

THE TRANSFORMATION OF PRETRIAL SERVICES
IN ALLEGHENY COUNTY, PENNSYLVANIA:
DEVELOPMENT OF BEST PRACTICES AND
VALIDATION OF RISK ASSESSMENT

Submitted by the
Pretrial Justice Institute
(formerly the Pretrial Services Resource Center)

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This project – the total transformation of pretrial services in Allegheny County, Pennsylvania – would not have been possible without the assistance of the State Justice Institute, which provided matching funds to the Court of Common Pleas for the Fifth Judicial District of Pennsylvania. The Honorable Donna Jo McDaniel, Administrative Judge of the Criminal Division of that court, made it clear that the pretrial release decision making process in Allegheny County was broken and needed to be fixed. Judge McDaniel has been spearheading the effort to make pretrial services in the county a model for the rest of the country. A number of other officials from the court provided invaluable support and feedback during this project, including Judge Lawrence O’Toole, Judge Kathleen Durkin, District Court Administrator Ray Billotte, Criminal Division Administrator Helen Lynch, and Deputy Court Administrator Claire Capristo. The staff of the court’s IT department, particularly Mike Svidron and Mark Piper, patiently addressed the information needs of the revamping pretrial services program, and developed the automated information system that is described in this report.

Tom McCaffrey, the new director of the Allegheny County pretrial program who was brought in during the early stages of the planning process for this transformation, has been skillfully leading both his staff and the rest of the system in making the significant changes described here. Two of his supervisors, Janice Dean and Marilyn Lahood, have been extremely helpful in overseeing the collection of data and other information necessary for the completion of this report. The two have also been playing a major role in implementing the dramatic changes that have taken place, and have taken on demanding new responsibilities to make the changes work.

Finally, the staff of the pretrial program deserve special recognition. They were chiefly responsible for collecting the data for the Risk Assessment Validation Study, the results of which are reported here. Moreover, the changes that are recorded in this document created an upheaval in their lives – both professional and personal. Many were asked to change what they had been doing and how they had been thinking for years, some even for decades. They were asked to step out of their comfort zones and into the realm of the uncertain. They have responded magnificently. None of the changes described here could have been possible if they had responded with any less enthusiasm and dedication.

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EXECUTIVE SUMMARY

In 2005, as part of a broad assessment of the Allegheny County criminal justice system, the Institute for Law and Policy Planning (ILPP) reviewed the Bail Agency – the county’s pretrial services program. That review found that the agency fell short of enhanced pretrial services program practices in many key functions. The report noted that “[d]espite being in existence for decades, the Agency appears to have made little progress towards evolving into a full-service pretrial program.” The Allegheny County Court of Common Pleas asked the Pretrial Justice Institute (PJI) for help in addressing the concerns raised in the ILPP report. The court was also very concerned about high rates of failure to appear, and did not see the Bail Agency – under its existing practices – as having the capability to address those high failure rates.

Specifically, the court asked PJI for assistance in addressing the following Process Improvement Objectives:

1. Implement best practices at intake, specifically information gathering, verification, and analysis.
2. Improve risk assessment procedures by validating the interim risk assessment instrument.
3. Identify pretrial release options that will be effective and meaningful.
4. Develop policies on information dissemination.
5. Establish performance measures and other techniques to evaluate the effectiveness of changes made.
6. Develop and compile written policies and procedures.
7. Establish clear and obtainable work objectives.

PJI provided on-going technical assistance over a period of one year to work with staff to develop more enhanced pretrial practices. PJI also conducted a validation study of the interim risk assessment instrument that court officials had implemented in response to the ILPP report. The risk assessment study found that, in looking at risks of failure to appear (FTA) and controlling for all other factors:

- Defendants who are charged with a violent, property, or drug offense are approximately 2.4 times as likely to FTA as defendants who are charged with a public order offense
- Defendants whose most serious charge is a misdemeanor are approximately 1.5 times as likely to FTA as defendants whose most serious charge is a felony
- Defendants who have three or more prior misdemeanor convictions are approximately 1.6 times as likely to FTA as defendants who do not have three or more prior misdemeanor convictions
- Defendants who do not have three or more prior felony convictions are approximately 2.2 times as likely to FTA as defendants who have three or more prior felony convictions

- Defendants who have two prior failures to appear are approximately 1.5 times as likely to FTA as defendants who do not have two prior failures to appear
- Defendants who have three or more prior failures to appear are approximately 2.5 times as likely to FTA as defendants who do not have three or more prior failures to appear
- Defendants who are under 21 at the time of preliminary arraignment are approximately 1.7 times as likely to FTA as defendants who are 21 or older at the time of preliminary arraignment.

In looking at risks of rearrest and controlling for all other factors:

- Defendants who are charged with a violent, property, or drug offense are approximately 1.5 times as likely to be rearrested as defendants who are charged with some other public order offense
- Defendants who have two prior failures to appear are approximately 2.4 times as likely to be rearrested as defendants who do not have two prior failures to appear
- Defendants who have three or more prior failures to appear are approximately 2.9 times as likely to be rearrested as defendants who do not have three or more prior failures to appear
- Defendants who are under 21 at the time of preliminary arraignment are approximately 2.2 times as likely to be rearrested as defendants who 21 or older at the time of preliminary arraignment.

On September 2, 2007, the Allegheny County Pretrial Services Agency officially launched its new procedures, including implementing the validated risk assessment instrument. The chart on the following pages summarizes the problems that were identified and the enhancements that were planned and implemented over that period.

Summary of the Transformation of Pretrial Services In Allegheny County

Before the Transformation	After the Transformation
Target Population National standards call for pretrial services programs to conduct investigations of all defendants in custody and awaiting initial appearance in court.	
<p>The program sought to reach as many defendants coming through the Pittsburgh Municipal Court for preliminary arraignment as possible. Data showed that a substantial number of defendants, about 40 percent, were not being reached by the program.</p>	<p>As of 9/2/07, the program is reaching 100 percent of all defendants. To accomplish this led to some initial delays in getting defendants into preliminary arraignment. The program has reduced those delays as staff have been gaining more experience and by deploying staff from other units of the agency when necessary.</p>
The Pretrial Interview Through the interview, the pretrial program gathers much of the information that statutes or court rules specify courts must consider in making pretrial release decisions.	
<p>No interviews were conducted. Staff handed out a questionnaire to defendants and asked them to complete it. Significant numbers of defendants were failing to complete the forms – often leaving out information that is supposed to be taken into consideration for the risk assessment. For instance, 34 percent of defendants in a sample of over 900 cases failed to respond to the question about whether they were employed.</p>	<p>The program now conducts face-to-face interviews using a revised interview form. The interviews are conducted using laptop computers, eliminating the need for paper forms and allowing for the direct input of information into the agency’s new automated information system. All pretrial interviewers have undergone training in interviewing techniques. A supervisor randomly checks 25 percent of cases from each shift to assure that responses are provided to all questions.</p>
Verification National standards call on pretrial programs to verify with references all the information provided by the defendant during the interview.	
<p>Any verification that took place was on an ad hoc basis.</p>	<p>Staff routinely verify information provided by defendants in all cases.</p>
Risk Assessment National standards call on pretrial services programs to use objective criteria in assessing risks of pretrial misconduct, and to determine the validity of the criteria used.	
<p>Risk assessment was largely guesswork. Prior to 2006, there was no objective risk assessment instrument in use. Staff would make subjective judgments regarding risk. Beginning in January 2006, an interim objective risk instrument, developed by court officials, was introduced. A review of the use of that instrument by staff found that staff were applying it inconsistently and using incomplete information.</p>	<p>A validation study of the interim risk assessment instrument has been completed, and based on the results of that analysis, a new objective risk instrument, including factors empirically shown to be related to risks of failure to appear in court or danger to the community in Allegheny County was developed. That instrument has been adopted and is now in use. With the agency’s new information system, it should be possible to re-validate this instrument on a regular basis.</p>
Submission of Report to the Court In order for the judicial officer to make an informed decision in every case, the report submitted to the court must be complete and readable in every case.	
<p>The information presented to the preliminary arraignment judge was the hand written questionnaire filled out by the defendant, a copy of the risk assessment, and the police affidavit. In those cases where the agency did not get a questionnaire or do a risk assessment, the only information presented to the court would be the police affidavit.</p>	<p>The court is presented with a computer-generated report that includes background information on 100 percent of defendants appearing for preliminary arraignment, a synthesis of their criminal records, a history of any failures to appear, and the risk assessment of recommendation of the pretrial program.</p>
Supervision of Release Conditions National standards call upon pretrial services programs to have the capacity to supervise a wide range of conditions to match the wide range of risks presented by defendants.	

<p>Supervision was virtually non-existent. The program had the capacity to supervise just two conditions, and both were very limited. The first involved a reporting requirement. Whenever a judge would order a defendant to report to the pretrial program on a regular basis the agency would record their name in a book. Each time the defendant would report in an entry would be made in the book. Keeping track of who reported, or more importantly, who did not report, was problematic – which is not surprising given the agency’s reliance on a manual system to monitor these report-ins. The inability to monitor compliance with this condition severely limited its usefulness. As a result, very few defendants were given this condition. The second condition was electronic monitoring. Although impressive, data show that only one percent of released defendants were ordered into electronic monitoring – thus, its reach was severely limited.</p>	<p>The agency strengthened its capacity to provide supervision by merging three other programs with the Bail Agency to create a new Pretrial Services Agency. Defendants falling into the medium range (scoring -1 to 3 on the new, validated risk assessment instrument) are placed into one of two supervision groups. Those with scores of -1 or 0 are required to call the program once a month. Those with scores of 1 to 3 must report in person or by telephone and have an active involvement with a special condition, such as drug testing, or drug, alcohol or mental health counseling. The agency’s new automated information system tracks compliance with conditions of release. Defendants placed in supervision sign a supervision contract with the court. In the first month of operation under the new procedures, about 200 defendants were placed under supervision. The agency is seeking to expand the capacity of the electronic monitoring program, so that it would be available to higher risk defendants.</p>
<p>Court Date Notification Experience has shown that it is not enough to simply hand defendants a slip of paper when leaving court with the date of their next scheduled appearance and expect high appearance rates; they need to be reminded.</p>	
<p>The pretrial program was not sending out any court date reminder notices.</p>	<p>The pretrial program has begun sending out computer-generated court date reminder notices for the arraignment in the Court of Common Pleas – the hearing with the highest failure to appear rate. The program is working on ways to send out such notices for all court dates.</p>
<p>Mission Statement Pretrial program staff work in an environment where it is difficult to remain focused on the aims and purposes of the program they represent; a mission statement can help them maintain that focus.</p>	
<p>The mission statement was very vague. It simply stated: “Our mission is to provide the Courts, members of the Bar and residents of Allegheny County with comprehensive pretrial and diversionary services in compliance with state and local rules of criminal procedure.” Unless readers of this mission statement, including staff of the agency, knew what constituted “comprehensive pretrial and diversionary services” and what was required by those state and local rules, they would be at a loss for understanding the mission of the agency.</p>	<p>A committee comprised of representatives of each of the units that were merged to form the new pretrial agency met over a period of three months to draft a mission statement. That statement was then distributed to the entire staff and approved. The new mission statement reads: “The Allegheny County Pretrial Services’ mission is to provide accurate and timely information to assist the court in making informed decisions regarding bond, competency, and treatment, and to supervise and monitor defendants in a respectful manner, utilizing cost-effective measures for the community, to promote compliance with court orders and court appearances, and to support public safety.</p>
<p>Procedures Manual National standards call upon pretrial services programs to develop and regularly update written policies and procedures describing the performance of key functions.</p>	
<p>What few written policies and procedures existed were scattered among memos and e-mails. There was no central repository for all agency policy and procedures.</p>	<p>Each unit of the agency has been formalizing work policy and procedures in order of importance and recording them in a Policy/Procedural Manual. For example, staff now have a step-by-step written procedure for conducting a pre-initial appearance investigation. This manual is accessible to all staff through the computer and a hard copy is kept in the main office.</p>

Staff Training	
Training not only assures consistency in the application of procedures, it also gives staff a proper grounding in the work that they do.	
No formal training opportunities existed. New staff would receive on-the-job training from senior staff.	In the past year, the following training has taken place: The director attended the first training session for pretrial executives offered by the National Institute of Corrections. This 40-hour program was designed to enhance the leadership capacity of pretrial executives by addressing practical challenges facing pretrial program administrators. The director and several staff persons visited pretrial programs in Washington, D.C. and Montgomery County, Maryland to review their operations. The entire staff of the new agency attended training sessions on the historical and philosophical underpinnings of pretrial services. All interviewing staff of the agency, plus several other staff persons, attended training on pretrial interviewing techniques. Several staff of the agency attended the Annual Conference and Training Institute of the National Association of Pretrial Services Agencies in Cleveland, Ohio, September 16-19, 2007.
Supervisory Oversight of Staff	
Oversight of staff work by supervisors is another essential tool for assuring consistency	
It was clear reviewing the questionnaires filled out by defendants and how staff were completing the risk assessment form that staff were operating largely on their own. There was significant inconsistency in how information was collected and reported.	Staff operate under a clear set of procedures, and are accountable for following those procedures. The risk assessment score is automatically calculated by the computer based upon the information entered during the interview and investigation, leaving little room for staff to misinterpret or misapply the risk assessment instrument. No staff person may override a risk assessment finding without first obtaining the approval of a supervisor. A supervisor randomly checks 25 percent of all investigations completed during each shift and counsels staff as appropriate when issues are identified.
Information System	
National standards call upon pretrial services programs to have an information system that supports efficient collection and presentation of information and risks, and monitoring of compliance with release conditions.	
The agency had a paper-driven information system. The questionnaire that defendants would fill out, the risk assessment form, the criminal record, and the police report were stored in a paper file in the agency's main office.	A new automated information system has been developed for the agency. The system was designed specifically to parallel another system that records arrest and first appearance information. Doing so allows pretrial staff to pull down relevant information from the parallel system into the pretrial system. Staff now conduct interviews with defendants using laptop computers. During interviews, staff can view responses given by defendants previously and use that information to check for the accuracy of the information provided by the defendant in the interview. This makes for a much more efficient collection, storage, retrieval, and dissemination of information.
Moreover, those files were accessible to anyone walking into the office, raising serious concerns about the confidentiality of agency records.	Additionally, the agency is implementing new information dissemination procedures that will limit access by those outside the agency to confidential

	information in the agency's files.
Overall Agency Focus	
The primary function of a pretrial services program is to provide information and options to the judicial officer making the pretrial release/detention decision.	
The bulk of the agency staff were engaged in activities outside of preparing cases for the preliminary arraignment. The primary activity involved investigating defendants who had failed to appear in court. Thus, a significant portion of agency resources were being dedicated to dealing with a problem – failure to appear – after it had occurred rather than on making sure that good information was being collected up front to prevent so many failures.	By dedicating the resources necessary to interview and investigate all defendants coming into the court for preliminary arraignment, the agency is providing the court with the information and options necessary to maximize rates of pretrial release while minimizing rates of pretrial failure. The emphasis now is on preventing failure before it occurs.

In the first month of operation under the new procedures, there was a 30 percent reduction in the number of defendants admitted into the jail following their preliminary arraignment. This is a significant outcome for the jail. The two most important days that an inmates spends in jail are the day of admission and the day of release. Significant jail staff resources go into both admitting and releasing an inmate. Prior to September 2, 2007, about a quarter of all defendants appearing in preliminary arraignment were having a nominal percentage bail set by the court. Typical bonds were \$3,000 to \$5,000, ten percent – meaning that defendants with those bonds could be released by posting just \$300 to \$500. Most were able to come up with that amount – but not until they had spent a day or two in jail, putting the jail through the unnecessary expense of admitting them and then turning right around and releasing them.

The experience of Allegheny County in making this transformation provides valuable lessons for other jurisdictions seeking to overhaul their pretrial services programs. Several elements were critical, including: strong judicial leadership; strong support from the judiciary and court administrative staff; strong leadership from the pretrial program director; involvement of the staff in planning for the change, and training of staff.

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INTRODUCTION

Genesis of the Transformation

In 2005, as part of a broad assessment of the Allegheny County criminal justice system, the Institute for Law and Policy Planning (ILPP) reviewed the Bail Agency – the county’s pretrial services program. This agency is responsible for providing Common Pleas Court judges and Magisterial District Judges with information and options at bail determination hearings. In its analysis of the Bail Agency, ILPP used a model developed by the Pretrial Justice Institute (PJI, formerly the Pretrial Services Resource Center). Under that model, each of the functions of a pretrial services program is listed, along with a description of enhanced practices, based on national standards, for each function. That review found that the agency fell short of enhanced pretrial services program practices in many key functions. The report noted that “[d]espite being in existence for decades, the Agency appears to have made little progress towards evolving into a full-service pretrial program.” The report specifically focused on the lack of a validated risk assessment instrument. According to the report, “[o]ne of the central pieces to closing the gap between national standards on pretrial services and the Allegheny County bail agency is the implementation of a proven risk assessment instrument.”

The Allegheny County Court of Common Pleas asked PJI for help in addressing the concerns raised in the ILPP report. The court was also very concerned about high rates of failure to appear, and did not see the Bail Agency – under its existing practices – as having the capability to address those high failure rates.

Specifically, the court asked PJI for assistance in addressing the following Process Improvement Objectives:

- Implement best practices at intake, specifically information gathering, verification, and analysis.
- Improve risk assessment procedures by validating the interim risk assessment instrument.
- Identify pretrial release options that will be effective and meaningful.
- Develop policies on information dissemination.
- Establish performance measures and other techniques to evaluate the effectiveness of changes made.
- Establish clear and obtainable work objectives.
- Develop and compile written policies and procedures.

To accomplish these objectives and address the concerns of the court, PJI proposed a two-pronged approach. The first would be to provide on-going technical assistance over a period of one year to work with staff to develop more enhanced pretrial practices. The second would be to conduct a validation study of the interim risk assessment instrument that court officials had implemented in response to the ILPP report.

Overview of this Report

This report traces the work done in Allegheny County between September 2006 and September 2007 to transform the pretrial program from one that was outdated and not providing cost-effective services to the courts to one that is modern and employing best practices. It is designed as a case study that other jurisdictions could look at to accomplish a similar transformation. The first section describes the issues that were identified relating to the practices of the program, and the enhancements that were proposed. The second section describes how the Risk Assessment Validation Study was done and presents the results of that study. The third section describes the implementation of the new procedures. The fourth addresses the measurement of objectives and outcomes, and the final section reviews the lessons that can be learned from Allegheny County's transformation experience that other pretrial programs seeking major overhauls could apply.

SECTION I: ISSUES IDENTIFIED AND ENHANCEMENTS PROPOSED

At the start of the project, PJI conducted a comprehensive assessment of the practices of the Allegheny County Bail Agency. This section summarizes the findings from that assessment and the enhancements that were recommended.

Intake practices

Defendants who are arrested within the City of Pittsburgh, as well as those arrested outside the city but within Allegheny County during non-business hours, have their preliminary arraignment at Pittsburgh Municipal Court (PMC) before a Magistrate District Judge. Bail Agency staff were working out of an office at PMC, which is attached to the county jail. This office was staffed 24 hours a day, seven days a week. Staff were responsible for investigating all defendants having their preliminary arraignment at PMC.

Several significant departures from national standards were identified during the review of intake practices. First, the Pretrial Release Standards of the American Bar Association state that “[i]n all cases in which the defendant is in custody and charged with a criminal offense,” the pretrial services program should conduct an investigation prior to the initial appearance in court.¹ This was not occurring in Allegheny County. The program sought to reach as many defendants coming through the Pittsburgh Municipal Court as possible, but data showed that a substantial number, about 40 percent, were not being reached by the program.

Second, national standards call on pretrial programs to conduct interviews with defendants.² The interview is the heart of the investigation of the defendant. It is through the interview that the pretrial program gathers much of the information that statutes or court rules specify courts must consider in making a pretrial release decision. The interview is also the source of much of the information required by the pretrial program’s risk assessment instrument. Such information includes residence status, employment status, ties to the community, and history of drug, alcohol, or mental health problems. Moreover, through the interview the pretrial programs can identify all of the addresses where the defendant stays or can be reached, and gather the names and contact information for references. Getting as much of this information as possible is crucial if the pretrial program needs to contact the defendant to discuss court appearances or compliance with release conditions.

The Bail Agency was not conducting interviews with defendants. Rather, staff would pass out a form (Form 58 – see Appendix A), and ask defendants to fill out the form. The form requested information about the defendants’ address, employment and other community ties. It became clear during the data collection phase of the Risk Assessment Validation Study that most defendants failed to fill out the form completely – often leaving off information that is supposed to be taken into consideration for the interim risk assessment and the court’s decision. For example, the interim risk assessment instrument awarded one point for defendants who had

¹ American Bar Association. (2007) *ABA Standards for Criminal Justice: Third Edition – Pretrial Release*. Standard 10-2.2.

² National Association of Pretrial Services Agencies (2007) *Standards on Pretrial Release: Third Edition*. Standard 3.3.

held their present jobs for one year or more. Quite often, the entire employment section would be left blank by defendants. Even when they did report their current employment, they often failed to record how long they had been in the job. In reviewing interview forms and the risk assessment scores, it appeared that sometimes bail investigators would give defendants credit on the risk assessment when information was missing, and sometimes they would not. It was not clear from this review how those distinctions were made.

Apart from potentially penalizing defendants for failing to complete the form, the practice of having defendants fill out these forms themselves had a much more serious consequence. It left the defendants in charge of how much information the court would get – information that is relevant to the pretrial release decision. This problem was compounded by the fact that the agency did not routinely verify the information that was provided, as called for in national standards.³ Thus, not only was the amount of information that was provided left totally to the defendant, so was its accuracy.

National standards call on pretrial services programs to use objective criteria in assessing risks of pretrial misconduct, and to determine the validity of the criteria used.⁴ Risk assessment had been largely guesswork. Prior to 2006, there was no objective risk assessment instrument in use. Staff would make subjective judgments regarding risk. Beginning in January 2006, an interim objective risk instrument, developed by court officials, was introduced. A review of the staff's use of that instrument found that staff were applying it inconsistently and using incomplete information.

In order for the judicial officer to make an informed decision in every case, the report submitted to the court must be complete and organized. The information that had been presented to the preliminary arraignment judge was the hand written questionnaire filled out by the defendant, a copy of the risk assessment, and the police affidavit. In those cases where the agency did not get a questionnaire or do a risk assessment, the only information presented to the court would be the police affidavit.

Another significant departure from national standards concerned the recommendations that the program was making to the court. National standards recognize the inappropriateness of using any kind of money bail – whether deposit or straight – to address concerns of public safety. For example, the American Bar Association Standards state that: “Financial conditions of release should not be set to prevent future criminal conduct during the pretrial period or to protect the safety of the community or any person.”⁵ Commentary to this standard states that “concerns about risks of pretrial crime should be addressed explicitly through non-financial release conditions or, if necessary, through pretrial detention ordered after a hearing – not covertly through the setting of bail so high that defendants cannot pay it. If it appears that it may be necessary to address risks of dangerousness through other conditions of release, the judicial

³ National Association of Pretrial Services Agencies, *supra* note 2, Standards 3.2(a).

⁴ American Bar Association, *supra* note 1, Standard 10-4.2(g), and National Association of Pretrial Services Agencies, *supra* note 2, Standard 3.4(a).

⁵ American Bar Association, *Standards for Pretrial Release – Third Edition, 2007*, Standard 10-5.3(b).

officer should hold a pretrial detention hearing....to decide whether the defendant should be detained pending adjudication of the charges.”⁶

Data showed that almost half (45 percent) of the recommendations being made by the pretrial program were for deposit bail. Nearly all of these were for deposit bail amounts of \$3,000 to \$5,000 – meaning that to be released, defendants would need between \$300 and \$500. PJI noted in reviewing hundreds of these cases that a deposit bail was being recommended in many instances where there were no indications that the defendant was a higher risk for failing to appear in court. In many of these cases, there could have been concerns among the staff about risks to public safety – either because of the nature of the current offense or the extent of the prior criminal history. Using deposit bail to address concerns regarding public safety raises the question – how is public safety enhanced when a defendant, or someone on his behalf, posts a few hundred dollars and walks out of jail with no restrictions on his release?

Aside from what the standards say about the use of money bail, these low percentage bails were creating a very practical problem for the jail. The two most important days that an inmates spends in jail are the day of admission and the day of release. Significant jail staff resources go into both admitting and releasing an inmate. About a quarter of all defendants appearing in preliminary arraignment were having a nominal percentage bail set by the court. Typical bonds were \$3,000 to \$5,000. Most were able to come up with the few hundred dollars required to post amount – but not until they had spent a day or two in jail, putting the jail through the unnecessary expense of admitting them and then turning right around and releasing them.

Supervision of pretrial release conditions

National standards call on pretrial services programs to have the capacity to supervise a wide range of conditions designed to match the wide range of risks posed by defendants.⁷ Without there being the capacity to supervise non-financial conditions of release, judicial officers have just two choices when faced with making a pretrial release decision on a medium risk defendant – ROR with no conditions or setting a money bail. If ROR is set, there is a greater likelihood that the defendant will engage in pretrial misconduct while on release because nothing is being done to address the higher risks. If a money bail is set, there is a possibility that the defendant will not be able to post the bail and therefore sit in jail while the case is pending. Moreover, as alluded to above, money bail is not designed for and does nothing to protect the safety of the community. Thus, whatever risk to the public the defendant may have posed is left unaddressed when the defendant posts the bail.

There are a number of different types of supervision options. The first are the status quo conditions, such as maintain current address or employment. These conditions require very little, if any, supervision on the part of the pretrial program. The next are the restrictive conditions, which limit the defendant’s movement in the community or associations. Examples of restrictive conditions would be: stay away from the complaining witness; stay away from a certain part of town; or observe a curfew or house arrest. Next are the contact conditions, which require the

⁶ American Bar Association, *supra* note 1, commentary to Standard 10-5.3(b).

⁷ American Bar Association, *supra* note 1, Standard 10-1.10(b), National Association of Pretrial Services Agencies, *supra* note 2, Standard 3.5.

defendant to remain in contact, either in person or by telephone, with the pretrial program, or some other supervisory program – i.e., the probation department if the defendant is also on probation. Finally, there are the problem-oriented conditions, which address such issues as drug or alcohol abuse or mental illness. Defendants with these types of conditions are typically referred to treatment or testing.

Supervision by the Allegheny County Bail Agency was virtually non-existent. The pretrial program had the capacity to supervise just two conditions, and both were very limited. The first involved a reporting requirement. Whenever a judge would order a defendant to report on a regular basis, either in person or by telephone, the agency would record their name in a book. Each time the defendant would report in an entry would be made in the book. Keeping track of who reported, or more importantly, who did not report, was problematic – which is not surprising given the agency’s reliance on a manual system to monitor these report-ins. The inability to monitor compliance with this condition severely limited its usefulness. As a result, very few defendants were given this condition.

Supervision of the second condition – pretrial electronic monitoring – was, and remains, much more impressive. The program is designed for higher-risk defendants who would otherwise remain in jail pending adjudication of their charges. The program is not available to the magistrate district judges – only a Common Pleas Court judge can order a defendant into pretrial electronic monitoring. As impressive as this condition has been, it can only be used for a small number of defendants. The capacity of the program is 100, and it has normally had an active caseload of about 75. The data collected for the Risk Assessment Validation Study showed that only about one percent of defendants were being released with this condition.

Court date notification

According to national standards, pretrial services programs should set up a system to remind defendants of their court dates.⁸ Sending out reminder notices to defendants of their upcoming court dates is the single most important thing a pretrial program can do to reduce failures to appear. From years of experience, pretrial services programs around the country have learned that it is not sufficient to hand defendants a piece of paper showing their next scheduled court appearance as they leave the courtroom and expect to have high appearance rates. Defendants need reminders about their dates. The Bail Agency had no court date notification procedures.

Mission statement

The Bail Agency’s mission statement was very vague. It simply stated: “Our mission is to provide the Courts, members of the Bar and residents of Allegheny County with comprehensive pretrial and diversionary services in compliance with state and local rules of criminal procedure.” Unless readers of this mission statement, including staff of the agency, knew what constituted “comprehensive pretrial and diversionary services” and what was

⁸ American Bar Association, *supra* note 1, Standard 10-1.10(xi), and National Association of Pretrial Services Agencies, *supra* note 2, Standard 3.5(vi).

required by those state and local rules, they would be at a loss for understanding the mission of the agency.

Written policies and procedures

National standards say that pretrial programs should develop and regularly update written policies and procedures describing the performance of key functions.⁹ What few policies and procedures that existed were scattered among memos and e-mails.

Supervisory oversight of staff

Implicit in national standards is that the work of pretrial programs be complete and accurate. One of the best means of achieving this is through quality control checks of the work done by staff. It was clear from reviewing the questionnaires filled out by defendants and how staff were calculating the risk assessment scores based on incomplete information that staff were operating largely on their own. There was significant inconsistency in how information was collected and reported.

Information management

The Bail Agency had an outmoded, paper-driven information system. Standards say that pretrial programs “should develop and operate an accurate management information system to support prompt identification, information collection and presentation, risk assessment, release conditions selection, compliance monitoring, and detention review functions essential to an effective pretrial services agency.”¹⁰

All records for a case have been kept in a manual file and stored in the program’s main office. Individuals from outside the office – typically attorneys or bail bondsmen – have had free access to the pretrial program’s paper files. This practice is contrary to national standards. The Pretrial Release Standards of the National Association of Pretrial Services Agencies (NAPSA) state that all pretrial program files should be considered confidential.¹¹ The standards also recognize, however, that pretrial programs are, first and foremost, information gatherers, and the information that they collect can be valuable to others in settings other than when the court is considering the release or detention of a defendant. Thus, the standards set forth the limited circumstances, beyond release decision making, when pretrial program information should be disseminated. These include:

- when the defendant has been referred to another program, such as drug or alcohol treatment
- when the jail needs certain information for classification purposes
- when law enforcement need certain information to assist in apprehending an individual who has failed to appear or is wanted, or

⁹ National Association of Pretrial Services Agencies, *supra* note 2, Standard 3.7(c).

¹⁰ American Bar Association, *supra* note 1, Standard 10-1.10(b)(ix); see also National Association of Pretrial Services Agencies, *supra* note 2, Standard 3.7(c)(v).

¹¹ National Association of Pretrial Services Agencies, *supra* note 2, Standard 3.8(b).

- when the probation department is preparing a pre-sentence report or is supervising the defendant on probation.

Overall agency focus

Bail Agency staff were conducting about 21,000 investigations each year prior to preliminary arraignment in Pittsburgh Municipal Court with about five staff working full time during the week and five staff part time over the weekend. The remainder of the bail investigator and clerical staff (a total of 7-12 full timers), plus interns were assigned to the main office.

These main office staff were chiefly responsible for investigating bond forfeiture cases. Every day, the Bail Agency would receive a list of all defendants who failed to appear in court the day before. Staff would then begin efforts to contact these defendants and have them report to the Bail Agency office so that they could be taken to the daily Motion's Court to resolve the failure to appear. According to staff, this effort led to discouraging results, with a very small percentage of defendants who missed a court date actually being contacted and convinced to come into the Bail Agency office to resolve the missed court appearance. A new Court Rule went into effect on August 1, 2006 requiring that defendants taken into custody on a Bond Forfeiture for failure to appear have to appear before a judge within 72 hours of their booking in jail. At that time, agency staff began conducting investigations of these defendants, an average of about 12 a day.

Thus, the bulk of the agency's resources were being dedicated to dealing with a problem – bond forfeitures – after it had occurred rather than on making sure that good information is collected up front to prevent so many bond forfeitures.

Overview of proposed enhancements

PJI recommended that the Bail Agency follow national standards and the practices of pretrial services programs nationwide and begin conducting interviews with defendants to obtain the necessary background information. Through the use of interviews rather than self-administered forms, agency staff could assure that all questions were addressed and that any inconsistencies in the information provided were identified and resolved. PJI also recommended that staff should follow up these interviews by calling references to verify the information obtained in the interview. Any discrepancies identified during the verification should be addressed before a report is made to the court. In addition, PJI recommended that the program refrain from making money bail recommendations to address concerns about public safety.

Looking at the agency workload volume, staff were investigating an average of about 60 new cases a day at PMC. Some days the number of cases could be much higher – approaching 100, particularly on weekends and Mondays. Switching from self-administered forms to interviews, and beginning routine verifications, would require a significant re-deployment of staff resources to the interviewing function.

PJI recommended that before staff were re-deployed, they should undergo a thorough re-orientation. That re-orientation should encompass several levels. The first would be training on

the historical, philosophical and legal underpinnings of pretrial services. In order to understand what they were being asked to do, they needed to understand why it is important. It was clear that staff had had very little exposure to standards regarding the practices of pretrial services programs.

The second would be exposure to other pretrial services programs. Staff had very little knowledge of how pretrial programs in other jurisdictions operate. Much can be learned through the exchange of ideas and experiences among pretrial program practitioners.

The third would be skills training. Staff needed to learn the skills to do their jobs well, including developing effective interviewing and verification techniques. Even though most of the staff have been with the agency for years – some for decades – they have never had to interview defendants. There are a number of interviewing techniques that pretrial investigators must employ to get a complete and accurate interview.

The fourth would be the creation of a new mission for the agency – one that flows from a vision of what modern pretrial services should look like in Allegheny County.

Additional recommendations were that the agency implement a means to have supervisory review of staff work, that the agency begin sending court date reminder letters to defendants, and that the agency, working with the court's IT department, begin the process of developing an automated information system.

Developments leading up to implementation of changes

The court fully embraced PJI's recommendations, including the one that would require the biggest change – to focus staff resources on interviewing defendants at PMC. With this acceptance came the realization that significant efforts would be required to make the change successfully. Major developments have taken place within the agency since these recommendations were made, including putting a new team in place, training the team, and starting the planning process.

Assembling the new team

One of the first, and most important, developments in putting together a new team was the hiring of a new director. In the period between the release of the ILPP report and the start of PJI's involvement, the long-time director of the Bail Agency stepped down. A new director was appointed and took over in December 2006. The first action of the new director was to merge the Bail Agency with three other county programs. One was the Alcohol Highway Safety Program, which the director had been running at the time that he was appointed to his new post. This program is responsible for operating all the county's Driving Under the Influence components, including the Alcohol Highway Safety School and the Ignition Interlock Program. The second was the Accelerated Rehabilitative Disposition (ARD) program. ARD is a diversion program, authorized by state statute, for first time offenders charged with non-violent offenses. Defendants who complete the requirements of the program have their charges dismissed and the record of their arrest expunged. The third was the county's Behavior Clinic. This office

provides the Court of Common Pleas with psychiatric evaluations of defendants with possible mental health issues. With this merger, the name of the agency was formally changed from the Bail Agency to the Pretrial Services Agency. The merger provided the new agency with significantly more resources to draw upon, and significant experience in providing supervision to both pretrial defendants and convicted offenders.

The director began weekly meetings with the supervisors of each of these four components to start the process of building the four distinct entities into one agency with a common mission and common values. He appointed a committee with representatives of the four components to start the process of drafting a mission statement for the new agency. He also appointed a developmental change committee, comprised of selected staff of the Bail Agency, to plan for the changes in interviewing and risk assessment procedures. More recently, he was able to bring in an experienced supervisor from the probation department to act as his senior supervisor.

Training

While PJI had recommended training for the investigators from the original Bail Agency staff, the need for training became even more important after the hiring of a new director with no previous experience in pretrial services and the merger of the four agencies, bringing in many staff persons who likewise had no experience in pretrial services. Thus, several training opportunities were made available.

The first opportunities involved the new director. PJI arranged for the director to attend the first training session for pretrial executives offered by the National Institute of Corrections. This 40-hour program was designed to enhance the leadership capacity of pretrial executives by addressing practical challenges facing pretrial program administrators. PJI also coordinated visits by the director to pretrial programs in Washington, D.C. and Montgomery County, Maryland. Both of these events occurred in February 2007.

In March 2007, PJI conducted a training session for the entire staff of the new agency on the historical and philosophical underpinnings of pretrial services. The session reviewed the history of bail and bail decision making, and national standards for pretrial services, as set forth by the American Bar Association and the National Association of Pretrial Services Agencies.

In July 2007, PJI conducted two day-long training sessions on interviewing techniques for the entire bail investigation staff, plus several staff from the other components of the new agency. Also in July 2007, the director brought four of his staff to visit the Washington, D.C. and Montgomery County pretrial programs, and to meet with PJI to discuss planning issues.

Finally, several staff of the agency attended the Annual Conference and Training Institute of the National Association of Pretrial Services Agencies in Cleveland, Ohio, September 16-19, 2007.

Each of these training opportunities has been crucial in building a foundation for change. They have given the staff the tools they need to build a modern, highly-functioning pretrial services program.

Planning

The pretrial program director appointed several staff members from the Bail Investigation Unit to serve on a committee to make plans for the transformation of intake procedures. This developmental change committee, which has been meeting once a week, was confronted with two major challenges in planning to convert from self-administered questionnaires to face-to-face interviews.

The first was how to deploy sufficient staff to complete the interviews. Obviously, it takes far more time to interview every defendant than it does to pass out and then collect the self-administered questionnaires. The committee researched the volume of cases coming through PMC over an extended period of time and, based on the results of that analysis, developed a schedule that would deploy the anticipated number of staff to adequately cover three shifts a day, seven days a week.

The second major challenge was finding a suitable place within the jail booking area to conduct the interviews. A person who has been arrested and brought to the jail goes through the booking process, which includes fingerprinting and photographing. Once booking is completed, males are brought to one large holding cell, and females to another, where they remain until they are moved down the hallway to the preliminary arraignment court.

The male and female holding cells are glass-enclosed – meaning that pretrial staff would not, absent major renovation – be able to stand outside the cell and interview defendants on the inside. Additionally, jail administrators had security concerns about pretrial staff interviewing defendants while they were being processed through booking.

To address these problems, the jail agreed to relinquish an enclosed space that is immediately adjacent to the male holding cell. That space, which had been used for the jail's Records Unit, has been converted into office space for the pretrial program. Under the plan that was worked out between the pretrial program and the jail, three windows were cut into the common wall between this space and the male holding cell and interview booths installed. Pretrial program staff would sit at a booth within the pretrial office space and interview defendants, who would be seated on the other side of the glass in the holding cell. Communication would be through a telephone and staff would record defendant interview responses directly into the computer system through a laptop.

For females, the jail agreed to construct an interview area immediately outside the female holding cell. Pretrial program staff would be able to stand outside the cell, pull down a ledge for their laptop computers, and interview defendants through the glass via a telephone.

The committee also worked on an automated system to capture information from the pretrial interview. The court's IT department was able to design an automated system, the

Allegheny County Pretrial Services Case Management System, that is parallel to another county criminal justice information system – ASAP (Allegheny Standardized Arrest Program), which records arrest and first appearance information. With its parallel features, pretrial staff can pull information out of ASAP and insert it into their own system. When their work-up is completed, they can then transfer selected information to ASAP, for viewing by appropriate system actors.¹² With the laptop computers staff would be able to record defendant interview responses directly into their information system rather than using paper interview forms. This would save time in getting reports ready for preliminary arraignment and avoid unnecessary duplication of effort.

Finally, the committee was also responsible for finalizing the questions and format for the pretrial interview form and, after reviewing the results of the Risk Assessment Validation study (see Section II), finalizing the new risk assessment instrument.

Throughout the planning process, the pretrial program's director met with judges, magistrate district judges, the District Attorney's Office, the Public Defender's Office, and other key officials to apprise them of the changes that were being made. A package of information summarizing the changes and print outs of what new reports would look like were distributed to all parties involved in the initial appearance.

¹² Pretrial's case management system is not accessible to any parties outside the agency.

SECTION II: THE RISK ASSESSMENT VALIDATION STUDY

ABA standards call for the use of objective criteria in assessing risks of pretrial misconduct.¹³ The commentary to that standard state: “The emphasis on objective and reliable information directs the background investigation away from speculative data or subjective interpretations of factors that may be influenced by rumor, innuendo, or interviewer bias. Fair release procedures should avoid relying on unsubstantiated, speculative, or highly interpretive kinds of information.”¹⁴

In late 2005, Allegheny County court officials developed an interim risk assessment instrument that the bail agency would use at least until the instrument could be assessed for its validity. In establishing the criteria contained in the instrument, court officials examined the factors that Pennsylvania court rules require a judge to take into consideration when making a pretrial release decision. (See Appendix B for a copy of that instrument.)

The court asked PJI to conduct a validation study of this instrument to determine which factors are related to risks of failure to appear in court and danger to the community in Allegheny County. This section describes how that study was done and presents the results.

Sample

There are two types of risk assessment validation studies – retrospective and prospective. For a retrospective study, the sample is drawn from a period in the past allowing enough time for the large majority of cases to reach final disposition before data collection ends and analysis begins. This approach to sampling is the only one available when the time allotted to complete the study is, as was the case with this project, limited to about a year. While this type of study can be very effective, it is restricted to whatever data was available at the time the sampled cases were being processed.

A prospective study addresses this restriction. It allows for the consideration of data elements that were not previously considered. For example, if the desire was to test the association between a defendant’s total length of residence in a community with higher risks of failure to appear or rearrest and data on length of residence was not previously collected, a question about this could be added to the pretrial interview form. Once all the desired data elements were identified, the sampling period could begin. The drawback to the prospective study is that it does add significantly to the time required to complete the study.

Given the time limits to complete this project, the only option was to conduct a retrospective study. As a result, PJI requested a list from the Court of Common Pleas of all felony and misdemeanor cases that were filed in that court between January 1, 2006 and June 30, 2006. This time period was selected because it would allow about ten months for the most recent cases – those filed in June 2006 – to reach final disposition before analysis would begin.

¹³ American Bar Association, *supra* note 1, Standard 10-4.2(g).

¹⁴ American Bar Association, *supra* note 1, page 91.

The court provided an electronic list containing 9,403 cases. PSRC then randomly selected 940 of these cases – or ten percent – to be included in the sample. Nineteen of these cases were voided because the defendants had not yet been arrested, leaving a total sample size of 921.

Appendix C is a list of the data elements included in the validation study. Since the data for most of these elements were available only in manual form, it was not possible to obtain these data through electronic means. Staff of the pretrial program manually collected the data over a period of six months using a data collection form. (See Appendix D.)

Several sources, both manual and automated, were required to complete the data collection form. The first manual source was “Form 58,” the questionnaire that the pretrial program would ask defendants to complete. (See Appendix A for a copy of that form.) This form gathered information on the defendant’s address and employment status, community ties, and history of drug, alcohol or mental health treatment. Another important manual source was the risk assessment form, completed by pretrial staff. This form showed which points were allotted, the point total, the recommendation made to the court, and the court’s decision. (See Appendix B for a copy of this instrument.) Most of the paper files also contained the defendant’s prior criminal history. This information was used to ascertain the number of prior felony and misdemeanor convictions. Whenever the file was missing the criminal history, staff would run another one through the National Crime Information Center (NCIC) database.

Automated sources included the statewide Common Pleas Court Case Management System (CPCMS), and the locally-operated Criminal Information Management System (CIMS), both of which contain case tracking data, as well as any information on prior failures to appear in court. Other automated sources were the Allegheny Standardized Arrest Program (ASAP), which includes information regarding the arrest and preliminary arraignment, in addition to any rearrest information, and the Jail/Inmate Look-Up, which contains information on the detention status of current and former jail inmates.

Information from the data collection forms was then entered into the Statistical Package for the Social Sciences (SPSS) software.

Table 1 shows the demographic characteristics of the sample. As the table shows, there were high percentages of unknowns for the variables of Marital Status, Years of School, and High School Graduate. This is a reflection of the fact that defendants would often fail to respond to all the questions on the self-administered questionnaire.

Table 1
Characteristics of Risk Assessment Validation Study Sample

	N	%
Gender		
Male	721	78%
Female	200	22%
Race		
White	557	61%
Black	352	38%
Other	4	0.4%
Unknown	8	1%
Age		
18-21	141	16%
22-25	158	18%
26-30	134	15%
31-35	120	13%
36-45	225	25%
46-55	100	11%
56 and Over	23	3%
Marital Status		
Single	401	44%
Married	98	11%
Divorced	41	5%
Separated	22	2%
Widowed	3	0.3%
Unknown	356	39%
Years of School		
8 or less	9	1%
9-11	107	12%
12	287	31%
13-16	114	12%
Over 16	18	2%
Unknown	386	42%
High School Graduate		
Yes	444	48%
No	137	15%
Unknown	340	37%

Looking at the most serious charge at arrest, 245 defendants, or 27 percent of the sample, were charged with Driving Under the Influence, 137 defendants, or 15 percent were charged with Possession of Controlled Substance, and 107, or 12 percent, were charged with Possession with Intent to Distribute. Other prominent charges were Theft (93 defendants or 10 percent of the sample), Aggravated Assault (39 or 4 percent), Simple Assault (37 or 4 percent), and Violation of the Uniform Firearms Act (26 or 3 percent). Chart 1 shows the most serious charge type. As

the chart shows, the vast majority of defendants in the sample were charged with non-violent misdemeanors.

Chart 1
Most Serious Charge Type

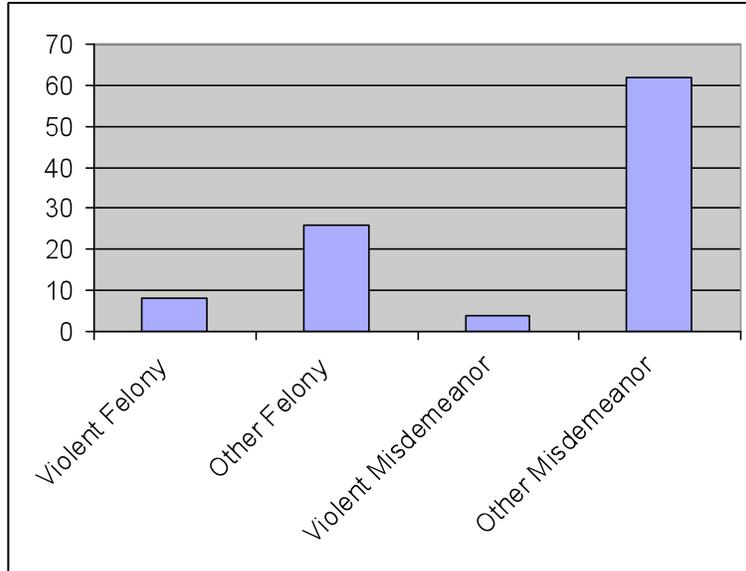
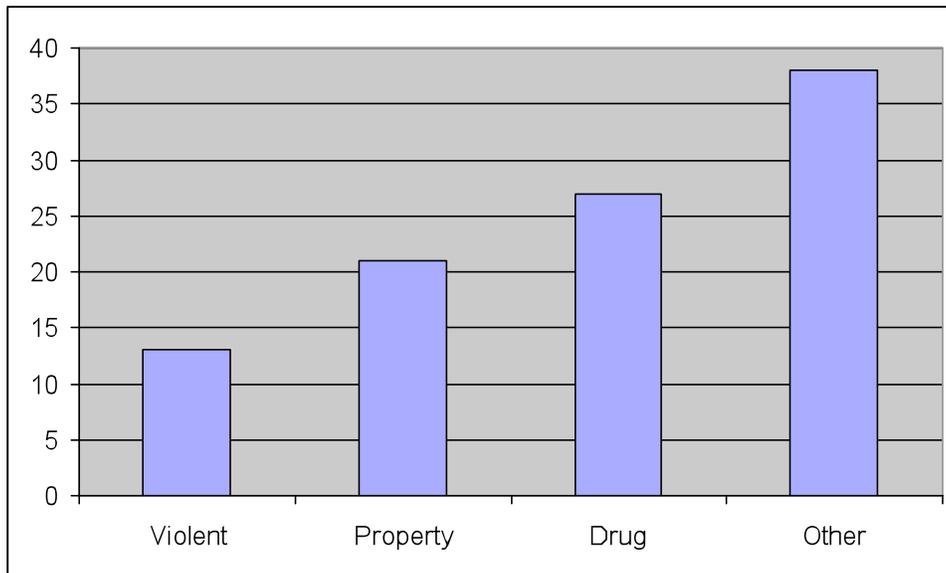


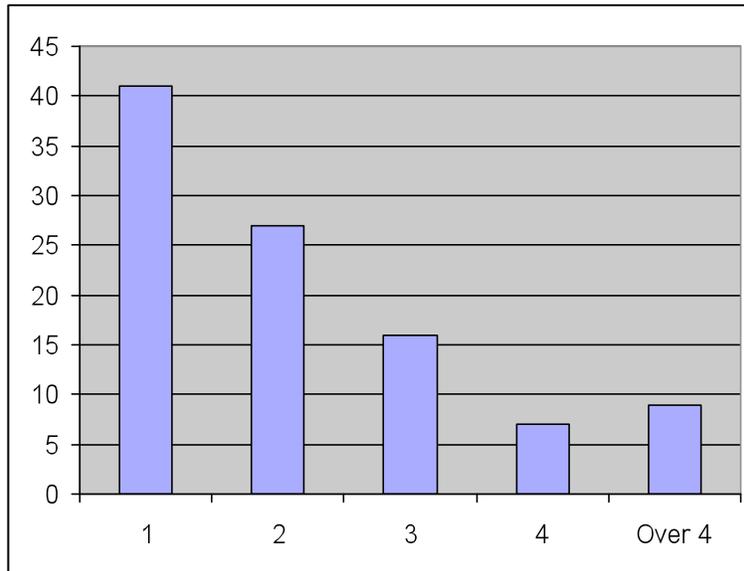
Chart 2 categorizes the charges into four groups – violent, property, drug, and public order. As seen in the chart, violent offenses comprised 13 percent of the sample, property offenses 21 percent, drug offenses 27 percent, and other offenses 38 percent.

Chart 2
Category of Most Serious Charge



About four in ten defendants were charged with one count only. Just over a quarter had two counts, about 16 percent had three counts, seven percent four counts, and nine percent more than four counts. (See Chart 3.)

**Chart 3
Number of Counts**



As Table 2 shows, there was no weapon involved in over 90 percent of the cases.

**Table 2
Involvement of a Weapon**

Was a weapon involved?	N	%
Yes	68	7%
No	851	92%
Unknown	2	0.2%

The next table looks at the prior criminal history of defendants in the sample. As the table shows, over three-quarters of the sample had never been convicted of a felony, and more than nine out of 10 had never been convicted of a violent felony. Just over half had no prior misdemeanor convictions, and three-quarters had never failed to appear in court previously. On the other hand, 15 percent had missed at least two prior court appearances.

**Table 3
Prior Criminal History**

	N	%
Number of Prior Felony Convictions		
0	692	76%
1	106	12%
2	55	6%
3 or more	64	7%
Number of Prior Felony Convictions for Violent Offenses		
0	839	92%
1	59	6%
2	13	1%
3 or more	6	0.6%
Number of Prior Misdemeanor Convictions		
0	477	52%
1	132	14%
2	91	10%
3 or more	217	24%
Number of Prior Misdemeanor Convictions for Violent Offenses		
0	842	91%
1	48	5%
2	18	2%
3 or more	9	1%
Number of Prior Escapes		
0	886	97%
1	25	3%
2	3	0.3%
3 or more	3	0.3%
Number of Prior FTA's		
0	691	75%
1	95	10%
2	53	6%
3 or more	82	9%

Table 4 examines current involvement with the criminal justice system. More than two-thirds had no current involvement in the criminal justice system at the time of their arrests. Of those who did have an involvement, the most common were being on bond, and being on probation.

Table 4
Current Involvement with the Criminal Justice System

Involvement	N	%
None	621	67%
On parole	24	3%
On probation	136	15%
On bond	146	16%
Outstanding warrant	14	2%
Unknown	20	2%

The next several tables and charts describe community tie factors relating to defendants in the sample. Table 5 shows that the majority of defendants had been living in Pennsylvania and living in Allegheny County for at least five years. Very few were not residents of either the commonwealth or the county. These tables and charts also show very high percentages where the information was unknown, a reflection of the fact that, as noted earlier, many defendants did not completely fill out the self-administered questionnaires.

Table 5
Time in the Area

	N	%
Time in Pennsylvania		
Less than 1 year	16	2%
1-5 years	44	5%
More than 5 years	543	59%
Not a Commonwealth resident	8	1%
Unknown	310	34%
Time in Allegheny County		
Less than 1 year	20	2%
1-5 years	48	5%
More than 5 years	515	56%
Not a county resident	38	4%
Unknown	300	33%

According to Table 6, at least half the defendants lived at their current address for at least one year; the length of residence for one-third of defendants was unknown. Almost half the defendants reported living with family, and just over one out of ten said that they own their home.

**Table 6
Current Address**

	N	%
Time at Current Address		
Less than 1 year	153	17%
1-5 years	212	23%
More than 5 years	247	27%
Homeless	5	0.5%
Unknown	304	33%
Who Lives With		
Lives alone	112	12%
Lives with family	431	47%
Lives with friend(s)	106	12%
Unknown	272	30%
Own or Rent at Address		
Own	113	12%
Rent	400	43%
Unknown	408	44%

The employment status of one-third of defendants was unknown. Thirty-six percent reported being employed and 34 percent unemployed. (See Chart 4.)

**Chart 4
Employment Status**

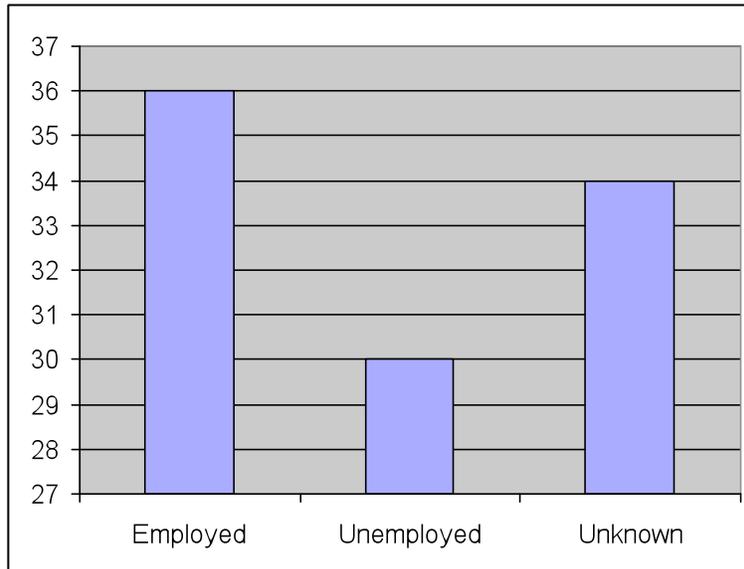


Chart 5 shows that ten percent of defendants reported being the primary caregiver of a child.

**Chart 5
Primary Caregiver Status**

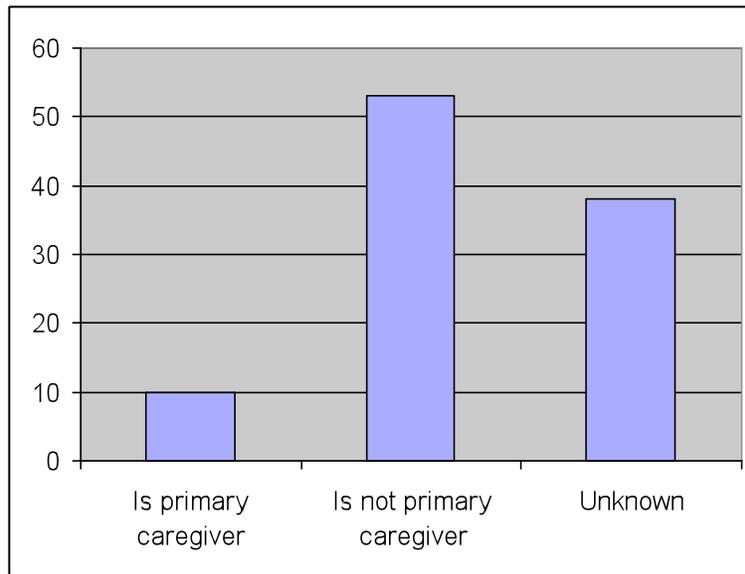


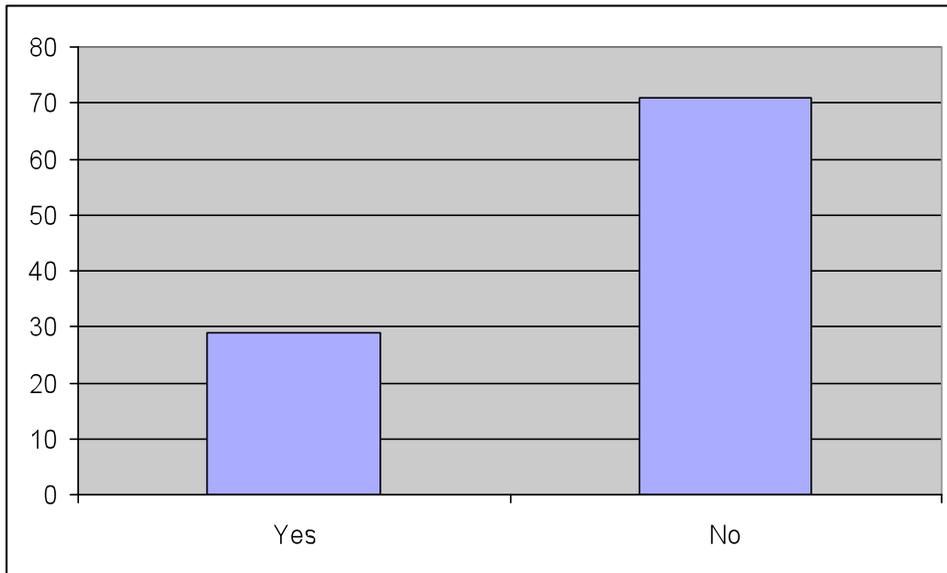
Table 7 shows how defendants responded to questions about current or prior treatment for alcoholism, drug abuse, and mental illness. As the table shows, few defendants reported having prior treatment, with the highest percentage being for drug abuse. Nearly half the defendants failed to respond to these questions at all.

**Table 7
Alcohol/Drug/Mental Health Treatment**

	N	%
Treated for Alcoholism		
Yes	61	7%
No	424	46%
Unknown	436	47%
Treated for Drug Abuse		
Yes	122	13%
No	383	42%
Unknown	416	45%
Treated for Mental Illness		
Yes	55	6%
No	420	46%
Unknown	446	48%

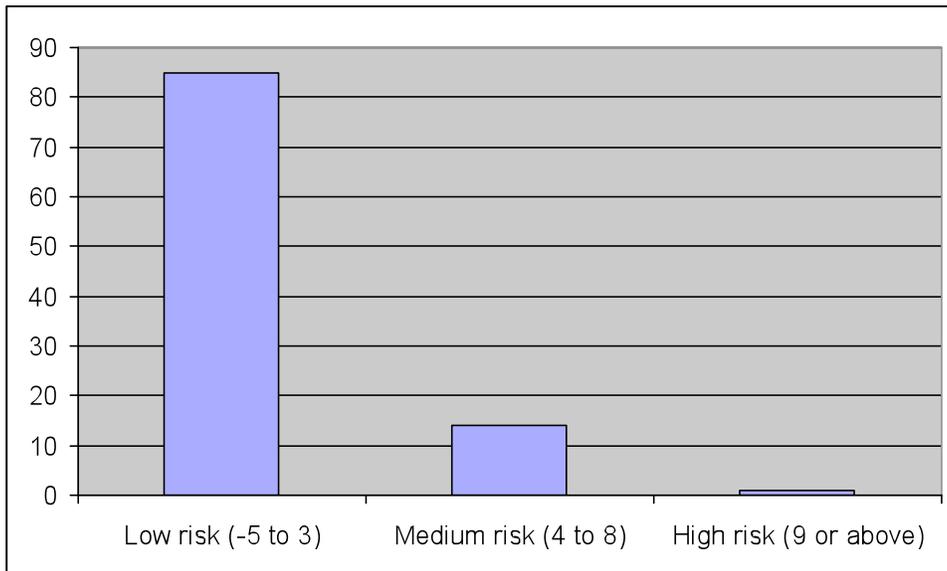
The next several charts and tables show what actions the pretrial program did or did not take, and the decisions of the court. As seen in Chart 6, the pretrial program recorded a risk score in only about 30 percent of the cases. In the remaining cases, the program presumably did not complete an investigation, or, if it did, it did not score the defendant for risk – or failed to record that score.

**Chart 6
Risk Score Calculated**



According to Chart 7, the overwhelming number of defendants who were assessed for risks by the pretrial program scored as low risk. About 12 percent were medium risk and only one percent were high risk.

**Chart 7
Risk Scores**



No recommendation was made by the program in 42 percent of the cases in the sample. In those cases where a recommendation was made, 46 percent were for deposit bail, 29 percent for ROR, and 25 percent for straight bail. (See Chart 8.)

**Chart 8
Program Recommendation**

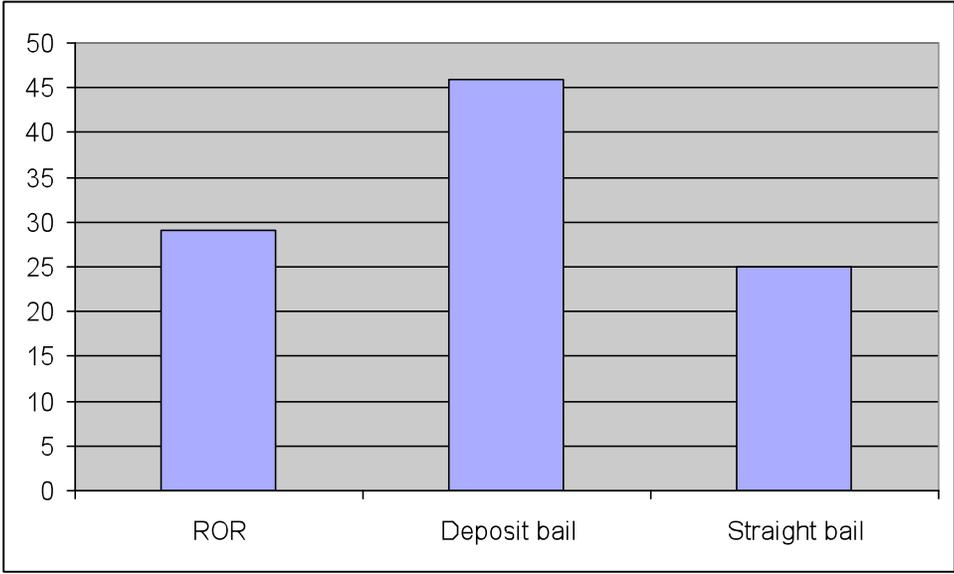
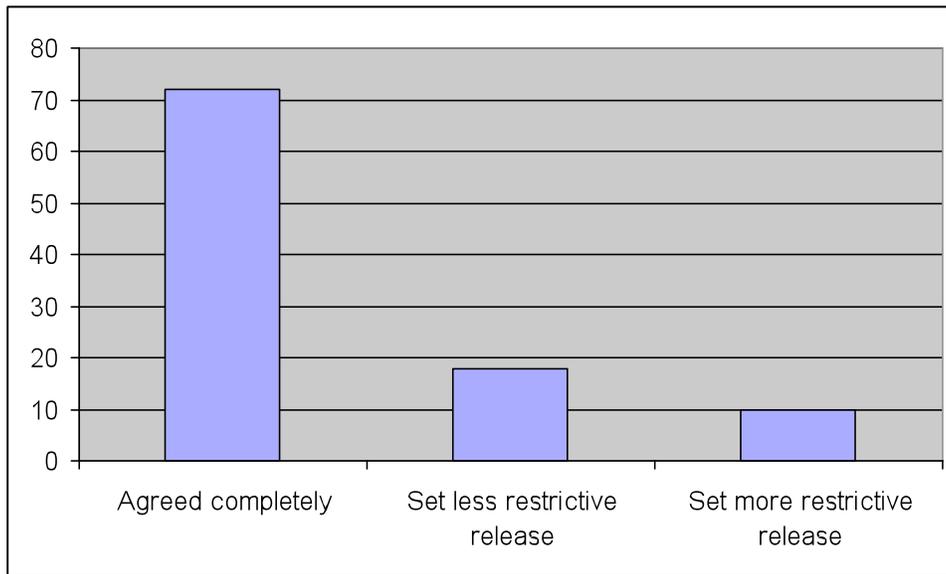


Chart 9 shows how the court responded to the recommendation of the pretrial program. In over 70 percent of the cases, the court followed the pretrial recommendation completely. That is, if the program recommended ROR, the court released the defendant on ROR. If the program recommended a \$4,000 ten percent bail, the court set a deposit bail in that amount. In about 19 percent of the cases, the court set a less restrictive bail than that recommended by the program. This included instances where the court set a lower dollar amount than was recommended or set ROR when a deposit bail was recommended, or a deposit bail when a straight bail was recommended.

**Chart 9
Court Agreement with Recommendation**



As Table 8 shows, 91 percent of defendants were released at some point during the period when the case was pending. Of these, nearly six out of ten were released on ROR, and about a quarter on deposit bail.

**Table 8
Pretrial Release Status**

	N	%
Was Defendant Released Pretrial		
Yes	839	91%
No	77	8%
Unknown	5	0.5%
How Was Defendant Released		
ROR	499	59%
Electronic monitoring	7	1%
Deposit bail	201	24%
Straight bail	124	15%
Unknown	8	1%

The two dependent variables for the validation study were failure to appear and rearrest on a new charge while the case was pending. Since defendants who were detained throughout the pretrial period did not have the opportunity to fail to appear or be rearrested, the data presented in Table 9 reflects only those defendants who were released. As the table shows, 22 percent of released defendants had at least one failure to appear and 17 percent had at least one rearrest.

Table 9
Conduct on Pretrial Release

	N	%
Did the Defendant Fail to Appear		
Yes	185	22%
No	659	78%
Unknown	2	0.2%
Was the Defendant Rearrested		
Yes	142	17%
No	701	83%
Unknown	2	0.2%

Findings

Bivariate analysis

The first step in validating the interim risk assessment instrument was to conduct a bivariate analysis. This analysis examines pairings of an independent (cause) and a dependent (effect) variable to see if statistically significant relationships between them may exist. A relationship between the independent and dependent variables is statistically significant if it can be shown to exist in 95 samples out of 100. In other words, if 100 different samples were drawn from the same universe, the same results would be achieved at least 95 times. The bivariate statistics used were Chi-Square for categorical variables (i.e., current charge is violent), and Spearman's Correlation Coefficient where the variables have order to them (i.e., number of prior felony convictions, number of prior FTA's).

The dependent variables in a pretrial risk assessment validation are failure to appear and rearrest. Tables 10 and 11 summarize the bivariate findings for each dependent variable.¹⁵ As the tables show, the most consistent set of predictors of either failure to appear or rearrest are the prior criminal history variables. Personal health and community ties variables have some predictive value for failure to appear. No analysis could be conducted on the variables pertaining to who the defendant lives with (i.e., spouse, parents, friend, alone) because there was so much missing data. Therefore, those variables are not included in the tables.

¹⁵ All bivariate analyses were conducted in the Statistical Package for the Social Sciences (SPSS ®).

Table 10
Bivariate Analysis of Variables Associated with FTA

Dependent Variable – Failure to Appear (FTA)		
Independent Variables	<i>Significant</i>	<i>Not Significant</i>
Current Offense		
Violent Offense		X
Weapons Offense		X
Felony or Misdemeanor		X
Total Number of Charges		X
Personal Health		
Alcohol Dependency	X	
Drug Dependency	X	
Mental Illness		X
Criminal History		
Number of Prior FTAs	X	
Number of Prior Escapes		X
Number of Prior Misdemeanor Convictions	x	
Number of Prior Violent Misdemeanor Convictions	X	
Number of Prior Felony Convictions	X	
Number of Prior Violent Felony Convictions		X
On Parole at Arrest	X	
On Probation at Arrest	X	
On Pretrial Release at Arrest	X	
Has an Outstanding Warrant at Arrest		X
Community Ties		
Owens Home	X	
Employed	X	
Time Resident in PA		X
Time Resident in County		X
Time at Current Address	X	
Age		
Under Age 21 at Time of Preliminary Arraignment		X

Table 11
Bivariate Analysis of Variables Associated with Rearrest

Dependent Variable – Rearrest		
Independent Variables	<i>Significant</i>	<i>Not Significant</i>
Current Offense		
Violent Current Offense		X
Weapons Offense		X
Felony or Misdemeanor		X
Total Number of Charges	X	
Personal Health		
Alcohol Dependency		X
Drug Dependency		X
Mental Illness		X
Criminal History		
Number of Prior FTAs	X	
Number of Prior Escapes		X
Number of Prior Misdemeanor Convictions	X	
Number of Prior Violent Misdemeanor Convictions		X
Number of Prior Felony Convictions	X	
Number of Prior Violent Felony Convictions	X	
On Parole at Arrest		X
On Probation at Arrest	X	
On Pretrial Release at Arrest	X	
Has an Outstanding Warrant at Arrest		X
Community Ties		
Owens Home		X
Employed	X	
Time Resident in PA		X
Time Resident in County		X
Time at Current Address		X
Age		
Under Age 21 at Time of Preliminary Arraignment	X	

Multivariate analysis

The next step was to conduct a multivariate analysis to see if the relationships held up after controlling for other variables.¹⁶ Multivariate analyses are tests of association involving two or more independent variables so that the relative strength of individual independent variables can be determined. The dependent variables, FTA and rearrest, are dichotomous – that is, only two outcomes (yes or no) are possible. The most suitable model for multivariate analysis of dichotomous dependent variables is logistic regression. Coefficients in logistic regression are

¹⁶ A multivariate analysis of the predictors of failure to appear and rearrest was conducted in STATA®. STATA has better analytic software and more comprehensive output for analysis of binary (yes/no) dependent variables such as failure to appear (FTA) and rearrest.

expressed in odds ratios (for example, the probability of an FTA or rearrest occurring over/ the probability of an FTA or rearrest not occurring). An overall measure of model fit/improvement over random guessing is indicated by the log-likelihood ratio and by McFadden's Adjusted R-squared measure of model fit.

A series of logistic regression models were utilized to pare down the list of potentially statistically significant multivariate factors detailed above to a small set of statistically significant factors that also bore strong resemblance to prior findings from prior risk assessment analyses conducted in jurisdictions across the United States. (See Appendix E for a review of that literature.) Multivariate predictors were utilized that were shown to be not significant in the bivariate analysis. This is not unusual. Quite often, independent variables have effects on the dependent variable that can only be clarified to show the true relationship between the independents and dependent when controlling for the effects of the other independent variables simultaneously. As a result, the multivariate analysis starts with the full set of bivariate independent variables.

Prior to engaging in multivariate analysis, it was necessary to review the personal health and community ties variables that were predictive at the bivariate level to see if inclusion of these variables would so reduce the number of cases for analysis as to distort the representativeness of the sample. Despite the strong suggestion that these variables ought to be included based on both prior research and the bivariate relationships shown between these variables and FTA, there was so much missing data as to make their inclusion in the multivariate analysis inadvisable.

As Table 12 shows, controlling for all other factors in the multivariate analysis yields the following results for FTA:

- Defendants who are charged with a violent, property, or drug offense are approximately 2.4 times as likely to FTA as defendants who are charged with a public order offense
- Defendants whose most serious charge is a misdemeanor are approximately 1.5 times as likely to FTA as defendants whose most serious charge is a felony
- Defendants who have three or more prior misdemeanor convictions are approximately 1.6 times as likely to FTA as defendants who do not have three or more prior misdemeanor convictions
- Defendants who do not have three or more prior felony convictions are approximately 2.2 times as likely to FTA as defendants who have three or more prior felony convictions
- Defendants who have two prior failures to appear are approximately 1.5 times as likely to FTA as defendants who do not have two prior failures to appear
- Defendants who have three or more prior failures to appear are approximately 2.5 times as likely to FTA as defendants who do not have three or more prior failures to appear

- Defendants who are under 21 at the time of preliminary arraignment are approximately 1.7 times as likely to FTA as defendants who are 21 or older at the time of preliminary arraignment.

Table 12
Multivariate Analysis of Variables Associated with FTA

Logistic Regression Model of Failure to Appear			
Probability Risk Scoring Item	Logged Odds Ratio ¹	Standard Error	Probability of FTA when IV is No/Yes ²
Current Offense			
Most serious charge not involving violent, property or drug offense	-1.02**	0.23	.26 vs. .11
Most serious charge is a felony	-0.50*	0.23	.21 vs. .14
Two charges ³	0.15	0.23	.18 vs. .21
Three or more charges	0.10	0.25	.19 vs. .20
Criminal History			
One prior misdemeanor conviction ⁴	0.33	0.28	.18 vs. .23
Two prior misdemeanor convictions	0.62	0.32	.18 vs. .29
Three or more prior misdemeanor convictions	0.60*	0.27	.17 vs. .27
One prior felony conviction ⁵	-0.04	0.29	.19 vs. .18
Two prior felony convictions	0.21	0.37	.19 vs. .22
Three or more prior felony convictions	-0.95*	0.41	.20 vs. .09
No involvement with the criminal justice system at arrest	-0.32	0.20	.23 vs. .18
One prior failure to appear ⁶	0.29	0.29	.19 vs. .23
Two prior failures to appear	0.98**	0.36	.18 vs. .37
Three or more prior failures to appear	1.33**	0.34	.18 vs. .45
Social Factors			
Under age 21 at time of preliminary arraignment	0.73*	0.28	.18 vs. .31
Intercept/Constant	-1.21**	0.28	
Log Likelihood Ratio Model Improvement		96.52**	
McFadden Adjusted R-squared Model Fit		0.08	
Sample n		821	
*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 Prediction when all other independent variables (IVs) are set to mean values. While not a perfect correspondence to the real world, this gives a good estimation of the impact of the independent variable on the dependent variable.			
³ Residual category is one charge.			
⁴ Residual category is no prior misdemeanor convictions.			
⁵ Residual category is no prior felony convictions.			
⁶ Residual category is no prior failures to appear.			

As seen in Table 13, controlling for all other factors in the multivariate analysis yields the following results for rearrests:

- Defendants who are charged with a violent, property, or drug offense are approximately 1.5 times as likely to be rearrested as defendants who are charged with some other public order offense

- Defendants who have two prior failures to appear are approximately 2.4 times as likely to be rearrested as defendants who do not have two prior failures to appear
- Defendants who have three or more prior failures to appear are approximately 2.9 times as likely to be rearrested as defendants who do not have three or more prior failures to appear
- Defendants who are under 21 at the time of preliminary arraignment are approximately 2.2 times as likely to be rearrested as defendants who 21 or older at the time of preliminary arraignment

Table 13
Multivariate Analysis of Variables Associated with Rearrest

Logistic Regression Model of Rearrest			
Probability Risk Scoring Item	Logged Odds Ratio ¹	Standard Error	Probability of Rearrest when IV is No/Yes ²
Current Offense			
Most serious charge not involving violent, property or drug offense	-0.49*	0.25	.17 vs. .11
Most serious charge is a felony	-0.13	0.24	.15 vs. .13
Two charges ³	0.18	0.26	.14 vs. .16
Three or more charges	0.33	0.25	.13 vs. .17
Criminal History			
One prior misdemeanor conviction ⁴	0.24	0.27	.14 vs. .17
Two prior misdemeanor convictions	0.32	0.31	.14 vs. .18
Three or more prior misdemeanor convictions	0.50	0.36	.13 vs. .20
One prior felony conviction ⁵	-0.22	0.30	.15 vs. .12
Two prior felony convictions	0.63	0.33	.14 vs. .23
Three or more prior felony convictions	-0.38	0.41	.15 vs. .10
No involvement with the criminal justice system at arrest	-0.31	0.22	.17 vs. .13
One prior failure to appear ⁶	0.41	0.32	.14 vs. .20
Two prior failures to appear	1.14**	0.38	.14 vs. .33
Three or more prior failures to appear	1.41**	0.36	.13 vs. .38
Social Factors			
Under age 21 at time of preliminary arraignment	0.97**	0.29	.13 vs. .28
Intercept/Constant	-1.96**	0.31	
Log Likelihood Ratio Model Improvement		76.40**	
McFadden Adjusted R-squared Model Fit		0.06	
Sample n		820	
*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 Prediction when all other independent variables (IVs) are set to mean values. While not a perfect correspondence to the real world, this gives a good estimation of the impact of the independent variable on the dependent variable.			
³ Residual category is one charge.			
⁴ Residual category is no prior misdemeanor convictions.			
⁵ Residual category is no prior felony convictions.			
⁶ Residual category is no prior failures to appear.			

Resulting draft instrument

The next step was to transform the logistic regression coefficients into units. In addition, it was decided that since the personal health and community ties factors had shown potential for use on a risk scale based on the bivariate analysis, as well as in other risk assessment studies, they should be included in the drafted risk assessment instrument. The resulting instrument combines both empirical findings and experienced judgment to provide a more comprehensive and nuanced risk index than either pure empiricism or practitioner could provide alone.

**ALLEGHENY COUNTY RISK ASSESSMENT CRITERIA
(Revised June 2007)**

Current Charge

-2	Most serious current charge not involving violent, property or drug offense
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Prior History

1	Two or more prior felony or misdemeanor convictions
1	Defendant is on probation, parole, pretrial release or has an outstanding arrest warrant
2	Defendant has TWO prior failures to appear in court
3	Defendant has THREE OR MORE prior failures to appear in court

Social Factors

2	Defendant has history of alcohol or substance abuse
1	Defendant is under age 21 at time of preliminary arraignment

Stability Factors

-2	Defendant owns his or her own home
-3	Defendant is employed

Ranges:

-7 to -2 = Low (ROR)

-1 to 3 = Medium (Supervised Release)

4 to 8 = High (No recommendation for release)

Simulations were run to see what would have happened if this draft revised instrument were in place during the time the sample was taken. According to the simulations, 63 percent of defendants would have fallen in the low range category, with scores of -7 to -2 points. This compares very closely to the 60 percent of defendants in the sample who were actually released on ROR. Based on the simulation, if the revised instrument were in place and the court released all 63 percent of defendants who would have been assessed as low risks, the FTA rate would have been 15 percent and the rearrest rate would have been 12 percent. By comparison, the FTA rate for defendants who were released on ROR in the study was 18 percent, and the rearrest rate was 12 percent. Of course, the rates derived from the simulation assume that no other changes would have been introduced to improve them. Significant changes have, however, been made that should act to reduce those rates. Those changes include getting good address information on all defendants, notifying defendants of their arraignments in the Court of Common Pleas, introducing supervised release, using overrides in selected cases and recommending preventive detention in appropriate cases where community safety may be at issue.

Thirty-four percent of defendants would have fallen in the medium range category, with scores of -1 to 3 points. The FTA rate for this group would have been 31 percent and the rearrest rate 15 percent, for an overall misconduct rate of 34 percent.

Three percent of defendants would have fallen into the high range category, scoring 4 to 8 points. This is very close to the interim risk instrument, which put only one percent of defendants in this category. According to the simulation, 82 percent of defendants in the high range category would engage in pretrial misconduct if released pretrial.

SECTION III: IMPLEMENTING THE TRANSFORMATION

On September 2, 2007, the Allegheny County Pretrial Services Agency launched its new procedures. This section describes those procedures.

Intake practices

As compared to the recent past, where the program was failing to reach about 40 percent of defendants appearing in PMC for preliminary arraignment, under the new procedures, the program is reaching 100 percent of all defendants. Some initial delays were experienced in the first couple of weeks in getting defendants into preliminary arraignment. The program has reduced those delays as staff have been gaining more experience and by deploying staff from other units of the agency when necessary.

The program now conducts face-to-face interviews instead of using self-administered forms. The interviews are conducted using laptop computers, eliminating the need for paper forms and allowing for the direct input of information into the agency's new automated information system. All pretrial interviewers have undergone training in interviewing techniques. A supervisor randomly checks 25 percent of cases from each shift to assure that responses are provided to all questions. Staff routinely verify the information provided by defendants in all cases.

Based on the results Risk Assessment Validation Study, a new objective risk instrument, including factors empirically shown to be related to risks of failure to appear in court or danger to the community in Allegheny County, was developed. That instrument has been adopted and is now in use. The program is currently not making any recommendations for money bail. With the agency's new information system, it should be possible to re-validate this instrument on a regular basis.

The agency now presents the court with a computer-generated report that includes background information on 100 percent of defendants appearing for preliminary arraignment, a synthesis of their criminal records, a history of any failures to appear, and the risk assessment of recommendation of the pretrial program.

Supervision of pretrial release conditions

With a new, validated pretrial risk assessment instrument identifying an estimated 34 percent of defendants falling into a medium risk range, and with the concerns of the court about reducing the FTA rate, it is clear that additional supervision capability was required. The program has implemented a response. Under new procedures, instituted when the new risk assessment instrument was put into use, defendants falling into the medium range (scoring -1 to 3 on the risk instrument) are placed into one of two supervision groups. Those with scores of -1 or 0 are required to call the program once a month. Those with scores of 1 to 3 must report in person or by telephone and have an active involvement with a special condition, such as drug testing, or drug, alcohol or mental health counseling.

The agency has created a supervision contract that lists all of the conditions of release, and the sanctions for violating those conditions. The contract is signed by the defendant and the judicial officer at the time of release. (See Appendix G.)

In the first month under the new risk assessment procedures, about 200 defendants were placed in supervision.

With these supervision options in place – defendant report-in, drug testing, and referrals to treatment, plus the already existing electronic monitoring program, the development of supervision options is off to a good start. The challenge that the program will face, however, given its limited supervision resources, is how assure that the capacity exists to provide supervision to all those needing it. Over time, as the agency establishes its value to the justice system, additional supervision resources may become available such that all defendants requiring supervision will receive it. But the program can only establish its value by reducing the failure rates of those it can realistically supervise, and not by the number of defendants it takes on to supervise. Thus, both the program and courts must be alert to overwhelming the program’s supervision capacity.

Court date notification

The program has begun sending computer-generated letters to defendants reminding them of the date of their formal arraignment in the Court of Common Pleas. As in many jurisdictions, in Allegheny County a failure to appear is more likely to occur when jurisdiction of a case transfers from one court to another. The initial appearance – called a preliminary arraignment – and the preliminary hearing are held in the district court. If a magistrate district judge finds probable cause, the case is bound over to the Court of Common Pleas. The first appearance in the Court of Common Pleas is the formal arraignment. It is this hearing that experiences a disproportionate number of failures to appear. Thus, focusing on this one court event makes sense while efforts continue to address expanding notification for all court dates.

Mission statement

The merger of several separate programs into one new Allegheny County Pretrial Services Agency required the development of a new mission statement. As noted earlier, a committee comprised of representatives of each of the units that were merged to form the new agency met over a period of three months to draft a mission statement. That statement was then distributed to the entire staff and approved. The new mission statement reads: “The Allegheny County Pretrial Services’ mission is to provide accurate and timely information to assist the court in making informed decisions regarding bond, competency, and treatment, and to supervise and monitor defendants in a respectful manner, utilizing cost-effective measures for the community, to promote compliance with court orders and court appearances, and to support public safety.

Written policies and procedures

In the past, what few written policies and procedures that existed were scattered among memos and e-mails that would address one particular issue. Many functions had no written

policies or procedures. The agency has begun the process of recording policies and procedures for each of its functions into one manual. Each individual unit of the agency has been developing its policies and procedures in order of importance and placing them into the manual. For example, staff now have a step-by-step procedure for conducting a pre-initial appearance investigation. The manual is available to all staff on the computer, and a hard copy is in the agency's main office. Since the transformation of program practices is in its infancy, those policies and procedures are dynamic – that is, they change often as dictated by experience.

Supervisory oversight of staff

In the past, staff largely operated on their own, with little supervision or even procedural guidelines. Staff now operate under a clear set of procedures, and are accountable for following those procedures. The risk assessment score is automatically calculated by the computer based upon the information entered during the interview and investigation, leaving little room for staff to misinterpret or misapply the risk assessment instrument. No staff person may override a risk assessment finding without first obtaining the approval of a supervisor. A supervisor randomly checks 25 percent of all investigations completed during each shift and counsels staff as appropriate when issues are identified.

Information management

A new automated information system, the Allegheny County Pretrial Services Case Management System, has been developed for the agency. The system was designed specifically to parallel the Allegheny Standardized Arrest Program (ASAP), which records arrest and first appearance information. Doing so allows pretrial staff to pull down relevant information from the parallel system into the pretrial system. Staff now conduct interviews with defendants using laptop computers. During interviews, staff can view responses given by defendants previously and use that information to check for the accuracy of the information provided by the defendant in the interview. This makes for a much more efficient and accurate collection, storage, retrieval, and dissemination of information.

In accordance with the Standards, the pretrial program is working toward establishing a written policy and procedure on the dissemination of information in their files. The information dissemination policy should specify the circumstances in which information can be used, and the parties to which information can be released. The policy should be consistent with the NAPSA Standards, described above. The procedure should describe how staff are to respond to requests for information. At minimum, this should include obtaining a positive identification of the person requesting the information. This usually will require the party requesting the information to appear in person at the pretrial office. Release of information over the telephone should be discouraged, and allowed only if the caller's identity can be confirmed.¹⁷

Information such as criminal history records, responses to questions about drug, alcohol or mental health treatment, and names, addresses and telephone numbers of references, are maintained exclusively on the agency's new information system. There is no access to that system to any party outside the agency.

¹⁷ National Association of Pretrial Services Agencies, supra note 2, Standard 3.8.

Regarding access to paper files by persons outside the agency, this issue should be resolved once the agency moves to a new office – which is anticipated to occur by the end of 2007. The office will have a locked records room, with access allowed only to agency staff. Persons outside the agency would have to make a request specifying what information they need and why they need the information. The agency will only disseminate the information if it fits within the criteria set forth in the Standards.

Overall agency focus

The primary function of a pretrial services program is to provide information and options to the judicial officer making the pretrial release/detention decision. Prior to September 2, 2007, the bulk of the agency staff were engaged in activities outside of preparing cases for the preliminary arraignment. The primary activity involved investigating defendants who had failed to appear in court. Thus, a significant portion of agency resources were being dedicated to dealing with a problem – failure to appear – after it had occurred rather than on making sure that good information was being collected up front to prevent so many failures. By dedicating the resources necessary to interview and investigate all defendants coming into the court for preliminary arraignment, the agency is now providing the court with the information and options necessary to maximize rates of pretrial release while minimizing rates of pretrial failure. The emphasis now is on preventing failure before it occurs.

SECTION IV: MEASURING PROGRESS TOWARD OBJECTIVES AND OUTCOMES

Significant efforts have gone into transforming the practices of the pretrial agency. More efforts are needed to assess the extent to which the agency is achieving its objectives and meeting several outcome measures.

Work objectives

From the outset of this effort over one year ago, the primary work objective has been to conduct interviews with and investigations on all defendants coming through PMC for a preliminary arraignment. In just the first month of operation under the new interviewing procedures, the program has already far exceeded what could reasonably be expected in reaching this objective. It would not be unreasonable to expect that staff would need several months to develop efficiencies in interviewing and investigating defendants and assuring that all work is completed before preliminary arraignment. A reasonable expectation would be that staff would strive to incrementally increase the percentage of defendants it reaches over the first few months of operation, taking several months to achieve 100 percent. But the staff have been reaching 100 percent of defendants right from the start. This has been achieved by the hard work and dedication of the staff and flexibility that the program has shown to deploy extra resources to interviewing when needed.

At first, meeting this objective did cause some delays in the processing of cases into preliminary arraignment, but as the staff gain experience there have been fewer delays. What's more, the jail staff and the magistrate district judges have seen the value of the information being presented by the program – compared to what was presented in the past – and have been tolerant of those delays.

Other work objectives include the following:

- In all cases in which an interview is done, all questions on the interview form should have an appropriate response unless the defendant refused to answer specific questions.
- Verification should be attempted in all cases in which an interview is completed, and all verification attempts should be recorded.
- Interview and verification information should be recorded in a consistent manner among the staff.

To assess progress toward these objectives, PJI has recommended that a supervisor review cases as a quality control check. Ideally, this review would take place before the case is submitted to the court at preliminary arraignment. Given existing staff resources, this is not currently possible. However, the program has instituted a procedure whereby a supervisor conducts a quality control check 25 percent of randomly selected cases that are completed during each shift. Whenever an issue is identified, the appropriate staff person is counseled.

As a work objective for the future, as more resources become available, the pretrial program should expand its reach to interview all those arrested for criminal offenses in Allegheny County – not just those appearing in PMC. To maximize the efficient use of staff, such interviews could be conducted over the telephone or via video link.

Another objective for the future is to develop and present to court officials on a regular basis – as determined by the court – a data presentation showing the number of defendants interviewed and investigated, number not interviewed, types of recommendations made, agreement of the court with the recommendations, court actions, numbers ordered into supervision, number of violations of release conditions addressed internally by the program and number forwarded to the court for action, and failure to appear and rearrest information. Additionally, the program has begun its new operations with the knowledge that it does not have the supervision capacity that will be necessary to provide adequate supervision to all those who could be safely released with supervision. If ultimately additional supervision resources will be made available, the program must be able to show with these data what resources are needed and how they would be used. The agency is currently in the process of developing the automated capacity to track this information.

Outcome measures

Data from the Risk Assessment Validation Study, in addition to providing empirical support for the risk assessment instrument, also serves as the baseline against which to measure the effectiveness of the changes in the pretrial program's policies and procedures. The Allegheny County Pretrial Services Agency should strive to achieve the following outcome measures.

1. The overall pretrial release rate of those interviewed by the program.

The baseline data show that about 90 percent of defendants are released at some point during the pretrial period. This 90 percent release rate holds whether looking at all defendants – regardless of the involvement of the pretrial program – or only those with whom the program intervened by calculating a risk score and/or making a recommendation. The pretrial program should seek to maintain this 90 percent release rate.

2. The non-financial release rate of those interviewed by the program.

According to the baseline data, about 60 percent of those released are on ROR, about a quarter on deposit bail, 15 percent on straight bail, and one percent on electronic monitoring. Since a money bail does nothing to protect the safety of the community, as its capacity to supervise higher risk defendants grows, the program should seek to raise the non-financial release rate to at least 80 percent of those released.

3. The appearance rate of those interviewed by the program and released other than to bail bonding agents.

The appearance rate in the baseline data is 78 percent. With the changes that have been or are being made (i.e., interviewing defendants, using a validated risk assessment instrument, providing court date notification), a reasonable expectation is to see a 30 percent increase in the appearance rate, from 78 percent to 85 percent.

4. The arrest-free rate of those interviewed by the program and released.

Eighty-three percent of released defendants in the baseline data made it through the pretrial period without being rearrested on a new charge. The pretrial program should set as a goal to increase that figure to 88 percent.

5. The number of defendants admitted into the jail after preliminary arraignment.

As noted earlier, the two most expensive days for an inmate in jail are the day of admission and the day of release. Defendants who are held for a very short term – as are many defendants for whom low bails have been set – cost the jail significant resources. Many of these defendants could be just as safely released non-financially, meaning that they would not have to go through the admission/release process. In the first month of operation, there was a 30 percent reduction in the number of admissions coming out of preliminary arraignment court. The program should strive to reach and maintain a 40 percent reduction.

6. The level of satisfaction of magistrate district judges and Court of Common Pleas judges with the information gathered and options presented by the program for pretrial release decision making purposes, and with the supervision provided by the program.

While release rates and success-on-release rates are important outcome measures for pretrial programs, they do not tell the whole story. In fact, they may be misleading if other factors start affecting those rates. For example, a surge in violent crime may drive down the release rates. Also, case processing delays can expand the period between arrest and final disposition, leaving defendants at greater exposure to fail to appear or be rearrested. Thus, another, more subjective measure is needed. This involves the level of satisfaction of the customers of the program – the judicial officers who must make decisions based upon the information provided by the program. That includes the information provided for the pretrial release decision as well as information provided about compliance on pretrial release when a condition violation is at issue. The pretrial program and court administration should conduct periodic surveys of judicial officers about their level of satisfaction with the services provided by the pretrial program. The surveys should show high levels of satisfaction.

SECTION V: LESSONS FOR OTHER PROGRAMS

The Allegheny County Bail Agency was not unlike many pretrial services programs around the country. It had been in existence for many years, seemed to be carrying out its duties well, and had the respect of many in the system. It was not until it was subjected to a function-by-function review of each of its activities that it became clear that major changes were necessary to meet the current needs of the system.

A major change has now taken place. The program has shifted significant resources to focus on gathering complete and accurate information as defendants walk through the front door of the criminal justice system. This investment is one which should pay off in lower rates of pretrial misconduct.

The lessons learned in Allegheny County as these changes have unfolded should be valuable to other pretrial programs in need of a major transformation of their practices. While the primary focus in Allegheny County has been on re-deploying resources to interview defendants and validating the risk assessment instrument, the following critical elements are likely to be applicable for any major changes in pretrial services programming.

Strong judicial leadership

The driving force behind the transformation of the program has been the Administrative Judge of the Criminal Division of the Court of Common Pleas. Deeply concerned with the high failure to appear rates of defendants released pending adjudication and the disruption that such failures were causing to court operations, the judge recognized the need to modernize the pretrial program. She made clear to court officials and the management and staff of the pretrial program her intention to have a pretrial program that was significantly more in line with national standards.

Strong support from the judiciary and court administrative staff

To better assure judicial support for the changes to be made in the pretrial program, the Administrative Judge appointed a Pretrial Oversight Committee, comprised of herself and two other Court of Common Pleas judges from the Criminal Division. The committee has been meeting on a regular basis with the management of the pretrial program to assess progress and offer support. The program also received direct and consistent support from the Court Administrator, Criminal Division Administrator, and Deputy Court Administrator – each of whom assured that the pretrial program had the resources it has needed to make the transformation possible.

Strong leadership from the pretrial program director

The changes that were being made in the pretrial program's practices presented significant challenges to staff. For example, the bail investigators would have to move from working steady days (or, for some, steady nights) to a rotating shift schedule in order to provide adequate coverage for interviewing. Also, investigators would have to abandon the work that

they had been doing – some of them for decades – to learn new duties and assume new responsibilities. Moreover, other entities in the system would have to accommodate the changes – i.e., jail staff would have to assure that defendants would be available to be interviewed, and Court of Common Pleas judges would no longer receive many of the services that they had come to expect under the old practices of the program. The new director of the pretrial program convinced all these parties that the sacrifices that were being made would be worth it and would benefit the entire system.

Involvement of pretrial program staff in planning for change

The pretrial program director also recognized the importance of having the staff involved in planning for the changes that needed to be made. Based on their expressions of interest, he selected several staff members to serve on a committee to plan for the changes. That committee has been meeting once a week, with the director serving as chair. The committee has been addressing issues ranging from the exact questions to be included on the interview form to the best ways to deploy staff for the most effective and efficient coverage of responsibilities. Membership on the committee rotates, giving as many staff as possible the opportunity to participate. The committee reports back to the full staff on a regular basis so that everyone has been kept up-to-date on the latest developments. Given the drastic changes that staff were being asked to make, this process has eased the burden on staff and given them a sense of ownership in the new pretrial program.

Staff Training

Through a variety of training experiences, staff have been equipped with the background, knowledge and skills that they needed to assume significant new responsibilities. They now have a sense of belonging to a community of professionals from around the country that is working together to solve problems and improve pretrial justice.

APPENDICES

APPENDIX A: Form 58

APPENDIX B: Interim Risk Assessment Instrument

APPENDIX C: List of Data Elements Included in Validation Study

Sequence Number

Name

Case Number

Defendant Information

Date of Birth

Sex

Race

Hispanic Origin

Marital Status

Years of School

Graduated High School

Ever in the Military

Type of Discharge

Ever Use False Identification

Have a Photo ID

Have a Passport

Charge Information

Name of Most Serious Charge

Type of Charge (Felony I, II, III, etc.)

Name of Second Most Serious Charge

Type of Charge

Number of Counts to Current Charge

Was a Weapon Involved

Prior Criminal History

Number of Prior Misdemeanor Arrests

Number of Prior Misdemeanor Convictions

Number of Prior Violent Misdemeanor Convictions

Number of Prior Felony Arrests

Number of Prior Felony Convictions

Number of Prior Violent Felony Convictions

Any Prior Arrest for Flight to Avoid Arrest, Escape, or Attempted Escape

Ever Used False Identifications

Number of Prior Willful Failures to Appear

Number of Prior Failures to Comply with Bail Conditions

Current Status with Criminal Justice System

On State Parole at Time of Offense

On Probation

Currently on Bond Pending Trial

Outstanding Warrant for Felony or Misdemeanor Offense at Time of Offense

Community Ties

Time in Pennsylvania

Time in Allegheny County

Length of Time at Current Address

Who Live With

Have Address Where Receive Mail

Own or Rent at Current Address

Owns Property in Pennsylvania

Employed

How Long

If Unemployed, How Supported

Primary Caregiver of Minor Child

Health Status

Ever Treated for Alcoholism

Ever Treated for Drug Addiction

Ever Treated for Mental Illness

Pretrial Release Status

Was the Defendant Released in the Instant Case

If so, Type of Release

If not, Amount of Bond Holding Defendant

Pretrial Misconduct

Did Defendant Fail to Appear in the Instant Case

If So, Was Warrant Issued by the Court

Was the Defendant Rearrested for a New Offense Allegedly Committed While on Release for the Instant Case

If So, Most Serious Rearrest Charge Name

Most Serious Rearrest Charge Type

APPENDIX D: Data Collection Form

APPENDIX E: Review of Risk Assessment Literature

In 1961, an experiment was launched in New York City to test the hypothesis that defendants could be categorized by the degree of risk they posed to fail to appear in court, and that such categorizations could be used in recommending pretrial release. Run by the Vera Institute of Justice, a “point scale” was developed that used strength of family and community ties as the criteria for identifying defendants who were good risks of appearing in court. Evaluations of that point scale showed that the use of such objective criteria could be effective in classifying risks of failure to appear.

In the aftermath of the Vera experiment, many jurisdictions established pretrial services programs and implemented point scales to assess FTA risks. Many of these risk assessment instruments used the same criteria as used in the Vera point scale; others used different or additional criteria.

Studies of these early risk assessment instruments showed mixed results in terms of their effectiveness in identifying factors that help predict failure to appear. For example, a 1981 summary of studies done in the 1960s and 1970s showed the following results.

Community Ties:

- Four studies showed strong community ties were significantly related to appearance in court.
- Ten studies showed that community ties were not significantly related to appearance in court.

Employment:

- Four studies showed being employed was significantly related to appearance in court.
- One study showed employment not related to appearance in court.

Having a Telephone:

- Two studies showed that defendants who had telephones in their names were more likely to appear in court.
- Two studies showed that this did not matter.

Prior Record:

- Five studies showed that having a prior record was a predictor of failure to appear in court.
- Four studies showed that the existence of a prior record was not related to appearance in court.¹⁸

Beginning in the 1970s, states have been changing their bail laws to make the risk of danger to the community, in addition to the risk of FTA, a consideration in the bail decision. As a result, pretrial risk assessment studies had to look at both danger to the community, as measured by rearrests, and FTA.

¹⁸ Chris W. Eskridge, “Predicting and Protecting Against Failure to Appear in Pretrial Release: The State of the Art,” in *Pretrial Services Annual Journal*, volume 4, 1981, pp. 34 - 54.

A 1984 study of a new risk assessment instrument in the District of Columbia that specifically sought to address community safety risks found the following variables to be predictors of rearrest, in order of greatest effect:

- current charge of burglary, drugs, larceny, robbery, possession of stolen property, fraud, prostitution, forgery, or automobile theft;
- being on probation or parole when arrested;
- having prior convictions;
- being unemployed;
- self-reporting a drug problem;
- having no pending case when arrested; and
- being charged with a dangerous or violent offense.

The study also identified predictors of rearrest on dangerous or violent offenses. Those identified included:

- current arrest for a dangerous or violent offense;
- current arrest for a drug or larceny charge;
- prior arrest for a dangerous or violent offense;
- being on probation or parole when arrested;
- being on probation or parole and having a pending case when arrested; and
- having prior convictions.¹⁹

A 1986 study of 109 different variables in Alexandria, Virginia showed four factors to be significant in predicting FTA:

- injury to victim;
- employment within the past year;
- having two or more prior misdemeanor convictions; and
- prior criminal record seriousness (those with convictions subject to sentences of two years or more were more likely to FTA than those with less serious convictions).

Seven variables were significant in predicting rearrest:

- having a prior adult record;
- being under 21 years of age;
- having an outstanding detainer from another jurisdiction;
- having a prior parole revocation;
- having a prior felony FTA;
- being a female; and
- being in mental health therapy.²⁰

A 1992 study of risk assessment in Hennepin County, Minnesota identified two factors – defendant lived at least five years in the area, and defendant was charged with drug offense – that

¹⁹ Mary A. Toborg, et al, *Pretrial Release Assessment of Danger and Flight: Method Makes a Difference*, Lazar Management Group, June 1984.

²⁰ Richard P. Kern and Paul F. Kolmetz, *Development of a Pretrial Risk Assessment: A Pilot Study*, Virginia Statistical Analysis Center, 1986.

were predictive of appearance in court, and one variable – prior history of FTA – that was predictive of failure to appear in court. Regarding rearrest, one factor – the defendant was employed – was found to be predictive of having no rearrest, while five factors – prior felony convictions, prior misdemeanor convictions, current charge a property offense, current charge a drug offense, and the defendant was 21 years old or younger – were predictive of being rearrested.²¹

A 1994 risk assessment study in Ramsey County, Minnesota identified two factors that were predictive of appearance in court: being charged with an offense against a person and having completed high school and some college. Four factors were found to be predictive of failing to appear: having prior convictions for felony weapons offenses; having prior felony arrests; being 18 or 19 years of age; and being at the current address for less than three months. Three factors — having prior felony arrests; having prior misdemeanor convictions; and being 18 or 19 years of age — were predictive of being rearrested, while one, the current charge being for a drug offense, was predictive of not being rearrested.²²

Six factors were identified in a 1993 study of the Harris County, Texas pretrial risk assessment instrument as being predictive of pretrial misconduct:

- having a Harris County address;
- having a telephone;
- being employed full-time, a student, on disability, or a homemaker;
- prior FTA;
- prior felony convictions;
- prior misdemeanor convictions.²³

A 1999 evaluation of the risk assessment instrument used in Maricopa County, Arizona identified five factors associated with higher risks of both FTA and rearrest:

- prior FTA;
- being charged with a property or drug offense;
- being single or separated;
- paying child support; and
- having prior convictions.

Two factors – having family in the area and having a verified address – lessened the likelihood of FTA and rearrest.²⁴

Seven localities in Virginia participated in a 2003 study on pretrial risk assessment. Nine factors were identified as being predictive of pretrial misconduct:

²¹ Rebecca Goodman, *Pretrial Release Study*, Hennepin County Bureau of Community Corrections, 1992.

²² Kelly Dickinson, *Pretrial Release Study: Phase I*, Project Remand, 1994.

²³ Steven Jay Cuvelier and Dennis W. Potts, *Bail Classification Profile Project: Harris County, Texas*, State Justice Institute, 1993.

²⁴ D. Alan Henry, John Clark, James Austin and Wendy Naro, *Study of the Maricopa County Superior Court Risk Assessment Instrument*, Pretrial Services Resource Center, 1999.

- having two or more prior FTA's;
- being charged with a felony;
- having one or more pending cases in court at the time of arrest;
- having one or more outstanding warrants from another jurisdiction for charges unrelated to the current arrest;
- having one or more misdemeanor or felony convictions;
- having two or more violent convictions;
- living at the current address for less than one year;
- not being employed continuously for the previous two years and not the primary caregiver for a child at the time of arrest; and
- having a history of drug abuse.²⁵

In 2006, researchers in New York City identified several community-tie factors that predict likelihood of pretrial failure. Having a New York City area address, having a telephone in their residence, and being employed, in school, or in a training program full time predicted lower likelihood of pretrial misconduct. Regarding criminal history factors, defendants with prior misdemeanor convictions, having pending cases, and having a history of FTA were more likely to either FTA or be rearrested.²⁶

Also in 2006, researchers in Hennepin County, Minnesota evaluated the risk assessment instrument put in place after the 1992 study in that jurisdiction. Three factors were identified as being significant in predicting both pretrial crime and FTA: having a higher number of prior convictions; having a history of failure to appear, and being employed less than 20 hours a week or being unemployed. One factor – being charged with a felony against a person – decreased the odds of a defendant committing pretrial crime and of failing to appear in court.²⁷

What these studies make clear is that variables that may be found to be predictive of FTA or rearrest in one jurisdiction at one particular point in time may not be predictive in another jurisdiction or at another time. This underscores the need for every jurisdiction to validate its risk assessment instrument, and to do so periodically.

²⁵ Marie VanNostrand, *Assessing Risk Among Pretrial Defendants in Virginia: The Virginia Pretrial Risk Assessment Instrument*, Virginia Department of Criminal Justice Services, 2003.

²⁶ Qudsia Siddiqi, *Predicting the Likelihood of Pretrial Rearrest for Violent Felony Offenses and Examining the Risk of Pretrial Failure Among New York City Defendants: An Analysis of the 2001 Dataset*, New York City Criminal Justice Agency, 2006.

²⁷ Marcy R. Podkopacz, *Fourth Judicial District Pretrial Evaluation: Scale Validation Study*, Minnesota Judicial Branch, Fourth Judicial District, 2006.

APPENDIX F: New Interview Form

(The new interview form is built into the Agency's new Case Management System. The attached paper form shows the questions that are asked on the automated form.)

APPENDIX G: Supervision Contract