

## My Model – Tim Schnacke

Intentional Detention – limited charge-based detention eligibility net of violent crimes (net can be bigger if limiting process is narrower) with ability to detain for both flight and danger.

Coupled with a new further limiting process: (1) clear and convincing evidence as shown through relevant facts and circumstances that the person poses an extremely high risk of intentional flight to avoid prosecution, or; (2) clear and convincing evidence as shown through relevant facts and circumstances that the person poses an extremely high risk to commit or attempt to commit a serious or violent crime while on pretrial release against a reasonably identifiable person or groups or persons or their property; and, for all persons in (1) or (2), the court finds clear and convincing evidence that no condition or combination of conditions will suffice to manage the person's extremely high level of risk. In considering the facts and circumstances to detain, the court may consider the risk assessed through an actuarial pretrial risk assessment instrument, however the court may not detain based solely on the results of that instrument. The court may not impose a condition of release that results in the pretrial detention of the person.

Secondary net and process: The court may also order the pretrial detention of a person when the court finds probable cause that a person already on pretrial release for any jailable offense willfully failed to appear for court to avoid prosecution or has committed a new jailable offense, and is shown through clear and convincing evidence of relevant facts and circumstances that: (1) the person poses an extremely high risk either to willfully fail to appear for court to avoid prosecution or to commit or attempt to commit any new jailable offense against persons or their property; and (2) clear and convincing evidence that no condition or combination of conditions will suffice to manage the extremely high risk. In considering the facts and circumstances to detain under this provision, the court may rely substantially on the assessed risk from an actuarial pretrial risk assessment instrument. The court may not impose a condition of release that results in the pretrial detention of the person.

No unintentional detention and addressed use of risk tool in constitution

Constitution versus statute issue