

Risk Assessment

Evidence-based pretrial decision-making



The current system

The decision to hold or release an individual arrested for a crime occurs thousands of times each day across the country. Historically, the bail decision has been made based on monetary charge-based bail schedules. However, in recent years communities have begun to improve the bail decision process by using empirically derived pretrial risk assessments to predict the likely success of an individual awaiting trial.

What is a pretrial risk assessment?

A pretrial risk assessment instrument is an empirically derived tool vital to an evidence-based pretrial process. These tools are typically a one-page summary of the characteristics of an individual that calculates a score showing his or her likelihood to fail to appear in court or be rearrested prior to the completion of their current case. Instruments typically consist of 7-10 items about the current offense, criminal history, employment, residency, drug abuse, and mental health.¹

How are pretrial risk assessment instruments developed?

Risk assessment instruments are developed by collecting and analyzing local data to determine which factors are predictive of pretrial success (appearance in court and public safety) and to determine their appropriate weight. There are a number of model instruments that have been validated in individual jurisdictions and adopted by other jurisdictions. In such cases the jurisdiction collects data and then validates the imported tool on their own population. All instruments should be revalidated at regular intervals to ensure they retain their predictive validity. Differences in bail statutes, court rules, release options available to the court, and other factors cause variations from site to site. Statistical analysis on local data helps ensure these are taken into account.

There are a number of ways to accomplish the development of a locally valid instrument. Local universities and researchers may have the capacity to develop an instrument at reasonable cost. The U.S. Department of Justice may provide assistance under grant programs such as Justice Reinvestment or through their technical assistance programs.

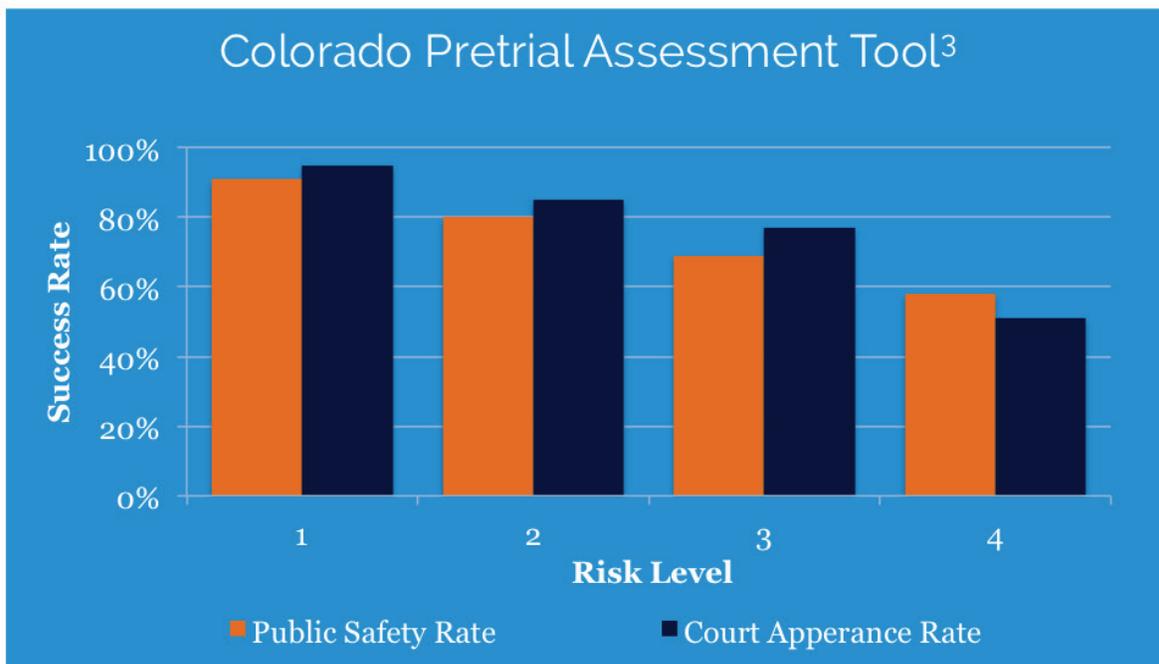
Virginia's Pretrial Risk Assessment Instrument (VPRAI)² was empirically developed to provide simple, yet accurate predictions on pretrial success or failure.

Risk Factor	Yes?
Charged with Felony?	1
Pending Charges?	1
Criminal History?	1
2 or more failure to appear?	2
2 or more violent convictions?	1
Length at residence < 1 year?	1
Not employed/primary caregiver?	1
History of drug abuse?	1

How should risk assessment tools be used?

Pretrial risk assessment tools cannot predict with certainty success or failure in individual cases. There will be individuals in low-risk categories who fail on pretrial release, and there will be individuals in high-risk categories who succeed. However, these instruments provide an objective, standard way of assessing the likelihood of pretrial failure that research shows produces higher accuracy than bond schedules or subjective assessments.

This does not mean that pretrial risk assessment instruments should be used in place of judicial discretion. The instrument produces a score that can help judges anchor a decision, while taking into consideration other factors not covered in the risk assessment, such as the weight of the evidence.



Helpful Resources

Rational and Transparent Bail Decision Making: Moving From A Cash-based to a Risk-based Process (Pretrial Justice Institute, 2012)

Pretrial Risk Assessment 101: Science Provides Guidance on Managing Defendants (Pretrial Justice Institute, 2012)

www.Pretrial.org

Citations:

1. Mamalian, Cynthia A. (2011). *State of the Science of Pretrial Risk Assessment*. Washington, D.C.: Pretrial Justice Institute.
 2. Lowenkamp, Christopher. (August 2011). *Risk Assessment and Evidence Based Practices in Pretrial*. Presentation to NIC Pretrial Executives Orientation. Colorado.
 3. Pretrial Justice Institute. (2013). *Colorado Pretrial Assessment Tool (CPAT): Administering, Scoring, and Reporting Manual, Version 1*. Washington, DC.
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