed 24 hours. This presents significant challenges to be complied with, as the required information cannot be compiled and submitted to the court that quickly.

Relevant portions of A.R.S. § 13-3961 and § 13-3967 provide:

### **A.R.S. § 13-3961. Offenses not bailable; purpose; preconviction; exceptions**

- A. A person who is in custody shall not be admitted to bail if the proof is evident or the presumption great that the person is guilty of the offense charged and the offense charged is one of the following:
1. A capital offense.
  2. Sexual assault.
  3. Sexual conduct with a minor under either of the following circumstances:
    - (a) At the time of the offense, the person was at least eighteen years of age and the victim was under thirteen years of age.
    - (b) At the time of the offense, the victim was thirteen or fourteen years of age and the person was at least ten years older than the victim.
  4. Molestation of a child under either of the following circumstances:
    - (a) At the time of the offense, the person was at least eighteen years of age and the victim was under thirteen years of age.
    - (b) At the time of the offense, the victim was thirteen or fourteen years of age and the person was at least ten years older than the victim.
  5. A serious felony offense if there is probable cause to believe that the person has entered or remained in the United States illegally. For the purposes of this paragraph:
    - (a) The court shall consider all of the following in making a determination that a person has entered or remained in the United States illegally:
      - (i) Whether a hold has been placed on the arrested person by the United States immigration and customs enforcement.
      - (ii) Any indication by a law enforcement agency that the person is in the United States illegally.
      - (iii) Whether an admission by the arrested person has been obtained by the court or a law enforcement agency that the person has entered or remained in the United States illegally.
      - (iv) Any information received from a law enforcement agency pursuant to section 13-3906.
      - (v) Any evidence that the person has recently entered or remained in the United States illegally.

(vi) Any other relevant information that is obtained by the court or that is presented to the court by a party or any other person.

(b) "Serious felony offense" means any class 1, 2, 3 or 4 felony or any violation of section 28-1383.

B. The purposes of bail and any conditions of release that are set by a judicial officer include:

1. Assuring the appearance of the accused.
2. Protecting against the intimidation of witnesses.
3. Protecting the safety of the victim, any other person or the community.

C. The initial determination of whether an offense is bailable pursuant to subsection A of this section shall be made by the magistrate or judicial officer at the time of the person's initial appearance.

D. Except as provided in subsection A of this section, a person who is in custody shall not be admitted to bail if the person is charged with a felony offense and the state certifies by motion and the court finds after a hearing on the matter that there is clear and convincing evidence that the person charged poses a substantial danger to another person or the community or engaged in conduct constituting a violent offense, that no condition or combination of conditions of release may be imposed that will reasonably assure the safety of the other person or the community and that the proof is evident or the presumption great that the person committed the offense for which the person is charged. For the purposes of this subsection, "violent offense" means either of the following:

1. A dangerous crime against children.
  2. Terrorism.
- (Continues...)

### **13-3967. Release on bailable offenses before trial; definition**

A. At his appearance before a judicial officer, any person who is charged with a public offense that is bailable as a matter of right shall be ordered released pending trial on his own recognizance or on the execution of bail in an amount specified by the judicial officer.

B. In determining the method of release or the amount of bail, the judicial officer, on the basis of available information, shall take into account all of the following:

1. The views of the victim.
  2. The nature and circumstances of the offense charged.
  3. Whether the accused has a prior arrest or conviction for a serious offense or violent or aggravated felony as defined in section 13-706 or an offense in another state that would be a serious offense or violent or aggravated felony as defined in section 13-706 if committed in this state.
  4. Evidence that the accused poses a danger to others in the community.
  5. The results of a risk or lethality assessment in a domestic violence charge that is presented to the court.
  6. The weight of evidence against the accused.
  7. The accused's family ties, employment, financial resources, character and mental condition.
  8. The results of any drug test submitted to the court.
  9. Whether the accused is using any substance if its possession or use is illegal pursuant to chapter 34 of this title.
  10. Whether the accused violated section 13-3407, subsection A, paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.
  11. The length of residence in the community.
  12. The accused's record of arrests and convictions.
  13. The accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.
  14. Whether the accused has entered or remained in the United States illegally.
  15. Whether the accused's residence is in this state, in another state or outside the United States.
- (Continues...)

Rule 7.2(b)(4) tried to take into consideration the challenges. The rule requires bail eligibility hearings for a defendant who has been held in custody because they were determined to be not eligible for bail. If the state makes the oral motion under A.R.S. §13-3961(E), the court must hold this hearing within 24 hours of the initial appearance. If the motion is not made, the hearing must be held as soon as practicable, but no later than seven days after the initial appearance. However, problems with complying with this rule in combination with the statute also have resulted in it rarely, if ever, being used.

## FINANCIAL CONDITIONS IN LIEU OF BOND

It has been noted that in lieu of the preventive detention option, prosecutors routinely ask for substantial financial bond amounts to be imposed for the purpose of keeping an individual in jail. This is typically done with the assumption that the person will not be able to provide the amount of the bond. That process, while widespread, can be challenged. Rule 7.3 of the Arizona Rules of Criminal Procedure states that monetary conditions of release “must be based on an individualized determination of the defendant’s risk of non-appearance, risk of harm to others or the community, and the defendant’s financial circumstances.” If the court decides to impose a financial condition, it must impose the “least onerous type of condition in the lowest amount necessary.”

Another consideration in using financial conditions to detain an offender is that courts are not assessing a person’s ability to post certain amounts, which results in some higher risk defendants with financial means being released, despite the fact that they may be a threat or are likely to flee. This situation has been seen, for example, with high level drug offenders who are able to post the financial amount, only to become free while lower risk individuals with little access to money remain in jail on even small bond amounts.

Assigning money (financial bond) as a condition of release should not be a mechanism to hold a person in custody pending their next court appearance; but rather its intent has been to ensure that defendants will appear for all court hearings or face the loss of money. The American Bar Association (ABA) Standards for Pretrial Release ([Standard 10-5.3](#)<sup>2</sup>) says in part, “The judicial officer should not impose a financial condition that results in the pretrial detention of the defendant solely due to an inability to pay.”

The court has options for release that extend beyond financial conditions. The court may release a person on their own recognizance (OR), set an unsecured appearance bond, cash bond or deposit bond in addition to a secured appearance bond. The court may impose the following non-monetary conditions:

- (A) Placing the defendant in the custody of a designated person or organization that agrees to provide supervision.
- (B) Restricting the defendant's travel, associations, or residence.
- (C) Prohibiting the defendant from possessing any dangerous weapon.
- (D) Prohibiting the defendant from engaging in certain described activities, or consuming intoxicating liquors or any controlled substance that is not properly prescribed.

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<sup>2</sup> [Pretrial Release \(americanbar.org\)](http://www.americanbar.org)

- (E) Requiring the defendant to report regularly to and remain under the supervision of an officer of the court.
- (F) Returning the defendant to custody after specified hours; or
- (G) Imposing any other non-monetary condition that is reasonably related to securing the defendant's appearance or protecting others or the community from risk of harm by the defendant.

Under Rule 7.3 of the Arizona Rules of Criminal Procedure, the court considers additional conditions for release and must order no victim contact if it is reasonably necessary to protect the victim. The court may also impose other conditions that are reasonably necessary to secure appearance or protect other persons or the community and may impose other non-monetary conditions that are reasonably related.

## PRETRIAL SERVICES

When discussing the release condition that requires a defendant to remain under the supervision of an officer of the court and required to report, it should be noted that resources and capacity to provide this type of interaction vary between the counties. Pretrial services are funded and staffed locally at the county level. While Maricopa and Pima counties provide supervision, most counties do not provide supervision of individuals released pretrial.

Currently, there is no statewide pretrial case management system and there is no ability to timely communicate release condition information to law enforcement. The Administrative Office of the Courts (AOC) is currently in the process of deploying a new pretrial and probation case management system. The Arizona Criminal Justice Commission has recently allocated funding to the AOC to enable the conditions of release that will be entered into the new case management system, to be transmitted to law enforcement on request. The new system will be deployed over the next two years. By communicating those release conditions, law enforcement can assist with enforcement, especially in protecting any victims.

## THE INITIAL APPEARANCE HEARING

The Arizona Rules of Criminal Procedure Rules 4.2 and 7.4(a) requires the court, at the initial appearance hearing, to determine bail eligibility and the conditions for release. If the court decides that the defendant is eligible for release, the court must issue an order containing the conditions of release. During the initial appearance phase, decisions are made quickly and often with limited information. It was noted that in Pima County, there is both a prosecutor and a defense attorney present at initial appearance hearing; however, that is not necessarily true for the remaining counties across the state, who often have only the prosecutor, only the defense attorney, or neither at the initial appearance hearing.

There are several guiding principles when it comes to making release decisions at the initial appearance hearing. Arizona Revised Statutes § 13-3967(B) lists release factors that must be considered by the court. (See list of release factors above on page 4.)

To assist the judicial officer in making decisions regarding appropriate conditions for release, a pretrial risk assessment tool called the Public Safety Assessment (PSA) [What Is the PSA? | Advancing Pretrial Policy & Research \(APPR\)](#)<sup>3</sup>, is used. The PSA is an actuarial assessment based on the person’s criminal history that estimates failure to appear (FTA) in court pretrial, new criminal arrest (NCA) while on pretrial release, and new violent criminal arrest (NVCA) while on pretrial release. The PSA does not alone inform a release decision, but it does provide guidance as to appropriate conditions if the decision is made to release the defendant.

The PSA is a nationally validated tool that uses nine factors that are derived from information contained in a person’s adult criminal history, which reflects pending charges, prior convictions and sentences, adult court appearance history, and traffic and criminal charges that carry a potential penalty of incarceration.<sup>4</sup> Each factor is weighted and assigned different points according to the strength of its relationship with the specific pretrial outcome, and the points for each pretrial outcome are totaled. They are converted into a scale for FTA and a scale for NCA with a range of 1 to 6 points each. The points assigned to NVCA are converted to a scaled score and then to the presence or absence of a “violence flag.”

Because the PSA is scored primarily on criminal history indicators, a person with minimal or no criminal history will likely score low on the assessment, despite the egregious nature of the current offense for which they were arrested. After completing the PSA, the next step would be to determine if the defendant was extradited for the current charge or if the current charge is any of the following, or failure to appear for any of the following, or attempt, conspiracy, solicitation, or facilitation to commit any of the following:

- escape (A.R.S. §§ 13-2502, 13-2503, 13-2504)
- murder/homicide (defined in A.R.S. § 13-1101, 2.)
- sexual assault (A.R.S. § 13-1406)
- sexual conduct with a minor (A.R.S. § 13-1405)
- molestation of a child (A.R.S. § 13-1410)
- continuous sexual abuse of a child (A.R.S. § 13-1417)
- robbery (A.R.S. § 13-1902)
- aggravated robbery (A.R.S. § 13-1903)
- armed robbery (A.R.S. § 13-1904)
- aggravated assault with a deadly weapon or dangerous instrument with actual physical injury (A.R.S. § 13-1204, A., 2.)
- aggravated assault involving impeding breathing (A.R.S. § 13-1204, B., 1.)

When implementing the PSA in the state of Arizona in 2015, it was provided in the decision-making framework that these arresting/current offenses would elevate the recommendation level to an imposition of maximum conditions regardless of the initial PSA score, if the court determines that the person should be released. (See Appendix B – Decision-Making Framework). After the pretrial staff scores the defendant’s assessment, the judicial officer reviews the data and PSA outcomes.

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<sup>3</sup> The PSA was developed to assess people who meet all of the following criteria: 1) they are 18 years of age or older; 2) they are charged in the adult criminal legal system; 3) they have been arrested and booked into jail; and 4) their case is pending disposition, and 5) they will appear before a judicial officer for a pretrial release decision because they have been either charged with a new criminal offense or arrested on a warrant for a pretrial failure to appear.

<sup>4</sup> Obtaining historical criminal information will vary by jurisdiction, based on resource and staffing considerations.

Because the task force is looking at two distinct but connected areas of the pretrial process, the task force members were separated into subgroups; one group was to review and discuss the Pretrial Risk Assessment (PSA) and the other was to address concerns regarding the Form 4 document. In addition, each group contributed to the larger group discussion and determinations. The recommendations will be parsed into two separate parts.

# RECOMMENDATION ONE

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## INITIAL APPEARANCE HEARING REPRESENTATION

Only Pima County, Pinal County, and Coconino County, and some municipal jurisdictions have defense counsel at initial appearance hearings. While that there are costs involved, it is recommended that counties require a public defender or Licensed Legal Paraprofessional at felony initial appearances. Where appropriate, such as in rural counties, it is recommended to explore the feasibility of regional representation via virtual attendance.

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**Conclusion:** Only Pima, Pinal, and Coconino Counties and a few municipal jurisdictions have defense counsel at initial hearings. Not every county has both a prosecutor and public defender present at felony initial appearance hearings. The Task Force determined it would be beneficial if both prosecutor and defense were present, while recognizing that it would be costly for the counties.

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# RECOMMENDATION TWO

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## INITIAL APPEARANCE HEARING TIME PERIODS

**The initial appearance hearing time period should remain at 24 hours, but it is recommended to explore an avenue to modify the rules to allow for a continuance in appropriate circumstances, to the extent the individual is represented by counsel, to secure additional information.**

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**Conclusion:** Rule 4.1 of the Arizona Rules of Criminal Procedure indicates that an arrested person must be promptly taken before a magistrate for an initial appearance. It further states that “if the initial appearance does not occur within 24 hours after arrest, the arrested person must be immediately released from custody.” While in most cases a person can be processed in 24 hours, it can present challenges in gathering important information to present to the initial appearance judicial officer. In fact, in many cases the person may appear for the initial appearance within just a few hours of arrest.

Several of the state's jails are now screening individuals for mental health issues. That information may not be available for the initial appearance, given the current scheduling of initial appearance hearings. Some on the task force believed it would be useful to the judicial officer to have that information before making a release decision.

Additionally, there are situations where the individual is physically unable to appear at the initial appearance hearing. An individual may be hospitalized and unconscious or have other circumstances preventing the initial appearance hearing from occurring within the 24-hour period.

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# RECOMMENDATION THREE

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## NIGHT COURT IN MARICOPA COUNTY

**Conduct a review of night court, to determine if there are alternatives to the current schedule.**

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**Conclusion:** In discussing the 24-hour requirement for initial appearance hearings, it was noted that in Maricopa County, there is a designated night court that runs 24/7 that is responsible not only for initial appearance hearings, but also as a central contact point for warrants for blood draws for driving under the influence (DUI) offenses, emergency orders of protection and emergency removal orders for the Department of Child Services. Challenges in fully staffing attorneys, judicial officers, court staff and pretrial services officers at initial appearance hearings around the clock were discussed, as well as concerns over mental fatigue in working that type of schedule. While some on the task force suggested that night court should be discontinued, it was noted that Maricopa County's newly opened Intake Transfer and Release (ITR) facility does not have the structure or capacity to house defendants for longer terms if the elimination of some night court hours resulted in significantly longer detention periods. If night court were to be discontinued, staffing and access for warrants and child removal orders would still need to be provided on the same timely basis during the nighttime as currently provided, but it could substantially reduce the number of personnel required during the nighttime operations.

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# RECOMMENDATION FOUR

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## PREVENTIVE DETENTION

**Explore options for making the preventive detention process more effective and encourage its use in appropriate cases.**

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**Conclusion:** Although Arizona law allows for it, it does not appear that the preventive detention process is routinely used due to proof and timing requirements. However, it would be beneficial to have a preventive detention process that did work to allow those individuals that should be detained kept, without relying on the imposition of high monetary bonds. This may require statutory and rule modifications.

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# RECOMMENDATION FIVE

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## TRAINING FOR INITIAL APPEARANCE HEARINGS

**All judicial officers conducting initial appearance hearings should be required to receive training directly related to the release process before conducting initial appearance hearings.**

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**Conclusion:** In addition to superior court judges, commissioners, and justice of the peace officers, there are at least forty other part-time judicial officers that conduct initial appearance hearings on evenings, weekends, and holidays. There currently are no requirements for these judicial officers to receive training on subjects such as the Constitution, statutes, rules, pretrial risk assessment, Form 4, mental health and addiction, and court processes. Additionally, while all full-time judicial officers must complete 16 hours of training each year, there isn't a requirement that those performing initial appearance hearings receive ongoing training directly related to the release process.

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# RECOMMENDATION SIX

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## DATA COLLECTION

**There should be an ongoing program of review involving stakeholders of the pretrial release process and the results of release determinations. Identify standard areas of data collection and regularly review the data collection systems to provide the needed information regarding pretrial release. In addition, request state funding to revalidate the PSA every three years.**

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**Conclusion:** While a variety of data is collected by the locality, it is often not consistent in its scope and reliability. Data should be routinely reviewed to ensure fidelity and consistency. Careful review of the data can also identify areas of improvement and assure that desired efforts are achieved. The state is currently in the process of developing and procuring a new pretrial and probation case management system that will integrate pretrial data and statistics across the state. It is also anticipated that the system will provide for better communication of pretrial release conditions to law enforcement agencies.

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# RECOMMENDATION SEVEN

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## USE OF PUBLIC SAFETY ASSESSMENT IN MAXIMUM CONDITIONS RELEASE

**Explore options for modifying the release packet and the format in which it is presented to the judicial officer. It is also recommended that this group review and discuss the work being done with Pima County, which could potentially be implemented across the state.**

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**Conclusion:** There can be some confusion related to the way the PSA information is presented to the judicial officer. Additionally, there was discussion about using the PSA when a person is booked on an offense that would be at a level such that a judicial officer would not likely consider release. There were thoughts of creating a list of offenses that would not require a PSA, but there were also concerns expressed about exceptions and possible reduced charges at a later time.

It was discussed that the PSA was implemented in Arizona in 2015 and has been largely status quo since that time, with only minor or local adjustments. During the initial rollout, training was provided to all stakeholders and law enforcement, but has not been continued on a regular basis. Independent validations were done on the PSA in two Arizona counties in 2020, but it has not yet been validated statewide. It is worthy to note that at this time, Pima County is using a decision-making framework that has been tailored specifically for their area. They are currently working with national pretrial experts to document a pretrial decision tree that outlines process determining release.

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# RECOMMENDATION EIGHT

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## FUNDING

**The Administrative Office of the Courts should request statutory modifications to allow for state aid to probation to fund pretrial staffing needs to improve the efficacy of services. The Administrative Office of the Courts should make a budget request in FY2025 to secure funding.**

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**Conclusion:** It was noted that pretrial funding is wholly the responsibility of the counties at this time. Funding is very inconsistent especially for providing officers that can supervise defendants in the community. Additional funding would allow these departments to extend their capabilities and services to enhance their pretrial services.

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# RECOMMENDATION NINE

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## FURTHER STUDIES

**Examine external studies on the impact of pretrial assessment tools on communities of color.**

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**Conclusion:** There was some discussion regarding bias in all risk assessment tools. The PSA looks solely at static factors related to the individual's criminal history and does not consider factors related to gender, race, ethnicity, or arrests which do not result in conviction. However, because the predictive algorithm relies on past criminal convictions, to the extent there has been any past bias in the criminal justice system, it will impact the PSA score. This would be true in using any risk assessment tool. Not using a valid risk tool however produces worse results.

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## PART 2 – THE FORM 4 RELEASE QUESTIONNAIRE

### FORM 4: GOALS

The Form 4 workgroup had several overarching goals for improving Form 4 based on law enforcement officers' first-hand experiences, supervisory oversight, areas of concern, and the desire to provide the court pertinent and law-based information needed for a judicial officer to make appropriate release decisions.

It was important to the workgroup to recognize that each jurisdiction has different resources available, and that a one-size fits all approach would not benefit all jurisdictions' needs, especially in light of different funding sources, how forms are completed (electronically or manually), and levels of training for law enforcement officers (whether only initial training is available or if on-going training is available for law enforcement and probation departments).

Currently it was noted that there are problems in getting the form properly completed, with a sufficient factual probable cause statement and getting the form to the judicial officer conducting the initial appearance.

The task force recommends improvements to the form include clarifying questions to focus on relevant and helpful data, removing duplicative and unnecessary information, and providing more lines or spaces to accommodate longer answers and an option to include an attachment to provide the Probable Cause Statement to the court.

The last improvement focused on rearranging the questionnaire in a logical sequence that informs the judicial officer of the pertinent information gathered by law enforcement regarding the defendant. It is beneficial if a judicial officer can look at any Form 4 and know where on the document particular information is located.

Specific concerns and ideas for improvement were provided by criminal justice stakeholders such as police departments, judicial officers, initial hearing commissioners, prosecutorial and defense advocates, victim's rights advocates, adult probation department personnel, and the Arizona Peace Officer Standards and Training Board. Each unique perspective brought clarity as to why certain questions were included on the form and inquiries into reasons and the rationale for retaining or removing certain data.

# RECOMMENDATION TEN

---

## UPDATE AND SHORTEN FORM

**Provide more and clearer direction to law enforcement officers.**

**Update to conform with current law, current law enforcement processes, and court process.**

**Shorten where appropriate by removing duplicative requests for information and organize in a more logical sequence.**

---

**Conclusion:** Consensus amongst the group was to provide stronger guidance and instruction to the law enforcement officer filling out the form by inserting clear prompts in the questionnaire, such as the guidance added in Section B - Probable Cause Statement, directing the officer to "...include results of any field or laboratory testing, and the quantity or weight of the drugs, if known." The recommendation also includes updating form sections to include current law, such as Section G - Crimes(s) Against Persons by adding a checkbox to indicate that the defendant is currently the subject of a lifetime injunction (A.R.S. § 13-719). Lastly, a global recommendation to shorten the form where appropriate by removing duplicate requests for information. For example, remove entirely former Section G – Circumstances of Arrest and Section H - Drug Offenses, as these sections are duplicative in nature and relevant information is captured in previous sections within the form.

---

# RECOMMENDATION ELEVEN

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## AUTOMATE FORM

**Automate Form 4 to allow for more consistent and timely access at the initial appearance hearing.**

---

**Conclusion:** The recommendation to automate Form 4 will benefit judicial officers to receive the questionnaire information quicker. A technology grant will need to be acquired in order to fund this recommendation.

---

# RECOMMENDATION TWELVE

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## DEFENDANT'S CONTACT INFORMATION

**Obtain necessary identification and contact information on the form so a defendant can be located and reminded to appear in court.**

---

**Conclusion:** Much like a doctor's office or the Department of Motor Vehicles appointment reminders, text messages to defendants to remind of upcoming court appearances will help to reduce the rate of failure to appear for court hearings. A recommendation was incorporated into Form 4 Section C. Defendant Information asking for defendant's residential and mailing addresses, an alternate address, including post office boxes, and email addresses for court notification.

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# RECOMMENDATION THIRTEEN

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## PROMPTS

**Provide detailed prompts for drug and driving under the influence charges in the probable cause statement to ensure relevant facts and information are captured from law enforcement for judicial officers to consider.**

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**Conclusion:** Providing a law enforcement officer with better prompts will improve the quality of the probable cause statement that will be provided to the court. For example, within Section B. Probable Cause Statement, additional language was added directing the officer to "...include results of any field or laboratory testing and the quantity or weight of the drugs, if known." Enhanced prompts along with on-going law enforcement training will result in improved probable cause statements.

---

# RECOMMENDATION FOURTEEN

---

## TRAINING

**Ensure initial and ongoing training for law enforcement officers that details how to draft an accurate and complete probable cause statement.**

---

**Conclusion:** This recommendation anticipates a collaborative effort between the Administrative Office of the Courts, law enforcement agencies, judicial officers, local court administrators, and the Arizona Peace Officer Standards and Training Board to provide on-going training efforts for law enforcement agencies and adult probation departments.

---

# RECOMMENDATION FIFTEEN

---

## ELIMINATE FORM 4(B)

**It is recommended that Form 4(b) be eliminated.**

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**Conclusion:** Form 4(b) is completed by the defendant. It appears that it is currently not used and may be inappropriate to have as a supreme court form. The defendant may choose to complete a "Release Questionnaire" that cautions the defendant that "Any information you give may be used against you in this or any other matter." As a result of this admonition this form is never used because the information the defendant may provide has the very real potential of self-incrimination. The consensus of the task force is to eliminate Form 4(b) in its entirety as it is not used and provides the potential for violation of a constitutional right against self-incrimination.

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# APPENDIX A

## MEMBERSHIP

Mr. Dave Byers, Executive Director, Administrative Office of the Courts, Chair

Chief Amy Bonney, Prescott Police Department	Mr. Jason Kalish, Maricopa County Attorney's Office
Mr. Dean Brault, Pima County Public Defense Services	Mr. Jerry Landau, Senior Consultant, Administrative Office of the Courts
Ms. Shanda Breed, Administrative Office of the Courts	Comm. Jane McLaughlin, Superior Court in Maricopa County
Mr. Domingo Corona, Superior Court in Pima County	Mary Walsh-Navarro, Superior Court in Coconino County
Mr. Zach Dal Pra, Justice Partners Systems	Hon. Ron Reinstein, Administrative Office of the Courts
Mr. Sean Donegan, Arizona Peace Officer Standards and Training	Sheriff David Rhodes, Yavapai County Sheriff's Office
Ms. Lina Garcia, Maricopa County Office of the Public Defender	Hon. Anthony Riojas, Jr., Tucson Municipal Court
Ms. Nicole Garcia, Superior Court in Maricopa County	Hon. Joshua Steinlage, Superior Court in Coconino County
Ms. Brandelyn Jackson, Maricopa County Adult Probation Department	Asst. Chief Anthony Vasquez, Phoenix Police Department
	Kenneth N. Vick, Maricopa County Attorney's Office

### Acknowledgements

The Task Force wishes to recognize these individuals who contributed their time, expertise, and efforts to the charge of the Task Force: Mr. Sean McMillan, Maricopa County Adult Probation; Comm. Elizabeth Bingert, Superior Court in Maricopa County, and Mr. Lloyd Asato, Arizona Criminal Justice Commission

### AOC Staff to the Pretrial Risk Assessment and Form 4 Task Force

Ms. Veronica Gonzales, Administrative Assistant	Ms. Kathy Sekardi, Sr. Court Policy Analyst
Ms. Sabrina Nash, Court Specialist	Ms. Kristie Wooley, Central Services Manager



APPENDIX B  
DECISION-MAKING FRAMEWORK

# PSA Decision Making Framework - Arizona

## Decision Making Framework (DMF) Instructions

Step 1: Complete PSA

Step 2: Determine if: **(1)** the defendant was extradited for the current charge; **(2)** current charge is any of the following, or failure to appear (FTA) for any of the following, or attempt, conspiracy, solicitation or facilitation to commit: escape (13-2502, 2503, 2504), murder/homicide (defined in 13-1101, 2.), sexual assault (13-1406), sexual conduct with a minor (13-1405), molestation of a child (13-1410), continuous sexual abuse of a child (13-1417), robbery (13-1902), aggravated robbery (13-1903); armed robbery (13-1904); aggravated assault with a deadly weapon or dangerous instrument with actual physical injury (13-1204, A., 2.), aggravated assault involving impeding breathing (13-1204, B., 1.); or **(3)** the PSA resulted in a NVCA flag.

- If yes, the recommendation is If Released, Maximum Conditions Recommended.
- If no, continue to step 3.

Step 3: Apply the FTA and NCA scores derived in Step 1 above to the DMF Matrix to determine the preliminary recommendation release type and corresponding conditions level.

Step 4: Determine if current charge is any of the following, or failure to appear (FTA) for any of the following, or attempt, conspiracy, solicitation or facilitation to commit: any domestic violence offense (13-3601), stalking (13-2923), violation of a protection order, a person to person sex crime (excluding adult prostitution), arson (13-1703), arson of an occupied structure (13-1704), arson of a jail and prison facility (13-1705), kidnapping (13-1304, 13-1307, 13-1308), aggravated assault involving serious physical injury (13-1204, A., 1.), or offense involving the use of a weapon (not simply possession).

- If no, the preliminary recommendation type and corresponding level identified in Step 3 is the final recommendation.
- If yes, increase the preliminary recommendation release type and corresponding conditions level by 1 as shown below.
  - Release OR = Release with Conditions Level I
  - Release with Conditions Level I = Release with Conditions Level II
  - Release with Conditions Level II = Release with Conditions Level III
  - Release with Conditions Level III = If Released, Maximum Conditions Recommended

## Release Types

1. Release OR
2. Release with Conditions
3. If Released, Maximum Conditions Recommended

## Release with Conditions Levels

1. Level I (least restrictive)
2. Level II
3. Level III (most restrictive)

**Decision Making Framework (DMF) Matrix (Arizona Sites)**

	NCA 1	NCA 2	NCA 3	NCA 4	NCA 5	NCA 6
FTA 1	Green	Green	Green	Yellow	Orange	Red
FTA 2	Green	Green	Green	Yellow	Orange	Red
FTA 3	Green	Green	Yellow	Orange	Red	Red
FTA 4	Yellow	Yellow	Orange	Orange	Red	Red
FTA 5	Orange	Orange	Orange	Orange	Red	Red
FTA 6	Orange	Orange	Orange	Red	Red	Red

Green (total score 2-5) = Release OR  
 Yellow (total score 6-8) = Release with Conditions – Yellow (6) = Level I, Amber (7) = Level II, Orange (8) = Level III  
 Red (total score 9-12) = If Released, Maximum Conditions Recommended; Orange/Red Box (NCA 4 + FTA 5) if non-violent misdemeanor = Release with Conditions Level III



APPENDIX C  
FORM 4(A): CURRENT VERSION

State of Arizona Plaintiff

-vs-

Defendant (FIRST, MI, LAST)

[CASE/COMPLAINT NO.]

Booking No. \_\_\_\_\_

RELEASE QUESTIONNAIRE (To be completed by Law Enforcement)

Alias(es) \_\_\_\_\_

A. GENERAL INFORMATION

Charges: \_\_\_\_\_

Offense Date: \_\_\_\_\_ Offense Time: \_\_\_\_\_

Location: \_\_\_\_\_

Arrest Date: \_\_\_\_\_ Arrest Time: \_\_\_\_\_

Arrest Location: \_\_\_\_\_

Pursuant to A.R.S. §41-1750, were ten-print fingerprints taken of the arrested Person? [ ] Yes [ ] No

Pursuant to §13-610 does one or more of the above charges require the arresting agency to secure a DNA sample from the arrested person? [ ] Yes [ ] No

If yes, does the defendant have a valid DNA sample on file with AZDPS? [ ] Yes [ ] No [ ] Unknown

If no, has the arresting agency taken the required sample? [ ] Yes [ ] No

2. The person entered or remained in the United States illegally. Explain in detail (e.g., admission of by the person, statements of co-defendants at the time of arrest, verification of illegal presence or proceeding establishes illegal presence): \_\_\_\_\_

B. PROBABLE CAUSE STATEMENT

1. Summarize and include the facts which establish probable cause for the crime(s) charged. Certain felonies may be non-bondable and require facts which establish proof evident or presumption great for the crime(s) charged. These include (1) felonies involving a capital offense, sexual assault, sexual conduct with a minor who was under fifteen years of age, or molestation of a child who is under fifteen years of age, and (2) felony offenses committed when the person charged is already admitted to bail on a separate felony charge.

Explain the crime(s) in detail (e.g., arresting officer or other law enforcement officers witnessed offense, physical evidence directly connects defendant to offense, multiple eyewitnesses, defendant admissions, victim statements, nature of injuries, incriminating photographic, audio, visual, or computer evidence, defendant attempted to flee or resist arrest):

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

3. The crime(s) occurred while the person was admitted to bail on any separate felony. Provide information on the separate felony:

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_



Defendant's Name \_\_\_\_\_ DOB \_\_\_\_\_ Booking No. \_\_\_\_\_ Case No. \_\_\_\_\_

**C. OTHER INFORMATION (Check if applicable)**

1.  Defendant is presently on probation, parole or any other form of release involving other charges or convictions.  
Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. List any prior:  
Arrests: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Convictions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Failures to Appear (FTA): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Protective Orders: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. There is an indication of:  
 Alcohol Abuse                       Other Substance Abuse  
 Mental Health Issues               Physical Illness  
 Developmental Disability  
Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Defendant is employed by: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
How long: \_\_\_\_\_

5. Defendant resides at: \_\_\_\_\_  
\_\_\_\_\_  
With Whom: \_\_\_\_\_  
How Long: \_\_\_\_\_  
Alternate address for court notification: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Facts to indicate defendant will flee if released: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Reasons to oppose an unsecured release: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8.  Defendant speaks a language other than English  
Language spoken: \_\_\_\_\_  
 American Sign Language  
 Defendant requested an interpreter

**D. CIRCUMSTANCES OF THE OFFENSE**

1.  Defendant used firearm or other weapon  
Type: \_\_\_\_\_

2.  Defendant injured someone.  
Explain: \_\_\_\_\_

3.  Medical attention was necessary  
Nature of injuries: \_\_\_\_\_

4.  Defendant threatened someone  
Nature of threats: \_\_\_\_\_

5. Did the offense involve a child victim?  Yes  No  
If yes, was DCS notified?  Yes  No

6. If property offense  
a. Value of property taken/damaged: \_\_\_\_\_  
b.  Property was recovered

7. Names of co-defendant(s), if any: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**E. CRIME(S) AGAINST PERSONS**

1. Relationship of defendant to victim: \_\_\_\_\_

2.  Victim(s) and defendant reside together.

3. Law enforcement learned of the situation by  Victim  
 Third Party  Officer observation

4.  Previous incidents involving these same parties  
Explain: \_\_\_\_\_  
\_\_\_\_\_

5. Defendant is currently the subject of:  
 Order of Protection  
 Injunction against Harassment  
 Other court order: \_\_\_\_\_

6.  Likelihood of inappropriate contact with victim(s)  
Explain: \_\_\_\_\_  
\_\_\_\_\_

Defendant's Name \_\_\_\_\_ DOB \_\_\_\_\_ Booking No. \_\_\_\_\_ Case No. \_\_\_\_\_

7.  Victim(s) expressed an opinion on defendant's release.  
Explain: \_\_\_\_\_  
\_\_\_\_\_

4. State whether defendant was under the influence of alcohol or drugs at the time of the offense  
 Yes  No  Unknown  
Type of substance: \_\_\_\_\_  
\_\_\_\_\_

**F. DOMESTIC VIOLENCE DEFENDANT ISSUES**

- Access to or use of weapons
  - Children/Vulnerable adults present
  - Crime occurred in public
  - Control/ownership/jealousy issues
  - Depression
  - Frequency/intensity of Domestic Violence increasing
  - Kidnapping
  - Potential for multiple violations of court orders
  - Prior history of Domestic Violence
  - Prior Protective Order
  - Recent separations
  - Stalking behavior
  - Threats of homicide/suicide/bodily harm
  - Violence against children, vulnerable adults or animals
- Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**H. DRUG OFFENSES**

1. If the defendant is considered to be a drug dealer, state the supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. State quantities and types of illegal drugs directly involved with offense \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - Methamphetamine was involved:
  - Drug field test was positive
  - Defendant admission of drug type: \_\_\_\_\_
  - Approximate monetary value of drugs: \_\_\_\_\_
3. State whether money was seized  
 Yes  No  
Amount: \_\_\_\_\_

**G. CIRCUMSTANCES OF ARREST**

1. Did defendant attempt to:  
 Avoid arrest  Resist arrest  Self Surrender  
Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2.  Defendant was armed when arrested  
Type of weapon: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3.  Evidence of the offense was found in defendant's possession  
Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**If this is a fugitive arrest, complete the affidavit as required by the Uniform Criminal Extradition Act (ARS 13-3841 et seq.)**

I certify that the information presented is true to the best of my knowledge:

\_\_\_\_\_  
Date  
\_\_\_\_\_  
Departmental Report #

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Arresting Officer/Agency/ Serial No.  
Duty Phone No. \_\_\_\_\_

APPENDIX D  
FORM 4(A): PROPOSED VERSION

**NOTE: This form is a public record  
(USE ADDITIONAL PAGES OR AN ATTACHMENT, IF NECESSARY)**

COURT [Precinct] \_\_\_\_\_ County, Arizona

<b>State of Arizona</b> Plaintiff  -v-  Defendant (FIRST, MI, LAST) _____	[CASE/COMPLAINT NO.]   Booking No. _____	<b>RELEASE QUESTIONNAIRE</b> (To be completed by Law Enforcement)
---	---	---

Alias(es) \_\_\_\_\_

**A. GENERAL INFORMATION**

Name(s) of victim(s) \_\_\_\_\_  
 Charges: \_\_\_\_\_  
 Offense Date: \_\_\_\_\_ Offense Time: \_\_\_\_\_ Offense Location: \_\_\_\_\_  
 Arrest Date: \_\_\_\_\_ Arrest Time: \_\_\_\_\_ Arrest Location: \_\_\_\_\_

Pursuant to A.R.S. §41-1750, were ten-print fingerprints taken of the arrested person?     Yes    No

**B. PROBABLE CAUSE STATEMENT**

Summarize and include the facts which establish probable cause for the crime(s) for which the defendant is booked or is charged. Certain felonies may be non-bondable and require facts which establish proof evident or presumption great for the crime(s) charged. These include (1) felonies involving a capital offense, and (2) felony offenses committed when the person charged is released on a separate felony charge.

Explain the crime(s) in detail (e.g., arresting officer or other law enforcement officers witnessed offense, physical evidence directly connects defendant to offense, multiple eyewitnesses, defendant admissions, victim statements, nature of injuries, incriminating photographic, audio, visual, or computer evidence.) If the offense involves either drugs or DUI, include results of any field or laboratory testing and the quantity or weight of drugs, if known.

**C. DEFENDANT INFORMATION**

1. Defendant's DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_
2. Defendant's **residential** address: \_\_\_\_\_  
 With whom: \_\_\_\_\_ How long: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Defendant's **mailing** address \_\_\_\_\_  
 Alternate address for court notification, include post office box: \_\_\_\_\_  
 U/nsheltered    Email address for court notification: \_\_\_\_\_
3. Defendant is employed by: \_\_\_\_\_ How long? \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_
4. Has the defendant served in the Military Services of the United States?    Yes    No

**D. MENTAL, PHYSICAL HEALTH AND SUBSTANCE ABUSE**

1. There is an indication of:    Alcohol Abuse    Mental Health Issues    Developmental Disability  
     Other substance abuse    Physical Illness/Physical injury    Suicidal Ideation  
 Explain: \_\_\_\_\_
2. Defendant was under the influence of alcohol or drugs at the time of the offense    Yes    No    Unknown

**E. OTHER INFORMATION (Check if applicable)**

- 1.  Defendant is presently on probation, parole or any other form of release involving other charges or convictions. Explain: \_\_\_\_\_
- 2.  The crime(s) occurred while the person was on release for any other felony.
- 3. List any prior: \_\_\_\_\_

ARRESTS Date and offense, if known	CONVICTIONS Date and offense, if known	FAILURE TO APPEAR (FTA) Date and offense, if known

- 4. Facts to indicate the defendant will not appear for future court proceedings: \_\_\_\_\_
- 5. State whether money or other property was seized  Yes  No Amount: \_\_\_\_\_
- 6.  Defendant speaks a language other than English Language spoken: \_\_\_\_\_  
 American Sign Language  Defendant requested an interpreter
- 7. The person entered or remained in the United States illegally. Explain in detail (e.g., admission of or by the person, statements of co-defendants at the time of arrest, verification of illegal presence or proceeding establishes illegal presence): \_\_\_\_\_

**F. CIRCUMSTANCES OF THE OFFENSE**

**Defendant:**

- 1.  used firearm or other weapon. Type: \_\_\_\_\_
- 2.  was armed when arrested. Type: \_\_\_\_\_
- 3.  threatened someone. Nature of threats: \_\_\_\_\_
- 4.  caused physical injuries. Nature of injuries: \_\_\_\_\_
- 5. The offense involves a child victim?  Yes  No If yes, was DCS notified?  Yes  No
- 6. If a property offense a. Value of property taken/damaged: \_\_\_\_\_ b.  Property was recovered
- 7.  attempted to:  Flee  Avoid arrest  Resist arrest  Self-surrender Explain: \_\_\_\_\_
- 8. Names of co-defendants, if any: \_\_\_\_\_

**G. CRIME(S) AGAINST PERSONS**

- 1. Relationship of defendant to victim: \_\_\_\_\_
- 2.  Victim(s) and defendant reside together
- 3. Law enforcement learned of the situation by  Victim  
 Third party  Officer observation
- 4.  Previous incidents involving these same parties.  
Explain: \_\_\_\_\_
- 5. Defendant is the subject of:  
 Current Order of Protection  
 Prior Order of Protection  
 Injunction against Harassment  
 Lifetime Injunction (A.R.S. § 13-719)  
 Other court order: \_\_\_\_\_
- 6.  Likelihood of inappropriate contact with victim(s).  
Explain: \_\_\_\_\_
- 7.  Victim(s) expressed an opinion on defendant's release. Explain: \_\_\_\_\_

**H. DOMESTIC VIOLENCE DEFENDANT ISSUES**

- Access to or use of weapons
- Children/Vulnerable adults present
- Crime occurred in public
- Control/ownership/jealousy issues
- Depression
- Frequency/intensity of Domestic Violence increasing
- Harassing behavior
- Kidnapping
- Prior history of Domestic Violence
- Prior Protective Order
- Recent separations
- Stalking behavior
- Strangulation
- Threats of homicide/suicide/bodily harm
- Violence against children, vulnerable adults or animals
- Explain: \_\_\_\_\_
- Lethality Assessment included

**If this is a fugitive arrest, complete the affidavit as required by the Uniform Criminal Extradition Act (ARS § 13-3841 et seq.)**

I certify that the information presented is true to the best of my knowledge:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Departmental Report #

/ /

\_\_\_\_\_  
Arresting Officer/Agency/ Serial No.  
Duty Phone No. \_\_\_\_\_



APPENDIX E  
FORM 4(B): RELEASE QUESTIONNAIRE

<b>State of Arizona</b> Plaintiff  -vs-  Defendant (FIRST, MI, LAST)
--

[CASE/COMPLAINT NO.]   Booking No. _____
---

<p align="center"><b>RELEASE QUESTIONNAIRE</b> (To be completed by Defendant)</p>
---

Alias(es) \_\_\_\_\_

The following information is for the purpose of determining the conditions under which you may be released at this time. You are not required to answer any question if you feel the answer might be harmful to you. The answers you give to the following questions will be used by the court for the purpose of determining the conditions of your release. However, your answers will be checked against the information supplied by the police, and with the references you yourself give on the form. Any discrepancies may result in higher bail or harsher conditions of release. **Any information you give may be used against you in this or any other matter.**

**General Background**

**1. Background and Residence**

Full Name: \_\_\_\_\_

Sex \_\_\_\_\_ Race \_\_\_\_\_ Date of Birth \_\_\_\_\_

Place of Birth \_\_\_\_\_ [city, state, country]

Have you served in the military services of the United States? [ ] Yes [ ] No

Present Citizenship \_\_\_\_\_

If you are not a United States of America citizen, how long have you been in this country? \_\_\_\_\_

Do you need the court to provide an interpreter to help you communicate and to understand what is being said? [ ] Yes [ ] No

If so, what language are you most comfortable speaking?  
[ ] Spanish [ ] American Sign Language [ ] Other language: \_\_\_\_\_

Are you homeless? [ ] Yes [ ] No

Present Address \_\_\_\_\_

How long have you lived at the above address? \_\_\_\_\_

Telephone No. (\_\_\_\_) \_\_\_\_\_ Cell No. (\_\_\_\_) \_\_\_\_\_

Where else have you lived in the past year and for how long?  
\_\_\_\_\_  
\_\_\_\_\_

Where will you go if released today? \_\_\_\_\_



**2. Family**

Are you married/partnered? If so, are you living with your spouse/partner? [ ] Yes [ ] No

Are you living with someone? Relationship: \_\_\_\_\_

How many other persons (including your children) are living with you? \_\_\_\_\_

How much do you contribute to their support? \_\_\_\_\_

Do you have regular contact with any other relatives? [ ] Yes [ ] No

Explain \_\_\_\_\_

\_\_\_\_\_

**3. Employment**

Are you presently employed? [ ] Yes [ ] No If not, what is your principal means of support?

Explain: \_\_\_\_\_

Employer's Name \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No. (\_\_\_\_) \_\_\_\_\_

What is the nature of your job? \_\_\_\_\_

How long have you worked there? \_\_\_\_\_

**4. Criminal Record**

Do you have any previous criminal record? [ ] Yes [ ] No

Explain \_\_\_\_\_

\_\_\_\_\_

**5. Record of Appearance**

Have you ever been released on bail or other conditions pending trial? [ ] Yes [ ] No

Did you ever fail to appear as required? [ ] Yes [ ] No

Explain \_\_\_\_\_

\_\_\_\_\_

**6. Supervision**

Is there any organization or any person who might agree to supervise you and be responsible for your return to court as required? [ ] Yes [ ] No

Organization or person to contact \_\_\_\_\_

\_\_\_\_\_ ( )  
Address City State Zip Telephone

**7. Other Circumstances**

Are there any other matters (such as your health or illness in your family) which you feel the court should consider in making its decision? \_\_\_\_\_

**8. Verification**

Is there any other friend, relative, neighbor or other person who can be called as a reference to this information?

\_\_\_\_\_ ( )  
Name Address City State Zip Telephone

\_\_\_\_\_ ( )  
Name Address City State Zip Telephone

\_\_\_\_\_ ( )  
Name Address City State Zip Telephone

I certify, under penalty of perjury, that the information presented is true and correct to the best of my knowledge.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant Signature  
Contact Telephone No. \_\_\_\_\_





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# Pretrial Risk Assessment & Form 4 Task Force

Report and Recommendations of the Task Force on Pretrial Risk Assessment & Form 4

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