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TAB 1

CONFERENCE OF CHIEF JUSTICES

Resolution 3

Endorsing the Conference of State Court Administrators Policy Paper on Evidence-Based Pretrial Release

WHEREAS, pretrial judicial decisions about release or detention of defendants before disposition of criminal charges have a significant, and sometimes determinative, impact on thousands of defendants every day; and

WHEREAS, pretrial release decisions add great financial stress to publicly funded jails holding defendants who are unable to meet financial conditions of release; and

WHEREAS, many of those incarcerated pretrial do not present a substantial risk of failure to appear or a threat to public safety, but do lack the financial means to be released; and

WHEREAS, evidence-based assessment of the risk that a defendant will fail to appear or will endanger others, if released, can increase successful pretrial release without imposing unnecessary financial conditions that many defendants are unable to meet; and

WHEREAS, defendants who are detained can suffer job loss, home loss, and disintegrated social relationships, and, according to the Bureau of Justice Assistance, "receive more severe sentences, are offered less attractive plea bargains and are more likely to become 'reentry' clients because of their pretrial detention regardless of charge or criminal history;" and

WHEREAS, imposing conditions on a defendant that are appropriate for that individual following a valid pretrial assessment substantially reduces pretrial detention without impairing the judicial process or threatening public safety; and

WHEREAS, in 2012 the Conference of State Court Administrators (COSCA) adopted a Policy Paper on Evidence-Based Pretrial Release, which concludes with the following recommendations to state court leaders:

- Analyze state law and work with law enforcement agencies and criminal justice partners to propose revisions that are necessary to support risk-based release decisions of those arrested and ensure that non-financial release alternatives are utilized and that financial release options are available without the requirement for a surety;

- Collaborate with experts and professionals in pretrial justice at the national and state levels;
- Take the message to additional groups and support dialogue on the issue;
- Promote the use of data including determining what state and local data exist that would demonstrate the growing problem of jail expense represented by the pretrial population, and that show the risk factors presented by that population may justify broader pretrial release; and
- Reduce reliance on bail schedules in favor of evidence-based assessment of pretrial risk of flight and threat to public safety.

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices commends and endorses the Policy Paper on Evidence-Based Pretrial Release and joins with Conference of State Court Administrators to urge that court leaders promote, collaborate, and accomplish the adoption of evidence-based assessment of risk in setting pretrial release conditions and advocate for the presumptive use of non-financial release conditions to the greatest degree consistent with evidence-based assessment of flight risk and threat to public safety and to victims of crimes.

Adopted as proposed by the CCJ/ COSCA Criminal Justice Committee at the Conference of Chief Justices 2013 Midyear Meeting on January 30, 2013.

TAB 2

2012-2013 Policy Paper Evidence-Based Pretrial Release

Final Paper



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Glossary of Terms

Bail – Bail refers to a deposit or pledge to the court of money or property in order to obtain the release from jail of a person accused of a crime. It is understood that when the person returns to court for adjudication of the case, the bail will be returned in exchange. If the person fails to appear, the deposit or pledge is forfeited. There is no inherent federal Constitutional right to bail; a statutory right was first created in the 1960s.

Bond – A term that is used synonymously with the term “bail” and “bail bond.” (*See above*).

Citation release – a form of nonfinancial pretrial release in which the defendant is issued a written citation, usually at the time of arrest, and signs the citation pledging to appear in court when required.

Commercial bail agent/bondsman – a third party business or person who acts as a surety on behalf of a person accused of a crime by pledging money or property to guarantee the appearance of the accused in court when required.

Compensated surety – a bond for which a defendant pays a fee to a commercial bail agent, which is nonrefundable.

Conditional release – a form of nonfinancial pretrial release in which the defendant agrees to comply with specific kinds of supervision (e.g., drug testing, regular in-person reporting) in exchange for release from jail).

Deposit bond - a bond that requires a defendant to post a deposit with the court (usually 10% of the bail amount), which is typically refunded upon disposition of the case.

Full cash bond – a bond deposited with the court, the amount of which is 100% of the bail amount. The bond can be paid by anyone, including the defendant.

Pretrial - The term “pretrial” is used throughout this paper to refer to a period of time in the life of a criminal case before it is disposed. The term is a longstanding convention in the justice field, even though the vast majority of criminal cases are ultimately disposed through plea agreement and not trial.

Property bond – a bond that requires the defendant to pledge the title of real property valued at least as high as the full bail amount.

Release on recognizance – a form of nonfinancial pretrial release in which the defendant signs a written agreement to appear in court when required and is released from jail.

Surety—a person who is liable for paying another’s debt or obligation.

Surety bond – a bond that requires the defendant to pay a fee (usually 10% of the bail amount) plus collateral if required, to a commercial bail agent, who assumes responsibility for the full bail amount should the defendant fail to appear. If the defendant does appear, the fee is retained by the commercial bail agent.

I. Introduction

Pretrial judicial decisions about release or detention of defendants before disposition of criminal charges have a significant, and sometimes determinative, impact on thousands of defendants every day while also adding great financial stress to publicly funded jails holding defendants who are unable to meet financial conditions of release. Many of those incarcerated pretrial do not present a substantial risk of failure to appear or a threat to public safety, but do lack the financial means to be released.¹ Conversely, some with financial means are released despite a risk of flight or threat to public safety, as when a bond schedule permits release upon payment of a pre-set amount without any individual determination by a judge of a defendant's flight risk or danger to the community. Finally, there are individuals who, although presumed innocent, warrant pretrial detention because of the risks of flight and threat to public safety if released.

Evidence-based assessment of the risk a defendant will fail to appear or will endanger others if released can increase successful pretrial release without financial conditions that many defendants are unable to meet. Imposing conditions on a defendant that are appropriate for that individual following a valid pretrial assessment substantially reduces pretrial detention without impairing the judicial process or threatening public safety. The Conference of State Court Administrators advocates that court leaders promote,

collaborate toward, and accomplish the adoption of evidence-based assessment of risk in setting pretrial release conditions. COSCA further advocates the presumptive use of non-financial release conditions to the greatest degree consistent with evidence-based assessment of flight risk and threat to public safety and to victims of crimes.

II. The Law

The Supreme Court of the United States has said, "The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law."² The right to bail has been a part of American history in varying degrees from the beginning -- 1641 in Massachusetts and 1682 in Pennsylvania. Other state constitutions adopted the Pennsylvania provision as a model.³ Nine states and Guam follow the pattern of the United States Constitution by prohibiting "excessive bail" without explicitly guaranteeing the right to bail.⁴ Forty state constitutions, as well as the Puerto Rico Constitution and the District of Columbia Bill of Rights, expressly prohibit excessive bail.⁵ One state, Maine, had a constitutional provision prior to 1838 that expressly provided the right to bail, but by amendment that year the Maine Constitution now only prohibits bail in capital cases, without otherwise addressing the matter.⁶ However, the Maine Supreme Judicial Court held that the current language continues the guarantee of the right to bail that was express prior to 1838.⁷ The Federal

Judiciary Act of 1789 provided for the absolute right to bail in non-capital cases. The Eighth Amendment prohibition on excessive bail was adopted in 1791 as part of the Bill of Rights.⁸

Freedom before conviction permits unhampered preparation of a defense and prevents infliction of punishment before conviction. Without the right to bail, the presumption of innocence would lose its meaning.⁹ The purpose of bail is to ensure the accused will stand trial and submit to sentencing if found guilty.¹⁰ Another legitimate purpose is reasonably to assure the safety of the community and of crime victims.¹¹

Twelve states, the District of Columbia, and the federal government have enacted a statutory presumption that defendants charged with bailable offenses should be released on personal recognizance or unsecured bond unless a judicial officer makes an individual determination that the defendant poses a risk that requires more restrictive conditions or detention.¹² Six other states have adopted this presumption by court rule.¹³ However, it is common in many states to have bail schedules, adopted statewide or locally, that establish a pre-set amount of money that must be deposited at the jail in order for a defendant to obtain immediate release, without any individual assessment of risk of flight or danger to the community. In a 2009 nationwide survey of the 150 largest counties, among the 112 counties that responded, 64 percent reported using bond schedules.¹⁴

Despite the common use of bond schedules (also commonly termed “bail schedules”), they seem to contradict the notion that pretrial release conditions should reflect an assessment of an individual defendant’s risk of failure to appear and threat to public safety. Two state high courts have rejected the practice of imposing non-discretionary bail amounts based solely on the charge, as in a bail schedule. The Hawai’i Supreme Court found an abuse of discretion for a trial court to apply a bail schedule promulgated by the senior judge that ignored risk factors specific to the defendant.¹⁵ The Oklahoma Court of Criminal Appeals overturned a statutory mandate for a particular bail amount attached to a specific crime: “[The statute] sets bail at a predetermined, nondiscretionary amount and disallows oral recognizance bonds under any circumstances. We find the statute is unconstitutional because it violates the due process rights of citizens of this State to an individualized determination to bail.”¹⁶

In the United States in the twenty-first century, it is common to require the posting of a financial bond as the means to obtain pretrial release, often through procuring the services of a commercial bond company, or bail bondsman. Bonding companies typically require a non-refundable premium payment from the defendant, usually 10 percent of the bail set by the court. Many companies also require collateral sufficient to cover the full bond amount.¹⁷ In 2007 the DOJ Bureau of Justice Statistics reported that an estimated 14,000 bail agents nationwide secured the release of more than 2 million defendants annually.¹⁸ The United

States and the Philippines are the only countries that permit the widespread practice of commercial bail bonds.¹⁹ In countries other than these two, “[b]ail that is compensated in whole or in part is seen as perverting the course of justice.”²⁰

III. The Consequences of Pretrial Release versus Incarceration

From the perspective of the defendant, who is presumed innocent, pretrial release mitigates the collateral consequences of spending weeks or months awaiting trial or a plea agreement. Jail time can result in job loss, home loss, and disintegrated social relationships, which in turn increase the likelihood of re-offending upon release.²¹

In 2010 the United States had the world’s highest total number of pretrial detainees (approximately 476,000) and the fourth-highest rate of pretrial detention (158 per 100,000).²² A study of felony defendants in America’s 75 largest urban counties showed that in 1990, release on recognizance accounted for 42% of releases, compared to 25% released on surety bond. By 2006, the proportions had been reversed: surety bonds were used for 43% of releases, compared to 25% for release on recognizance.²³ Taking into account all types of financial bail (surety bond, deposit bail, unsecured bond, and full cash bond), it is clear that the majority of pretrial release requires posting of financial bail.

The same study of felony defendants showed that 42% were detained until disposition of their case.²⁴ Pretrial

incarceration imposes significant costs on taxpayer-funded jails, primarily at the local government level. In 2010, “taxpayers spent \$9 billion on pre-trial detainees.”²⁵ The increased practice of requiring financial bonds has contributed to increased jail populations, which has produced an extraordinary increase in costs to counties and municipalities from housing pretrial detainees. The most recent national data indicates that 61% of jail inmates are in an un-convicted status, up from just over half in 1996.²⁶

In addition to the financial costs from increased pretrial detention, the cost in unequal access to justice also appears to be high. The movement to financial bonds as a requirement for pretrial release, often requiring a surety bond from a commercial bond seller, makes economic status a significant factor in determining whether a defendant is released pending trial, instead of such factors as risk of flight and threat to public safety. A study of all nonfelony cases in New York City in 2008 found that for cases in which bail was set at less than \$1,000 (19,617 cases), in 87% of those cases defendants were unable to post bail at arraignment and spent an average of 15.7 days in pretrial detention, even though 71.1% of these defendants were charged with nonviolent, non-weapons-related crimes.²⁷ In short, “for the poor, bail means jail.”²⁸ The impact of financial release conditions on minority defendants reflects disparate rates of poverty among different ethnic groups. A study that sampled felony cases in 40 of the 75 largest counties nationwide found that, between 1990 and

1996, 27% of white defendants were held in jail throughout the pretrial period because they could not post bond, compared to 36% of African-American defendants and 44% of Hispanic defendants.²⁹

The practice of conditioning release on the ability to obtain a surety bond has so troubled the National Association of Pretrial Services Agencies (NAPSA) that, in its Third Edition of Standards on Pretrial Release (and in previous editions beginning in 1968), Standard 1.4(f) provides that “[c]onsistent with the processes provided in these Standards, compensated sureties should be abolished.” According to NAPSA, compensated sureties should be abolished because the ability to pay a bondsman is unrelated to the risk of flight or danger to the community; a surety bond system transfers the release decision from a judge to private party making unreviewable decisions on unknown factors; and the surety system unfairly discriminates against defendants who are unable to afford non-refundable fees required by the bondsman as a condition of posting the bond.³⁰ The American Bar Association also recommends that “compensated sureties should be abolished.”³¹ The Commonwealth of Kentucky and the State of Wisconsin have prohibited the use of compensated sureties.³² In addition, Illinois and Oregon do not allow release on surety bonds (but do permit deposit bail).³³

The ability of a defendant to obtain pretrial release has a significant correlation to criminal justice outcomes. Numerous research projects conducted over the past

half century have shown that defendants who are held in pretrial detention have less favorable outcomes than those who are not detained—regardless of charge or criminal history. In these studies, the less favorable outcomes include a greater tendency to plead guilty to secure release (a significant issue in misdemeanor cases), a greater likelihood of conviction, a greater likelihood of being sentenced to terms of incarceration, and a greater likelihood of receiving longer prison terms.³⁴ Data support the common sense proposition that pretrial detention has a coercive impact on a defendant’s amenability to a plea bargain offer and inhibits a defendant’s ability to participate in preparation for a defense. In summarizing decades of research, the federal Bureau of Justice Assistance noted that “research has demonstrated that detained defendants receive more severe sentences, are offered less attractive plea bargains and are more likely to become ‘reentry’ clients because of their pretrial detention—regardless of charge or criminal history.”³⁵

IV. Evidence-Based Risk Assessment: The Lesson of *Moneyball* and the Challenge of Adopting New Practices

Michael Lewis’s book *Moneyball* documents how Oakland A’s general manager Billy Beane used statistics and an evidence-based approach to baseball that yielded winning seasons despite severe budgetary constraints.³⁶ His approach attracted considerable antagonism in the baseball community because it deviated from long-held practices based on intuition and gut feelings, tradition, and ideology. As

persuasively set forth more recently in *Supercrunchers*, the cost of ignoring data and evidence in a broad variety of human endeavors is suboptimal decision-making.³⁷ This realization and the commensurate movement toward evidence-based practice, by now firmly ensconced in medicine and other disciplines, have finally emerged in the fields of sentencing, corrections, and pretrial release (but not without resistance, as in baseball).

In 1961, the New York City Court and the Vera Institute of Justice organized the Manhattan Bail Project, an effort to demonstrate that non-financial factors could be used to make cost-effective release decisions.³⁸ Decades later, the movement away from financial conditions and toward use of an evidence-based risk assessment in setting pretrial release conditions appears to be gathering momentum. The 2009 Survey of Pretrial Services Programs found that the majority of 112 counties responding to a survey of the 150 largest counties use a combination of objective and subjective criteria in risk assessment. Eighty-five percent of those responding counties reported having a pretrial services program to assess and screen defendants and present that information at the first court appearance.³⁹ The ongoing development of evidence-based decision-making in pretrial release decisions is demonstrated by the release in August 2011 of a monograph by the National Institute of Corrections recommending outcome and performance measures for evaluating pretrial release programs.⁴⁰ Looking forward to the type of assessments that would support evidence-

based pretrial decisions, an accumulation of empirical research strongly suggests the following points:

- Actuarial risk assessments have higher predictive validity than clinical or professional judgment alone.⁴¹
- Post-conviction risk factors (relating to recidivism) should not be applied in a pretrial setting.⁴²
- Several measures commonly gathered for pretrial were not significantly associated with pretrial failure: residency, injury to victim, weapon, and alcohol.⁴³
- The six most common validated pretrial risk factors are prior failure to appear; prior convictions; current charge a felony; being unemployed; history of drug abuse; and having a pending case.⁴⁴
- Defendants in counties that use quantitative and mixed risk assessments are less likely to fail to appear than defendants in counties that use qualitative risk assessments.⁴⁵
- Not only are subjective screening devices prone to demographic disparities, but these devices produce poor results from a public safety perspective.⁴⁶
- The statewide pretrial services program in Kentucky, begun in 1968, now uses a uniform assessment protocol that results in a failure to appear rate of only 10 percent and a re-arrest rate of only 8 percent.⁴⁷

- Pretrial programs that use quantitative and mixed quantitative-qualitative risk assessments experience lower re-arrest rates than programs that only use qualitative risk assessments.
- The number of sanctions a pretrial program can impose in response to non-compliance with supervision conditions further lowers the likelihood of a defendant's pretrial re-arrest.⁴⁸

The use of a validated pretrial risk assessment tool when making a judicial decision to release or not, and the attendant conditions on release based on that assessment, fits within a well-functioning case management regimen. While different instruments have been used with success in different jurisdictions, in general, research on pretrial assessment conducted over decades has identified these common factors as good predictors of court appearance and/or danger to the community:

- Current charges;
- Outstanding warrants at the time of arrest;
- Pending charges at the time of arrest;
- Active community supervision at the time of arrest;
- History of criminal convictions;
- History of failure to appear;
- History of violence;
- Residence stability over time;
- Employment stability;
- Community ties; and
- History of substance abuse.⁴⁹

A comprehensive guide to implementing successful evidence-based pretrial services into the pretrial release determination, with step-by-step instructions on the process from formation of a Pretrial Services Committee through program implementation, is available from the Pretrial Justice Institute.⁵⁰

Perhaps the best-known use of evidence-based risk assessment to reduce reliance on financial release conditions exists in the District of Columbia's Pretrial Services Agency (PSA).⁵¹ Paradoxically, the DC pretrial Code requires detention if no combination of conditions will reasonably assure that a defendant does not flee or pose a risk to public safety.⁵² If the prosecutor demonstrates by clear and convincing evidence that a defendant presents a serious flight risk or threat to the victim or to public safety, the defendant is detained without the option for pretrial release. However, the DC Code also provides that a judge may not impose a financial condition as a means of preventative detention.⁵³ PSA conducts a risk assessment (flight and danger) through an interview with the defendant within 24 hours of arrest that assesses points on a 38-factor instrument, assigning a defendant into a category as high risk, medium risk, and low risk.⁵⁴ In 1965, only 11% of defendants were released without a money bond, but by 2008, 80% of all defendants were released without a money bond, 15% were held without bail, and 5% were held with financial bail (none on surety bond), while at the same time 88% of released defendants made all court appearances and 88% completed pretrial release without any new arrests.⁵⁵

Another example of the impact of evidence-based pretrial risk assessment is found in the Harris County (Houston), Texas, “direct filing” system.⁵⁶ As charges are being accepted and filed, the defendant is transferred to the central jail for intake. At the jail, the pretrial screening department interviews the defendant and collects data such as family composition, employment status, housing, indigency status, education level, health problems and medications, and potential mental health issues. This process culminates in a risk classification, identifying defendants who are appropriate for release on personal recognizance bond. The process continues through appearance before a magistrate (typically within 12 hours of arrest), where defendants granted personal bond and those able to post cash or surety bonds are released from jail.⁵⁷ An estimate of net savings and revenue for Fiscal Year 2010 showed that Harris County gained \$4,420,976 in avoided detention costs and pretrial services fees collected after deducting for the costs of pretrial services.⁵⁸

Kentucky abolished commercial bail bondsmen in 1976 and implemented the statewide Pretrial Services Agency that today relies on interviews and investigations of all persons arrested on bailable offenses within 12 hours of his or her arrest. Pretrial Officers conduct a thorough criminal history check and utilize a validated risk assessment that measures flight risk and anticipated conduct to make appropriate recommendations to the court for pretrial release. Furthermore, Pretrial Services

provides supervision services for pretrial defendants, misdemeanor diversion participants and defendants in deferred prosecution programs.

In 2011 Pretrial Services processed 249,545 cases in which a full investigation was conducted on 88% of all incarcerated defendants.⁵⁹ Using a validated risk assessment tool, Pretrial Services identifies defendants as being either low, moderate, or high risk for pretrial misconduct, (i.e. failing to appear for court hearings or committing a new criminal offense while on pretrial release). Ideally, low risk defendants (those most likely to return to court and not commit a new offense) are recommended for release either on their recognizance or a non-financial bond. Statistically, about 70% of pretrial defendants are released in Kentucky; 90% of those make all future court appearances and 92% do not get re-arrested while on pretrial release.⁶⁰ When looking at release rates by risk level, the data shows that judges follow the recommendations of Pretrial Services. In 2011, judges ordered pretrial release of 81% of low risk defendants, 65% of moderate risk defendants, and 52% of high risk defendants.⁶¹

In 2011, Kentucky adopted House Bill 463, a major overhaul of the Commonwealth’s criminal laws that intended to reduce the cost of housing inmates while maintaining public safety.⁶² Since adoption of HB 463, Pretrial Services data shows a 10% decrease in the number of defendants arrested and a 5% increase in the overall release rate, with a substantial increase in non-financial

releases and in releases for low and moderate risk defendants. The non-financial release rate increased from 50% to 66%, the low risk release rate increased from 76% to 85%, and the moderate risk release rate increased from 59% to 67%. In addition, pretrial jail populations have decreased by 279 defendants, while appearance and public safety rates have remained consistent.⁶³

There are other, similar examples of successful implementation of evidence-based pretrial assessments that deliver on the promise of pretrial release without financial conditions.⁶⁴

Evidence-based pretrial risk assessment in the context of skillful and collaborative case management and data sharing should be embraced as the best practice by judges, court administrators, and court leaders. Reliance on a validated, evidence-based pretrial risk assessment in setting non-financial release conditions balances the interests of courts in both protecting public safety and safeguarding individual liberty.

V. The Way Forward

“The purposes of the pretrial release decision include providing due process to those accused of crime, maintaining the integrity of the judicial process by securing defendants for trial, and protecting victims, witnesses and the community from threat, danger or interference. . . .The law favors release of defendants pending adjudication of charges. Deprivation of liberty pending trial is harsh and oppressive, subjects defendants to economic and psychological hardship, interferes with their ability to defend themselves, and, in many instances, deprives their families of support.”

ABA Criminal Justice Standards on Pretrial Release, Third Edition
Standard 10-1.1.

By adopting this paper, COSCA is not leading a parade, but joining in some very good and credible company. As noted in 2011 by a leading official of the United States Department of Justice, “Within the last year, a number of organizations have publicly highlighted the need to reform our often antiquated and sometimes dangerous pretrial practices and replace them with empirically supported, risk-based decision-making.”⁶⁵ Not surprisingly pretrial services agencies themselves support this effort,⁶⁶ but so do a wide variety of other justice-oriented interest groups: the National Association of Counties,⁶⁷ the American Jail Association,⁶⁸ the International Association of Chiefs of Police,⁶⁹ the American Council of Chief Defenders,⁷⁰ the American Bar Association,⁷¹ the Association of Prosecuting Attorneys,⁷² and the American Association of Probation and Parole.⁷³

Following the 2011 National Symposium on Pretrial Justice hosted by the U.S. Department of Justice (DOJ), the DOJ’s Office of Justice Programs collaborated with the Pretrial Justice Institute to convene in October 2011 the first meeting of the Pretrial Working Group. Information about the continuing work of the Pretrial Working Group subcommittees can be found at the Web site published by the Office of Justice Programs in association with the Pretrial Justice Institute. The stated goals of this effort are to exchange information on pretrial justice issues, develop a website to disseminate information on the work of the subcommittees, and inform evidence-based pretrial justice policy making.⁷⁴

There are two major obstacles to reform. First, there is resistance to changing the status quo from those who are comfortable with or profit from the existing system. This resistance can be overcome by a well-

executed, evidence-based protocol, as has been demonstrated in the District of Columbia and in Kentucky. Second, courts tend to be deliberate in adopting change and to require persistent presentation of well-documented advantages to new approaches, such as evidence-based practices in the pretrial release setting. In this regard, familiarity with evidence-based decision making in drug courts, at sentencing, and in evaluating court programs should help gain acceptance for evidence-based practices in the pretrial setting. Part of this shift in practice might include elimination of or decreased reliance on bail schedules, which are in use in at least two-thirds of counties across the country.⁷⁵ State court leaders should closely follow and make a topic of discussion the efforts of the Department of Justice and its Pretrial Justice Working Group discussed above, as well as continuing efforts by the American Bar Association which is supporting transition toward evidence-based pretrial practices through its Pretrial Justice Task Force.⁷⁶

State court leaders must take several steps to leverage the emerging national consensus on this issue:

- Analyze state law and work with law enforcement agencies and criminal justice partners to propose revisions that are necessary to
 - support risk-based release decisions of those arrested;
 - ensure that non-financial release alternatives are available and that financial release options are available without the requirement for a surety.
- Collaborate with experts and professionals in pretrial justice at the national and state levels.
- Take the message to additional groups and support dialogue on the issue.
- Use data to promote the use of data; determine what state and local data exist that would demonstrate the growing problem of jail expense represented by the pretrial population, and that show the risk factors presented by that population may justify broader pretrial release.
- Reduce reliance on bail schedules in favor of evidence-based assessment of pretrial risk of flight and threat to public safety.

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¹ VanNostrand, M. and Crime and Justice Institute (2007). *Legal and Evidence-Based Practices: Applications of Legal Principles, Laws, and Research to the Field of Pretrial Services*. Washington, DC: U.S. Department of Justice, National Institute of Corrections.

² Coffin v. United States, 156 U.S. 432, 453 (U.S. 1895).

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⁵ ALA. CONST. art. I, § 16; ALASKA CONST. art. I, § 11; ARIZ. CONST. art. II, § 22; ARK. CONST. art. II, § 8; CAL. CONST. art. I, § 12; COLO. CONST. art. I, § 19; CONN. CONST. art. I, § 8; DEL. CONST. art. I, § 12; FLA. CONST. art. I, § 14; IDAHO CONST. art. I, § 6; ILL. CONST. art. I, § 9; IND. CONST. art. I, § 7; IOWA CONST. art. I, § 12; KAN. CONST. Bill of Rights, § 9; KY. CONST. § 16; LA. CONST. art. I, § 8; ME. CONST. art. I, § 10; MICH. CONST. art. I, § 15; MINN. CONST. art. I, § 7; MISS. CONST. art. III, § 29; MO. CONST. art. I, § 20; MONT. CONST. art. II, § 21; NEB. CONST. art. I, § 9; NEV. CONST. art. I, § 7; N.J. CONST. art. I, § 11; N.M. CONST. art. II, § 13; N.D. CONST. art. I, § 11; OHIO CONST. art. I, § 9; OKLA. CONST. art. II, § 8; OR. CONST. art. I, § 14; PA. CONST. art. I, § 14; R.I. CONST. art. I, § 9; S.C. CONST. art. I, § 15; S.D. CONST. art. VI; TENN. CONST. art. I, § 15; TEX. CONST. art. I, § 11; UTAH CONST. art. I, § 8; VT. CONST. ch. 2, § 40; WASH. CONST. art. I, § 20; WIS. CONST. art. I, § 8; WYO. CONST. art. I, § 14; P.R. CONST. art. II, § 11; D.C. Code, Bill of Rights, art. I, § 108.

⁶ ME. CONST. art. I, § 10.

⁷ Fredette v. State, 428 A.2d 395, 404-05 (Me. 1981).

⁸ U.S. CONST. amend. VIII (1791).

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¹⁰ *Id.*

¹¹ United States v. Salerno, 481 U.S. 739 (1987); Bail Reform Act of 1984, 18 U.S.C. §§ 3141-3150 (1984).

¹² 18 U.S.C. § 3142(c)(1)(B) (2008); D.C. Code § 23-1321(c)(B) (2003); 11 Del. Code § 2105 (2006); Iowa Code Ann. § 811.2 (2012); Ky. Rev. Stat. Ann. § 431.520 (2012); Mass. Gen. Laws Ann. ch. 276 § 58A (2010); Me. Rev. Stat. Ann. tit. 15 § 1026 (2012); Neb. Rev. Stat. § 29-901 (2010); N.C. Gen. Stat. § 15A-534 (2012); Or. Rev. Stat. Ann. § 135.245(3) (2009); S.C. Code Ann. § 17-15-10 (2011) (amended by 2012 South Carolina Laws Act 286 (S.B. 45)); SDCL § 23A-43-2 (1982); Tenn. Code Ann. § 40-11-104 (2012); Wis. Stat. § 969.01 (1977).

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TAB 3

Pretrial criminal justice research commissioned by the Laura and John Arnold Foundation (LJAF) has thrown new light on how critical the earliest decisions made in the criminal justice system may be for public safety, fairness, and cost effectiveness.

PRETRIAL CRIMINAL JUSTICE RESEARCH

Together, federal, state, and local corrections costs in the United States today exceed \$80 billion per year. Pretrial detainees account for more than 60 percent of the inmate population in our jails. The cost to incarcerate defendants pretrial has been estimated at over \$9 billion per year. Many pretrial detainees are low-risk defendants, who, if released before trial, are highly unlikely to commit other crimes and very likely to return to court. Others present moderate risks that can often be managed in the community through supervision, monitoring, or other interventions. There is, of course, a small but important group of defendants who should most often be detained because they pose significant risks of committing acts of violence, committing additional crimes, or skipping court.

The key, then, is to make sure that we accurately distinguish among the low-, moderate-, and high-risk defendants – and identify those who are at an elevated risk for violence. Moreover, it is important that, when we determine how to deal with defendants during the pretrial period, we appropriately assess what risk individual defendants pose. By making decisions in this manner, we can reduce crime, make

wise use of public resources, and make our system more just.

Although police, prosecutors, and judges share the same objectives – to detain those who pose a risk to public safety and to release those who do not – this is not how our criminal justice system currently operates. Criminal justice decisionmakers do their best to achieve these goals, but they typically do not have sufficient information about defendants, the risks they pose, or the best methods to reduce these risks. Instead, key decisions are often made in a subjective manner, based on experience and instinct, rather than on an objective, data-driven assessment of a defendant's risk level and the most effective approach to protecting public safety in each case.

For two years, LJAF has been working to improve how decisions are made during the earliest part of the criminal justice process, from the time a defendant is arrested until the case is resolved. Our strategy has been to use data, analytics, and technology to promote a transition from subjective to more objective decision-making. To that end, we are developing easy-to-use, data-driven risk assessments

for judges and prosecutors and are exploring tools to assist police in determining when to arrest an individual and when to issue a citation instead. In addition, we are pursuing research into key criminal justice issues, including the impacts of pretrial release and detention; and we are investigating the long-unanswered question of what approaches are successful at reducing future crime – and for whom they are most effective. The LJAF research released today – which was conducted in partnership with two of the nation’s leading pretrial justice researchers, Dr. Marie VanNostrand and Dr. Christopher Lowenkamp – is a key part of this effort. The central findings of these three studies are summarized below:

The Effect of Pretrial Detention on Sentencing:

A study, using data from state courts, found that defendants who were detained for the entire pretrial period were over four times more likely to be sentenced to jail and over three times more likely to be sentenced to prison than defendants who were released at some point pending trial. And their sentences were significantly longer – almost three times as long for defendants sentenced to jail, and more than twice as long for those sentenced to prison. A separate study found similar results in the federal system.

The Hidden Costs of Pretrial Detention:

Using statewide data from Kentucky, this study uncovered strong correlations between the length of time low- and moderate-risk defendants were

detained before trial, and the likelihood that they would reoffend in both the short- and long-term. Even for relatively short periods behind bars, low- and moderate-risk defendants who were detained for more days were more likely to commit additional crimes in the pretrial period – and were also more likely to do so during the two years after their cases ended.

The Impact of Pretrial Supervision:

This study drew on data from two states, one eastern and one western, and found that moderate- and high-risk defendants who received pretrial supervision were significantly more likely to appear for their day in court than those who were unsupervised. In addition, long periods of supervision (more than 180 days) were related to a decrease in new criminal activity; however, no such effect was evident for supervision of 180 days or less.

These studies raise significant questions about the way our pretrial system currently works. They also demonstrate the tremendous need for additional research in this area. As part of our commitment to using data, analytics, and technology to transform the front end of the criminal justice system – what we call *Moneyballing* criminal justice – LJAF stands committed to pursuing a robust research agenda to answer these pressing questions and to make sure the system is as safe, fair, and cost-effective as possible.

Key decisions are often made in a subjective manner, based on experience and instinct, rather than on an objective, data-driven assessment of a defendant’s risk level and the most effective approach to protecting public safety in each case.

I. THE EFFECT OF PRETRIAL DETENTION ON SENTENCING

Two recent studies funded by LJAF shed new light on the impact that a defendant's release or detention before trial can have on the eventual sentence in the case. These studies – one using data from federal courts and the other using data from state courts – demonstrate that pretrial detention is associated with an increase in the likelihood a defendant will be sentenced to jail or prison, as well as the length of incarceration.¹ The findings serve to underscore just how important judges' decisions regarding pretrial release and detention truly are.

The state study analyzed records of over 60,000 defendants arrested in Kentucky in 2009 and 2010. It found that defendants detained for the entire pretrial period were over four times more likely to be sentenced to jail and over three times more likely to be sentenced to prison than defendants who were released at some point pending trial. Sentences were also significantly longer – nearly three times as long for defendants sentenced to jail and more than twice as long for those sentenced to prison.

The analysis focused on the relationship between detention and sentencing. The study controlled for the other variables in the data set, meaning that defendants who were compared to one another were similar in terms of age, gender, race, marital status, risk level, offense type, incarceration history and other factors. In other words, defendants who were similar in every known way – except for their pretrial release status – had different outcomes at sentencing.

Studies demonstrate that pretrial detention is associated with an increase in the likelihood a defendant will be sentenced to jail or prison, as well as the length of incarceration.

¹ Jails are usually locally operated and are used to detain individuals prior to trial or can be used to incarcerate individuals who have been sentenced, typically for one year or less. Prisons are state or federally run and are used to incarcerate sentenced individuals typically for one year or more, and often for much longer.

Impact of Pretrial Detention on State Sentencing

Compared to defendants released at some point prior to trial, defendants held for the entire pretrial detention period had:



The second study examined similar questions in the context of federal courts. The study, which is currently under review by a peer-reviewed journal, was conducted by Dr. Lowenkamp, Dr. VanNostrand, Dr. James Oleson of the University of Auckland, Timothy Cadigan of the Administrative Office of the United States Courts (retired), and Dr. John Wooldredge of the University of Cincinnati. Drawing on 1,798 cases from two United States District Courts, the research found that pretrial release reduces sentence length for all defendants, even if release is ultimately revoked due to a defendant's failure to adhere to conditions of release. Indeed, detained defendants' sentences are, on average, nearly two times longer than those of released defendants. And while defendants who were released and later revoked received longer sentences than defendants who completed pretrial release without incident, their sentences were still shorter than defendants who were never released at all. These findings were obtained while controlling for known factors.

The importance of these findings is clear when considering the state of our federal prison system. More than 110,000 defendants went through the federal court system in 2011, 86 percent of whom were sentenced to federal prison for an average sentence of almost 5½ years. Since 1980, the Bureau of Prison population has grown tenfold. The fiscal costs of this increase are staggering: Each prisoner in the system costs taxpayers between \$21,006 (minimum security) and \$33,930 (high security) annually.

II. THE HIDDEN COSTS OF PRETRIAL DETENTION

The primary goal of the American criminal justice system is to protect the public. But what if, rather than protecting society, the pretrial phase of the system is actually helping to create new repeat offenders?

That is the question raised by an LJAF-funded study that analyzed data on over 153,000 defendants booked into jail in Kentucky in 2009 and 2010. The analysis showed that low-risk defendants who were detained pretrial for more than 24 hours were more likely to commit new crimes not only while their cases were pending, but also years later. In addition, they were more likely to miss their day in court. Conversely, for high-risk defendants, there was no relationship between pretrial incarceration and increased crime. This suggests that high-risk defendants can be detained before trial without compromising, and in fact enhancing, public safety and the fair administration of justice.

Judges, of course, do their best to sort violent, high-risk defendants from nonviolent, low-risk ones, but they have almost no reliable, data-driven risk assessment tools at their disposal to help them make these decisions. Fewer than 10 percent of U.S. jurisdictions use any sort of risk-assessment tools at the pretrial stage,

and many of the tools that are in use are neither data-driven nor validated. Kentucky provided a unique research opportunity because it used a validated tool that provided us with an understanding of the level of risk that individual defendants posed. While risk assessments could not be completed on approximately 30 percent of defendants, we were able to study whether, for the remaining 70 percent, the impact of pretrial detention varied depending on their risk levels.

This study indicates that effectively distinguishing between low-, moderate-, and high-risk defendants at the pretrial stage could potentially enhance community safety.

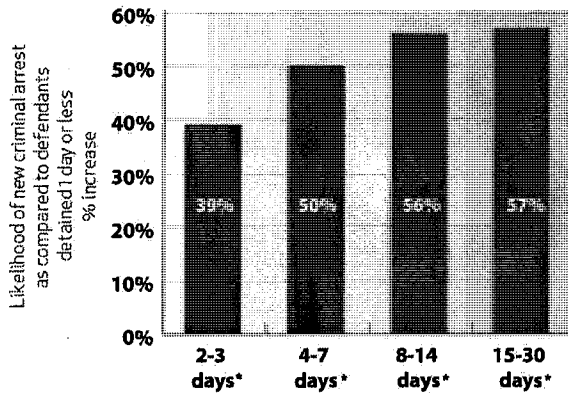
The research findings are summarized below.

A. PRETRIAL DETENTION AND PRETRIAL OUTCOMES

This study explored whether there is a link between time spent in pretrial detention and the commission of new criminal activity or failure to appear in court. The study looked at 66,014 cases in which the defendants were released at some point before trial, and found that even very small increases in detention time are correlated with worse pretrial outcomes. The research controlled for other known variables. The study found that, when held 2-3 days, low-risk defendants were almost 40 percent more likely to commit new crimes before trial than equivalent defendants held no more than 24 hours. The study indicates that the correlation generally escalates as the time behind bars increases: low-risk defendants who were detained for 31 days or more offended 74 percent more frequently than those who were released within 24 hours. A similar pattern held for moderate-risk defendants, though the percentage increase in rates of new criminal activity is smaller.

Interestingly, for high-risk defendants, the study found no relationship between pretrial detention and increased new criminal activity. In other words, there is no indication that detaining high-risk defendants for longer periods before trial will lead to a greater likelihood of pretrial criminal activity.

Increase in New Criminal Arrest Low-Risk Defendants



* = statistically significant at the .01 level or lower

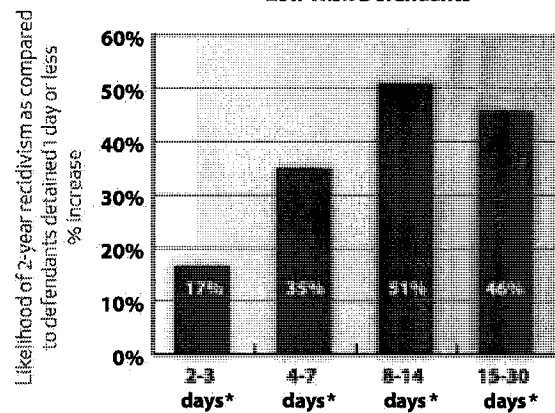
This same pattern emerged for failure to appear. Low-risk defendants held for 2-3 days were 22 percent more likely to fail to appear than similar defendants (in terms of criminal history, charge, background, and demographics) held for less than 24 hours. The number jumped to 41 percent for defendants held 15-30 days. For low-risk defendants held for more than 30 days, the study found a 31 percent increase in failure to appear. Again, however, detention was found to have no impact on high-risk defendants' rates of missing court, and for moderate-risk defendants, the effect was minimal.

B. PRETRIAL DETENTION AND LONG-TERM RECIDIVISM

Even for relatively short periods of detention, according to the study, the longer a low-risk defendant was detained before trial, the more likely he was to commit a new crime within two years of case disposition. Specifically, controlling for other known variables, the study found that pretrial detention is associated with long-term recidivism, particularly for low-risk defendants.

For detention periods of up to 14 days, according to the study, the longer a low-risk defendant was detained before trial, the more likely he was to commit a new crime within two years of case disposition. Compared to individuals released within 24 hours of arrest, low-risk defendants held 2-3 days were 17 percent more likely to commit another crime within two years. Detention periods of 4-7 days yielded a 35 percent increase in re-offense rates. And defendants held for 8-14 days were 51 percent more likely to recidivate than defendants who were detained less than 24 hours. Although the effects began to diminish slightly beyond 14 days, low-risk defendants remained significantly more likely to reoffend in the long run as compared to defendants released within 24 hours. Again, these effects were observed among defendants who were matched on all the other measurable variables. For high-risk defendants, however, more days spent in pretrial detention were not associated with an increase in recidivism.

Increase in 2-Year Recidivism Low-Risk Defendants



* = statistically significant at the .01 level or lower

C. POLICY IMPLICATIONS

In our criminal justice system today, judges frequently do not have an objective, scientific, and data-driven risk assessment to assist them in understanding the amount of risk that an individual defendant poses. Moreover, length of detention is frequently determined by factors totally unrelated to a defendant's risk level – for instance, the administrative speed with which a

given court system can process defendants. In some jurisdictions, defendants may be held up to three days before their first opportunity to go before a judge who will determine whether they are detained or released. What we see from this research is that the costs of these delays may potentially result in increased crime. The study finding regarding high-risk defendants is equally important: There appears to be no tradeoff between protecting the public during the pretrial period and improving public safety years later.

Although these studies do not demonstrate causation, they show correlations between length of detention and negative outcomes for low- and moderate-risk defendants. Additional studies are needed to further research these and other questions.

III. THE IMPACT OF PRETRIAL SUPERVISION

Although one of the most important decisions made before a criminal trial is whether to release or detain a defendant, the need for more data-driven tools does not end there. Judges frequently assign conditions to defendants they release, which may include pretrial supervision. There are many different models of pretrial supervision, some of which include periodic calls or meetings with a pretrial services officer, drug testing or treatment, or electronic monitoring. Currently, however, judges have very little data to help them determine who to assign to supervision, and what type of supervision works best for whom. With this in mind, LJAF is pursuing a number of studies of conditions of release including pretrial supervision.

In its initial study of pretrial supervision, LJAF researchers looked at 3,925 defendants from two states, one eastern and one western, and compared 2,437 defendants who were released without supervision with 1,488 who were released with supervision. In order to determine whether the effects of supervision varied

based on defendants' risk levels, researchers used an existing validated risk assessment to assign defendants to risk categories.

The study found that moderate- and high-risk defendants who received pretrial supervision were significantly more likely to appear for their day in court. When controlling for state, gender, race, and risk, moderate-risk defendants who were supervised missed court dates 38 percent less frequently than unsupervised defendants. For high-risk defendants, the reduction was 33 percent. Analysis of various samples of the low-risk population generated inconsistent findings about the impacts of supervision on failure-to-appear rates – suggesting that the relationship between supervision for low-risk defendants and failure to appear is minimal or nonexistent.

In addition, pretrial supervision of more than 180 days was statistically related to a decrease in the likelihood of new criminal activity before case disposition. Defendants supervised pretrial for six months or more were 22 percent less likely to be arrested for new crimes before case disposition. While this finding is intriguing, the data set was not specific enough with regard to type of supervision to draw definite conclusions about the impact of supervision on new criminal activity pending case disposition.

This study is significant because it tells us that pretrial supervision may be effective in reducing failure to appear rates and, after a time, new criminal activity. However, while it appears that supervision generally helps prevent negative pretrial outcomes, details are scarce. For instance, in this study, no information was provided as to what type of supervision (minimal, moderate, or intensive) defendants received. And what types of supervision work for which defendants is something the field does not yet know. LJAF is committed to pursuing additional research in these important areas.

IV. CONCLUSION

This research demonstrates how critical it is to focus on the pretrial phase of the criminal justice system. Pretrial decisions made by judges, police, and prosecutors determine, as Caleb Foote stated in 1956, “mostly everything.” These studies demonstrate that pretrial decisions may impact whether or not a defendant gets sentenced to jail or prison, and for how long; that an increased length of pretrial detention for low- and moderate-risk defendants is associated with an increased likelihood that they will reoffend both during the pretrial period and two years after the conclusion of their case; and that supervision may reduce failure to appear rates and, when done for 180 days or more, new criminal activity.

As important as these findings are, however, there remains an acute need for more research in this area. Moreover, for ethical and practical reasons, it would be difficult in many instances to conduct randomized controlled trials where judges would be asked to make detention, release, and supervision decisions based on research objectives. As a result, studies such as these do not prove causation. Although the findings noted above are observational, and not causal, the correlations are so striking that they merit further research.

LJAF is committed to researching questions that have arisen in these studies, and many others. This reflects our commitment to leveraging research, data, and technology to help jurisdictions improve public safety, reduce crime, make the best use of limited resources, and ensure that the justice system is working as fairly and efficiently as possible.

The full research reports for the studies can be accessed at:
www.arnoldfoundation.org/research/criminaljustice.

About Laura and John Arnold Foundation

Laura and John Arnold Foundation is a private foundation that currently focuses its strategic investments on criminal justice, education, public accountability, and research integrity.

LJAF has offices in Houston and New York City.

TAB 4

ISSUE BRIEF

MAY 2015



PRETRIAL RISK ASSESSMENT: SCIENCE PROVIDES GUIDANCE ON ASSESSING DEFENDANTS

Every day, criminal justice officials make decisions that have major implications for public safety and costs. Which defendants should be released pretrial and how should they be released, and which should be detained until adjudication? These decisions require an assessment of the risk that each defendant poses to be arrested on new charges or to fail to appear in court. Up until recently, jurisdictions all across the country have been limited to one of two approaches to making those assessments.

The first approach has been to use a money bond schedule, which is simply a list of all criminal charges and a corresponding dollar amount attached to each charge. The more serious the charge, the higher the corresponding bond amount. Money bond schedules presuppose that there is a strong link between the charge and pretrial risk.

The second approach has been through the use of intuition. Under this approach, pretrial release decision makers look at the factors that they believe to be related to higher risk and make their decisions accordingly. Officials in many jurisdictions using this approach have pooled the collective intuition of local decision makers to design what is known as a “consensus-based” pretrial risk assessment tool. While such consensus-driven tools promote consistency in pretrial release decision making, there remains no evidence that these tools are actually accurate predictors of pretrial risk.

In recent years, many jurisdictions have turned to science to see if there is any validity to the two existing approaches and whether a third, empir-

ically-derived approach could be developed. After a decade of studies, we now know the answers: money bond schedules and intuition-derived tools are poor predictors of risk, and empirically-derived tools can be accurate predictors of pretrial risk.

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What is an empirically-derived pretrial risk assessment tool?

An empirically-derived pretrial risk assessment tool is one that has been demonstrated through an empirical research study to accurately sort defendants into categories showing their likelihood of having a successful pretrial release—that is, they make all their court appearances and are not arrested on new charges.

Why is it important to know a defendant's risk level?

A defendant's risk level should be used to guide two decisions: 1) the decision to release or detain pretrial; and 2) if released, the assignment of appropriate release conditions, such as pretrial supervision. Recent research has shed new light on the importance of accurately assessing risks in making these decisions.

In one study, researchers found that low-risk defendants who were held in jail for just 2 to 3 days were 39% more likely to be arrested than those who were released on the first day. Those who were held 4 to 7 days were 50% more likely to be arrested, and those held 8 to 14 days were 56% more likely. The same patterns hold for medium-risk defendants held for short periods.¹

That study also found that low-risk defendants who were held in jail throughout the pretrial period were 27% more likely to recidivate within 12 months than low-risk defendants who were released pretrial.²

Another study found that low-risk defendants who were detained pretrial were five times more likely to get a jail sentence and four times more likely to get a prison sentence than their low-risk counterparts who were released pretrial. Medium-risk defendants who were detained pretrial were four times more likely to get a jail sentence and three times more likely to get a prison sentence.³

Research has also indicated that putting conditions of non-financial release on low-risk defendants

actually increases their likelihood of failure on pretrial release. Rather, the most appropriate response is to release these low-risk defendants with no or minimal specific conditions.⁴

Other studies have found that higher-risk defendants who are released with supervision have higher rates of success on pretrial release. For example, one study found that, when controlling for other factors, higher-risk defendants who were released with supervision were 33% less likely to fail to appear in court than their unsupervised counterparts.⁵

These studies, taken together, demonstrate the longer-term implications of not accurately and quickly identifying, and then acting upon to mitigate, defendants' risk.

Another reason to know a defendant's risk score is to make the best use of scarce resources. It is a waste of money to over-condition people who do not need those conditions in order to comply. It is a good use of money to provide supervision in the community to someone who needs it, when compared to the cost of housing, feeding and providing medical care in jail. Supervision can cost \$3 to \$6 per day. The housing, feeding, medical care costs of jail, on the other hand, can cost approximately \$50 or more per day.

What do these tools look like?

A 2011 meta-analysis research study found that most validated pretrial risk tools contain similar risk factors.⁶ Despite some slight differences in wording or weighting in scoring across the tools, these factors fall into one of two categories: "static" factors pertaining to criminal history/system involvement, and "dynamic" factors pertaining to stability/community ties. Factors in these two categories can be predictive of pretrial misconduct, and of the two, research shows the criminal history/system involvement factors are usually the stronger predictors. Table 1 shows factors common to six widely-used tools.

Table 1: Factors in Pretrial Risk Assessment Tools

	Virginia ⁷	Colorado ⁵	Kentucky ⁸	Federal ¹⁰	Florida ¹¹	Ohio ¹²
Current charge	X			X	X	
Pending charges	X	X	X	X		
Previous convictions (misdemeanor and/or felony)	X		X	X	X	
Previous FTA	X		X	X	X	X
Violent conviction	X		X			
Residency (length, ownership, contribute, etc.)	X	X		X	X	X
Employment/student status	X			X	X	X
Current/history of drug or alcohol abuse	X	X		X	X	X
Working phone		X			X	
Age (current or at first arrest)		X		X	X	X
Active warrant		X	X			
Mental health		X			X	
On probation/parole			X			
Education				X		
Citizenship/foreign relations				X		
Marital status					X	
Previously incarcerated in jail or prison		X				X

How are empirically-derived pretrial risk assessment tools developed?

Developing an empirically-derived pretrial risk assessment tool is not typically a “do-it-yourself” project. The only exception would be if the jurisdiction has the requisite research expertise and ample data. So, the first thing that a jurisdiction that is serious about doing its own risk assessment study should do is to identify a qualified researcher.

If the jurisdiction has borrowed a validated tool from another jurisdiction, the researcher will design a methodology for validating that tool for the local defendant population. If the jurisdiction

currently does not use any such tool, the researcher will design a methodology for constructing an empirically-derived tool for the jurisdiction.

Regardless of whether the jurisdiction is validating an existing tool or constructing a new one, the researcher would likely begin by assessing the capacity of the system to produce the data that are needed to conduct the study. The first set of data relates to the outcomes: Was the defendant released during the pretrial period? If so, did the defendant fail to appear for any court dates or get arrested on new charges? For some jurisdictions, data on these basic outcomes can be difficult to capture, so careful attention to gathering accurate data is required.

The next set of data are the factors that need to be tested for their correlation with failure to appear or new arrest. These factors typically include: criminal history; history of appearance in court; existence of any pending cases; any current probation or parole status; the current charge; the defendant's ties to the community (i.e., length of time in the area, time at current address, employment); and substance abuse or mental health issues. Researchers will usually try to test a wide range of such variables for their correlation with risk.

But establishing correlation is only the first step. The methodology will vary depending on whether the researcher is validating an existing tool or constructing a new one, but either way, researchers will then conduct multivariate tests, which will guide them in determining which combination of factors, and which weight to assign to each factor, produces the greatest predictive power.

There are a number of ways to accomplish the development of a locally valid tool. Local universities/researchers may have the capacity to develop a tool at reasonable cost. The US Department of Justice may provide assistance under grant or technical assistance programs.

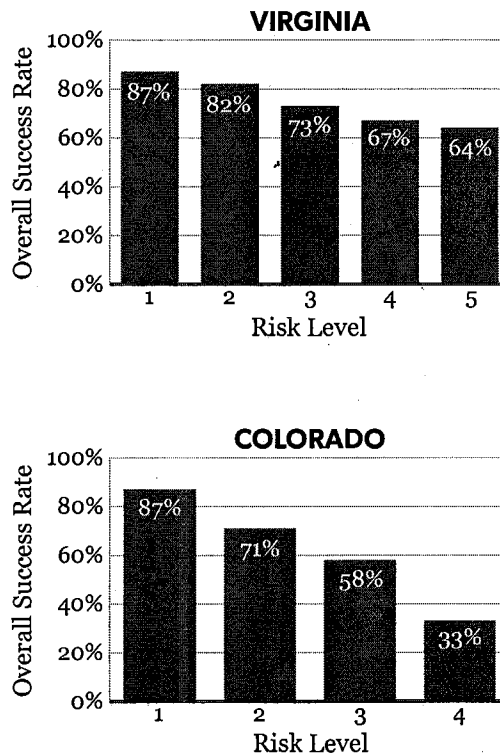
What do pretrial risk tools tell us about typical success rates by risk level?

When a defendant is scored on a pretrial risk tool, that score places the defendant into one of several (usually 3, 4, or 5) risk categories. A statistical likelihood of pretrial success is associated with each risk category. As the defendant's risk score and associated risk category increase, the defendant's statistical chance of pretrial success diminish. Figure 1 shows the overall expected success rates associated with different pretrial risk categories for two risk tools.

How many places are using an empirically-derived pretrial risk assessment tool?

At the turn of the 21st Century, only about a dozen or so local jurisdictions were using pretrial risk assessment tools that were developed using scientifically accepted research standards. However, over the subsequent decade, there was an explosion in the number of jurisdictions that used such tools. Some of these tools are still applicable to only a single local jurisdiction, but others have been developed for multiple localities or for statewide use. For example, there are empirically-derived statewide tools in Virginia, Ohio, Kentucky, Colorado, and an empirically-derived tool used nationwide in the federal courts.

Figure 1: Overall Success Rates



How do we know that empirically-derived pretrial risk assessment tools work?

Numerous studies have shown that empirically-derived pretrial risk assessment tools can accurately differentiate defendants' risk. Jurisdictions that have implemented these tool have reported that released defendants' actual success rates match very closely to the predicted success rates.

Is there such a thing as a universal pretrial risk assessment tool—one that could be used in any jurisdiction?

The Laura and John Arnold Foundation is currently in the final stages of developing such a tool. The tool is based on a study of about 750,000 cases of defendants released during the pretrial period from 300 different jurisdictions around the country. Based on that study, the Foundation has developed the Public Safety Assessment-Court (PSA-Court) tool. A unique feature of this tool is that it can be completed without any information that is typically obtained by interviewing the defendant. For example, there are no factors on the tool related to the defendant's address or employment. The researchers found that including those factors in the tool did not improve its predictive power.

The PSA-Court has two important implications for jurisdictions that are not currently conducting pretrial risk assessment with an empirically-derived tool. First, given that this tool was tested in so many places around the country, any jurisdiction can feel confident that this tool is valid for them. Second, since the tool does not require information obtained from the defendant during an interview, jurisdictions that do not currently have the capacity to interview defendants before the bond-setting hearing need not worry about hiring new staff for this time-consuming purpose.¹³

The PSA-Court tool is currently being tested in several jurisdictions around the country, and should be available, free-of-charge, to all jurisdictions in the near future.

What are the challenges and limitations of pretrial risk assessment?

Pretrial risk assessment tools cannot predict with exact accuracy a specific individual's future behavior. The tools are research-based guides to decisions courts must make. There will occasionally be a few lower-risk individuals who fail on pretrial release, and there will be some higher-risk individuals who succeed. However, these tools provide an objective, standardized way of assessing the likelihood of pretrial failure that research shows produces higher accuracy than subjective assessments by even the most experienced decision makers.

This does not mean that pretrial risk assessment tools should be used in place of professional discretion. The tool produces a score that can help anchor a decision, and occasional deviations, or overrides, can be expected. Nonetheless, overrides should be tracked and analyzed to ensure they are kept to a minimum and that they are not producing more detrimental outcomes.

These tools should be periodically revalidated to ensure their predictive validity. For revalidation to occur, jurisdictions must collect data similar to the data it collected to develop the tool—data on the individual predictive factors and data on defendant processing and outcomes, such as whether they are released pretrial, the quality and quantity of supervision and other release conditions, their pretrial behavior, and the disposition of their case.

Finally, pretrial risk assessment tools only measure defendants' pretrial risk, and they do not measure defendants' treatment or intervention needs that, when addressed, may improve a person's longer-term chances of remaining crime free.

How do pretrial risk tools differ from tools that assess needs or are used post-adjudication?

Pretrial risk tools were developed for a different purpose than were tools that assess needs or that are used to inform post-adjudication sentencing decisions. While post-adjudication needs tools

assess convicted offenders' treatment needs (e.g., social, behavioral) or their long-term risk for recidivism, pretrial risk tools only assess unsentenced defendants' short-term pretrial risk to public safety and/or non-appearance in court; the only two things a court can lawfully consider when making the decision to release or detain pretrial and which release conditions to order for any given defendant. Because defendants are in a different legal status (i.e., unconvicted or unsentenced) than are sentenced offenders, the information on needs and from post-adjudication tools is not legally applicable to the court's decisions about pretrial release/detention and release conditions. Furthermore, a defendant can have high needs (e.g., housing, employment, substance or mental health treatment), but still be low-risk for pretrial failure because research has shown that these "needs" characteristics have low relation to risk of failure during the shorter-term, pretrial period of the defendant's case.

What can stakeholders do?

Criminal justice stakeholders—from elected county officials and sheriffs to judges and prosecutors—are putting research into action by collaborating to ensure their policies and practices match what research shows produces the best outcomes and are the most cost-effective. Over the past few years, jurisdictions have undertaken reviews of pretrial policies and procedures and implemented pretrial risk assessment tools. Some states have revised their statutes to mandate or recommend the use of empirically-derived pretrial assessment tools, while other states have implemented them through court rule. Finally, in some states, pretrial services programs from across the state have collaborated without changes to statute or court rule to voluntarily begin using pretrial risk assessment results as the foundation of the information they provide about defendants to the court.

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TAB 5

**Pretrial System Analysis
for the Second Judicial District Court,
Washoe County, Nevada**

Technical Assistance Report

by
**Barb Hankey
Don Trapp**

June 9, 2015

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Disclaimer

RE: NIC Technical Assistance No. RFQP0700COBO150067

This technical assistance activity was funded by the Community Corrections Division of the National Institute of Corrections. The Institute is a Federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe and just correctional services.

The resource person who provided the on-site technical assistance did so through a cooperative agreement, at the request of the Second Judicial District Court, Washoe County, Nevada, and through the coordination of the National Institute of Corrections. The direct onsite assistance and the subsequent report are intended to assist the jurisdiction in addressing issues outlined in the original request and in efforts to enhance its overall effectiveness.

The contents of this document reflect the views of Ms. Barb Hankey and Mr. Don Trapp. The content does not necessarily reflect the official views or policies of the National Institute of Corrections.

Pretrial System Analysis for the Second Judicial District Court, Washoe County, Nevada

Introduction

This report summarizes the primary findings and recommendations from a pretrial system analysis for Washoe County, Nevada. Heather Condon, Pretrial Services Program Manager acted on behalf of multiple justice system stakeholders in the county to request technical assistance in the analysis of the county's pretrial practices, with regard to its alignment with evidence based practices, and with specific regard to implementing a validated pretrial risk assessment into the decision-making process. It will also include discussions with all stakeholders so as to have clear, measurable, and attainable objectives, such as:

- The type of risk assessment or related criteria to be utilized
- How the risk information will be incorporated into the release decision process
- How will this impact the pretrial services program
- How will this impact the jail population, and related case processing issues

Method

Barb Hankey, Community Corrections manager for Oakland County, Michigan, and Don Trapp, Pretrial Supervision Program Manager for Multnomah County, Oregon provided the technical assistance to Washoe County (See Appendix A for Bios). Jail data, applicable statutes, policies and procedures, related documents and background information were reviewed prior to the on-site visit. The site visit was conducted on May 12 – 14, 2015, during which time meetings with the major stakeholders were held including: Chief Justice of Nevada Supreme Court, County Managers, Washoe County Sheriff's staff, District Attorney's staff, District and Municipal Court Judges, and Public Defenders. In addition, the jail facility was toured with specific attention to the booking and pretrial processes, and defendant's first court appearances were observed (see Appendix B for agenda).

Findings and Recommendations

The findings and recommendations are organized into three groups: an overview of the current system including administrative practices, infrastructure, challenges and opportunities; jail population and process analysis; and specific recommendations regarding pretrial practices and next steps. References are appended to the report, some of which will be referred to in the body of the report; and others that may serve as a resource. Other documents may be cited within the text of the report. The source of information for the recommendations are the federal and state constitutional, statutory, and case law, national pretrial standards from the American Bar Association (ABA) and National Association of Pretrial Services Agencies (NAPSA), and recent empirical research from the social sciences/criminal justice field.

Washoe County Overview

Washoe County, at over 422,000, is the second most populous county in Nevada. Over the past 10 years, the county has experienced a 24% increase in population. In the 10-year period from 1999 to 2008, the county experienced a 25% increase in crime. During that time, the 1265-bed jail was frequently at or over capacity. The past 3 years have seen a downward trend in reported crime, a consistent annual number of bookings into custody, and an average daily population in the jail that is 85% of capacity. Washoe County has operated a pretrial services program since 1989, and in the past 10 years has developed other programs to function as alternatives to incarceration. In addition, Washoe County is served by a Criminal Justice Coordinating Committee and operates several specialty courts that focus on the specific criminogenic risk factors within the defendant population. There is evidence to suggest that the system is operating at the high-end of optimal functioning at this time. This means that incremental changes in crime, bookings, or lengths of stay in custody could cause an imbalance in the system.

However, that balance does not exist around the state, particularly in Clark County, where the 3800-bed facility (recently increased from 2800 due to overcrowding) is often over-capacity. Neither is this balance without its more pressing challenges, such as managing mentally-ill defendants in a specially designated pod at the jail, where mental assessments—or reassessments can take weeks; or defendants held without charge for 72-hours, only to be detained an additional 72 hours or longer. Despite the efforts to address the jail population by Washoe County officials, the management and case processing of pretrial defendants remains an important issue—locally and state-wide.

Recently, the Nevada Legislature, with strong backing from the Chief Justice of the Nevada Supreme Court, is taking up a measure to address this issue. Senate Bill 454 would require the use of a uniform pretrial risk assessment where a court conducts a pretrial risk assessment of a defendant. The measure would require the courts to use this assessment in court proceedings. This is part of an effort by the Supreme Court to examine sentencing practices, including the risk assessments used by the Division of Parole and Probation. This legislation would provide an important tool to ensure that every defendant is objectively evaluated as to their pretrial risk when issues of bail are considered. Further, that the conditions of release would be the least restrictive to manage or mitigate the specific pretrial risk of each defendant. The risk-informed process would prioritize public safety and equity in access and treatment.

If this legislation is passed, the state would have to identify or develop a risk assessment instrument that is standardized and validated for Nevada. This process would require at least 12 months to identify a risk assessment, develop research protocol, collect and analyze data, and develop scoring levels and associated release decision matrix. Washoe County, with its fully functioning pretrial program and coordination among criminal justice partners, is in a position to lead this effort and serve as a model for the state.

Administrative Practices

Criminal Justice Advisory Committee

Washoe County has maintained a Criminal Justice Advisory Committee (CJAC) for over twenty years. The committee meets regularly reviews an impressive range of system data reports. While originally convened to coordinate processes and activities across the county criminal justice system, in recent years its charter has narrowed with a goal “to effectively and efficiently

manage the jail population.” These coordinating committees can be very effective in aligning system practices to achieve harm reduction and maximize available resources. They function most effectively when agency heads are engaged in policy teams to examine current practice with regard to their actual impact and the supporting empirical evidence.

Diversion/Specialty Courts

Washoe County operates a wide range of specialty or diversion courts, which are focused on specific risk areas. These programs include: Family Drug Court, DUII Court, Re-entry Court, Drug Court, Misdemeanor Court, Veterans Court and Mental Health Court. The Court provides successful defendants a number of considerations from dismissal of charges to reduced incarceration and a reduction in the level of conviction. No data on the number of participants in each program or outcome data was available.

Specialty courts can facilitate the entry of defendants into appropriate “tracks” or programs, which can greatly impact case processing in a system. The Court’s consideration of sentencing alternatives, e.g. dismissal, can provide the initial motivation to engage defendants into these programs. However, sentencing alternatives must be viewed with respect to their viability. Specifically to diversion or specialty courts, are these programs successful in real crime reduction. Despite the variance in the structure and function of programs both within and across jurisdictions, there are principles of effective intervention to which successful programs adhere. These are the principles of risk, need, and responsivity:

- Risk: Programs assess potential candidates as to their level of risk and appropriateness for the program. The program should focus on high and medium risk defendants. Lower risk defendants, if included, should be managed separately and differently based on their level of risk.
- Need: Program curriculum and administration should focus on the assessed criminogenic needs of the defendants. Prescriptive programs that do not focus on these needs or have variance for levels of risk are not effective interventions.
- Responsivity: The delivery of treatment service must be cognitive-behaviorally based, taking into consideration the special needs and differences within the subject population including: gender, ethnicity, and motivation. Reliance on drug/alcohol education and 12-step models are contraindicated.

Finally, outcome data should be collected and analyzed to assess the performance of these programs, both in regard to general effectiveness, and a review of who (and why) some subjects are not successful.

Pretrial Services

Washoe County maintains a fully functioning and high performing pretrial services program providing assessment, release recommendations, and pretrial supervision, in addition to a number of ancillary services including the completion of an affidavit of indigency. The 15-staff program manages an average daily caseload of over 1000 defendants, and completes over 500 pretrial assessments per month. Pretrial supervision manages over 8000 defendant check-ins per month, approximately 8 per defendant per month. Pretrial Services maintains a station in the jail’s open booking area, and has a presence in the arraignment/bond hearings. Outcome data for the past 6 months indicate a commendable 79% successful closure rate, which includes: 8.26% FTA rate, 9.46% Revocation rate, and a 2.8% Re-arrest rate.

However, the commendable performance of the Pretrial Services Program must be viewed with respect to the fact that less than 30% of pretrial defendants are assessed. Of the 70% who are not assessed, 45% are released pretrial. The performance of those defendants on pretrial release is not known. Further, Pretrial Services is currently utilizing a subjectively weighted scale of pretrial release criteria (outlined in statute) and not a validated risk assessment in conducting pretrial reviews. The courts have established eligibility criteria for pretrial release, effectively limiting the number of defendants eligible for pretrial screening. Thus, the 30% of defendants eligible for screening, of which 69% are released, represent the system's tolerance for risk. It must be noted again that 45% of the defendants not screened by Pretrial Services are released pending trial. This raises the question of by what criteria do these defendant gain release and how do they perform with regard to re-arrest or failure to appear.

The use of a validated risk assessment, as supported by the Chief Justice and recommended in legislation under consideration, would provide the means to make valid distinctions between high and low risk defendants across the range of defendants and charges. A validated assessment would provide the court with objective, risk-informed release recommendations, including conditions or levels of supervision that are the most targeted, yet least restrictive, to manage the defendant's risk if released. There was general consensus among the stakeholders that more complete information is provided at the defendant's initial appearance. A discussion of standards for pretrial services programs follows. A risk-informed process would not only be more valid, but more efficient in terms of having a pretrial assessment at the earliest court appearance.

Expanding the pretrial process to include a full assessment and release recommendation on a larger percentage of defendants would be more than an incremental increase in workload. The expansion of services would have to be part of a deliberate effort to ensure that all pretrial releases were the result of careful assessment and the full range of release options were available. While there are some efficiencies to be gained through examining the structure of pretrial supervision, this could not be done without further investment into Pretrial Services.

Jail Analysis

Washoe County operates a 1351-bed jail facility, 1265 functional capacity, which receives an average of 20,822 bookings annually. The jail utilizes an open booking model, that includes stations for pretrial and medical. While beyond the scope of this assessment, the jail's operations appeared quite efficient, professional and orderly. The jail analysis presented here is a cursory review allowing for the identification of major trends and characteristics. The jail's population is a barometer for general system practices, including charging, booking, detention/release, and sentencing. Jail data were provided by the Washoe County Sheriff's Office, with additional information available through minutes of the CJAC meetings.

In terms of utilization, the jail's 1265 functional capacity and 20,822 average annual bookings could be effectively managed within an average length of stay (LOS) not exceeding 22.17 days. According to data reported to CJAC, the March 2015 average LOS was 14.02. At that rate, the Washoe County Jail is utilizing 65% of the maximum available jail bed days. This is consistent with an average daily population (1077 over the past three years) that is 85% of rated capacity. Optimum capacity is generally considered to be between 90 – 95% depending on

facility size and number of bookings. Optimum capacity provides that the facility can effectively administer a classification system to ensure the safety and security for all inmates and staff. At 90%, or 1139 beds, maximum utilization for Washoe County would occur when the average LOS equaled 19.95. The current level of utilization is sustainable and can withstand modest increases or variance in either the number of bookings or the average length of stay.

Data were provided on all releases from the Washoe County Jail by type covering the period 6/1/14 to 5/31/15. A review of these data allowed for the estimate of the pretrial release rate, and the dynamics of the inmate population. A total of 20773 inmates were included in the data (99.76% of the annual average bookings). Inmates that were transferred to other facilities or jurisdictions, excluding prison transfers, comprised a relatively low 6.36% (1322 inmates). These were excluded from estimates of release and detention rates, as they are generally outside the normal process. This resulted in a subtotal of 19451 inmates.

The analysis indicated that 54% of pretrial defendants are released pending disposition of their cases (average. Recognizance release is exercised in 56% of the cases, and bond is used in 44% of these cases. While the average lengths of stay vary by type, the range is not large and follows predictable trends. For example, defendants sentenced to prison would be expected to remain in custody the longest (96.75 days), where defendants released on their own recognizance would be expected to have the shortest stay (1.4 days). Inmates release to prison can be considered a proxy measure of the highest risk defendants. The data indicate this is a relatively low percentage (5.4%). The vast majority of sentenced defendants (69.8%) were released time served, and their average length of stay was relatively short (23.39 days). This could relate to the practice of defendants being released after pleading, but prior to sentencing.

Release and Detention Practices, 2014 - 2015 (data from Washoe County Sheriff's Office)

TYPE OF RELEASE	NUMBER	PERCENT	Avg. Length of Stay
<i>Total Inmates = 19451</i>			
Pretrial	10506	54%	10.58 Days
Court Services OR	2701	13.88%	1.4 Days
Judge OR	3188	16.3%	19.77 Days
Bail/Bond	4616	23.73%	5.45 Days
Sentenced	6197	31.85%	21.9 Days
Time Served	4328	22.25%	23.39 Days
Prison	1050	5.39%	96.75 Days
Dismissed	564	2.89%	23.76 Days
Time Pay (fines)	518	2.66%	6.51 Days
Judge Release	1348	6.93%	14.27 Days
Total	19451	93.74%	13.64 Days

Mentally Ill Defendants:

Washoe County, like many jurisdictions around the country is struggling to manage the population of mentally ill persons who become involved in the criminal justice system. There is a lack of community-based resources and there is only one residential program for persons committed by the court. That facility is not secure and not staffed or equipped to handle residents who may be in crisis or are acting out. In those situations, police are called to respond and extract the resident from the facility. These are high risk situations for both the police and the resident.

In terms of case processing, there is also a considerable wait time to be evaluated for competency by a state-certified examiner. At the time of this report, there were 18 defendants waiting for an evaluation. In response, the Washoe County Jail has allocated a pod for use as a Mental Health Unit. At the time of this report there were 51 inmates in that unit. In addition, the Nevada Legislature is considering a bill, SB 10, which would allow for jail-based mental health treatment. The source of sustained funding for that treatment remains unclear.

Despite the laudable goal of providing a safe, custodial setting and jail-based mental health treatment, efforts should be focused on developing community-based resources that effectively divert mentally ill persons from the criminal justice system. The current model imposes physical and legal barriers for persons with mental illness to return to the community. Moreover, it does not lessen the need for a range of community-based treatment and related services. It is this lack of community-based resources that makes the current model necessary.

The treatment of criminally-involved, mentally-ill persons lies along the continuums of both the criminal justice and mental health treatment systems. A collaborative effort that effectively triages subjects for appropriate placement in services based on their risk and needs will yield the most positive, long term benefits. Efforts to develop resources for community based treatment, with coordinated case management from both systems, and facilitated access are recommended. Additionally, the development of a crisis triage center, where persons experiencing acute symptoms or acting out can go for stabilization, instead of jail, is strongly recommended. This will improve the safety of subjects, staff, and law enforcement.

Recommendations

The following recommendations are presented to provide a framework from which the stakeholders in Washoe County can work in order to address issues surrounding pretrial services and case processing. Included in the recommendations are sources of contact for further information on each subject.

As with any agency, Washoe County faces challenges and opportunities within their criminal justice system. These challenges and opportunities are identified below as they set the context for the recommendations which follow. The following themes will be referenced repeatedly; collaboration, information sharing, data driven decision making and outcome focused measures. These are structures and characteristics that will serve to strengthen the relationships between stakeholders and that will be necessary to improve and guide decision-making.

- **Coordination and collaborative decision-making:** ongoing criminal justice issues, from arrest to disposition, should be overseen by a coordinating committee. This committee should be comprised of stakeholders from across the system, Court, Sheriff, District Attorney, Public Defenders, Pretrial/Probation, and Court Administrator. The committee should be charged with overall justice system practices and policies. Accordingly, committee members should be able to make policy decisions, or otherwise represent their agency. Operational committees, working groups, special projects, etc. should all be chartered by this group. The purpose would be to ensure that all proposed policy changes are examined for their potential impact on other system partners and resources.
- **Data driven decisions:** Policy decision impacting the system should be based on available data as to their impact and efficacy. The above referenced steering committee as well as agency heads should regularly examine data related to their agency's performance and impact on the system. Data should be used to develop benchmarks from which programs and policies may be evaluated. Measurement and the means to gather, maintain, and report data should be included in all policy/program discussions.
- **Outcome Measures:** Related to data-driven decisions. The County's agencies utilize a variety of information systems to manage individual programs. However, there is a consistent lack of major outcome measures that are entered or reported. These are central to an understanding of how well a program or policy functions, and how to address performance issues. Data entry of outcomes is a necessary, but insufficient first step. Outcomes and strategies to maintain or improve them must become part of the culture of the organization---from the County Commissioners, to agency heads, to program supervisors. This culture helps to ensure that all business practices are focused on improving both service delivery and improving outcomes. This promotes effective use of resources and public accountability. The Criminal Justice Advisory Committee should work to define what these outcome measures are, how will they be measured, and by whom (see Measuring What Matters in References). These data should be developed to answer specific questions regarding program effectiveness, resource utilization, and service delivery.

1. Revise the charter of the Criminal Justice Advisory Committee.

The Criminal Justice Advisory Committee has been an important force for change and for the coordination and delivery of criminal justice services in Washoe County. It is recommended that the charter for this committee be expanded to include policy review and development across the system, requiring the presence of all agency heads. Additionally, the committee should adopt a decision making model that is firmly supported by data and informed by the research in effective interventions. Specific issues or areas, such as pretrial services, can be addressed through the formation of smaller committees. Recommendations and / or solutions are then presented to the full CJAC for passage and implementation. The documents *Guidelines for creating a Criminal Justice Coordinating Council* by Robert C. Cushman (2002) and *Keeping your Criminal Justice Coordinating Council Going Strong* by Michael R. Jones (2013) are both excellent sources of information for CJACs.

2. The CJAC should develop benchmarks, performance measures and objectives for the criminal justice system.

The CJAC should be focused on policy-level issues, which matches well with member qualifications and positions. In order for the members to effectively evaluate the impact of policy on local systems, empirical data is needed. The system needs to know “where it is” and “where it wants to go” before policy decisions are made. The use of empirical data to drive decisions helps to ensure that anecdotal and politically charged decision-making is kept to a minimum. The CJAC should craft objectives for the system which are designed to achieve required and agreed upon outcomes. These might include objectives such as maintaining the jail population at to particular target number or reducing recidivism by a certain percentage. In order to achieve these objectives the CJAC needs to establish clear, specific, and transparent baseline and performance measurements. These measures may include but certainly are not limited to:

- number of cases by case type;
- number of pending cases;
- age of pending cases;
- number of cases at different stages in the case processing continuum;
- number of cases that proceed or "fall out" by decision point;
- number and type of dispositions by case type;
- number and type of release decisions by case type;
- average sentence length;
- number of probation revocations for technical violations and for new offenses;
- number of bench warrants issued or failures to appear;
- number of continuances;
- length of time between initial appearance and disposition by case type.

For more information on setting performance measures, determining outcomes and establishing objectives see *Evidenced Based Decision Making: A Starter Kit & Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field* both published by the National Institute of Corrections.

In addition, CJAC should consider the development of a “data warehouse” for program and system measures. Questions or concerns often arise after data tracking measures or reports are developed. The data warehouse would serve as a system-wide resource to answer these questions. Issues such as minority overrepresentation, special offense categories such as domestic violence, firearms, or driving under the influence, or special indicators such as: gang affiliated, mental health issues, etc.

3. Adopt and implement a pretrial risk assessment

Knowing the risk a defendant poses to the community is essential for a judge to make a sound release / detention decision. NRS 178.4853 (1-10) lists factors that a judge must take into consideration when setting bail. However, the statute does not indicate how these factors are linked to pretrial misconduct or if one factor may be more predictive than another. While these factors must be taken into consideration that doesn't mean they are all predictive of pretrial misconduct. Risk assessment research has now identified those factors that are most associated with pretrial failure. These factors have been turned into pretrial assessment tools that determine the probability a defendant will return to court and remain arrest free during the pretrial period. These probabilities are assigned levels which assist in identifying basic risk categories of defendants:

- a) Low risk defendants that can be safely released into the community pending trial without additional interventions.
- b) Moderate risk defendants whose risk can be minimized through the use of appropriate release conditions, community resources, and / or supervision
- c) High risk defendants for whom no condition or combination of conditions can reasonable assure the safety of the community or appearance in court, and need to be detained pending trial.

Implementing a pretrial assessment has substantial benefits for the criminal justice system. It increases the public safety by assuring that those defendants who pose a danger to the community are detained. Additionally, specialized assessments for specific risk issues, e.g., domestic violence, mental illness, etc, can be utilized to further assist in release decision-making and supervision (See an example of a domestic violence assessment in Appendix E). It can help manage the jail population by identifying defendants that do not need to be detained, thereby more effectively using scarce jail beds. It reduces disparity in bail decisions for similarly situated defendants and it helps to advance a release / detention decision that is based on risk rather than socio-economic status.

There are many pretrial assessment tools within the public domain that could be adopted for use by Washoe County (see Appendix C for example). Washoe County also has the option of contracting with a researcher to develop their own pretrial risk assessment tool. Any tool selected should be validated on the local population to ensure that the tool is predicting pretrial misconduct within probability percentages acceptable to Washoe County. A comprehensive sample of risk assessment tools may be viewed on the Pretrial Justice Institute (PJI) or the National Criminal Justice Association (NCJA)

websites at www.Pretrial.org/solutions/risk-assessment/ or www.ncjip.org/pretrial/risk-assessment-instruments-validation respectively.

4. Expand the pretrial interview to include all bail eligible defendants

Standard 3.3 (a) of the National Association of Pretrial Services Agencies (NAPSA) indicates “*In all cases in which a defendant is in custody and charged with a criminal offense*, (emphasis added) an investigation about the defendant’s background and current circumstances should be conducted by the pretrial services agency or program prior to a defendant’s first appearance in order to provide information relevant to decisions concerning pretrial release that will be made by the judicial officer presiding at the first appearance.” The application of the NAPSA Standards, and any resulting policy recommendations must of course be consistent with applicable state statutes.

NRS 178.484 (1) indicates that “a person arrested for an offense other than murder of the first degree must be admitted to bail.” Section (4) goes on to say that “a person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.” Therefore virtually every person booked into the Washoe County jail is bail eligible and should be afforded a pretrial interview and risk assessment. The pretrial program is not currently conducting an assessment on all bail eligible defendants. Every attempt should be made to assess any defendants that are statutorily eligible for release. Providing judicial officers with information pertaining to the defendant’s risk for pretrial misconduct allows for better release / detention decisions to be made. Providing this information on all defendants, at the earliest possible time, ensures that unnecessary detention (which can lead to jail crowding) is avoided.

5. Discourage the use of financial bond

NAPSA Standard 1.4 (a) indicates that “each jurisdiction should adopt procedures designed to promote the release of defendants on personal recognizance.” Standard 1.4 (c) goes on to say that “Release on financial conditions should be used only when no other conditions will provide reasonable assurance that the defendant will appear for court proceedings. *Financial conditions should never be used in order to detain the defendant*” (emphasis added). Research has shown that financial bond does not affect public safety or court appearance but does have a substantial effect on jail bed use. Two-thirds of the nation’s jails are filled with pretrial defendants many being detained not because they pose a threat to the community, but because they cannot afford to post even a few hundred dollars. When a defendant is unable to post a financial bond and remains in jail, the cost of their detention is the sole responsibility of the county. In addition there are other negative consequences to the use of financial bond.

The research “shows that defendants detained in jail while awaiting trial plead guilty more often, are convicted more often, are sentenced to prison more often and receive harsher prison sentences than those who are released during the pretrial period. These relationships hold true when controlling for other factors, such as current charge,

prior criminal history and community ties.”¹ Further low risk defendants who are held pretrial for as little as 2-3 days are 40% more likely to commit a new crime before trial and 22% more likely to fail to appear than those held no more than 24 hours. The longer low risk defendants are held, the more intense the effect. Those held 31 days or more are 74% more likely to commit new crimes pretrial and 31% more likely to fail to appear. The negative effects of pretrial detention also carry forward to long term recidivism with those defendants being up to 51% more likely to recidivate post adjudication. By holding low risk defendants simply due to their socio-economic status the system, albeit unwittingly, is contributing to community harm.

But perhaps most importantly, the use of financial bond takes the detention / release decision away from the judge and places it with a third party. The defendant’s continued detention or release is decided by someone outside of the criminal justice system. The definition of who is a “good risk” for these third parties often greatly differs from that of the criminal justice system. This discrepancy can lead to the release of dangerous criminals while those who pose minimal risk are detained. Limiting the use of financial bond and determining released based on risk, through a pretrial assessment, reclaims that judicial decision making authority.

On a final note, the Department of Justice filed a *Statement of Interest* on February 13, 2015 in the case of *Varden v. City of Clanton*. The Statement supports the use of fair, individualized determinations for release based on risk of dangerousness and flight and calls the constitutionality of fixed bail schemes that rely solely of the defendant’s ability to pay into question.

6. Develop supervision strategies based on risk

The pretrial assessment tool will identify defendants who fall into the probability of low, moderate and high risk. In keeping with the “risk principle” of evidenced based practices supervision strategies should match the level of risk posed by the defendant. This means prioritizing supervision and treatment services for the higher risk defendants. This would include the frequency with which defendants are required to check-in. Not all risk levels require the same amount of supervision, and in fact research shows that over-supervision of low risk defendants can increase recidivism. Washoe County should consider differential levels of supervision where the frequency of contact is driven by the level of risk.(See Appendix D for an example of a pretrial case management matrix)

Conditions of bond should also be the *least restrictive* while achieving the pretrial goals of court appearance and remaining arrest free during the pretrial period. Managing risk is not about the number of conditions imposed, but rather the appropriateness and efficacy of those conditions. Moderate to high risk defendants are appropriate for supervision if the risks they pose can be mitigated through appropriate interventions. A discussion of pretrial conditions and their efficacy can be found in the document *State of the Science of Pretrial Release Recommendations and Supervision* (VanNostrand, Rose,

¹ *Rational and Transparent Bail Decision Making: Moving From a Cash-Based to a Risk-Based Process*, (PJI / MacArthur Foundation.2012).

Weibrech, 2011). While more research needs to be done regarding conditions of release, the research does show that the one of best way to increase court appearance is through court reminder notifications. Pretrial should incorporate court reminder notices / calls for all defendants on supervision as a way to combat fail to appear. Expanding the use of electronic monitoring, especially for high risk defendants who might not otherwise gain release, should also be explored.

The implementation of the risk tool may result in an increased number of defendants being placed on supervision. Incorporating differentials levels of supervision may assist in managing caseloads but pretrial supervision may require more staff as demand for their services increases.

7. Develop and communicate the process for handling violations of pretrial supervision.

Policies and procedures governing pretrial supervision practices should be developed and communicated across the stakeholders. This should include the release recommendation guidelines (or matrix) based on risk, special considerations for specific risk issues, e.g., domestic violence, mental illness, etc., contact standards and expectations, and response to violations. Clarity in these practices will improve the consistency in their application and increase confidence in their administration.

In addition, as the rate of pretrial revocations exceeded the FTA rate, this practice warrants further examination as well. Pretrial misconduct is generally comprised of two categories; failing to appear and being arrested or alleged to have committed new criminal behavior while on release. Most agencies have policies dictating how defendants with these types of misconduct are to be handled. However, supervision agencies must also deal with a third type of behavior; technical violations. A technical violation occurs when the defendant fails to comply with a condition of release such as failing to check-in as directed, or having a positive drug test. Many agencies struggle with how to handle technical violations. The reasoning behind this struggle is often posed through a question; if a defendant is appearing in court as directed and has not engaged in new criminal behavior (the two stated purposes of bond) should a technical violation matter?

Of course each jurisdiction must answer this question for themselves. Standard 4.3 (a) of the NAPSA indicates that, "The selection of an appropriate sanction for violation of conditions should take account of the seriousness of the violation, whether it was "willful", and whether what the defendant did (or failed to do) actually impaired the administration of the court or heightened a risk to public safety". In reply to this standard many jurisdictions have begun to develop violation response guides. These guides list the types of violations and the possible sanctions that could be imposed for the differing violations. The key to making these response guides work, is the policy that is developed in conjunction with the guide. The policy addresses details such as who may give the sanction, under what circumstances sanctions are given, who receives notification of sanctions and when revocation or warrant is appropriate. Some jurisdictions give pretrial services limited authority in determining sanctions for low level

violations. Often referred to as an “administrative sanctions”, this method allows for a swift response to a violation without the use of expensive resources like jail and court time. Jurisdictions need to be thoughtful about policy that requires the incarceration of defendants solely for technical violations. This practice can lead to unnecessary detention of defendants and jail crowding.

8. Define and develop the coordination of pretrial supervision between Pretrial Services and the Department of Alternative Sentencing.

Pretrial supervision in Washoe County is currently conducted by two agencies. Consistent with the recommendations above, guidelines for supervision by risk level should be developed to include the coordination between the Pretrial Services Program and the department of Alternative Sentencing. There is an opportunity to utilize the strengths of each program to provide a full continuum of risk-based supervision that will minimize duplication of efforts and maximize available resources while ensuring positive outcomes.

9. Administrative Practices with regard to Pretrial Services

Administrative practices can in some cases, albeit unintentionally, contribute to jail crowding, delays in case processing or inefficiencies / inequities within the system. The following administrative practices are brought to your attention as they may warrant consideration in the future.

- Currently defendants are ordered to pretrial supervision via a court order. However many conditions of release are subsequently determined by Pretrial Services. Absent specific statutory authority, this practice is vulnerable to challenge. In the case *People v. Rickman*, 178 P.3d 1202 (Co.2008) the court found that the setting of bail conditions is part of the court’s judicial function and as such may not be delegated to another party even with their consent. NRS 178.484 (11) indicates that the “court” may impose reasonable conditions on a defendant prior to their release as deemed necessary. No statutory authority for Pretrial Services performing the function could be found.
- There is an order from the Reno Municipal Court dated January 22, 2015 indicating that Washoe County Pretrial Services may not release defendants who are charged with certain offenses on their own recognizance. While current charge has been shown to be predictive of pretrial misconduct in several risk assessments, it is not the only factor. As Washoe County moves to implement a pretrial risk assessment tool, this order may warrant reexamination. Moving the emphasis from charge, to level of risk, will as the order indicates “...adequately protect the health, safety and welfare of the community and/ or the nature and seriousness of the danger to alleged victim(s) of crime and good cause appearing.”

References and Resources

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Appendix A

Bio for Don Trapp

Don Trapp is the manager for the Pretrial Supervision Program in Multnomah County, Oregon. He has worked in community correction in Oregon since 1988, and is an Associate Faculty of Criminal Justice at Portland State University. He has served as the Project Manager for the Department of Community Justice's evidence-based practices initiative, and continues to provide training to staff in Multnomah and other Oregon counties on evidence-based case management practices. Don has served as a consultant with the Crime and Justice Institute and has provided technical assistance to local jurisdictions through the National Institute of Corrections. Don has a Master's Degree in Psychology from Portland State University, has conducted workshops and provided trainings for corrections agencies on implementing evidence-based practices, managing offender risk, and organizational change and development, and is the author of several papers in these subjects.

Bio for Barb Hankey

Ms. Hankey started her career in criminal justice in 1988 with Oakland County Pretrial Services. While there she worked as a line staff investigator interviewing felony and misdemeanor defendants within various secure settings. In January 1993 she took the position of Chief Probation Officer for the Troy District Court. She rejoined Pretrial Services in 1995 as the Supervisor; she was promoted to Chief of Field Operations for Community Corrections and currently holds the position of Manager for Community Corrections.

Ms. Hankey's experience includes the development, design, and implementation of programs which act as alternatives to incarceration. She also has expertise in the area of pretrial services, and has spoken on these topics at many state, local, and national conferences. Ms. Hankey has been an instructor with the American Jail Association (AJA), the National Institute of Corrections (NIC), and has acted as a consultant for the Pretrial Justice Institute. Ms. Hankey is a member of the National Association of Pretrial Service Agencies, American Probation and Parole Association, and the NIC Network for Pretrial Executives.

Ms. Hankey earned both her Bachelor of Arts Degree and her Master's in Administration from Central Michigan University.

Appendix B

Agenda for Washoe County Site Visit May 12-14, 2015

05/12/15 (T)	Department	Representative Name(s)
0800 - 0845	District Court (DC)	Pretrial Tour (Courts) / Meet & Greet
0900 - 0950	Pretrial (Jail) – (PRT)	Tour – Jail, Booking, PRT (@ WCSO)
1000 - 1050	Reno Justice Court (RJC) ARR	RJC - Video Arraignments (@ WCSO)
1100 - 1150	Washoe County Sheriff's Office (WCSO) / Research & Develop. (R&D)	WCSO Rep., Shannon Hardy, Karen Burch (@ WCSO)
1300 - 1350	DC	Judge Sattler, Judge Stiglich, Jackie Bryant
1400 - 1450	Alternate Public Defender's Office (APD)	Jennifer Lunt
1500 - 1550	Public Defender's Office (PD)	Jeremy Bosler, Ryan Sullivan
1600 - 1650	RJC	Judge Pearson, Steve Tuttle, Tami Neville

05/13/15 (W)	Department	Representative Name(s)
0800 - 0830	DC – Court Tech	Craig Franden
0830 - 0950	DC ARR	Dept. 8 – Court docket (Judge Stiglich)
1300 - 1350	Reno Municipal Court	Judge Howard, Cassandra Jackson (@ RMC)
1400 - 1450	Sparks Municipal Court	Judge Barbara McCarthy (telephone conference)
1500 - 1550	Sparks Justice Court	Judge Wilson, Anita Whitehead
1600 - 1650	District Attorney's Office	Bruce Hahn

05/14/15 (TH)	Department	Representative Name(s)
0900 - 0950	Assist. County Manager	Joey Orduna Hastings (9 th & Wells, Building A)
1000 - 1050		Debrief
1200 - 1300	CJAC - All Stakeholders	Wrap up – NIC Presentation (Dept.10)

Appendix C

REVISED VIRGINIA PRETRIAL RISK ASSESSMENT TOOL

Risk Factor	Criteria			Assigned Points	Score
1. Charge Type	If the current offense is a drug offense (MCS, DCS, PCS, including attempts) or is an offense charged under ORS Chapter 166 or 181.			1 Point	
2. Pending Charges	If the defendant had one or more charge(s) pending in court at the time of arrest.			1 Point	
3. Outstanding Warrant(s)	If the defendant had one or more warrant(s) outstanding in another locality for charges unrelated to the current arrest.			1 Point	
4. Criminal History	If the defendant had one or more misdemeanor or felony convictions.			1 Point	
5. Two or more Failure to Appear Events	If the defendant had two or more failure to appear events.			2 Points	
6. Current Residence	If the defendant has had three or more address changes in the past 12 months.			1 Point	
7. Employment	If the defendant is employed, in school, or otherwise engaged as a primary caregiver for a child for less than 20 hours per week.			1 Point	
8. History of Drug Abuse	If the defendant has a history of drug abuse.			1 Point	
SCORE					
Risk Score	0 - 2	3 - 4	5 - 6	7 - 9	
Appearance Rate	92%	87%	75%	48%	
Safety Rate	100%	93%	93%	89%	
Success Rate	82%	70%	59%	26%	
Presumptive Release Decision	Release on Recognizance	Release to PRS		Refer to PRS	Detain
Risk Level	Low	Medium		High	
Supervision	None	Basic Monitoring		Pretrial Supervision	
		-Phone Reporting -Check-in physically after court appearances -LEDS Monitoring -Case management meetings as needed		Phone Reporting weekly -Check-in physically after court appearances -LEDS Monitoring -Case management meetings as needed -Substance testing if ordered -Electronic monitoring -Home/field visits	

ASSESSMENT:

The defendant's risk score of ____ is consistent with defendants with a success rate of _____ and safety rate of _____. The defendant's criminal history includes ____ (similar, varied, unrelated) offenses in the past 3 years and _____ lifetime. The defendant has ____ prior FTA's in the past 3 years, and _____ lifetime.

Factors to consider indicating the possibility of violations if released:

RECOMMENDATION:

Defendant be released on their own Recognizance

Defendant be released to Pretrial Release Services, with the following special conditions:

- _____
- _____
- _____

Defendant be referred to PRS for further investigation, e.g., establish victim safety plan, verify alternate housing and/or treatment resources,

Release be denied. It does not appear any conditions of supervision would be adequate to assure that the defendant would comply with the terms of pretrial release.

Pretrial Case Manager

Date

Appendix D
Pretrial Services Program
RISK/NEEDS CASE MANAGEMENT MATRIX

RISK LEVEL	DEFENDANT ABILITY TO MANAGE BEHAVIOR	RECOMMENDED SUPERVISION STRATEGY
HIGH Scores 8 – 9 on Revised VPRA	LOW <u>Recommend</u> <u>Detained in Custody</u>	<u>RISK CONTROL:</u> Monitoring of required activities to mitigate risk, including: Electronic Monitoring, MII medication, Treatment, case managed housing, victim contact. (home/community/office) weekly Face to face contacts
MEDIUM Scores 5 – 7 on Revised VPRA	MODERATE Conditionally Release	<u>SUPERVISION:</u> Reporting via phone (weekly), collateral contacts Monitoring of A & D use, or other prohibited activities
LOW Scores 0 – 4 on Revised VPRA	HIGH Presumptively Release	<u>MONITORING:</u> Reporting via phone (bi-weekly) Report in person after court

PSP

RISK/NEEDS CASE MANAGEMENT MATRIX

The PSP Case Management matrix is intended as a guide to developing and administering supervision to pretrial defendants. The following will provide operational definitions for the matrix as well as conditions under which the case manager should modify the supervision strategy.

Definitions:

Risk Level: The assessed risk of pretrial misconduct based on the results of the revised-VPRA.

Defendant Ability to Manage Behavior: Assessment of factors indicating the defendant's ability to manage his/her own behavior in the community, including the extent of supervision and or support. These factors may provide the basis to over-ride the risk tool. These factors may change during the course of pretrial supervision, which may require modifications to the supervision plan. These factors may be pro-social or pro-criminal, and include:

- Current/Chronic alcohol/drug issues
- Mental Health Issues (and extent to which they are currently being treated)
- Family/Social support
- Score on the ODARA (for DV Cases)
- Demonstrated propensity for violence
- Proximity/access and relationship to victim
- Issues regarding housing that significantly impact (positively or negatively) the defendant's ability to abide by release conditions
- Personality issues, Physical/medical issues, degree of impulsivity, maturity, etc., that may impact ability/willingness of defendant to comply with release conditions

Recommended Supervision Strategy: These are strategies that should be considered given the level of risk and the ability of the defendant to manage their own behavior in the community. It is not an exhaustive list; nor is it a required list of conditions.

- **Reporting Requirements:**
 - The purpose of reporting generally is to
 - Verify that the defendant is physically within the jurisdiction, and thus able to comply with the conditions of release
 - Verify that the defendant resides where he/she reported they would, that the residence is appropriate, and that the defendant is able to comply with all release conditions while residing there
 - Facilitate the monitoring of other conditions such as, taking prescribed MH medication, abstaining from alcohol and/or drugs, curfew, or Treatment attendance
 - The mode of reporting, phone, office, home, etc., should be commensurate with the defendant's level of risk and be the most appropriate to accomplish the above purpose(s).
 - Contact standards for pretrial defendants are one (1) contact per week, generally by phone. Exceptions may be made for higher risk or special cases.

Appendix E

ONTARIO DOMESTIC ASSAULT RISK ASSESSMENT – FORM*

3/2007

Score 1 if 'yes' Score 0 if 'no' Score 'MI' if missing item

- _____ 1. Before this time, have police ever come because he was assaulting the victim (or threatening with a weapon) victim's children, his children, or his former partner?
- _____ 2. Before this time, have police ever come to deal with him for any other kind of violence?
- _____ 3. Before this, has he ever been sentenced to prison or jail for at least 30 days, even if he didn't serve the whole time?
- _____ 4. Has he ever had bail, probation, parole, or a no-contact, AND disobeyed the conditions?
(PROMPT: fail to turn up, breach probation, break the law again, violate the "no-contact" order)
- _____ 5. This time, did he threaten to harm or kill the victim or anyone else?
- _____ 6. This time, did he do anything to prevent the victim from leaving the location?
(PROMPT: lock the doors, take her car keys, hold onto her)
- _____ 7. Is victim concerned that he will assault her or the children in the future?
- _____ 8. How many children does the victim have? How many does he have?
(include minor or adult children: biological, step or adopted; living anywhere)
score 1 if there are at least 2 children together
- _____ 9. Does the victim have any children from relationships before this partner?
- _____ 10. Is he violent to people other than the victim and the children?
(PROMPT: fights with, hits, even if no police come)
- _____ 11. SUBSTANCE ABUSE: ask these questions until the second 2nd 'yes' response then score 1 for this item
- a. Did he consume alcohol immediately before or during the index incident?
 - b. Did he use drugs immediately before or during the index incident?
 - c. Did he abuse drugs and/or alcohol in the days or weeks, prior to index incident?
 - d. Did he noticeably increase his abuse of drugs and/or alcohol in the days or weeks, prior to index incident?
 - e. Has he been more angry or violent when using drugs and/or alcohol prior to the index incident?
 - f. Has he consumed alcohol before or during a criminal offence prior to the index incident?
 - g. Has his alcohol use prior to the index but since age 18 resulted in some problems or interference in his life?
 - h. Has his drug use prior to the index but since age 18 resulted in some problems or interference in his life?
(PROMPT: for "problems" **THAT HAPPEN AS A RESULT OF SUBSTANCE ABUSE:** financial problems, job loss or job problems, loss of relationships or relationship problems, trouble with the law, health problems, withdrawal symptoms, or inability to stop or decrease use)
- _____ 12. Has he ever assaulted the victim when she was pregnant?
- _____ 13. VICTIM BARRIERS TO SUPPORT: ask these questions until the first "yes" response then score 1 for this item
- a. Does the victim have children at home aged 18 or under?
 - b. Does the victim live in a home with *no* phone?
 - c. Does the victim live where there is *no* access to transportation? (PROMPT: no bus, no money for taxi, partner takes car; if victim has no access score as "yes")
 - d. Does the victim live in a home with *no* people living close by? (If victim feels geographically isolated score as "yes")
 - e. Did the victim consume alcohol or drugs just before or during the index incident, or does she have a history of alcohol or drug abuse? *If present, score 1 for this item.*

_____ = RAW SCORE
_____ = ADJUSTED SCORE

ODARA - © MHCP Research Dept 2005
Use Only With Scoring Instructions

Accused: _____
LAST NAME First name Middle name(s)

Incident # _____

Victim: _____
LAST NAME First name

Offence date: ____/____/20____
dd mm yy

The Ontario Domestic Assault Risk Assessment (ODARA) is an actuarial risk assessment tool that ranks men with respect to risk for domestic violence recidivism. The higher the ODARA score, the more likely the man is to assault a female cohabiting partner again, the more frequent and severe future assaults will be, and the sooner he will reassault. The ODARA was developed on a study of 589 men known to police in Ontario for physically assaulting their female partners. In an average follow up of approximately five years after an index incident of domestic violence, 30% of men recidivated; recidivism occurred an average of 15 months after the index incident. The ODARA consists of 13 unique predictors of domestic violence recidivism, including domestic and non-domestic criminal history, threat and confinement during the most recent incident, children in the relationship, substance abuse, and barriers to victim support.

In the study, only acts of physical violence (including, but not limited to, actual or attempted use of a weapon) met the definition of domestic violence recidivism. Of the men who recidivated, most assaulted the same partner as before.

Adjusted Scores for Missing Items (circle score used)

Raw Score	Number of Missing Items				
0	0	0	0	0	0
1	1	1	1	1	2
2	2	2	3	3	3
3	3	4	4	4	5
4	4	5	5	6	7+
5	5	6	7+	7+	7+
6+	7+	7+	7+	7+	7+

ODARA Raw Score for the Accused:

ODARA Adjusted Score for the Accused:

Check	ODARA score	Percent Recidivism*	Percent in this range of scores	Percent scoring lower	Percent scoring higher	Remarks
	0	5	11	0	89	Men with this score have a 5% likelihood of recidivism.* Approximately 90% of wife assaulters score higher on the ODARA.
	1	10	16	11	73	Men with this score have a 10% likelihood of recidivism.* Approximately 70% of wife assaulters score higher on the ODARA.
	2	20	21	27	52	Men with this score have a 20% likelihood of recidivism.* Approximately 50% of wife assaulters score higher on the ODARA.
	3	27	19	48	33	Men with this score have approximately a 30% likelihood of recidivism.* Approximately 30% of wife assaulters score higher on the ODARA.
	4	41	13	67	20	Men with this score have approximately a 40% likelihood of recidivism.* Approximately 20% of wife assaulters score higher on the ODARA.
	5-6	59	13	80	7	Men in this range of scores have approximately a 60% likelihood of recidivism.* Fewer than 10% of wife assaulters score higher on the ODARA.
	7-13	70	7	93	0	Men in this range of scores have a 70% likelihood of recidivism.* No wife assaulters score higher on the ODARA.

* Recidivism: a new assault against a female domestic partner, identified in police records.

Note: The higher the ODARA score, the sooner, more frequent, and more serious the recidivism.

Completed by: _____

Date: ____/____/20____

Reviewed by: _____

Date: ____/____/20____
dd mm yy hr min

NOTE: Use only with full scoring criteria. Based on ODARA-LE used by police in Ontario Pilot Project; modified by MHCP.

TAB 6

OHIO RISK ASSESSMENT SYSTEM: PRETRIAL ASSESSMENT TOOL (ORAS-PAT)

Name: _____ Date of Assessment: _____

Case#: _____ Name of Assessor: _____

Pretrial Items		Verified
1. Age at First Arrest 0=33 or older 1=Under 33	<input type="text"/>	<input type="checkbox"/>
2. Number of Failure-to-Appear Warrants Past 24 Months 0=None 1=One Warrant for FTA 2=Two or More FTA Warrants	<input type="text"/>	<input type="checkbox"/>
3. Three or more Prior Jail Incarcerations 0=No 1=Yes	<input type="text"/>	<input type="checkbox"/>
4. Employed at the Time of Arrest 0= Yes, Full-time 1= Yes, Part-time 2= Not Employed	<input type="text"/>	<input type="checkbox"/>
5. Residential Stability 0=Lived at Current Residence Past Six Months 1=Not Lived at Same Residence	<input type="text"/>	<input type="checkbox"/>
6. Illegal Drug Use During Past Six Months 0=No 1=Yes	<input type="text"/>	<input type="checkbox"/>
7. Severe Drug Use Problem 0=No 1=Yes	<input type="text"/>	<input type="checkbox"/>
Total Score:		<input type="text"/>

Scores	Rating	% of Failures	% of Failure to Appear	% of New Arrest
0-2	Low	5%	5%	0%
3-5	Moderate	18%	12%	7%
6+	High	29%	15%	17%

Please State Reason if Professional Override:

Reason for Override (note: overrides should not be based solely on offense):

Other Areas of Concern. Check all that Apply:

- Low Intelligence*
- Physical Handicap
- Reading and Writing Limitations*
- Mental Health Issues*
- No Desire to Change/Participate in Programs*
- Transportation
- Child Care
- Language
- Ethnicity
- Cultural Barriers
- History of Abuse/Neglect
- Interpersonal Anxiety
- Other _____

*If these items are checked it is strongly recommended that further assessment be conducted to determine level or severity.

Pretrial Tool

- Assess at time of arrest/jail
- Aids in bail, release, formal supervision decisions
- Sources of information
 - Face-to-face interview
 - File review
 - Collateral info
- 5-10 minutes
- Re-assessment
 - No re-assessment

Pretrial Assessment Tool (ORAS-PAT)

- Seven Items
- Classifies based on
 - Failure To Appear
 - Risk of Reoffending

TAB 7

**OHIO RISK ASSESSMENT SYSTEM:
MISDEMEANOR SCREENING TOOL (ORAS-MST)**

Name: _____ Date of Assessment: _____
Case#: _____ Name of Assessor: _____

1. Most Serious Arrest Under Age 18
 0 = None
 1 = Yes, Misdemeanor
 2 = Yes, Felony
2. Number of Prior Adult Felony Convictions
 0 = None
 1 = One or Two
 2 = Three or More
3. Currently Employed/School
 0 = Yes, Full-time, Disabled, or Retired
 1 = Not Employed or Employed Part-time
4. Drug Use Caused Problems
 0 = None
 1 = Past
 2 = Current
5. Current Offense Heroin Related
 0 = No
 4 = Yes
6. Criminal Attitudes
 0 = No/Limited Criminal Attitudes
 1 = Some Criminal Attitudes
 2 = Significant Criminal Attitudes

TOTAL SCORE:

Risk Categories for MALES			Risk Categories for FEMALES		
Rating	Rating	Re-arrest Rate	Rating	Score	Re-arrest Rate
Low	0 – 1	25%	Low	0 – 3	31%
Moderate / High	2 – 13	48%	Moderate / High	4 – 13	42%

**OHIO RISK ASSESSMENT SYSTEM:
MISDEMEANOR ASSESSMENT TOOL (ORAS-MAT)**

Name: _____ Date of Assessment: _____

Case#: _____ Name of Assessor: _____

- | | |
|--|----------------------|
| 1. Most Serious Arrest Under Age 18
0 = None
1 = Yes, Misdemeanor
2 = Yes, Felony | <input type="text"/> |
| 2. Number of Prior Adult Felony Convictions
0 = None
1 = One or Two
2 = Three or More | <input type="text"/> |
| 3. Highest Education
0 = High School Graduate or Higher
1 = Less than High School or GED | <input type="text"/> |
| 4. Ever Suspended or Expelled from School
0 = No
1 = Yes | <input type="text"/> |
| 5. Currently Employed/School
0 = Yes, Full-time, Disabled, or Retired
1 = Not Employed or Employed Part-time | <input type="text"/> |
| 6. Better Use of Time
0 = No, Most Time Structured
1 = Yes, Lots of Free Time | <input type="text"/> |
| 7. Drug Use Caused Problems
0 = None
1 = Past
2 = Current | <input type="text"/> |
| 8. Drug Use Caused Problems with Employment
0 = No
1 = Yes | <input type="text"/> |

<p>9. Current Offense Heroin Related <input type="text"/></p> <p>0 = No 4 = Yes</p>	<input type="text"/>
<p>10. Criminal Friends <input type="text"/></p> <p>0 = None 1 = Some 2 = Majority</p>	<input type="text"/>
<p>11. Contact with Past Criminal Peers <input type="text"/></p> <p>0 = No contact with Criminal Peers 1 = At Risk of Contacting Criminal Peers 2 = Contact or Actively Seeks out Criminal Peers</p>	<input type="text"/>
<p>12. Criminal Attitudes <input type="text"/></p> <p>0 = No/Limited Criminal Attitudes 1 = Some Criminal Attitudes 2 = Significant Criminal Attitudes</p>	<input type="text"/>

TOTAL SCORE:

Risk Categories for MALES			Risk Categories for FEMALES		
Rating	Rating	Re-arrest Rate	Rating	Score	Re-arrest Rate
Low	0 – 2	19%	Low	0 – 3	31%
Moderate	3 – 7	38%	Moderate	4 – 8	42%
Low	8 – 21	53%	High	9 – 21	55%

Professional Override: YES NO

Reason for Override (note: overrides should not be based solely on offense):

Final Level: LOW MODERATE HIGH

Recommendations:

LOW	Minimum supervision or non-reporting supervision
MODERATE	Regular supervision; programming should be provided for moderate and high need areas
HIGH	Enhanced supervision; programming should be provided for moderate and high need areas

Other Areas of Concern. Check all that Apply:

- Low Intelligence*
- Physical Handicap
- Reading and Writing Limitations*
- Mental Health Issues*
- No Desire to Change/Participate in Programs*
- Transportation
- Child Care
- Language
- Ethnicity
- Cultural Barriers
- History of Abuse/Neglect
- Interpersonal Anxiety
- Other _____

*If these items are checked it is strongly recommended that further assessment be conducted to determine level or severity.

TAB 8

**FEDERAL PRETRIAL RISK ASSESSMENT INSTRUMENT
(PTRA)**

DEFENDANT'S NAME: _____

DATE OF ASSESSMENT: _____

PACTS #: _____

OFFICER: _____

DISTRICT: _____

1.0 CRIMINAL HISTORY & CURRENT OFFENSE:

1.1. NUMBER OF FELONY CONVICTIONS

- 0=NONE
- 1=ONE TO FOUR
- 2=FIVE OR MORE

1.2. PRIOR FTAS

- 0=NONE
- 1=ONE
- 2=TWO OR MORE

1.3. PENDING FELONIES OR MISDEMEANORS

- 0= NONE
- 1=ONE OR MORE

1.4. CURRENT OFFENSE TYPE

- 0= THEFT/FRAUD, VIOLENT, OTHER
- 1=DRUG, FIREARMS, OR IMMIGRATION

1.5. OFFENSE CLASS

- 0=MISDEMEANOR
- 1=FELONY

1.6. AGE AT INTERVIEW

- 0= 47 OR ABOVE
- 1=27 TO 46
- 2=26 OR YOUNGER

TOTAL CRIMINAL HISTORY

2.0 OTHER FACTORS:

2.1 HIGHEST EDUCATION

- 0=COLLEGE DEGREE
- 1=HIGH SCHOOL DEGREE, VOCATIONAL, SOME COLLEGE
- 2=LESS THAN HIGH SCHOOL OR GED

2.2 EMPLOYMENT STATUS

CIRCLE APPROPRIATE ITEM BELOW AND RECORD SCORE IN BOX

- 0=EMPLOYED FULL TIME
- 0=EMPLOYED PART TIME
- 0=DISABLED AND RECEIVING BENEFITS
- 1=STUDENT/HOMEMAKER
- 1=UNEMPLOYED
- 1=RETIRED, ABLE TO WORK

2.3 RESIDENCE

- 0=OWN/PURCHASING
- 1=RENT, NO CONTRIBUTION, OTHER, NO PLACE TO LIVE

2.4 CURRENT DRUG PROBLEMS

- 1=YES
- 0=NO

2.5 CURRENT ALCOHOL PROBLEMS

- A=YES
- B=NO

2.6 CITIZENSHIP STATUS

- 0= US CITIZEN
- 1=LEGAL OR ILLEGAL ALIEN

2.7 FOREIGN TIES

- A= YES
- B= NO

2.7 (A) DOES THE DEFENDANT HAVE ANY OF THE FOLLOWING TIES TO A FOREIGN COUNTRY?

- A= YES
- B= NO

- CIRCLE ALL THAT APPLY**
- FAMILY (PARENTS, SIBLINGS, COUSINS, ETC.)
 - SPOUSE
 - CHILDREN
 - SIGNIFICANT OTHER
 - BUSINESS RELATIONS
 - FRIENDS
 - OTHER
 - NO FOREIGN TIES

IF YES, WHAT COUNTRY OR COUNTRIES?

2.7 (B) DOES THE DEFENDANT MAINTAIN CONTACT WITH ANY INDIVIDUAL IN QUESTION 2.7(A)?

A= YES
B= NO

2.7 (C) IS THE DEFENDANT A CITIZEN OR RESIDENT OF A FOREIGN COUNTRY? IF YES, WHICH COUNTRY OR COUNTRIES? (PLEASE INDICATE WHAT COUNTRY.)

A= YES
B= NO

2.7 (D) DOES THE DEFENDANT POSSESS A VALID OR EXPIRED PASSPORT (EITHER U.S. OR FOREIGN)?

A= YES
B= NO

2.7 (E) DOES THE DEFENDANT HAVE ANY FINANCIAL INTERESTS (SUCH AS, PROPERTY, BANK ACCOUNTS, ETC.) OUTSIDE OF THE U.S.?

A= YES
B= NO

2.7 (F) HAS THE DEFENDANT TRAVELED OUTSIDE OF THE U.S.?

A= YES
B= NO

CIRCLE APPROPRIATE ITEM BELOW:

WITHIN THE PAST 1-5 YEARS
WITHIN THE PAST 6-10 YEARS
NO FOREIGN TRAVEL

2.7 (G) WAS TRAVEL IN 2.7(F) FOR ANY OF THE FOLLOWING?

A= YES
B= NO

CIRCLE APPROPRIATE ITEM BELOW:

A= PLEASURE
B= BUSINESS
C= BOTH
D= NOT APPLICABLE

TOTAL OTHER

TOTAL SCORE
[ITEMS 1.1 - 2.7(G)]

Likelihood of outcomes based on event occurring during pretrial period.

Risk Category	N	%	Risk Score	FTA	NCA	FTA/NCA	TV	FTA/NCA/TV
Category 1	52,677	29	0-4	1%	1%	2%	1%	3%
Category 2	52,653	29	5-6	3%	3%	5%	4%	9%
Category 3	49,920	27	7-8	4%	5%	10%	9%	18%
Category 4	21,779	12	9-10	6%	7%	15%	15%	28%
Category 5	4,710	3	11+	6%	10%	20%	19%	35%

TAB 9

Appendix C

REVISED VIRGINIA PRETRIAL RISK ASSESSMENT TOOL

Risk Factor	Criteria			Assigned Points	Score
1. Charge Type	If the current offense is a drug offense (MCS, DCS, PCS, including attempts) or is an offense charged under ORS Chapter 166 or 181.			1 Point	
2. Pending Charges	If the defendant had one or more charge(s) pending in court at the time of arrest.			1 Point	
3. Outstanding Warrant(s)	If the defendant had one or more warrant(s) outstanding in another locality for charges unrelated to the current arrest.			1 Point	
4. Criminal History	If the defendant had one or more misdemeanor or felony convictions.			1 Point	
5. Two or more Failure to Appear Events	If the defendant had two or more failure to appear events.			2 Points	
6. Current Residence	If the defendant has had three or more address changes in the past 12 months.			1 Point	
7. Employment	If the defendant is employed, in school, or otherwise engaged as a primary caregiver for a child for less than 20 hours per week.			1 Point	
8. History of Drug Abuse	If the defendant has a history of drug abuse.			1 Point	
SCORE					
Risk Score	0 - 2	3 - 4	5 - 6	7 - 9	
Appearance Rate	92%	87%	75%	48%	
Safety Rate	100%	93%	93%	89%	
Success Rate	82%	70%	59%	26%	
Presumptive Release Decision	Release on Recognizance	Release to PRS		Refer to PRS	Detain
Risk Level	Low	Medium		High	
Supervision	None	Basic Monitoring		Pretrial Supervision	
		-Phone Reporting -Check-in physically after court appearances -LEDS Monitoring -Case management meetings as needed		Phone Reporting weekly -Check-in physically after court appearances -LEDS Monitoring -Case management meetings as needed -Substance testing if ordered -Electronic monitoring -Home/field visits	

ASSESSMENT:

The defendant's risk score of ____ is consistent with defendants with a success rate of _____ and safety rate of _____. The defendant's criminal history includes ____ (similar, varied, unrelated) offenses in the past 3 years and _____ lifetime. The defendant has ____ prior FTA's in the past 3 years, and _____ lifetime.

Factors to consider indicating the possibility of violations if released:

RECOMMENDATION:

Defendant be released on their own Recognizance

Defendant be released to Pretrial Release Services, with the following special conditions:

- _____
- _____
- _____

Defendant be referred to PRS for further investigation, e.g., establish victim safety plan, verify alternate housing and/or treatment resources,

Release be denied. It does not appear any conditions of supervision would be adequate to assure that the defendant would comply with the terms of pretrial release.

Pretrial Case Manager

Date

Risk Factor	Criteria	Assigned Point(s)
Charge Type	If the most serious charge for the current arrest was a felony	1 point
Pending Charge(s)	If the defendant had one or more charge(s) pending in court at the time of the arrest	1 point
Outstanding Warrant(s)	If the defendant had one or more warrant(s) outstanding in another locality for charges unrelated to the current arrest	1 point
Criminal History	If the defendant had one or more misdemeanor or felony convictions	1 point
Two or more Failure to Appear Convictions	If the defendant had two or more failure to appear convictions	2 points
Two or more Violent Convictions	If the defendant had two or more violent convictions	1 point
Length at Current Residence	If the defendant had lived at their current residence for less than one year prior to arrest	1 point
Employed/ Primary Child Caregiver	If the defendant had not been employed continuously for the past two years and was not the primary caregiver for a child at the time of arrest	1 point
History of Drug Abuse	If the defendant had a history of drug abuse	1 point

TAB 10

KENTUCKY PRE-PSA - COURT

Table 11
The Current And New Weighting Rules For The Revised Pretrial Risk Assessment Instrument.

	Scoring Items	Current		Modified	
		Yes	No	Yes	No
1	Does the defendant have a verified local address and has the defendant lived in the area for the past twelve months?		1		2
2	Does the defendant have verified sufficient means of support?		1		1
3	Did a reference verify that he or she would be willing to attend court with the defendant or sign a surety bond?		1	Removed	
4	Is the defendant's current charge a Class A, B, or C Felony?	1		1	
5	Is the defendant charged with a new offense while there is a pending case?	5		7	
6	Does the defendant have an active warrant(s) for Failure to Appear prior to disposition? If no, does the defendant have a prior FTA for felony or misdemeanor?	4		2	
7	Does the defendant have prior FTA on his or her record for a criminal traffic violation?	1		1	
8	Does the defendant have prior misdemeanor convictions?	1		2	
9	Does the defendant have prior felony convictions?	1		1	
10	Does the defendant have prior violent crime convictions?	2		1	
11	Does the defendant have a history of drug/alcohol abuse?	2		2	
12	Does the defendant have a prior conviction for felony escape?	1		3	
13	Is the defendant currently on probation/ parole from a felony conviction?	2		1	
	Did you receive special education services in school for an emotional or behavioral problem?	Not Used			
	Have you ever spoken to a counselor or psychologist about a personal problem?	Not Used			
	Violated conditions of pretrial release in last 12 mos	Not Used			
	If yes, was bond revoked?	Not Used			

Table 12:
The Current And New Cut-Points For The Revised Pretrial Risk Assessment Instrument

	Current	Modified
Low	0-5	0-5
Moderate	6-12	6-13
High	13-High	14-High



**Results from the First Six Months of the
Public Safety Assessment – Court™ in Kentucky**

July 2014



Since adopting the Public Safety Assessment – Court on July 1, 2013, Kentucky’s courts have achieved a truly remarkable result: They have been able to **reduce crime by close to 15%** among defendants on pretrial release, while at the same time increasing the percentage of defendants who are released before trial.

On July 1, 2013, judges in all 120 counties in the Commonwealth of Kentucky began using the Public Safety Assessment – Court™ (or PSA-Court™), a new data-driven risk assessment, to inform their decisions about which defendants can most safely be released from jail while they await trial, and which defendants should be detained because of the risks they pose to public safety. The first six months of results indicate that the PSA-Court is serving Kentucky well. Most importantly, they show that by using the risk assessment and applying their discretion, Kentucky judges have reduced crime, reduced jail populations, and led to a smarter, more effective use of criminal justice resources.

Kentucky has long been a leader in providing effective, research-based pretrial services – and, even prior to adopting the PSA-Court, the system was rightly seen as a national model. But since implementing the new risk assessment, Kentucky’s courts have achieved a truly remarkable result: They have been able to **reduce crime by close to 15%** among defendants on pretrial release, while at the same time increasing the percentage of defendants who are released before trial. In short, the PSA-Court has assisted judges in making decisions that both better protect the public *and* more effectively use the Commonwealth’s criminal justice resources.

The PSA-Court has proven to be highly accurate at identifying the small group of Kentucky defendants who are at an elevated risk of committing violence if released before trial. Indeed, defendants flagged by the PSA-Court as posing an increased risk of violence are, in fact, rearrested for violent acts at a rate **17 times** that of defendants who are not flagged. In addition, the PSA-Court has been accurately evaluating the risk that a given defendant will commit a new crime or fail to come back to court if he is not detained.

The report below summarizes the first six months that the PSA-Court was used throughout Kentucky (July – December 2013). The underlying analysis was conducted by a research team led by Dr. Marie VanNostrand and relied on data (supplied by Kentucky’s Administrative Office of the Courts) on the 56,866 defendants who were booked into jail and released during this period. Although the tool has been in effect for a year, many of the cases arising from January through June 2014 have not yet been resolved and, as such, they have not been included in this analysis. While we do not have sufficient outcome data to analyze the more recent cases, the results identified here continue to be seen in the data from January 2014 to the present.

SYSTEM IMPACTS

As noted above, Kentucky's courts have used the PSA-Court to help identify low-risk defendants who pose little threat to public safety and are therefore suitable for pretrial release. In the first six months that the PSA-Court was used, Kentucky increased to 70% the proportion of defendants released pending trial, up from 68% during the previous four years.

What makes the increase in release rate notable is that it has not come at the expense of public safety; to the contrary, it has been achieved alongside a *decrease* in pretrial crime. Since implementation of the PSA-Court, and as compared to the four years prior to July 1, 2013, the new criminal activity rate has dropped significantly. The average arrest rate for released defendants has declined from 10% to 8.5%. This represents a *15% reduction in pretrial crime*.¹ Moreover, while more defendants are now being released, Kentucky has not seen any increase in the rate at which defendants miss court. In short, Kentucky is now detaining more high-risk and potentially violent defendants, while more low-risk defendants are being released. And crime is down.

In addition to the positive impacts on crime and pretrial incarceration, Pretrial Services has reported that the tool has allowed a more effective deployment of resources. In large part, this is because the PSA-Court can be completed without conducting a defendant interview. The streamlined assessment process permits Kentucky Pretrial Services to use its limited resources to mitigate risk through supervision and services. Moreover, although Kentucky statutes require brief defendant interviews, the overall time it takes to administer the risk assessment tool has decreased significantly; and Pretrial Services can now assess *all* defendants, not just those who consent to an interview and provide information that can be verified.

PREDICTIVE VALIDITY

The PSA-Court is made up of nine risk factors that can be obtained from administrative data (e.g., criminal history and current charge). These factors are weighted and combined to evaluate the risk that if a defendant is released before trial, he will: (1) commit a violent crime; (2) commit any new crime; or (3) fail to appear for court. Data from the first six months of Kentucky's use of the PSA-Court demonstrate that the assessment is predicting all three risks with a high degree of accuracy.²

"When training a new employee or speaking to a judge about the risk assessment, they often ask why some factors are counted and others are not. With this tool, it is much easier to explain the reasons why – and because of that it makes sense to the person you are explaining it to. I think this tool is much more accurate and easier to use than what we had in the past."

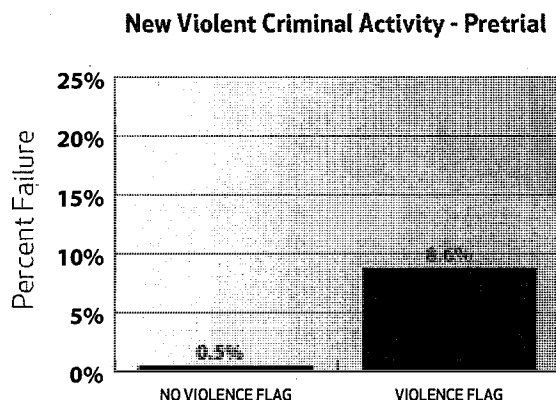
-Michael Greene, Pretrial Services Supervisor

1 Since a small number of cases from the July – December 2013 period remain open, there may be a slight increase in arrest rates as the remaining cases close. But the ultimate reduction in pretrial crime is estimated to fall between 10% and 15%.

2 Since a small number of cases from the July – December 2013 period remain open, there may be a slight increase in failure rates as the remaining cases close.

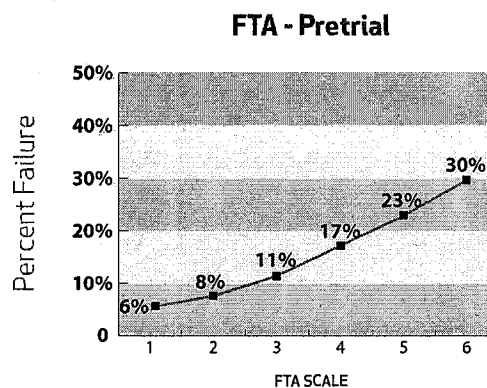
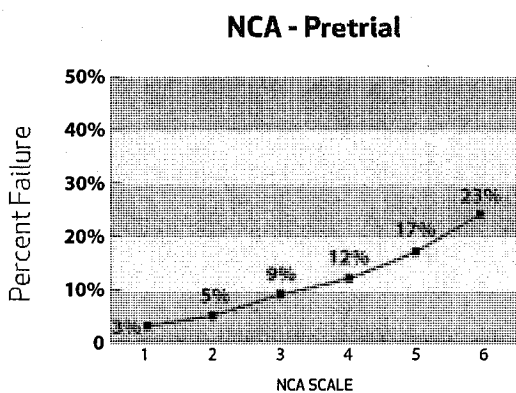
NEW VIOLENT CRIMINAL ACTIVITY

During the first six months of the PSA-Court implementation, a select group of judges pilot-tested the PSA-Court's violence "flag," which identifies a small group of defendants who are significantly more likely to commit an act of violence if released before trial. Indeed, flagged defendants – just 6% of individuals who were released – were 17 times more likely to be arrested for new violent criminal activity than defendants who were not flagged. All Kentucky judges began receiving this information on July 1, 2014, which could potentially help improve public safety even further.



NEW CRIMINAL ACTIVITY AND FAILURE TO APPEAR

The new criminal activity (NCA) and failure to appear (FTA) scales classify a defendant's risk from one to six, with one representing the lowest risk and six representing the highest. As can be seen in the graphs below, the scales accurately group defendants according to the risk they pose of being arrested for new criminal activity or failure to appear while on pretrial release. With each increase in risk score, defendants become significantly more likely to fail.

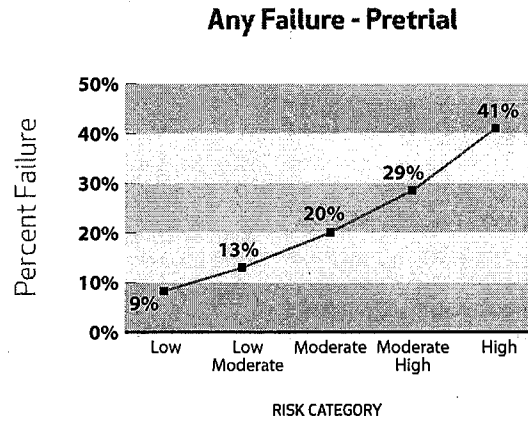


"Thanks in large part to the risk assessment tool, Kentucky judges have a pretty good grasp on making appropriate release decisions. When used correctly and in conjunction with other factors which may appear, the instrument is extremely helpful in aiding courts with making good release decisions."

- Circuit Court Judge David Tapp

ANY FAILURE

Although not a part of the PSA-Court, Kentucky uses the NCA and FTA scales to create an additional measure of pretrial failure. This “Any Failure” measure represents any type of pretrial failure – NCA, FTA, or both. The scores from the NCA and FTA scales are added together and, as can be seen in the graph, the combined Any Failure rate increases with each corresponding increase in risk level.

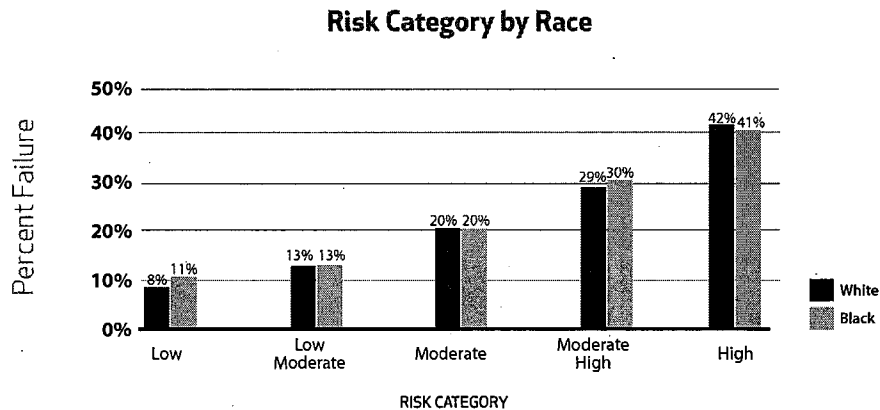


RACE AND GENDER

Data from Kentucky’s first six months using the PSA-Court were also closely examined to determine whether the instrument had any discriminatory impact on minorities or women. What it revealed is that the tool is both racially neutral and gender neutral. It accurately classifies defendants’ risk levels *regardless* of their race or gender, meaning it does not have a discriminatory impact.

RACE³

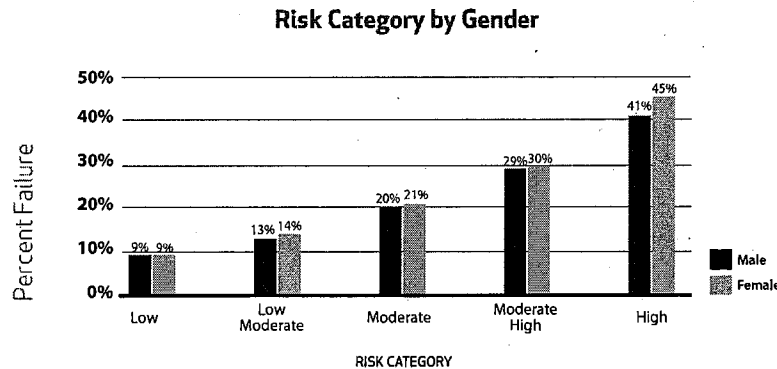
As we see in the chart below, black and white defendants at each risk level fail at virtually indistinguishable rates, which demonstrates that the PSA-Court is assessing risk equally well for both whites and blacks, and is not discriminating on the basis of race.



³ In Kentucky, over 96% of the population is either black or white. As a result, other racial groups are not sufficiently represented in the sample to perform the analysis.

GENDER

Similarly, when we look at gender, we see that men and women in the same risk category fail at almost exactly the same rate. This indicates that the PSA-Court is assessing risk accurately for both genders and is not discriminating on that basis.



"The instrument is a valuable tool and one that I rely on, along with my judicial discretion, to set an appropriate bond, taking into account the current offense, the criminal history of the accused, and the likelihood of reappearance in court if released."

-District Court Judge Ann Bailey Smith

CONCLUSION

Kentucky is highly regarded nationally as a leader in providing effective pretrial services and has remained at the forefront of the field for the past four decades. The Commonwealth's decision to be the first site in the nation to adopt the PSA-Court is in keeping with that tradition. The first six months of results indicate that the PSA-Court is serving the state well. Most importantly, the results show that by using the risk assessment and applying their discretion, Kentucky judges have effectively made pretrial decisions that have reduced crime, reduced jail populations, and led to a smarter and more effective use of criminal justice resources.

"The performance of the PSA - Court in Kentucky is truly remarkable. Being able to accurately identify defendants with an elevated risk of violence, as well as being able to distinguish between the risks of new criminal activity and failure to appear, has proven invaluable. Because it is based on administrative data, Pretrial Services is able to conduct risk assessments on all cases within 24 hours of arrest and provide the Courts with critical information to inform the pretrial release decision-making process."

-Tara Klute, General Manager Kentucky Pretrial Services

TAB 11

Florida Pretrial Misconduct Risk Assessment Instrument

1 Age at Admission			
19 or younger	1		
20 --- 29	2		
30 or older	0		
2 Current most serious charge			
Violent	1		
Drug	2		
Property	4		
Other	0		
3 Is current charge 907.041			
Yes	0		
No	5		
4 Employment status at admission			
Unemployed	3		
Other	0		
5 Marital status			
Single	6		
Other	0		
6 Have a Telephone/Cell phone			
Yes	0		
No/Missing/Unknown	4		
7 Time at Current Residence			
12 months or more	0		
Under 12 months	5		
8 History of Sub Abuse and/or Mental Health			
Neither	0		
Substance Abuse	1		
Mental Health	1		
Both	4		
9 Previous FTAs			
None	0		
One	6		
Two or more	14		
10 Previous Adult Felonies			
None	0		
One or more	2		
11 Previous Adult Misdemeanors			
None	0		
One or more	2		
Total Score =			

Low Risk/Category 1 = 0 to 12 points

Low Moderate/Category 2 = 13 to 17 points

Moderate/Category 3 = 18 to 22 points

High Moderate/Category 4 = > 22 points

TAB 12

CONSTRUCTED COCONINO COUNTY RISK ASSESSMENT CRITERIA

Current Offense

1	Three or more charges
1	Most serious current charge is a level 4-6 offense
2	Most serious current charge is a level 3-2 offense
3	Most serious current charge is a level 1 offense

Criminal History

1	On Probation at time of arrest
1	Pending case at time of arrest
1	Active warrant at time of arrest
1	One to ten misdemeanors (no more than 2 violent)
2	More than ten misdemeanors
1	One to ten felonies
2	More than ten felonies
1	Prior failure to appear

Stability Factors

1	Two or more AZ addresses past twelve months
2	No AZ address
1	Transient
1	Less than six months at current job
2	Unemployed
1	Three to five years in community
2	Less than three years in community
1	No assets
1	No phone
1	No vehicle access

Social Factors

1	Abuses drugs
1	Abuses alcohol

Ranges:

0 to 6 = Low (ROR)

7 to 12 = Medium (Supervised Release)

13 to 18 = High (No recommendation for non-financial release)

The classifications are quite successful at creating the step pattern we would wish to see among Coconino County defendants who were released pretrial. The step patterns in charts 12 and 13 suggest that the new risk instrument performs better at predicting failure to appear than rearrest.

TAB 13

**ADMISSION TO ADULT FIELD CASELOAD
 ASSESSMENT OF OFFENDER NEEDS**

OFFENDER NAME Last	First	MI	DOC NUMBER
DATE PLACED ON PROBATION OR RELEASED ON PAROLE IN WISCONSIN (MM/DD/YY)		AGENT LAST NAME	AREA NUMBER
FACILITY OF RELEASE		CODE	DATE COMPLETED (MM/DD/YY)

Select the appropriate answer and enter the associated weight in the score column. Higher numbers indicate more severe problems. If offender is to be referred to a community resource or to clinical services, **check appropriate referral box.**

ACADEMIC/VOCATIONAL SKILLS

- | | | | | | | | | | |
|----|----------------------------------|---|--|----|---|----|---|--------------------------|-------|
| -1 | High school or above skill level | 0 | Adequate skills; able to handle every-day requirements | +2 | Low skill level causing minor adjustment problems | +4 | Minimal skill level causing serious adjustment problems | <input type="checkbox"/> | _____ |
|----|----------------------------------|---|--|----|---|----|---|--------------------------|-------|

EMPLOYMENT

- | | | | | | | | | | |
|----|--|---|---|----|--|----|---|--------------------------|-------|
| -1 | Satisfactory Employment for one year or longer | 0 | Secure employment; no difficulties reported; or homemaker, student or retired | +3 | Unsatisfactory employment; or unemployed but has adequate job skills | +6 | Unemployed and virtually unemployable; needs training | <input type="checkbox"/> | _____ |
|----|--|---|---|----|--|----|---|--------------------------|-------|

FINANCIAL MANAGEMENT

- | | | | | | | | | | |
|----|---|---|-------------------------|----|-----------------------------------|----|--|--------------------------|-------|
| -1 | Long-standing pattern of self-sufficiency; e.g., good credit rating | 0 | No current difficulties | +3 | Situational or minor difficulties | +5 | Severe difficulties; may include garnishment, bad checks or bankruptcy | <input type="checkbox"/> | _____ |
|----|---|---|-------------------------|----|-----------------------------------|----|--|--------------------------|-------|

MARITAL / FAMILY RELATIONSHIPS

- | | | | | | | | | | |
|----|--|---|---------------------------------|----|--|----|---------------------------------|--------------------------|-------|
| -1 | Relationships and support exceptionally strong | 0 | Relatively stable relationships | +3 | Some disorganization or stress but potential for improvement | +5 | Major disorganization or stress | <input type="checkbox"/> | _____ |
|----|--|---|---------------------------------|----|--|----|---------------------------------|--------------------------|-------|

COMPANIONS

- | | | | | | | | | | |
|----|----------------------------|---|--------------------------|----|---|----|---|--------------------------|-------|
| -1 | Good support and influence | 0 | No adverse relationships | +2 | Associations with occasional negative results | +4 | Associations almost completely negative | <input type="checkbox"/> | _____ |
|----|----------------------------|---|--------------------------|----|---|----|---|--------------------------|-------|

EMOTIONAL STABILITY

- | | | | | | | | | | |
|----|---|---|---|----|--|----|--|--------------------------|-------|
| -2 | Exceptionally well adjusted; accepts responsibility for actions | 0 | No symptoms of emotional instability; appropriate emotional responses | +4 | Symptoms limit but do not prohibit adequate functioning; e.g., excessive anxiety | +7 | Symptoms prohibit adequate functioning; e.g., lashes out or retreats into self | <input type="checkbox"/> | _____ |
|----|---|---|---|----|--|----|--|--------------------------|-------|

ALCOHOL USAGE

- | | | | | | | | | | |
|--|--|---|----------------------------------|----|--|----|---|--------------------------|-------|
| | | 0 | No interference with functioning | +3 | Occasional abuse; some disruption of functioning | +6 | Frequent abuse; serious disruption; needs treatment | <input type="checkbox"/> | _____ |
|--|--|---|----------------------------------|----|--|----|---|--------------------------|-------|

OTHER DRUG INVOLVEMENT

- | | | | | | | | | | |
|--|--|---|----------------------------------|----|--|----|--|--------------------------|-------|
| | | 0 | No interference with functioning | +3 | Occasional substance abuse; some disruption of functioning | +5 | Frequent substance abuse; serious disruptions; needs treatment | <input type="checkbox"/> | _____ |
|--|--|---|----------------------------------|----|--|----|--|--------------------------|-------|

MENTAL ABILITY

- | | | | | | | | | | |
|--|--|---|--------------------------------|----|---|----|---|--------------------------|-------|
| | | 0 | Able to function independently | +3 | Some need for assistance; potential for adequate adjustment; mild retardation | +6 | Deficiencies severely limit independent functioning; moderate retardation | <input type="checkbox"/> | _____ |
|--|--|---|--------------------------------|----|---|----|---|--------------------------|-------|

HEALTH

- | | | | | | | | | | |
|--|--|---|-----------------------------------|----|---|----|--|--------------------------|-------|
| | | 0 | Sound physical health; seldom ill | +1 | Physical condition or handicap interferes with functioning on a recurring basis | +2 | Serious handicap or chronic illness; needs frequent medical care | <input type="checkbox"/> | _____ |
|--|--|---|-----------------------------------|----|---|----|--|--------------------------|-------|

SEXUAL BEHAVIOR

- | | | | | | | | | | |
|--|--|---|-------------------------|----|---|----|--|--------------------------|-------|
| | | 0 | No apparent dysfunction | +3 | Real or perceived situational or minor problems | +5 | Real or perceived chronic or severe problems | <input type="checkbox"/> | _____ |
|--|--|---|-------------------------|----|---|----|--|--------------------------|-------|

AGENT'S IMPRESSION OF OFFENDER'S NEEDS

- | | | | | | | | | | |
|----|---------|---|-----|----|--------|----|---------|--------------------------|-------|
| -1 | Minimum | 0 | Low | +3 | Medium | +5 | Maximum | <input type="checkbox"/> | _____ |
|----|---------|---|-----|----|--------|----|---------|--------------------------|-------|

Total all Scores. **TOTAL** _____

ADMISSION TO ADULT FIELD CASELOAD

OFFENDER NAME Last	First	MI	DOC NUMBER
DATE PLACED ON PROBATION OR RELEASED ON PAROLE IN WISCONSIN (MM/DD/YY)		AGENT LAST NAME	AREA NUMBER
FACILITY OF RELEASE		CODE	DATE COMPLETED (MM/DD/YY)

MENTAL HEALTH PROBLEMS

- A. Check any of the following items which apply to the offender:
1. Self-concept problems:
 - a) low self-esteem _____
 - b) grandiosity _____
 2. Interpersonal problems with:
 - a) peers _____
 - b) authority _____
 - c) family _____
 3. Emotional Problems:
 - a) depression _____
 - b) history of psychotic episodes _____
 - c) anxiety _____
 4. Mental Health Treatment History:
 - a) inpatient _____
 - b) outpatient _____
 5. Destructive behavior:
 - a) self _____
 - b) property _____
 - c) persons / assaultive _____
 6. Unusual behavior / thought disorder _____
 7. Learning disability / mental retardation _____
 8. Criminal / antisocial value system _____
 9. Other (if referring, specify on back of form) _____
- B. Will offender be referred to Clinical Services or a Community Mental Health Agency?
 (For Drug, Alcohol, MH, or DD Problems.)
- a) Yes _____
 - b) No _____
- If no, why not?
- a) Referral not needed _____
 - b) Offender currently in treatment _____
 - c) Offender unmotivated / resistive _____
 - d) Adequate service unavailable _____

REFERRAL INFORMATION

A. Select service(s) requested or currently received and enter appropriate agency code* in the space(s) provided:

	REFERRAL AGENCY CODE		
	#1	#2	#3
1. Consultation for Case Planning Assistance:	_____	_____	_____
2. Formal Evaluation (Clinical, Vocational, etc.):	_____	_____	_____
3. Vocational Training or Job Assistance:	_____	_____	_____
4. Mental Health Treatment:	_____	_____	_____
5. Alcohol Treatment:	_____	_____	_____
6. Drug Treatment:	_____	_____	_____
7. Developmental Disability Treatment:	_____	_____	_____
8. Educational Training:	_____	_____	_____
9. Special Services (Living Arrangement, Money, Food, etc.):	_____	_____	_____

* AGENCY CODES

- A = Clinical Services (BPR)
- B = 51.42 Agency (Mental Health, Drug, Alcohol)
- C = 51.437 Agency (Developmental Disabilities)
- D = DVR
- E = State Mental Health Centers
- F = Job Service(s)
- G = Volunteers in Probation
- H = County Welfare Agency
- I = District Vocational School
- J = Halfway House
- Other (Specify Below)

K. _____ M. _____

L. _____ N. _____

ADMISSION TO ADULT FIELD CASELOAD
 CODING SHEET

OFFENDER NAME (1-20) Last	First	MI	DOC NUMBER (21-27)
DATE PLACED ON PROBATION OR RELEASED ON PAROLE IN WISCONSIN (MM/DD/YY)		AGENT LAST NAME (34-37) (28-33)	AREA NUMBER (38-42)
FACILITY OF RELEASE		CODE (43-44)	DATE COMPLETED (MM/DD/YY) (45-50)

Select the appropriate answer and enter the associated code in the adjacent blank.
 * Indicate level at which offender will be supervised. Document any override decision on reverse side

ASSIGNMENT LEVEL OF SUPERVISION:*	JOB TRAINING WANTED BY OFFENDER:							
0 Administrative	5 High Risk	1 Yes			(129)	(152)		
1 Minimum	6 Absconder	2 No	(65)				(166)	(177)
2 Medium	7 Out-of-State (51)	9 Not Reported			(130)			
3 Maximum	8 Institution							
4 Intensive								
PRIMARY CLIENT MANAGEMENT CLASSIFICATION:	LAST GRADE COMPLETED							
1 Selective Intervention	00 None	17 Graduate Degree			(131)			
2 Casework/Control	01-12 (enter Specific #)	18 Ungraded			(132)	(153)		
3 Environmental Structuring (52)	13 High School Graduate	19 Special Education (66 - 67)						
4 Limit Setting	14 Some College	20 GED or HED			(133)		(167)	(178)
9 Not Classified	15 College Graduate	21 Tech. or Voc. School						
	16 Some Graduate Work	99 Not Reported			(134)			
LIVING ARRANGEMENT:	NUMBER OF PRIOR MISDEMEANOR CONVICTIONS (Adult Only)				(135)			
1 Alone	(Enter 99 if Not Reported)		(68 - 69)		(136)	(154)		
2 With Spouse	NUMBER OF PREVIOUS MISDEMEANOR PROBATIONS (Adult Only)				(137)		(168)	(179)
3 With Parent(s) (53)	(Enter 99 if Not Reported)		(70 - 71)		(138)			
4 With Child(ren)	NUMBER OF PREVIOUS FELONY PROBATIONS (Adult Only)				(139)			
5 With Sibling(s)	(Enter 99 if Not Reported)		(72 - 73)		(140)			
6 With Friend(s)	NUMBER OF TIMES PREVIOUSLY RELEASED ON PAROLE				(141)	(155)		
7 Other	(Enter 99 if Not Reported)		(74 - 75)		(142)		(169)	(180)
9 Not Reported	NUMBER OF PRIOR INCARCERATIONS FOR ONE YEAR OR LONGER IN A FEDERAL OR STATE INSTITUTION				(143)			
NUMBER OF DEPENDENTS:	(Enter 99 if Not Reported)				(144)			
(Enter 99 if Not Reported)	(54 - 55)				(145)		(170)	(181)
MAKING SUPPORT PAYMENTS:	COMMUNITY SERVICE ORDERED					(156)		
1 Yes	Hours Ordered in Lieu of Financial Obligations (78-81)							
2 No	Hours ordered Not in Lieu of Financial Obligations (82-85)				(146)			
9 Not Reported (56)	Total Hours Ordered (86-89)				(147)		(171)	(182)
NEED CHILD CARE:	PAYMENTS RECEIVED	Yes	Not					
1 Yes	Disabled Aid/Worker's Comp.	1	2	9 (90)	(148)			
2 No	Social Security (SSI)	1	2	9 (91)	(149)			
9 Not Reported (57)	VA Benefits	1	2	9 (92)	(150)			
VETERAN:	Unemployment Comp.	1	2	9 (93)	(151)	(157)	(172)	(183)
2 Not A Veteran	AFDC	1	2	9 (94)	(152)			
3 Yes - Honorable Discharge (58)	General Relief	1	2	9 (95)	(153)			
4 Yes - Other than Honorable Discharge	Other	1	2	9 (96)	(154)			
9 Not Reported							(174)	(185)
AMOUNT OF TIME EMPLOYED:	MONTHS AT CURRENT JOB:	(97)	(98)	(99)		(159)		
0 Unemployed and Not Looking	(Enter 999 if Not Reported)	(60 - 62)						
1 Unemployed and Looking					(100)	(101)	(102)	
2 Full-time (35-40 hrs/wk)					(103)	(104)	(105)	
3 Full-time But Seasonal (59)					(106)	(107)	(108)	(160)
4 Part-time (20-34 hrs/wk)					(109)	(110)	(111)	(175)
5 Part-time (less than 20 hrs/wk)					(112)	(113)	(114)	(186)
6 Student					(115)	(116)	(117)	
7 Homemaker					(118)	(119)	(120)	
8 Not Applicable					(121)	(122)	(123)	(188)
9 Not reported								(162-163)
MONTHS AT CURRENT JOB:								
(Enter 999 if Not Reported)								
JOB CLASSIFICATION:								
1 Professional, Technical or Managerial								
2 Clerical, Sales, or Service								
3 Farming (63)								
4 Skilled Trade								
5 Semi-skilled Labor								
6 Unskilled Labor								
7 Other								
9 Not Reported								
CURRENT GROSS MONTHLY INCOME: (Wages Only)								
1 None								
2 \$1 - \$199 (64)								
3 \$200 - \$399								
4 \$400 - \$599								
5 \$600 - \$799								
6 \$800 - \$999								
7 \$1000 or more								
9 Not Reported								
K.	M.							(189-190)
L.	N.					(164-165)		D (191)

FACILITY OF RELEASE CODE LIST

- | | | | |
|----|---|----|---|
| 02 | Waupun Correctional Institution | 34 | New Lisbon |
| 04 | Green Bay Correctional Institution | 35 | Red Granite Correctional Institution |
| 05 | Dodge Correctional Institution - Institution Proper | 36 | WCCS - (MSDF) Milwaukee Secure Detention Facility |
| 07 | Dodge Correctional Institution - Reception Center (A&E) | 37 | Fox Lake Minimum Correctional Institution |
| 08 | Columbia Correctional Institution | 38 | WCCS - John C. Burke - Female |
| 09 | Racine Correctional Institution | 39 | WCCS - (MSDA) MSDF - AODA |
| 10 | Wisconsin Resource Center | 40 | WCCS - (MSDP) MSDF - FDOATP |
| 11 | Fox Lake Correctional Institution | 41 | WCCS - Marshall E. Sherrer |
| 12 | Kettle Moraine Correctional Institution | 45 | WCCS - St. Croix |
| 13 | Oakhill Correctional Institution | 46 | WCCS - St Croix - Female |
| 14 | Jackson Correctional Institution | 48 | WCCS - Milw. Women's Corr. Center |
| 15 | Oshkosh Correctional Institution | 49 | WCCS - (MMCC) Felmers O'Chaney Correctional Center |
| 16 | Drug Abuse Correctional Center | 57 | WCCS - ARC House (Contract) |
| 17 | Taycheedah Correctional Institution | 58 | William H. Ferris Center - Ferris Work Release Center |
| 19 | Stanley Correctional Institution | 62 | Intensive Sanctions - Male |
| 20 | Wisconsin Secure Program Facility | 63 | Intensive Sanctions - Female |
| 21 | Wisconsin Correctional Center System (WCCS) - Oregon | 65 | Community Residential Confinement (CRC) - Male |
| 22 | WCCS - Thompson | 66 | Community Residential Confinement (CRC) - Female |
| 23 | WCCS - R E Ellsworth | 70 | Federal Prison System |
| 24 | WCCS - Winnebago | 71 | County Jails Contracts |
| 25 | WCCS - S B Powers | 85 | Prairie du Chien Correctional Facility |
| 27 | WCCS - John C Burke | 89 | Racine Youthful Offender Correctional Facility |
| 28 | Highview | 90 | Probation |
| 29 | WCCS - Kenosha | 96 | Out of State (IC Incoming) |
| 30 | WCCS - Black River | 97 | Winnebago Mental Health |
| 31 | WCCS - Flambeau | 98 | Mendota Mental Health |
| 32 | WCCS - Gordon | 99 | Unknown |
| 33 | WCCS - Mc Naughton | — | Other (Specify) |
-

FACILITY OF RELEASE CODE LIST

- | | |
|--|--|
| <p>02 Waupun Correctional Institution</p> <p>04 Green Bay Correctional Institution</p> <p>05 Dodge Correctional Institution - Institution Proper</p> <p>07 Dodge Correctional Institution - Reception Center (A&E)</p> <p>08 Columbia Correctional Institution</p> <p>09 Racine Correctional Institution</p> <p>10 Wisconsin Resource Center</p> <p>11 Fox Lake Correctional Institution</p> <p>12 Kettle Moraine Correctional Institution</p> <p>13 Oakhill Correctional Institution</p> <p>14 Jackson Correctional Institution</p> <p>15 Oshkosh Correctional Institution</p> <p>16 Drug Abuse Correctional Center</p> <p>17 Taycheedah Correctional Institution</p> <p>19 Stanley Correctional Institution</p> <p>20 Wisconsin Secure Program Facility</p> <p>21 Wisconsin Correctional Center System (WCCS) - Oregon</p> <p>22 WCCS - Thompson</p> <p>23 WCCS - R E Ellsworth</p> <p>24 WCCS - Winnebago</p> <p>25 WCCS - S B Powers</p> <p>27 WCCS - John C Burke</p> <p>28 Highview</p> <p>29 WCCS - Kenosha</p> <p>30 WCCS - Black River</p> <p>31 WCCS - Flambeau</p> <p>32 WCCS - Gordon</p> <p>33 WCCS - Mc Naughton</p> | <p>34 New Lisbon</p> <p>35 Red Granite Correctional Institution</p> <p>36 WCCS - (MSDF) Milwaukee Secure Detention Facility</p> <p>37 Fox Lake Minimum Correctional Institution</p> <p>38 WCCS - John C. Burke - Female</p> <p>39 WCCS - (MSDA) MSDF - AODA</p> <p>40 WCCS - (MSDP) MSDF - FDOATP</p> <p>41 WCCS - Marshall E. Sherrer</p> <p>45 WCCS - St. Croix</p> <p>46 WCCS - St Croix - Female</p> <p>48 WCCS - Milw. Women's Corr. Center</p> <p>49 WCCS - (MMCC) Felmers O'Chaney Correctional Center</p> <p>57 WCCS - ARC House (Contract)</p> <p>58 William H. Ferris Center - Ferris Work Release Center</p> <p>62 Intensive Sanctions - Male</p> <p>63 Intensive Sanctions - Female</p> <p>65 Community Residential Confinement (CRC) - Male</p> <p>66 Community Residential Confinement (CRC) - Female</p> <p>70 Federal Prison System</p> <p>71 County Jails Contracts</p> <p>85 Prairie du Chien Correctional Facility</p> <p>89 Racine Youthful Offender Correctional Facility</p> <p>90 Probation</p> <p>96 Out of State (IC Incoming)</p> <p>97 Winnebago Mental Health</p> <p>98 Mendota Mental Health</p> <p>99 Unknown</p> <p>___ Other (Specify)</p> |
|--|--|

OVERRIDE

JUSTIFICATION

Supervising the offender at a level different than indicated by the Needs/Risk scale is requested for the following reason(s):

SUPERVISOR'S DECISION

Approved
 Disapproved
 Level of Supervision _____

SUPERVISOR'S SIGNATURE	DATE SIGNED
------------------------	-------------

TAB 14

CENTER FOR COURT INNOVATION
Criminal Court Assessment Tool

The CCAT consists of six administrative items that are used for defendant tracking purposes (A1-A6), followed by 24 core items that make up the risk and needs assessment. Eight of the core items (R1-R8) are based on a review of official criminal justice records. These items contribute to an overall risk score but do not concern the underlying needs of the defendant. Sixteen items (R9-R24) contribute both to the overall risk score *and* to an understanding of important needs. The final five items (N1-N5) are exclusively used to understand clinical needs that may warrant further assessment or referral. They do not contribute to the risk score. Care should be taken *not* to count the final five items of the tool in the risk score.

Administrative Information

[Record the following information for the purpose of tracking individual defendants. This section is not a part of the formal risk and need screening tool.]

- A1. Interviewer Initials _____
- A2. Person-based Identifier (NYSID) _____
- A3. Docket or case-based Identifier _____
- A4. Arrest date on current criminal case

 MO DAY YR
- A5. Top arrest charge (numeric penal code) _____
- A6. Court or Program Name (optional) _____

Section I. Criminal Record Review

[Section I is where the scored risk assessment begins. Answers for Section I can be found on the official rap sheet or case record. For each question, circle the appropriate answer and then write the corresponding number—the number in parentheses next to the answer—in the far right column. This can be done before or after the defendant interview portion of the assessment.]

		<i>Circle One</i>		<i>Points</i>
R1.	Top arrest charge involves a drug offense that is NOT a marijuana offense.	No (0)	Yes (3)	
R2.	Top arrest charge involves a property offense (e.g. petit larceny, criminal possession of stolen property).	No (0)	Yes (5)	
R3.	Prior felony conviction(s), <u>past three years</u> .	No (0)	Yes (0)	<i>Please circle the correct answer, but do not score.</i>
R4.	Number of prior misdemeanor or violation convictions <u>in the past three years</u> .	Zero (0)	One (1)	
		Two (2)	Three+ (3)	
R5.	<u>Ten or more</u> misdemeanor or violation convictions <u>in past three years</u> .	No (0)	Yes (6)	
R6.	Any prior sentence to jail or prison.	No (0)	Yes	

		(1)	
R7.	Number of warrants for failure to appear in court.	Zero (0) One (1) Two (2) Three+ (3)	
R8.	Number of currently open cases.	Zero (0) One (1) Two (2) Three+ (3)	
Section I Subtotal			

Section II. Defendant Interview

[Section II is also part of the scored risk assessment. For each question, circle the appropriate answer and then write the corresponding number or letter—the number or letter in parentheses next to the answer—in the far right column. If the interviewee declines to answer a particular item, circle “r” for refusal.]

Introduction: I’m going to ask you a number of questions—questions we ask everyone coming to this court [program]. The first set of questions will focus on your education and employment history, your living situation, and your personal relationships.

		Circle One	Points
R9.	Have you either graduated high school or received a GED?	No (2) Yes (0) Refusal (r)	
R10.	Were you either employed (not including illegal activities), attending school, or attending a vocational training program at the time of your arrest?	No (1) Yes (0) Refusal (r)	
R11a.	Have you ever been fired from a job?	No (0) Yes (1) Refusal (r)	
R11b.	Have you ever been legally employed?	No (1) Yes (0) Refusal (r)	
R12.	How would you describe your current living situation (the place you were living at the time of your arrest)? (Choose one)		
	Homeless (on the streets, in a car, in a drop-in shelter)	(4)	
	Living in a long-term shelter (transitional housing)	(2)	
	Living in a halfway house	(0)	
	Living with friends or family	(0)	
	Living in an apartment, house, or room (own/rent)	(0)	
	Living in public housing	(0)	
	Other	(0)	
	Refusal	(r)	

R13.	How long have you been at your current address? (Choose one) Less than 1 year (2) 1-3 years (1) 4 or more years (0) Refusal (r)	
R14.	Are you currently married or do you have a steady boyfriend or girlfriend? No (2) Yes (0) Refusal (r)	
R15.	Have you been through a breakup or divorce in the last year? No (0) Yes (2) Refusal (r)	
R16.	Do you have any children under the age of 18? No (0) Yes (0) Refusal (r)	<i>Please circle the correct answer, but do not score.</i>
R17.	Have you ever used illicit drugs such as marijuana, cocaine, heroin, speed (methamphetamine) or prescription pills like Xanax, uppers or pain killers? [IF NO, SKIP TO R20] Yes (0) No (0) Refusal (r)	<i>Please circle the correct answer, but do not score.</i>
R18.	How old (in years) were you when you first used drugs? Less than 10 years (4) 10 to 14 years old (3) 15 to 19 years old (2) 20 to 24 years old (1) 25 or older (0) Refusal (r)	
R19.	About how often do you <u>currently</u> use drugs? About every day (five or more times a week) (1) One or a few times per week (a) One or a few times per month (a) Only a few times each year (a) Not currently using (0) Refusal (r)	

R20.	<p>About how often do you currently have four or more drinks of an alcoholic beverage in a single day?</p> <p>About every day (a)</p> <p>One or a few times per week (a)</p> <p>One or a few times per month (a)</p> <p>Only a few times each year (0)</p> <p>Not currently drinking alcohol (0)</p> <p>Refusal (r)</p>	
R21.	<p><i>Now, I have just a few questions about your attitudes and behavior. There are no right or wrong answers, just give your best answer.</i></p> <p>When I am very sad, I tend to do things that cause problems in my life. (Choose one)</p> <p>Strongly Agree (0)</p> <p>Agree (0)</p> <p>Neutral (0)</p> <p>Disagree (0)</p> <p>Strongly Disagree (0)</p> <p>Refusal (r)</p>	<p><i>Please circle the correct answer, but do not score.</i></p>
R22.	<p>When I am really excited, I tend to not think of the consequences of my actions. (Choose one)</p> <p>Strongly Agree (0)</p> <p>Agree (0)</p> <p>Neutral (0)</p> <p>Disagree (0)</p> <p>Strongly Disagree (0)</p> <p>Refusal (r)</p>	
R23.	<p>The trouble with getting close to people is that they start making demands on you. (Choose one)</p> <p>Strongly Agree (2)</p> <p>Agree (2)</p> <p>Neutral (2)</p> <p>Disagree (1)</p> <p>Strongly Disagree (0)</p> <p>Refusal (r)</p>	
R24.	<p>Some people must be beaten up or treated roughly just to send them a clear message. (Choose one)</p> <p>Strongly Agree (2)</p> <p>Agree (2)</p> <p>Neutral (2)</p> <p>Disagree (1)</p> <p>Strongly Disagree (0)</p> <p>Refusal (r)</p>	
Section II Subtotal		

Section III. Defendant Interview (Continued)

[Section III is not a part of the formal risk assessment. In other words, the following questions DO NOT contribute to the risk score, but the answers should be used to inform the selection of appropriate supervision, treatment, or diversion tracks. As in the previous sections, please circle the appropriate answer and then write the corresponding number—the

number in parentheses next to the answer—in the far right column. If the interviewee declines to answer a particular item, circle “r” for refusal.]

Introduction: Now I have a few questions about your mental and emotional health. Some of these questions may be personal in nature or make you feel upset. If that happens, let me know and we can pause. You do not have to answer any question you do not wish to answer.

		Circle One	Points
N1.	Have you ever been in a hospital for emotional or mental health problems?	No (0) Yes (1) Don't know (0) Refusal (r)	
N2.	Do you currently feel that other people know your thoughts and can read your mind?	No (0) Yes (1) Don't know (0) Refusal (r)	
N3a.	Have there recently been a few weeks where you often felt empty or sad?	No (0) Yes (1) Don't know (0) Refusal (r)	
N3b.	In the last few weeks, have there been some days where you have had a lot more energy than normal?	No (0) Yes (1) Don't know (0) Refusal (r)	
N4.	In the past month, how often have you had repeated disturbing memories, thoughts, or images of a stressful experience? (Choose one)	Not at all (1) A little bit (2) Moderately (3) Quite a bit (4) Extremely (5) Refusal (r)	
N5.	In the past month, how often have you felt very upset when something reminded you of a stressful experience? (Choose one)	Not at all (1) A little bit (2) Moderately (3) Quite a bit (4) Extremely (5) Refusal (r)	

A. Calculating the Risk Score. First, add up the numbers indicated in the far right column for Questions R1-R24 (except that there is no score for R3, R16, or R17, R21 or R22). Alternatively, simply add the Section I subtotal and the Section II subtotal. This is the raw risk score. Next, count the number of "r" responses indicated in the far right for questions R9-R24. If there are more than 4 "r" responses, a valid risk score cannot be calculated. DO NOT count any of the answers to Section III (N1-N5) in the risk score.

Raw Score: _____

Risk Classification. Circle the appropriate risk classification based on the raw risk score.

- Minimal Risk (0-13)
- Low Risk (14-18)
- Moderate Risk (19-23)
- Moderate-High Risk (24-28)
- High Risk (29-46)

B. Need Flags. Compute need flags as indicated below. Need flags indicate a possible need for further assessment, treatment, or social services. Positive need flags do not conclusively demonstrate the presence of the given problem or diagnosis.

- Education Yes (Circle if R9 score=2)
- Employment Yes (Circle if R10 score = 1)
- Housing Yes (Circle if R12 score = 4)
- Substance Use Yes (Circle if R19 = 1 or "a" OR R20 = "a")
- Criminal Thinking Yes (Circle if R23 + R24 is 2 or higher)
- Mental Health Yes (Circle if N1+N2+N3a+N3b is 1 or higher)
- Trauma Yes (Circle if N4+N5 is 4 or higher)

Criminal Justice Supervision and Treatment Recommendation (devise classification system based on local supervision, service, and treatment options):

TAB 15

COMPAS Core ASSESSMENT - OFFICIAL RECORDS

Name: [REDACTED]

Screening Date: 12/6/2011

DOB: [REDACTED]

Gender: Male

Ethnicity: [REDACTED]

Scale Set: All CORE COMPAS Scales

Screener: Herrschaft, Bryn A

Agency Name: Harlem Community Center

Current Charges

Note to Screener: Throughout the assessment, scroll over questions to reveal help hyperlinks. Click on the hyperlinks for clarification of question and answer options.

- | | | | |
|---|--|---|--------------------------------|
| <input type="checkbox"/> Homicide | <input type="checkbox"/> Weapons | <input type="checkbox"/> Assault | <input type="checkbox"/> Arson |
| <input type="checkbox"/> Robbery | <input type="checkbox"/> Burglary | <input type="checkbox"/> Property/Larceny | <input type="checkbox"/> Fraud |
| <input type="checkbox"/> Drug Trafficking/Sales | <input type="checkbox"/> Drug Possession/Use | <input type="checkbox"/> DUI/OUIL | <input type="checkbox"/> Other |
| <input type="checkbox"/> Sex Offense with Force | <input type="checkbox"/> Sex Offense w/o Force | | |

1. Do any current offenses involve family violence?
 No Yes
2. Which offense category represents the most serious current offense?
 Misdemeanor Non-violent Felony Violent Felony
3. Was this person on probation or parole at the time of the current offense?
 Probation Parole Both Neither
4. Based on the screener's observations, is this person a suspected or admitted gang member?
 No Yes

Criminal History

Exclude the current case for these questions.

5. How many times has this person been arrested before as an adult or juvenile (criminal arrests only)?
5
6. What was the age of this person when he or she was first arrested as an adult or juvenile (criminal arrests only)?
13
7. How many prior juvenile felony offense arrests?
 0 1 2 3 4 5+
8. How many prior juvenile violent felony offense arrests?
 0 1 2+
9. How many prior commitments to a juvenile institution?
 0 1 2+
10. How many times has this person been arrested for a felony property offense that included an element of violence?
 0 1 2 3 4 5+

Note to Screener: The following Criminal History Summary questions require you to add up the total number of specific kinds of offenses in the person's criminal history.

For each of the questions below, record the number of arrests or convictions (felony or misdemeanors). Record whichever is higher, the number of arrests or convictions.

Do not include the current case.

11. How many prior murder/voluntary manslaughter offense arrests as an adult?
 0 1 2 3+
12. How many prior felony assault offense arrests (not murder, sex, or domestic violence) as an adult?
 0 1 2 3+

13. How many prior misdemeanor assault offense arrests (not sex or domestic violence) as an adult?
 0 1 2 3+
14. How many prior family violence offense arrests as an adult?
 0 1 2 3+
15. How many prior sex offense arrests (with force) as an adult?
 0 1 2 3+
16. How many prior weapons offense arrests as an adult?
 0 1 2 3+
17. How many prior drug trafficking/sales offense arrests?
 0 1 2 3+
18. How many prior drug possession/use offense arrests?
 0 1 2 3+
19. How many times has this person been sentenced to jail for 30 days or more?
 0 1 2 3 4 5+
20. How many times has this person been sentenced (new commitment) to state or federal prison (include current)?
 0 1 2 3 4 5+

Include the current case for the following question(s).

21. Has this person, while incarcerated in jail or prison, ever received serious or administrative disciplinary infractions for fighting/threatening other inmates or staff?
 No Yes
22. How many times has this person been sentenced to probation as an adult?
 0 1 2 3 4 5+

Non-Compliance

Include the current case for these questions.

23. How many times has this person violated his or her parole?
 0 1 2 3 4 5+
24. How many times has this person been returned to prison while on parole?
 0 1 2 3 4 5+
25. How many times has this person had a new charge/arrest while on probation?
 0 1 2 3 4 5+
26. How many times has this person's probation been violated or revoked?
 0 1 2 3 4 5+
27. How many times has this person failed to appear for a court appearance?
 0 1 2 3 4 5+
28. How many times has the person been arrested/charged w/new crime while on pretrial release (includes current)?
 0 1 2 3+

INTERVIEW & SELF REPORT

Residence/Stability

29. How often do you have contact with your family (may be in person, phone, mail)?
 No family Never Less than once/month Once per week Daily
30. How often have you moved in the last twelve months?
 Never 1 2 3 4 5+
31. Do you have a regular living situation (an address where you usually stay and can be reached)?
 No Yes
32. How long have you been living at your current address?
 0-5 mo. 6-11 mo. 1-3 yrs. 4-5 yrs. 6+ yrs.
33. Is there a telephone at this residence (a cell phone is an appropriate alternative)?
 No Yes
34. Can you provide a verifiable residential address?
 No Yes
35. How long have you been living in that community or neighborhood?
 0-2 mo. 3-5 mo. 6-11 mo. 1+ yrs.
36. Do you live with family—natural parents, primary person who raised you, blood relative, spouse, children, or boy/girl friend if living together for more than 1 year?
 No Yes
37. Do you live with friends?
 No Yes
38. Do you live alone?
 No Yes
39. Do you have an alias (do you sometimes call yourself by another name)?
 No Yes

Family Criminality

The next few questions are about the family or caretakers that mainly raised you when growing up.

40. Which of the following best describes who principally raised you?
- Both Natural Parents
 - Natural Mother Only
 - Natural Father Only
 - Relative(s)
 - Adoptive Parent(s)
 - Foster Parent(s)
 - Other arrangement
41. If you lived with both parents and they later separated, how old were you at the time?
- Less than 5
 - 5 to 10
 - 11 to 14
 - 15 or older
 - Does Not Apply
42. Was your father (or father figure who principally raised you) ever arrested, that you know of?
- No
 - Yes
43. Was your mother (or mother figure who principally raised you) ever arrested, that you know of?
- No
 - Yes
44. Were your brothers or sisters ever arrested, that you know of?
- No
 - Yes
45. Was your wife/husband/partner ever arrested, that you know of?
- No
 - Yes
46. Did a parent or parent figure who raised you ever have a drug or alcohol problem?
- No
 - Yes
47. Was one of your parents (or parent figure who raised you) ever sent to jail or prison?
- No
 - Yes

Peers

Please think of your friends and the people you hung out with in the past few (3-6) months.

48. How many of your friends/acquaintances have ever been arrested?
- None
 - Few
 - Half
 - Most
49. How many of your friends/acquaintances served time in jail or prison?
- None
 - Few
 - Half
 - Most
50. How many of your friends/acquaintances are gang members?
- None
 - Few
 - Half
 - Most

51. How many of your friends/acquaintances are taking illegal drugs regularly (more than a couple times a month)?
 None Few Half Most
52. Have you ever been a gang member?
 No Yes
53. Are you now a gang member?
 No Yes

Substance Abuse

What are your usual habits in using alcohol and drugs?

54. Do you think your current/past legal problems are partly because of alcohol or drugs?
 No Yes
55. Were you using alcohol or under the influence when arrested for your current offense?
 No Yes
56. Were you using drugs or under the influence when arrested for your current offense?
 No Yes
57. Are you currently in formal treatment for alcohol or drugs such as counseling, outpatient, inpatient, residential?
 No Yes
58. Have you ever been in formal treatment for alcohol such as counseling, outpatient, inpatient, residential?
 No Yes
59. Have you ever been in formal treatment for drugs such as counseling, outpatient, inpatient, residential?
 No Yes
60. Do you think you would benefit from getting treatment for alcohol?
 No Yes
61. Do you think you would benefit from getting treatment for drugs?
 No Yes
62. Did you use heroin, cocaine, crack or methamphetamines as a juvenile?
 No Yes

Social Environment

Think of the neighborhood where you lived during the past few (3-6) months.

63. Is there much crime in your neighborhood?
 No Yes
64. Do some of your friends or family feel they must carry a weapon to protect themselves in your neighborhood?
 No Yes
65. In your neighborhood, have some of your friends or family been crime victims?
 No Yes
66. Do some of the people in your neighborhood feel they need to carry a weapon for protection?
 No Yes
67. Is it easy to get drugs in your neighborhood?
 No Yes
68. Are there gangs in your neighborhood?
 No Yes

Education

Think of your school experiences when you were growing up.

69. Did you complete your high school diploma or GED?
 No Yes
70. What was your final grade completed in school?
9
71. What were your usual grades in high school?
 A B C D E/F Did Not Attend
72. Were you ever suspended or expelled from school?
 No Yes
73. Did you fail or repeat a grade level?
 No Yes
74. How often did you have conflicts with teachers at school?
 Never Sometimes Often
75. How many times did you skip classes while in school?
 Never Sometimes Often

76. How strongly do you agree or disagree with the following: I always behaved myself in school?
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
77. How often did you get in fights while at school?
 Never Sometimes Often

Vocation (Work)

Please think of your past work experiences, job experiences, and financial situation.

78. Do you have a job?
 No Yes
79. Do you currently have a skill, trade or profession at which you usually find work?
 No Yes
80. Can you verify your employer or school (if attending)?
 No Yes
81. How much have you worked or been enrolled in school in the last 12 months?
 12 Months Full-time 12 Months Part-time 6+ Months Full-time 0 to 6 Months PT/FT
82. Have you ever been fired from a job?
 No Yes
83. About how many times have you been fired from a job?
1
84. Right now, do you feel you need more training in a new job or career skill?
 No Yes
85. Right now, if you were to get (or have) a good job how would you rate your chance of being successful?
 Good Fair Poor
86. How often do you have conflicts with friends/family over money?
 Often Sometimes Never
87. How hard is it for you to find a job ABOVE minimum wage compared to others?
 Easier Same Harder Much Harder
88. How often do you have barely enough money to get by?
 Often Sometimes Never
89. Has anyone accused you of not paying child support?
 No Yes

90. How often do you have trouble paying bills?
 Often Sometimes Never
91. Do you frequently get jobs that don't pay more than minimum wage?
 Often Sometimes Never
92. How often do you worry about financial survival?
 Often Sometimes Never

Leisure/Recreation

Thinking of your leisure time in the past few (3-6) months, how often did you have the following feelings?

93. How often did you feel bored?
 Never Several times/mo Several times/wk Daily
94. How often did you feel you have nothing to do in your spare time?
 Never Several times/mo Several times/wk Daily
95. How much do you agree or disagree with the following - You feel unhappy at times?
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
96. Do you feel discouraged at times?
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
97. How much do you agree or disagree with the following -You are often restless and bored?
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
98. Do you often become bored with your usual activities?
 No Yes Unsure
99. Do you feel that the things you do are boring or dull?
 No Yes Unsure
100. Is it difficult for you to keep your mind on one thing for a long time?
 No Yes Unsure

Social Isolation

Think of your social situation with friends, family, and other people in the past few (3-6) months. Did you have many friends or were you more of a loner? How much do you agree or disagree with these questions?

101. "I have friends who help me when I have troubles."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
102. "I feel lonely."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
103. "I have friends who enjoy doing things with me."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
104. "No one really knows me very well."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
105. "I feel very close to some of my friends."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
106. "I often feel left out of things."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
107. "I can find companionship when I want."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
108. "I have a best friend I can talk with about everything."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
109. "I have never felt sad about things in my life."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree

Criminal Personality

The next few questions are about what you are like as a person, what your thoughts are, and how other people see you. There are no 'right or wrong' answers. Just indicate how much you agree or disagree with each statement.

110. "I am seen by others as cold and unfeeling."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
111. "I always practice what I preach."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
112. "The trouble with getting close to people is that they start making demands on you."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree

113. "I have the ability to "sweet talk" people to get what I want."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
114. "I have played sick to get out of something."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
115. "I'm really good at talking my way out of problems."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
116. "I have gotten involved in things I later wished I could have gotten out of."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
117. "I feel bad if I break a promise I have made to someone."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
118. "To get ahead in life you must always put yourself first."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree

Anger

119. "Some people see me as a violent person."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
120. "I get into trouble because I do things without thinking."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
121. "I almost never lose my temper."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
122. "If people make me angry or lose my temper, I can be dangerous."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
123. "I have never intensely disliked anyone."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
124. "I have a short temper and can get angry quickly."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree

Criminal Attitudes

The next statements are about your feelings and beliefs about various things. Again, there are no 'right or wrong' answers. Just indicate how much you agree or disagree with each statement.

125. "A hungry person has a right to steal."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
126. "When people get into trouble with the law it's because they have no chance to get a decent job."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
127. "When people do minor offenses or use drugs they don't hurt anyone except themselves."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
128. "If someone insults my friends, family or group they are asking for trouble."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
129. "When things are stolen from rich people they won't miss the stuff because insurance will cover the loss."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
130. "I have felt very angry at someone or at something."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
131. "Some people must be treated roughly or beaten up just to send them a clear message."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
132. "I won't hesitate to hit or threaten people if they have done something to hurt my friends or family"
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
133. "The law doesn't help average people."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
134. "Many people get into trouble or use drugs because society has given them no education, jobs or future."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree
135. "Some people just don't deserve any respect and should be treated like animals."
 Strongly Disagree Disagree Not Sure Agree Strongly Agree

COMPAS Risk & Need Assessment System

Selected Questions Posed by Inquiring Agencies

Ease of Use

Does your tool require an interview with the inmate? If so, what advantage does this offer?

Northpointe designed COMPAS to allow for test administration flexibility. There are several options data gathering options, any of which are valid. The offender may fill out the self-report section on his or her own. There may be a scripted interview, in which questions are asked verbatim. The interviewer may use a “guided discussion” format to simultaneously gather the assessment data and enhance rapport and buy-in for the intervention process, using a motivational interviewing style. The choice is the agency’s to make, depending on the skill level of their staff, the time available to collect the data, and the resources available for COMPAS administration.

Does COMPAS rely on ‘static’ factors (criminal history only)? How does this approach compare to the static plus dynamic measurement approach employed by other companies?

COMPAS relies on both static and dynamic data to generate its risk and needs results. The use of dynamic measures allows for measures to change over time as behavior changes. These changes are included in the measures of risk and need. The dynamic factors also allows for the “overlay” of previous assessments on the latest assessment to visual see any change in risk and need scores.

Is there a short-screen/pre-screen?

COMPAS is scalable to fit the needs of many different decision points, including pre-screening. In applying the risk principle, many agencies select the Violence and Recidivism risk scales for pre-screening or triaging the case. Individuals that score higher on risk may then have a more in-depth assessment using additional COMPAS scales. Information previously entered into a COMPAS assessment is automatically imported into the second tier assessment. This also allows for the distribution of the assessment workload over several offender processing points—e.g. pre-trial might turn just the scales needed to support a release decision then at post sentence, for example, additional scales would be added to their assessment in support of supervision and treatment decisions (case plan).

How long does it take to administer the tool?

This depends on the assessment information needs at a particular offender processing point and the scales that you have determined are necessary to inform a decision. COMPAS assessment can take anywhere from 10 minutes to an hour depending on the scale content and administration data collection style. When possible, we also encourage developing an interface between COMPAS and other MIS systems. These system interfaces are built quickly and are designed to eliminate redundant data entry.

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Accuracy & Utility

What is the theoretical framework for this tool?

COMPAS incorporates a comprehensive theory-based assessment approach. It is designed to incorporate key scales from several of the most informative theoretical explanations of crime and delinquency including General Theory of Crime, Criminal Opportunity/Lifestyle Theories, Social Learning Theory, Subculture Theory, Social Control Theory, Criminal Opportunities/Routine Activities Theory, and Strain Theory.

On what population was the risk tool 'normed'?

COMPAS offers several norm group options at system configuration including community corrections, jail populations, prison inmates, and a composite norming group representing all of the above. Each agency, with guidance from Northpointe, decides which norm group(s) they wish to score the assessment against. In addition, COMPAS is normed to male and female populations as well. As sufficient data become available, the Northpointe R&D team can work with the site to design samples that will generate locally relevant norms.

Has your tool been evaluated by an independent source?

COMPAS psychometric data has been peer-reviewed and published in a number of professional journals including Criminal Justice and Behavior January 2009 and Journal of Quantitative Criminology June 2008. COMPAS psychometric reports are available from Northpointe upon request.

Is COMPAS valid?

The General Recidivism Risk scale was developed in a sample of presentence investigation (PSI) and probation intake cases. The outcome was any arrest (misdemeanor or felony) within two years of the intake assessment. We recently validated the General Recidivism Risk scale in a sample of 2,328 PSI and probation intake cases. We fit survival models in which the Recidivism Risk scale predicted any offense, person offenses, and felony offenses. The AUCs ranged from .68 to .71 in the full sample. The follow-up time ranged from about one year to four years (Brennan, Dieterich, & Ehret, 2009). These predictive results meet or exceed results for other similar assessments.

The Violent Recidivism Scale was developed using survival modeling in a sample of probation intake and PSI cases to predict person offenses. The follow-up times ranged from one year to four years. We have evidence of the predictive validity of the Violent Recidivism Risk scale for person offenses in New York Parole reentry pilot [2008] (n=800, AUC=.73, survival follow-up = 2 years) and New York Probation study [2009] (n=5,889, AUC= .72, survival follow-up=2 years). These predictive results meet or exceed results for other similar assessments.

We have evidence of predictive validity of the Violent Recidivism Risk scale for return to prison for felony person nontechnical violations [2007] (n=20,898, AUC=.67, survival follow-up time=1 year).

There is good evidence from these studies that the risk scales predict recidivism outcomes that occur between one and two years from assessment (probation intake, PSI, reentry).

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How well does it predict violence?

In the most recent outcomes study conducted on the COMPAS Risk of Violence scale on a New York parole population 2009 – AUC's were .73. This is consistent with other outcomes studies we have conducted and meets or exceeds AUC's from other assessment tools.

Does the tool work well with all populations (female, mentally disordered, different races, etc.)?

The tool works well between genders and ethnicities. As with any assessment tool, there are some limitations regarding appropriateness for mentally ill offenders. While COMPAS is widely used across several state Department of Corrections systems which include offenders with varying degrees of mental disorders it is advised in training that discretion may need to be used as to the appropriateness or accuracy of any assessment on a chronically mentally ill person. In some cases no standard assessments may be applicable and may need to rely on the clinical community.

Northpointe has developed an automated risk and needs assessment specifically for women offenders. Comprehensive in its coverage of risk and needs factors it is designed to take advantage of the most recent research on characteristics most strongly linked to behavior in women. These factors include economic marginalization, trauma, victimization and abuse, mental health, dysfunctional intimate relationships, self-efficacy and parental stress.

To what extent can the tool be used to make treatment assignment decisions (for substance abuse or mental health services, for example)?

COMPAS is designed to support treatment, programming and case management decisions. The various COMPAS reports describe the offender's risk and criminogenic needs. The fundamental task is to "connect the dots" among the various factors and develop a more integrated and coherent interpretation of each person's support needs. The meaning of any "risk factor" will clearly depend on what other risk factors are present, as well as the broad pattern of criminal history of the respondent. This may involve different levels of complexity in the patterns that are being examined. Several considerations in terms of selecting risk factors as treatment goals may apply:

- Which risk factors are easily alterable?
- Which risk factors are most strongly linked to the person's criminal behavior?
- What should be the sequence of tackling the risk factors, i.e., must certain factors be logically or developmentally addressed first?
- How stable and "long-term" is each risk factor?
- How does each factor relate to other factors?

The assessment results auto-populate the COMPAS case plan template to facilitate the "connecting of the dots" and to assist in the development of more consistent and appropriate treatment interventions in the plan for each offender. Types of interventions, e.g. outpatient versus residential, are sometimes determined by using secondary narrow band assessments (ASI, etc) and the availability of programming in the community.

If the information source is the offender, can we rely on the responses?

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Many factors may distort the data and introduce errors in either the self-report data or the official criminal records. COMPAS will produce alerts regarding the possibility of such responding by including a lie test and a random responding and inconsistency test.

The Defensiveness Test:

This includes several bizarre and very unlikely items, which collectively aim to identify offenders who are being defensive, or attempting to avoid being self revealing.

Random responding Test:

This is a second validity test that should be evaluated prior to accepting the offender results at face value. This aims to assess careless, inconsistent responding that may verge on sabotage.

The Inconsistency Test:

The inconsistency test is examines a person's predicted risk levels with his general social history and the profile of risk factors. In general there should be reasonable coherence between the actual criminal history (of both involvement and violence) and the seriousness and number of high risk factors. If there is extreme inconsistency between these, there may be a danger of false reporting, missing data, and either over-classification errors or under-classification errors. This test will identify such anomalies, and generally recommend that such cases be given some more specific interviews and data collection to uncover more facts. Thus these cases would clearly require some additional scrutiny.

These validity tests are presented as alerts, and not on any percentile levels. They will simply "flag" the person as potentially having a validity problem. These tests are calibrated to "flag" the top 5% to 10% of the population whose answers are suspect. Details of these tests are given in the Statistical Report for COMPAS.

How can a county be confident that the tool is accurately scoring its population? What would trigger questions of accuracy or alert it to a potential problem?

We use a quality assurance protocol in which the software calculations are compared with calculations in an external statistical package. The testing takes place between our IT Division and R&D Division. The test compares raw scale scores and deciles scores calculations to identify and report anomalies. In addition, the IT division has extensive quality assurance protocols for testing other aspects of the software. We also conduct norm studies in which the scale distributions in the agency data are compared to the scale distributions in the normative data in the software. Some of these distributions can be monitored over time with ad hoc report generation in the software by the agency. For example, if in the norm study we find that the (low, med, high) split on the recidivism risk scale is 40-30-30, this split can be monitored over time. We may also conduct redundancy testing of the software calculations if that level of assurance is required. Finally, we are working on an internal diagnostic procedure that routinely compares software calculations with stored calculations in a test dataset.

How are cut-off scores for risk levels decided?

The COMPAS scale scores are transformed into deciles. Decile scores rank the scale scores of a normative group in ascending order and then dividing these scores into ten equal sized groups obtain deciles. Deciles

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range from 1 (lowest) to 10 (highest). These scores thus proceed in roughly 10% steps from lowest to highest (1 through 10).

A decile rank of 1 indicates that the scale score is in the lowest 10% of all scores in the normative group. A decile rank of 2 places the scale score above 10% and below 20% of the scores, and so on, up to a decile of 10, which places the scale score in the top 10% of all scores in the normative group. The decile rank is used to locate a particular offender's scale score in relation to the scale scores of offenders in the normative group. In the current version of COMPAS, scale scores can be referenced to the scale distributions of eight normative groups: (1) male prison/parole, (2) male jail, (3) male probation, (4) male composite, (5) female prison/parole, (6) female jail, (7) female probation and (8) female composite.

What is the proper role of discretion in the use of the tool?

COMPAS provides for the ability to "override" or deviate from typically policy regarding the management and response to risk and needs. Within the COMPAS Screener Judgment tab, for example, several questions allow the screener to introduce their own overall conclusions and judgments about major risks/needs. Ultimately, a final decision is made by the criminal justice professional regarding risk levels. In this decision the statistical procedures of COMPAS remain in a decision support capacity. Such statistical or actuarial procedures are always probabilistic and cannot claim to be without error. Thus, whenever the probation officer or criminal-justice professional reaches a decision that is different from that of the statistical procedure, he or she has the option to override the statistical method and introduce a recommendation to place the person in a different risk level than that recommended by the statistical method. Due to either aggravating or mitigating circumstances not detected by COMPAS one may expect override rates of from 8% to 15%.

The set of reasons that may warrant a change of risk level that is higher than that recommended by the statistical procedure are sometimes referred to as "Aggravating Factors". These include additional information that may be available to the officer that would render a particular offender a higher risk than recommended by the statistical method. Aggravating factors often include extraneous information that makes the offense more serious, more violent, or may appear to make the offender more culpable, more resistant to treatment, and so forth.

Downward overrides may also be made by the criminal justice professional. These are often based on mitigating factors. These include factors that may excuse the offender, reduce the seriousness of the crime, or raise the likelihood of a pro-social adjustment. An override may also be appropriate for an offender scoring high on Risk of Recidivism when the current arrest/conviction (an anomaly) is several years since the last arrest/conviction (and who has not been incarcerated for a lengthy period), e.g. an older offender with the last arrest/convictions from his youth.

Is it important that the tool be validated at the local level?

Northpointe has conducted numerous local validation studies around the country. In each case we found no "statistically significant" deviations from the national norm group studies. COMPAS allows for the local setting of the scale "cut points" to reflect local policy and tolerance of risk, e.g. rural communities may deviate from the COMPAS default cut points violence from to 7 to reflect a more conservative tolerance for that risk while in metropolitan urban areas they would keep it at 8 or even consider moving it to 9. With this said, it is always

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prudent to have your own local validation study for use in case of any court challenges. Northpointe offers local validation and outcome study services through our R&D Division.

Please explain the components of your product that identify it as a fourth generation assessment tool?

Fourth generation (4G) assessment tools are characterized by: (1) a broader selection of explanatory theories, (2) broader range of risk and need factors (content validity), (3) incorporation of the strengths/resiliency perspective, (4) more advanced statistical modeling, (5) seamless integration of the need/risk domain with the agency management information system (MIS) and criminal justice databases and web-based implementation of assessment technology. Such integration allows users to track offenders from intake to case closure to support sequential case-management monitoring, information feedback, and decision-making. COMPAS has incorporated all of these features (interested readers may obtain full details in Brennan, Dieterich, and Oliver (2007)). Regarding fourth generation (4G) assessments, Andrews, Bonta, and Wormith (2006) identified a few instruments as representing this category including COMPAS.

What are the limitations of the risk tool?

There are a number of interpersonal nuances that COMPAS cannot pick up on, such as demeanor, eye contact, body language, etc. Also, COMPAS is a "broad-band" assessment covering 22 risk and need domains and is not intended to serve as a "narrow-band" assessment for substance abuse, mental illness or sex offending. However, various secondary assessments are provided in the COMPAS software that provide a more in-depth set of information for a particular need area.

Ease of Administration: Simple to Use and Interpret

What training is required to use the tool? Is it simple enough for widespread use?

COMPAS is designed to be user-friendly, even for those with limited computer experience and education. It is in widespread use in prison settings, in jails, and in probation and parole offices. Our standard two-day training provides end-users with a practical ability to use the software, interpret the assessment results, and create case plans that address the highest-scoring needs. Additional training options and curriculums are available to meet the needs of your agency including: advanced COMPAS training covering criminological theory (pathways to crime) and the link to the offender typology assignments, gender responsive training for working with the female population, motivational interviewing, etc.

What is the degree of inter-rater reliability? (Similar scoring by different interviewers)

We purposely designed COMPAS to minimize the risk of inter-rater reliability problems found in other assessments, e.g. LSI/R, by designing test administration to not require semi-structured interviewing. The COMPAS assessment is basically broken down into two sections – Official Records data (current offense/criminal history) and offender self report. The self-report questions are not "open ended" and subject to the interpretation of the screener. This approach significantly limits the concern of inter-rater reliability.

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What is the role of discretion or professional/clinical judgment in the use of the tool?

This is addressed in the Override response above. COMPAS is a “decision support” tool. It is intended to help guide the decision maker in making appropriate case supervision, treatment, and placement decisions.

How often should the offender be re-assessed?

Reassessment of an offender is left to the discretion of the agency. While COMPAS allows for reassessment over time and the “overlay” of previous bar chart reports upon the latest report - its use depends on several factors including agency case management goals and objectives, average time an offender is under supervision/on the caseload, staff resources, and the purpose for conducting reassessments. Northpointe suggest that if reassessments are conducted they may best be done at least eight to 12 months after the initial assessment. This to better measure true change in the client’s life style and social supports as compared to changes the system has foisted upon them, e.g. getting them into treatment, getting them a job, place to stay, etc – time allows for determining whether they can stay sober, keep a job, maintain stable housing, etc. In addition, alternatives to reassessing in COMPAS include keeping the case plan current (monitoring and recording progress, adding new goals and tasks as primary needs are addressed e.g. modifying the case plan based on progress or lack there of with the offender) and using the COMPAS Case Supervision Review instrument as a short tool to review and modify the supervision assignment level every six months.

Is the tool easy to score? Is the scoring automated?

Reassessments are conducted using the same as software mechanics as performing a new assessment. In a reassessment, the current offense and all static information previously entered in the last assessment come forward – only the dynamic questions require re-answering. You may also elect to reassess using all 22 scales or any subset of scales that may best support your re-assessment decision support thus shortening the length of the reassessment.

The Case Supervision Review instrument is a 23 item point and click response questionnaire that is completed by the case manager/supervising agent and does not need the client present. It is automatically scored and produces a supervision adjustment recommendation. The instrument is intended to be an objective decision support tool to guide adjustments in the current supervision level.

What are the features of the case management package? What types of reports does it generate?

COMPAS currently allows for the monitoring and tracking of program referrals, enrollments, termination dates and reasons, service providers and doses of treatment. Combined with the rest of the COMPAS database this allows for conducting process evaluations, program performance and outcomes analysis, service gap analysis, and to assist in determining which programs work with which offender populations. Numerous roster or statistical reports can be created thru the COMPAS Quick Charts feature or our new ad-hoc report generator.

The COMPAS database may also be exported to third party spreadsheets and stat packages. In addition, we are in beta testing of the new COMPAS Case Manager module that will offer comprehensive offender case management tracking including court activity, drug court case management, scheduling, accounting, bench warrants, violations, supervision condition tracking, event logs, drug testing, etc.

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Cost

What is the cost? How determined?

Software licensing is based on the desired COMPAS package (Basic, Standard or Advanced) and is priced on a per user annual unlimited use license. Various trainings from which to choose, hosting services, project consultancy, local validation studies, outcomes studies, etc, are all offered as individual optional services from which you may pick and choose to best match your agency's needs and budget.

Training costs?

Training costs vary somewhat depending on the type of training desired. Generally, training instructor fees are \$1,200 to \$1,300 per day plus travel and materials reimbursement.

What customer service and support services included?

Northpointe offers comprehensive customer support and software technical support 8 to 5 business days EST. Emergency service is also available. Costs for these services are generally covered under the software maintenance and support line item.

Technical and Support

Do you provide a fully hosted solution complete with vendor upgrades, maintenance, security, back-up, reports, etc?

Northpointe handles all application upgrades and support. The local IT department is responsible for local security policies (login and passwords) and data backups. We will provide all the guidance and support necessary to walk your folks thru these issues.

Please describe this program and how much it costs?

SQL Server handles all backup needs and does not require further software purchases.

Describe the support program that accompanies this and its costs?

No support program needed

Describe our ability to customize the hosted solution?

There are multiple customization opportunities from adding customized forms to interfacing with your current IMS systems. At the system manager level you may customize COMPAS drop down help text and tweak COMPAS question language terms. Customizations usually require a more in depth discussion on your specific architecture and needs.

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Describe our ability to customize reports from the hosted solution?

COMPAS provides both a Quick Charts and Ad-Report Generator feature. This allows user to easily custom build and save an unlimited number of rosters, statistical summaries and trend charts. The results of these reports as well as the entire COMPAS database may also be exported to other applications e.g. Excel, Word, various statistical packages, etc for further customization.

Can we import or export data to/from the hosted solution? What format is required?

Yes, our standard hosted interface to import/export data is using SOAP Web Services.

Local - if we choose to not to use a hosted but rather local installed solution:

Describe the software, how it is installed and to what its installed?

The application is a web application that is installed under IIS with a SQL Server database. Installation is usually a manual process of setting up IIS directories and configuring to fit your hosted environment.

Describe a single solution versus a network solution?

Being a web application they are both the same solution.

What professional services do you offer to install and configure? How much are these services?

Installation and configuration are included in the application purchase. This is assuming Northpointe is granted remote access. Onsite installations require additional costs. Our standard rate is \$150/hr.

Describe technical support for a local solution and if we need to train a system administrator to provide local application support?

Technical support is provided via remote connection, email and phone. System administrators only need a basic understanding of IIS, network security and SQL Server. Application support is provided by Northpointe.

Can we import or export data to/from the hosted solution? What format is required?

Yes, our standard interface to import/export data is using SOAP Web Services. We also support customized import routines to import/export data in excel and .CSV formats in locally hosted scenarios.

TAB 16

The Ohio Risk Assessment System (ORAS)

In 2006, the Department of Rehabilitation and Corrections (DRC) contracted with the University of Cincinnati, Center for Criminal Justice Research, to create a set of research-driven tools that would provide risk assessments at multiple points in the criminal justice system validated on an Ohio offender population. Not all offenders are equal in their risk to reoffend, or their need for treatment and programming. Informed by a commitment to the principles of evidence-based practice, the intent was to separate adult offenders into risk groups determined by their likelihood of recidivating, and to identify dynamic risk factors (or criminogenic needs) to guide and prioritize appropriate and effective programmatic intervention.

The Ohio Risk Assessment System (ORAS) has since been created using a research design that involved conducting in-depth structured interviews of over 1,800 offenders at different stages in the justice system: pretrial, community supervision, prison intake, and community reentry. After the interviews were conducted, offenders were tracked for approximately one year to gather follow-up information on recidivism. Six assessment instruments have since been created: the Pretrial Assessment Tool (PAT), the Community Supervision Tool (CST), the Community Supervision Screening Tool (CSST), the Prison Intake Tool (PIT), the Prison Screening Intake Tool (PSIT), and a Reentry Tool (RT). (See the chart on the next page summarizing the variables associated with the four primary assessment instruments and the principal stages to which they apply.)

Counties in Ohio presently rely on a wide array of predictive tools creating a great deal of variation in the assessment of offenders' risks and needs. The launching of ORAS which will occur in April 2011 is designed to facilitate greater objectivity and consistency in the assessment of offender risk across jurisdictions. The tools developed under ORAS are non-proprietary, and will be made available to authorized users (those certified in the application of the tools) at no cost. Training of staff on the various ORAS instruments is already underway supported by the Corrections Training Academy (DRC).

ORAS identifies risk levels and points practitioners towards needs areas that must be addressed to reduce recidivism. However, ORAS, in and of itself, is not a case planning / management tool. To assist criminal justice agencies, ORAS will be integrated with case planning / management within a structure that identifies and targets specific treatment domains.

The individualized assessments under ORAS are not intended to dictate to decision-makers what to do, or to remove professional judgment. Rather, the results are designed to better inform the decisions that are made at different stages of criminal justice processing. The tools provide for professional overrides and for making sentencing or placement decisions that depart from the ORAS-associated recommendations.

An ORAS Oversight Committee has been established to guide the implementation of this important initiative, and to ensure ongoing cross system communication. Its membership consists of key stakeholders from the Department of Rehabilitation and Correction, the Attorney General's Office, the Office of the Ohio Public Defender, the Ohio Supreme Court, the Ohio Judicial Conference, the Department of Youth Services, and external community correctional agencies representing probation departments, halfway houses and community-based correctional facilities.

There are numerous benefits to be gained by the adoption of ORAS statewide. The assessment of risk and needs will permit the sorting of outcomes and the placement of offenders into different risk levels for the first time by gender. The use of the tools will provide recommended levels of community supervision, and suggest programmatic and placement options. Over time with proper implementation

state, regional, and site-specific county profiles will be available offering offender descriptions, and identifying gaps in services and local resources. Finally, ORAS will also assist in the more efficient allocation of staff support and supervision activities.

This is an exciting time for Ohio. No other state or adult criminal justice agency has developed such a system with interconnected assessment tools that can be deployed at various stages in the justice system. Once ORAS is in place, it will enhance the effectiveness of the criminal justice system, thereby contributing to greater public safety, reduced recidivism, and successful offender reintegration.

Ohio Risk Assessment System (ORAS)

University of Cincinnati – Center for Criminal Justice Research

Phase	Initial Contact with the Criminal Justice System	Probation/Community Control	While in Prison	While in Prison	Parole or Post-Release Supervision
Tool	Pretrial Tool (PAT)	Community Supervision Tool (CST)	Prison Intake Tool (PIT)	Reentry Tool (RT)	Community Supervision Tool (CST)
Domains	<ul style="list-style-type: none"> • Criminal/Supervision History (3 items) • Employment (1 item) • Substance Abuse (2 items) • Residential Stability (1 item) 	<ul style="list-style-type: none"> • Criminal/Supervision History (6 items) • Educ., Employ., Finances (6 items) • Family & Social Support (3 items) • Neighborhood Problems (3 items) • Substance Abuse (5 items) • Peer Assoc. (4 items) • Crim. Attitudes & Behav. Prob. (7 items) 	<ul style="list-style-type: none"> • Criminal History (7 items) • Educ., Employ., Finances (6 items) • Family & Social Support (5 items) • Substance Abuse (5 items) • Criminal Lifestyle (7 items) 	<ul style="list-style-type: none"> • Criminal History (8 items) • Social Bonds (4 items) • Criminal Attitude & Behavior Problems (7 items) 	<ul style="list-style-type: none"> • Criminal/Supervision History (6 items) • Educ., Employ., Finances (6 items) • Family & Social Support (5 items) • Neighborhood Problems (2 items) • Substance Abuse (5 items) • Peer Assoc. (4 items) • Crim. Attitudes & Behav. Prob. (7 items)
# Variables	N=7	N=35	N=31	N=20 <i>administered only to those subject to Parole or Post-Rel. Supervision</i>	N=35
Outcomes Predicted	Failure to Appear Reoffend	Technical Violations Reoffend	Reoffend	Reoffend	Technical Violations Reoffend

ORAS Locations (Current and Upcoming)

- Alabama
- California:
 - Monterey County
 - Ventura County
 - Yolo County
 - Calaveras Co
- Colorado
- Connecticut
- Florida:
 - Alachua County
 - Orange County
 - Osceola County
 - Seminole County
- Kansas City
- Indiana
- Montana
- Pennsylvania
 - Dauphin County
 - York County
- Ohio
- Oklahoma
- Texas (they have conducted a validation study)
- Vermont
- New Hampshire

CREATION AND VALIDATION OF THE OHIO RISK ASSESSMENT SYSTEM

FINAL REPORT

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River City Community Based Correctional Center, Community Correctional Center of Butler, Clermont, and Warren Counties, Franklin County Community Based Correctional Facility, Western Ohio Regional Treatment and Habilitation Center, NorthWest Community Corrections Center, Summit County Community Based Correctional Facility, Community Corrections Association, Inc., Eastern Ohio Correction Center, Turtle Creek Center Halfway House, and Oriana House operated facilities.

Columbiana County Probation Services, Franklin County Probation, Cuyahoga County Probation Services, Hamilton County Probation Services, Warren County Probation Services, Montgomery County Probation Services, Clermont County Probation Services, Butler County Probation Services, and Wood County Probation Services.

EXECUTIVE SUMMARY

This report outlines the development and validation of the Ohio Risk Assessment System. The Ohio Department of Rehabilitation and Corrections contracted with the University of Cincinnati, Center for Criminal Justice Research to create a risk assessment system that would provide assessments at multiple points in the criminal justice system and that was validated on an Ohio population. A major goal of the project was to develop assessments that abided by the principles of effective classification by constructing assessments that 1) separated Ohio offenders into risk groups based on their likelihood to recidivate, 2) identified dynamic risk factors that can be used to prioritize programmatic needs, and 3) identify potential barriers to treatment.

The Ohio Risk Assessment System was created using a prospective design that involved conducting in-depth structured interviews of over 1,800 offenders at the following stages in Ohio's justice system: pretrial, community supervision, prison intake, and community reentry. After interviews were conducted, offenders were tracked for approximately one year to gather follow-up information on recidivism. Five assessment instruments were created using items that were related to recidivism: The Pretrial Assessment Tool, The Community Supervision Tool, The Community Supervision Screening Tool, The Prison Intake Tool, and the Reentry Tool.

Validation involved examining the predictive power of the assessment instruments. The results reveal that all assessment instruments are able to significantly distinguish between risk levels. Moreover, r values are relatively large and, depending upon the assessment instrument, range from .22 to .44. Concurrent validity also was examined by comparing the predictive power of each assessment tool to the LSI-R and the Wisconsin Risk/Needs instruments. These results revealed that the instruments for the Ohio Risk Assessment System performed as well if not better than both of the other instruments.

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INTRODUCTION

In 2006, the Ohio Department of Rehabilitation and Corrections (ODRC) contracted with the University of Cincinnati, Center for Criminal Justice Research to develop a risk and needs assessment system that improved consistency and facilitated communication across criminal justice agencies. The goal was to develop risk/needs assessment tools that were predictive of recidivism at multiple points in the criminal justice system. Specifically, assessment instruments were to be developed at the following stages: 1) pretrial, 2) community supervision, 3) institutional intake, and 4) community reentry.

A major goal of the assessment system was to conform to the principles of effective classification. In doing so, ODRC hoped to efficiently allocate supervision resources and structure decision-making in a manner that reduces the likelihood of recidivism. As a result, the Ohio Risk Assessment System (ORAS) was developed to classify the risk level of offenders in the system while also identifying both criminogenic needs and barriers to programming.

The Principles of Effective Classification

The principles of effective classification have been developed to guide criminal justice agencies in the use of risk assessment systems. In short, the principles of effective classification suggest that programs should use actuarial assessment tools to identify dynamic risk factors, especially in high risk offenders, while also identifying potential barriers to treatment. There are four major principles of effective classification are: the risk principle, the needs principle, the responsibility principle, the professional discretion principle (Andrews, Bonta, & Hoge, 1990).

The risk principle suggests that correctional interventions and programs are most effective when their intensity is matched to the risk level of the clientele (Andrews, Bonta, & Hoge, 1990; Van Voorhis, 2007). That is, the most intensive programs should be allocated to

moderate and high risk cases, while low risk cases be allocated little if any programming. Practically, the risk principle suggests that the majority of supervision and treatment resources be reserved for the highest risk cases. In fact, some research indicates that when low risk cases are targeted with intensive programs they actually perform worse than those who were left alone. This is because programming can expose offenders to higher risk cases and disrupt prosocial networks (see Lowenkamp & Latessa, 2004; Lowenkamp & Latessa, 2005b).

Several recent studies of correctional programming in Ohio suggest that the effectiveness of both residential and community based programs are mitigated by the risk of level of the clientele that they serve. For example, in 2002, Lowenkamp and Latessa evaluated the effects of Halfway Houses and Community Based Correctional Facilities and found consistently higher effect sizes for offenders who were moderate to high risk. Similar results were found for Community Corrections Act funded programs that suggested that programs that targeted higher risk offenders produced significantly lower rates of recidivism than programs that did not (Lowenkamp & Latessa, 2005a). These Ohio studies reiterate the notion that it is important to utilize risk assessment instruments in order to efficiently allocate resources in a manner that reduces recidivism.

A consistent finding in correctional programming is that the most effective programs target dynamic risk factors (Andrews et al., 1990, Lowenkamp, Latessa, & Smith, 2005; Lowenkamp & Latessa, 2004). Dynamic risk factors (also called criminogenic needs) are factors that, when changed, have been shown to result in a reduction in recidivism. Dynamic risk factors can include substance abuse, personality characteristics, antisocial associates, and antisocial attitudes (for a review, see Gendreau, Little, & Goggin, 1996). The needs principle

suggests that effective classification systems should identify dynamic risk factors directly related to recidivism so that they can be used to target programmatic needs.

The responsivity principle focuses on identifying barriers to treatment (Van Voorhis, 2007). Although dynamic risk factors are directly related to recidivism, there are other issues that are likely to keep individuals from engaging in treatment. Some examples of responsivity factors include intelligence, reading ability, language barriers, and cultural barriers. If left unaddressed, it is likely that these influences can interfere with the completion of treatment and, as a result, indirectly prevent a reduction in recidivism from occurring.

Although risk assessment instruments remove a degree of professional discretion from criminal justice actors, it is important to emphasize that the judgment of practitioners should not be overlooked (Andrews, Bonta, & Hoge, 1990). The principle of professional discretion recognizes that case managers and counselors are responsible for processing the risk, need, and responsivity information and making decisions based on the information provided (Andrews, Bonta, & Hoge, 1990). Further, actuarial tools are designed to treat offenders in the aggregate and cannot be structured to anticipate every possible case or scenario. As a result, it is important to allow criminal justice personnel the ability to override the assessment instruments in specific circumstances. Nevertheless, it is also important that overrides be used on a limited percentage of cases and that measure be taken to oversee the override process.

The Advantages of a Risk Assessment System

For over a decade, many criminal justice agencies have been implementing standardized risk classification instruments in order to efficiently and effectively manage their target populations. Because assessment instruments are expensive to construct and validate, resource constraints often limit the development of risk assessment instruments for specific jurisdictions

and populations (Jones, 1996). As a result, many criminal justice agencies often use empirically derived tools that have been developed on samples from a different population. Although this is less cost restrictive, it assumes that the instrument is a valid predictor of recidivism for each agency's specific population (Wright, Clear, & Dickerson, 1984; Jones, 1996; Gottfredson & Moriarty, 2006). Also, it is likely that there are different populations of offenders within jurisdictions. For example, the population of defendants on pretrial supervision is likely different than the population of individuals who are released from prison. Given that it is unlikely for a single instrument to have universal applicability across various offending populations, there is a clear necessity to validate risk assessment instruments to each specific target population (Wright, Clear, & Dickerson, 1984). The Ohio Risk Assessment System was thus designed to predict recidivism at different points in the Ohio criminal justice system. In all, five instruments were constructed: The Pretrial Assessment Tool (PAT), the Community Supervision Tool (CST), the Community Supervision Screening Tool (CSST), the Prison Intake Tool (PIT), and the Reentry Tool (RT).

The use of a standardized assessment tool in Ohio allows consistency in the assessment of risk across jurisdictions. Prior to the creation of the ORAS, counties in Ohio were using different methods of assessment, creating a great deal of variation in the practices for assessing the risk and needs of offenders. Therefore, one of the purposes of ORAS was to promote consistent and objective assessment of the risk of recidivism for offenders in Ohio.

Another advantage of using a risk assessment system that follows offenders through the criminal justice systems is that it improves communication and avoids duplication of information. In fact, many of the items in the individual assessments carry over into assessments at later dates. The total number of risk items that are collected from all assessment instruments

is 63. Of these, 24 items are used on at least two, if not more assessment instruments. Further, since ORAS will be automated, items that are assessed at earlier stages have the potential to auto-populate into assessments at future dates.

METHODS

A prospective design was utilized in the creation and validation of ORAS. To accomplish this, offenders across the Ohio criminal justice system were given extensive interviews for potential risk factors and were subsequently followed for one year to gather official measures of recidivism. The creation and validation of ORAS had three phases: planning, data collection, and validation. The planning phase involved planning meetings with research and ODRC staff regarding the logistic obstacles to gaining access to cases and data collection sites. It also involved the creation of the structured tools used in data collection and training of data collectors in the administration of the semi-structured interview. The planning phase occurred throughout the beginning of 2006.

The data collection phase involved site visits to all pilot counties and locations and the extensive interviews of offenders. In all, data for 1,834 cases was gathered from 29 locations. This process occurred from September 2006 to October 2007. Outcome measures were gathered between May 2008 and April 2009, providing an average of a one year follow-up for recidivism.

The validation phase began in winter 2008. The first part of this phase involved data cleaning and analyses to determine which items were predictive of recidivism. After this, the assessment instruments were constructed using factors that were related to recidivism. Once constructed, the instruments were validated by examining the ability of each instrument to predict recidivism.

After construction and validation, interview manuals and scoring guides were constructed for each tool. Both instruments provide detailed instructions regarding the use of each risk assessment tool. Once the interview guides and manuals were completed, the instruments were piloted using a group of personnel at locations in accordance with each risk assessment (i.e., local court officials for the CST, cases managers at ODRC correctional facilities for the PIT, etc.). Piloting the assessment tools involved familiarizing the personnel on the use of the scoring guides and manuals and allowing them to assess offenders for several weeks. Focus groups for each assessment instrument were then conducted with UC research staff and the pilot assessors. The focus groups were asked to comment on the ease of use of the instruments, wording of questions, the time it took to complete assessments, and the reliability of the self-report questionnaire. After the focus groups were conducted, changes were made to specific questions in the manuals, items on the scoring guides, and wording on the self-report questionnaires.

Data Collection

In order to construct a risk assessment instrument, data collection tools were designed that gathered information on potential predictors of recidivism. To create these tools, research staff at the University of Cincinnati reviewed previous scholarly work on the correlates of recidivism. Based on a review of the research, variables that were previously found to be related to recidivism were incorporated into the data collection tools.

The data collection tools were designed to gather information using self-report questionnaires, semi-structured interviews, and file reviews. The purpose of the data collection tools was to provide a large number of potential risk factors that could be used to construct each assessment instrument. The interview guide consisted of a 26 page semi-structured interview. The instrument was comprised of 113 questions on a variety of criminogenic risk topics,

including: criminal history, substance use, criminal peers, criminal thinking, employment and education, mental health, emotional control, personality, and residential stability. The self-report instrument was a two-page document that used 96 questions to gather information on: criminal thinking, perspective taking, aggression, coping, empathy, emotionality, problem solving, involvement in pro-social activities, financial stress, and employment. The overall interview and self-report process took approximately 45-90 minutes to complete per offender.

Due to differences in access, interview availability, due process issues, and ethical considerations, pretrial defendants were assessed using different interview protocols and data collection tools. The initial pretrial structured interview tool was a two-page form that gathered information on 35 items. The self-report questionnaire was a four-page document that covered multiple domains, including: criminal thinking, drug use, medical and mental health, pro-criminal peers and family, residential stability, and employment. Completion of both the self-report and the structured interview took approximately 13-20 minutes to complete.

Data collection teams were comprised of trained research assistants from the University of Cincinnati. Depending on the size of the pilot site and the availability of spare rooms, the research staff size varied from three to 13 staff members. Each staff member was trained on the data collection instrument, ethics involved research with human subjects under correctional control, the interview procedure, and interview skills. In addition to training, each interviewer was supervised for the first four interviews, and interviews were randomly observed by team leaders throughout the project.

The pilot sites for the project were selected with the considerations of geographic representation across the state, recommendations from DRC staff, and whether the site was available and willing to participate during the data collection process. To facilitate participation

from the numerous pilot sites, letters were sent that informed the selected sites of the project goals. Potential sites were also asked to both facilitate access to the cases and provide a physical location to conduct the interviews. Although there were some logistical and scheduling issues that arose at several sites, no site declined to participate in the project.

Table 1 presents the counties and institutions where data were collected. Seven Ohio counties provided data for the Pretrial Assessment Tool. Fourteen counties participated in data collection for the Community Supervision Tool, and eight correctional facilities participated in data collection for the Prison Intake Tool and the Reentry Tool. Overall, data collection occurred between September 2006 and April 2009.

Table 1. Pilot Counties/Institutions that Participated in the Development of ORAS

Pretrial	Community Supervision	Prison Intake and Release
Butler	Cleveland	Lorain Correctional Institution
Cuyahoga	Franklin	Correctional Reception Center
Summit	Montgomery	Belmont Correctional Institution
Franklin	Clermont	Pickaway Correctional Institution
Hamilton	Butler	Trumbull Correctional Institution
Richland	Wood	Ross Correctional Institution
Warren	Columbiana	Ohio Reformatory for Women
	Hamilton	Southeastern Correctional Institution
	Warren	
	Summit	
	Hancock	
	Mahoning	
	Columbiana	
	Wood	

Participants

Four independent samples of offenders were gathered at different stages in the criminal justice system: at pretrial, on community supervision, at prison intake, and just prior to community reentry. Table 2 presents the number of cases in each sample. There were a total of 1,837 cases in all four samples, 452 in the pretrial sample, 681 in the community supervision sample, 427 in the prison intake sample, and 279 in the community reentry sample.

Pretrial interviews were conducted during two time periods: September 2006 – June 2007 and October 2008 – March 2009. Assessments for the pretrial sample required two data collection periods because the initial period did not provide enough Ohio cases to construct and validate an assessment instrument. As a result, an eight item draft assessment tool was constructed by combining cases from another state. Once the shortened assessment instrument was constructed, staff from the University of Cincinnati trained personnel from the pilot counties, and data collection resumed with the goal of increasing the pretrial sample size and validating the draft assessment instrument on Ohio offenders. County personnel who conducted the interviews were trained by researchers from the University of Cincinnati to use a draft interview guide as well as administer a self-report survey. In order to be included in either of the data collection samples, individuals had to be an adult charged with a criminal offense that was recently referred to pretrial services during the period of data collection.

Table 2: Number of Cases in Each Sample

Sample	N
Pretrial	452
Community Supervision	681
Prison Intake	427
Community Reentry	279
Total	1837

Community supervision interviews were conducted between September 2006 and February 2007. To be included into the community supervision sample, individuals had to be an adult charged with a criminal offense that was recently referred to probation services during the period of data collection. Possible participants were identified at each site, and these individuals were approached by site staff and asked if they would be willing to meet with the research staff.

Once the individual met with the research staff and the project was explained, individuals were asked to participate in the research process and to sign informed consent documents.

Interviews were conducted for the prison intake sample between June and October 2007. Individuals were selected for the prison intake sample if they: a) were admitted to an intake correctional facility within the last six months, b) were unrestricted by security concerns (e.g., solitary), c) agreed to be interviewed, and d) were within six months of release. The limited sentence length was necessary in order to provide an adequate follow-up time for recidivism in the community. Due to the restrictive nature of a secure correctional facility, individuals were issued movement passes prior to the arrival of the research staff. However, since the research was voluntary, the pass may not have been granted if it interrupted school or job duties, if the inmate declined the pass, or for security reasons. Once the research staff and inmates met, the project was explained, participation was requested, and informed consent obtained.

Interviews were conducted for the community reentry sample between June and October 2007. The community reentry sample consisted of individuals who: a) were within six months of their release/discharge date, b) were unrestricted by security concerns, and c) agreed to participate. Similar to the intake sample, these interviews were conducted within the confines of a secured correctional facility, so individuals were issued movement passes prior to the arrival of the research staff. Once the offenders arrived to the room designated for interviews, the project was explained, participation was requested, and informed consent was obtained.

Recidivism

The primary measure of recidivism for this study was arrest for a new crime. Although data were gathered regarding a variety of other potential outcome measures (e.g., conviction, probation violation, institutional rule infraction), arrest was used for two major reasons. First,

measures that gather information later in the criminal justice process, such as convictions, require a longer follow-up period than twelve months utilized in this study. Second, using arrests in the community as an outcome allows the assessment tools to identify criminogenic needs that are likely to result in danger to the community. Although factors that are predictive of rule violations (e.g., probation violations or institutional violations) are of concern to criminal justice personnel, of most concern is targeting factors that are related to criminal behavior.

Unlike the other assessment tools, the outcome used in the construction of the Pretrial Assessment Tool was either a new arrest or failure-to-appear. Failure-to-appear was included as an outcome because one of the major goals of the pretrial tool was to assist court actors in the decision to release or hold the defendant prior trial. This information was gathered by the counties from public records searches and searches of the cases file. For the community supervision sample, county agencies gathered the arrest data on offenders under their supervision through public records searches and file reviews. This information was verified through the Ohio Law Enforcement Gateway (OHLEG). OHLEG is advantageous because the information it provides is not specific to the county of supervision. Because not all inmates who were released from correctional facilities were placed on community supervision, OHLEG was the primary source of information for regarding new arrests for these samples.

Collection of the follow-up data for all samples was completed approximately one year following the conclusion of the structured interviews. Collection of follow-up information for the pretrial cases was completed in April 2008 and May 2009. For the community supervision sample, follow-up was completed in April 2008. The follow-up for the prison intake and reentry samples was completed in December 2008.

Assessment Construction

For each assessment, items gathered from the structured interviews and self-report surveys that were associated with recidivism were used to create each tool. Cases were excluded if they had missing information on four or more items.¹ After the items that were associated with recidivism were identified, these items were scored to create scales that indicated increases in the likelihood of recidivism. A modified Burgess method was used to assign point values to each item. The Burgess method assigns a point (a score of 1) to the presence of the risk factor, and assigns a score of zero when it is false or not present. Some items have multiple increasing values and as a result were scored with increasing values (i.e., 0, 1, 2). The items were then combined to create risk scales for each assessment tool. Once the risk scales were created, cutoffs were created that divided cases into different risk categories.

Priorities in Case Management

To assist Ohio criminal justice agencies with case management, another goal of the development of ORAS was to provide agencies with tools that identify and prioritize specific treatment domains. To do so, each assessment instrument is broken down by domain (e.g., criminal associates, criminal attitudes, substance abuse, etc.) and specific categories were identified that divide offenders into groups based on their likelihood to reoffend. Stated differently, the assessment process not only provides an overall risk level, but also provides risk levels by case management domains. Presenting risk levels by domain provides practitioners specific information regarding the likelihood of recidivism based on individual criminogenic needs in order to encourage a more efficient allocation of treatment resources.

¹ The number of cases excluded for each tool because they have more than four items missing were: pretrial sample = 0, community supervision sample = 3, prison intake sample = 10, reentry sample = 2.

Responsivity Assessments

Keeping with principles of effective classification, a goal in the development of the ORAS was to gather information regarding potential barriers to treatment. As a result, additional case planning items are incorporated into the final assessment. Table 3 provides a list of areas that are gathered for responsivity. As indicated in the table, responsivity items range from factors such as intelligence and literacy to child care and transportation. These items are not directly related to recidivism, but instead have the potential to restrict the efficacy of treatment. Responsivity items are not used in the final calculation of risk, but instead are used as case planning factors that should be addressed to improve likelihood that programming will reduce recidivism.

Table 3: Areas Assessed for Responsivity

Treatment Barriers	
Low intelligence	Physical handicap
Reading and writing limitations	Mental health issues
History of abuse/neglect	Treatment motivation
Transportation	Child care
Language	Ethnicity, and cultural barriers

VALIDATION RESULTS

This section describes the samples and validation results by assessment instrument: the Pretrial Tool, the Community Supervision Tool (and Community Supervision Screening Tool), the Prison Intake Tool, and the Reentry Tool. Also presented for each tool is information regarding priorities in case management by presenting risk levels by domain.

The Pretrial Assessment Tool (PAT)

The PAT is designed to inform court actors of the risk of a defendant to either fail-to-appear at a future court date or be arrested for a new crime. The pretrial sample consisted of

individuals who received pretrial services from participating counties in Ohio. This sample provided data for 452 defendants who were on pretrial supervision during the data collection periods. Table 4 presents descriptive statistics for the PAT. The sample has an average follow-up of 12 months, and 16 percent experienced either an arrest or failure to appear.

The original pretrial data collection instruments provided over 100 potential predictors of recidivism. Of these, seven items from four domains were found to be related to recidivism: three items for criminal history, one item measuring employment, one item measuring residential stability, and two items measuring substance abuse. Table 5 presents the domains included in the PAT.²

Table 4: Descriptive Statistics for the Pretrial Assessment Sample (n =450)

Variable	N	Percent
Sex		
Male	345	79.3
Female	107	23.7
Race		
White	227	50.2
African American	210	46.5
Other	15	3.3
Arrest or FTA		
Yes	379	83.8
No	73	16.2
	Average	Range
Months at Risk	11.9 (5.6 SD)	4 – 24
Age	32.7 (10.1)	18 – 64

² See the pretrial score sheet in Appendix A for a list of all items included in the Pretrial Assessment Tool.

Table 5: Domains of the Pretrial Assessment Tool

Domain	Number of Items
Criminal History	3
Employment	1
Residential Stability	1
Substance Abuse	2
Total	7

The PAT has a potential range from zero to 9. Appendix B presents a graph of the distribution of the pretrial sample on the pretrial assessment score. The graph reveals that there is a slight skew in the distribution with more cases with scores on lower values of the tool.

Table 6 presents the percentage of cases that recidivated for each risk score. The table reveals that as scores on the PAT increase, the percentage of individuals who were arrested increases. Further, the significant r value of .23 indicates that the pretrial assessment score is positively correlated with recidivism.

Table 6: Recidivism by Pretrial Risk Score (n = 450)*

Risk Score	Total Cases	Percent with Violation
0	13	0
1	49	0
2	68	10
3	83	18
4	100	17
5	59	19
6	47	25
7	27	33
8	2	0
9	2	100

* $r = .23, p < .00$

Table 7 presents the distribution of the pretrial sample on risk levels of the PAT. Scores of zero to two were categorized as low risk, three to five moderate risk, and six to nine as high

risk. Of the total sample, 29 percent of cases were categorized as low risk, 54 were categorized as moderate risk, and 17 percent as high risk.

Table 7: Distribution of Cases for each Risk Level for the Pretrial Assessment Tool

Level	N	Percent
Low (0-2)	130	29
Moderate (3-5)	248	54
High (6+)	78	17
Total	450	100

Figure 1 presents information regarding the predictive validity of the PAT. The chart illustrates that each risk level is associated progressively higher rates of recidivism. Specifically, five percent of low risk cases were arrested, 18 percent of moderate risk cases were arrested, and 30 percent of high risk cases were arrested. The r value of .22 provides further indication that the assigned levels of risk are able to significantly distinguish between groups that have progressively higher rates of recidivism.

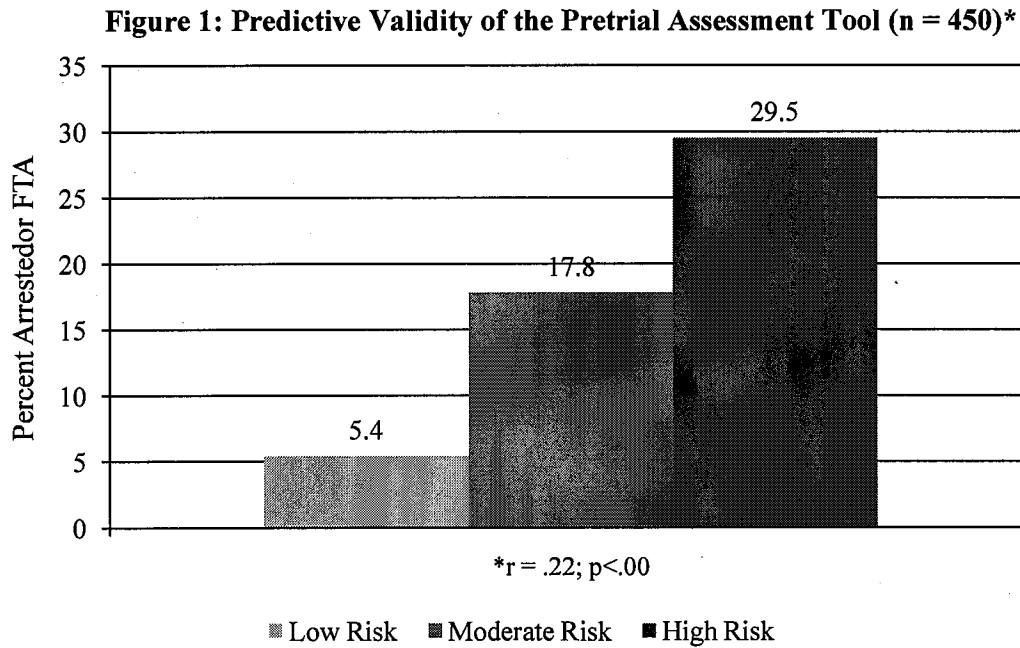


Table 8 presents statistics for each of the case management domains of the PAT. Criminal history and residential mobility provide groups that are associated with increasing higher rates of recidivism. The domains of substance abuse and employment provide groups that have increasing recidivism rates, although the differences between the rates are relatively low. For example, the domain of employment produces low, moderate, and high risk groups that with the following respective recidivism rates: 12 percent, 16 percent, and 20 percent. As a result, the r values for these domains are below .10. On the other hand, within the domain of residential mobility, 25 percent of individuals who were at risk recidivated compared to only 11 percent of those that were not at risk ($r = .19$). The domain of criminal history also produces increasing rates of recidivism for low (11%), moderate, (24%) and high (29%) risk cases ($r = .19$).

Table 8. Priorities in Case Management for the Pretrial Assessment Tool

Criminal History		Employment		Residential Mobility		Substance Abuse	
# of Items	3	# of Items	1	# of Items	1	# of Items	2
Range	0 - 4	Range	0 - 2	Range	0 - 1	Range	0 - 2
Risk	Violation	Risk	Violation	Risk	Violation	Risk	Violation
Low (0-1)	11%	Low (0)	12%	Low (0)	11%	Low (0)	14%
Mod. (2)	24%	Mod. (1)	16%	High (1)	25%	High. (1-2)	18%
High (3+)	29%	High (2)	20%	$r = .19$		$r = .05$	
$r = .19$		$r = .09$					

The Community Supervision Tool (CST)

Initial data for the community supervision sample was gathered through site visits to local county probation offices and community based corrections facilities. The CST is designed to assist in both designation of supervision level, as well as to guide case management for offenders in the community. The community supervision sample consisted of 678 individuals

who were on community supervision in Ohio. Table 9 presents descriptive statistics for the community supervision sample. The table indicates that 38 percent were rearrested during an average of 17 months at risk.

Table 9: Descriptive Statistics for the Community Supervision Sample (n = 678)

Variable	N	Percent
Sex		
Male	513	75.7
Female	165	24.3
Race		
White	471	70.0
African American	186	27.0
Other	21	3.0
Any New Arrest		
Yes	259	38.2
No	419	61.8
	Average	Range
Months at Risk	16.9	12 – 20
	(1.8 SD)	
Age	32.2	18 – 65
	(12.26)	

The self-report survey and structured interview guide provided a total of 200 potential predictors of recidivism. Table 10 presents the domains assessed using the CST and the number of items from each domain that were included in the CST.³ In all, the CST consisted of a total of 35 items within 7 domains, and had potential scores that ranged from zero to 49.

Appendix B presents a visual display of the distribution of cases on scores for the CST. The figure reveals that the scores range from one to 43, with the majority falling near the center of the distribution, indicating a normal distribution. Table 11 presents failure rates by CST risk score for the community supervision sample. The table indicates that as scores on the CST

³ See the CST scoring form in Appendix A for list of all variables included in the ORAS-CST.

increase, the percentage of individuals that were rearrested increases as well. Further, the r value of .37 in Table 11 indicates a relatively strong relationship between risk score and recidivism.

Table 10: Domains for the Community Supervision Tool

Domain	Number of Items
Criminal History	6
Education, Employment, and Finances	6
Family and Social Support	5
Neighborhood Problems	2
Substance Abuse	5
Antisocial Associations	4
Antisocial Attitudes and Behavioral Problems	7
Total	35

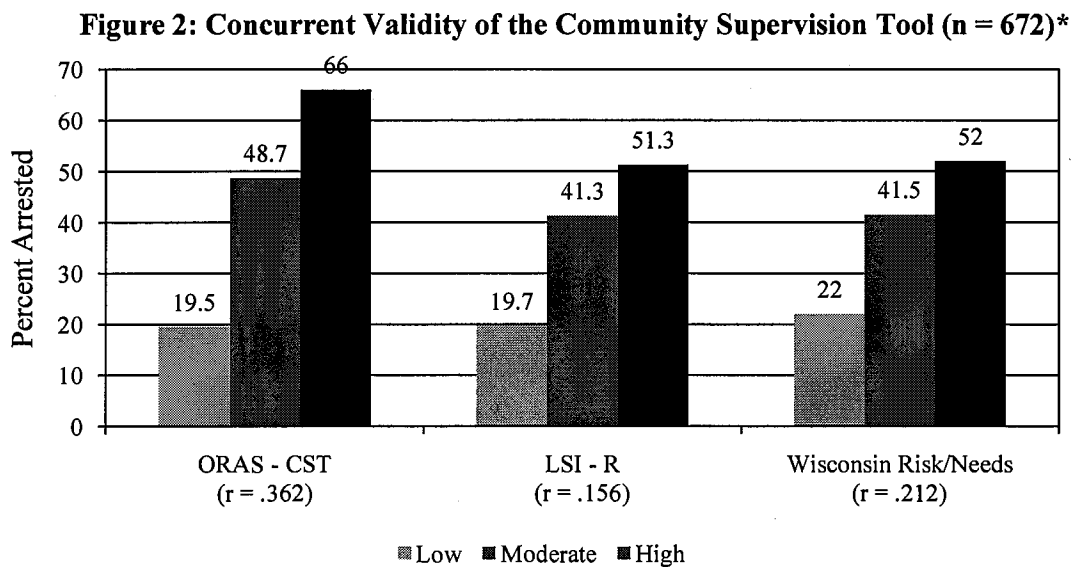
Table 11: Percentage of Failure by Risk Score for the Community Supervision Tool (n=678)*

Risk Score	Total Cases	Percent Arrested	Risk Score	Total Cases	Percent Arrested
0	0	—	26	23	57
1	1	0	27	29	48
2	0	—	28	21	71
3	0	—	29	26	50
4	2	0	30	17	59
5	3	0	31	19	58
6	3	0	32	20	65
7	6	0	33	8	38
8	7	14	34	6	100
9	9	11	35	14	64
10	14	0	36	9	56
11	15	13	37	4	75
12	13	15	38	3	67
13	21	10	39	3	67
14	24	8	40	1	100
15	23	44	41	2	100
16	25	16	42	1	0
17	34	30	43	2	100
18	39	26	44	0	—
19	36	25	45	0	—
20	30	50	46	0	—
21	33	33	47	0	—
22	38	29	48	0	—
23	23	30	49	0	—
24	35	63	48	0	—
25	36	44	49	0	—

* r value = .37, p<.000

In risk/needs assessment, concurrent validity involves comparing the validity of an assessment tool to other known and established instruments. To assess concurrent validity of the ORAS, individuals in each sample were assessed on the Level of Service Inventory – Revised (LSI-R) and the Wisconsin Risk/Needs instrument. For consistency, scores were divided into low, moderate, and high risk groups based on each instruments’ specified requirements.

Figure 2 reveals that the CST has relatively strong concurrent validity, which is evidenced from the larger r value and larger differences in recidivism between groups. All three instruments are significantly related to recidivism (CST $r = .362$, $p < .05$; LSI-R $r = .156$, $p < .05$; Wisconsin Risk/Needs $r = .212$, $p < .05$), but the LSI-R and Wisconsin Risk/Needs failed to provide large differences in recidivism between moderate and high risk groups. On the other hand, the CST provides large differences in recidivism between groups, 29 percentage points between low (20%) and moderate (49%) risk groups and 17 percentage points between moderate (49%) and high (66%) risk groups. These results suggest that the CST has strong concurrent validity, performing better than the LSI-R and the Wisconsin Risk/Needs Assessment.



*All r values $p < .05$

To provide optimal risk levels and cutoff scores, preliminary analyses revealed that males and females should be given different cutoff scores to categorize risk groups. This is primarily because females tended to have lower scores on the assessment instruments. Table 12 provides the final risk levels, cutoffs, and number of cases falling at each level. For males, cutoffs for risk levels are as follows: low risk = zero- 14; moderate risk, 15 - 23; high risk = 24-33; and very high risk, 34 and higher. Table 12 also provides the distribution of risk levels for females. For females the cutoffs are as follows: low risk = zero - 14; moderate risk = 15 - 21; high risk 22 - 28; and very high risk = 29 and higher.

Table 12: Distribution of Cases by Risk Level for the CST

Level	N	Percent
Males (n = 513)		
Low (0-14)	77	15
Moderate (15-23)	207	40
High (24-33)	190	37
Very High (34-49)	39	8
Females (n = 165)		
Low (0-14)	43	25
Moderate (15-21)	65	40
High (22-28)	47	29
Very High (29-49)	10	6

Figure 3 presents the failure rates for each risk level of the CST for male offenders in the community supervision sample. The table clearly illustrates incremental increases in the rates of recidivism for each group. Failure rates are nine percent for low risk males, 34 percent for moderate risk males, 59 percent for high risk males, and 70 percent for very high risk male offenders. The r value of .37 reveals that the relationship between risk level and recidivism is relatively strong.

Figure 3: Predictive Validity of the Community Supervision Tool for Males (n = 513)*

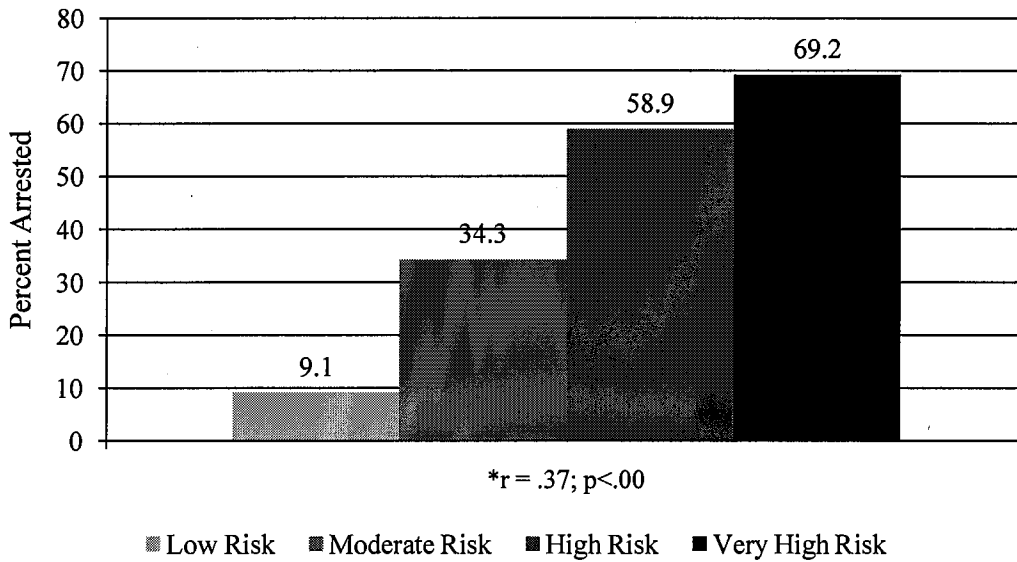
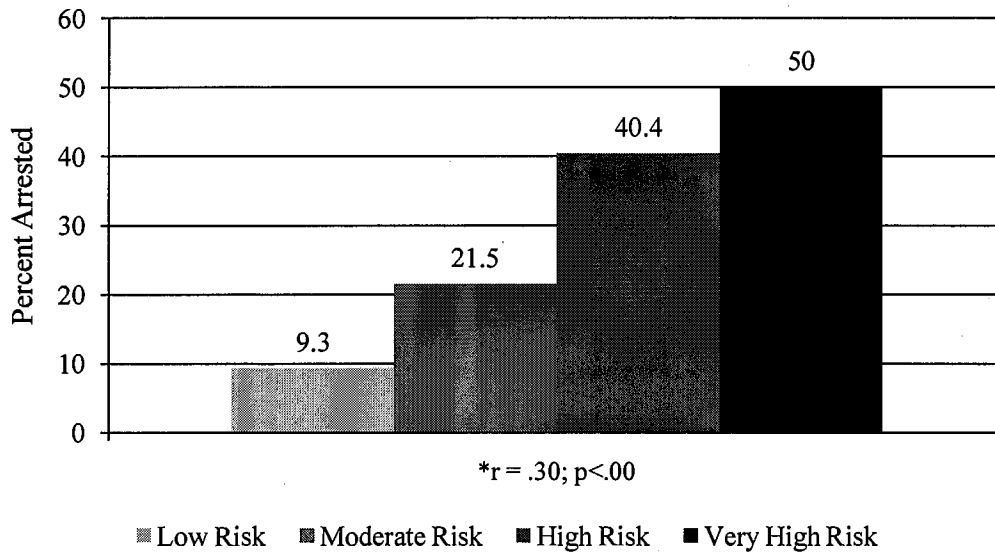


Figure 4 presents the recidivism rates for the CST by risk level for females in the community supervision sample. The figure illustrates that each risk level provides groups with distinctly higher rates of recidivism. The r value of .30 reveals a considerably strong relationship between risk level and recidivism.

Figure 4: Predictive Validity of the Community Supervision Tool for Females (n = 165)*



Another major goal that emerged during the development of ORAS was to provide decision makers with the ability to establish priorities in the management of dynamic risk factors that were based on the likelihood of recidivism. The priorities essentially disaggregate overall risk level into risk levels by domain, placing each offender at low, moderate, or high risk to reoffend for each domain. Table 12 provides statistics for the priorities in case management for the CST. All but two of the domains (social support and substance abuse) have r values above .20, and the domain of antisocial associates exceeds .30.

Although the domains of social support and substance abuse have r values below .20, they still produce groups with increasing higher rates of recidivism. For the domain of social support, 32 percent of low risk cases recidivate, while 41 and 48 percent of moderate and high risk recidivate, respectively. On the other hand, domains with larger r values produce groups with larger differences between groups. For example, the domain of Antisocial Associates

Table 12: Priorities in Case Management for the Community Supervision Tool

Criminal History		Education and Finances		Social Support		Neighborhood Problems	
# of Items	6	# of Items	6	# of Items	5	# of Items	2
Range	0 – 8	Range	0 – 6	Range	0 – 5	Range	0 – 3
Risk	Arrested	Risk	Arrested	Risk	Arrested	Risk	Arrested
Low (0-3)	27%	Low (0-1)	21%	Low (0-1)	32%	Low (0)	17%
Mod. (4-6)	46%	Mod. (2-4)	37%	Mod. (2-3)	41%	Mod. (1)	35%
High (7-8)	53%	High (5-6)	55%	High (4-5)	48%	High (2-3)	45%
r = .20		r = .22		r = .12		r = .20	
Substance Abuse		Antisocial Associates		Antisocial Attitudes			
# of Items	5	# of Items	4	# of Items	7		
Range	0 – 6	Range	0 – 8	Range	0 – 13		
Risk	Arrested	Risk	Arrested	Risk	Arrested		
Low (0-2)	27%	Low (0-1)	21%	Low (0-3)	24%		
Mod. (3-4)	40%	Mod. (2-4)	43%	Mod. (4-8)	44%		
High (5-6)	45%	High (5-8)	64%	High (9-13)	59%		
r = .14		r = .32		r = .24			

produces low moderate and high risk groups that recidivate at 21 percent, 43 percent, and 64 percent respectively.

The Community Supervision Screening Tool (CSST)

Since the CST was designed to be used on a potentially large number of offenders across the state of Ohio, the Community Supervision Screening Tool was developed in order to provide counties the ability to more quickly identify moderate to high risk cases. Once identified as moderate to high risk, counties could provide these cases with the full assessment of criminogenic needs (i.e., administer the CST) while avoiding the extra resources involved with assessing lower risk cases that were not likely to need intensive treatment services.

The four items included in the CSST were chosen because of their individual relationship with recidivism and because they provided information from four different domains. Table 13 presents the items that were included in the CSST. The items gather information on the number of prior felonies, current employment, the availability of drugs, and the number of criminal friends.

Table 13: Items in the Community Supervision Screening Tool

Item	Score
Number of Prior Adult Felony Convictions	0=None 1=One or Two 2=Three or more
Currently Employed Full Time	0=Yes 1=No
Drugs Readily Available in Neighborhood	0=Not available 1=Somewhat available 2= Easily available
Criminal Friends	0=None 1=Some 2=Majority

The CSST has a range of scores from zero to seven. Appendix B presents a bar chart that illustrates the distribution of cases on scores for the CSST from the community supervision sample. The figure indicates that although there is a slight skew to the distribution, the majority of cases fall between three and five, with fewer cases falling at the tails of the distribution. Table 14 presents the percentage of offenders arrested at each risk score for the CSST. The failure rates range from nearly four percent at the lowest score to 80 percent at the highest score. The table indicates that as each score increases, the percentage of offenders that recidivated increases. Further, the r value of .38 indicates a relatively strong relationship between the CSST risk score and recidivism.

Table 14: Percentage of Failures by Risk Score on the Community Supervision Screening Tool (n = 678)*

Risk Score	Total Cases	Percent Arrested
0	26	3.8
1	49	10.2
2	90	17.8
3	115	28.7
4	137	40.1
5	144	49.3
6	92	63.0
7	25	80.0

*r = .28, p < .00

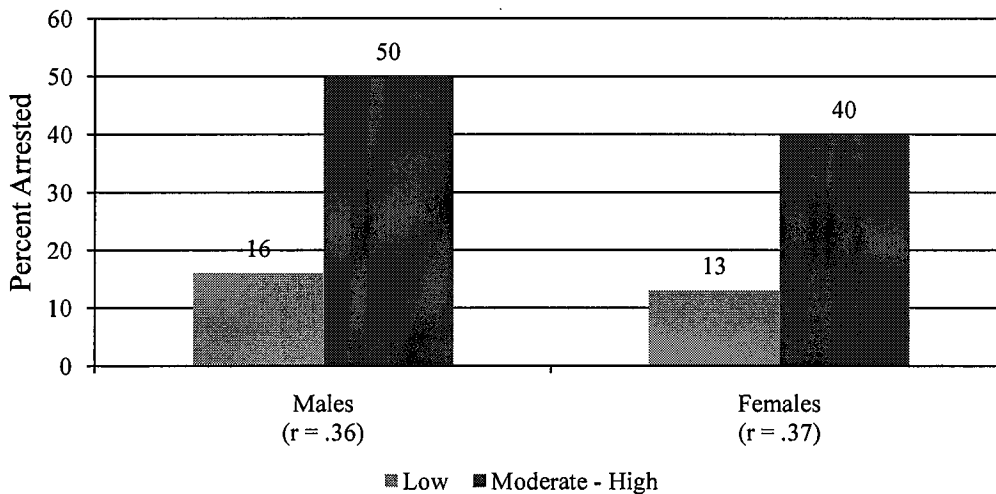
Since the CSST was designed to screen out low risk cases, cutoffs were identified that separated offenders into two groups: low risk or moderate/high risk. Preliminary analyses revealed that optimal cutoff scores for the CSST were different between males and females. Table 15 presents the distribution of cases by risk level for the CSST. As the table indicates, 23 percent of males were identified as low risk cases by the CSST, while over 50 percent of females were identified as low risk.

Table 15: Distribution of Cases by Risk Level for the Community Supervision Screen Tool

Level	N	Percent
Males		
Low (0-2)	119	23.2
Moderate – High (3+)	394	76.8
Total	513	100.0
Females		
Low (0-3)	88	53.3
Moderate – High (4+)	77	46.7
Total	165	100.0

Figure 5 presents the failure rates for risk levels of the CSST by gender. Of males that were identified as low risk, 16 percent were rearrested compared to 50 percent of those identified as moderate/high risk. For females, 13 percent of offenders identified as low risk recidivated, while 40 percent of those identified as moderate/high risk recidivated. The r values of .36 and .37 indicate that the CSST performs well in distinguishing between low and high risk offenders for both males and females.

Figure 5: Predictive Validity of the Community Supervision Screening Tool by Gender



*All r values p <.05

The Prison Intake Tool (PIT)

As mentioned previously, the PIT is designed to provide case managers an assessment instrument that can be used to prioritize prison treatment based on the likelihood of recidivism. Table 16 presents descriptive statistics for the prison intake sample. The sample was 63 percent male, 54 percent white, and had an average age of 33. The average follow-up was 13 months, and 40 percent experienced a new arrest during the follow-up period.

The self-report survey and structured interview guide provided a total of 200 potential predictors of recidivism. Of these, only items that were related to recidivism were included in the final PIT instrument. Table 17 presents the number of items in each of the domains assessed using the PIT⁴. In all, the CST consists of a total of 30 items from 5 domains: age, criminal history, education employment and finances, family and social support, substance abuse, and criminal lifestyle.

Table 16: Descriptive Statistics for the Prison Intake Sample (n = 423)

Variable	N	Percent
Sex		
Male	267	63.1
Female	156	36.9
Race		
White	227	53.7
African American	164	38.8
Other	32	7.6
Any New Arrest		
Yes	169	40.0
No	254	60.0
	Average	Range
Months at Risk	13.3 (2.1 SD)	7 - 18
Age	33.2 (9.3 SD)	19 - 64

⁴ See the PIT score sheet in Appendix A for list of all variables included in the ORAS-PIT

Table 17: Domains for the Prison Intake Tool

Domain	Number of Items
Age	1
Criminal History	7
Education, Employment, and Finances	6
Family and Social Support	5
Substance Abuse	5
Criminal Lifestyle	7
Total	31

The distribution of cases on scores for the PIT is presented in Appendix A. The figure reveals that the scores range from three to 29, with the majority falling near the center of the distribution, indicating that the distribution approaches normality. Table 18 presents failure rates by PIT risk score for the prison intake sample. The table reveals that as scores on the PIT increase, the percentage individuals that recidivated also increases ($r = .36$).

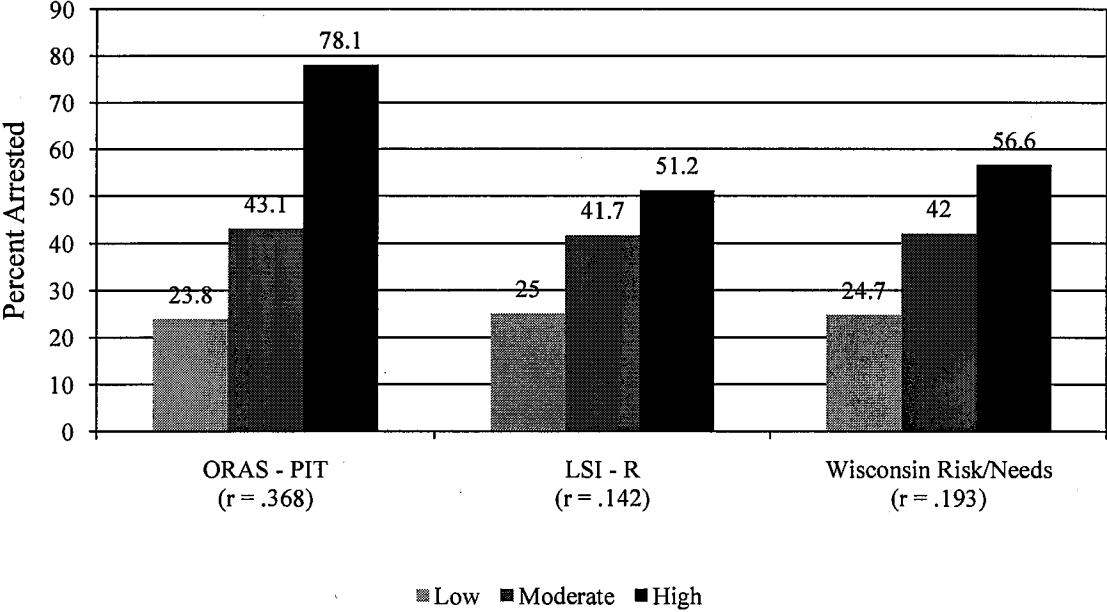
Table 18: Percentage of Failures by Risk Score for the Prison Intake Tool (n=423)*

Risk Score	Total Cases	Percent Arrested	Risk Score	Total Cases	Percent Arrested
0	0	—	21	20	40
1	0	—	22	19	79
2	0	—	23	14	86
3	1	0	24	9	89
4	3	0	25	7	57
5	7	14	26	7	71
6	10	10	27	4	50
7	10	10	28	1	100
8	15	27	29	3	100
9	12	25	30	0	—
10	22	23	31	0	—
11	28	29	32	0	—
12	27	18	33	0	—
13	26	39	34	0	—
14	24	25	35	0	—
15	31	32	36	0	—
16	25	40	37	0	—
17	25	48	38	0	—
18	29	41	39	0	—
19	26	58	40	0	—
20	18	44			

* r value = .36, $p < .000$

Similar to the Community Supervision Tool, the concurrent validity of the PIT involved comparing the predictive validity of the PIT to the LSI-R and the Wisconsin Risk/Needs assessments. For consistency, offenders were separated into three risk levels for each instrument, low, moderate, and high. Figure 6 compares the recidivism rates for these groups for each assessment instrument. Although the LSI-R and Wisconsin Instrument do provide substantive differences between low and moderate risk offenders, the difference between moderate and high risk offenders is somewhat small. On the other hand, the PIT provides a 20 percentage point difference between low and moderate risk offenders and a 35 percentage point difference between moderate and high risk offenders. The r value of .37 for the PIT also indicates that it outperforms the LSI-R and Wisconsin Risk/Needs Assessment.

Figure 6: Concurrent Validity of the Prison Intake Tool (n = 423)*



*All r values p <.05

Preliminary analyses indicated that the PIT produced four distinct risk levels for male offenders and only three groups for females. Table 19 presents the distribution of risk levels for the PIT by gender. For males, nine percent of the cases are low risk, 41 percent are moderate risk, 43 percent are high risk, and six percent are very high risk. For females, low risk cases account for 42 percent of the sample, moderate risk cases account for 39 percent of the sample, and high risk cases account for 19 percent of the sample. Taken together, this suggests that females have a higher percentage of low and moderate risk cases than males.

Table 19: Distribution of Cases by Risk Level for the Prison Intake Tool

Level	N	Percent
Males (n = 267)		
Low (0-8)	24	9
Moderate (9-16)	111	41
High (17-24)	115	43
Very High (25+)	17	6
Females (n = 165)		
Low (0-12)	65	42
Moderate (13-18)	61	39
High (19+)	30	19

Figure 7 presents percentage of males that were arrested by risk level on the PIT. The chart illustrates that increases in recidivism are seen with increases in risk level. Further, the r value of .32 indicates a relatively strong relationship between the PIT risk levels and recidivism. Seventeen percent of low risk cases recidivated, 32 percent of moderate risk cases recidivated, 58 percent of high risk cases recidivated, and 71 percent of very high risk cases recidivated.

Figure 7: Predictive Validity of the Prison Intake Tool for Males (n = 267)*

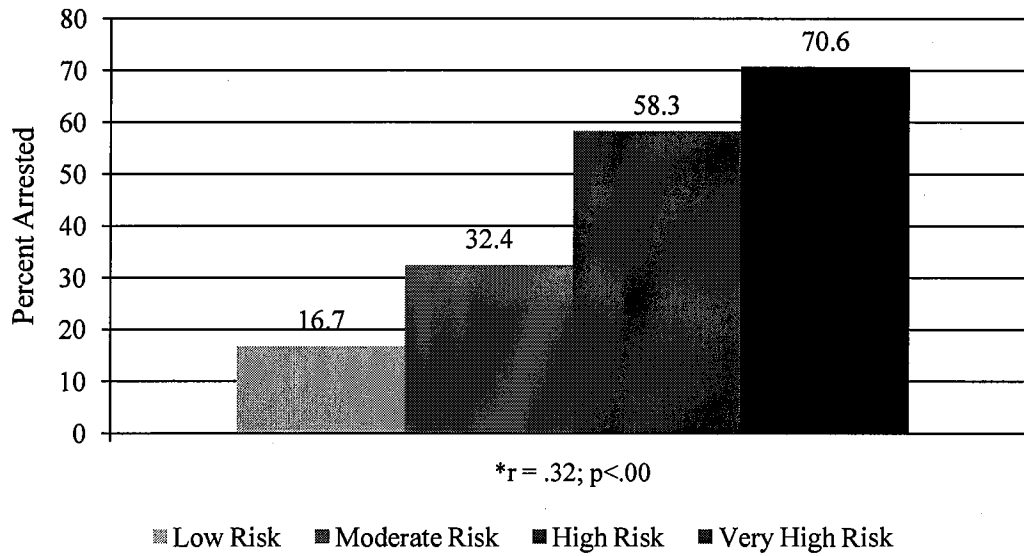
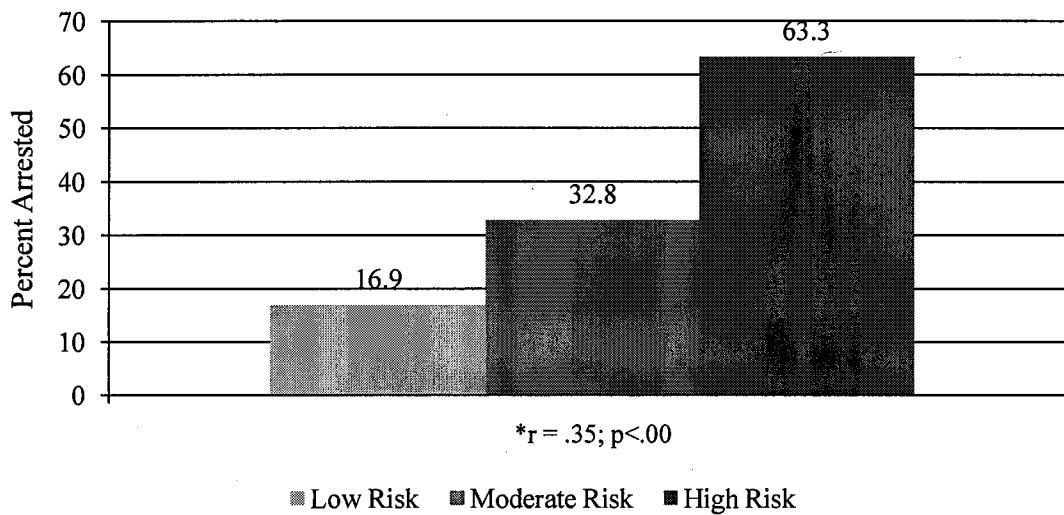


Figure 8 presents the recidivism rates by risk level for females in the prison intake sample. The figure reveals substantial differences in recidivism between risk levels: low risk cases had a recidivism rate of 17 percent, 33 percent of moderate risk cases recidivated, and 63 percent of high risk cases recidivated. These differences were significant and produced a relatively large r value of .35.

Figure 8: Predictive Validity of the Prison Intake Tool for Females (n = 156)*



A major goal that emerged during the development of the PIT was to provide decision makers with the ability to establish priorities in the treatment of offenders that are based on the likelihood of reoffending. Priorities in cases management can be determined by disaggregating risk levels of the PIT by domain. Table 20 presents statistics for each of the case management domains. Although most of the domains reach r values at or near .20, the social support domain has a somewhat low r value of .12. Still, the table indicates that case management domains are individually able to classify offenders into different groups based on the likelihood to recidivate, especially in the domains of criminal history, education and finances, and criminal lifestyle. For example in the education and finances domain, 29 percent of low risk cases were arrested, 44 percent of moderate risk cases were arrested, and 53 percent of high risk cases were rearrested.

Table 20: Priorities in Case Management for the Prison Intake Tool

Criminal History		Education and Finances		Social Support	
# of Items	6	# of Items	6	# of Items	5
Range	0-8	Range	0-6	Range	0-5
Risk	Arrested	Risk	Arrested	Risk	Arrested
Low (0-3)	30%	Low (0-3)	29%	Low (0-2)	28%
Mod. (4-6)	47%	Mod. (4-5)	44%	Mod. (3-4)	45%
High (7-10)	57%	High (6-7)	53%	High (5-6)	59%
r = .22		r = .19		r = .12	
Substance Abuse		Criminal Lifestyle			
# of Items	5	# of Items	4		
Range	0-6	Range	0-8		
Risk	Arrested	Risk	Arrested		
Low (0-1)	33%	Low (0-2)	29%		
Mod. (2-3)	44%	Mod. (3-5)	46%		
High (4-5)	60%	High (6-8)	61%		
r = .17		r = .21			

The Reentry Tool (RT)

The RT was designed to be administered within 6 months of release from prison. The average length of incarceration for the prison release sample ranged from two to 452 months, with an average of 35 months. After release from prison, arrest records were checked approximately one year after the final interview was conducted. Table 21 presents descriptive statistics for the reentry sample. The sample is 23 percent female, 46 percent African American, and has an average age of 32. During the average of 13 months at risk, 43 percent of the sample was rearrested.

Table 21: Descriptive Statistics for the Reentry Sample (n = 277)

Variable	N	Percent
Sex		
Male	212	76.5
Female	65	23.5
Race		
White	135	48.7
African American	127	45.8
Other	15	5.4
Any New Arrest		
Yes	118	42.6
No	159	57.4
	Average	Range
Months at Risk	12.8	8 – 17
	(2.1 SD)	
Age	31.6	18 – 57
	(8.2 SD)	

The self-report survey and structured interview guide provided a total of 200 potential predictors of recidivism. Table 22 presents the number of items in each of the domains assessed using the RT.⁵ In all, the RT consisted of a total of 20 items from four domains and had

⁵ See the RT scoring for in Appendix A for list of all variables included in the ORAS-RT.

potential scores that ranged from zero to 28. Domains for the RT are: age, criminal history, social bonds, and criminal attitudes. Appendix B presents a bar chart that displays the distribution of cases on the reentry tool. The graph for the RT illustrates that the distribution approaches normality, with most cases falling at the center of the distribution and fewer cases on the tails.

Table 22: Domains for the Reentry Tool

Domain	Number of Items
Age	1
Criminal History	8
Social Bonds	4
Criminal Attitudes	7
Total	20

Table 23 presents the percentage of offenders that recidivated at each risk score for the RT. The table reveals that there is a general upward trend in the percentage of offenders who were arrested that corresponds with increasing scores on the RT. The r value of .36 indicates that the relationship between RT risk scores and recidivism is relatively strong.

Table 23: Percentage of Failures by Risk Score for the Reentry Tool (n=277)*

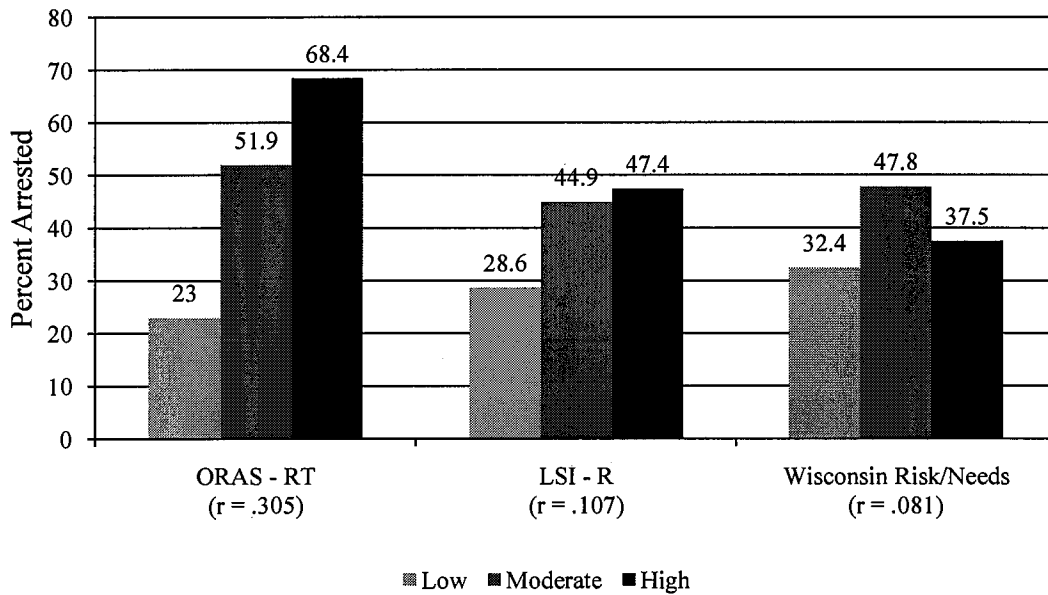
Risk Score	Total Cases	Percent Arrested	Risk Score	Total Cases	Percent Arrested
0	0	—	15	22	68
1	0	—	16	19	63
2	0	—	17	13	62
3	5	0	18	10	6
4	5	20	19	9	78
5	4	0	20	4	100
6	12	0	21	2	50
7	11	18	22	1	0
8	16	12	23	3	33
9	22	32	24	0	—
10	25	44	25	0	—
11	24	29	26	0	—
12	25	48	27	0	—

13	21	48	28	0	-
14	24	50			

* r value = .36; p<.000

The concurrent validity for the RT was evaluated by comparing the predictive power of the RT to the LSI-R and the Wisconsin Risk/Needs Assessment. Figure 9 presents statistics for the concurrent validity of the RT. The results reveal that although the RT is able to establish significantly different risk groups, the LSI-R and Wisconsin Risk/Need do not. The Wisconsin Instrument in particular struggled, primarily because the small percentage of high risk cases (8% of the sample) recidivated at lower rates than did moderate risk cases. The RT produced a low risk group with a 23 percent recidivism rate, a moderate risk group with a 53 percent recidivism rate, and a high risk group with a 69 percent recidivism rate. The r value of .30 is substantially stronger than those produced by the LSI-R and the Wisconsin Risk/Need Assessment.

Figure 9: Concurrent Validity of the Reentry Tool (n = 423)*



*All r values p <.05

Preliminary analyses revealed that since females were less likely to recidivate, separate cut off scores should be made for males and females. Table 24 presents the distribution of the

reentry sample on risk levels for the RT. For males, the majority of cases are moderate risk, with similar percentages of cases falling at low and high risk levels. On the other hand, low risk is the modal value for females. These findings are similar to the Prison Intake Tool and indicate that females tend to score at lower risk levels than males on the assessment instruments.

Table 24: Distribution of Cases by Risk Level for the Reentry Tool

Level	N	Percent
Males (n = 212)		
Low (0-9)	47	22.2
Moderate (10-15)	109	51.4
High (16+)	56	26.4
Females (n = 65)		
Low (0-10)	31	47.7
Moderate (11-14)	25	38.5
High (15+)	9	13.8

The graph in Figure 10 presents the percentages of male offenders that recidivated for each risk level of the RT. The results indicate increasing rates of recidivism for each risk level. That is, 21 percent of low risk cases were rearrested, 50 percent of moderate risk cases were rearrested, and 64 percent of high risk cases were rearrested. The r value of .29 indicates that the RT does a good job at distinguishing between low, moderate, and high risk cases.

Figure 10: Predictive Validity of the Reentry Tool for Males (n = 212)*

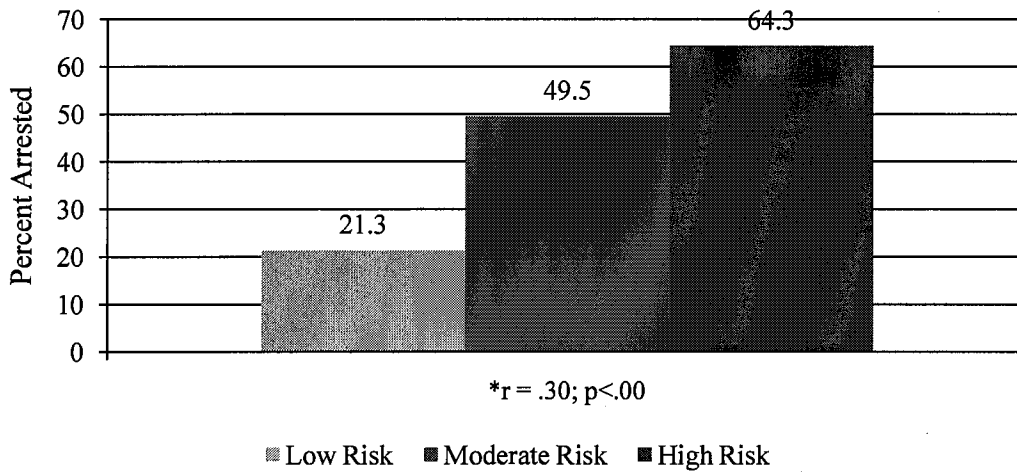


Figure 11 presents the recidivism rates by risk level for females in the reentry sample. The graph reveals that the RT does a very good job of distinguishing between low and moderate risk cases. Only six percent of low risk females were arrested, while 44 percent of moderate risk cases were arrested, and 56 percent of high risk cases were arrested. The large r value of .44 is likely a result of the substantial difference between low and moderate risk females.

Figure 11: Predictive Validity of the Reentry Tool for Females (n = 65)*

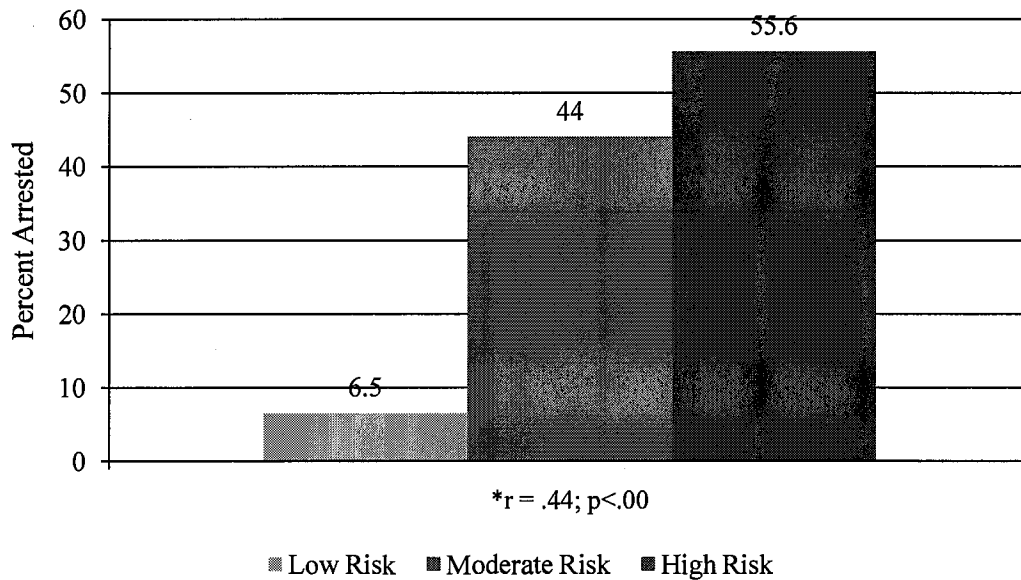


Table 25 presents risk levels for case management domains. These statistics disaggregate the overall risk level by domain so that needs in specific domains can be prioritized. All three domains provide risk levels that are significantly associated with changes in the likelihood of being arrested, although some perform better than others. The domain of social bonds has the lowest r value of .16, although the criminal attitudes domain has an r value of .22 and the criminal history domain has an r value of .28.

Table 25: Priorities in Case Management for the Reentry Tool

Criminal History		Social Bonds		Criminal Attitudes	
# of Items	8	# of Items	4	# of Items	7
Range	0 – 12	Range	0 – 4	Range	0 – 11
Risk	Arrested	Risk	Arrested	Risk	Arrested
Low (0-3)	23%	Low (0-2)	32%	Low (0-3)	30%
Mod. (4-7)	45%	Mod. (3)	45%	Mod. (4-6)	50%
High (8-12)	65%	High (4)	52%	High (7-11)	58%
	r = .28		r = .16		r = .22

SUMMARY AND CONCLUSION

This section of the report provides some conclusions based on the findings of the current study. It begins with a summary of the results for the validation of ORAS. Limitations of the current study are also discussed. The report concludes with some recommendations on the future of the ORAS.

Summary of Findings

The pretrial assessment instrument consists of seven items from four domains: criminal history, employment, substance abuse, and residential stability. The data indicate that the PAT

produces risk levels that significantly differed on the likelihood of either rearrest or failure-to-appear. Further, the pretrial instrument maintained an acceptable relationship with recidivism ($r = .22$).

The Community Supervision Tool consists of 35 items from seven domains: criminal history, education, employment and finances, family and social support, neighborhood problems, substance abuse, antisocial associations, and antisocial attitudes and behavioral problems. The validation results revealed that the risk levels on the CST displayed increasingly higher rates of recidivism for both male and females. The CST had a correlation of .37 with recidivism for males and .30 for females. The Community Supervision Screening Tool is a four item instrument designed to quickly identify low risk cases that do not need the full assessment. It had a correlation of .36 with recidivism.

The Prison Intake Tool consisted of 31 items from five domains: criminal history, education, employment, and finances, family and social support, substance abuse, and criminal lifestyle. The validation results for the PIT revealed that different cutoff scores and risk levels were optimal for males and females. Although males had four groups and females only had three, the percentages of cases arrested increased as risk level increased for both genders. The correlation between risk level and recidivism was .32 for males and .35 for females.

The Reentry Tool consisted of 20 items from three domains and predicted new arrest. The three domains were criminal history, social bonds, and antisocial attitudes. The validation results revealed that optimal cutoff scores were different for males and females. Still, risk levels are significantly associated with increases in the recidivism rate for both genders. The correlation with recidivism was .30 for males and .44 for females.

Limitations

There were two primary limitations observed in the current study. The first limitation revolves around the generalizability of the sample to all offenders in the Ohio criminal justice system. Although the data collection period gathered information on over 1,800 offenders in Ohio, it would be imprudent to assume that the findings are representative of all offenders in Ohio. First, resource constraints limited the inclusion of cases from all counties and correctional institutions. Second, although the samples were gathered from specific populations, certain types of cases may be underrepresented in the population (e.g., sex offenders, Hispanic offenders, female offenders). The underrepresentation in the population leads to small numbers of these types of offenders in the sample. For example, the findings from the RT were based on a sample size of 65 females. Although the results provide evidence that females have a distribution on the risk levels that is different from men, the findings should be considered preliminary until data can be collected on a larger sample of women who are released from prison.

A second limitation to the current study revolves around measurement error. The major source of data collection for this study was the structured interview, which was undertaken by trained research staff from the University of Cincinnati. Further, the informed consent process identified a sample that offenders who were willing to undergo the interview process. In short, the structured interview process utilized to gather the data will likely be somewhat different than the process used by criminal justice officials to interview cases and assign risk once the ORAS is implemented.

Recommendations

Based on the findings and limitations discussed above, several recommendations can be made. The first major recommendation is that revalidation studies be conducted of ORAS.

Once ORAS becomes automated, the costs and resources involved with data collection should be substantially reduced because assessment scores will be previously recorded by criminal justice personnel. Instead, probability samples can be drawn for each instrument using large data bases that store offender risk scores every time an assessment is entered.

Revalidation studies will provide further evidence that the instruments in ORAS are able to predict recidivism across multiple samples from the same population. Further, the automation and storage of ORAS data will allow researchers to gather stratified probability samples in order to 1) provide a sample that is representative of all counties in Ohio and 2) oversample underrepresented groups. Also, revalidation studies should seek to extend the follow-up time. Although an average of 12 months is adequate, research suggests that 18 to 24 month follow-up times are optimal (Jones, 1996). Finally, revalidation will also address the issues of measurement error. That is, data can be gathered on assessments that are given by personnel within the criminal justice system, examining the predictive validity of ORAS in a real world setting.

Another major recommendation is that ODRC follow the protocol developed by the University of Cincinnati for training personnel on the assessment instruments. Proper training cannot be stressed enough, because the efficacy of every assessment is heavily dependent upon the person who conducts the interview and scores the risk level. This is especially important because, although the interview questions are structured to maximize reliability, scoring some of the items is reliant upon the professional judgment of the interviewer. Training will also help to minimize the differences in measurement between University research staff conducting the interviews and criminal justice personnel. Not only is initial training important, but it is

recommended that a system be developed that lays out the process of training, provides reliability checks for interviewers, and lays out guidelines for retraining.

In sum, the development of ORAS produced five assessment tools designed to predict the likelihood of recidivism at different points in the criminal justice process. These tools not only are used to assign supervision levels, but were also designed to assist case managers in targeting dynamic risk factors and identifying barriers to treatment. Overall, the results from the validation are favorable, indicating that each tool was able to clearly distinguish between groups of offenders with escalating rates of recidivism. Some caution should be taken in generalizing the findings from this sample to all offenders in Ohio, although the automation of ORAS makes future revalidation studies more likely to be generalizable and less expensive to undertake.

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APPENDIX A: SCORING FORMS FOR EACH ASSESSMENT

OHIO RISK ASSESSMENT SYSTEM: PRETRIAL ASSESSMENT TOOL (ORAS-PAT)

Name: _____ Date of Assessment: _____
 Case#: _____ Name of Assessor: _____

Pretrial Items	Verified
1.1. Age at First Arrest 0=33 or older 1=Under 33	<input type="checkbox"/>
1.2. Number of Failure-to-Appear Warrants Past 24 Months 0=None 1=One Warrant for FTA 2=Two or more FTA Warrants	<input type="checkbox"/>
1.3. Three or more Prior Jail Incarcerations 0=No 1=Yes	<input type="checkbox"/>
1.4. Employed at the Time of Arrest 0= Yes, Full-time 1= Yes, Part-time 2= Not employed	<input type="checkbox"/>
1.5. Residential Stability 0=Lived at Current Residence Past Six Months 1=Not Lived at Same Residence	<input type="checkbox"/>
1.6. Illegal Drug Use during Past Six Month 0=No 1=Yes	<input type="checkbox"/>
1.7. Severe Drug Use Problem 0=No 1=Yes	<input type="checkbox"/>
Total Score:	<input type="checkbox"/>

Scores	Rating	% of Failures	% of Failure to Appear	% of New Arrest
0-2	Low	5%	5%	0%
3-5	Moderate	18%	12%	7%
6+	High	29%	15%	17%

Please State Reason if Professional Override:

Other Areas of Concern. Check all that Apply:

- Low Intelligence*
- Physical Handicap
- Reading and Writing Limitations*
- Mental Health Issues*
- No Desire to Change/Participate in Programs*
- Transportation
- Child Care
- Language
- Ethnicity
- Cultural Barriers
- History of Abuse/Neglect
- Interpersonal Anxiety
- Other _____

*If these items are checked it is strongly recommended that further assessment be conducted to determine level or severity.

OHIO RISK ASSESSMENT SYSTEM: COMMUNITY SUPERVISION TOOL (ORAS-CST)

Name: _____ Date of Assessment: _____

Case#: _____ Name of Assessor: _____

1.0 CRIMINAL HISTORY:

- 1.1 Most Serious Arrest Under Age 18
0=None
1=Yes, Misdemeanor
2=Yes, Felony
- 1.2 Number of Prior Adult Felony Convictions
0=None
1=One or Two
2=Three or more
- 1.3 Prior Sentence as Adult to a Jail or Secure Correctional Facility
0=No
1=Yes
- 1.4 Received Official Misconduct while Incarcerated as Adult
0=No
1=Yes
- 1.5 Prior Sentence to Probation as an Adult
0=No
1=Yes
- 1.6 Community Supervision Ever Been Revoked for Technical Violation as Adult
0=No
1=Yes

Total Score in Criminal History:

2.0 EDUCATION, EMPLOYMENT, AND FINANCIAL SITUATION:

- 2.1 Highest Education
0= High School Graduate or Higher
1= Less than High School or GED
- 2.2 Ever Suspended or Expelled From School
0=No
1=Yes
- 2.3 Employed at the Time of Arrest
0= Yes
1= No
- 2.4 Currently Employed
0=Yes, Full-time, Disabled, or Retired
1=Not Employed or Employed Part-time
- 2.5 Better Use of Time
0=No, Most Time Structured
1=Yes, Lots of Free Time
- 2.6 Current Financial Situation
0=Good
1=Poor

Total Score in Education, Employment, Financial:

3.0 FAMILY AND SOCIAL SUPPORT

- 3.1 Parents have Criminal Record
0= No
1=Yes
- 3.2 Currently Satisfied with Current Marital or Equivalent Situation
0=Yes
1=No
- 3.3 Emotional and Personal Support Available from Family or Others
0=Strong Support
1=None or Weak Support
- 3.4 Level of Satisfaction with Current Level of Support from Family or Others
0=Very Satisfied
1=Not Satisfied
- 3.5 Stability of Residence
0=Stable
1=Not Stable

Total Score on Family and Social Support:

4.0 NEIGHBORHOOD PROBLEMS

- 4.1 High Crime Area
0=No
1=Yes
- 4.2 Drugs Readily Available in Neighborhood
0=No, Generally Not Available
1=Yes, Somewhat Available
2=Yes, Easily Available

Total Score in Neighborhood Problems:

5.0 SUBSTANCE USE

- 5.1 Age First Began Regularly Using Alcohol
0=17 or older
1=Under Age 17
- 5.2 Longest Period of Abstinence from Alcohol
0=Six months or Longer
1=Less than Six months
- 5.3 Offender Ever Used Illegal Drugs
0=No
1=Yes
- 5.4 Drug Use Caused Legal Problems
0=None
1=One Time
2=Two or More Times
- 5.5 Drug Use Caused Problems with Employment
0=No
1=Yes

Total Score for Substance Use:

6.0 PEER ASSOCIATIONS

- 6.1 Criminal Friends
 - 0=None
 - 1=Some
 - 2=Majority
- 6.2 Contact with Criminal Peers
 - 0=No Contact with Criminal Peers
 - 1=At Risk of Contacting Criminal Peers
 - 2=Contact or Actively Seeks Out Criminal Peers
- 6.3 Gang Membership
 - 0=No, Never
 - 1=Yes, but Not Current
 - 2=Yes, Current
- 6.4 Criminal Activities
 - 0=Strong Identification with Prosocial Activities
 - 1=Mixture of Pro- and Antisocial Activities
 - 2=Strong Identification with Criminal Activities

Total Score for Peers:

7.0 CRIMINAL ATTITUDES AND BEHAVIORAL PATTERNS

For the Following Items Please Rate the Offender:

- 7.1 Criminal Pride
 - 0=No Pride in Criminal Behavior
 - 1=Some Pride
 - 2=A Lot of Pride
- 7.2 Expresses Concern about Others' Misfortunes
 - 0=Concerned about Others
 - 1=Limited Concern
 - 2=No Real Concern for Others
- 7.3 Feels Lack of Control Over Events
 - 0=Controls Events
 - 1=Sometimes Lacks Control
 - 2=Generally Lacks Control
- 7.4 Sees No Problem in Telling Lies
 - 0=No
 - 1=Yes
- 7.5 Engages in Risk Taking Behavior
 - 0=Rarely Takes Risks
 - 1=Sometimes Takes Risks
 - 2=Generally Takes Risks
- 7.6 Walks Away from a Fight
 - 0=Yes
 - 1=Sometimes
 - 2=Rarely
- 7.7 Believes in "Do Unto Others Before They Do Unto You"
 - 0=Disagree
 - 1=Sometimes
 - 2=Agrees

Total Score Criminal Attitudes and Behavioral Patterns:

TOTAL SCORE:

Risk Categories for MALES			Risk Categories for FEMALES		
Scores	Rating	Percent of Failures	Scores	Rating	Percent of Failures
0-14	Low	9%	0-14	Low	7%
15-23	Moderate	34%	15-21	Moderate	23%
24-33	High	58%	22-28	High	40%
34+	Very High	70%	29+	Very High	50%

Domain Levels					
1.0 Criminal History			2.0 Education, Employment, and Financial Situation		
	Score	Failure		Score	Failure
_____	Low (0-3)	27%	_____	Low (0-1)	21%
	Med (4-6)	46%		Med (4-6)	37%
	High (7-8)	53%		High (7-8)	55%
3.0 Family and Social Support			4.0 Neighborhood Problems		
	Score	Failure		Score	Failure
_____	Low (0-1)	32%	_____	Low (0)	17%
	Med (2-3)	41%		Med (1)	35%
	High (4-5)	48%		High (2-3)	45%
5.0 Substance Use			6.0 Peer Associations		
	Score	Failure		Score	Failure
_____	Low (0-2)	27%	_____	Low (0-1)	21%
	Med (3-4)	40%		Med (2-4)	43%
	High (5-6)	45%		High (5-8)	64%
7.0 Criminal Attitudes and Behavioral Patterns					
	Score	Failure			
_____	Low (0-3)	24%			
	Med (4-8)	44%			
	High (9-13)	59%			

Professional Override:

Reason for Override (note overrides should not be based solely on offense):

Other Areas of Concern. Check all that Apply:

Low Intelligence*
 Physical Handicap
 Reading and Writing Limitations*
 Mental Health Issues*
 No Desire to Change/Participate in Programs*
 Transportation
 Child Care
 Language
 Ethnicity
 Cultural Barriers
 History of Abuse/Neglect
 Interpersonal Anxiety
 Other _____

*If these items are checked it is strongly recommended that further assessment be conducted to determine level or severity.

OHIO RISK ASSESSMENT SYSTEM - COMMUNITY SUPERVISION SCREENING TOOL (ORAS-CSST)

Name: _____ Date of Assessment: _____

Case#: _____ Name of Assessor: _____

1.0 Number of Prior Adult Felony Convictions	<input style="width: 50px; height: 20px;" type="text"/>
0=None	
1=One or Two	
2=Three or More	
2.0 Currently Employed	<input style="width: 50px; height: 20px;" type="text"/>
0=Yes, Full-time, Disabled, or Retired	
1=Not Employed or Employed Part-time	
3.0 Drugs Readily Available in Neighborhood	<input style="width: 50px; height: 20px;" type="text"/>
0=No, Generally Not Available	
1=Yes, Somewhat Available	
2=Yes, Easily Available	
4.0 Criminal Friends	<input style="width: 50px; height: 20px;" type="text"/>
0=None	
1=Some	
2=Majority	

TOTAL SCORE:

Risk Categories for MALES

Scores	Rating	Percent of Failures
0-2	Low	15%
3+	High	50%

Risk Categories for FEMALES

Scores	Rating	Percent of Failures
0-3	Low	12%
4+	High	40%

OHIO RISK ASSESSMENT SYSTEM – PRISON INTAKE TOOL (ORAS-PIT)

Name: _____ Date of Assessment: _____

Case#: _____ Name of Assessor: _____

Age at Time of Assessment

0=24+

1=18-23

1.0 CRIMINAL HISTORY

1.1. Most Serious Arrest Under Age 18

0=None

1=Yes, Misdemeanor

2=Yes, Felony

1.2. Prior Commitment as a Juvenile to Department of Youth Services

0=No

1=Yes

1.3. Number of Prior Adult Felony Convictions

0=None

1=One or Two

2=Three or more

1.4. Arrests for Violent Offense as an Adult

0=No

1=Yes

1.5. Number of Prior Commitments to Prison

0=None

1=One

2=Two or More

1.6. Ever Received Official Misconduct while Incarcerated as an Adult

0=No

1=Yes

1.7. Ever Had Escape Attempts as Adult

0=No

1=Yes

Total Score in Criminal History:

2.0 SCHOOL BEHAVIOR AND EMPLOYMENT	
2.1. Ever Expelled or Suspended from School 0= No 1= Yes	<input type="text"/>
2.2. Employed at the Time of Arrest 0=Yes 1=No	<input type="text"/>
2.3. Employed Just Prior to Incarceration 0=Yes Full-time or Disabled 1=Not Employed or Employed Part-time	<input type="text"/>
2.4. Attitudes toward Boss/Employer 0=Good Relationship 1=Poor Relationship	<input type="text"/>
2.5. Longest Length of Employment Past Two Years 0=18 Months or More 1=1-17 Months 1= None	<input type="text"/>
2.6. Better Use of Time 0=No, Most Time Structure 1=Yes, Lots of Free Time	<input type="text"/>
Total Score in School Behavior and Employment: <input type="text"/>	

3.0 FAMILY AND SOCIAL SUPPORT	
3.1. Current Marital Status 0= Married or Cohabiting 1= Single (Married but Separated), Divorced, Widowed	<input type="text"/>
3.2. Living Situation Prior to Incarceration: 0=Significant Other 1=Parents, Friends, or Other 2=Alone or Shelter	<input type="text"/>
3.3. Stability of Residence Prior to Incarceration 0=Stable 1=Not Stable	<input type="text"/>
3.4. Emotional and Personal Support Available from Family or Others 0=Strong Support 1=None or Weak Support	<input type="text"/>
3.5. Level of Satisfaction with Current Level of Support from Family or Others 0=Very Satisfied 1=Not Satisfied	<input type="text"/>
Total Score for Family and Social Support: <input type="text"/>	

4.0 SUBSTANCE ABUSE AND MENTAL HEALTH	
4.1. Longest Period of Abstinence from Alcohol 0= Six Months or Longer 1= Less than Six Months	<input type="text"/>
4.2. Age at First Illegal Drug Use 0=16 or Older 1=Under 16	<input type="text"/>
4.3. Problems with Employment due to Drug Use: 0=No 1=Yes	<input type="text"/>
4.4. Problems with Health due to Drug Use 0=No 1=Yes	<input type="text"/>
4.5. Ever Diagnosed with Mental Illness/Disorder 0=No 1=Yes	<input type="text"/>
Substance Abuse and Mental Health: <input type="text"/>	

5.0 CRIMINAL LIFESTYLE	
5.1. Criminal Activities 0= Prosocial 1= Mixture 2=Criminal Activities	<input type="text"/>
5.2. Current Gang Membership 0= No, Never 1= Yes, but Not Current 2= Yes, Current	<input type="text"/>
5.3. Ability to Control Anger 0= Good Control 1= Poor Control	<input type="text"/>
5.4. Uses Anger to Intimidate Others 0=No 1=Yes	<input type="text"/>
5.5. Acts Impulsively 0=No 1=Yes	<input type="text"/>
5.6. Feels Lack of Control Over Events 0= Controls Events 1= Sometimes Lacks Control 2= Generally Lacks Control	<input type="text"/>
5.7. Walks Away from a Fight 0= Yes 1= Sometimes 2= Rarely	<input type="text"/>
Total Score for Criminal Lifestyle: <input type="text"/>	

TOTAL SCORE: <input type="text"/>
--

Risk Categories for MALES			Risk Categories for FEMALES		
Scores	Rating	Percent of Failures	Scores	Rating	Percent of Failures
0-8	Low	17%	0-12	Low	17%
9-16	Moderate	32%	13-18	Moderate	33%
17-24	High	58%	19+	High	63%
25+	Very High	71%			

Domain Levels					
1.0 Criminal History			2.0 School Behavior and Employment		
	Score	Failure		Score	Failure
_____	Low (0-3)	30%	_____	Low (0-3)	29%
	Med (4-6)	47%		Med (4-5)	44%
	High (7-10)	57%		High (6-7)	55%
3.0 Family and Social Support			4.0 Substance Abuse and Mental Health		
	Score	Failure		Score	Failure
_____	Low (0-2)	28%	_____	Low (0-1)	33%
	Med (3-4)	45%		Med (2-3)	44%
	High (5-6)	60%		High (4-5)	60%
5.0 Criminal Lifestyle					
	Score	Failure			
_____	Low (0-2)	29%			
	Med (3-5)	46%			
	High (6-11)	60%			

Professional Override:

Reason for Override
(note overrides should not be based solely on offense)

Other Areas of Concern. Check all that Apply:

Low Intelligence*
 Physical Handicap
 Reading and Writing Limitations*
 Mental Health Issues*
 No Desire to Change/Participate in Programs*
 Language
 Ethnicity
 Cultural Barriers
 History of Abuse/Neglect
 Interpersonal Anxiety
 Other _____

If these items are checked it is strongly recommended that further assessment be conducted to determine level or severity.

OHIO RISK ASSESSMENT SYSTEM – REENTRY TOOL (ORAS-RT)

Name: _____ Date of Assessment: _____
Case#: _____ Name of Assessor: _____

Age at Time of Assessment

0=24+

1=18-23

1.0 CRIMINAL HISTORY

1.1. Most Serious Arrest Under Age 18

0=None

1=Yes, Misdemeanor

2=Yes, Felony

1.2. Age at First Arrest or Charge

0=26+

1=16-25

2=15 or younger

1.3. Prior Commitment as a Juvenile to Department of Youth Services

0=No

1=Yes

1.4. Current Offense Drug Related

0=No

1=Yes

1.5. Number of Prior Adult Felony Convictions

0=None

1=One

2=Two or More

1.6. Number of Prior Adult Commitments to Prison

0=None

1=One

2=Two or More

1.7. Ever Received Official Infraction for Violence While Incarcerated as an Adult

0=No

1=Yes

1.8. Ever Absconded from Community Supervision as an Adult

0=No

1=Yes

Total Score in Criminal History:

2.0 SOCIAL BONDS	
2.1. Ever Suspended or Expelled from School	<input type="text"/>
0= No	
1= Yes	
2.2. Employed at the Time of Arrest	<input type="text"/>
0=Yes	
1=No	
2.3. Ever Quit a Job Prior to Having Another One	<input type="text"/>
0=No	
1=Yes	
2.4. Marital Status	<input type="text"/>
0=Married or Cohabiting with a Significant Other	
1=Single, Married but Separated, Divorced, or Widowed	
Total Score in Social Bonds: <input type="text"/>	

3.0 CRIMINAL ATTITUDES AND BEHAVIORAL PATTERNS	
3.1. Criminal Pride	<input type="text"/>
0= No Pride in Criminal Behavior	
1= Some Pride in Criminal Behavior	
2= A lot of Pride in Criminal Behavior	
3.2. Believes that it is possible to Overcome Past	<input type="text"/>
0= Yes	
1= No	
3.3. Uses Anger to Intimidate Others	<input type="text"/>
0=No	
1=Yes	
3.4. Walks Away from a Fight	<input type="text"/>
0= Yes	
1= Sometimes	
2= Rarely	
3.5. Problem Solving Ability	<input type="text"/>
0=Good	
1=Poor	
3.6. Expresses Concern About Other's Misfortunes	<input type="text"/>
0= Concerned about Others	
1= Limited Concern	
2= No Real Concern for Others	
3.7. Believes in "Do Unto Others Before They Do Unto You"	<input type="text"/>
0= Disagree	
1= Sometimes	
2= Agree	
Total Score for Criminal Attitudes and Behavioral Patterns: <input type="text"/>	

TOTAL SCORE: <input type="text"/>	
--	--

Risk Categories for MALES			Risk Categories for FEMALES		
Scores	Rating	Percent of Failures	Scores	Rating	Percent of Failures
0-9	Low	21%	0-10	Low	6.5%
10-15	Moderate	50%	11-14	Moderate	44%
16+	High	64%	15+	High	56%

Domain Levels					
1.0 Criminal History			2.0 Social Bonds		
	Score	Failure		Score	Failure
_____	Low (0-3)	23%	_____	Low (0-3)	32%
	Med (4-6)	45%		Med (4-5)	45%
	High (7-12)	65%		High (6-7)	62%
3.0 Criminal Attitudes and Behavioral Patterns					
	Score	Failure			
_____	Low (0-2)	30%			
	Med (3-5)	51%			
	High (6-11)	58%			

Professional Override:

Reason for Override
(note overrides should not be based solely on offense)

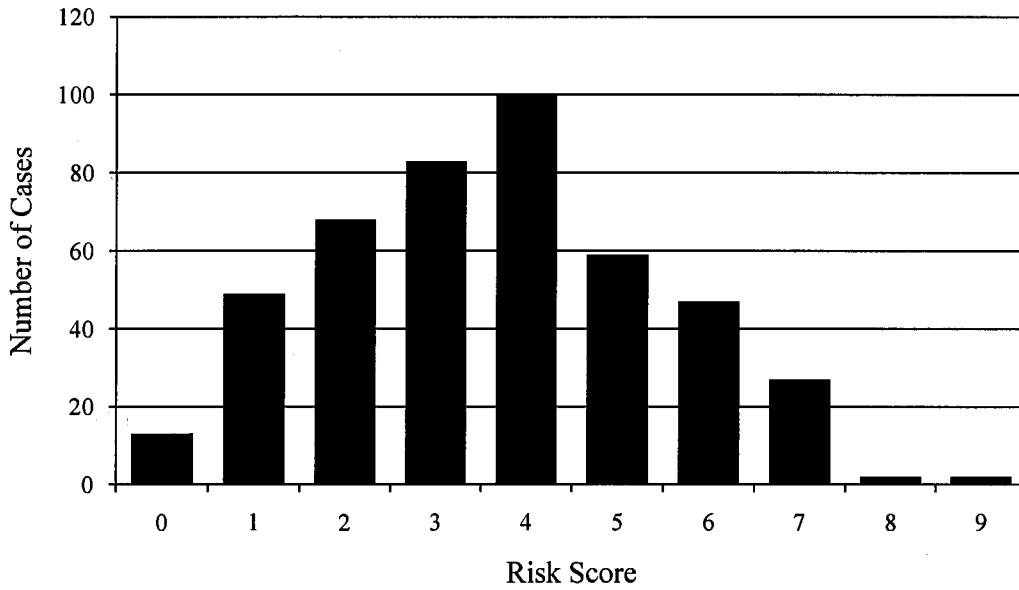
Other Areas of Concern. Check all that Apply:

Low Intelligence*
 Physical Handicap
 Reading and Writing Limitations*
 Mental Health Issues*
 No Desire to Change/Participate in Programs*
 Language
 Childcare
 Transportation
 Ethnicity
 Cultural Barriers
 History of Abuse/Neglect
 Interpersonal Anxiety
 Other _____

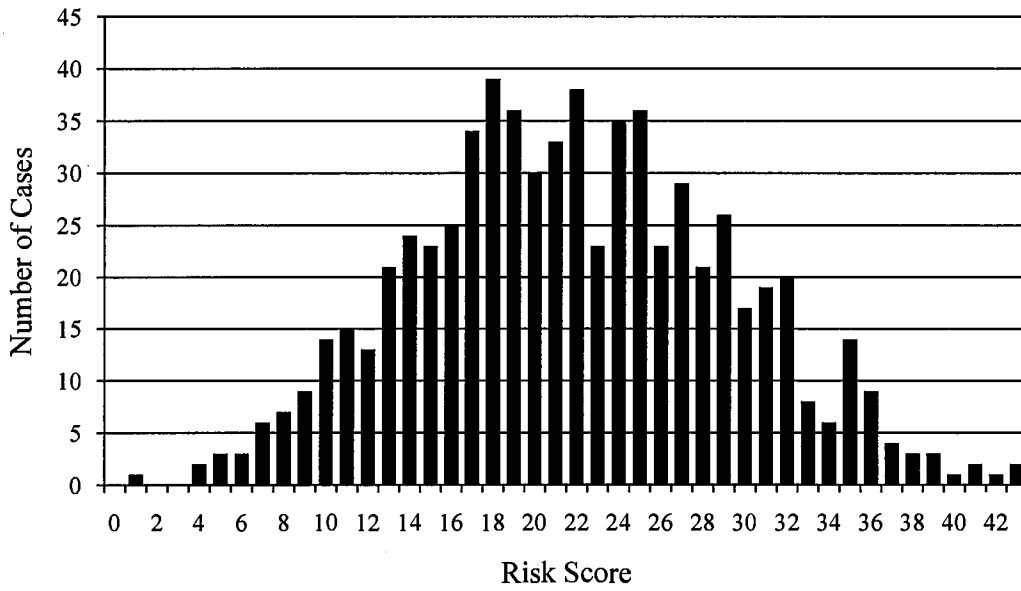
*If these items are checked it is strongly recommended that further assessment be conducted to determine level or severity.

APPENDIX B: THE DISTRIBUTION OF CASES ON EACH ASSESSMENT TOOL

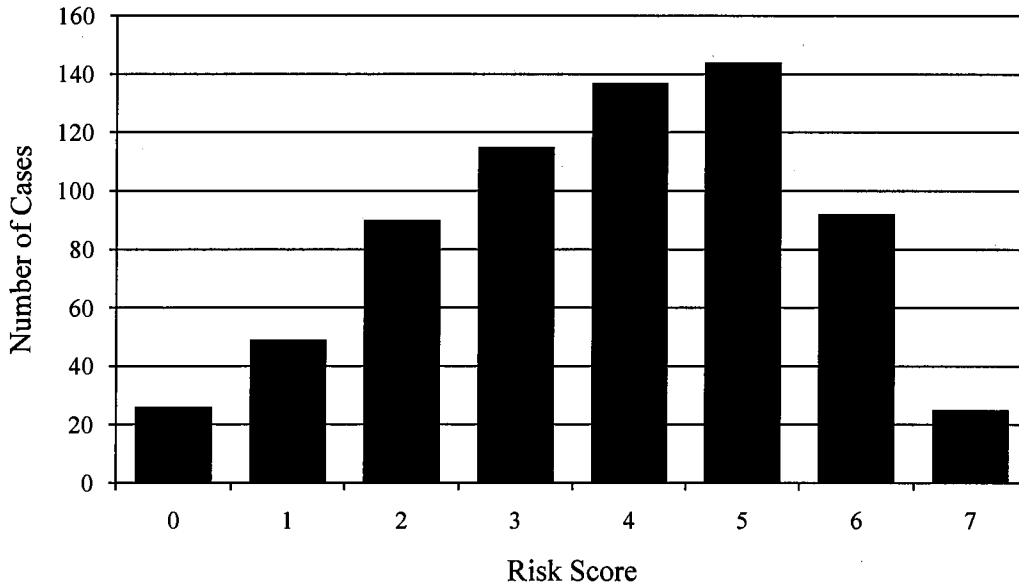
B1: Distribution of Cases on the Pretrial Assessment Tool (n = 450)



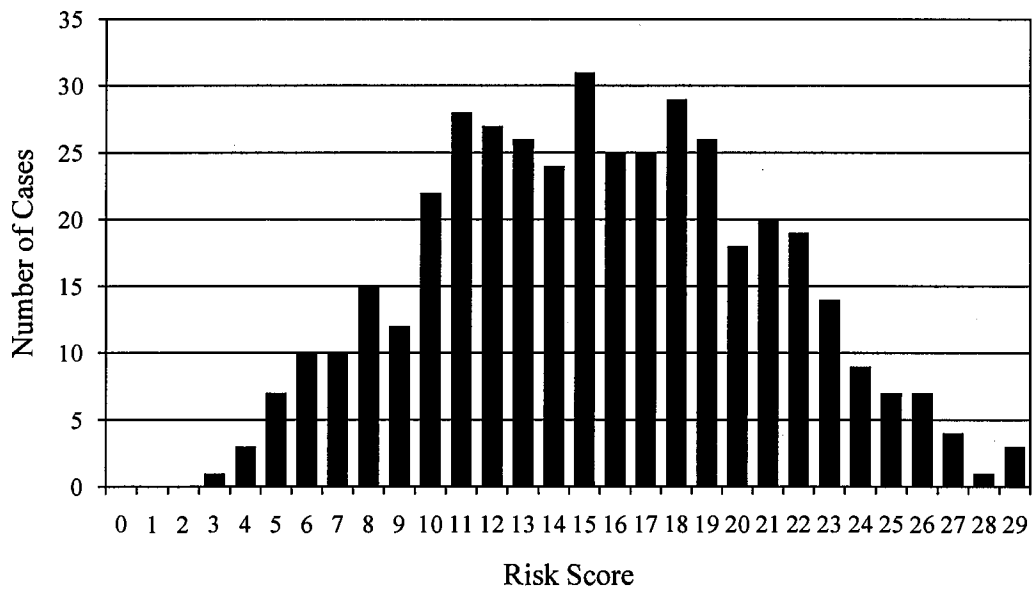
B2: Distribution of Cases on the Community Supervision Tool (n = 678)



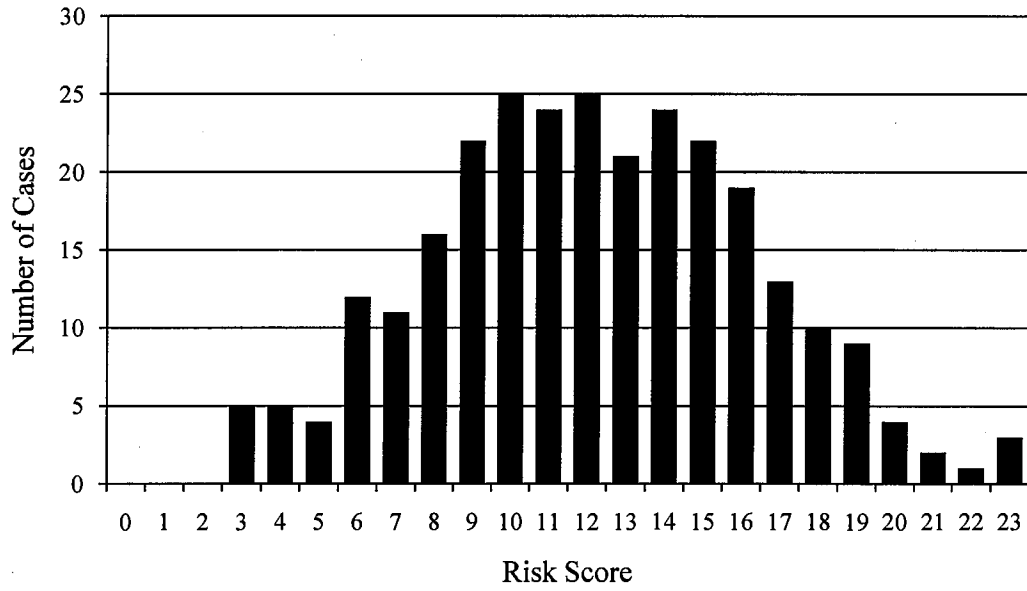
B3: Distribution of Case on the Community Supervision Screening Tool (n = 678)



B4: Distribution of Cases on the Prison Intake Tool (n = 423)



B5: Distribution of Cases on the Reentry Tool (N=423)



TAB 17

**The Ohio Risk Assessment System
Misdemeanor Assessment Tool (ORAS-MAT)
and Misdemeanor Screening Tool (ORAS-MST)**

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June 11, 2014

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INTRODUCTION

In 2006, the University of Cincinnati (UC) Center for Criminal Justice Research (CCJR), in partnership with the Ohio Department of Rehabilitation and Correction (ODRC), developed the Ohio Risk Assessment System (ORAS), a system designed to assess risk, need, and responsivity factors of offenders at each stage in the criminal justice system (see Latessa, Smith, Lemke, Makarios, & Lowenkamp, 2009). The ORAS is comprised of five validated risk assessment instruments: 1) Pretrial Tool (PAT), 2) Community Supervision Tool (CST), 3) Prison Intake Tool (PIT), 4) Reentry Tool (RT), and 5) Supplemental Reentry Tool (SRT)¹, as well as two screening tools: 1) Community Supervision Screening Tool (CSST) and 2) Prison Intake Screening Tool (PST). Since its' inception, the ORAS has been implemented across the state and is used in municipal and common pleas courts, community based correctional facilities (CBCFs), and ODRC institutions.

In 2012, staff from CCJR were contacted by Director Gary Mohr of ODRC and Judge James A. Shriver, formerly of the Clermont County Municipal Court, to examine the CST instrument for municipal courts.² Specifically, there was concern that the ORAS-CST instrument was not a valid predictor of recidivism for misdemeanor offenders and requested that CCJR staff examine the instrument further for this type of population. In this way, the purpose of this report is fourfold. First, a description of the problem will be provided, followed by a brief discussion of the steps taken to solve the problem. Next, two new instruments developed by CCJR for use in Ohio's municipal courts will be presented—the ORAS-Misdemeanor Assessment Tool (ORAS-MAT) and the ORAS-Misdemeanor Screening Tool (ORAS-MST).

¹ Note, the RT is to be used with offenders who have been incarcerated more than 4 years, while the SRT is to be used with offenders who have been incarcerated <4 years.

² See Appendix A for Director Mohr and Judge Shriver's contact information.

Within this discussion, a description of how CCJR went about creating the instruments will be provided. Finally, conclusions and recommendations for long-term use will be provided.

STATEMENT OF THE PROBLEM

For the last several years, both municipal and common pleas courts across the state were using the ORAS-CST instrument to determine offenders' likelihood of recidivating and to identify criminogenic needs to guide and prioritize supervision and programming. Due to the differences between municipal and common pleas courts (e.g., types of offenses committed, caseload sizes), municipal courts were concerned with the amount of time it took to administer the full CST instrument, as well as the validity of the tool to accurately predict misdemeanants' likelihood to reoffend.

WHAT WAS DONE TO SOLVE THE PROBLEM AND HOW THE INSTRUMENTS WERE CREATED

After several meetings with DRC administrators and representatives from various municipal courts across Ohio, CCJR agreed to examine the data for misdemeanor offenders who were assessed with the full ORAS-CST. More specifically, several steps were taken to solve the problem described above—each of which led to the creation of the new misdemeanor instruments.

First, CCJR staff identified offenders in the ODRC Gateway Portal who were assessed through the municipal court system and received a full ORAS-CST assessment between January and June 2012. From here, each municipal court was contacted and asked to provide a list of staff who were completing ORAS assessments during the study time period. This helped to ensure that the sample of offenders pulled from the Gateway Portal were in fact misdemeanor

offenders, as each offender in the sample could be matched with an identified municipal court assessor. In total, 1,722 misdemeanor offenders were included in the study, yielding at least an 11-month follow-up period following initial assessment (time at risk ranged between 11 and 33 months).^{3,4}

Courts were also asked the following additional questions:

- What was the offender charged with (i.e., what brought the offender to your court)?
- Was the offender's charge related to any of the following offenses:
 - DUI
 - Domestic violence
 - Violence
 - Substance abuse / drugs
- If offender's charge was related to substance use / drugs, identify type of drug:
 - Cocaine
 - Marijuana
 - Heroin
 - Prescription
 - Other (specify)

Table 1 presents descriptive statistics for the municipal court sample. Briefly, Table 1 shows that the majority of offenders assessed during the timeframe were white males who were on average, 33 years of age.

³ The sample of 1,277 misdemeanants excluded cases where the offender also had a felony case pending simultaneously.

⁴ See Appendix B for a list of counties that participated in the ORAS-CST validation process.

	N	Percent (%)
Sex		
Male	1,284	74.6
Female	438	25.4
Race		
White	1,477	85.8
Black	223	13.0
Other	21	1.2
Age		
17 – 25	516	30.1
26 – 34	591	34.4
35-44	318	18.5
45 & Older	292	17.0
	Mean = 33.1	Range: 17 – 81

* Due to missing data, some analyses do not total 1,722

Second, recidivism data were examined for the offenders in the sample using the Ohio Law Enforcement Gateway Portal (OhLEG).^{5, 6} Table 2 presents the re-arrest results for the offenders included in the sample. As can be seen, a little less than half (approximately 47%) of the offenders included in the sample were re-arrested. Arrests were chosen as the recidivism measure because later measures (e.g., convictions) need a follow-up time longer than 11 months. In addition, arrests in the community allowed the ORAS-CST to identify criminogenic needs that were likely to result in danger to the community.

Third, the full ORAS-CST instrument was examined to determine whether it was a valid predictor of recidivism for misdemeanor offenders. Briefly, the full CST instrument is comprised of 35 items across 7 domains (criminal history; education, employment, and financial situation; family and social support; neighborhood problems; substance use; peer associations; and criminal attitudes and behavioral problems) and typically takes about 45 minutes to

⁵ The OhLEG system is a statewide database used by law enforcement officials to track arrests, adjudications, and other adult offender outcomes.

⁶ Minor traffic violations were excluded (e.g., speeding).

administer. Once the assessment is completed, it provides staff with an overall risk level for the offender, as well as a level of risk by domain area. Finally, it should be noted that the original CST instrument was developed on a range of offenders, including both misdemeanor and felony offenders.

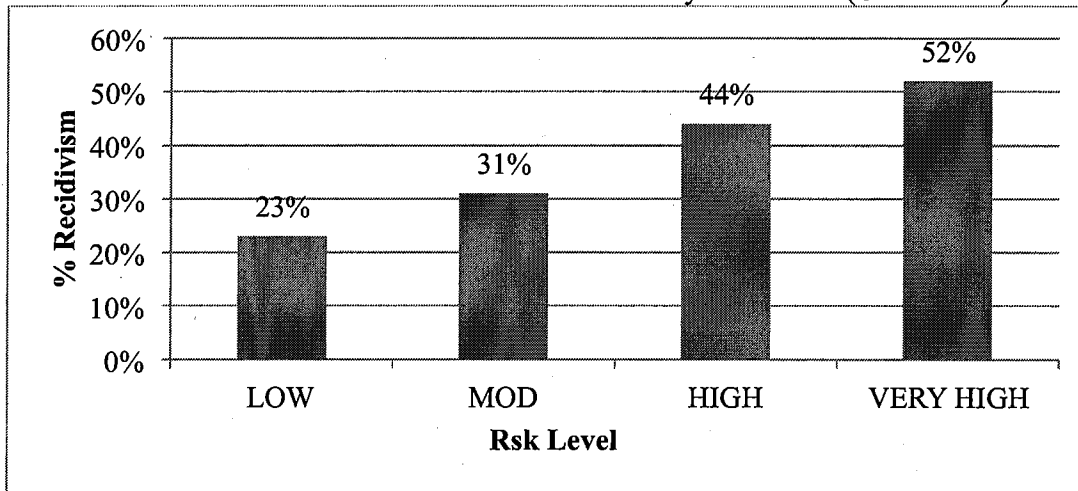
	N	Percent (%)
Re-arrest		
Yes	721	42.2
No	988	57.8

* Due to missing data, some analyses do not total 1,722

Figure 1 presents the recidivism results for misdemeanor offenders who were assessed on the full ORAS-CST instrument. As can be seen, the overall instrument accurately predicts recidivism for offenders involved in the municipal court system in that offenders who scored low on the tool recidivated at the lowest rate (23%), while offenders who scored very high on the tool, recidivated at the highest rate (52%).⁷

⁷ Note: cut-off scores were modified to fit the population.

Figure 1
Overall Recidivism Rates for Misdemeanor Offenders by Risk Level (ORAS-CST)



AUC = .613; $r^2 = .194$

Fourth, to address concerns regarding the amount of time it takes to administer the ORAS-CST instrument, two new instruments—the ORAS-MAT and the ORAS-MST were developed.⁸ Items included on these tools were based on the items found in the full CST instrument to be the most significant predictors of recidivism for misdemeanor offenders.

ORAS-Misdemeanor Assessment Tool (ORAS-MAT)

The new ORAS-MAT instrument consists of 11 items and examines the following primary factors:⁹

- Criminal History,
- Education and Employment,
- Drug Use,
- Criminal Peers, and
- Criminal Attitudes.

Considerably shorter than the full CST instrument, the MAT will take approximately 15 minutes to administer. Figure 2 presents the recidivism rates for misdemeanor offenders based on just the

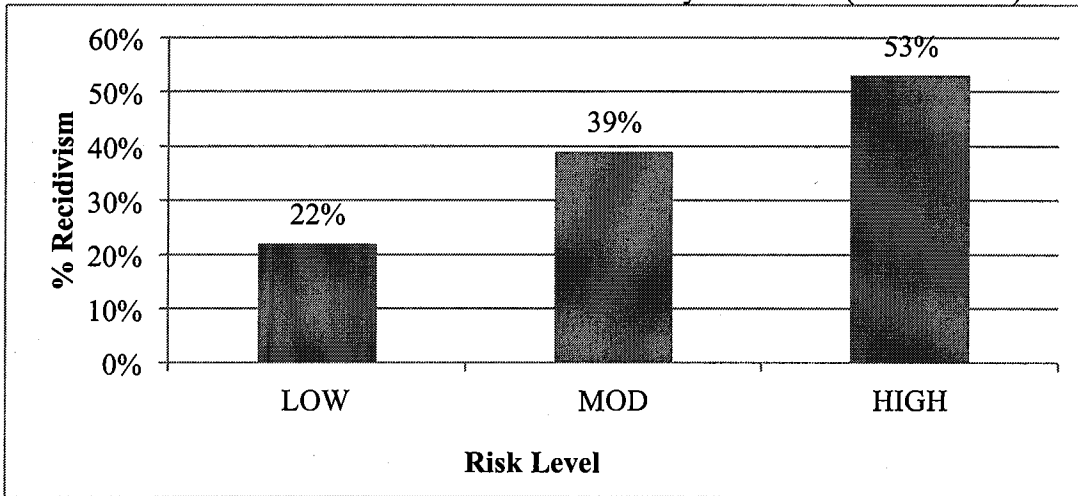
⁸ See Appendix C for a list of counties that participated in the ORAS-MAT / ORAS-MST validation process.

⁹ See Appendix D for a review of the items included on the ORAS-MAT Instrument.

11 items included on the new tool. Based on the MAT instrument, low risk misdemeanants reoffended at the lowest rate (22%), compared to high risk misdemeanants who reoffended at the highest rate (53%). Moderate risk offenders fell somewhere in the middle, with a recidivism rate of 39 percent.

Figure 2

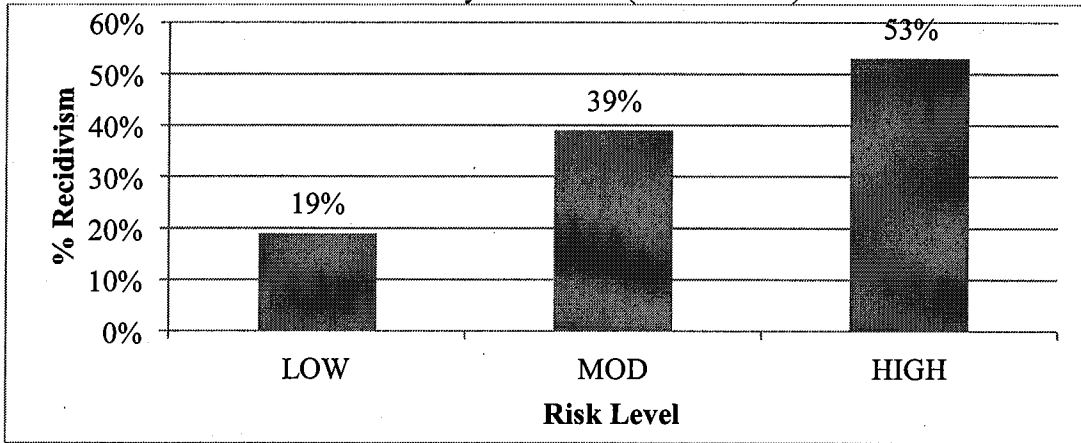
Overall Recidivism Rates for Misdemeanor Offenders by Risk Level (ORAS-MAT)



AUC = .620; $r^2 = .208$

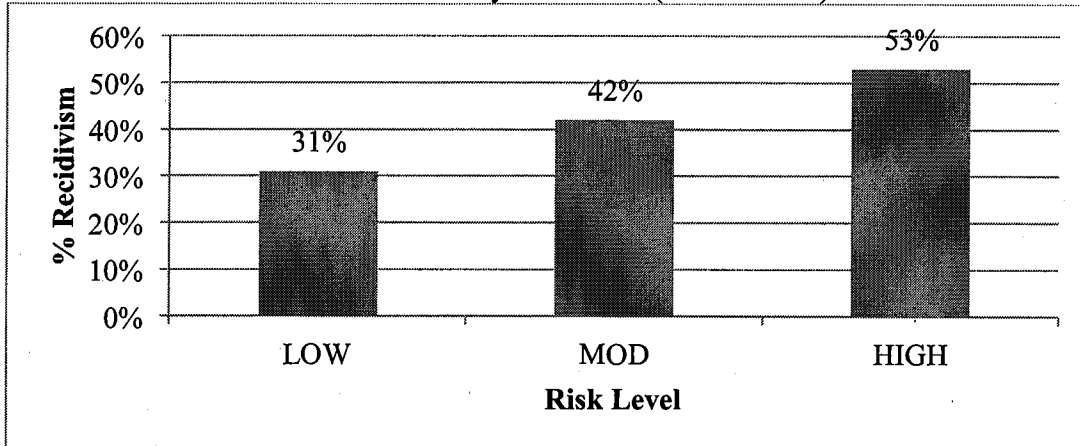
The ORAS-MAT analyses were taken one step further to examine recidivism results by gender. Figures 3 and 4 present the reoffense rates for males and females, respectively. Both figures show that the new MAT instrument is accurately predicting recidivism for males and females. Specifically, low risk males recidivated at a rate of 19 percent, while high risk males reoffended at a higher rate of 53 percent. Recidivism rates for moderate risk males fell somewhere in the middle at 39 percent. Similarly, low risk females reoffended at the lowest rates (31%), compared to their high risk counterparts (53%).

Figure 3
Overall Recidivism Rates for Males by Risk Level (ORAS-MAT)



AUC = .628; $r^2 = .226$

Figure 4
Overall Recidivism Rates for Females by Risk Level (ORAS-MAT)



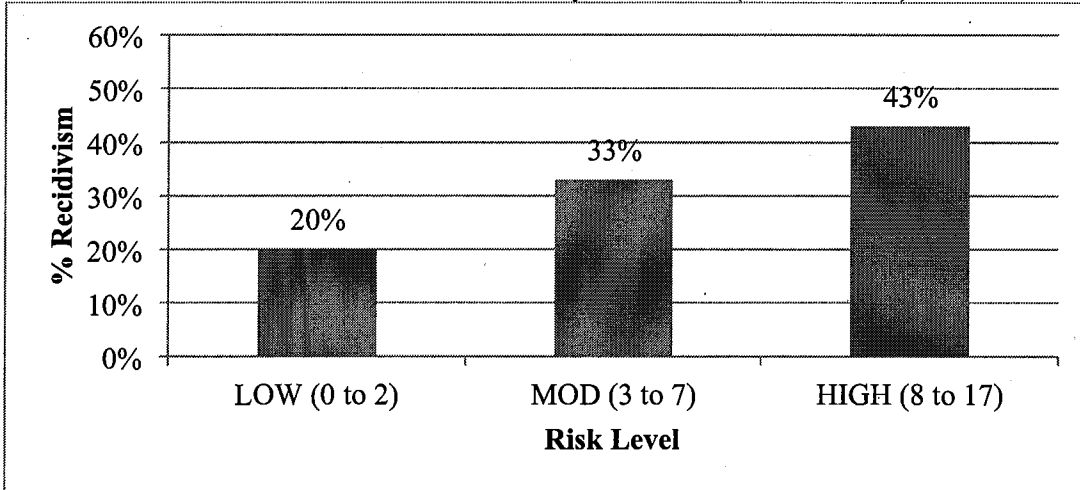
AUC = .600; $r^2 = .181$

Analyses were also conducted to examine the validity of the ORAS-MAT in predicting recidivism for two specific groups: DUI offenders and domestic violence perpetrators.¹⁰ Figures 5 and 6 present the recidivism results for each group. Consistent with the previous results, it appears the new municipal court instrument is valid for these two groups of offenders in that DUI and domestic violence offenders who scored low on the instrument, recidivated at the

¹⁰ Recidivism = re-arrest for any reason (i.e., not just DUIs or new domestic violence charges).

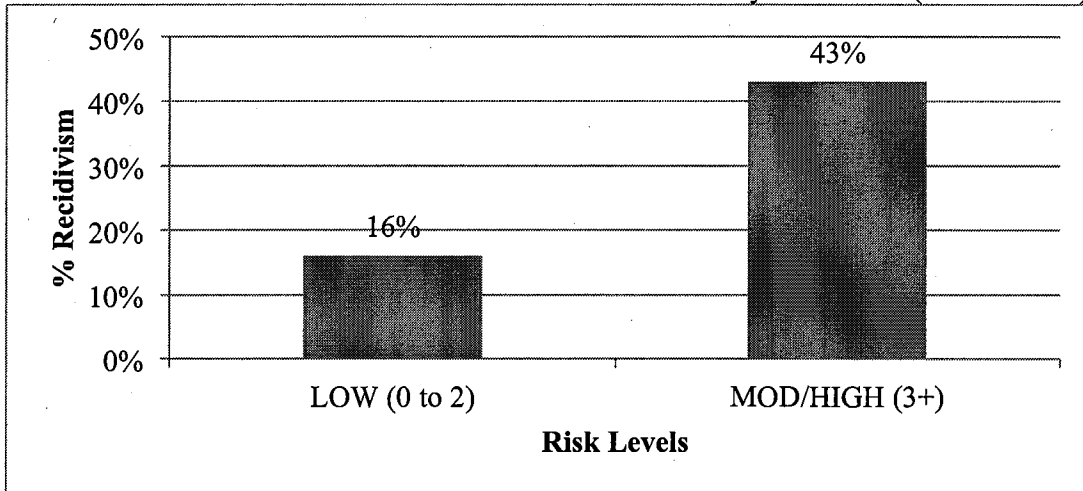
lowest rates (20% and 16%, respectively). Conversely, DUI and domestic violence offenders who scored high on the ORAS-MAT instrument reoffended at the highest rates (43% for both groups).

Figure 5
Overall Recidivism Rates for DUI Offenders by Risk Level (ORAS-MAT)



AUC = .597

Figure 6
Overall Recidivism Rates for Domestic Violence Offenders by Risk Level (ORAS-MAT)



AUC = .598

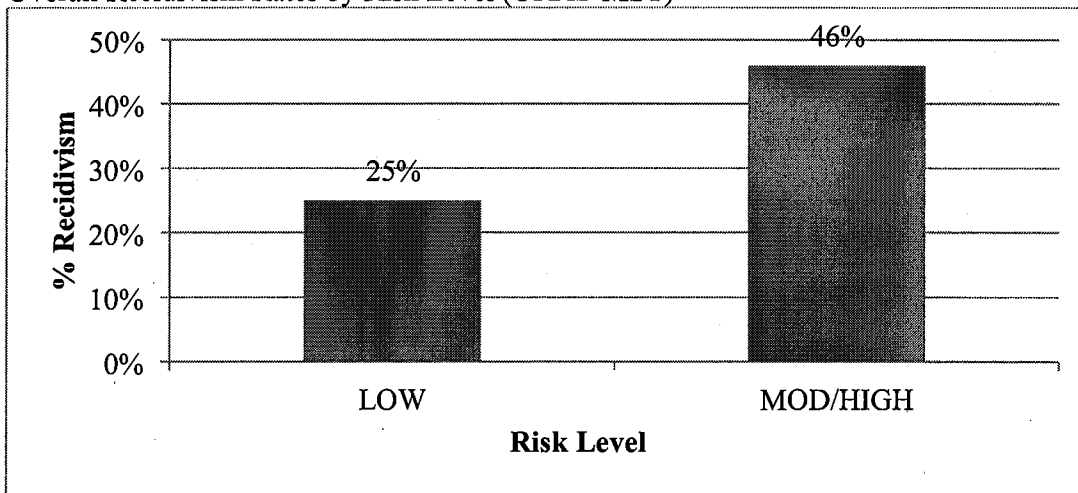
ORAS-Misdemeanor Screening Tool (ORAS-MST)

The new ORAS-MST instrument consists of 5 items and examines the following primary factors¹¹:

- Criminal History (2 items),
- Education,
- Drug Use, and
- Criminal Attitudes.

The screener will take approximately 5 minutes to administer and provides low and moderate/high classification categories. Figure 7 presents the recidivism rates for misdemeanor offenders based on just the 5 items included on the new screening tool. Based on the results below, 25 percent of low risk offenders reoffended, while 46 percent of those who were classified as moderate/high risk recidivated.

Figure 7
Overall Recidivism Rates by Risk Level (ORAS-MST)



AUC = .631; $r^2 = .210^*$

¹¹ See Appendix E for a review of the items included on the ORAS-MST Instrument.

Finally, when examining the accuracy of the screener in predicting recidivism compared to the full misdemeanor tool, the false positive rate was approximately 7 percent. That is, 7 percent of those offenders who were predicted not to recidivate (i.e., were screened as low risk) did actually recidivate.

Examining the Impact of Heroin and Other Drugs

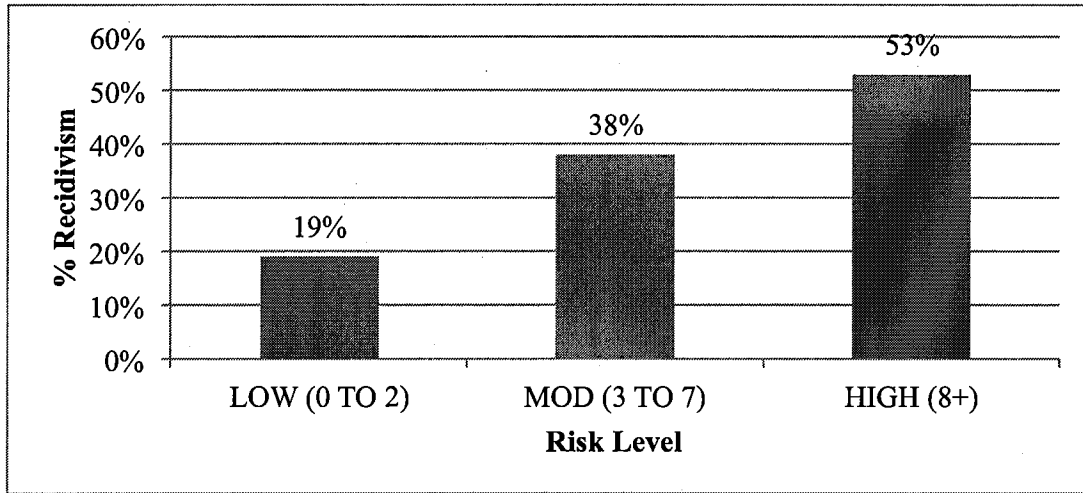
Municipal courts were also concerned with the increased number of drug possession and drug trafficking cases coming through their courts in recent years; especially heroin-related offenses. As such, courts' responses to the additional questions asked at the outset of the study were used to examine drug characteristics further. More specifically, supplemental data for 568 offenders were collected. Table 3 presents the percentage of offenders by drug type.

Drug Type	Percent
Cocaine	7
Heroin / Prescription Pills	33
Marijuana	5
Alcohol / Other	25
None	31

Overall recidivism rates were examined based on the ORAS-MAT risk categories and each drug category presented in Table 3. Results indicated that the predictive validity of the ORAS-MAT could be slightly improved by knowing whether the offender's current offense was heroin related. This relationship held true for both males and females, as presented in Figures 8 and 9, respectively.

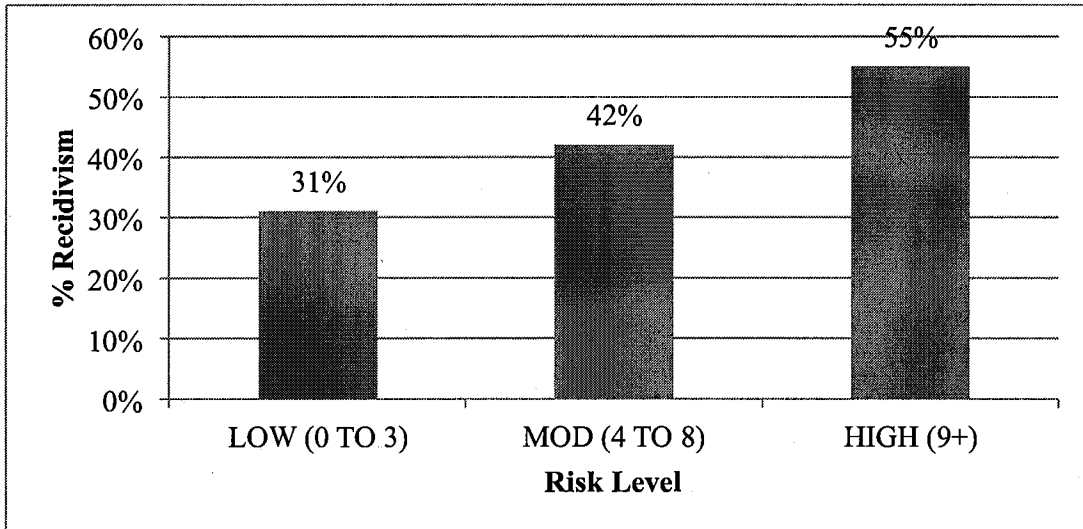
With this improved validity, a new questions “current offense heroin related” was added to both the ORAS-MAT and ORAS-MST. Thus, the ORAS-MAT consists of 12 items and the ORAS-MST consists of 6 items in total.

Figure 8
ORAS-MAT + Heroin Abuse for Males



AUC = .620; $r^2 = .230$

Figure 9
ORAS-MAT + Heroin Abuse for Females



AUC = .600; $r^2 = .185$

CONCLUSIONS AND RECOMMENDATIONS

The purpose of this research project was to determine if the ORAS-CST instrument was a valid predictor of recidivism for misdemeanor offenders in the state of Ohio. Using a sample of 1,722 misdemeanants, results indicate that the full ORAS-CST instrument is a valid predictor for this population. More specifically, offenders recidivated at increasingly higher rates at each level of risk. While these results are promising, the CST instrument takes approximately 45 minutes to administer—an amount of time that can be challenging for municipal court staff with large caseloads and demanding schedules.

To address the problem of time, CCJR staff created two new misdemeanor assessment instruments—the MST and MAT—both of which were shown to accurately predict recidivism for municipal court offenders. Because these instruments only take between 5 and 15 minutes to administer, municipal courts will be able to obtain a risk profile for each offender involved in their court to help make decisions about supervision levels and treatment services.

Based on these conclusions four recommendations can be made to help municipal courts across the state implement the misdemeanor assessment instruments with fidelity.

1. *Develop a process for when/who completes the assessment:* Courts should determine who will be responsible for completing the risk assessment instrument upon intake and if/when reassessment will occur. From here, policies and procedures should be written regarding the risk assessment process for their respective courts. This dissemination process should target judges, prosecutors, defense attorneys, and municipal court administrators to keep them informed of the process and to emphasize the importance of evidence-based decision-making and the use of risk assessment instruments (Lovins & Latessa, 2013).
2. *Train Staff:* Staff who will be conducting the ORAS assessment should be formally trained and certified to use the tools based upon the protocol developed by CCJR. Supervisors and administrative staff should also be trained in the use of the instruments to keep them informed of the process. Proper training is important because the efficacy of every assessment is dependent upon the person who conducts the interview and subsequently scores out the tool (Latessa et al., 2009).

3. *Implement continuum of services based on assessment results:* Using ORAS results, courts should build a case plan to match each offender, based on their unique pattern of risk, need, and protective factors (i.e., the offender's strengths). From here, appropriate treatments should be identified, and decisions should be made regarding the intensity and duration of supervision and treatment for the offender. Offender outcomes can only be positively impacted, however, when courts have access to a comprehensive continuum of services based on proven evidence-based strategies. Although this is difficult, courts should begin to design a treatment process which allows offenders to receive appropriate referrals based on their criminogenic risk, needs, and protective factors.

4. *Monitor/Quality Improvement:* Fidelity is as important as initial implementation (. To ensure fidelity to the model, courts should continue to work with CCJR to conduct ongoing research, examine inter-rater reliability amongst staff, maintain training efforts for new staff and ongoing training for experienced staff, and use data from the automated system to support quality improvement and ongoing measurement of fidelity to the instruments (Lovins & Latessa, 2013).

REFERENCES

- Latessa, E. J., Smith, P., Lemke, R., Makarios, M., & Lowenkamp, C. (2009). *Creation and Validation of the Ohio Risk Assessment System Final Report*. Center for Criminal Justice Research, University of Cincinnati, Cincinnati, OH.
- Lovins, B., & Latessa, E. (2013). Creation and validation of the Ohio Youth Assessment System (OYAS) and strategies for successful implementation. *Justice Research and Policy*, 15(1), 1-27.

APPENDIX A – CONTACT INFORMATION

Director Gary C. Mohr
Ohio Department of Rehabilitation and Correction
770 West Broad Street
Columbus, Ohio 43222

Judge James A. Shriver
Clermont County Probate/Juvenile Court
2340 Clermont Center Dr.
Batavia, OH 45103

APPENDIX B – PARTICIPATING MUNICIPAL COURTS

Court	N (%)	Court	N (%)
Ashtabula Municipal Court	15 (.78)	Marietta Municipal Court	53 (2.8)
Athens Co Municipal Court	7 (.37)	Marion Municipal Court	145 (7.6)
Bellefontaine Municipal Court	22 (1.1)	Medina Municipal Court	16 (.84)
Bryan Municipal Court	7 (.37)	Mentor Municipal Court	1 (.05)
Canton Municipal Court	303 (15.8)	Monroe Municipal Court	16 (.84)
Champaign Co Municipal Court	40 (2.1)	Morgan Co Municipal Court	64 (3.3)
Circleville Municipal Court	127 (6.6)	Muskingum Co Municipal Court	2 (.01)
Clark Co Municipal Court	36 (1.9)	Newton Falls Municipal Court	9 (.47)
Clermont Co Municipal Court	42 (2.2)	Norwalk Municipal Court	51 (2.7)
Clinton Co Municipal Court	95 (5.0)	Painesville Municipal Court	5 (2.6)
Fairfield Municipal Court	74 (3.9)	Sidney Municipal Court	2 (.01)
Franklin Co Municipal Court	57 (3.0)	Steubenville Municipal Court	6 (.31)
Fremont Municipal Court	92 (4.8)	Toledo Municipal Court	34 (1.8)
Gallipolis Municipal Court	135 (7.1)	Washington CH Municipal Court	213 (11.1)
Greene Co Municipal Court	40 (2.1)	Willoughby Municipal Court	70 (3.7)
Licking Co Municipal Court	105 (5.5)	Zanesville Municipal Court	10 (.52)
Mansfield Municipal Court	20 (1.0)		

**APPENDIX C – COUNTIES INCLUDED IN THE
ORAS-MAT / ORAS-MST VALIDATION**

County	N (%)
Ashtabula	27 (1.6)
Champaign	30 (1.7)
Clark	33 (1.9)
Clermont	32 (1.9)
Clinton	76 (4.4)
Fairfield	57 (3.3)
Fayette	157 (9.1)
Franklin	78 (4.5)
Gallia	106 (6.2)
Greene	29 (1.7)
Huron	40 (2.3)
Lake	55 (3.2)
Licking	67 (3.9)
Logan	23 (1.3)
Lucas	31 (1.8)
Marion	118 (6.9)
Morgan	56 (3.3)
Out of State	23 (1.3)
Pickaway	123 (7.1)
Sandusky	81 (4.7)

APPENDIX D – ORAS-MAT

**OHIO RISK ASSESSMENT SYSTEM:
MISDEMEANOR ASSESSMENT TOOL (ORAS-MAT)**

Name: _____ Date of Assessment: _____

Case#: _____ Name of Assessor: _____

- | | |
|--|----------------------|
| 1. Most Serious Arrest Under Age 18
0 = None
1 = Yes, Misdemeanor
2 = Yes, Felony | <input type="text"/> |
| 2. Number of Prior Adult Felony Convictions
0 = None
1 = One or Two
2 = Three or More | <input type="text"/> |
| 3. Highest Education
0 = High School Graduate or Higher
1 = Less than High School or GED | <input type="text"/> |
| 4. Ever Suspended or Expelled from School
0 = No
1 = Yes | <input type="text"/> |
| 5. Currently Employed/School
0 = Yes, Full-time, Disabled, or Retired
1 = Not Employed or Employed Part-time | <input type="text"/> |
| 6. Better Use of Time
0 = No, Most Time Structured
1 = Yes, Lots of Free Time | <input type="text"/> |
| 7. Drug Use Caused Problems
0 = None
1 = Past
2 = Current | <input type="text"/> |
| 8. Drug Use Caused Problems with Employment
0 = No
1 = Yes | <input type="text"/> |

9. Current Offense Heroin Related	<input type="text"/>
0 = No	
4 = Yes	
10. Criminal Friends	<input type="text"/>
0 = None	
1 = Some	
2 = Majority	
11. Contact with Past Criminal Peers	<input type="text"/>
0 = No contact with Criminal Peers	
1 = At Risk of Contacting Criminal Peers	
2 = Contact or Actively Seeks out Criminal Peers	
12. Criminal Attitudes	<input type="text"/>
0 = No/Limited Criminal Attitudes	
1 = Some Criminal Attitudes	
2 = Significant Criminal Attitudes	

TOTAL SCORE:

Risk Categories for MALES			Risk Categories for FEMALES		
Rating	Rating	Re-arrest Rate	Rating	Score	Re-arrest Rate
Low	0 – 2	19%	Low	0 – 3	31%
Moderate	3 – 7	38%	Moderate	4 – 8	42%
Low	8 – 21	53%	High	9 – 21	55%

Professional Override: YES NO

Reason for Override (note: overrides should not be based solely on offense):

Final Level: LOW MODERATE HIGH

Recommendations:

LOW	Minimum supervision or non-reporting supervision
MODERATE	Regular supervision; programming should be provided for moderate and high need areas
HIGH	Enhanced supervision; programming should be provided for moderate and high need areas

Other Areas of Concern. Check all that Apply:

- Low Intelligence*
- Physical Handicap
- Reading and Writing Limitations*
- Mental Health Issues*
- No Desire to Change/Participate in Programs*
- Transportation
- Child Care
- Language
- Ethnicity
- Cultural Barriers
- History of Abuse/Neglect
- Interpersonal Anxiety
- Other _____

*If these items are checked it is strongly recommended that further assessment be conducted to determine level or severity.

APPENDIX E – ORAS-MST

**OHIO RISK ASSESSMENT SYSTEM:
MISDEMEANOR SCREENING TOOL (ORAS-MST)**

Name: _____ Date of Assessment: _____

Case#: _____ Name of Assessor: _____

- 1. Most Serious Arrest Under Age 18
 0 = None
 1 = Yes, Misdemeanor
 2 = Yes, Felony

- 2. Number of Prior Adult Felony Convictions
 0 = None
 1 = One or Two
 2 = Three or More

- 3. Currently Employed/School
 0 = Yes, Full-time, Disabled, or Retired
 1 = Not Employed or Employed Part-time

- 4. Drug Use Caused Problems
 0 = None
 1 = Past
 2 = Current

- 5. Current Offense Heroin Related
 0 = No
 4 = Yes

- 6. Criminal Attitudes
 0 = No/Limited Criminal Attitudes
 1 = Some Criminal Attitudes
 2 = Significant Criminal Attitudes

TOTAL SCORE:

Risk Categories for MALES			Risk Categories for FEMALES		
Rating	Rating	Re-arrest Rate	Rating	Score	Re-arrest Rate
Low	0 – 1	25%	Low	0 – 3	31%
Moderate / High	2 – 13	48%	Moderate / High	4 – 13	42%

TAB 18

THE UNITED STATES Pretrial Services system was created in 10 demonstration districts by Title II of the Speedy Trial Act of 1974. The Act authorized the Director of the Administrative Office of the U.S. Courts (AO) to establish in 10 judicial districts demonstration pretrial services agencies to help reduce crime by defendants released to the community pending trial and to reduce unnecessary pretrial detention. Five of the pretrial services agencies were to be administered by the Probation Division (now the Office of Probation and Pretrial Services) and five by boards of trustees appointed by the chief judges of the district courts. Title II also instructed the Director to compile a report on the effectiveness of pretrial services in these demonstration districts.

The fourth and final report on the *Implementation of Title II of the Speedy Trial Act of 1974* was published on June 29, 1979. That report concluded that pretrial services should be expanded in the federal system. The report effectively made pretrial services the first implemented evidence-based practice in the federal probation and pretrial services system. The passage of the Pretrial Services Act of 1982 began a process of establishing pretrial services in the remaining 83 federal districts. Pretrial services cases in the District of Columbia are not classified as federal pretrial services cases by the Pretrial Services Act of 1982; thus there are only 93 pretrial services offices.

The federal pretrial services system, like all judiciary units, is highly decentralized. Each district has a great deal of autonomy, with

the Administrative Office of the U.S. Courts working through a system of Judicial Conference committees to develop national policies and implement new processes and procedures like a risk assessment tool. This article explains the process used to develop the Pretrial Services Risk Assessment tool (PTR A), beginning with an overview of the literature for pretrial services risk assessments, moving to an explanation of the choice to create a federal risk assessment instrument rather than use an existing one, and concluding with the methodology and results produced in the re-validation of the PTR A.

Literature Review

One area in which pretrial services originally led criminal justice research was actuarial risk assessment, with devices utilized in several of the larger cities, including Washington, D.C. and New York, long before post-conviction assessment devices were utilized in those cities. Unfortunately, use of such tools, while continuing in those cities, did not spread to other agencies as rapidly as they did in post-conviction assessment. Risk assessment is an area with enough significant differences between post-conviction and pretrial services to prevent much sharing between them. For example, pretrial services focuses significantly on failure to appear, which is not a focus of post-conviction; in contrast, post-conviction focuses on long-term recidivism, something which historically does not concern pretrial services. Therefore, at least theoretically, there

is little crossover between the two disciplines in the area of risk assessment.

While not a lot of work is being done in the literature on risk assessment in pretrial services when compared to post-conviction risk assessment literature, it is clearly the pretrial services area that has received the greatest research attention, and there are some studies of excellent quality (e.g., Toborg, Yezer, Tseng & Carpenter, 1984; Goldkamp & Gottfredson, 1988; Levin, 2006; VanNostrand, 2007; Goldkamp & Vilcica, 2009; Lowenkamp & Whetzel, 2009).

Toborg, Yezer, Tseng, and Carpenter provide an excellent place to begin the discussion to clearly identify the two types of selectivity bias inherent in the process. First, there is a group of arrested defendants who are detained; because of this detention, their propensity for pretrial arrest and failure-to-appear cannot be observed. This first form of bias is fairly common and is discussed in most research on pretrial services risk assessment initiatives. However, rarely seen is a discussion of the second form of selectivity bias, which involves defendants who are released under different scenarios: some are released without any restriction; others are released on various bond types or with various conditions that are based on individual characteristics (Toborg, Yezer, Tseng, & Carpenter, 1984:102). It is important to recognize possible errors so they can be reduced.

When a risk assessment tool was used, more defendants were released, on less re-

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strictive conditions, and with no increase in failure-to-appear or rearrest rates, compared to similar defendants released without use of a risk assessment tool (Toborg, Yezer, Tseng, & Carpenter, 1984:105). The risk prediction tool Toborg, Yezer, Tseng, and Carpenter developed increased release rates by 12 percent, again with no appreciable increase in failure-to-appear or rearrest rates (Toborg, Yezer, Tseng, & Carpenter, 1984:58). Finally, their research concludes that the tool was more accurate for appearance than for safety (Toborg, Yezer, Tseng, & Carpenter, 1984:73). Risk tools, while tremendously useful in improving agency decision-making and ultimately release recommendations, have limitations. For instance, they are good at identifying groups of defendants who present various risks, but they cannot be totally accurate at the individual level (Toborg, Yezer, Tseng, & Carpenter, 1984:111). Low risk is not no risk, and that can be a difficult concept for decision-makers to support, so pretrial tools must do everything possible to limit errors. For example, when implementing a risk assessment tool, agencies need to convey to line staff the important limitation that the tool should not be followed blindly; therefore, permitting an officer to override the tool after staffing with the supervisor or some similar override methodology should be the standard.

Goldkamp and Gottfredson studied three urban jurisdictions and concluded that successful implementation of a risk assessment device requires strong judicial leadership (Goldkamp & Gottfredson, 1988:129). Goldkamp and Gottfredson identified some ways to maximize success when strong judicial leadership was absent, through ongoing training, assessment of the officer's use of the tool, and annual or bi-annual certification of the officer's skills in using the tool. As the experience of the federal system, which lacks judicial involvement in the implementation of the risk assessment, will ultimately demonstrate, failure to involve judges makes acceptance more difficult. In addition, the Goldkamp and Gottfredson study confirmed the major findings of Toborg, Yezer, Tseng, and Carpenter's earlier research.

One of the great strengths of the Goldkamp and Vilcica research is that it squarely takes on some of the most enduring "urban legends" of pretrial services risk assessment research. Most pretrial services agencies, including the federal system, continue to capture data on and analyze the variable of community ties. While some of the fascination with community ties stems from its identification

as an important variable in the granddaddy of all pretrial services research, the original Vera project, this variable likely endures because of its tremendous "face validity." Its inclusion in the small number of long-standing important pretrial services variables is certainly not warranted by the research results of the last 20 years. However, most researchers merely ignore the variable of community ties, since the analysis does not bear out its value (e.g., Administrative Office of the United States Courts, 1979; VanNostrand, 2003; VanNostrand & Keebler, 2009; Winterfield, Coggeshall, & Harrell, 2003). Goldkamp and Vilcica take on the lack of value of community ties for pretrial risk assessment in an effort to remove this variable from its lofty perch.

Goldkamp's analysis of factors influencing judicial decisions at the pretrial release decision, however, found that contrary to the intended effect of Vera-type information-based reform procedures community ties items did not play a significant role in shaping judges' actual pretrial custody decisions—and were not helpful predictors of defendant risk (Goldkamp & Vilcica, 2009: p. 124).

The seemingly "obvious" importance of including judicial officers in the development, implementation, and ongoing use of a risk assessment device is not found in virtually any other research on the topic of pretrial risk assessment. Only Goldkamp and Vilcica's findings discuss the issue of judicial involvement, not to mention endorsing the strong role it played in the Philadelphia research. "As a judicially developed and adopted policy, it stands alone in the nation in the first years of the 21st century—one might argue, in isolation—as an empirically informed approach to the problem of judicial discretion at the bail stage" (Goldkamp & Vilcica, 2009:129-30). This is an important finding for the federal system, as PTRAs were implemented without judicial involvement, which has clearly impacted the acceptance and use of the tool in the federal system.

Given Goldkamp and Vilcica's vision of pretrial justice and their desire to improve the pretrial release process and reduce judicial discretion, it is almost shocking that they missed the importance of pretrial detention and made the tool detention neutral (Goldkamp & Vilcica, 2009:134). This is especially true since Philadelphia has operated pretrial services under federal court supervision due to jail overcrowding at various times during the 20-plus years of the guideline project in Philadelphia. Reducing unnecessary pretrial

detention needs to be a core principle for pretrial services and judicial officers, given the negative consequences of pretrial detention at subsequent phases of the criminal justice system. The negative impacts on defendants have previously been documented in state, county, and local systems and will be established for the federal system in upcoming research by Oleson, Lowenkamp, and Cadigan.

Given that risk of failure to appear is only relevant in pretrial, we can't rely on post-conviction risk assessment research to establish it. Levin merged data from the Bureau of Justice Statistics State Court Processing Statistics (SCPS) program, which compiles criminal justice data (including pretrial) from the 75 largest counties in the nation, with Bureau of Justice Assistance survey data from 200 of the nation's pretrial programs. The merged datasets enabled him to study over 1,500 defendants on conditional release in 28 counties during 2000 and 2002. That research revealed that a defendant's odds of failing to appear in a county that uses a quantitative risk assessment are .40 times lower than the odds faced by a defendant appearing in a county that uses qualitative risk assessment (Levin, 2006:10). In addition, if the county uses some mix of quantitative and qualitative measures, defendants are still less likely to fail to appear (Levin, 2006:10). This result is particularly relevant to the federal system, because it is the approach now employed. Finally, if the county uses some mix of quantitative and qualitative measures, defendants are also less likely to be rearrested (Levin, 2006:11).

The literature on pretrial services risk assessment clearly establishes several important premises: "objective risk assessment produces more non-cash release recommendations" (Coopridge, 2009:15); "Notwithstanding a broader definition of 'pretrial failure' and cutting field contacts in half, violation rates declined or remained stable since the implementation of objective risk assessment" (Coopridge, 2009:15); and predictive items identified in pretrial services risk assessment research change over time and therefore must be re-validated on an ongoing basis to ensure their integrity and effectiveness (e.g., VanNostrand, 2003; VanNostrand & Keebler, 2009; Siddiqi, 2002).

One example of an established risk assessment finding likely to change is a relatively consistent finding in risk prediction research in the city of New York for the past 20 years: the predictive value of having a telephone in the residence of the defendant. Given the changes in telecommunications in the past decade,

from the dominance of landline technology to increasing reliance on cell phone technology, it seems unlikely that future research will continue to find great predictive value for a landline phone in the defendant's residence (Siddiqi, 2002:2). Fortunately for citizens in New York City, the agency providing pretrial services has an excellent research operation that re-validates their risk prediction tool every three to five years as warranted. Ongoing re-validation is an essential step for all pretrial risk assessments and is the motivation for this research.

Pretrial Services Risk Assessment Tool

Actuarial risk assessments are new to the federal pretrial services system; in fact, this is the first tool developed and implemented in the federal pretrial services system since its inception in the early 1980s. One tool was previously developed for use in the federal pretrial services system by Dr. John Goldkamp and Dr. Barbara Meierhoefer. The tool was effective at identifying cases appropriate for release, tested effectively in 12 districts, and was submitted to the Judicial Conference Committee on Criminal Law for national implementation (Meierhoefer, 1994). Unfortunately, because it was named "Recommendation Guidelines" and was presented to the judges within two years of the implementation of Sentencing Guidelines, the tool was rebuked as too limiting to judicial discretion in the pretrial release decision. It took almost 18 years to overcome issues generated by the name of this tool.

The Administrative Office of the U.S. Courts works closely with the Office of Federal Detention Trustee, a Justice Department agency charged with administering and controlling the costs of pretrial detention in the federal system. That relationship led to a significant piece of research funded by the Office of Federal Detention Trustee using United States Court data and expertise to assist the researcher. The report on that research is titled *Pretrial Risk Assessment in the Federal Court* and has already led to the most significant improvement in the federal pretrial services system since its inception: the development and implementation of an actuarial risk assessment tool.

In addition to recommending a risk assessment tool, the Office of Federal Detention Trustee Report contains a number of interesting findings relevant to the operation of the federal pretrial services system. One of the primary goals of the system, reduction of un-

necessary detention, is not being promoted by the staff, as they recommend detention more often than judicial officers actually detain defendants. Similarly, recommendations of detention by pretrial services officers rose each year, from 56 percent in 2001 to 64 percent in 2007. The report also observes that the risk posed by the defendants released increased slightly, from 2.85 in 2001 to 3.1 in 2007, as measured by the Risk Prediction Index (RPI). The Risk Prediction Index is a post-conviction measure of risk that was developed by the Federal Judicial Center and was implemented in federal pretrial services in 2004. However, it was only applied to or required to be completed on defendants who were released and subject to a condition of pretrial services supervision. For cases prior to 2004, the researcher abstracted the Risk Prediction Index score from the post-conviction record.

The study commissioned by the Office of Federal Detention Trustee tested for effectiveness the conditions of release known as alternatives to detention (substance abuse testing and treatment, third-party custody, halfway house placement, location (electronic) monitoring, and mental health treatment); the report contains a number of findings based on that analysis. First, low-risk defendants placed on location monitoring had an increased risk of failure compared to similar defendants who were not placed on location monitoring (VanNostrand & Keebler, 2009:32). In addition, location monitoring was greatly overused on low-risk defendants. The only alternative to detention to positively impact defendants at all levels of risk, provided there was a demonstrated need, was mental health treatment (VanNostrand & Keebler, 2009:32). All four other alternatives to detention negatively impacted low-risk defendants (VanNostrand & Keebler, 2009:31-33).

What impact does over-supervising or over-treating low-risk federal defendants have on their outcomes? For the most part we have operated under the assumption that "it can't hurt" to have conditions in place. Unfortunately the research demonstrates that unnecessary alternatives to detention placed on low-risk federal defendants can and do hurt defendant outcomes by increasing their failure rates.

First, the lower risk defendants, risk levels 1 and 2, are the most likely to succeed if released pending trial and in most cases release should be recommended. An alternative to detention, with the exception of mental health treatment when appropriate, generally decreases the likelihood of

success for this population and should be recommended sparingly (VanNostrand & Keebler, 2009:10).

In some areas, for example location monitoring, level one defendants (the best risks) on location monitoring were 112 percent more likely to fail than if they were not on this type of monitoring (VanNostrand & Keebler, 2009:32). The quick refrain from most pretrial services professionals is: Of course there are more violations, due to the technical violations being counted as failures. However, this analysis did not include technical violations; it included only failure-to-appear and rearrest violations. In addition, the finding is not limited to location monitoring; substance abuse testing and treatment defendants are 41 percent more likely to fail. There are similar results for third-party custodians and halfway house placements. On average defendants released to the alternatives to detention program who were lower risk, risk levels 1 and 2, were less likely to be successful pending trial, while defendants in the moderate to higher risk levels (risk levels 3, 4, & 5) were more likely to be successful if released to the alternatives to detention program (VanNostrand & Keebler, 2009:31). VanNostrand and Keebler establish, apparently for the first time with hard national pretrial services data, the risk principle in federal pretrial services, which states "that the intensity of the program should be modified to match the risk level of the defendant" (Dowden & Andrews, 2004:1).

Federal Risk Assessment

One of the major recommendations of the Office of Federal Detention Trustee research is that the pretrial services system should develop and implement an actuarial risk assessment tool. The Office of Probation and Pretrial Services hired a staff person proficient in the development of actuarial devices and ultimately developed the tool internally. The developed tool was piloted in several districts and the formal implementation of the tool began in January 2009. Currently there are 89 districts "live" using the tool on a majority of cases, 93 districts trained, and 93 with personnel certified in using the Pretrial Services Risk Assessment tool. National implementation was completed in all 93 districts by September 2011. Early results from the implementation show that the tool increases officer recommendations in favor of release, which is the desired goal of the implementation. There has as yet been no identified impact from the tool on release rates.

The Pretrial Services Risk Assessment

tool was constructed using the same archival data employed in the Office of Federal Detention Trustee research. The PTRAs tool is an objective, actuarial instrument that provides a consistent and valid method of predicting risk of failure-to-appear, new criminal arrest, and technical violations that lead to revocation while on pretrial release. The instrument contains 11 scored and 9 unscored items. The unscored items are for future revisions to the instrument, and this research addresses the issues raised by the unscored items. The unscored items are rated as either A or B and do not contribute to the current overall risk score. The scored items are given a number of points (0, 1, or 2). The points from the items are then added up to give an overall score. When administered correctly, the Pretrial Services Risk Assessment provides a score that allows for classification into a risk category. Those risk categories are then associated with rates of failure-to-appear, new criminal arrest, and technical violations leading to revocation.

When a defendant or material witness is arrested or summoned to appear before the court for an initial appearance, the magistrate judge typically requires a pretrial services report based on the investigation conducted by the pretrial services officer. The officer interviews the defendant to gather information for the report, the length of which varies somewhat, due to time constraints. The pretrial services report contains defendant case information, including residence, family ties, employment history, financial resources, health (including mental health and substance abuse histories), and criminal history. Based on this information, the officer will provide the court with an assessment of whether or not the defendant is likely to appear for court proceedings in the future or presents a danger to the community. Finally, the last section of the report provides the officer's recommendation to the court for the release or detention of the defendant. The recommendation should be based on the Pretrial Services Risk Assessment, although the officer can depart from the tool's recommendation after staffing the results with his or her supervisor.

The implementation of the tool has generated great debate over the finding, represented in the scores of "0" for defendants charged with violent offenses, that violent defendants in fact performed better than most other defendants in terms of rearrest, failure-to-appear, and technical violations leading to revocation of pretrial release in the construction research. The results found in the federal study are consistent with other similar find-

ings: "defendants charged with more serious offenses do not pose a high risk of rearrest pending trial" (Austin, Krisberg, & Litsky, 1984:30; VanNostrand & Keebler, 2009:21; Toborg, Yezer, Tseng, & Carpenter, 1984:56). However, this validation research further refines that initial finding, showing violent defendants failing at higher rates than other defendant offense categories.

To better assist pretrial services officers in identifying high-risk defendants, the AO chose to develop a risk assessment instrument tailored specifically to its population of defendants. In doing so the AO looked at two existing tools: one operational in the state of Virginia and one used in the District of Columbia. After reviewing them, the AO concluded that its population of defendants differed enough from that of other pretrial services populations (for example, only federal courts address immigration charges) to warrant development of a tool using federal data. The Pretrial Services Risk Assessment (PTRAs) is an actuarial risk and needs assessment tool developed from data collected on federal defendants who started a term of supervision between October 1, 2000 and September 30, 2007. This tool is designed to identify and categorize cases by risk of failure-to-appear, rearrest, and technical violations leading to revocation (FTA/NCA/Revocation).

Construction and Validation of the PTRAs

Data

The archival data used to construct and validate the PTRAs came from the Probation and Pretrial Services Automated Case Tracking System (PACTS).¹ Criminal history records or rap sheets were used to identify any new arrest after the defendant's release. PACTS was the main source of data for scored elements on the PTRAs; it included data on 565,178 defendants. The data was extracted from PACTS in June 2008 and consists of all persons charged with criminal offenses in the federal courts between October 1, 2001 and September 20, 2007 (FY 2001- FY 2007) who were processed by the federal pretrial services system. The prospective data for the re-validation was extracted from PACTS in June 2012 and consists of all persons charged

with criminal offenses in the federal courts between October 1, 2010 and September 30, 2011 (FY 2011) who were processed by the federal pretrial services system and from the Electronic Reporting System (ERS), which officers use to complete the PTRAs.

Data Elements

There are two sets of items included on the PTRAs: scored and not scored. The first set of items are rated and scored and thus contribute to a defendant's risk score. Rated and scored items used to develop the PTRAs were based on prior research by VanNostrand and the original construction research (Lowenkamp & Whetzel, 2009), and were available in PACTS. Using the extant research as a guide, available data elements models were constructed; the most predictive elements were ultimately included based solely on the data. Those elements are felony conviction (most predictive of available criminal history measures), pending felonies or misdemeanors, prior failures to appear, current charge, seriousness of current charge, employment, substance abuse, age, citizenship, education level, and home ownership. As a result of bivariate analyses, some interval and ratio variables were collapsed into ordinal measures. In the prior construction research, multivariate models and completeness of data were used to identify the most predictive and practical data elements to be included on the instrument.

The second set of data elements are rated but not scored and do not contribute to a defendant's risk score. These items were identified as potentially predictive by the Pretrial Services Work Group (PSWG). One additional rated but not scored item was added based on pretrial services officers' input on what data they felt strongly needed to be added: alcohol abuse. A total of 9 factors were identified as potential predictors and included on the assessment. These potential predictors were included as "test items" and the analysis determined that these items, for the most part, do not warrant becoming rated and scored PTRAs items.²

Sample

That re-validation file contained 32,455 defendants for whom PTRAs have been completed in 2011, the first full year of operations. The total number of cases with PTRAs completed is 32,475, and the number of

¹ PACTS (Probation/Pretrial Services Automated Case Tracking System) is an electronic case management tool used by probation and pretrial services officers in all 94 federal districts to track federal defendants and offenders. At the end of each month, districts submit case data into a national repository that is accessible to the Administrative Office of the U.S. Courts (AO), Office of Probation and Pretrial Services.

² This research presents results on the unscored or test items; however, policy decisions concerning ultimate changes to the PTRAs will be determined by the appropriate group or committee, not the authors.

TABLE 1.
Test Questions In Relation to FTA/NCA

Question	Failure Rate			
	Yes		No	
	N	%	N	%
Current Alcohol	33/625	5.3	200/4450	4.5
Foreign Ties	51/965	5.3	182/4110	4.4
Foreign Ties Who Contact with Ties	43/744	5.8	169/3719	4.5
Foreign Citizen	27/428	6.3	196/4381	4.5
Passport	60/1547	3.9	170/3431	5.0
Foreign Financial Interests	7/123	5.7	155/4808	4.6
Travelled Outside US	79/1928	4.1	148/3029	4.9
Foreign Travel For Business & Pleasure	13/183	7.0	220/4941	4.5

TABLE 2.
Test Questions In Relation to FTA/NCA /Revocation

Question	Failure Rate			
	Yes		No	
	N	%	N	%
Current Alcohol	132/625	21.1	597/4450	13.4
Foreign Ties	92/965	9.5	636/4110	15.5
Foreign Ties Who Contact with Ties	73/744	9.8	557/3719	15.0
Foreign Citizen	38/428	8.9	650/4381	14.8
Passport	127/1547	8.2	581/3431	16.9
Foreign Financial Interests	12/123	9.8	691/4808	14.4
Travelled Outside US	189/1928	9.8	514/3029	17.0
Foreign Travel For Business & Pleasure	20/183	10.9	713/4941	14.4

TABLE 3.
Descriptive Statistics for Criminal History Sub-score, Other Factors Sub-score, and Total PTR A Score

	N	Mean	SD	Min	Max
Criminal History Score	5077	3.32	1.54	0	9
Other Factor Score	5077	2.82	1.32	0	6
PTR A Score	5077	6.17	2.46	0	14

PTR A cases opened and disposed of is 5,077. The cases were opened between October 1, 2010, and September 30, 2011. Given that PTR A was validated using archival data and officers have now completed assessments prospectively, it is important to ensure that the tool is still valid.

Findings

Table 1 displays the results of the test questions in relation to new criminal activity (NCA) and failure to appear (FTA), while Table 2 displays the results of the test questions

in relation to NCA/FTA/Revocation. Adding current alcohol abuse and the various measures of foreign ties to the risk score produced no increase in the predictive ability of the PTR A. Therefore, the authors recommend to the decision-making body that the nine un-scored items not be added to the PTR A and the collection of those items be discontinued.

Table 3 presents descriptive statistics and total scores for the two instrument scales contained in the tool: Criminal History and Other.

Table 4 presents descriptive statistics and total scores for both outcomes contained in the

tool: FTA/NCA and FTA/NCA/Revocation. As the table shows, the majority of defendants released in the federal system are successful.

The next set of analyses focused on assessing the PTR A's predictive ability. AUC-ROC (Area under the Curve-Receiver Operating Characteristics)³ was chosen as the measure to assess prediction in large part because it is not impacted by base rates. Another convenient property of the AUC-ROC over a correlation coefficient is that AUC-ROC is a singular measure and does not have differing calculations depending on level of measurement of the variables being evaluated (Rice & Harris, 2005). Table 5 displays the AUC-ROC between risk scores and FTA/NCA/Violation revocation. As Table 5 shows, the AUC for the validation of all three outcome measures rose to .71. Based on these results, the PTR A appears to have very good predictive validity in terms of accurately classifying defendants' risk level.

Table 5 presents failure rates by risk category and associated AUC-ROC values. The results for the first four categories were expected based on the construction research. To put the AUC values into practical terms, we calculated the failure rates by two sets of outcome measures: FTA/NCA, the statutory standard, and FTA/NCA/Revocation, the standard preferred by judicial officers. These results are presented in Table 5. The uniform increase in failure rates across categories of risk and across the various samples continues to support the validity of the PTR A. However, in Category V the FTA/NCA rate was twice as high in the original sample as it was in this sample. All looks good, except that Category V might not really be different from Category IV, or perhaps we are supervising Category V differently now and driving their failure rates down. It is speculative now, it may hold true, as we do further analysis in the future.

In Table 6 we collapsed Category IV and Category V from Table 5 into one category and reran outcomes and AUC-ROC values. This was done for completeness, since the change in the failure rates could have resulted from a concerted effort to provide more services to the highest-risk defendants, thereby driving their failure rates down. Obviously

³ The AUC measures the probability that a score drawn at random from one sample or population (e.g., defendants with a re-arrest) is higher than that drawn at random from a second sample or population (e.g., defendants with no re-arrest). The AUC can range from .0 to 1.0 with .5 representing the value associated with chance prediction. Values equal to or greater than .70 are considered good.

TABLE 4.
Descriptive Statistics for Outcomes

	N	Percent Failing	Percent Not Failing
FTA/NCA	5077	4.5	95.5
FTA/NCA/Revocation	5077	14.3	85.7

TABLE 5.
Failure rates by risk category and AUC-ROC values

Risk Category	N	%	% FTA/NCA	% FTA/NCA/Revoke
Category I	1372	27.0	1.3	3.4
Category II	1406	27.7	3.4	8.5
Category III	1401	27.6	6.7	20.5
Category IV	898	13.8	12.5	29.9
Category V	200	3.9	11.6	31.5
AUC-ROC Risk Category	5077		0.68	0.71
AUC-ROC Total Score	5077		0.69	0.71

TABLE 6.
Failure rates by risk category and AUC-ROC values with Category IV and V collapsed

Risk Category	N	%	% FTA/NCA	% FTA/NCA/Revoke
Category I	1372	27.0	1.3	3.4
Category II	1406	27.7	3.4	8.5
Category III	1401	27.6	6.7	20.5
Category IV	898	14.7	12.3	30.3
AUC-ROC	5077		0.69	0.71

interpretation is key here, and if the plausible is true we should not collapse Category V into Category IV. Therefore, this is a significant decision. It should be noted that the reduction to four categories did not add to AUC-ROC values produced by the existing instrument, which is why we will continue to look at this in future research.

Discussion

As previously stated, the purpose of this article is threefold: (1) to present the methodology and results produced in the re-validation of the PTRAs; (2) to discuss the implications of the research on the unscored items currently collected in the PTRAs; and (3) to discuss future developments. Overall, the instrument as administered by officers does as well as the construction and validation samples. Even though the foreign ties items did not improve prediction, officers and the court still might want to know about the nature of foreign ties. The sample, though small, was fairly representative of the population served

and allowed for re-validation of the existing tool items. Thus the overall results have demonstrated that the PTRAs provide adequate predictive validity.

The creation of the risk score and categories allowed for the re-validation of five risk categories: 1 through 5. Practically speaking, the instrument provided categorizations that are associated with the group failure rates that are differentiated and meaningful for meeting the risk principle.

Limitations and Future Research

Although this study was fairly comprehensive in scope, the dataset was small and thus may not be representative of the population served. In addition, there are a number of limitations and areas for future research that deserve mention. First, we have not investigated how scoring algorithms might be adjusted for each district. As with any measure, there is a distribution of AUC values when that test is calculated for each district. We did not generate analysis for individual districts

due to small samples of data at the district level. Subsequent analysis could focus on assessing AUC values between risk scores and NCA/FTA/Revocation to ensure appropriateness of fit at the district level.

A second limitation is that the data used in this research came from an administrative dataset. While it proved useful for our initial task of creating and validating a risk assessment instrument, it will be important to conduct similar validation analyses once we have an ample sample of defendants that were actually assessed using the assessment protocol.

The third limitation involves the nature of the outcome measure being predicted. In this research we focused exclusively on the likelihood of NCA measured by re-arrest and not the severity of the offense. We found it important to assess and determine the likelihoods of re-arrest as a first step in the assessment process. Because we do recognize that there is more than one dimension to an assessment in the criminal justice system, future analysis will focus on predicting the dangerousness of a defendant by trying to predict the severity and type of NCA.

Policy Implications

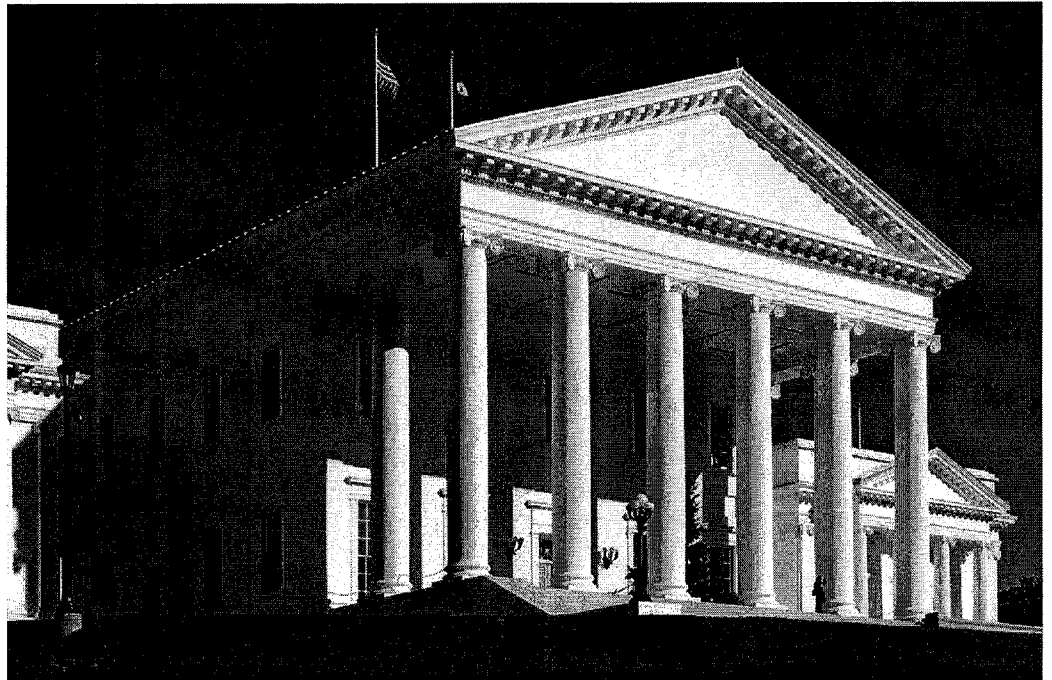
Notwithstanding the limitations discussed above, two major policy implications stem from this research. First, the federal pretrial services system now has a re-validated risk assessment tool for use on defendants under its jurisdiction. The instrument can be used to identify higher-risk defendants for enhanced services (see VanNostrand & Keebler, 2009) and also to reduce services to low-risk defendants, conserving those resources for higher-risk defendants. The second major policy implication is the apparent need to add dynamic factors. Data analyzed in this study focused on static factors associated with changes in NCA/FTA/Revocation rates. Therefore, the addition of dynamic factors would seem to provide officers with an essential tool to monitor and reassess risk in a standardized way to ensure that supervision and services are having intended impacts. If intended impacts are not being achieved, then officers would be able to modify supervision services to reduce the risk and refine supervision methodologies.

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TAB 19

PRETRIAL RISK ASSESSMENT IN VIRGINIA



May 1, 2009

The Virginia Pretrial Risk Assessment Instrument



Sponsored by the Virginia Department of Criminal Justice
Services in Partnership with the Virginia Community Criminal
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Research Conducted and Report Provided by Luminosity, Inc.

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Pretrial Risk Assessment in Virginia

THE VIRGINIA PRETRIAL RISK ASSESSMENT INSTRUMENT (VPRAI)

BACKGROUND

There are currently 29 pretrial services agencies serving 80 of Virginia's 134 cities and counties. All Virginia pretrial services agencies operate under the authority of the Pretrial Services Act¹ and are funded in whole or part by the Virginia Department of Criminal Justice Services (DCJS). DCJS administers general appropriation funds designated for the purpose of supporting the Pretrial Services Act (PSA) as discretionary grants to local units of government.

The field of pretrial services contains two primary sub-fields; pretrial release and pretrial diversion. Pretrial release generally involves the provision of information to judicial officers to assist them in making the pretrial release/detention decision, as well as the monitoring and supervision of persons released from custody while awaiting disposition of criminal charges. Pretrial diversion is a dispositional alternative for pretrial defendants. Defendants voluntarily enter into a diversion program in lieu of standard prosecution and court proceedings. Virginia pretrial services agencies provide pretrial release related services and do not provide pretrial diversion related services.²

The Pretrial Services Act was enacted into law with the purpose of providing more effective protection of society by establishing pretrial services agencies that will assist judicial officers in discharging their duties related to determining bail. The Act states that "such agencies are intended to provide better information and services for use by judicial officers in determining the risk to public safety and the assurance of appearance of persons ... other than an offense punishable by death, who are pending trial or hearing." In addition, in accordance with Virginia Code § 19.2-152.3 the Department of Criminal Justice Services was required to develop risk assessment and other instruments to be used by pretrial services agencies in assisting judicial officers in discharging their duties relating to determining bail for pretrial defendants.

The duties and responsibilities of pretrial services agencies are detailed in Virginia Code § 19.2-152.4:3 - Duties and responsibilities of local pretrial services officers. Pretrial services agencies are required to supervise and assist all defendants placed on pretrial supervision by any judicial officer to ensure compliance with the terms and conditions of bail. In order to assist judicial officers in discharging their duties related to determining bail for pretrial defendants, pretrial services officers are required to provide the following services:

¹ Article 5 (§19.2-152.2 et seq.) of Chapter 9 of Title 19.2

² The primary distinction between pretrial release and diversion is the nature of participation on the defendant's part. Participation in pretrial diversion is voluntary whereas the pretrial release decision and the setting of terms and conditions of release are a result of a judicial decision regarding the defendant. Pretrial release allows for the defendant to be monitored in the community while following the standard court process pending trial, whereas pretrial diversion allows the defendant to voluntarily enter into a diversion program and avoid standard prosecution. Should a defendant fail diversion, however, he will be returned to the court process for prosecution. See Marie VanNostrand, Ph.D. *Legal and Evidence-based Practices: Application of Legal Principles, Laws, and Research to the Field of Pretrial Services* (National Institute of Corrections and Crime and Justice Institute, 2007)

1. Investigate and interview defendants arrested on state and local warrants and who are detained in jails located in jurisdictions served by the agency while awaiting a hearing before any court that is considering or reconsidering bail, at initial appearance, advisement or arraignment, or at other subsequent hearings; and
2. Present a pretrial investigation report with recommendations to assist courts in discharging their duties related to granting or reconsidering bail.

Consistent with the Code of Virginia, the Virginia Department of Criminal Justice Services in partnership with the Virginia Community Criminal Justice Association and Luminosity, Inc., developed, implemented, and validated the Virginia Pretrial Risk Assessment Instrument (VPRAI) for use by pretrial services agencies. An overview of pretrial risk assessment generally, the development and validation of the VPRAI, and instructions for instrument completion are provided in this report.

PRETRIAL RISK ASSESSMENT

The purpose of a pretrial risk assessment instrument is to identify the likelihood of failure to appear in court and the danger to the community posed by a defendant pending trial. A pretrial risk assessment instrument should use research-based objective criteria to identify the likelihood of failure to appear in court and danger to the community pending trial.³

The use of an objective and research-based risk assessment instrument by pretrial services agencies to assist judicial officers in making bail decisions is strongly recommended by both American Bar Association⁴ and National Association of Pretrial Services Agencies⁵ Standards. Additionally, pretrial risk assessment instruments should be consistent with the concept of Pretrial Justice.⁶

Pretrial risk assessment research conducted over the past 30 years has identified common factors that are predictive of failure to appear in court and/or danger to the community including the following:

- ◆ Current Charge(s)
- ◆ Pending Charges at Time of Arrest
- ◆ History of Criminal Arrests and Convictions
- ◆ Active Community Supervision at Time of Arrest (e.g. Pretrial, Probation, Parole)
- ◆ History of Failure to Appear
- ◆ History of Violence
- ◆ Residence Stability
- ◆ Employment Stability
- ◆ Community Ties
- ◆ Substance Abuse

Pretrial Justice
The honoring of the presumption of innocence, the right to bail that is not excessive, and all other legal and constitutional rights afforded to accused persons awaiting trial while balancing these individual rights with the need to protect the community, maintain the integrity of the judicial process, and assure court appearance

In fact, the largest study on pretrial risk assessment was recently completed for the federal court system. An analysis of over 500,000 cases processed through the federal pretrial services system between fiscal years 2001 and 2007 revealed the best predictors of pretrial failure (failure to appear and/or being a danger to the community pending trial) included primary charge, pending charges, prior misdemeanor arrests, prior felony arrests, prior failures to appear, employment status, residence status, and substance abuse.⁷

³ National Institute of Justice, *Pretrial Services Programs: Responsibilities and Potential* (Washington, D.C.: U.S. Department of Justice, U.S. Government Printing Office, 2001) pg.46 "Programs that assess risks of pretrial misconduct in an exclusively subjective manner are more than twice as likely to have a jail population that exceeds its capacity than those programs that assess risk exclusively through an objective risk assessment instrument—56 percent, compared to 27 percent. Forty-seven percent of programs that add subjective input to an objective instrument are in jurisdictions with overcrowded jails."

⁴ American Bar Association Standards for Criminal Justice *Standards on Pretrial Release, Third Edition* (2002)

⁵ National Association of Pretrial Services Agencies *Standards on Pretrial Release, Third Edition* (2004)

⁶ VanNostrand, Marie and Gena Keebler. *Our Journey Toward Pretrial Justice in Federal Probation*, Volume 71, Number 2, (September 2007) pp. 20-25

⁷ VanNostrand, Marie and Gena Keebler. *Pretrial Risk Assessment in the Federal Court: For the Purpose of Expanding the Use of Alternatives to Detention* (Department of Justice, Office of Federal Detention Trustee, 2009)

Pretrial risk assessment instruments must be guided by Pretrial Services Legal and Evidence-based Practices.⁸ Pretrial Services Legal and Evidence-based Practices are interventions and practices that are consistent with the legal and constitutional rights afforded to accused persons awaiting trial and methods research have proven to be effective in reducing unnecessary detention while assuring court appearance and the safety of the community during the pretrial stage. There are guiding practices for pretrial risk assessment development according to LEBP.

1. *A pretrial risk assessment instrument should be proven through research to predict risk of failure to appear and danger to the community pending trial – An appropriate risk assessment instrument for pretrial services is one that is developed using generally accepted research methods to predict the likelihood of failure to appear and danger to the community pending trial. A pretrial risk assessment instrument should be validated to ensure it is an accurate predictor of pretrial risk in the community or communities in which it is being applied.*
2. *The instrument should equitably classify defendants regardless of their race, ethnicity, gender, or financial status – An instrument that is proven through research to effectively predict the likelihood of failure to appear and danger to the community for an entire population may also be found to result in disparate classification and treatment of certain defendants. For example, an instrument may accurately categorize defendants generally, but may also over-classify defendants of a particular race or socioeconomic status. Over-classification involves the classification of a group of defendants into higher risk levels than the actual risk level of the group. The result of such over-classification is the unequal and unfair treatment of certain defendants; frequently minorities and the poor. A risk assessment instrument should be proven through research methods to equitably classify defendants regardless of their race, ethnicity, gender or financial status.⁹*
3. *Factors utilized in the instrument should be consistent with applicable state statutes – Bail statutes and pretrial services acts, if applicable, should be consulted to ensure that factors included in a pretrial risk assessment instrument are allowable for the purposes of bail consideration.*

Pretrial Services Legal and Evidence-based Practices are interventions and practices that are consistent with the legal and constitutional rights afforded to accused persons awaiting trial and methods research have proven to be effective in reducing unnecessary detention while assuring court appearance and the safety of the community during the pretrial stage

An objective and research-based risk assessment instrument is intended to identify (1) "low risk" defendants who can be safely released into the community with limited or no conditions pending trial; (2) "moderate" and "higher" risk defendants whose risk can be minimized by utilizing appropriate release conditions, community resources, and/or interventions upon release; and (3) the "highest risk"

⁸ Marie VanNostrand, Ph.D. *Legal and Evidence-based Practices: Application of Legal Principles, Laws, and Research to the Field of Pretrial Services* (National Institute of Corrections and Crime and Justice Institute, 2007)

⁹ See Marie VanNostrand, Ph.D. *Assessing Risk Among Pretrial Defendants in Virginia: The Virginia Pretrial Risk Assessment Instrument* (Richmond, VA: Virginia Department of Criminal Justice Services, 2003) pp. 11-14 for a research methods model of ensuring equitable classification of groups

defendants, those for whom no condition or combination of conditions can reasonably assure the safety of the community or appearance in court, so they can be detained pending trial.

The intended use of an objective and research-based pretrial risk assessment instrument is consistent with the evidence-based practice “risk principle.” As it relates to the post-conviction field, research has demonstrated that evidence-based interventions directed towards offenders with a moderate to high risk of committing new crimes will result in better outcomes for both offenders and the community. Conversely, treatment resources targeted to low-risk offenders produce little, if any, positive effect. In fact, despite the appealing logic of involving low-risk individuals in intensive programming to prevent them from graduating to more serious behavior, numerous studies show that certain programs may actually worsen their outcomes. By limiting supervision and services for low-risk offenders and focusing on those who present greater risk, probation and parole agencies can devote limited treatment and supervision resources where they will provide the most benefit to public safety.¹⁰

Recent research conducted specifically for pretrial defendants confirms the applicability of this principle to the pretrial services field. The pretrial risk assessment study for the federal court referenced above also examined the use of alternatives to pretrial detention including, but not limited to, the following: third-party custodian, substance abuse testing, substance abuse treatment, location monitoring, halfway house, community housing or shelter, mental health treatment, sex offender treatment, and computer monitoring. The research examined the effectiveness of the alternatives to pretrial detention while considering risk and the most significant findings are provided below.

- ◆ Release conditions that include alternatives to pretrial detention – with the exception of mental health treatment, when appropriate – generally decrease the likelihood of success pending trial for lower risk defendants and should be required sparingly.
- ◆ Alternatives to pretrial detention are most appropriate for moderate and higher risk defendants as it allows for pretrial release while generally increasing pretrial success. Alternatives to pretrial detention should be imposed for this population when a defendant presents a specific risk of pretrial failure that can be addressed by a specific alternative.
- ◆ Defendants identified as moderate and higher risk are the most suited for pretrial release – both programmatically and economically – with conditions of alternatives to pretrial detention. The pretrial release of these defendants can be maximized by minimizing the likelihood of pretrial failure through participation in alternatives to detention.

Lower risk defendants who were required to participate in alternatives to detention pending trial were more likely to fail pending trial

Moderate and higher risk defendants who were required to participate in alternatives to detention pending trial were more likely to succeed pending trial

¹⁰ *Putting Public Safety First: 13 Strategies for Successful Supervision and Reentry* (The Pew Center on the States, 2008).

A pretrial risk assessment serves as the foundation for a recommendation regarding bail. Pretrial services agencies are tasked with identifying the least restrictive terms and conditions of bail that will reasonably assure a defendant will appear for court and not present a danger to the community pending trial. Recommendations regarding bail are guided by statute (Virginia Code §19.2-123), pretrial services legal and evidence-based practices, and the evidence-based practice “risk principle.”

ORIGINAL VIRGINIA PRETRIAL RISK ASSESSMENT INSTRUMENT (VPRAI)

The Virginia Pretrial Risk Assessment Instrument was developed in accordance with the statutory requirement for the Department of Criminal Justice Services to develop risk assessment and other instruments to be used by pretrial services agencies in assisting judicial officers in discharging their duties relating to determining bail for pretrial defendants. The purpose of the VPRAI is to identify the likelihood of failure to appear in court and the danger to the community posed by a defendant pending trial and to assist pretrial officers in making a bail recommendation.

A brief summary of the VPRAI development and implementation is provided here. See the document *Assessing Risk among Pretrial Defendants in Virginia: the Virginia Pretrial Risk Assessment Instrument* for a complete description of the instrument development.¹¹

Dataset

The dataset used to conduct the research was collected from a sample of defendants arrested in select Virginia localities between July 1, 1998 and June 30, 1999. The defendants were arrested in one of seven localities: Hampton, Fredericksburg, Spotsylvania, Emporia, Brunswick, Sussex, and Greenville. The localities included in the dataset varied substantially in community characteristics including: community type (urban, rural, and suburban); number of persons, households, and families; sex; race; median family income; percentage of people below poverty level; and education level.

Data were collected from a number of sources including those listed below.

1. Personal interviews were conducted with defendants, either face-to-face or by video teleconference, after arrest and prior to the initial bail hearing with a judicial officer.
2. Arrest warrants, criminal history records (i.e., National Criminal Information Center [NCIC], Virginia Criminal Information Network [VCIN], Department of Motor Vehicles [DMV], Virginia Court Automated Information System [CAIS], local police records), and court records were reviewed.
3. References provided by the defendant were contacted to verify certain information.
4. Current and prior adult criminal justice supervision records were consulted as needed.

The final sample used for the analysis included 1,971 adults (18 years or older or juveniles previously certified as adults by the Court) arrested for one or more jailable offense(s) (Class I and II misdemeanors, unclassified misdemeanors that carry a penalty of jail time, and all felonies), who were released pending trial. The cases were tracked until final disposition through the use of court and other official records to determine the pretrial outcome. The dataset was finalized in 2001.

Variables

Pretrial outcome – success or failure pending trial – was the dependent variable. Consistent with the intent of bail, pretrial failure was defined as failing to appear for court and/or being a danger to the community pending trial. Failure to appear was measured by a defendant's failure to appear for a scheduled court appearance pending trial which resulted in the issuance of a *capias*. Danger to the

¹¹ Marie VanNostrand, Ph.D. *Assessing Risk Among Pretrial Defendants in Virginia: The Virginia Pretrial Risk Assessment Instrument* (Richmond, VA: Virginia Department of Criminal Justice Services, 2003)

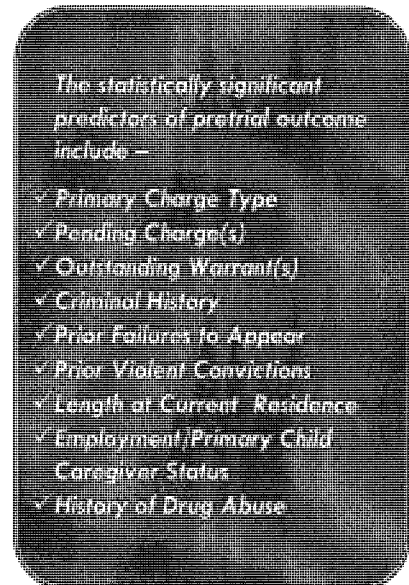
community was measured by the presence of a new arrest for a crime that was allegedly committed while the defendant was released pending trial. Defendants who were deemed to have failed to appear and/or to have been a danger to the community pending trial were classified "failure" and those defendants who experienced neither and remained in the community during the entire time pending trial were classified "successful."

There were 50 variables classified as independent variables (risk factors), which were measures of the following: demographic characteristics, physical and mental health, substance abuse, residence, transportation, employment and school status, income, the charge(s) against the defendant, and criminal history.

Methodology and Results

The analysis consisted of univariate, bivariate, and multivariate analysis. The univariate analysis including descriptive statistics of the dependent variable (pretrial outcome – success or failure pending trial) and each independent variable (risk factor). The bivariate analysis included an examination of the relationship between each risk factor and pretrial outcome. The risk factors found to be statistically significantly related to pretrial outcome were identified and used to conduct the multivariate analysis. The multivariate technique logistic regression was used to identify nine statistically significant predictors of pretrial outcome.

1. **Primary Charge Type** – Defendants charged with a felony are more likely to fail pending trial than defendants charged with a misdemeanor.
2. **Pending Charge(s)** – Defendants who have pending charge(s) at the time of their arrest are more likely to fail pending trial.
3. **Outstanding Warrant(s)** – Defendants who have outstanding warrant(s) in another locality for charges unrelated to the current arrest are more likely to fail pending trial.
4. **Criminal History** – Defendants with at least one prior misdemeanor or felony conviction are more likely to fail pending trial.
5. **Two or More Failure to Appear Convictions** – Defendants with two or more failure to appear convictions are more likely to fail pending trial.
6. **Two or More Violent Convictions** – Defendants with two or more violent convictions are more likely to fail pending trial.
7. **Length at Current Residence** – Defendants who have lived at their current residence for less than one year are more likely to fail pending trial.
8. **Employed/Primary Child Caregiver** – Defendants who have not been employed continuously at one or more jobs during the two years prior to their arrest or who are not the primary caregiver for a child at the time of their arrest are more likely to fail pending trial.
9. **History of Drug Abuse** – Defendants with a history of drug abuse are more likely to fail pending trial.



Based on the logistic regression model results the risk factors were assigned weights or “points.” The points included 1 point for all factors, with the exception of Two or More Failure to Appear Convictions, which was assigned 2 points due to the predictive strength of the risk factor. The points were totaled to create a score from 0 to 10. The scores were then used to create risk levels. As a result, the VPRAI consists of five risk levels including low, below average, average, above average, and high as shown in the following figure.

Figure 1. Risk Levels and Pretrial Outcome

Risk Level	Risk Score	N	% Population	Failure to Appear	New Arrest	Total Failure
Low	0, 1	471	24%	4%	6%	10%
Below Average	2	461	23%	8%	11%	19%
Average	3	412	21%	11%	16%	27%
Above Average	4	332	17%	13%	27%	40%
High	5 – 10	295	15%	16%	37%	53%

Data Source: Virginia Department of Criminal Justice Services, VPRAI access database. Sample of defendants arrested in select Virginia localities between July 1, 1998 and June 30, 1999. The defendants were arrested in one of seven localities: Hampton, Fredericksburg, Spotsylvania, Emporia, Brunswick, Sussex, and Greenville. n= 1,971

Source: Assessing Risk Among Pretrial Defendants in Virginia: The Virginia Pretrial Risk Assessment Instrument (Richmond, VA: Virginia Department of Criminal Justice Services, 2003)

Implementation

The instrument was completed in 2002 and automated in the statewide Pretrial and Community Corrections Case Management System (PTCC). The VPRAI was implemented by all Virginia pretrial services agencies using a phased in approach between July 2003 and December 2004. Implementation included pilot testing, onsite training to all agency staff and local community criminal justice boards, and post-implementation technical assistance and support. An instruction manual, investigation guide and training and resource manual were developed to assist the agencies in the successful implementation of the pretrial risk assessment instrument.¹²

¹² See the Virginia Pretrial Investigation Guide, Virginia Pretrial Training and Resource Manual, and Virginia Pretrial Risk Assessment Instruction Manual - <http://www.dcjs.virginia.gov/corrections/resources.cfm?menuLevel=5&mid=13>

VPRAI VALIDATION

By January 2005 all pretrial services agencies in Virginia were using the VPRAI to identify the likelihood of failure to appear in court and the danger to the community posed by a defendant pending trial and to assist pretrial officers in making a bail recommendation. After two years of statewide use the Virginia Department of Criminal Justice Services and the Virginia Community Criminal Justice Association partnered with Luminosity, Inc. to conduct a validation study. The primary purpose of validation is to confirm predictive validity – in this case that the instrument is able to predict future failure to appear for court and danger to the community pending trial for defendants in Virginia. Although the original instrument was research based, it remains desirable to confirm the predictive validity and ensure that circumstances that can change over time (e.g. crime patterns, law enforcement practices, drug usage, population demographics) have not impacted the accuracy of the instrument.

A VPRAI Validation Advisory Committee was formed to spearhead this initiative. The committee was composed of DCJS staff members and representatives from 10 pretrial services agencies. The committee worked together for nine months between March and October 2007 to conduct the VPRAI validation - an overview of the study is provided here.

Datasets

Primary and secondary datasets were used for analysis. The primary dataset consisted of a random sample of up to 500¹³ cases from each of the 10 participating pretrial services agency (n=4,378). The sample was selected from the population of defendants who were arrested January 1 – December 30, 2005 who had both a pretrial investigation and VPRAI completed. A final sample containing pretrial outcomes of at least 2500 cases was desired for the study. Acknowledging that some defendants are not released pending trial and would need to be excluded from the study, an over sampling was conducted to ensure the minimum number of cases for the study. Each agency was provided the information relating to their respective sample so that they could identify the cases in the Pretrial and Community Corrections Case Management System (PTCC), determine the case dispositions and pretrial outcomes (success or failure by type), and enter the results into PTCC. Case dispositions and pretrial outcomes could not be identified for 106 cases which left a sample of 4,272. Of the remaining defendants, 65% were released pending trial while 35% were detained the entire time pending trial. For this reason, the final dataset used for analysis consisted of 2,778 defendants who were arrested between January 1 and December 30, 2005 who had both a pretrial investigation and VPRAI completed, were released pending trial, and a case disposition and pretrial outcome was determined. For this dataset pretrial failure included failing to appear for court and/or new arrest pending trial.

The secondary dataset consisted of all defendants released to the supervision of a pretrial services agency between January 1 and December 30, 2005. The sample included 7,174 defendants and consisted of persons released with a condition of pretrial supervision to any of the 29 pretrial services agencies serving 80 Virginia localities. The case dispositions and pretrial outcomes were known for these defendants; therefore, the existing data was simply extracted from PTCC. For this dataset pretrial failure was determined based on the reason a case was closed and included failing to appear for court, new arrest pending trial and bail revocation due to technical violations of supervision.

¹³ Two of the ten agencies had less than 500 cases for 2005; therefore, all cases were included in the analysis.

Methodology and Results

The first step in the validation process was to examine the accuracy of the VPRAI as a whole. Both datasets were used individually to determine how well the instrument classified defendants likelihood of pretrial failure (see figures 2 and 3).

Figure 2. Original VPRAI Pretrial Outcome by Risk Level – 10 Agency Random Sample

Risk Level	Success	Failure
Low	86.1%	13.9%
Below Average	82.1%	17.9%
Average	72.6%	27.4%
Above Average	66.8%	33.2%
High	63.0%	37.0%
Total Success/Failure Rates	72.5%	27.5%

Data Source: Virginia Department of Criminal Justice Services, PTCC (Pretrial and Community Corrections Case Management System). Random sample of defendants arrested in 10 Virginia localities January 1 – December 30, 2005 who had both a pretrial investigation and VPRAI completed. n= 2,778

Note: For this dataset pretrial failure included failing to appear for court and/or new arrest pending trial.

Figure 3. Original VPRAI Pretrial Outcome by Risk Level – All Defendants Released with Pretrial Supervision

Risk Level	Success	Failure
Low	92.8%	7.2%
Below Average	87.4%	12.6%
Average	82.0%	18.0%
Above Average	75.7%	24.3%
High	67.7%	32.3%
Total Success/Failure Rates	82.0%	18.0%

Data Source: Virginia Department of Criminal Justice Services, PTCC (Pretrial and Community Corrections Case Management System). All defendants arrested January 1 – December 30, 2005 and released with a condition of pretrial supervision to any of the 29 pretrial services agencies serving 80 Virginia localities. n= 7,174

Note: For this dataset pretrial failure included failing to appear for court, new arrest pending trial and bail revocations due to technical violations of supervision.

As can be seen in figures 2 and 3, as the pretrial risk level increased (as classified by the VPRAI during the pretrial investigation) the failure rates increased. The VPRAI, as originally developed, accurately classifies defendants according to their likelihood of pretrial failure. A closer examination of both datasets reveals that the VPRAI also accurately classifies defendants by the type of pretrial

failure. Although the VPRAI was found to be a valid predictor of pretrial outcome, additional analysis was conducted to determine if the accuracy of the instrument could be improved. Individual bivariate analysis of the risk factors revealed that Outstanding Warrants was not a statistically significant predictor of pretrial outcome while the remaining 8 risk factors remained good predictors. Multivariate analysis further revealed that a revised instrument consisting of 8 risk factors (excluding Outstanding Warrants) was a slightly better predictor of pretrial outcome when compared to the original 9 factor model.

Figure 4. Revised VPRAI Pretrial Outcome Type by Risk Level – 10 Agency Random Sample

Risk Level	Success	FTA	New Arrest
Low	86.7%	1.6%	11.7%
Below Average	81.9%	4.1%	14.0%
Average	72.5%	5.8%	21.7%
Above Average	67.2%	6.6%	26.2%
High	63.5%	7.0%	29.5%
Total Success/Failure Rates	72.5%	5.5%	21.5%

Data Source: Virginia Department of Criminal Justice Services, PTCC (Pretrial and Community Corrections Case Management System). Random sample of defendants arrested in 10 Virginia localities January 1 – December 30, 2005 who had both a pretrial investigation and VPRAI completed. n= 2,778

Although the purpose of a pretrial risk assessment is to predict the risk of failure to appear and danger to the community pending trial, additional analysis was conducted to determine if the revised VPRAI (excluding Outstanding Warrants) also accurately predicted risk of technical violations. As can be seen in figure 5, the revised VPRAI also accurately classified defendants in five levels of risk based on the likelihood of pretrial failure including technical violations.

Figure 5. Revised VPRAI Pretrial Outcome by Risk Level – All Defendants Released with Pretrial Supervision

Risk Level	Success	FTA	New Arrest	Technical Violation
Low	92.9%	3.7%	1.2%	2.2%
Below Average	87.5%	5.6%	1.6%	5.3%
Average	82.2%	6.7%	2.7%	8.4%
Above Average	76.3%	7.0%	4.2%	12.5%
High	68.0%	7.8%	6.2%	18.0%
Total Success/Failure Rates	82.0%	6.2%	2.9%	8.9%

Data Source: Virginia Department of Criminal Justice Services, PTCC (Pretrial and Community Corrections Case Management System). All defendants arrested January 1 – December 30, 2005 and released with a condition of pretrial supervision to any of the 29 pretrial services agencies serving 80 Virginia localities. n= 7,174

Revised Validated VPRAI

The revised and validated VPRAI consists of eight risk factors. Minor revisions to the descriptions of the risk factors were made during the validation study based on the advisory committee's experience with implementation and use of the VPRAI and to improve understanding of the risk factors. The eight risk factors are provided below (see next section *VPRAI Completion Instructions* for detailed definitions of each factor).

1. **Primary Charge Type** – Defendants charged with a felony are more likely to fail pending trial than defendants charged with a misdemeanor.
2. **Pending Charge(s)** – Defendants who have pending charge(s) at the time of their arrest are more likely to fail pending trial.
3. **Criminal History** – Defendants with at least one prior misdemeanor or felony conviction are more likely to fail pending trial.
4. **Two or More Failures to Appear**– Defendants with two or more failures to appear are more likely to fail pending trial.
5. **Two or More Violent Convictions** – Defendants with two or more violent convictions are more likely to fail pending trial.
6. **Length at Current Residence** – Defendants who live at their current residence for less than one year are more likely to fail pending trial.
7. **Employed/Primary Caregiver** – Defendants who have not been employed continuously at one or more jobs during the two years prior to their arrest or who are not a primary caregiver are more likely to fail pending trial.
8. **History of Drug Abuse** – Defendants with a history of drug abuse are more likely to fail pending trial.

The weights and scoring, including 1 point for all factors with the exception of Two or More Failures to Appear which is assigned 2 points, remains unchanged. The points are totaled to create a score from 0 to 9 and are used to create five risk levels including low, below average, average, above average, and high as shown in figure 6. The risk levels represent the likelihood of pretrial failure including failing to appear in court and danger to the community pending trial.

Figure 6. Revised VPRAI Risk Levels

Risk Level	Risk Score
Low	0, 1
Below Average	2
Average	3
Above Average	4
High	5 – 9

VPRAI COMPLETION INSTRUCTIONS

Eligibility

A VPRAI examines a defendant's status at the time of the arrest as it relates to the current charges, pending charges, criminal history, residence, employment, primary caregiver, and history of drug abuse. For this reason, the instrument is primarily intended to be completed after arrest and presented to the Court at first appearance. Completing the instrument soon after arrest increases the likelihood of capturing the most accurate information as it relates to the defendant's status at the time of his/her arrest and should be done so within 7 days.

A pretrial investigation must be conducted prior to completing the VPRAI (see Virginia Pretrial Investigation Guide). Defendants who do not meet all of the criteria listed below are not eligible for instrument completion as part of the pretrial investigation. Additionally, a VPRAI is required for all eligible defendants and should be completed by following the instructions provided herein.

1. The defendant must be an adult – 18 years or older or a juvenile previously certified as an adult by the court.
2. The defendant must not be incarcerated at the time of the arrest or when the warrants were served. Defendants who were incarcerated for unrelated charges at the time the new warrants were served are not eligible.
3. The defendant must have been arrested for one or more jailable offense(s) – Class 1 and 2 misdemeanors (M1 and M2), unclassified misdemeanor (M9) that carry a penalty of jail time, or any felony. Class 3 misdemeanors, Class 4 misdemeanors, and any Class 9 misdemeanors, which carry a maximum penalty of a fine, are not eligible for instrument completion.
4. The defendant must have been arrested for a criminal offense (includes criminal traffic charges but NOT traffic infractions). Defendants charged solely with the following are not eligible:
 - a. civil offense
 - b. FTA or capias due to an underlying charge from a civil court
 - c. fugitive warrant/warrant of extradition

The VPRAI is automated and contained in the Pretrial and Community Corrections Case Management System (PTCC). The appendix contains an example of a completed instrument created from sample data. The VPRAI can be created after completing four tabs contained in the Screening sub-module of the Screening module of PTCC. The four tabs include the following: Screening, VPRAI (Step 1), VPRAI (Step 2), and VPRAI (Step 3).

Screening

The following information required for the VPRAI is entered into the Screening tab: First Name, Last Name, Race, Social Security Number (SSN), Sex, Date of Birth (DOB), Primary Charge Classification (PCC), Arrest Date, Jail, Screened In, and Investigated Yes (see figure 7).

Figure 7. Screening Tab in Screening Module

The screenshot shows a software interface for the VPRAI Screening Module. The main window is titled "Pretrial and Community Supervision Case Management System (PACS) - Processing - Screening". The interface includes a menu bar (File, Edit, Window, Reports, Maintenance, Window, Help) and a toolbar with icons for Home, Back, Forward, Print, and Help. The main content area is divided into several sections:

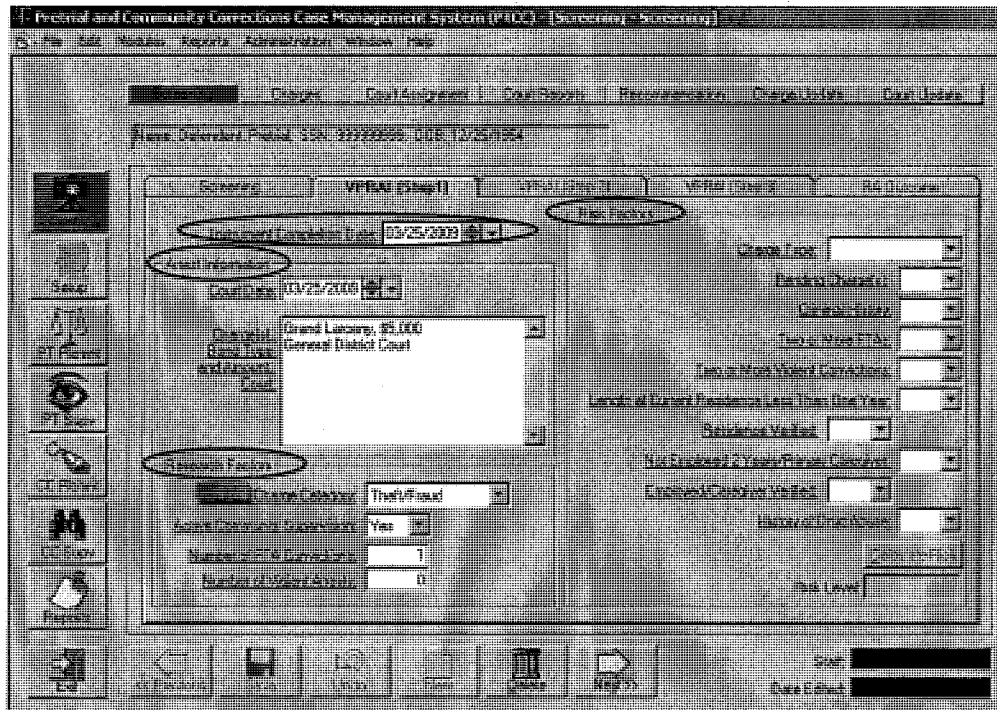
- Personal Information:** Includes fields for First Name (Perrin), Last Name (DeFendant), Race (White), Sex (Male), Age (34), DOB (12/25/1954), and Arrest Date (11/25/2008). There are also checkboxes for "Screened In" and "Investigated Yes".
- Identification:** Includes fields for Social Security Number (SSN: 999-99-9999) and Date of Birth (DOB: 12/25/1954).
- Arrest Information:** Includes fields for Arrest Date (11/25/2008) and Jail (Albemarle/Charlottesville Regional Jail).

The interface also features a sidebar with navigation icons and a status bar at the bottom.

VPRAI (STEP 1)

The following information required for the VPRAI is entered into the VPRAI (Step 1) tab: Instrument Completion Date, Arrest Information, Research Factors, and Risk Factors. The Risk Level is a calculated field which resides on this tab (see figure 8).

Figure 8. VPRAI (Step 1) Tab in Screening Module



Research Factors

Four research factors are collected for future VPRAI validation and research initiatives. Guidance for selecting accurate responses to the factors is provided below.

1. **Charge Category** – There are 8 options for charge category including Violent, Firearm, Drug, Theft/Fraud, Failure to Appear, DUI, Traffic/Non-DUI, and Other. To identify the charge category follow the steps below.

- a. **Violent** – Determine if any of the charges are a violent offense - violent offenses include the following: Murder, Manslaughter, Mob-related felonies, Kidnapping, Abduction, Malicious Wounding, Robbery, Carjacking, Arson, Assault (simple assault or assault & battery/misdemeanor or felony), and Sex Offenses (Rape, Sexual Assault/Battery, Carnal Knowledge of a Child, Forcible Sodomy).

Charges of burglary and possession or brandishing a firearm are **not** counted as violent. A charge of attempt or being an accessory before the fact to commit any of the offenses is counted. A charge of conspiring or being an accessory after the fact to commit any of the offenses is **not** counted.

If any of the charges are violent select Violent for this factor and continue to the next research factor; otherwise, continue to step b.

- b. **Firearm** – Determine if any of the charges are a firearm offense - firearm offenses include any charge relating to possession, use, or manufacturing a firearm. Examples

include shooting at a vehicle, discharging a weapon in a public place, brandishing, illegally carrying a concealed weapon, or removing or altering the serial number or other identification number on a firearm. If any of the charges are a firearm offense select Firearm for this factor and continue to the next research factor; otherwise, continue to step c.

- c. **Drug** – Determine if any of the charges are a drug related offense – drug related offenses include schedules I, II, III, IV, V and VI drugs, imitation controlled substances, counterfeit controlled substances, and drug paraphernalia. Note: Drug related offense does not include an alcohol related offense. If any of the charges are drug related select Drug for this factor and continue to the next research factor; otherwise, continue to step d.
- d. **Theft/Fraud** – Determine if any of the charges are a theft/fraud offense – theft/fraud offenses include the following: any charge related to larceny, burglary, fraud, concealment, embezzlement, forgery, uttering, and bad check. If any of the charges are theft/fraud related select Theft/Fraud for this factor and continue to the next research factor; otherwise, continue to step e.
- e. **Failure to Appear** – If any of the charges are a failure to appear select Failure to Appear for this factor and continue to the next research factor; otherwise, continue to step f.
- f. **Driving Under the Influence (DUI)** – If any of the charges are a Driving Under the Influence select DUI for this factor and continue to the next research factor; otherwise, continue to step g.
- g. **Traffic/Non-DUI** – If any of the charges are a traffic offense other than a DUI select Traffic/Non-DUI for this factor and continue to the next research factor; otherwise, continue to step h.
- h. **Other** – If none of the charges meet the criteria above select Other for this factor and continue to the next research factor.

2. *Active Community Supervision*

- ◆ **Select Yes** if the defendant was under any active community criminal justice supervision including state or local probation, parole, pretrial services, alcohol safety action program (ASAP), drug court, day reporting, or any other form of active criminal justice supervision at the time of the arrest. Active supervision does NOT include unsupervised probation, a term of good behavior, or release on bail without pretrial supervision.
- ◆ **Select No** if the defendant was not on active community criminal justice supervision at the time of the arrest.

3. *Number of FTA Convictions* – Enter the number of convictions as an adult for Failure to Appear or Contempt of Court that was a result of failure to appear.

4. *Number of Violent Arrests* – Enter the number of arrests (count each charge) for a violent offense as an adult; regardless of the case disposition (guilty, not guilty, nolle prosequi, dismissed). Violent offenses include the following: Murder, Manslaughter, Mob-related felonies, Kidnapping, Abduction, Malicious Wounding, Robbery, Carjacking, Arson, Assault

(simple assault or assault & battery/misdemeanor or felony), and Sex Offenses (Rape, Sexual Assault/Battery, Carnal Knowledge of a Child, Forcible Sodomy).

Arrests for burglary and possession or brandishing a firearm are **not** counted as violent arrests. An arrest for attempt or being an accessory before the fact to commit any of the offenses is counted. An arrest for conspiring or being an accessory after the fact to commit any of the offenses is **not** counted.

Risk Factors

The VPRAI calculates a defendant's level of risk based on the eight (8) risk factors listed below. Responses to these risk factors are entered in the appropriate sections on this tab (see Figure 8: VPRAI (Step 1) Tab in Screening Module, p.16). Guidance for selecting accurate responses to the factors is provided below.

1. **Charge Type – Select *Misdemeanor* or *Felony*** to indicate whether the most serious charge classification for the arrest event is a misdemeanor or a felony.
 - ◆ If there is only one charge - select the classification for that charge (*Misdemeanor* or *Felony*).
 - ◆ For a capias or FTA warrant count the charge type of the most serious underlying charge.
 - ◆ **Select *Misdemeanor*** when there are multiple charges and all of the charges have a charge classification of misdemeanor.
 - ◆ **Select *Felony*** when there are multiple charges and one or more of the charges is a felony.

2. **Pending Charge(s) – Pending charge(s) require:** 1) that the defendant was previously arrested for one or more charges for jailable offenses that have not been “disposed of”; 2) was arrested for a new crime that was allegedly committed while released on bail pending trial; and 3) that a future court date has been set or that a warrant has been issued for failure to appear. A charge with a disposition of “deferred” is NOT counted as a pending charge.
 - ◆ **Select *Yes*** if the defendant had one or more charges for jailable offenses pending in a criminal or traffic (not civil) court at the time of arrest.
 - ◆ **Select *No*** if the defendant had no pending charge(s) at the time of arrest.
 - ◆ **Exception:** If the current arrest is solely for a failure to appear, the underlying charge related to the failure to appear does not constitute a pending charge.
 - ◆ The following scenarios **DO NOT** constitute a pending charge:
 - ▶ A defendant is arrested, remains incarcerated pending trial, and is served with new warrants; or
 - ▶ A defendant is arrested, released pending trial, and is arrested for a charge with an alleged offense date that is prior to the first arrest.

3. **Criminal History – A conviction for a jailable offense is counted as a prior criminal history.**
Note: A charge with a disposition of “deferred” is NOT counted as a conviction.
 - ◆ **Select *Yes*** if the defendant has at least one adult misdemeanor or felony conviction in the past.

- ◆ **Select No** if the defendant has no misdemeanor or felony conviction in the past.
4. *Two or More Failures to Appear* – An arrest for failure to appear, bail jumping, or contempt of court that was a result of failing to appear is counted. A failure to appear for a single court appearance is counted once regardless of the number of FTA charges related to the one court appearance. An arrest for failure to appear is not counted if there is confirmation that the defendant was in custody (jail or prison) when the failure to appear occurred.
- ◆ **Select Yes** if the defendant has failed to appear in court two or more times as an adult.
 - ◆ **Select No** if the defendant has not failed to appear two or more times as an adult.
5. *Two or More Violent Convictions* – Violent convictions are defined for the purposes of risk assessment to include the following: Murder, Manslaughter, Kidnapping, Abduction, Malicious Wounding, Robbery, Carjacking, Arson, Assault (simple assault or assault & battery/misdemeanor or felony), and Sex Offenses (Rape, Sexual Assault/Battery, Carnal Knowledge of a Child, Forcible Sodomy.
- Convictions for burglary and possession or brandishing a firearm are **not** counted as violent convictions. A conviction for attempt or being an accessory before the fact to commit any of the offenses is counted. A conviction for conspiring or being an accessory after the fact to commit any of the offenses is **not** counted.
- ◆ **Select Yes** if the defendant has two or more prior violent convictions as an adult.
 - ◆ **Select No** if the defendant does not have two or more prior violent convictions.
6. (A) *Length at Current Residence Less than One Year* – A residence is where the defendant currently lives and does not include non-residences such as a jail, prison, halfway house, hospital, or shelter.
- ◆ **Select Yes** to indicate if the defendant has lived at his residence for less than one year, is homeless, or does not have a stable residence.
 - ◆ **Select No** if the defendant has lived at his current residence for one year or more.
- (B) *Residence Verified* – Select **Yes** or **No** to indicate whether the residence information was verified by a reference or other secondary source.
7. (A) *Not Employed 2 Years/Primary Caregiver* – Employment includes part or full time as long as the defendant worked regularly and consistently for a minimum of 20 hours per week. A defendant is considered a primary caregiver if he or she is responsible for, and consistently cares for, at least one dependent child (under the age of 18) or disabled or elderly family member, living with the defendant at the time of the arrest.
- ◆ **Select Yes** if the defendant was unemployed at the time of the arrest, had a significant gap in employment over the two years prior to the arrest, is retired, disabled or a student and was not a primary caregiver at the time of arrest.
 - ◆ **Select No** if the defendant has been employed relatively consistently at one or more jobs during the two years prior to the arrest.
 - ◆ **Select No** if the defendant was a primary caregiver at the time of the arrest.

(B) *Employed/Caregiver Verified* – Select **Yes** or **No** to indicate whether the employed/primary caregiver information was verified by a reference or other secondary source.

8. *History of Drug Abuse* – For the purposes of risk assessment drug abuse includes any illegal or prescription drugs and **does not include alcohol**. Consideration should be given to the information provided by the defendant, criminal history, information contained in supervision records, and any information provided by references regarding drug use (**excluding alcohol**).

Examples: Indications of a history of drug abuse: 1) previously used illegal substance(s) repeatedly (this is to be distinguished from short-term experimental use); 2) defendant admits to previously abusing illegal or prescription drugs; 3) the criminal history contains drug related convictions; and 4) the defendant received drug treatment in the past.

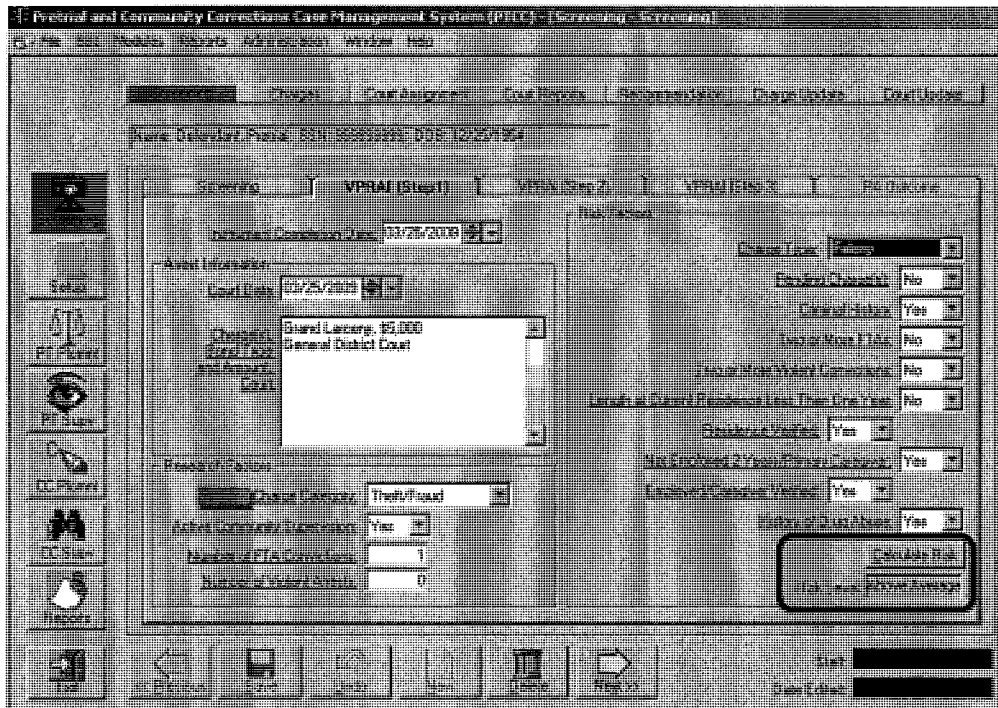
Any one or a combination of the factors above can be used to determine whether or not the defendant has a history of drug abuse.

- ◆ **Select Yes** to indicate the defendant has a history of drug abuse.
- ◆ **Select No** if the defendant does not have a history of drug abuse.

Risk Level

After selecting responses to the eight risk factors the risk level is automatically calculated in PTCC by selecting the *Calculate Risk* button. The defendant’s level of risk is identified as one of the following: Low, Below Average, Average, Above Average, or High (see figure 9).

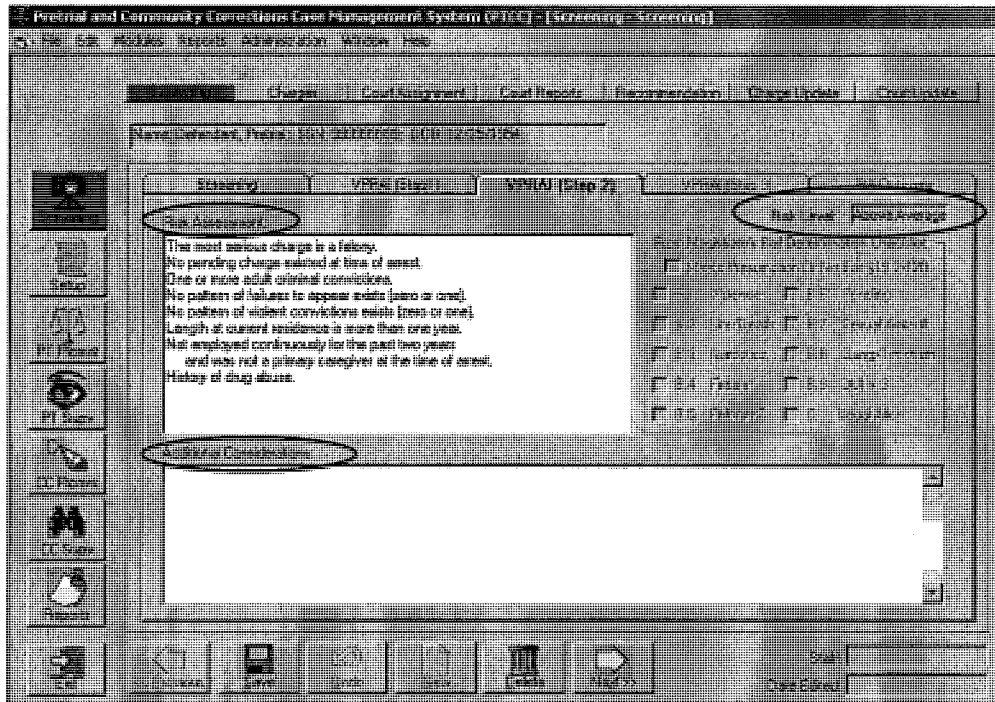
Figure 9. VPRAI (Step 1) Tab in Screening Module: Risk Level Calculated



VPRAI (STEP 2)

The VPRAI (Step 2) tab shows the results of the risk factors by displaying a statement related to each risk factor in the *Risk Assessment* section. The risk level is also displayed in the *Risk Level* section. The section regarding Meets Presumption of No Bail §19.2-120 contained in the *From Magistrate's Bail Determination Checklist* section has been disabled and is no longer used. Additional considerations related to risk are entered in the *Additional Considerations* section (see figure 10).

Figure 10. VPRAI (Step 2) Tab in Screening Module

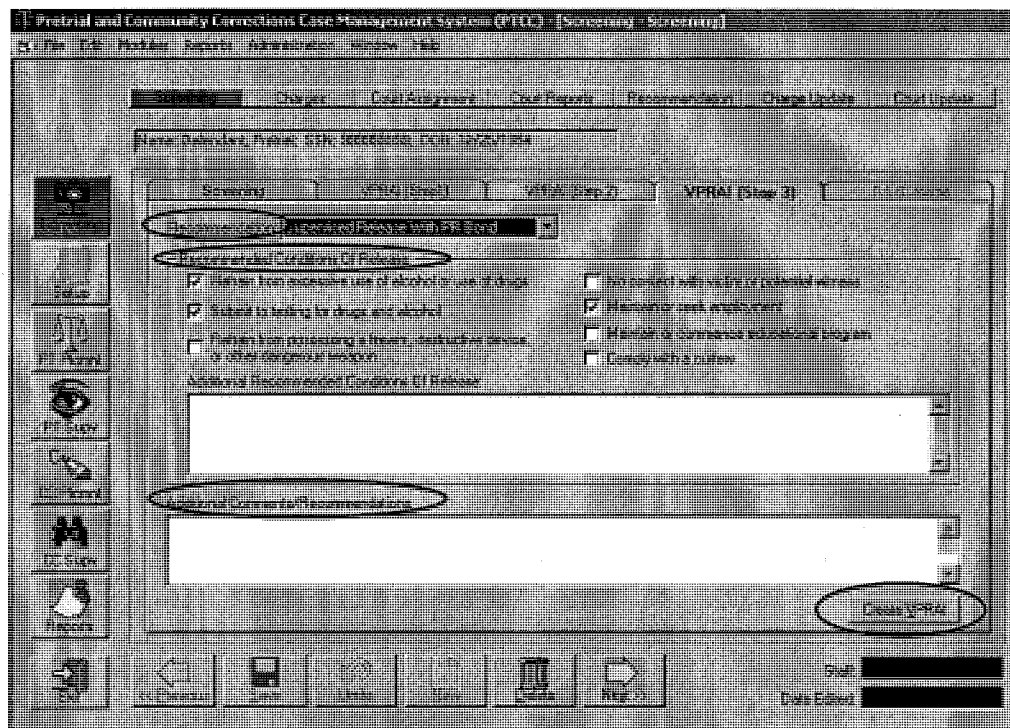


Additional considerations include information deemed important for the judicial officer to consider when making the bail decision. Additional considerations should include areas of risk that have been identified during the pretrial investigation that are not accounted for in the eight (8) primary risk factors detailed previously as well as mitigating factors (factors that may mitigate the seriousness of any of the eight (8) primary risk factors that were identified for the defendant) and positive factors that are relevant to the bail decision.

VPRAI (STEP 3)

The following information for the VPRAI is entered into the VPRAI (Step 3) tab: Recommendation, Recommended Conditions of Release, and Additional Comments/Recommendations. The VPRAI report is also created from this tab (see figure 11).

Figure 11. VPRAI (Step 3) Tab in Screening Module



Recommendation

The *Recommendation* section contains eight (8) options for a bail recommendation and includes the following:

1. Personal Recognizance;
2. Reduced Bond;
3. Same Bond;
4. Supervised Release with PR Bond;
5. Supervised Release with Secure Bond;
6. Increased Bond;
7. No Bond; and
8. No Recommendation.

One of the eight options must be selected.

Recommended Conditions of Release

Conditions of release can be recommended if the bail recommendation entered in the *Recommendation* section is either Supervised Release with PR Bond or Supervised Release with Secure Bond. There are seven (7) common conditions that can be recommended by selecting the box next to recommended condition (see Figure 11: VPRAI (Step 3) Tab in Screening Module, p. 22). The common conditions include:

1. Refrain from excessive use of alcohol or use of drugs;
2. Submit to testing for drugs and alcohol;
3. Refrain from possessing a firearm, destructive device, or other dangerous weapon;
4. No contact with victim or potential witness;
5. Maintain or seek employment;
6. Maintain or commence educational program; and
7. Comply with a curfew.

Other conditions of release permitted by the Code of Virginia can be entered in the *Additional Recommended Conditions of Release* section.

Additional Comments/Recommendations

Information related to the bail recommendation that is not included in the *Recommendation* and *Recommended Conditions of Release* sections can be entered here.

Create VPRAI

The VPRAI report is created by the PTCC software and uses information entered into the four tabs contained in the screening module of PTCC including the Screening, VPRAI (Step 1), VPRAI (Step 2), and VPRAI (Step 3) tabs. Select the *Create VPRAI* button to view and print the VPRAI report.

APPENDIX – EXAMPLE VPRAI REPORT USING SAMPLE DATA

Virginia Pretrial Risk Assessment Instrument

Instrument Completion Date: 05/02/2009

Court Date: 05/02/2009

First Name: VPRAI

Last Name: Test

Race: Other

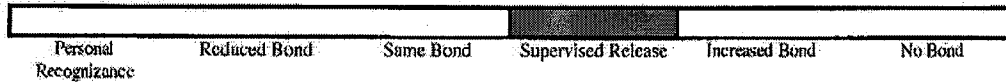
SSN: 999-99-9999

Sex: Male

DOB: 05/02/1971

Charge(s): Grand Larceny \$5,000, General District Court

Recommendation



Conditions of Release

- Refrain from excessive use of alcohol or use of drugs
- Submit to testing for drugs and alcohol
- Maintain or seek employment
- Complete substance screening and assessment by the CSB

Additional Comments/Recommendations

The combination of the recommended conditions of release with pretrial supervision will address the risk concerns identified by our assessment. Financial conditions are not needed in this case to address the potential for failure to appear in court.

Risk Assessment

Factors Considered

- No pending charge existed at time of arrest
- No pattern of failures to appear exists (zero or one)
- No pattern of violent convictions exists (zero or one)
- Length at current residence is more than one year
- The most serious charge is a felony
- One or more adult criminal convictions
- Not employed continuously for the past two years and was not a primary caregiver at the time of arrest
- History of drug abuse
- The pretrial risk assessment identifies the defendant's risk level as above average

Additional Considerations

Although the defendant has not been employed continuously for the past two years, he recently obtained employment at American Auto Repair. This information was verified through the defendant's employer, John Sullivan.

Confidential - Further disclosure prohibited by law pursuant to §2.2-3706 and §19.2-152.4:2 of the Code of Virginia.

TAB 20

Kentucky Pretrial Risk Assessment Instrument Validation

Prepared by

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The JFA Institute

October 29, 2010

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Introduction

In 2009, the Kentucky Pretrial Services Agency (KPSA) made a request to the Pretrial Justice Institute (PJI) to receive technical assistance on its risk assessment instrument. PJI has an award from the Bureau of Justice Assistance, U.S. Department of Justice, to provide technical assistance for a wide variety of correctional agencies. The primary partner with PJI is the JFA Institute, which responds to all referrals made by PJI. One of JFA's organizational capabilities is to conduct validation studies of risk assessment instruments. For this reason the KPSA request was forwarded to JFA to complete.

The KPSA has been using a risk assessment instrument for a number of years. The instrument itself was designed based on other pretrial risk assessment instruments that have been validated in other jurisdictions. But the KPSA instrument had never been tested by an external agency on people who had been arrested, detained and subsequently released on pretrial status. Thus the task of this study was to determine the extent to which the current instrument was valid.

Research Methods

Kentucky created pretrial services in 1976 to replace for-profit commercial bail bonding services and is one, of only a few states, that has outlawed commercial bail bonding. Unlike many other jurisdictions, KPSA is part of the state's court system. Furthermore, because it is a statewide agency, all of its functions and data are standardized. Such a statewide structure greatly enhances the ability to conduct a meaningful validation effort.

Data on the Kentucky pretrial release population were obtained and analyzed to assess the extent to which the instrument needed to be modified and, if so, what items needed to be dropped and what additional items needed to be introduced into a modified instrument.

The data used to complete this analysis were based on all cases where a pretrial interview was conducted by the various pretrial services agencies that are located throughout Kentucky. Specifically, there were 52,344 interviews conducted between July 1, 2009 and September 30, 2009. For these interviews, 38, 478 or 74% were released pre-trial. For each case, it was recorded where the person was re-arrested or failed to appear (FTA).

Table 1 shows the basic demographic attributes of the persons who were interviewed and released pretrial. Also included are the FTA, pretrial re-arrest rates, and a composite FTA/re-arrest rate. As in most jurisdictions, the FTA, re-arrest and combined rates are relatively low. Specifically, the FTA rate is 8%, the re-arrest rate 7%, and the combined rate 14%. The table also shows relative associations of each item and the three measures of success/failure on pretrial release.

Tables 2, 3, 4 and 5 repeat this type of analysis for measures that reflect the current charge (Table 2), substance abuse measures (Table 3), and mental health (Tables 4 and 5). In all of these tables there are some items that have no meaningful statistical relationships and others that do have a statistically significant relationship. However, it should be emphasized that because the base rates are so low, there will be few items that have very strong relationships with pretrial release outcomes.

Tables 6, 7, and 8 summarize this same analysis for the 13-item risk instrument. Here, one can see that the current instrument items and scale are associated with pretrial arrest and FTA rates. There are some items that either have a very modest association or have little variance in the scoring results. For example, item 3. ("Reference verified willingness to attend court or

sign surety bond") has little if any statistical association with the failure rates. The table also shows two additional items (14 and 15), which were test items to see if that would add to the overall risk assessment instrument's predictive capabilities. As indicated, they show that less than 2% of the assessed cases are being scored into one of the two categories. With such a lack of variance they are unlikely to have much predictive abilities.

In summary, the current 13-item instrument is producing a strong association between the risk levels of low, moderate and high and FTA and pretrial arrest rates. It is also noteworthy that the vast majority of the released defendants are either low (45%) or moderate risk (22%) to either Fail To Appear (FTA) or be re-arrested for a new crime while under pretrial release status.

Use of Special Conditions

The data files also contained information on the use of special conditions. Table 9 shows the extent to which they are being used with most of the conditions being drug testing and special monitoring requirements. We also looked at those persons who received the special conditions of drug testing, special monitoring and notification requirements but are low risk cases. These three conditions have the most low risk cases to do such an analysis. As shown in Table 10, about half of the special condition populations are scored as low risk. More significantly, these low risk cases have higher failure rates than the "average" low risk pretrial releasee. While one cannot say that the special conditions caused the higher rates, the statistical association suggests that imposing such conditions is not beneficial.

Can The Current Instrument Be Improved?

There are two areas to be explored here. First is whether the current instrument can be made more efficient by reducing the number of items being used by the staff? Making the instrument more parsimonious would reduce the burden to staff without jeopardizing the validity of the instrument. Second, are there any items that are not being used that might enhance the validity of the instrument?

To answer these two questions required more sophisticated multivariate analysis. The first task was to re-weight the items included in the current instrument. In doing so, a few considerations should be pointed out:

1. When there was a conflict among the risk models, e.g., a variable has a negative effect on FTA but a positive effect on re-arrest, the re-arrest risk measure model was used to trump the FTA risk model. Examples include items #1 and #4.
2. In some cases, a slight change in the statistical significance cut-off value of 95% would have brought an item into the model (e.g., Risk Item 15). In such cases, the variable was included in the item in accordance with consideration 1 noted above.

Once a modified instrument was constructed, additional variables were included in the analysis—one variable group at a time—to assess their contribution to the discriminating power of the instrument. These additional variables included the following:

1. *Substance abuse related questions*: These variables did not add sufficiently to the model's predictive power and were therefore ignored.
2. *Mental health related questions*: These variables did not add sufficiently to the model's predictive power and were therefore ignored.
3. *Mental health history related questions*: As a group, mental health history related questions improved the explanatory power of the model. However, individually only two of them were found to be statistically significant. These include "Received special

education services in school for emotional/behavioral problems?" and "Spoken to counselor or psychologist about personal problem?"

4. *Domestic violence related questions:* As a group, domestic violence related questions did improve the models. However, only two of them were statistically significant individually. These included "Any record of prior DV restraining order") and "Was a weapon used?". However, only a handful (1.2%) of suspects in the sample had affirmative responses to these questions.
5. *Removal of current risk instrument items:* The current risk instrument included items 1 through 13. Items 14 and 15 "Violated conditions of release in past 12 months—and if so, was bond revoked?" were deleted from the revised current instrument. These items were either statistically insignificant or had incorrect effect directions. Similarly, item 3 added little to the predictive attributes of the instrument. So all three can be removed from further consideration.

Based on the above considerations, one new version of the instrument was developed which simply removed item 3 and re-weighted the remaining 12 items. In addition to new weights for the revised risk assessment instruments, the cut-points needed to classify suspects as low, moderate, or high risk were modified as well. Tables 10 and 11 show these changes and provide the cut-points for the 12-item instrument.

Finally, Figures 1, 2, and 3 provide a side-by-side comparison of the current and the revised instruments on risk measures. In general, the modified version performs basically the same as the current version of the risk assessment instrument but without using item 3. It should also be emphasized that although some of the other items that have a significant bi-variate relationship but were excluded from the final instrument can be used as a basis for over-riding the risk level or making a final risk recommendation.

**TABLE 1
FAILURE RATE BY DEMOGRAPHICS**

Item	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
Base	38,478		8.0%	7.0%	14.1%
Sex					
Female	10,678	27.8%	7.7%	6.5%	13.3%
Male	27,695	72.0%	8.2%	7.3%	14.4%
Unknown	105	0.3%	3.8%	2.9%	5.7%
Race					
American Indian	117	0.3%	6.0%	3.4%	9.4%
Asian	64	0.2%	4.7%	3.1%	7.8%
Black	6,854	17.8%	9.8%	7.2%	16.0%
Other	738	1.9%	11.5%	2.0%	13.3%
Unknown	448	1.2%	5.8%	1.8%	7.4%
White	30,257	78.6%	7.6%	7.2%	13.8%
Marital Status					
Divorced	5,810	15.1%	7.6%	7.4%	13.9%
Married	7,889	20.5%	6.8%	6.2%	12.1%
Separated	2,501	6.5%	8.9%	8.3%	15.9%
Single	20,714	53.8%	8.5%	7.3%	14.9%
Unknown	1,112	2.9%	6.6%	3.1%	9.4%
Widowed	452	1.2%	8.8%	8.2%	15.7%
Education					
AA	607	1.6%	8.7%	6.1%	13.5%
BA/BS	906	2.4%	5.5%	4.0%	8.5%
Vocational	328	0.9%	7.6%	5.2%	11.9%
GED	3,760	9.8%	8.9%	8.9%	16.2%
HS	9,939	25.8%	7.4%	6.7%	13.3%
Less than HS	10,369	26.9%	9.1%	8.9%	16.8%
Null	6,782	17.6%	7.8%	4.8%	11.9%
Post graduate	334	0.9%	3.6%	3.6%	7.2%
Some college	5,453	14.2%	7.4%	6.6%	13.2%
On Supervised Probation					
No	36,379	94.5%	8.0%	6.8%	13.9%
Yes	2,099	5.5%	8.6%	10.5%	17.8%
Supplied an email address					
No	30,215	78.5%	7.9%	6.6%	13.5%
Yes	8,263	21.5%	8.7%	8.6%	16.0%
Verified Address					
No	11,492	29.9%	8.9%	5.7%	13.3%
Yes	26,986	70.1%	7.7%	7.9%	14.4%
Verified Occupation					
No	12,504	32.5%	9.1%	5.5%	13.8%
Yes	25,974	67.5%	7.5%	7.8%	14.2%

**TABLE 2
FAILURE RATE BY CHARGE**

Item	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
Base	38,478		8.0%	7.0%	14.1%
Charge Level					
Felony	9,122	23.7%	6.0%	10.1%	15.2%
Misdemeanor	26,346	68.5%	8.8%	6.4%	14.1%
O	1,512	3.9%	5.6%	2.8%	8.1%
V	1,356	3.5%	9.5%	5.0%	13.6%
Unknown	152	0.4%	9.9%	3.3%	12.5%
Charge Class					
A	14,388	37.4%	7.5%	6.9%	13.3%
B	12,650	32.9%	9.9%	6.0%	14.9%
C	2,091	5.4%	4.7%	11.0%	14.5%
D	6,317	16.4%	6.7%	9.7%	15.5%
X	2,880	7.5%	7.5%	3.9%	10.7%
Unknown	152	0.4%	9.9%	3.3%	12.5%

**TABLE 3
FAILURE RATE BY SUBSTANCE ABUSE ITEMS**

Item	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
Base	38,478		8.0%	7.0%	14.1%
Have you ever felt you should cut down on your drinking?					
No	25,182	65.4%	8.1%	7.2%	14.3%
Yes	8,007	20.8%	7.8%	8.8%	15.4%
Null	5,289	13.7%	7.8%	3.7%	10.9%
Have people annoyed you criticizing your drinking/drug use?					
No	29,230	76.0%	8.0%	7.2%	14.1%
Yes	3,959	10.3%	8.2%	10.3%	17.0%
Null	5,289	13.7%	7.8%	3.7%	10.9%
Have you felt guilty about your drinking/drug use?					
No	26,649	69.3%	8.0%	7.1%	14.1%
Yes	6,540	17.0%	8.2%	9.5%	16.4%
Null	5,289	13.7%	7.8%	3.7%	10.9%
Drink in the morning to get rid of hangover/use drugs to change effects of other drugs					
No	30,997	80.6%	7.9%	7.4%	14.3%
Yes	2,165	5.6%	9.6%	10.4%	18.3%
Null	5,316	13.8%	7.8%	3.7%	10.9%
Willing to participate in residential treatment					
No	27,179	70.6%	8.1%	7.1%	14.2%
Yes	6,008	15.6%	7.9%	9.8%	16.4%
Null	5,291	13.8%	7.8%	3.7%	10.9%

**TABLE 4
FAILURE RATE BY MENTAL HEALTH ITEMS**

Item	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
Base	38,478		8.0%	7.0%	14.1%
Past 30 days how often do you feel nervous					
None of the time	21,046	54.7%	8.1%	6.9%	14.1%
A little of the time	3,856	10.0%	7.7%	8.1%	14.6%
Some of the time	3,831	10.0%	7.9%	8.5%	15.2%
Most of the time	1,716	4.5%	7.4%	9.1%	15.2%
All of the time	2,737	7.1%	8.6%	10.0%	17.2%
Null	5,292	13.8%	7.8%	3.7%	10.9%
Past 30 days how often do you feel hopeless					
None of the time	27,050	70.3%	8.0%	7.3%	14.3%
A little of the time	2,195	5.7%	7.5%	8.0%	14.5%
Some of the time	1,972	5.1%	8.6%	9.4%	16.7%
Most of the time	870	2.3%	7.8%	8.6%	15.2%
All of the time	1,099	2.9%	9.3%	10.3%	18.5%
Null	5,292	13.8%	7.8%	3.7%	10.9%
Past 30 days how often do you feel restless or fidgety					
None of the time	23,839	62.0%	8.2%	7.2%	14.3%
A little of the time	2,839	7.4%	6.8%	7.7%	13.5%
Some of the time	3,180	8.3%	8.1%	8.7%	15.6%
Most of the time	1,364	3.5%	7.6%	9.0%	15.5%
All of the time	1,964	5.1%	8.9%	9.4%	16.8%
Null	5,292	13.8%	7.8%	3.7%	10.9%
Past 30 days how often do you feel so depressed nothing cheers you up					
None of the time	26,819	69.7%	8.1%	7.2%	14.3%
A little of the time	2,088	5.4%	8.0%	9.2%	16.2%
Some of the time	2,065	5.4%	7.5%	8.7%	15.5%
Most of the time	939	2.4%	6.8%	9.4%	15.1%
All of the time	1,275	3.3%	9.3%	8.5%	16.6%
Null	5,292	13.8%	7.8%	3.7%	10.9%
Past 30 days how often do you feel everything was an effort					
None of the time	27,194	70.7%	8.0%	7.3%	14.3%
A little of the time	1,742	4.5%	7.0%	9.8%	15.8%
Some of the time	2,016	5.2%	9.1%	8.7%	16.4%
Most of the time	908	2.4%	8.4%	8.1%	15.4%
All of the time	1,326	3.4%	8.1%	8.7%	15.7%
Null	5,292	13.8%	7.8%	3.7%	10.9%
Past 30 days how often do you feel worthless					
None of the time	28,903	75.1%	8.1%	7.3%	14.4%
A little of the time	1,344	3.5%	6.8%	10.5%	16.3%
Some of the time	1,445	3.8%	8.7%	8.0%	15.6%
Most of the time	598	1.6%	6.9%	8.9%	14.2%
All of the time	896	2.3%	9.4%	9.6%	17.6%
Null	5,292	13.8%	7.8%	3.7%	10.9%

**TABLE 5
FAILURE RATE BY MENTAL HEALTH HISTORY**

Item	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
Base	38,478		8.0%	7.0%	14.1%
Has doctor prescribed meds for emotional problem					
No	24,337	63.2%	8.0%	7.0%	14.1%
Yes	8,547	22.2%	8.0%	9.3%	15.9%
Have you been hospitalized for emotional problem					
No	29,448	76.5%	8.0%	7.3%	14.2%
Yes	3,443	8.9%	8.7%	10.0%	17.3%
Did you have special schooling for emotional problems					
No	30,953	80.4%	8.0%	7.3%	14.3%
Yes	1,937	5.0%	9.6%	11.6%	20.0%
Ever spoken to a counselor or psychologist					
No	24,335	63.2%	8.0%	6.9%	14.0%
Yes	8,551	22.2%	8.2%	9.4%	16.3%
Ever received treatment for drug/alcohol abuse					
No	26,476	68.8%	8.0%	7.1%	14.1%
Yes	6,417	16.7%	8.3%	9.8%	16.7%

**TABLE 6
FAILURE RATE BY RISK ASSESSMENT SCORE ITEMS**

Item	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
1. Verified local address & lived in area for past 12 months					
No	2,856	7.4%	11.1%	6.3%	16.5%
Yes	24,227	63.0%	7.2%	8.1%	14.2%
2. Verified sufficient means of support					
No	13,798	35.9%	8.4%	9.1%	16.2%
Yes	13,287	34.5%	6.9%	6.7%	12.7%
3. Reference verified willingness to attend court or sign surety bond					
No	2,195	5.7%	8.7%	9.2%	16.5%
Yes	24,889	64.7%	7.6%	7.8%	14.3%
4. Current charge class A, B or C felony					
No	24,404	63.4%	8.0%	7.5%	14.4%
Yes	2,677	7.0%	4.6%	11.3%	14.8%
5. Charged w/ new offense while case pending					
No	21,258	55.2%	6.9%	5.6%	11.7%
Yes	5,822	15.1%	10.5%	16.4%	24.5%
6. Active warrant or prior FTA					
No	22,325	58.0%	6.6%	7.5%	13.2%
Yes	4,753	12.4%	12.5%	9.7%	20.3%
7. Prior FTA for traffic violation					
No	22,465	58.4%	6.9%	7.4%	13.4%
Yes	4,614	12.0%	11.5%	10.1%	19.7%
8. Prior misdemeanor conviction					
No	8,769	22.8%	6.3%	4.7%	10.4%
Yes	18,311	47.6%	8.3%	9.4%	16.4%
9. Prior felony conviction					
No	20,416	53.1%	7.1%	6.9%	13.1%
Yes	6,664	17.3%	9.3%	10.9%	18.6%
10. Prior violent crime conviction					
No	21,770	56.6%	7.4%	7.0%	13.4%
Yes	5,309	13.8%	8.7%	11.6%	18.8%
11. History of drug/alcohol abuse					
No	23,865	62.0%	7.5%	7.2%	13.7%
Yes	3,214	8.4%	9.1%	13.0%	20.4%
12. Prior conviction of felony escape					
No	26,536	69.0%	7.6%	7.8%	14.2%
Yes	541	1.4%	12.6%	14.4%	25.0%
13. On probation/parole for felony conviction					
No	24,933	64.8%	7.5%	7.6%	14.0%
Yes	2,142	5.6%	9.6%	11.0%	19.4%

Item	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
14. Test Item: Violated conditions of pretrial release in last 12 mos.					
No	32,516	84.5%	8.1%	7.4%	14.5%
Yes	671	1.7%	7.6%	14.0%	20.3%
15. Test Item: If yes, was bond revoked?					
No	32,383	84.2%	8.0%	7.6%	14.6%
Yes	153	0.4%	5.2%	11.1%	15.7%

**TABLE 7
FAILURE RATE BY RISK ASSESSMENT SCORE**

Risk Score	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
Base	38,478		8.0%	7.0%	14.1%
0	2,898	7.5%	4.0%	2.9%	6.8%
1	4,909	12.8%	4.9%	3.9%	8.4%
2	3,863	10.0%	6.5%	5.0%	10.8%
3	2,143	5.6%	7.0%	6.8%	12.7%
4	1,780	4.6%	7.1%	6.1%	12.1%
5	1,838	4.8%	8.9%	8.3%	16.4%
6	2,066	5.4%	8.9%	9.8%	17.4%
7	1,887	4.9%	9.9%	11.3%	19.3%
8	1,292	3.4%	10.8%	13.1%	22.0%
9	1,074	2.8%	11.6%	14.5%	23.9%
10	878	2.3%	10.6%	13.8%	22.0%
11	798	2.1%	12.4%	15.2%	24.6%
12	620	1.6%	12.1%	14.5%	25.0%
13	360	0.9%	11.7%	17.5%	26.9%
14	261	0.7%	13.0%	16.9%	26.8%
15	166	0.4%	10.2%	12.1%	28.3%
16	123	0.3%	15.4%	18.7%	30.9%
17	79	0.2%	11.4%	20.3%	29.1%
18	36	0.1%	11.1%	13.9%	25.0%
19+	18	0.0%	7.1%	35.7%	39.9%
Null	11,389	29.6%	8.9%	5.0%	13.2%

**TABLE 8
FAILURE RATE BY SCORED RISK LEVEL**

Risk Level	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
Base	38,478		8.0%	7.0%	14.1%
Low	17,311	45.0%	6.0%	5.0%	10.4%
Moderate	8,519	22.1%	10.4%	12.5%	20.9%
High	1,031	2.7%	12.1%	18.3%	57.8%
Ineligible	5,722	14.9%	8.4%	4.0%	11.8%
Not Verified	5,895	15.3%	9.4%	6.2%	14.8%

**TABLE 9
FAILURE RATE BY RELEASE CONDITIONS**

Item	N	%	FTA rate	Rearrest Rate	Either FTA or Rearrest
Base	38,478		8.0%	7.0%	14.1%
Condition - Drug test					
No	37,621	97.8%	8.0%	6.9%	13.9%
Yes	857	2.2%	7.4%	14.6%	20.3%
Condition - Reporting					
No	37,253	96.8%	8.0%	6.8%	13.9%
Yes	1,225	3.2%	8.5%	13.1%	20.4%
Condition - Court Notify					
No	38,304	99.5%	8.0%	7.0%	14.1%
Yes	174	0.5%	10.3%	10.3%	17.8%
Condition - Curfew					
No	38,339	99.6%	8.0%	7.0%	14.1%
Yes	139	0.4%	6.5%	13.7%	17.3%
Condition - Home incarceration					
No	38,455	99.9%	8.0%	7.0%	14.1%
Yes	23	0.1%	8.7%	8.7%	17.4%
Condition - Mental health treatment					
No	38,471	100.0%	8.0%	7.0%	14.1%
Yes	7	0.0%	14.3%	28.6%	28.6%
Condition - drug/alcohol treatment					
No	38,455	99.9%	8.0%	7.0%	14.1%
Yes	23	0.1%	4.3%	17.4%	21.7%
Condition - Other					
No	38,251	99.4%	8.0%	7.0%	14.0%
Yes	227	0.6%	17.2%	12.3%	25.6%

Table 10
SUPERVISION CONDITIONS VS. RISK LEVEL

Yes Condition	N	% of Special Conditions	FTA rate	Rearrest Rate	Either FTA or Rearrest
All Low Risk	17,311		6.0	5.0	10.4
Low Risk Condition - Drug test	419	49%	7.2%	8.1%	14.3%
Low Risk Condition - Reporting	565	46%	3.4%	8.1%	13.6%
Low Risk Condition - Notification	82	47%	7.3%	6.1%	11.0%

Table 11
The Current And New Weighting Rules For The Revised Pretrial Risk Assessment Instrument.

	Scoring Items	Current		Modified	
		Yes	No	Yes	No
1	Does the defendant have a verified local address and has the defendant lived in the area for the past twelve months?		1		2
2	Does the defendant have verified sufficient means of support?		1		1
3	Did a reference verify that he or she would be willing to attend court with the defendant or sign a surety bond?		1	Removed	
4	Is the defendant's current charge a Class A, B, or C Felony?	1		1	
5	Is the defendant charged with a new offense while there is a pending case?	5		7	
6	Does the defendant have an active warrant(s) for Failure to Appear prior to disposition? If no, does the defendant have a prior FTA for felony or misdemeanor?	4		2	
7	Does the defendant have prior FTA on his or her record for a criminal traffic violation?	1		1	
8	Does the defendant have prior misdemeanor convictions?	1		2	
9	Does the defendant have prior felony convictions?	1		1	
10	Does the defendant have prior violent crime convictions?	2		1	
11	Does the defendant have a history of drug/alcohol abuse?	2		2	
12	Does the defendant have a prior conviction for felony escape?	1		3	
13	Is the defendant currently on probation/ parole from a felony conviction?	2		1	
	Did you receive special education services in school for an emotional or behavioral problem?	Not Used			
	Have you ever spoken to a counselor or psychologist about a personal problem?	Not Used			
	Violated conditions of pretrial release in last 12 mos	Not Used			
	If yes, was bond revoked?	Not Used			

Table 12:
The Current And New Cut-Points For The Revised Pretrial Risk Assessment Instrument

	Current	Modified
Low	0-5	0-5
Moderate	6-12	6-13
High	13-High	14-High

Figure 1: FTA Rates by Risk Category

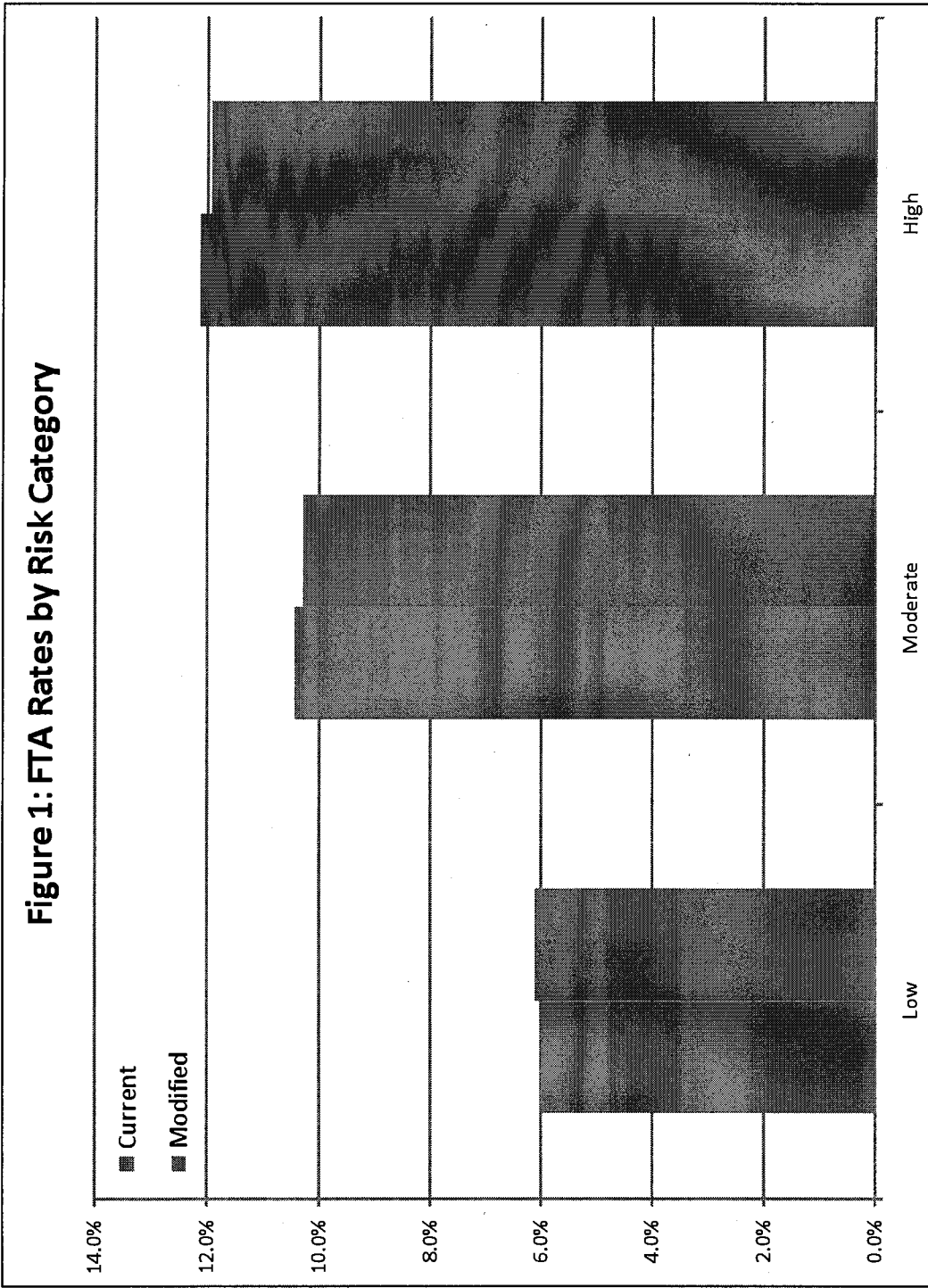


Figure 2: Rearrest Rates by Risk Category

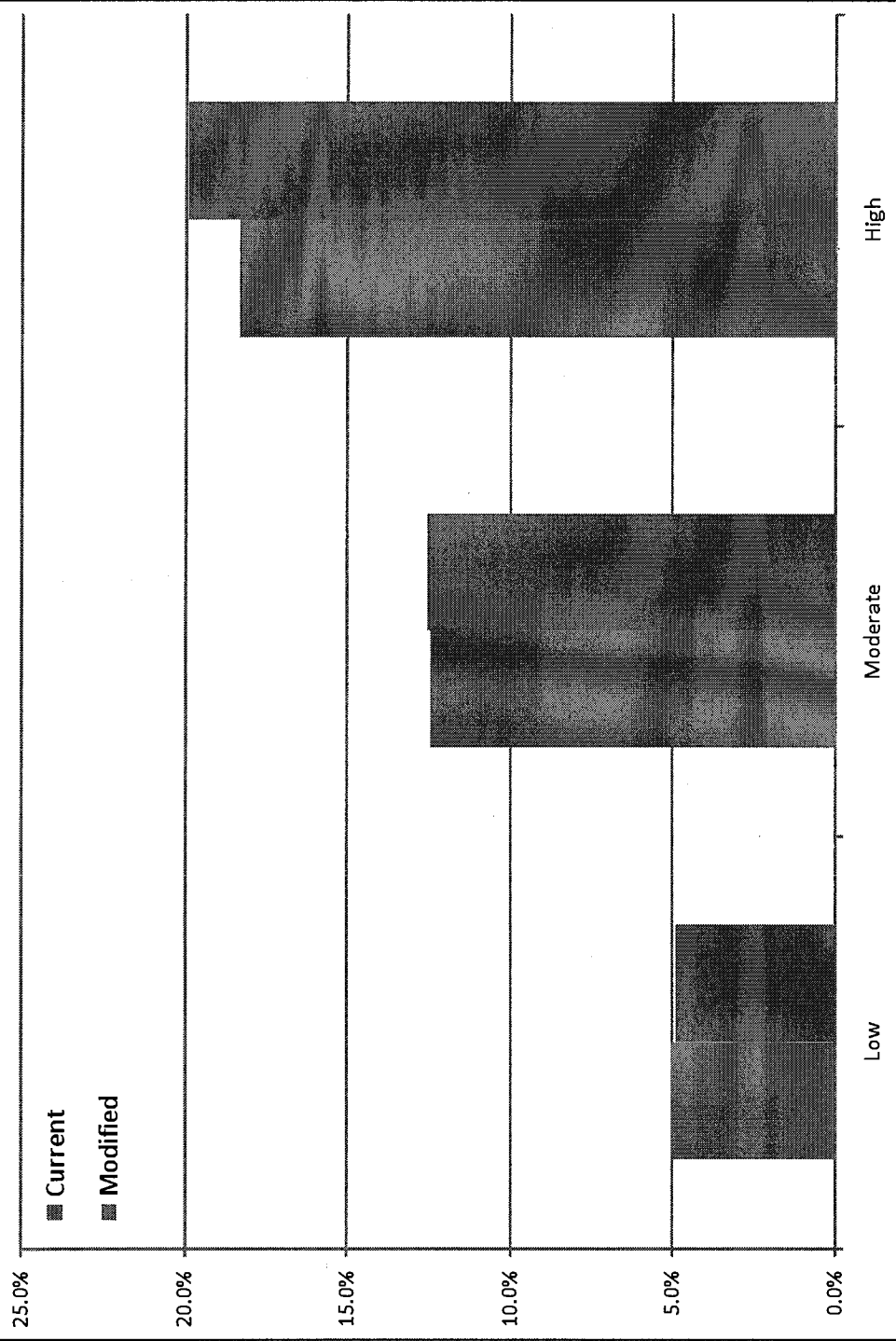
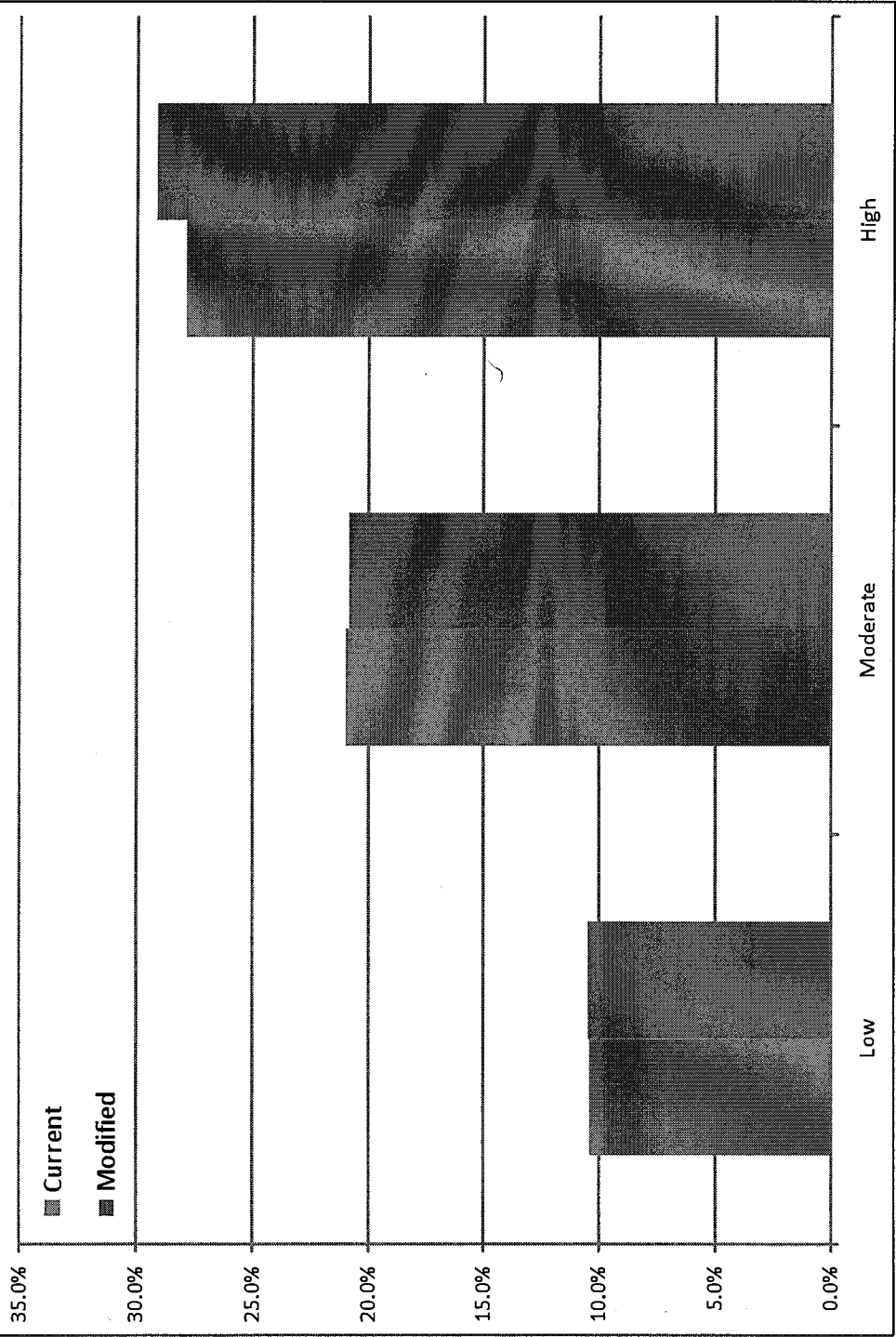


Figure 3: Combined Rearrest or FTA Rates by Risk Category



TAB 21

The JFA Institute

Denver, CO • Washington, D.C. • Malibu, CA

Conducting Justice and Corrections Research for Effective Policy Making

Florida Pretrial Risk Assessment Instrument

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Introduction

Florida Statute 903.046 (2) lists the criteria that judicial officers are to take into consideration in making pretrial release decisions. Those criteria include: the nature and circumstances of the offense; the weight of the evidence; the defendant's family ties, length of time in the community; employment history; financial resources; mental conditions; prior criminal history; prior history of appearance in court; current status on pretrial release, probation, and parole; and the "nature and probability of danger which the defendant's release poses to the community." The statute does not provide any guidance on what weight to assign each of these criterion in assessing a defendant's risk of danger to the community and non-appearance in court.

Over the past several years, as criminal justice agencies across the country have been pressured to implement evidence-based practices, significant work has been done to validate objective risk assessment tools for use in helping judicial officers in determining what weight to give to individual factors, and how individual defendant profiles are related to risks. Research has clearly demonstrated that it is possible to sort defendants into categories that accurately reflect the risks they pose to the safety of the community and to appearance in court.¹

Many of the pretrial risk assessment validation studies completed in the past 15 years focused on single jurisdictions – typically at the individual county level. A 2003 study done in seven geographically disperse counties in Virginia found, however, that it was possible to construct and validate a pretrial risk assessment tool that worked beyond a single local jurisdiction.² The validated instrument has been used throughout Virginia since that time, and a 2009 re-validation of the use of the instrument in 10 sampled counties throughout Virginia confirmed its effectiveness in accurately sorting defendants into risk categories.³ Since the Virginia study, statewide pretrial risk assessment instruments were constructed and validated in Kentucky⁴ and Ohio,⁵ and a single instrument was tested and implemented in all 94 federal

¹ Cynthia A. Mamalian, *State of the Science of Pretrial Risk Assessment*, Washington, D.C.; Pretrial Justice Institute, 2011.

² Marie VanNostrand, *Assessing Risk Among Pretrial Defendants in Virginia: The Virginia Pretrial Risk Assessment Instrument*, Richmond, VA: Virginia Department of Criminal Justice Services, 2003.

³ Marie VanNostrand and Kenneth J. Rose, *Pretrial Risk Assessment in Virginia*, Luminosity, 2009.

⁴ James Austin, Roger Ocker, and Avi Bhati, *Kentucky Pretrial Risk Assessment Instrument Validation*, JFA Institute and Pretrial Justice Institute, 2010.

districts in the country.⁶ Multi-county pretrial risk assessment validation studies are currently underway in Colorado and Michigan.

Given the trend toward the use of statewide pretrial risk assessment instruments, in 2010 the Association of Pretrial Professionals of Florida and the Florida Association of Counties requested from the Bureau of Justice Assistance of the U.S. Department of Justice, through the Pretrial Justice Institute, a multi-county risk assessment study in Florida. The study was conducted by the JFA Institute. This report presents the results of that study.

Research Methods

Sample

Six Florida counties participated in this study – Alachua, Manatee, Osceola, Palm Beach, Pinellas, and Volusia. Table 1 shows several characteristics of these counties. The population of these counties ranged from a high of 1,320,134 in Palm Beach County to a low of 247,336 in Alachua County. Five of the six counties served a geographical area that was a mix of urban and suburban, and one served an exclusively suburban area.

Looking at the characteristics of the pretrial services programs serving those areas, three of the six are administratively located under the County Commissions, one under the Court, one under the Sheriff, and one under the County Justice Services. The 2010 budgets of these programs ranged from a high of just over \$1.5 million in Palm Beach County to \$584,245 in Osceola County. Five of the six programs conduct their interviews and investigations of defendants before the defendant's initial appearance in court, while in one program, Osceola County's, these activities occur after the defendant's initial appearance. The Palm Beach County pretrial services program has no defendants excluded from interviews as a matter of policy, while the programs in Alachua and Manatee exclude defendants with other warrants or holds. The programs in the remaining counties exclude some categories of defendants based on current charges.

The number of interviews these programs conducted during 2010 range from a high of 18,450 in Palm Beach County to a low of 2,824 in Osceola County. All six counties provide supervision of defendants who have conditions of pretrial release set by the court. The number of defendants supervised during 2010 range from a high of 5,072 in Volusia County to a low of 992 in Alachua County.

⁵ Christopher T. Lowencamp, Richard Lemke, and Edward Latessa, "The Development and Validation of a Pretrial Screening Tool," *Federal Probation*, Volume 72, Number 3, 2008.

⁶ Marie VanNostrand and Gena Keebler, *Pretrial Risk Assessment in the Federal Court*, U.S. Department of Justice, Office of the Federal Detention Trustee, 2009.

TABLE 1. CHARACTERISTICS OF THE SIX COUNTIES

	Alachua	Manatee	Osceola	Palm Beach	Pinellas	Volusia
Characteristics of the Six Counties						
County Population	247,336	322,833	268,685	1,320,134	916,542	494,593
Geographic Area	Urban/ Suburban mix	Urban/ Suburban mix	Urban/ Suburban mix	Urban/ Suburban mix	Urban/ Suburban mix	Suburban
Characteristics of the Pretrial Services Program						
Administrative Locus	County Commission	County Commission	County Commission	County Justice Services	County Sheriff	Court
Program Budget (2010)	\$943,079	\$601,428	\$584,245	\$1,525,025	\$1,421,475	\$1,429,601
Timing of Initial Interview	Before initial appearance	Before initial appearance	After initial appearance	Before initial appearance	Before initial appearance	Before initial appearance
Target Population for Interviews	All arrestees except those with out of county holds	All arrestees w/exception of out of county holds and VOPs	Exclusions based on charges and warrants	All arrestees interviewed – no exclusions	All felony arrest & misdemeanor domestic violence exclusions based on F.S. 907.041	Exclusions based on charges and warrants
Number of Interviews Done (2010)	9,001	7,380	2,824	18,450	6,304	4,017
Provide Supervision of Defendants on Pretrial Release	Yes	Yes	Yes	Yes	Yes	Yes
Number Supervised in 2010	992	2,223	2,824	4,270	3,361	5,072

Data collection was separated in two stages. The first stage consisted of establishing the validation samples for each county. It was important to generate a sufficient number of cases for each site to later aggregate the data across all six sites and establish a common risk assessment system. A goal of 250 cases from each of the sites was established. The sample was drawn from defendants who were released in pretrial status from each county in the months of January – March 2011. The sampling scheme was a systematic random sample where each county was given a sampling sequence (e.g., 1 every 10th case, 1 every 5th case, etc.) As Table 2 shows, the goal of a minimum of 250 cases was exceeded in four of the six counties, and in the remaining two counties, the goal was essentially met – with Volusia County having 246 cases and Pinellas County 248.

In terms of the data collected, a code sheet was constructed that contained (among other items) variables that 1) have been used in other risk assessment instruments that have been validated in other jurisdictions and 2) were available at all six sites. The code sheet was pilot tested and finalized for all six counties prior to the actual data collection effort. A listing of each item that was collected at all six sites is shown in Appendix A.

Table 2. Validation Sample Sizes By County

County	Pretrial Releases	Percent
Palm Beach	391	22.3
Pinellas	248	14.1
Volusia	246	14.0
Alachua	267	15.2
Manatee	305	17.4
Osceola	300	17.1
Total	1,757	100.0

A data dictionary was also established to ensure consistency in the coding process. These “background” data included descriptive data on inmates such as demographics and charge but also items typical to risk assessment instrument such as mental health status and ownership of a phone.

The second data collection effort was conducted about six months later to capture the pretrial failure rates. Specifically each sampled case was examined to see if the defendant had been re-arrested for another crime and/or had a FTA warrant issued by the court. These data were then merged with the earlier “background” data to form a complete file.

Validation Methodology

All potential predictor variables that were collected were first converted into categorical variables and their relationship with pretrial misconduct—defined alternately as new crime commission, failure to appear, or either of the two—was assessed using cross tabulations.⁷ Tables 3 through 6 list the variables and show the results of these bi-variate analyses.

This analysis suggested that a set of core predictors to include in the multivariate analysis. Next, multivariate logistic regressions were used to estimate the relationships between each of the predictors with pretrial misconduct *net* of all the other predictors. The analysis removed some of the predictors resulting in a reduced set of predictors in the pretrial risk models. The net result was that the following 11 factors were identified as having an independent effect on predicting pretrial misconduct.

1. Age at Admission,
2. Current most serious charge,
3. Is current charge 907.041,

⁷ Two additional outcomes—failure to comply and return to custody—were also investigated but were not used to create the final scoring algorithm.

4. Employment status at admission,
5. Marital status,
6. Have a Telephone/Cell phone,
7. Time at Current Residence,
8. History of Sub Abuse and/or Mental Health,
9. Previous FTAs , and
10. Previous Adult Felonies, Previous Adult Misdemeanors.

All of these items are typically found on other pretrial risk assessment instruments.

To develop the weights assigned to each category of the final set of predictors, the marginal increase in pretrial misconduct risk attributable to a particular predictor was computed. The marginal increase is measured relative to the base (or omitted category). For example, if having a prior misdemeanor arrest increased the risk of pretrial misconduct by 2 percentage points (relative to not having this history) then it was assigned a weight of 2. In other words, a defendant who does not have a prior misdemeanor arrest is assigned a weight of "0" and a defendant who does have a prior misdemeanor arrest is assigned a weight of "2". Similar weights are assigned to every category of every predictor included in the final model. Note that the weights are computed from the net effects of the predictor—i.e., controlling for the effects of all other predictors.

**TABLE 3. PRETRIAL RELEASES FROM SAMPLE COUNTIES: FEB. 24 – MAR. 09, 2011
DEMOGRAPHIC INFORMATION**

Characteristic	N	%	% w/ FTA	% w/ New Crime	% w/ FTC	% w/ Return to Custody	% w/ FTA or New Crime
Base	1,757		6.5%	8.4%	3.6%	11.8%	13.7%
Gender							
Male	1,188	67.6%	6.6%	9.2%	4.2%	13.1%	14.4%
Female	555	31.6%	6.3%	6.7%	2.4%	9.0%	12.1%
Race							
White	1,160	66.0%	5.9%	7.9%	4.6%	11.8%	13.0%
Black	532	30.3%	7.7%	9.6%	1.7%	12.0%	15.3%
Other	52	3.0%	9.3%	7.0%	2.3%	9.5%	14.0%
Type of Bond Release							
Cash	183	10.4%	7.1%	6.0%	1.7%	10.1%	12.4%
Surety	731	41.6%	6.7%	8.8%	2.1%	15.2%	14.4%
ROR	682	38.8%	6.7%	8.2%	5.9%	9.7%	13.3%
Other	147	8.4%	3.4%	10.3%	2.8%	6.9%	13.6%
Employment at Admission							
Unemployed	659	37.5%	8.5%	10.3%	4.2%	16.1%	17.3%
Other	1,039	59.1%	5.2%	7.1%	3.3%	9.0%	11.4%
History of Substance Abuse							
No	1,453	82.7%	6.1%	8.1%	3.3%	11.0%	13.1%
Yes	267	15.2%	9.0%	10.1%	6.2%	15.4%	17.1%
Unknown	23	1.3%	0.0%	8.7%	0.0%	13.0%	8.7%
History of Mental Illness							
No	1,488	84.7%	6.3%	7.9%	3.5%	10.9%	13.1%
Yes	215	12.2%	8.4%	9.8%	5.2%	15.6%	15.7%
Unknown	41	2.3%	4.9%	19.5%	0.0%	22.5%	24.4%
Marital Status at Admission							
Single	1,264	71.9%	7.1%	10.0%	4.0%	13.5%	15.6%
Other	480	27.3%	4.8%	4.2%	2.6%	7.2%	8.6%
Have a Telephone/Cell phone							
No	203	11.6%	10.8%	9.9%	2.5%	14.2%	17.6%
Yes	1,505	85.7%	5.8%	8.1%	3.9%	11.4%	12.9%
Unknown	35	2.0%	11.4%	8.6%	0.0%	11.4%	20.0%
Current Charge is 907.041							
No	1,326	75.5%	7.6%	9.2%	4.1%	13.3%	15.3%
Yes	417	23.7%	2.9%	5.8%	2.2%	7.0%	8.4%
Posted Bond Before Seeing Judicial Officer							
No	1,497	85.2%	6.4%	8.6%	4.0%	11.2%	13.7%
Yes	245	13.9%	6.9%	6.6%	0.9%	15.2%	13.0%

TABLE 4
PRETRIAL RELEASES FROM SAMPLE COUNTIES: FEB. 24 – MAR. 09, 2011
MOST SERIOUS CHARGE INFORMATION

Most Serious Charge	N	%	% w/ FTA	% w/ New Crime	% w/ FTC	% w/ Return to Custody	% w/ FTA or New Crime
Base	1,757		6.5%	8.4%	3.6%	11.8%	13.7%
Other violent	105	6.0%	2.9%	9.5%	3.0%	10.9%	11.4%
Assault	46	2.6%	4.3%	10.9%	7.0%	11.9%	13.0%
Battery	443	25.2%	2.9%	7.2%	1.6%	7.4%	9.9%
Drug Sale	47	2.7%	1.8%	15.8%	7.5%	15.1%	17.5%
Drug Poss.	228	13.0%	11.0%	11.8%	6.7%	17.9%	20.9%
Burglary	53	3.0%	7.5%	7.5%	1.9%	11.5%	15.1%
Theft	120	6.8%	3.3%	9.1%	4.2%	13.6%	11.4%
Other property	128	7.3%	7.0%	13.3%	3.9%	14.1%	17.2%
Weapon	24	1.4%	4.2%	12.5%	4.3%	13.0%	12.5%
Driving Suspended License	135	7.7%	14.8%	9.0%	0.8%	12.5%	19.7%
DUI	192	10.9%	2.6%	1.6%	4.2%	6.9%	4.1%
Other non-violent	140	8.0%	9.3%	7.1%	3.7%	12.7%	15.6%
Traffic	13	0.7%	7.7%	7.7%	0.0%	7.7%	15.4%
FTA	38	2.2%	21.1%	5.4%	5.4%	13.2%	26.3%
VOP	17	1.0%	17.6%	0.0%	0.0%	43.8%	17.6%
Unknown	5	0.3%	20.0%	0.0%	40.0%	40.0%	20.0%

TABLE 5
PRETRIAL RELEASES FROM SAMPLE COUNTIES: FEB. 24 – MAR. 09, 2011
AGE AT ADMISSION

Age at Admission	N	%	% w/ FTA	% w/ New Crime	% w/ FTC	% w/ Return to Custody	% w/ FTA or New Crime
Base	1,757		6.5%	8.4%	3.6%	11.8%	13.7%
Unknown	13	0.7%	0.0%	7.7%	0.0%	0.0%	7.7%
19 & younger	188	10.7%	6.9%	8.0%	1.6%	12.1%	13.8%
20-24	427	24.3%	6.8%	8.9%	4.5%	12.6%	14.2%
25-29	303	17.2%	6.3%	11.2%	3.7%	13.5%	16.6%
30-34	204	11.6%	5.4%	6.4%	4.0%	6.6%	10.6%
35-39	136	7.7%	5.9%	4.4%	3.0%	12.2%	10.3%
40-44	143	8.1%	3.5%	4.2%	2.2%	9.6%	7.6%
45-49	119	6.8%	7.6%	9.3%	2.7%	12.4%	14.3%
50-59	160	9.1%	7.5%	11.3%	3.8%	12.7%	16.9%
60-69	38	2.2%	13.2%	5.3%	13.2%	15.8%	18.4%

70 & older	13	0.7%	15.4%	15.4%	0.0%	23.1%	21.4%
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TABLE 6
PRETRIAL RELEASES FROM SAMPLE COUNTIES: FEB. 24 – MAR. 09, 2011
CRIMINAL HISTORY INFORMATION

Characteristic	N	%	% w/ FTA	% w/ New Crime	% w/ FTC	% w/ Return to Custody	% w/ FTA or New Crime
Base	1,757		6.5%	8.4%	3.6%	11.8%	13.7%
Previous FTAs							
None	1,332	75.8%	4.2%	5.6%	2.6%	8.7%	9.8%
One	229	13.0%	10.0%	9.6%	5.3%	14.5%	18.7%
2+	182	10.4%	18.7%	21.0%	8.3%	29.7%	35.5%
Previous Adult Felony							
None	1,386	78.9%	5.6%	6.7%	3.6%	9.6%	11.5%
One	164	9.3%	9.8%	14.0%	2.5%	14.7%	20.7%
2+	193	11.0%	9.8%	15.5%	4.7%	25.0%	23.6%
Previous Misd./Municipal/Traffic							
None	1,075	61.2%	5.4%	5.7%	3.7%	8.3%	10.3%
One	251	14.3%	4.0%	9.6%	2.8%	15.4%	13.0%
2+	418	23.8%	10.8%	14.6%	3.9%	18.4%	22.6%
Time at Current Residence							
12 mos. +	1,115	63.5%	6.1%	7.0%	3.3%	11.4%	11.9%
Under 12 mos.	629	35.8%	7.2%	10.8%	4.2%	12.4%	16.8%
Total Charges at Release							
One	1,195	68.0%	6.1%	8.1%	3.2%	10.6%	13.0%
Two	347	19.7%	7.2%	10.1%	3.5%	13.9%	16.3%
Three+	201	11.4%	7.5%	7.0%	6.7%	15.1%	12.9%

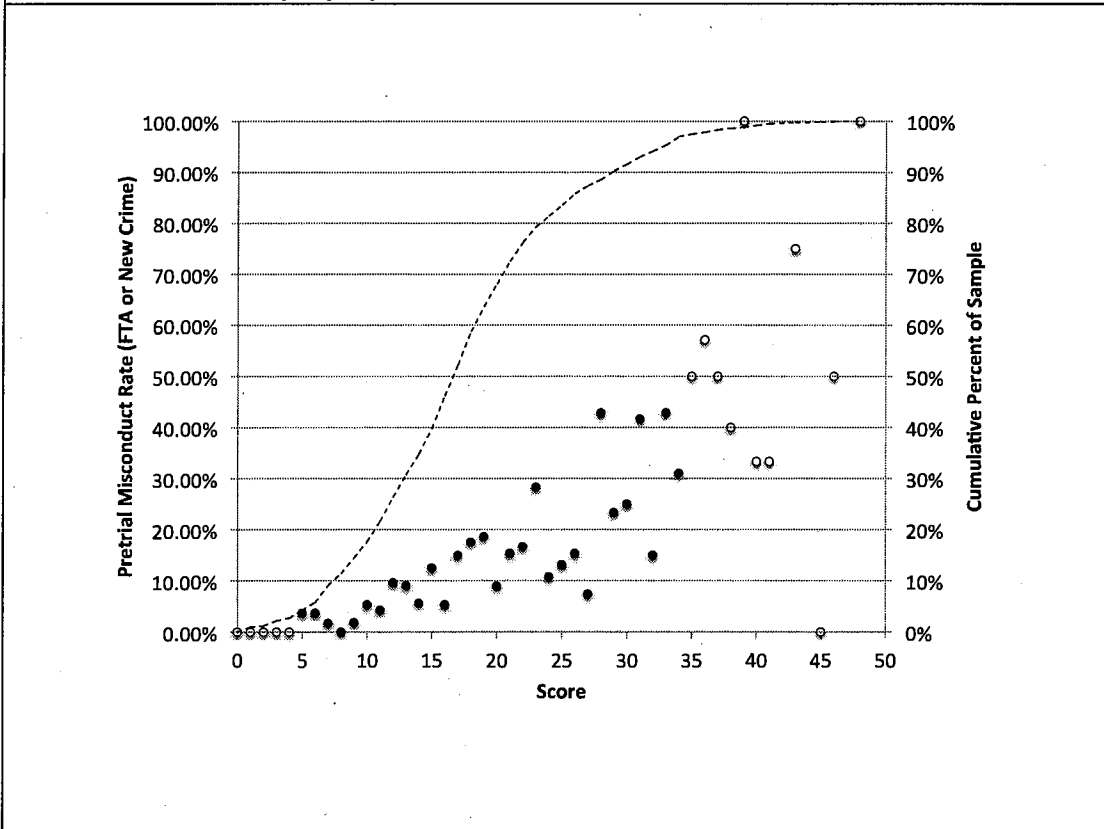
Findings

The final score is computed by summing the weights assigned to all weights in the instrument. The result is a score ranging from a low of "0" to a high of "51." The final score provides a way to rank all defendants on a common scale in terms of their relative risks of pretrial misconduct.

Figure 1 shows the pretrial misconduct rates of defendants scoring various points on this scale. The left scale measures recidivism rates (shown as filled or hollow circles) and the right scale measures the cumulative sample proportions. As is evident, the misconduct rate increases as the score increase. The hollow circles reflect cells with very small size (less than 20). The dotted line—measuring cumulative sample proportions—shows, for example, that

about half the sample scored on or below 16 on this scale. Almost 90% of the sample scored on or below 28 on this scale.

Figure 1: Diagnostic plots of misconduct rate by points on the risk assessment scale with cumulative sample proportions.

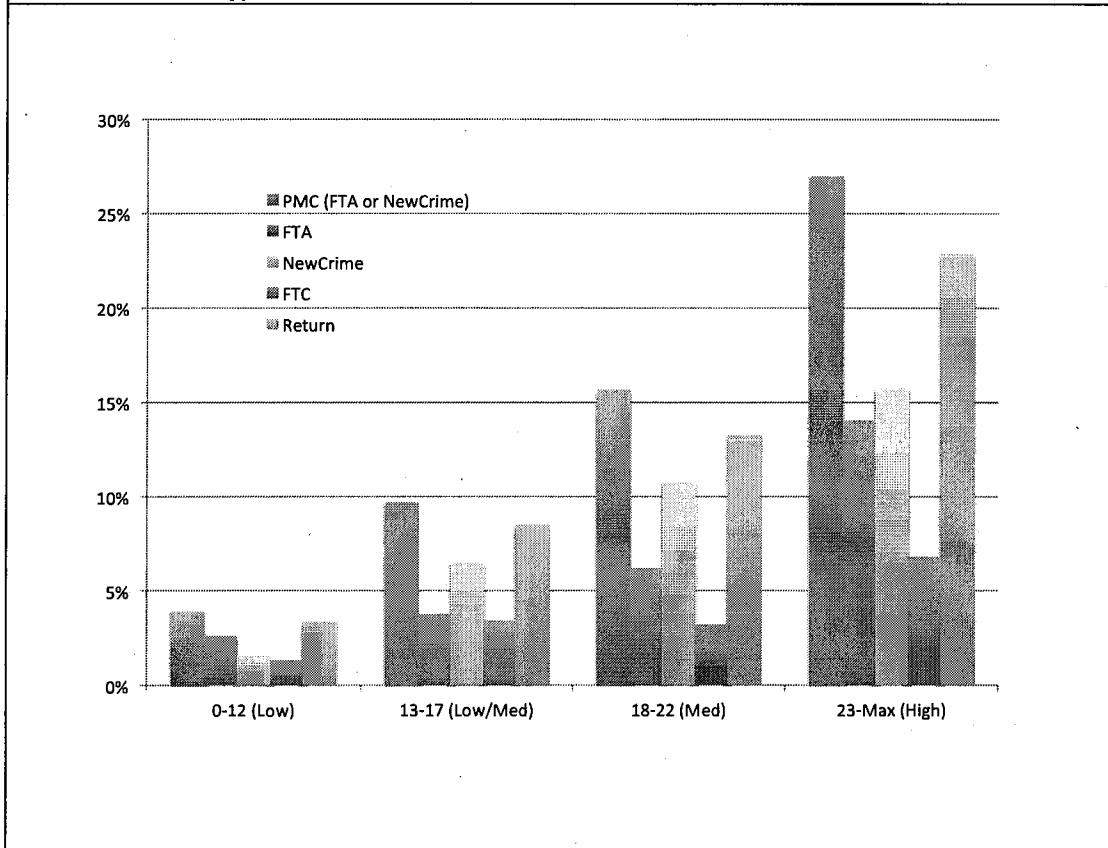


Based on these distributions, a 4-quartile classification scheme was tested. The sample was almost evenly split into 4 groups in increasing order on the scale. These were classified into four categories according to their probabilities of failure on pretrial release, with Category 1 having the highest probability of failure and Category 4 as the lowest rate of failure.⁸ The base failure rate (the pretrial failure rate in the sample as a whole) was 13%. The classification strategy suggests that the Category 1 group had a failure rate of just 4%, the Category 2 group of 10%, the Category 3 group of 16%, and the Category 4 group of 26%. (See Figure 2.)

One should note that the use of categories may be preferable to risk level labels like “low”, “low moderate”, “moderate” and “high” given the overall low failure rates. For example, people assigned to category 4 are not really “high” risk since the vast majority do not FTA or get re-arrested.

⁸ Note, this is merely a diagnostic analysis. While implementing this tool, an agency might decide to use different cut points based, for example, on minimal acceptable misconduct levels.

Figure 2: Pretrial misconduct rates, by quartile classification scheme (outcomes include pretrial misconduct, new crimes, failure to appear, failure to comply, and return to custody).



Two scoring items included in the instrument are worth specific discussion. The first is 'Current most serious charge'. This item was produced by aggregating individual crime charges into four major categories (see Table 6). The aggregated charge categories provide both an easier scoring item to use and stronger correlations with the failure rates.

The second item of note is 'History of substance abuse and/or mental health problems'. This item is also an aggregate of two separate scoring items of substance abuse and mental health problems. Combining the presence of for either item into a single composite item simplifies the scoring process and enhances the association with pretrial failure. (see Table 7).

Table 7. Failure Rates by Aggregate Levels of Failure

Charge	% w/ FTA	% w/ New Crime	% w/ FTA or New Crime
Base Rate	6.5%	8.4%	13.7%
Violent	3.0%	7.9%	10.4%
Drug	9.1%	12.6%	20.2%
Property	5.6%	10.6%	14.5%
Other non-violent	9.2%	5.5%	13.3%
Mental health or substance abuse	8.3%	9.5%	15.5%
Both	11.3%	12.5%	22.2%

Florida Pretrial Misconduct Risk Assessment Instrument

1 Age at Admission			
19 or younger	1	<input type="checkbox"/>	
20 --- 29	2	<input type="checkbox"/>	
30 or older	0	<input type="checkbox"/>	
2 Current most serious charge			
Violent	1	<input type="checkbox"/>	
Drug	2	<input type="checkbox"/>	
Property	4	<input type="checkbox"/>	
Other	0	<input type="checkbox"/>	
3 Is current charge 907.041			
Yes	0	<input type="checkbox"/>	
No	5	<input type="checkbox"/>	
4 Employment status at admission			
Unemployed	3	<input type="checkbox"/>	
Other	0	<input type="checkbox"/>	
5 Marital status			
Single	6	<input type="checkbox"/>	
Other	0	<input type="checkbox"/>	
6 Have a Telephone/Cell phone			
Yes	0	<input type="checkbox"/>	
No/Missing/Unknown	4	<input type="checkbox"/>	
7 Time at Current Residence			
12 months or more	0	<input type="checkbox"/>	
Under 12 months	5	<input type="checkbox"/>	
8 History of Sub Abuse and/or Mental Health			
Neither	0	<input type="checkbox"/>	
Substance Abuse	1	<input type="checkbox"/>	
Mental Health	1	<input type="checkbox"/>	
Both	4	<input type="checkbox"/>	
9 Previous FTAs			
None	0	<input type="checkbox"/>	
One	6	<input type="checkbox"/>	
Two or more	14	<input type="checkbox"/>	
10 Previous Adult Felonies			
None	0	<input type="checkbox"/>	
One or more	2	<input type="checkbox"/>	
11 Previous Adult Misdemeanors			
None	0	<input type="checkbox"/>	
One or more	2	<input type="checkbox"/>	
Total Score =		<input type="checkbox"/>	

Low Risk/Category 1 = 0 to 12 points

Low Moderate/Category 2 = 13 to 17 points

Moderate/Category 3 = 18 to 22 points

High Moderate/Category 4 = > 22 points

Summary and Conclusion

This study has shown that defendants in the six Florida counties can be sorted successfully into groups that show their probabilities of success on pretrial release, with success defined as not being rearrested on new charges and appearing for all court dates. The average success rate of defendants in the study was 87%, with two groups identified as having success rates above that average and two groups with rates below it.

Through the use of the risk assessment instrument validated here, pretrial services programs in these six counties can confidently provide their courts with the probabilities of success on pretrial release of all defendants who are assessed, and can tailor supervision strategies to correspond to the levels of risk. Those with the highest probabilities of success might be good candidates for a recommendation for release on recognizance. For those with lower probabilities of success, the pretrial services programs might need to recommend supervision levels appropriate to the identified risk levels.

Moreover, as the pretrial risk assessment research conducted in Virginia suggests, other Florida counties can use the instrument as well, with a reasonable expectation that it would be valid for their populations. While follow-up research would be needed ultimately to confirm the instrument's validity outside the six counties studied here, that research can be simplified by focusing only on the 11 factors comprising this risk assessment instrument.

Currently, 28 Florida counties have a pretrial services program that gathers information about defendants before the initial pretrial release hearing and makes a recommendation to the court regarding release. Those programs can incorporate this risk assessment instrument into their procedures for making recommendations. While the remaining 39 counties in the state do not currently have a pretrial services program, each of these counties has a process for pretrial release decision making. This risk assessment instrument can also be used to assist in that process in those counties.

Finally, this instrument can now also be used as a tool to help manage the pretrial populations in the county jails to assure that expensive detention space is being used for those with the lowest probabilities of success on pretrial release. If large numbers of detained defendants fall into categories of very high probabilities of success on pretrial release, efforts can be made to facilitate the release of these individuals, where appropriate. This, in turn, may provide an opportunity for significant cost savings to counties. For example, a recent study done by Florida State University found that in one county – Broward – the cost of supervising a

defendant in the community on pretrial release was \$1.48 per defendant per day, compared to a daily cost of \$107.71 for housing a defendant in the Broward County Jail.⁹

⁹ Alex Piquero, *Cost-Benefit Analysis for Jail and Alternatives to Jail*, Tallahassee, Florida, Florida State University, 2010.

**Appendix
Data Items Collected**

County
Defendant's Mutually Exclusive ID Number
Date of Birth
Gender
Race
Ethnicity
Jail Admission Date
Jail Release Date
Type of Bond/Release
Pretrial Supervision
Primary Current Charge #1 Description at Release
Primary Current Charge #1 Level at Release
Primary Current Charge #1 Bail Amount at Release
Primary Current Charge #2 Description at Release
Primary Current Charge #2 Level at Release
Primary Current Charge #2 Bail Amount at Release
Primary Current Charge #3 Description at Release
Primary Current Charge #3 Level at Release
Primary Current Charge #3 Bail Amount at Release
Total Number of Charges at Release
Number of Prior FTAs in the Past 7 Years
Number of Adult Felony Convictions in the Past 7 Years
Number of Adult Misdemeanor, Criminal Traffic, & Municipal Ordinance Convictions in the Past 7 Years
Length of Time in Months at Primary/Current Residence at Time of Jail Admission
Employment Status at Time of Jail Admission
History of Substance Abuse History of Mental Health Issues
Marital Status at Time of Jail Admission
Have a Telephone/Cell Phone at Time of Jail Admission?
Is Current Charge 907.041?
Did defendant post bond before seeing a judicial officer?

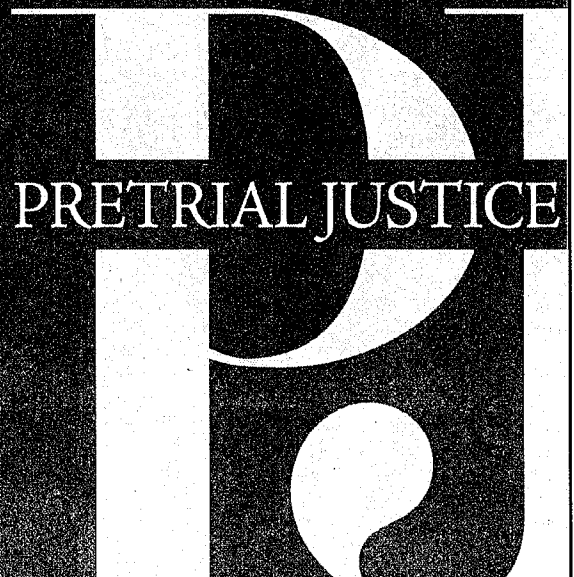
TAB 22



**VALIDATION OF THE COCONINO COUNTY
PRETRIAL RISK ASSESSMENT TOOL**

David J. Levin, Ph.D., Consultant, Pretrial Justice Institute

August 2010



ACKNOWLEDGEMENTS

This study was made possible through a matching grant from the State Justice Institute with the Coconino County Superior Court.

PJI wishes to acknowledge Mary Walsh-Navarro, Director of the Coconino County Pretrial Services, and her staff, for their hard work and dedication in the monumental task of gathering the data required for this analysis, and assuring its accuracy.

ABSTRACT

The goal of this analysis was to determine whether the risk assessment instrument used by the Coconino County Pretrial Services is a valid predictor of the likelihood of a defendant on pretrial release failing to appear in court or being rearrested on a new charge while the initial charge was pending. The findings indicate that the instrument is not efficient at predicting either form of pretrial misconduct. No correlation was found between most of the variables included in the instrument and the outcomes of failure to appear or rearrest. Efforts to identify which variables were related using multivariate models proved untenable given problems with selection bias, resulting from the fact that only about half the defendants in the study sample were released during the pretrial period. When release rates are so low, it is not possible to identify the variation between low, medium, and high risk defendants. As a result of these selection bias problems, a new risk assessment instrument was constructed based upon research-based findings from other jurisdictions. Simulations run on the new instrument show that it is successful in sorting out Coconino County defendants by risk level. The simulations also show that no significant additional risk would be incurred by releasing defendants currently not released who resemble defendants who currently are released.

INTRODUCTION

Pretrial risk assessment instruments have been in existence for 50 years. For many years, these instruments were implemented in jurisdictions with simply the assumption that they were effective in sorting defendants into categories of risk of failure to appear (FTA) in court and rearrest on new charges. Generally, they were based upon intuition, not research. In more recent years, calls for evidence-based practices in a wide range of criminal justice endeavors has put pressure on pretrial services programs to establish, through good science, whether the tools they use to assess risks are valid, and, if not, to identify the factors that are.

The Coconino County Criminal Justice Coordinating Council identified as a high priority the validation of the risk assessment matrix used by the Coconino County Pretrial Services. The program has been using the existing risk assessment matrix for over a decade. The instrument takes into account two types of risk: danger to the community (rearrest for a new offense) and flight risk/failure to appear in court for the next hearing in the current case (FTA). The current risk assessment matrix takes over 30 factors into consideration.

This report presents the findings of an analysis of that instrument, testing to see if it is a valid measure of the risks posed by Coconino County pretrial defendants. The report is divided into several sections. The first describes the sample that was used to conduct the study. The second compares the characteristics of the Coconino County sample with defendants from other recent studies. The third section presents the analysis of the validity of the current Coconino County pretrial risk assessment study. The fourth presents a new, research-based risk assessment instrument for Coconino County Pretrial Services. The final section has some concluding thoughts.

THE SAMPLE

Sampling Method

PJI requested a list from the Coconino County pretrial services agency of all felony and misdemeanor defendants who had their first court appearance between February 9, 2009 and February 3, 2010. This time period was selected because it would allow about six months for the most recent cases – those filed in the first week of February 2010 – to reach final disposition before analysis would begin. Over 91% of the sampled cases reached final adjudication at the time that Pretrial Services submitted the final data base to PJI. This is more than adequate to ensure that we will not have findings tainted by censoring effects where some defendants have incomplete exposure to the treatment (i.e., the release).

Coconino County Pretrial Services supplied a list of 387 defendants to PJI. The list was comprised of the automated data collected in MS Excel by Pretrial Services during its regular screening process, plus additional variables on substance abuse and pretrial release outcomes that were agreed upon by PJI and Pretrial Services as supplements to the data. Upon receipt, PJI converted the MS Excel file to a Statistical Package for the Social Sciences (SPSS) datafile and a STATA datafile for analyses.

Descriptive Statistics

Table 1 shows the demographic characteristics of the sample. Nearly three-quarters of the defendants are over the age of 25. Over two-thirds have a GED or high school diploma, but no postsecondary education. The majority is employed at arrest. Approximately 20% are from out of state. Just over 10% are transients. The preponderance of defendants has resided in the same state for more than 5 years. Defendants tend not to be property owners, with the most likely form of ownership being a vehicle. Just fewer than three-quarters of defendants have a phone.

Table 1
Socio-Demographic Characteristics of Risk Assessment Validation Study Sample

	N	%
Age		
20 or Younger	36	9.3
21 to 24	63	16.3
25 to 35	143	37.0
More than 35	144	37.3
Education		
Non High School Graduate	90	23.4
High School or GED	256	66.5
College AA or Partial College	28	7.3
Four Year College Degree	11	2.9
Employment		
6 Mo. at Same Job	111	28.8
Less than 6 Mo.	114	29.5
Unemployed	161	41.7
Residential Stability		
1 Address Past 12 Mo.	180	46.8
2 or more Addresses Past 12 Mo.	124	32.2
No AZ Address	81	21.0
Living Arrangements		
Lives with Family Past 12 Mo.	73	18.9
Other Living Arrangement	271	70.2
Transient	42	10.9
Time in Geographical Area		
Less than 3 Years	48	12.4
3 to 5 Years	24	6.2
5 to 20 Years	79	20.4
20 Years or More	236	61.0
Property Ownership (Only "Yes" Responses Shown)		
Owens or is buying home/business (Danger Scale)	47	12.1
Owens or is buying home/business (Flight Scale)	54	14.0
Owens Vehicle	140	36.2
Has Access to Vehicle	147	38.0
Phone Access		
Phone in Defendant's Name	209	54.0
Pay-Per-Use Mobile	73	18.9
No Phone	105	27.1

Table 2 details the offense characteristics that brought the defendant before the court. No defendants were currently under arrest for a class 1 felony, and the largest fraction of defendants (27.6%) had only a misdemeanor current arrest. Over three-quarters of defendants had no more than three charges in their current arrest. A quarter of defendants had a current arrest where drugs were involved, just over 10% where weapons were involved, and about a third where violence was involved. Approximately one out of every five defendants had a current charge that was a warrant.

Table 2
Current Offense Characteristics

	N	%
Most Serious Charge		
Class 1 Felony	0	0
Class 2 Felony	83	21.4
Class 3 Felony	43	11.1
Class 4 Felony	63	16.3
Class 5 Felony	41	10.6
Class 6 Felony	49	12.7
Misdemeanor	107	27.6
Number of Charge Counts		
1	111	28.8
2	111	28.8
3	68	17.6
4	46	11.9
5 or More	50	13.0
Drugs Involved		
Yes	98	25.3
No	289	74.7
Drug Sale		
Yes	64	16.5
No	323	83.5
Weapon Involved		
Yes	43	11.1
No	344	88.9
Violent Crime		
Yes	121	31.3
No	266	68.7
Victim Injured		
Yes	50	12.9
No	337	87.1
Current Charge is a Warrant		
Yes	81	20.9
No	306	79.1

Table 3 shows the prior criminal history of the sample. The vast majority of defendants have no prior prison time. On the other hand, nearly 4 out of 5 defendants have a prior misdemeanor and 2 out of every 5 defendants have a prior felony. Roughly half of the defendants have a prior failure to appear. Just less than two-thirds of defendants have a prior failure to comply.

Table 3
Prior Criminal History

	N	%
Prior Prison Time		
Yes	85	22.0
No	302	78.0
Prior Misdemeanor Charges		
None	82	21.1
0-3 Nonviolent Misdemeanor or 1 Violent	79	20.4
4-10 Nonviolent Misdemeanor or 2 Violent	91	23.5
Over 10 Misdemeanors	135	34.9
Prior Felony Charges		
None	152	39.3
1-3 Felony Charges	94	24.3
4-10 Felony Charges	75	19.4
Over 10 Felony Charges	66	17.1
Prior Failure to Appear		
Yes	184	47.5
No	203	52.5
Prior Failure to Comply		
Yes	137	64.6
No	250	35.4

Table 4 depicts the current involvement of Coconino County defendants with the criminal justice system. Most defendants have only limited involvement with the criminal justice system. But 36% had a pending case when arrested for the instant charge. Thus, over a third are already exhibiting signs of risks defendants, because they come into the study by being active pretrial rearrests.

**Table 4
Current Involvement with the Criminal Justice System**

	N	%
On Probation or Parole at Arrest		
Yes	46	11.9
No	341	88.1
Pending Case at Arrest		
Yes	140	36.2
No	237	63.8
Active Warrant at Arrest		
Yes	56	14.5
No	331	85.5
Turned Self in for Arrest		
Yes	5	1.3
No	382	98.7

Table 5 describes the prevalence of substance abuse among Coconino County pretrial defendants. Just under half of defendants reported using alcohol. About one in ten defendants reported using drugs. About one in five defendants said that they have been previously treated for substance abuse.

**Table 5
Alcohol/ Drug Treatment**

	N	%
Currently Uses Alcohol		
Yes	207	46.5
No	180	53.5
Currently Uses Drugs		
Yes	44	11.4
No	343	88.6
Ever Been Treated for Substance Abuse		
Yes	83	21.4
No	304	78.6

Table 6 depicts the assessments made by the current Coconino County risk assessment matrix. Before discussing the data in the table, however, some discussion about the matrix is needed. The matrix score is not a simple summation of the flight risk and dangerousness risk score. Rather, the total risk score is a location on a matrix grid of two dimensions: flight risk in the vertical and dangerousness in the horizontal. The matrix ranges from

cells/points 1 to 400, with cell 1 having a 0,0 set of flight and dangerousness scores and cell 400 having a 19, 19 set of flight and dangerousness scores.¹ The matrix treats the values for each element of risk in the same manner, with the boundaries for each risk recommendation category forming a diagonal through the matrix.

	R I S K O F R E A R R E S T																				
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	
R	0	1	3	6	10	15	21	28	36	45	55	66	78	91	105	120	136	153	171	190	210
I	1	2	5	9	14	20	27	35	44	54	65	77	90	104	119	135	152	170	189	209	229
S	2	4	8	13	19	26	34	43	53	64	76	89	103	118	134	151	169	188	208	228	247
K	3	7	12	18	25	33	42	52	63	75	88	102	117	133	150	168	187	207	227	246	264
O	4	11	17	24	32	41	51	62	74	87	101	116	132	149	167	186	206	226	245	263	280
F	5	16	23	31	40	50	61	73	86	100	115	131	148	166	185	205	225	244	262	279	295
R	6	22	30	39	49	60	72	85	99	114	130	147	165	184	204	224	243	261	278	294	309
E	7	29	38	48	59	71	84	98	113	129	146	164	183	203	223	242	260	277	293	308	322
A	8	37	47	58	70	83	97	112	128	145	163	182	202	222	241	259	276	292	307	321	334
R	9	46	57	69	82	96	111	127	144	162	181	201	221	240	258	275	291	306	320	333	345
R	10	56	68	81	95	110	126	143	161	180	200	220	239	257	274	290	305	319	332	344	355
E	11	67	80	94	109	125	142	160	179	199	219	238	256	273	289	304	318	331	343	354	364
S	12	79	93	108	124	141	159	178	198	218	237	255	272	288	303	317	330	342	353	363	372
T	13	92	107	123	140	158	177	197	217	236	254	271	287	302	316	329	341	352	362	371	379
R	14	106	122	139	157	176	196	216	235	253	270	286	301	315	328	340	351	361	370	378	385
E	15	121	138	156	175	195	215	234	252	269	285	300	314	327	339	350	360	369	377	384	390
R	16	137	155	174	194	214	233	251	268	284	299	313	326	338	349	359	368	376	383	389	394
S	17	154	173	193	213	232	250	267	283	298	312	325	337	348	358	367	375	382	388	393	397
T	18	172	192	212	231	249	266	282	297	311	324	336	347	357	366	374	381	387	392	396	399
R	19	191	211	230	248	265	281	296	310	323	335	346	356	365	373	380	386	391	395	398	400

Legend:

No Fill = ROR
Yellow Fill = LEVEL 1

Orange Fill = LEVEL 2
Green Fill = LEVEL 3

Pink Fill = LEVEL 4
Blue Fill = NOR

¹ Nearly 36% of defendants exceeded the matrix range cap of 400 and were assigned a score of "500" to denote that their total risk level was so high that they "went off the grid." That over a third of defendants went off the grid is not surprising when one realizes that the grid has rather low caps (19 out of 155) on the highest point value expected for each element of risk.

Level 5-Blue Fill defendants are of special interest as these defendants technically are to have to "no release recommendation made due to high risk." As can be seen in the total risk section of Table 6, 54% of defendants fall into this "no release recommendation" category. This leads one to ask, what element of risk is driving the "no recommendation made due to high risk" assessments? The answer is the dangerousness risk element of the current risk matrix. The potential scores for both the flight risk and the dangerousness risk vary between -6 and 150². However, we see that pretrial defendants are much more likely to score higher on the dangerousness risk element at every level of the total risk score.

Another way to express this is to compute a summative total risk measure and compute the fraction of the total risk contributed by each of the two separate elements of risk. While the summative score is not identical to the matrix score, it behaves similarly³ and can serve as a good way to demonstrate the magnitude of the contribution of each element of risk to the matrix derived total risk score. As table 6 shows, on average, two-thirds of the summative version total risk is driven by dangerousness. Moreover, the lower the summative total risk, the more it is driven by the dangerousness element. This suggests that what the current Coconino County risk assessment is designed to measure is not failure to appear, but rearrest.

Given the extensive criminal histories and the predominance of felony defendants in the sample, a typical dangerousness risk assessment would not recommend for release many defendants. This is what we see in the results from Coconino County's total risk assessment. It is worth noting that there is a distinct break in both the flight risk and the dangerousness risk scores between defendants who were classified as fit candidates for non-financial release and those for whom the pretrial risk assessment dictates not issuing a recommendation due to these defendants' high level of risk. This suggests that the current risk assessment has discriminant validity - the ability to distinguish between various categories of interest to the analyst/risk assessor.

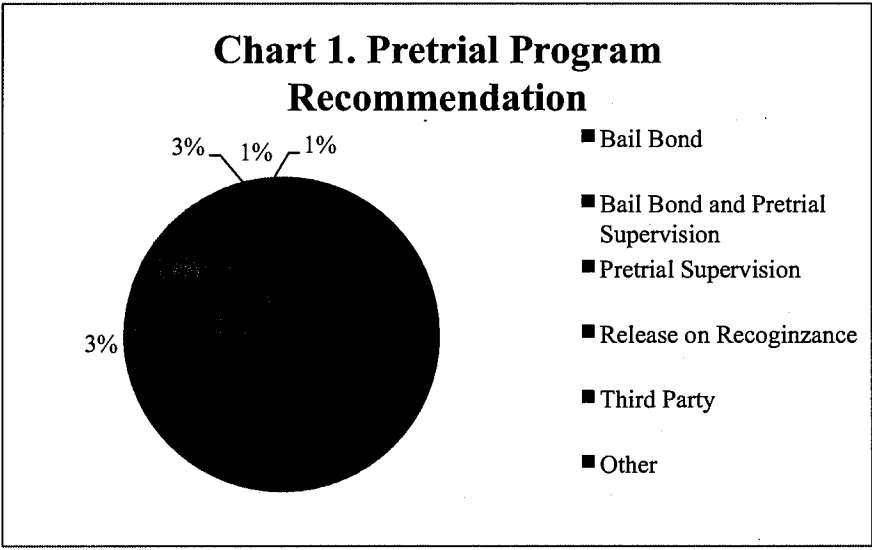
² The maximum score for flight risk is 152 and the maximum score for dangerousness risk is 150.

³ The two total risk scores are correlated at .787 overall, and when one looks at the cases that are not artificially capped with "500" in the matrix total risk score, they are correlated at .984. The maximum correlation possible is 1. Either way one analyzes the relationship, the two total risk scores are statistically significantly correlated - that is, they would be correlated in 95 or more samples of Coconino County defendants out of 100 randomly drawn samples.

**Table 6
Pretrial Release Risk Assessment Scores**

	N	%
Total Risk (Flight & Dangerousness Combined)		
Release on Recognizance-No Fill (1-45 points)	61	15.8
Level 1-Yellow Fill (46-62 points)	18	4.7
Level 2-Orange Fill (63-120 points)	45	11.3
Level 3-Green Fill (121-193 points)	43	11.1
Level 4-Pink Fill (194-210 points)	11	2.8
Level 5-Blue Fill (211 to 400 points)	209	54.0
	Mean	Median
Flight Risk		
Release on Recognizance-No Fill (1-45 points)	1.49	0.0
Level 1-Yellow Fill (46-62 points)	2.28	2.0
Level 2-Orange Fill (63-120 points)	3.38	2.0
Level 3-Green Fill (121-193 points)	5.26	6.0
Level 4-Pink Fill (194-210 points)	8.09	9.0
Level 5-Blue Fill (211 to 400 points)	15.73	10.0
All Levels	10.04	6.0
	Mean	Median
Dangerousness Risk		
Release on Recognizance-No Fill (1-45 points)	3.43	4.0
Level 1-Yellow Fill (46-62 points)	6.72	6.5
Level 2-Orange Fill (63-120 points)	8.40	8.0
Level 3-Green Fill (121-193 points)	11.21	11.0
Level 4-Pink Fill (194-210 points)	10.91	10.0
Level 5-Blue Fill (211 to 400 points)	21.44	19.0
All Levels	14.96	13.0
	Mean	Median
Mean Percentage from Each Component of Risk		
Release on Recognizance-No Fill (1-45 points)	28.81	71.19
Level 1-Yellow Fill (46-62 points)	24.57	75.43
Level 2-Orange Fill (63-120 points)	27.99	72.01
Level 3-Green Fill (121-193 points)	32.09	67.91
Level 4-Pink Fill (194-210 points)	42.58	57.42
Level 5-Blue Fill (211 to 400 points)	37.29	62.71
All Levels	33.85	66.15

As we will see in Charts 1 and 2, the risk assessment classification is not identical to the pretrial program's recommendation. Chart 1 indicates that nearly three-quarters of defendants were recommended as candidates for financial release. The next largest group was recommended for pretrial supervision.



Like most pretrial programs across the nation, Coconino County's risk assessment scale does not have a "no release" category for defendants for whom no conditions or combination of conditions can reasonably assure community safety or appearance in court. Without such a category, it is not unreasonable to expect that the pretrial program will choose to recommend a form of financial release as an alternative to not issuing any recommendation at all for high-risk defendants. As we will see in Chart 2, the pretrial program does exactly that.

Chart 2 shows the risk assessment categorization by the recommendation made by the pretrial program. For every level of the risk assessment, the predominant recommendation was financial release (bail bond). If the pretrial program were making recommendations strictly according to the risk assessment, the financial release category would have the form of an inverted stair, taking an ever smaller fraction of each risk assessment categorization as one progresses from the highest risk to the lowest level of risk. We see a very weak form of this in Chart 2. This shows that the pretrial program was taking additional considerations into account beyond the risk assessment score.

Chart 2. Pretrial Risk Score Assessment by Pretrial Recommendation

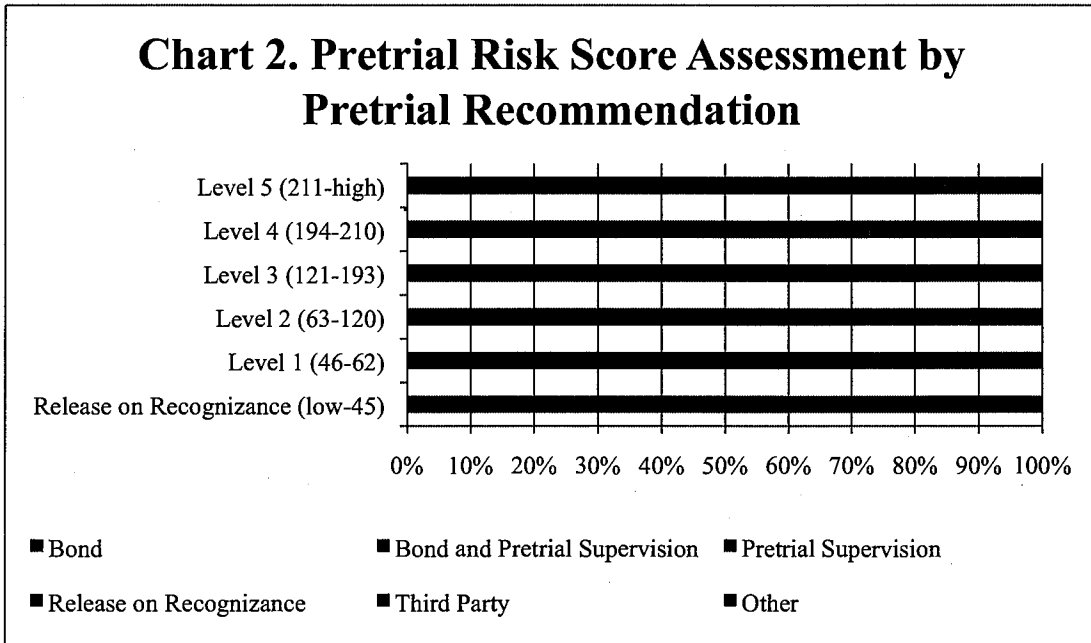


Chart 3 shows the release status of defendants. As the chart shows, almost half the defendants (47%) did not obtain release of any kind – financial or non-financial – during the pretrial period.

Chart 3. Release Status During Pretrial Period

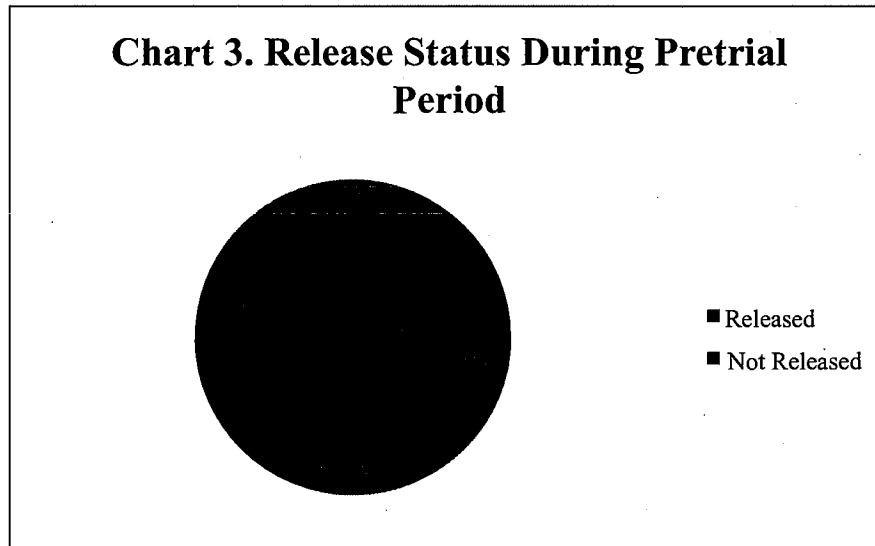


Chart 4 depicts the type of pretrial release for those defendants who were released. Nearly equal amounts of released pretrial defendants were released on recognizance and pretrial

supervision (38% vs. 39%), while only 19% of released pretrial defendants were released on bail bond.

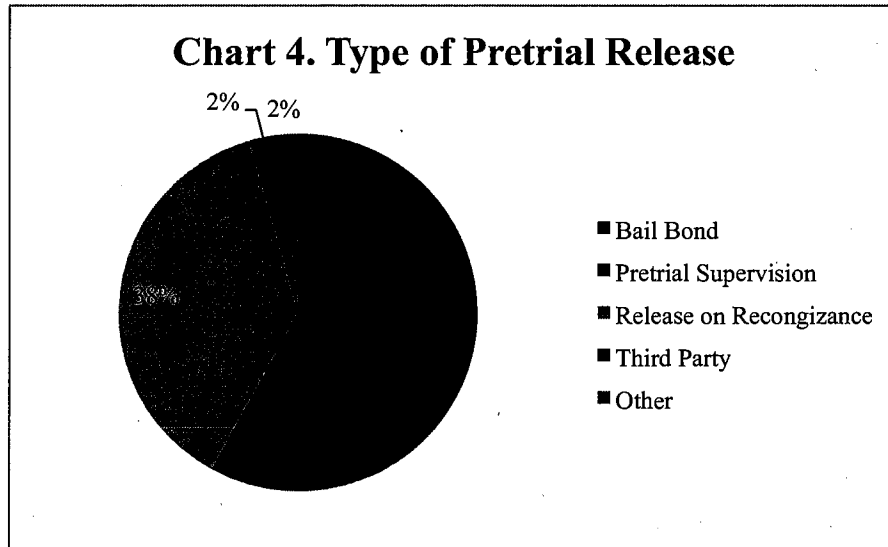


Chart 5 shows how the risk assessment classification and the release status/type compare. Release status and type do follow similar patterns to the risk classification. The highest risk defendants are the least likely to be released and the least likely to be put on release on recognizance. The lowest risk defendants are the defendants most likely to be put on release on recognizance and the least likely to be held without pretrial release. What is problematic is the distribution of release on recognizance and pretrial supervision for "mid-level" (levels 1-4) defendants. If the risk assessment was being strictly implemented, we would see that Level 4 defendants would be more likely than Levels 3, 2, and 1 defendants to be placed on pretrial supervision and less likely to be placed on release on recognizance. The exact opposite of this is occurring.

Chart 5. Risk Assessment Classification by Release Status/Type

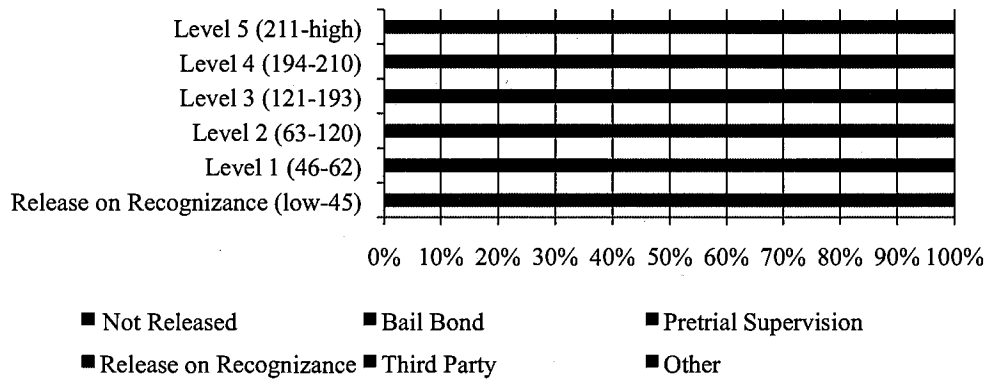


Chart 6 shows how often the pretrial program's recommendation was at variance with the release status of the defendant. Over half of the time when a financial release was recommended, the final release status was a non-release. Eleven percent of those recommended for financial release were placed on financial release. In fact, defendants recommended for financial release were more likely to be placed on pretrial supervision (17%) than financial release.

Defendants recommended for pretrial supervision were just slightly more likely to be placed on pretrial supervision (35%) than they were to be placed on release on recognizance (27%) or not released (27%). Nearly 10% of those recommended for release on recognizance were not released and nearly 20% were placed on pretrial supervision.

We cannot know from the data what precisely the court's decision was, as we are unable to distinguish between a non-release due to inability to make bail versus the court's decision to not release a defendant under any conditions. But we can draw some clear conclusions. Chart 6 shows substantial variation between the court's use of pretrial supervision and the pretrial program's recommendation. Chart 6 also suggests that the courts are not taking the pretrial programs request that a defendant not be placed on financial release as dispositive.

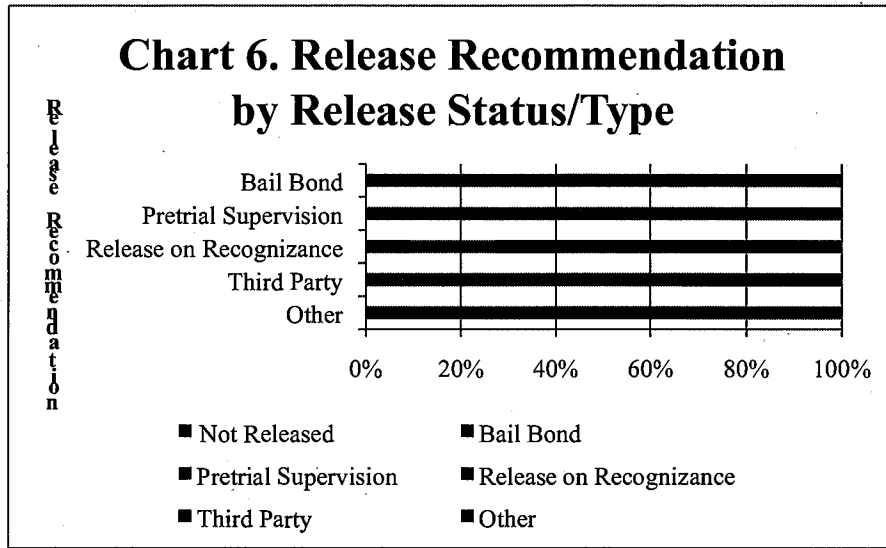


Table 7 indicates that overall, there were low levels of failure to appear (10.7%), rearrest (13.7%) or a composite failure for either type of failure (20.5%).

**Table 7
Conduct on Pretrial Release**

	N	%
Defendant Failed to Appear		
Yes	22	10.7
No	183	89.3
Defendant was Rearrested		
Yes	28	13.7
No	177	86.3
Any Pretrial Misconduct		
Yes	42	20.5
No	162	79.5

COMPARISON OF THESE FINDINGS WITH DATA FROM OTHER JURISDICTIONS

Previous reviews of the state of the art in pretrial risk assessments (VanNostrand 2007) have decried the tendency to treat each jurisdiction de novo, as if no useful information can be gleaned by comparing defendants in the immediate study to defendants in other studies. In point of fact, comparisons can serve an extremely useful purpose: to determine if the defendants in the current study systematically differ from defendants in other studies which would make them less likely to be predictable according to currently known predictive factors of pretrial misconduct. To this end, this section presents a comparative review of defendants in this sample to defendants in other recent studies, including a review of felony defendants in the nation's 75 largest urban counties and several major pretrial risk assessment validation studies conducted over the last decade for the state of Virginia (2003 & 2009), Hennepin, MN (2006), Maricopa, AZ (1999), New York City, NY (2003) and Allegheny, PA (2008).

A word of caution is necessary before proceeding with the comparisons. Unlike many of the jurisdictions where other risk assessment validation studies have been recently conducted, the Coconino County program targets all felonies, but only selected misdemeanors, such as DV and DUI cases. The program does not deal with most misdemeanors. This makes it distinct from the other jurisdictions such as Allegheny, PA, Hennepin, MN, and New York City, NY where the pretrial program reviews virtually all felony defendants and misdemeanants they can within staffing constraints. The state of Virginia's system takes this approach to a slightly narrower target population by stating that it is charged to conduct reviews for all defendants who are not charged with an offense punishable by death are reviewed for consideration for pretrial release. As a result, we should expect that our comparisons would reveal that the defendants reviewed in Coconino County would be more likely to be charged with felonies than defendants reviewed in other jurisdictions. This is not indicative that Coconino defendants are charged with more severe offenses, but only reflective of the Coconino County pretrial program's decision not to limit its target population.

Age

Coconino County pretrial defendants are sociodemographically similar in many respects to local pretrial defendants nationwide. Thirty-eight percent of felony defendants in the State Court Processing Statistics review of the nations' 75 largest counties are age 35 and older, while in Coconino County 37.3% of defendants are age 35 and older. However, Coconino County defendants are more likely to be between 25 and 35 than the local felony pretrial defendants in the nation's 75 largest counties (37% vs. 29%).

Education and Employment

Coconino County defendants share in common with VA and Allegheny, PA pretrial defendants that most completed high school, although over 60% of Coconino County defendants completed their high school or GED degree, making them slightly more educated than their counterparts in VA and Allegheny, PA. Similar to VA defendants,

Hennepin, MN defendants and New York City (NYC) defendants, around 40% of Coconino County defendants were unemployed (41.7% versus 36% in VA, 39% in Hennepin, MN, and 53% NYC). Coconino County defendants are slightly more likely to be transient than VA defendants (10.9% vs. 5%).

Community Ties

Coconino County defendants are much less likely than NYC or Allegheny, PA defendants to live with family (18.9% Coconino County, 60% NYC, and 47% Allegheny, PA). Unlike any other study's defendants, over 60% of Coconino County defendants were most likely to be residents of the same geographical area for over 20 years, an unusually long time. In VA the median time for defendants living in the same area is 15 years and in Allegheny, PA only 56% were country residents for more than 5 years. This may be a definitional matter though. Coconino defines "living in the same geographical area" as continuous residency in the same state. No other jurisdiction does this.

Property Ownership/Access

Almost identical to the 12% Allegheny, PA pretrial defendants who owned a home, 12.1 to 14.% of Coconino County pretrial defendants owned a home or business. Identical to VA pretrial defendants, 38% of Coconino County pretrial defendants had access to a vehicle. Like VA and NYC pretrial defendants, over 70% of Coconino County pretrial defendants had a phone (72.9% Coconino County, 76% VA, 74% NYC).

Given the similarities of Coconino County pretrial defendants to those in recent studies in that shaped the state-of-the-art in pretrial risk assessment scales during the last decade, we can reasonably expect to find that similar less complicated risk assessment instruments developed for those jurisdictions should be able to provide substantial leverage in predicting risk of flight and danger to the community in Coconino County.

Current Charge

While we saw that Coconino County defendants in this study are sociodemographically similar to defendants in other pretrial risk assessment studies, they are not similar to defendants in other studies in the nature of the severity of the current offense. This is to be expected, as it reflects the decision of Coconino County's pretrial program not to review (include in this study) a large segment of their misdemeanor defendant population. Overall, Coconino County defendants are appearing before the court on more serious charges than defendants in other studies. Unlike many jurisdictions, more than two-thirds of Coconino County defendants being considered for pretrial release have a felony as their most serious charge. For example, in VA, Hennepin, MN and in Allegheny, PA, only 34% to 36% of defendants were charged with a felony. In NYC, 52% of defendants were charged with a felony. This makes the average Coconino County defendant unusually risky by most pretrial standards.

Similarly, most of the recent risk assessment studies have been conducted in jurisdictions with a majority or a plurality of defendants with one charge and generally less than 10% with more than four charges. Over two-thirds of Coconino County defendants had more than one charge, and 13% had more than four charges. In Allegheny, PA 40% of pretrial defendants had one charge and in VA 68% of pretrial defendants had one charge. In Coconino County, only 28.8% of pretrial defendants had one charge.

The involvement of drugs in the current offense seems slightly lower than many other studies. In Allegheny, PA and NYC the defendant's most serious charge was a drug charge around a quarter of the time (27% Allegheny, PA and 22% NYC). On its face, this seems similar to Coconino County's 25.3% of defendants with drugs involved. However, that drugs are involved in an offense is a much broader definition of a drug crime than was utilized in the Allegheny, PA and NYC studies. Moreover, the Maricopa, AZ study had 39% of defendants with a drug charge.

Another indication of the greater severity of Coconino County defendants is the presence of a weapon. The 11.1% seen in Coconino County is 11 times the .3% seen in the Maricopa, AZ study, and nearly a third greater than the fraction of defendants in the Allegheny, PA study. However, it was similar to the 11.2% seen in Hennepin, MN.

Coconino County pretrial defendants are more likely to be in court for a violent crime than defendants in Allegheny, PA (12%) and VA (23%), but about as likely as NYC pretrial defendants (between 32 and 36%). Most crucially, Coconino County pretrial defendants were nearly twice as likely as Maricopa, AZ pretrial defendants (16% vs. 31.3%) to be charged for a violent crime.

Prior Criminal History

Coconino County defendants tend to have more serious prior criminal histories than defendants in other studies. Coconino County pretrial defendants are more likely than defendants in other studies to have a prior felony. While in Allegheny, PA, Hennepin, MN, NYC, and VA, 31% or less of defendants had a prior felony, in Coconino County over 60% of pretrial defendants had a prior felony. Coconino County pretrial defendants are more likely than defendants in other studies to have a prior misdemeanor. While in Allegheny, PA, Hennepin, MN, NYC, and VA, 69% or less of defendants had a prior misdemeanor, in Coconino County over 79% of pretrial defendants had a prior misdemeanor.

Prior Failure to Appear

Coconino County pretrial defendants are more likely than defendants in other studies to have a prior FTA. While in Allegheny, PA, Hennepin, MN, NYC, and VA, 31% or less of defendants had a prior FTA, in Coconino County over 47% of pretrial defendants had a prior FTA.

Current Involvement with the Criminal Justice System

Compared to other studies, Coconino County defendants are slightly more likely to have a current involvement with the criminal justice system at arrest. Almost 15% of Coconino County defendants had an active warrant, a higher rate than any other study (Allegheny, PA 2%, NYC 7%, and VA 5%). In Coconino County, 36% of defendants had a pending case at arrest, a higher rate than any other study (NYC 22% and VA 23%). However Coconino County defendants were less likely to be on probation or parole than defendants in Allegheny, PA (12% versus at least 15%).

Substance Abuse

Coconino County defendants are somewhat different than defendants in other studies with regard to substance abuse. Compared to VA pretrial defendants, Coconino County pretrial defendants are more likely to report being alcohol abusers (46.5% vs. 23%) and less likely to report being drug abusers (11.4% vs. 22%). Coconino County pretrial defendants were about as likely to be treated for substance abuse as Allegheny, PA pretrial defendants, but much more likely than VA pretrial defendants. This variation may be as much, if not more, due to local availability of treatment than any intrinsic characteristic of a pretrial defendant and any conclusions drawn should be viewed in such a light.

Pretrial Release Rates

Coconino County releases just over half of its defendants. Most comparable risk assessment studies show much higher release rates. Hennepin, MN released approximately 64% of defendants, VA released 84%, and in Allegheny, PA and NYC, over 90% of defendants were released pretrial. Coconino County's release rate is also lower than the release rate for felony defendants in large urban counties.

Pretrial Misconduct

Despite the higher prevalence of known risk factors in the Coconino County's pretrial defendants, we find that Coconino County defendants are slightly less likely to engage in pretrial misconduct than defendants in other studies. Coconino County's "failure rates" – failure to appear (11%), rearrest (14%), and either form of pretrial misconduct (21%) – are slightly lower than the numbers shown for the nation's large urban counties for felony defendants on pretrial release (18%, 18% and 33%, respectively). In fact, they are substantially lower than the known comparable numbers from other risk assessment studies cited. NYC study's failure to appear rate is approximately 16%, and the Allegheny, PA study's failure to appear rate is 22% and rearrest rate is 17%.

Overall, the comparative analysis indicates that Coconino County defendants are:

- Demographically similar to pretrial defendants in many other places around the nation;
- More likely to be charged with a serious offense (felony, violent, in connection with a weapon) than pretrial defendants in other places, which is a reflection of the

pretrial program's decision not to review several types of misdemeanants for pretrial release;

- More likely to have serious criminal histories involving felonies and failure to appear than pretrial defendants in other places;
- More likely to have an active criminal justice status at arrest than pretrial defendants in other places;
- Less likely to be released than pretrial defendants in many other places;
- Yet have similar rates of pretrial failure as compared to pretrial defendants in other places nationwide.

ANALYSIS OF THE VALIDITY OF THE COCONINO COUNTY RISK ASSESSMENT INSTRUMENT

This next section attempts to determine what components of the Coconino County risk assessment are associated with pretrial release status and pretrial misconduct. In Tables 8 and 9, all investigated relationships are coded for the direction of any statistically significant relationship found or the absence of a statistically significant relationship. A statistically significant relationship is a correlation sufficiently large enough that we can say it would be a nonzero correlation in 95 samples out of 100 samples drawn from Coconino County's pretrial defendants. A "+" indicates a significant positive correlation (as X goes up, Y goes up). A "-" indicates a significant negative correlation (as X goes up, Y goes down). "No" indicates no statistically significant relation was detected.

As Table 8 shows, several variables had a positive or negative correlation with the defendant being released during the pretrial period, but only a few variables that were positively or negatively correlated with pretrial misconduct.

Table 8

Bivariate Analysis of Variables Associated with Release and Pretrial Misconduct

+ Means Significantly More Likely - Means Significantly Less Likely, No Means No Significant Difference

Independent Variables	Dependent Variables	
	Release	Misconduct
Socio-Demographics		
Age		
20 or Younger	No	No
21 to 24	No	No
25 to 35	No	No
More than 35	No	No
Education		
Non High School Graduate	-	No
High School or GED	No	No
College AA or Partial College	+	No
Four Year College Degree	No	No
Employment		
6 Mo. at Same Job	No	No
Less than 6 Mo.	+	No
Unemployed	-	No
Residential Stability		
1 Address Past 12 Mo.	+	No
2 or more Addresses Past 12 Mo	-	No
No AZ Address	+	No
Living Arrangements		
Lives with Family	No	No
Other Living Arrangement	No	No
Transient or No Permanent Address	-	No
Time in Geographical Area		
Less than 3 Years	No	No
3 to 5 Years	No	+
5 to 20 Years	No	No
20 Years or More	No	No
Property Ownership -- Danger Scale		
Owns or is buying home/business	+	-
Property Ownership -- Flight Scale		
Owns or is buying home/business	+	No
Owns Vehicle	+	-
No Assets	-	No
Has Access to Vehicle	No	No
Phone Access		
Phone in Defendant's Name	+	No

Pay-Per-Use Mobile	-	No
No Phone	No	+
Current Offense Characteristics		
Most Serious Charge		
Level 2 Felony	No	-
Level 3 Felony	-	No
Level 4 Felony	-	No
Level 5 Felony	-	No
Level 6 Felony	+	No
Misdemeanor	+	No
Number of Charge Counts		
1	No	No
2	No	No
3	No	No
4	No	No
5 or More	No	No
Drugs Involved	+	-
Drug Sale	No	-
Weapon Involved	-	No
Violent Crime	No	No
Victim Injured	No	-
Current Charge is a Warrant	-	No
Prior Criminal History		
Prior Prison Time	-	+
Prior Misdemeanor Charges		
None	+	-
0-3 Nonviolent Misdemeanor or 1 Violent	No	No
4-10 Nonviolent Misdemeanor or 2 Violent	No	No
Over 10 Misdemeanors	-	+
Prior Felony Charges		
None	+	No
1-3 Felony Charges	No	No
4-10 Felony Charges	-	No
Over 10 Felony Charges	-	+
Prior Failure to Appear	-	+
Prior Failure to Comply	-	No
Current Involvement with the Criminal Justice System		
On Probation or Parole at Arrest	-	No
Pending Case at Arrest	-	No
Active Warrant at Arrest	-	+
Turned Self in for Arrest	No	No
Alcohol/Drug Treatment		
Currently Uses Alcohol	No	No
Currently Uses Drugs	No	No

Ever Been Treated for Substance Abuse	No	No
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Table 9 separates the two types of pretrial misconduct, FTA and rearrest. Again, no correlation, either positive or negative, was found for most of the variables.

Table 9
Bivariate Analysis of Variables Associated with Failure to Appear (FTA) and Rearrest

+ Means Significantly More Likely - Means Significantly Less Likely, No Means No Significant Difference		
Independent Variables	Dependent Variables	
	FTA	Rearrest
Socio-Demographics		
Employment		
6 Mo. at Same Job	No	-
Less than 6 Mo.	No	No
Unemployed	No	No
Residential Stability		
1 Address Past 12 Mo.	No	No
2 or more Addresses Past 12 Mo	No	No
No AZ Address	No	+
Time in Geographical Area		
Less than 3 Years	No	No
3 to 5 Years	No	+
5 to 20 Years	No	No
20 Years or More	No	No
Property Ownership -- Danger Scale		
Owns or is buying home/business (Danger Scale)	No	+
Property Ownership -- Flight Scale		
Owns or is buying home/business (Flight Scale)	No	+
Owns Vehicle	-	No
No Assets	+	No
Has Access to Vehicle	-	No
Phone Access		
Phone in Defendant's Name	-	No
Pay-Per-Use Mobile	No	No
No Phone	+	No
Current Offense Characteristics		
Most Serious Charge		
Level 2 Felony	No	-
Level 3 Felony	No	No
Level 4 Felony	No	No
Level 5 Felony	No	No
Level 6 Felony	No	No

Misdemeanor	No	No
Drugs Involved	No	-
Drug Sale	-	-
Prior Criminal History		
Prior Prison Time	No	+
Prior Misdemeanor Charges		
None	No	No
0-3 Nonviolent Misdemeanor or 1 Violent	No	No
4-10 Nonviolent Misdemeanor or 2 Violent	No	No
Over 10 Misdemeanors	No	+
Prior Felony Charges		
None	No	No
1-3 Felony Charges	No	No
4-10 Felony Charges	No	No
Over 10 Felony Charges	No	+
Prior Failure to Appear	+	+
Prior Failure to Comply	No	+
Current Involvement with the Criminal Justice System		
Pending Case at Arrest	+	No
Active Warrant at Arrest	+	+
For variables with no significant differences among values, results not shown (Age, Education, Living Arrangements, Number of Charges, Weapon Involved, Violent Crime, Victim Injured, Current Charge is a Warrant, On Probation or Parole at Arrest, Turned Self in for Arrest, and Alcohol or Drug Treatment).		

Chart 7 reviews the types of adverse release outcomes that exist with various types of pretrial release. Defendants released on bail bond are the most likely to be rearrested, and those released on recognizance the least. Defendants placed under pretrial program supervision are the most likely to fail to appear, while defendants released on bail bond are the least likely to fail to appear.

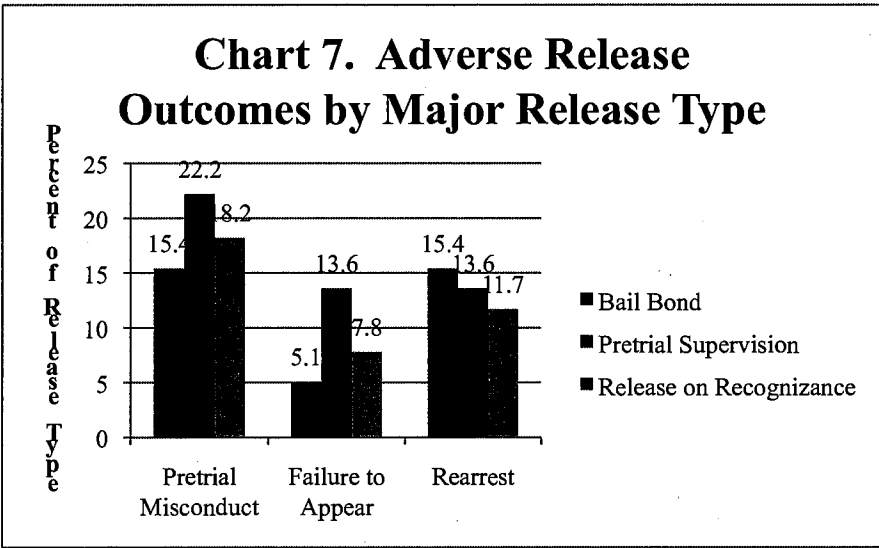


Chart 8 shows that the current risk instrument parallels release status outcomes, but is not dispositive. Well over a third of defendants in the highest risk category who are classified as too risky for a recommendation to be issued by the pretrial program are nevertheless released (see Chart 5). At the other extreme, nearly 10% of pretrial defendants the risk assessment classifies as candidates for release on recognizance are not released under any conditions.

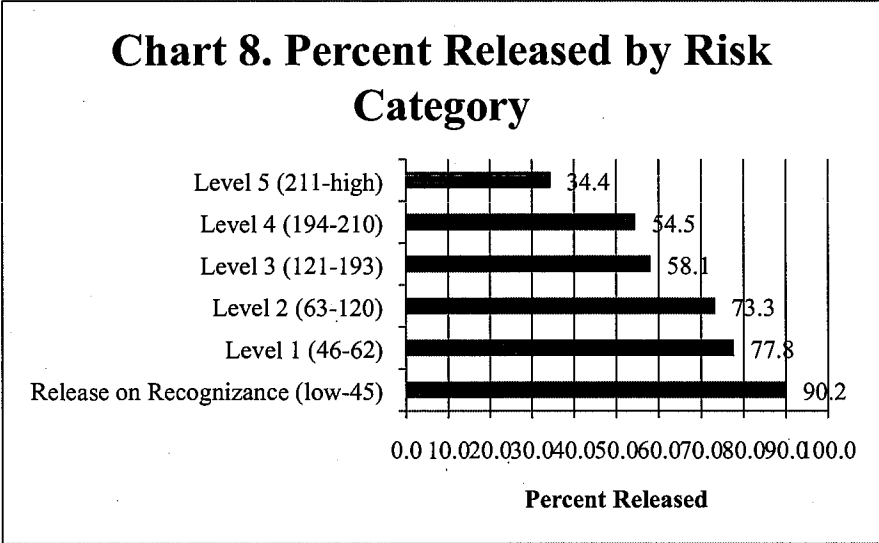


Chart 9 examines the discriminant validity of the risk assessment instrument for predicting either type of pretrial misconduct, i.e., failure to appear or rearrest. If the risk assessment instrument were predictive, the highest risk categories ought to have the highest rates of pretrial misconduct. An "inverted stair shape" ought to appear in chart 9. What we see is that this inverted stair shape does not exist.

Chart 9. Percent of Releases Engaging in Pretrial Misconduct by Risk Category

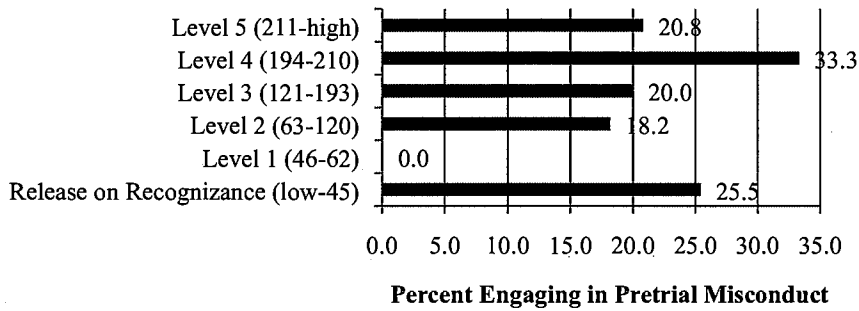


Chart 10 takes this same procedure and applies it to predicting just failure to appear. While a partial stair shape appears, it is quite distorted, with the highest levels of risk and lowest levels of risk simply not conforming to an inverted stair shape.

Chart 10. Percent Failing to Appear by Risk Category

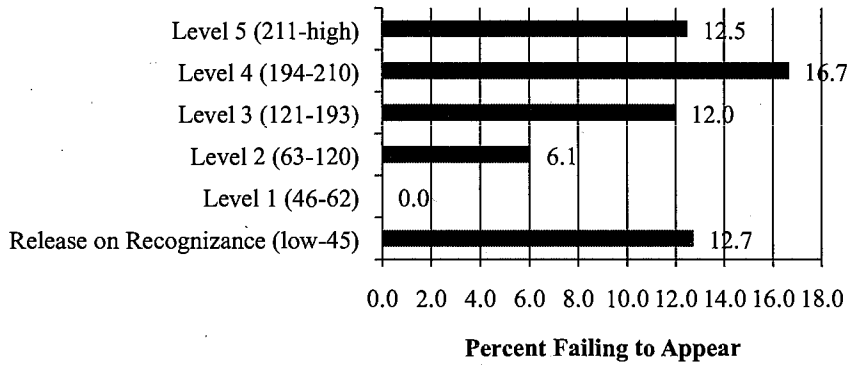
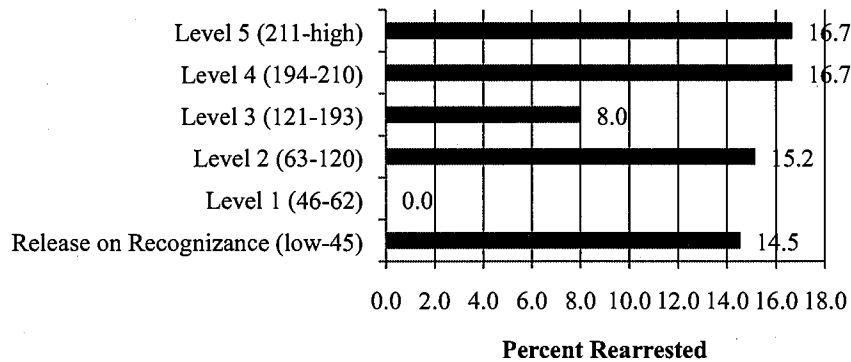


Chart 11 takes this same procedure and applies it to predicting rearrest. While stair shape appears, it is quite distorted, with levels one and three of risk not conforming to an inverted stair shape.

Chart 11. Percent Rearrested by Risk Category



In sum, the current risk assessment instrument is modestly predictive of defendants' pretrial release status, but not very efficient at predicting any form of pretrial misconduct. This actually fits a well-known statistical phenomenon called selection bias. When a study is conducted under conditions where a known screening instrument is employed to select candidates for treatment (i.e., release), the factors that go into the screening instrument will serve to reduce the variation among the selected candidates for treatment on those factors. This is because if the predictors of release are the predictors of risk, and Coconino County courts only release defendants who have low risk scores, there will be limited variation in scores among released defendants on the variables normally thought to predict pretrial risk (both flight and dangerousness). When there is limited variation, there will be attenuated predictive capacity of these variables, if not the complete elimination of the predictive capacity of these variables. When the impact of such a selection process (the selection of defendants for release) is not too severe (removes only 30% or less of the sample), there are statistical corrections available for multivariate analysis: Heckman Selection Bias Correction, Two-Stage Least Squares, and Propensity Score Matching.

In the case of Coconino County, nearly 50% of defendants are not released.⁴ This means that the selection bias is too severe for multivariate models to handle to enable the successful estimation of coefficients for establishing a risk assessment instrument based upon the coefficients as is typical in pretrial risk assessment studies. Evidence for this is presented in tables 8 and 9. We see factors known to predict risk of pretrial misconduct predicting pretrial release in Coconino County, but often do not predict pretrial misconduct in Coconino County. Since many of these known factors are demographic and we know that Coconino County defendants are actually typical on demographic characteristics, the inability of known demographics to predict pretrial misconduct yet predict release (e.g., education, employment, residential stability, living arrangements) is strong evidence that

⁴ Bear in mind that since the Coconino County Pretrial Services does not interview most misdemeanor defendants – a population that usually has higher release rates than felony defendants – the actual pretrial release rate for the jurisdiction is likely much higher.

severe selection processes are occurring in Coconino which will render normal logistic regression and even statistical adjustments like Heckman selection bias correction predictions of pretrial misconduct ineffective.

CONSTRUCTION OF NEW RISK ASSESSMENT INSTRUMENT

Since we cannot efficiently utilize multivariate analysis to generate an improved risk assessment instrument, we turn to simulations. Starting from the current risk assessment instrument, we will pare out factors that have not been found to be predictive of either flight risk or dangerousness risk according to state of the art pretrial risk studies from other jurisdictions cited earlier in this analysis. We will also add a few known predictive factors from a review of evidence-based practices. As one final adjustment, we will simplify the weighting of predictive factors to a weight of one point per factor, with a base value of 0 for an absence for a factor. Failure rate classifications from this pared down instrument will be compared to the current instrument. If we see a more inverted stair shape with the pared instrument than with the current instrument, we can consider the pared down instrument to be an improvement over the current instrument.

According to a 2007 review of best practices in pretrial risk assessment, the following are considered "good predictors of court appearance and/or danger to the community":

- Current Charge(s)
- Outstanding Warrants at Time of Arrest
- Pending Charges at Time of Arrest
- Active Community Supervision at Time of Arrest (e.g., Pretrial, Probation, Parole)
- History of Criminal Convictions
- History of Failure to Appear
- History of Violence
- Residence Stability
- Employment Stability
- Community Ties
- History of Substance Abuse

To further elaborate, drug offenders are not known to be a greater flight risk than violent or property offenders (PJI 2007; Austin and Murray, 2008) nor are they known to consistently be a greater community safety risk than property offenders (PJI 2007). That a history of violence has been associated with pretrial misconduct should not be interpreted as having a violent charge is associated with pretrial misconduct. Evidence suggests that it is not.

This review suggests that current age should be dropped from the flight risk scale.⁵ This review suggest that the drug trafficking factors, weapons involved, victim injury, child injury, victim deceased, combative/aggressive behavior, gang-related charges, turned self in and education should be dropped from the dangerousness scale.

The state-of-the-art in pretrial risk assessments currently holds that substance abuse is a risk factor for rearrest. In addition, current risk assessments weight the import of the volume of prior criminal history and current offense charges far less than the Coconino

⁵ The original flight scale had a behavioral characteristics component. The dataset PJI received had no information on behavioral characteristics, so we assume that it was dropped from the scale.

County's current risk instrument. Recent studies indicate that it is the presence or absence of a prior criminal record, and the fact that there are more than ten prior criminal events (i.e., a clear case of a career criminal) that matters most for predicting dangerousness. Similarly, the fact that defendants have multiple charges, rather than how many charges beyond two matters most for dangerousness. An additional point can be added for a case with over ten charges for a case of extreme severity. Other alterations in Coconino County's risk assessment instrument also need to be examined. The instrument counts property ownership in both the flight risk and dangerousness risk scores. The weights of these factors appear to have been generated with respect to each type of risk individually. However, when placed in the current combined formulation the combined weight will overemphasize the role of these factors, rendering the instrument predictive of neither type of risk.

The resulting risk scale is:

charge count+offense charge level+on probation+pending case+active warrant+prior misdemeanor count+prior felony count+failure to appear at earlier point in current case+transient+duration of address residency+duration of employment+duration of residence in community+lack of assets+lack of phone+no vehicle access+use of drugs+use of alcohol.

Where offense charge level, prior misdemeanor count, prior felony count, duration of address residency, duration of employment, duration of residence in community all take on a trichotomous categorization (0, 1, 2), where 0 indicates the lowest risk. All other variables take on a 0,1 categorization where 0 indicates the lowest risk.

The resulting risk scale runs from 0 to 18, and is divided into 3 categories of six points apiece to create low risk (0-6), medium risk (7-12) and high risk (13-18) classifications. This results in 26.4% of defendants being classified as low risk, 61.8% of defendants being classified as medium risk, and of 11.1% of defendants being classified as high risk.

CONSTRUCTED COCONINO COUNTY RISK ASSESSMENT CRITERIA

Current Offense

1	Three or more charges
1	Most serious current charge is a level 4-6 offense
2	Most serious current charge is a level 3-2 offense
3	Most serious current charge is a level 1 offense

Criminal History

1	On Probation at time of arrest
1	Pending case at time of arrest
1	Active warrant at time of arrest
1	One to ten misdemeanors (no more than 2 violent)
2	More than ten misdemeanors
1	One to ten felonies
2	More than ten felonies
1	Prior failure to appear

Stability Factors

1	Two or more AZ addresses past twelve months
2	No AZ address
1	Transient
1	Less than six months at current job
2	Unemployed
1	Three to five years in community
2	Less than three years in community
1	No assets
1	No phone
1	No vehicle access

Social Factors

1	Abuses drugs
1	Abuses alcohol

Ranges:

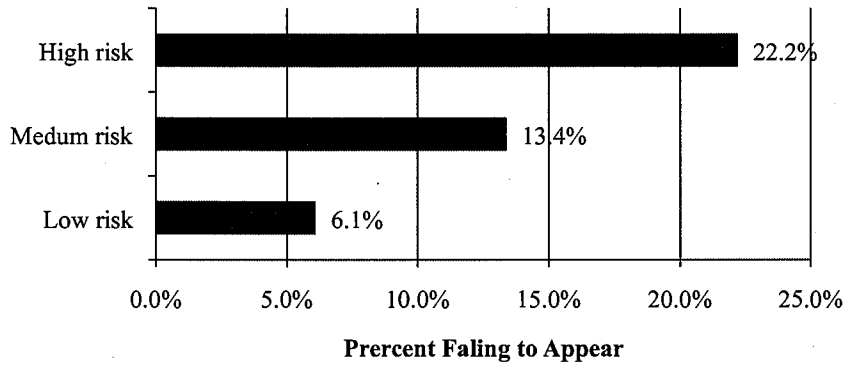
0 to 6 = Low (ROR)

7 to 12 = Medium (Supervised Release)

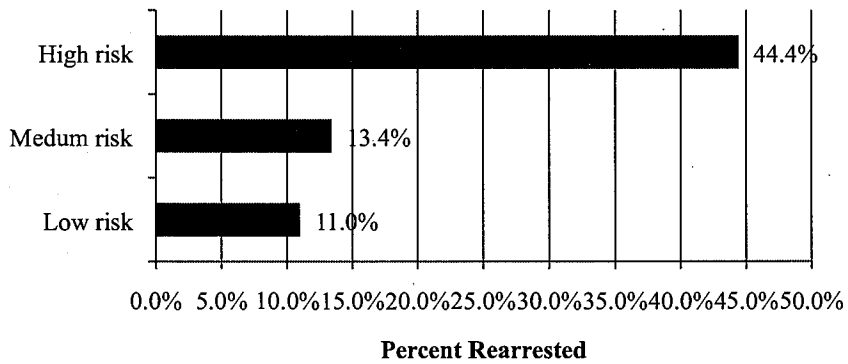
13 to 18 = High (No recommendation for non-financial release)

The classifications are quite successful at creating the step pattern we would wish to see among Coconino County defendants who were released pretrial. The step patterns in charts 12 and 13 suggest that the new risk instrument performs better at predicting failure to appear than rearrest.

**Chart 12. Percent Failing to Appear
by Risk Category**



**Chart 13. Percent Rearrested by
Risk Category**

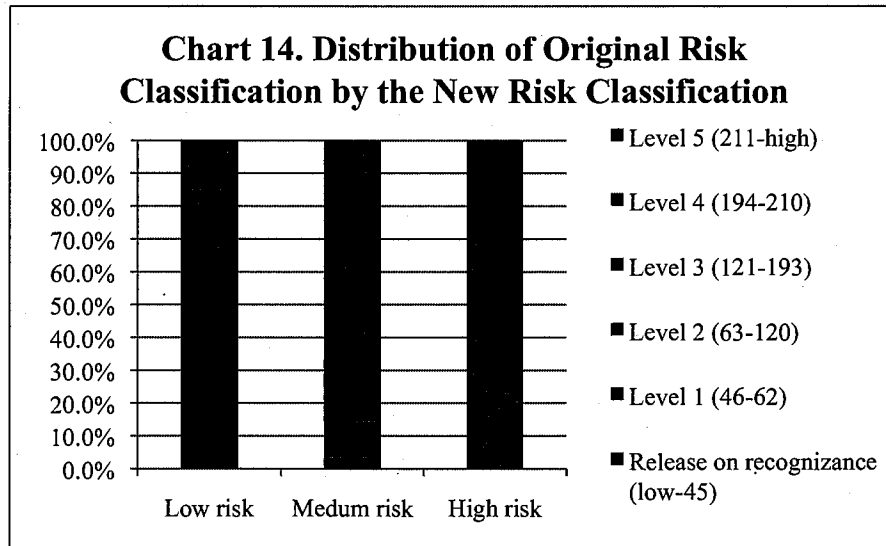


The success at classification would seem to belie the claim that multivariate analysis cannot be done effectively due to selection bias effects. A brief logistic regression analysis in STATA reveals that while the risk classification instruments do have predictive capacity - approximately 23% of the variation in failure to appear and 15% of the variation in rearrest - they are very inefficient, with only 2 or 3 factors having any useful predictive capacity. In the case of failure to appear, the lower the charge level, the more likely the defendant is to fail to appear at the 90 percent confidence level. At the 95 percent confidence level, the lack of a phone is associated with a higher likelihood of failure to appear. Only these two factors have any predictive capacity for failure to appear.

In the case of rearrest, the longer the time at the same address, the greater the likelihood of being rearrested and the shorter the time at the current job/being unemployed, the more likely the defendant is to be rearrested. Only these two factors have any predictive capacity for rearrest at the 90 percent confidence level. As can be seen, some of these multivariate conclusions are not only quite limited in their utility, but in the case of residential stability and rearrest, simply counter to all known work in the area of pretrial risk assessment. Heckman probit selection correction methods cannot be computed due to extreme collapse of variation in most of the predictor variables. This leaves us with the conclusions from the logistic regression models. If we were to recommend instruments based on the logistic regressions' coefficients, Coconino County would be done a disservice.

By utilizing the factors evidence-based practices suggest we incorporate the best of the known research and incorporate most of the few predictive factors that do exist according to an empirical analysis of Coconino County defendants. This approach safeguards Coconino against being misled by the results generated from an analysis of releases from its current limited release patterns of its pretrial system.

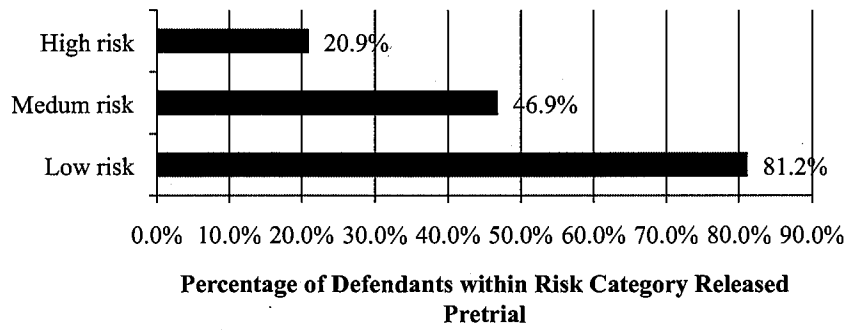
Chart 14 compares the old and new risk classification systems. The new risk classification places in its low risk category defendants from all levels of the old risk classification. Over 85% of defendants in the new low risk category come from the old risk classification levels release on recognizance through level 2. More than two-thirds of the new medium risk category comes from the old risk classification level 5. Over 95% of the new high-risk category comes from the old risk classification level 5.



For purposes of evaluating the impact of the proposed risk assessment instrument, let us consider the low and medium risk category defendants as recommended for release on recognizance and pretrial supervision, respectively, while the high risk defendants are recommended for financial release. Such a scenario would result in recommending non-financial release for 146 defendants currently not released, and recommending financial release for 9 defendants currently released. This would mean that 81.1% of those currently not released would be recommended for non-financial release and 4.4% of those released would be recommended for financial release.

Chart 15 looks at the potential for change if the new risk classification was fully implemented. Twenty-one percent of high-risk defendants that are currently released would not be recommended for non-financial release. On the other hand, 53% of medium risk category defendants not currently released would be recommended for pretrial supervision, or third party supervision. An additional 19% of low risk defendants not currently released would be recommended for release on recognizance.

Chart 15. Percentage of Defendants Released during Pretrial Period by New Risk Category



CONCLUSION

It is important to keep in mind what a pretrial risk assessment instrument can and cannot do. It can, when backed by science, effectively sort defendants into risk categories – identify which defendants are at low risk for an FTA or rearrest, which are at moderate risk, and which are at high risk. It cannot guarantee that all low risk defendants will show up for all court appearances and not be rearrested. Likewise, it is no guarantee that all high risk defendants will FTA or be rearrested if released.

In the previous section, a new pretrial risk assessment instrument is suggested for Coconino County Pretrial Services. The simulations that were run on the proposed instrument show that Pretrial Services can significantly increase the number of lower risk defendants identified for release recommendation without sacrificing higher rates of FTA and rearrest.

Several steps must now follow to assure the most effective uses of the findings of this study. First, there must be clarity about the findings among key system actors, including judges, prosecutors, defense attorneys, and pretrial program staff. To that end, PJI will work with these officials, presenting the findings in person, answering any questions and addressing any concerns. In the end, the risk assessment instrument is only going to be useful if it is used, and it will not be used if it is not understood. Second, PJI will work with Pretrial Services staff to best assure inter-rater reliability on scoring defendant risk with the new instrument. Third, over the longer term, Pretrial Services should work to enhance its information processing capability so that it can monitor outcomes (FTA and rearrest) of the new instrument and be able to report findings to the court.

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APPENDIX

Logistic Regression Models for Failure to Appear and Rearrest

Appendix Table 1

Risk Factor	Logged Odds Ratio ¹	Standard Error
Current Offense		
Charge count ²	0.17	0.56
Offense charge level ²	-0.51 ⁺	0.31
Criminal History		
On Probation	-0.14	0.91
Pending Case	0.92	0.62
Active Warrant	1.10	0.73
Prior misdemeanors ²	-0.08	0.57
Prior felonies ²	-0.49	0.53
Prior failure to appear	0.74	0.71
Stability Factors		
Transient	-1.30	1.26
Duration of residency at current address ²	0.41	0.40
Duration of current employment ²	0.18	0.35
Duration of residence in the community ²	0.10	0.69
Lack of assets	0.63	0.68
Lack of phone	1.81	0.58
Lack of vehicle access	0.27	0.66
Social Factors		
Abuses drugs	0.09	0.89
Abuses alcohol	0.13	0.62
Intercept/Constant	-3.49**	0.82
Log Likelihood Ratio Model Improvement	31.49**	
R-squared	0.23	
McFadden Adjusted R-squared Model Fit	-0.03	
Sample n	203	
*Difference is statistically significant at p>.05 level.		
*Difference is statistically significant at p>.05 level.		
** Difference is statistically significant at p>.01 level.		
¹ STATA utilizes the logged odds ratio to produce unstandardized coefficients.		
² See coding table for values. All residual categories have a value of zero.		

Appendix Table 2

Risk Factor	Logged Odds Ratio ¹	Standard Error
Current Offense		
Charge count ²	-0.14	0.49
Offense charge level ²	-0.06	0.27
Criminal History		
On Probation	0.03	0.79
Pending Case	-0.08	0.56
Active Warrant	0.69	0.65
Prior misdemeanors ²	-0.20	0.50
Prior felonies ²	0.60	0.43
Prior failure to appear	0.37	0.59
Stability Factors		
Transient	1.07	0.92
Duration of residency at current address ²	-1.17*	0.48
Duration of current employment ²	0.66*	0.32
Duration of residence in the community ²	0.34	0.60
Lack of assets	-0.31	0.59
Lack of phone	0.09	0.52
Lack of vehicle access	0.33	0.60
Social Factors		
Abuses drugs	-0.61	0.88
Abuses alcohol	0.27	0.51
Intercept/Constant	-2.54**	0.65
Log Likelihood Ratio Model Improvement	25.34**	
R-squared	0.16	
McFadden Adjusted R-squared Model Fit	-0.07	
Sample n	203	
*Difference is statistically significant at p>.05 level.		
*Difference is statistically significant at p>.05 level.		
** Difference is statistically significant at p>.01 level.		
¹ STATA utilizes the logged odds ratio to produce unstandardized coefficients.		
² See coding table for values. All residual categories have a value of zero.		