The Colorado Pretrial Assessment Tool (CPAT)
Executive Summary
Revised October 19, 2012

Introduction

The Colorado Pretrial Assessment Tool (CPAT) is an empirically validated multi-jurisdiction pretrial risk assessment instrument for use in any Colorado jurisdiction and is designed to replace existing pretrial assessments in use in Colorado.[1] The use of the CPAT is consistent with the national and statewide transition toward more evidence-based and cost-effective criminal justice policies and practices. The CPAT is also consistent with Colorado Revised Statute Section 16-4-105 (1) (a) – (l) that enumerates the factors judges shall consider when setting a defendant's bond. These factors include: the oppressiveness of the bond amount; the maximum penalty of a fine; the defendant's employment status and history, financial condition, family relationships, past and present residences, character and reputation, community ties, and flight risk; the identity of persons who agree to assist the defendant in attending court; the nature of the offense presently charged and the apparent probability of conviction and likely sentence; the defendant's prior criminal record and court appearance history; and the defendant's likelihood of new violations or intimidation or harassment of possible witnesses. However, the statute does not provide guidance to judges on how to define and what weight to assign each of these factors when assessing the degree of risk a defendant poses to public safety and non-appearance in court and when setting bond conditions to mitigate that risk. Recently, the science of pretrial risk assessment has demonstrated that it is possible to accurately identify defendants' degree of pretrial risk and that instruments developed to do so should be validated for use on the defendant population in one or more local jurisdictions.[2]

Method

Ten Colorado counties (Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, and Weld) contributed data to develop the CPAT. Data on 1,970 defendants who were booked into jail in one of these Colorado counties were collected and analyzed. Several data collection methods were used to increase the accuracy and generalizability of the tool, such

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[1] Funding for the development of the Colorado Pretrial Assessment Tool was provided by the following grant sources: 2006 Justice Assistance Grant Number 26-DJ-06-33-1, awarded to Jefferson County, Colorado, from the State of Colorado; 2007 Edward Byrne Memorial Justice Assistance Grant Number 27-DJ-06-33-2, awarded to Jefferson County, Colorado, from the State of Colorado; This project was supported by Grant No. 2010-DB-BX-K034 awarded to the Pretrial Justice Institute by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the SMART Office, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.

[2] Mamalian, C. (2011). State of the Science of Pretrial Risk Assessment. Washington, DC: Pretrial Justice Institute.

as using a 16-month window for data collection and performing analyses after 99% of court cases had closed, minimizing bias in selecting defendants for participation, using experienced professional pretrial services staff for the face-to-face interviews and data entry, and standardizing the data collection protocol. Data on all defendants were collected from several sources, such as face-to-face interviews, arresting agencies' charging documents, criminal history records, jail information systems, and pretrial services agencies' case tracking systems. Data were collected on factors such as defendants' demographics, residence and employment, mental health and substance use/abuse, criminal history and past criminal justice system involvement, and current charges and system involvement.

Analyses

Of the 1,970 defendants, 1,315 (66%) were released from jail on pretrial status and 655 (33%) were held in jail until case closure. Consistent with Colorado statutory purpose of bail,[3] the pretrial misconduct outcomes of new charges (as a public safety measure) and failure to appear (as a court appearance measure) were used. Analyses showed that the 12 factors below, with the associated weights, were statistically significantly linked to both forms of pretrial misconduct:

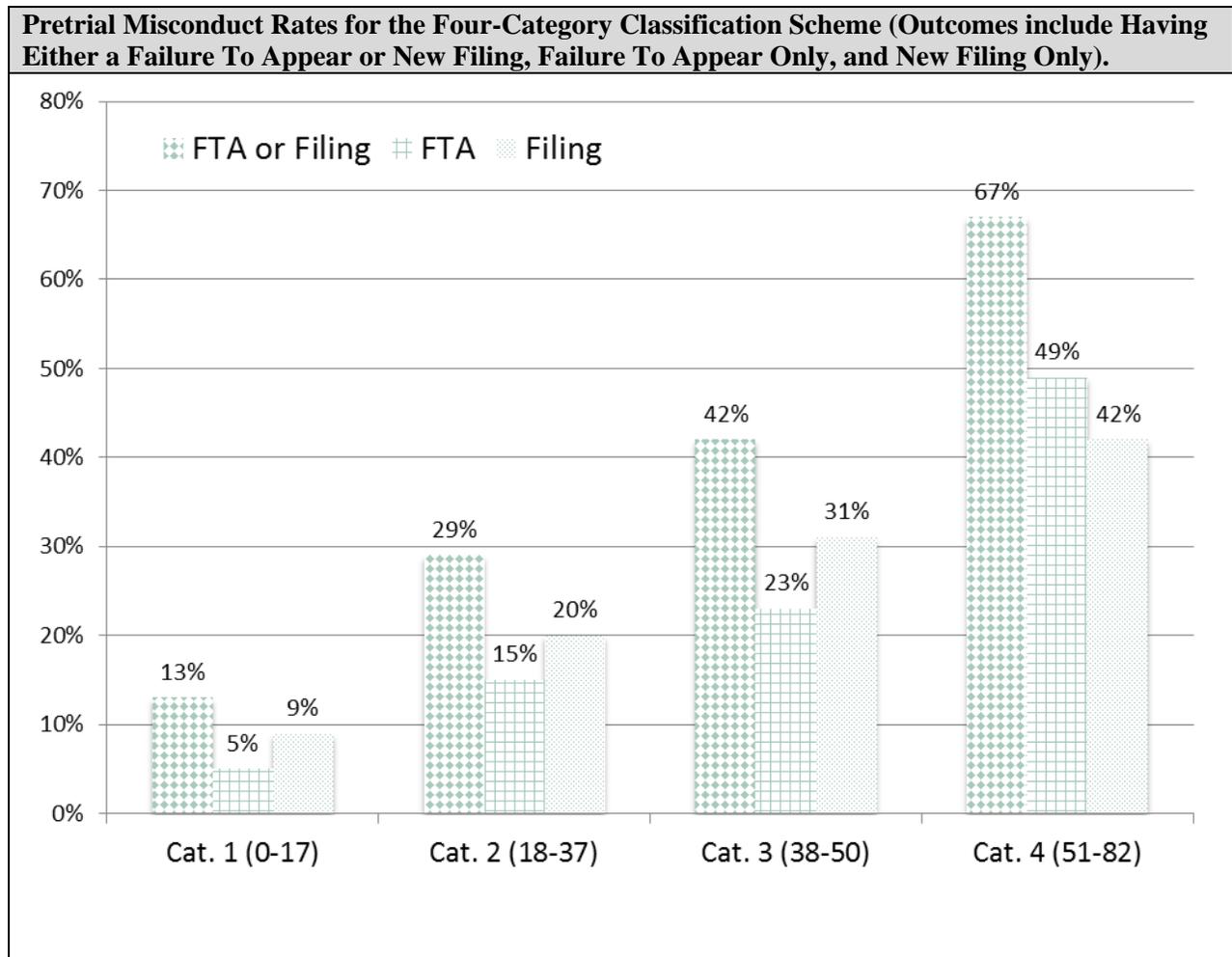| Item	Range
1. Having a Home or Cell Phone	0 to 5 points
2. Owning or Renting One's Residence	0 to 4 points
3. Contributing to Residential Payments	0 to 9 points
4. Past or Current Problems with Alcohol	0 to 4 points
5. Past or Current Mental Health Treatment	0 to 4 points
6. Age at First Arrest	0 to 15 points
7. Past Jail Sentence	0 to 4 points
8. Past Prison Sentence	0 to 10 points
9. Having Active Warrants	0 to 5 points
10. Having Other Pending Cases	0 to 13 points
11. Currently on Supervision	0 to 5 points
12. History of Revoked Bond or Supervision	0 to 4 points

A defendant's total score can range from a low of "0" to a high of "82." This score provides a way to use a single scale to measure defendants' overall risk of pretrial misconduct.

As seen in the table below, defendants scored on the CPAT can be placed into one of four risk categories. These categories have different public safety rates, court appearance rates, and combined overall success rates.

Revised Risk Category	Risk Score	Public Safety Rate	Court Appearance Rate	Overall Combined Success Rate	Percent of Defendants
1	0 to 17	91%	95%	87%	20%
2	18 – 37	80%	85%	71%	49%
3	38 – 50	69%	77%	58%	23%
4	51 - 82	58%	51%	33%	8%
(Average)	30	78%	82%	68%	

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[3] See Colo. Rev. Stat. § 16-4-103.

As seen in the illustration below, results show that increased scores on the CPAT are indicative of higher levels of pretrial misconduct.[4]

Pretrial Misconduct Rates for the Four-Category Classification Scheme (Outcomes include Having Either a Failure To Appear or New Filing, Failure To Appear Only, and New Filing Only).

Chart legend: FTA or Filing, FTA, Filing

Cat. 1 (0-17): 13%, 5%, 9%
Cat. 2 (18-37): 29%, 15%, 20%
Cat. 3 (38-50): 42%, 23%, 31%
Cat. 4 (51-82): 67%, 49%, 42%

Summary and Conclusion

The Colorado Pretrial Assessment Tool (CPAT) is the first multi-jurisdictional pretrial risk assessment instrument empirically validated for use in Colorado. It provides judges, prosecutors, defense attorneys, and pretrial services agency staff with empirically derived information on how to define and what weight to assign various factors when assessing the degree of risk a defendant poses to public safety and non-appearance in court and when setting bond conditions to mitigate

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[4] Because the data collected to measure the public safety rate also include new filings for non-violent and other lower level offenses in the categories of traffic, municipal, and petty, a jurisdiction that chooses to assign less importance to the alleged commission of these types of offenses during pretrial release (as measured by filings) can view the success rate and public safety rates in the four categories as underestimates. That is, if only felony and misdemeanor case filings are included in the public safety rates, the success rates and public safety rates would be higher. In addition, when defendants did have new filings against them during pretrial release, 24% involved felony charges and 11% involved person-crime charges.

that risk. The various data collection methods used to develop the CPAT maximize its applicability to all Colorado jurisdictions.

The CPAT can be used help improve public safety and manage the size of the pretrial populations and the associated costs in the county jails. The CPAT identifies which defendants are likely to be higher risk to public safety and to court appearance and which defendants are likely to be non-violent or lower risk. Thus, for jurisdictions that currently release higher risk defendants without bond conditions designed to mitigate that risk, the CPAT enables those jurisdictions to identify those defendants and set appropriate bond conditions, up to and including possible continued pretrial detention. For jurisdictions that currently detain non-violent or lower risk defendants for all or some portion of their pretrial period, the CPAT enables those jurisdictions to identify those defendants and set appropriate bond conditions that reasonably assure public safety and court appearance while those defendants are on pretrial release.

Criminal justice decision-makers who use the CPAT should be aware of the valid uses of the tool and cautioned against potential misuses. For example, the CPAT does not support the court's assignment of increasing monetary amounts of bond as defendants' risk scores increase or the assignment of certain bond types (e.g., personal recognizance, cash, surety) or blanket conditions for defendants in a given risk category. Additionally, analyses failed to show that the nature (e.g., person or property crime) or severity (felony, misdemeanor) of the defendant's current charge was statistically significantly related to pretrial misconduct. Although these findings may seem counterintuitive, they are consistent with the finding that some items appear on some risk assessment instruments but not on others, or that the same item is scored differently (and sometimes in the opposite direction) on different instruments.[2]

Finally, the CPAT at this time does not indicate which bond types or bond conditions (e.g., pretrial supervision, drug testing, electronic monitoring) are most likely to mitigate an individual defendant's pretrial risk. Phase 2 of the CISPR project will help provide this kind of information. Until then, jurisdictions are advised to develop pretrial release and detention policies and programming that conform to U.S. Supreme Court case law[5] and the American Bar Association's national pretrial standards,[6] both of which establish a presumption of release under the least restrictive conditions. Moreover, consistent with the Colorado statutory requirement that bond setting be individualized to each defendant, bond conditions should be customized to each defendant's specific risk factors.

Next Steps

The Pretrial Justice Institute, with continued grant funding from the Bureau of Justice Assistance, will support stakeholders' implementation of the CPAT. This support includes meetings with Colorado stakeholder groups, reviewing policies and procedures for administering the CPAT and making bond recommendations, providing training, and developing protocols for continued data collection for revalidating the CPAT in the near future.

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[5] See Chief Justice Rehnquist's statement in *U.S. v. Salerno* that "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." 481 U.S. at 755 (1987).
[6] See American Bar Association Standards for Criminal Justice, Third Edition, Pretrial Release, (2007), Standards 10-1.1 through 10-1.6.