

Supreme Court of Nevada  
ADMINISTRATIVE OFFICE OF THE COURTS

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**JUDICIAL COUNCIL OF THE STATE OF NEVADA**

*"To unite and promote Nevada's judiciary as an equal, independent and effective branch of government."*

**Committee to Study Evidence-Based Pretrial Release**

Summary Prepared by Jamie Gradick

July 13, 2016

4:00 p.m. – 5:30 p.m.

Videoconference (Carson City, Las Vegas)

**Members Present**

Justice James Hardesty, Chair  
Judge David Barker  
Judge Stephen Bishop  
Judge Joe Bonaventure  
Jeremy Bosler  
Heather Condon  
Kowan Connolly  
Judge Gene Drakulich  
Tad Fletcher  
Judge Douglas Herndon  
Chris Hicks  
Judge Kevin Higgins  
Judge Cedric Kerns  
Judge Jennifer Klapper  
Phil Kohn  
Judge Scott Pearson  
Judge Thomas Perkins  
Judge Melissa Saragosa  
Judge Elliot Sattler  
Judge Mason Simons  
Dagny Stapleton

Judge John Tatro  
Judge Alan Tiras  
Judge Ryan Toone  
Judge Natalie Tyrrell  
Anna Vasquez  
Jeff Wells  
Steven Wolfson  
Judge Bitia Yeager

**Guests**

Dr. James Austin  
Mike Doan  
Dana Hlavac  
Angela Jackson-Castain  
Kim Kampling  
Sandy Molina  
Leland Moore

**AOC Staff**

Jamie Gradick  
Hans Jessup  
Kandice Townsend

- I. Call to Order
  - Justice Hardesty called the meeting to order at 4:00 p.m.
- II. Call of Roll

- Ms. Gradick called roll; a quorum was present.
- III. Approval of Prior Meeting Summary
- The summary of the May 23, 2016 meeting was approved.
- IV. Opening Remarks
- Justice Hardesty welcomed attendees and explained that the objectives of this meeting are to review Dr. Austin’s NPRA Tool Validation report and to review and approve the NPRA Tool Implementation Plan put forth by the NPRA Implementation Protocol Subcommittee.
  - Justice Hardesty informed attendees that NIC, Urban Institute, PJI, and OJP are all working with the Committee to train judges, staff/users, and attorney stakeholders in use of the tool. Much work has taken place over the past several weeks; the go-live date for the pilot site program is September 1, 2016.
  - Justice Hardesty explained that the training sessions will be remotely webcast and will be interactive.
- V. Public Comment
- There was no public comment in Las Vegas or in Carson City.
- VI. NPRA Tool Validation Report
- Dr. James Austin with the JFA Institute, together with Ms. Angela Jackson-Castain with the OJP Diagnostic Center, presented the results of the NPRA Tool Validation Report. *(See meeting materials for copy of report)*
  - Dr. Austin explained that the following six recommendations were made to increase predictability of the tool:
    - Added the factor of possession of valid cell phone number (non-cell phone releases had a higher FTA rate);
    - Consolidated the substance abuse factor by only using prior drug/alcohol related arrests (other measures of drug use were not valid);
    - Modified the residence factor by adding whether the person was a resident of Nevada (non--- residents have a higher FTA rate);
    - Consolidated prior misdemeanor arrest score so that 3 or more receive 2 points (no difference in rates by 3-5 and 6 or more categories);
    - Consolidated prior felony/gross misdemeanor arrests score so that 2 or more are scored as 2 points (no difference in rates by other categories); and,
    - Recalibrated the overall scale so that it matches the new scoring process.
  - Dr. Austin explained that the tool is “normed” to Nevada’s population and meets industry standards in terms of predictability and effectiveness.
  - Mr. Jeremy Bosler expressed concern that indigent and minority defendants are arrested at a disproportionately higher rate. Mr. Bosler asked whether the tool measures or addresses this in any way.
    - Discussion was held regarding the use of overrides and judicial discretion to consider these issues; this is something that will need to be addressed in the training and monitored during the pilot site.

- Discussion was held regarding conducting a revalidation of the instrument following the pilot site in order to measure the impact of certain factors such as employment status, residency, and cell phone, etc. These factors were included because there is data to support their impact on predictability and they can be indicators of those offenders who need “extra help.”
- Mr. Chris Hicks asked for clarification regarding a disproportionate amount of arrests resulting in a disproportionate amount of convictions as well and how this would skew the tool.
  - Dr. Austin explained that, in general, there isn’t a correlation between the two in most jurisdictions.
- Judge Pearson asked for clarification regarding whether the overrides were part of the validation and how to address the override question in the training.
  - Dr. Austin explained that the manual that is being put together operationally defines the factors. The overrides came from the Committee. Additionally, there should be “reliability testing” of the staff as they complete the instrument.
  - Discussion was held regarding the need to address/define the overrides more thoroughly; a suggestion was made that the NPRA Implementation Subcommittee should take this on.
- Justice Hardesty explained that race and poverty data will need to be collected and monitored for impact on predictability throughout the pilot site program.
- Judge Sattler expressed concern regarding the application of the tool to all Cat. A offenses (as an example) across the board and commented that the tool should be applied to certain types of cases and not applied to other types.
  - Discussion was held regarding training the evaluators on “nature of offense”. Justice Hardesty commented that users need to be careful of using offenses in order to avoid prejudging guilt; treating it as an override may not be appropriate. The tool is a guide; these “certain case types” are factors that the judge will need to take into consideration as part of judicial discretion.
  - Justice Hardesty commented that releasing everyone in a specific crime type category could result in the release of high risk defendants.
- Mr. Hicks expressed concern regarding pilot site locations operating differently with the same crime types. Justice Hardesty explained that the tool captures risk - that’s a different question from the release decision practices that exist in the various jurisdictions of automatically letting staff make release decisions for certain crime types and withholding that discretion for other crime types.
  - Dr. Austin commented that revalidation of the tool could be impacted if differing practices across the sites are resulting in some people not being assessed.

- Justice Hardesty commented that completing the assessment on everyone regardless of release policies will allow for better tracking.
- Discussion was held regarding the “misconception” that court services will have discretion to release those people who score low risk on the tool; the judge needs to be making this decision.
- Justice Hardesty commented that there is value in having the district attorneys and courts look at the release decisions; whether to reconcile or not is something that the Committee may need to address at a later date.
- Discussion was held regarding the assumption that all questions on the tool need to be answered in order for the verification process to be accurate. Dr. Austin confirmed that the tool needs to be completely filled out in order to function as intended.
  - Discussion was held regarding the ability to verify the information and how to handle the process when information (employment, residency) cannot be verified.
  - Dr. Austin explained that, if the information cannot be verified, then the defendant does not get “credit” - for example, until employment is verified, have to assume the defendant is not employed.
- A motion was made to accept the report; the Committee unanimously approved the motion.

#### VII. Discussion of NPRA Tool Implementation Plan

- Ms. Heather Condon introduced Mr. Leland Moore, a consultant working with the National Institute of Corrections to develop the NPRA Tool Implementation Plan.
- Mr. Moore provided an overview of the plan and explained that it was designed to function as a “road map” to guide the NPRA implementation efforts in the pilot sites.
  - The document functions as a “common document” to avoid “everyone doing their own thing” and allows “best practices to be used” in designing a quality roll-out process.
  - The plan was specifically designed with a pilot program in mind and with an understanding that the various pilot sites have different needs and resources. Thus, the plan has a degree of flexibility built into it (timelines, roles, etc.) that allows it to be updated as implementation efforts progress.
- Mr. Moore commented that the policy section should be completed prior to the pilot site program commence date.
- Discussion was held regarding training logistics.
  - Training dates are August 18 and 19 at the Clark County Commission chambers; training will consist of online, interactive (remote webcast) training by Urban Institute/PJI and onsite training by Dr. Austin. The AOC Judicial Education Dept. will arrange for the sessions to be filmed.

- Additional training issues/logistics will be addressed as the implementation process progresses.
- Justice Hardesty explained that there will be 3 groups of professionals, each group attending its own session. Discussion was held regarding scheduling: court staff will be trained during the 8/18 morning session; attorneys will be trained during the 8/18 afternoon session and the 8/19 morning session; and judges will be trained during the 8/19 afternoon session.
- Justice Hardesty would like to have two brief conference calls tomorrow to discuss training logistics and outreach/communication efforts; one call will be with Washoe and Clark PDs and DAs and another will be with the pilot site judges.
- A motion was made to accept the NPRA Tool Implementation Plan; the Committee unanimously approved the motion.
- Discussion was held regarding “getting the word out” to private contract counsel.
  - Mr. Phil Kohn and Mr. Jeremy Bosler agreed to contact these groups and will confirm with Ms. Gradick once they’ve done so.
- Justice Hardesty will look into getting CLE credit approval for the training.

#### VIII. Other Items/Discussion

- Ms. Condon informed attendees that Mr. Joel Bishop’s (with Mesa County) has agreed to discuss supervision and risk levels with the Committee at future meeting. It is imperative that consistent supervision requirements are established prior to the pilot site commencement.
  - Supervision should be least restrictive and related to risk as predicted by the tool.

#### IX. Next Meeting Date

- Justice Hardesty informed attendees that the next meeting would be tentatively set for August 8, 2016 depending upon Mr. Joel Bishop’s availability to attend.

#### X. Additional Public Comment

- There was no additional public comment offered from either Las Vegas or Carson City.

#### XI. Adjournment

- Justice Hardesty adjourned the meeting at 5:30 p.m.