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Using Risk and Needs Assessment Information at Sentencing:

Observations from Ten Jurisdictions

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TABLE OF CONTENTS

Acknowledgements iii

Introduction 1

Guiding Principle 1: Public Safety/Risk Management Purpose 5

Guiding Principle 2: Amenability to Probation 8

Guiding Principle 3: Effective Conditions of Probation and Responses to Violations 13

Guiding Principle 4: Stakeholder Training 23

Guiding Principle 5: Availability and Routine Use of Offender Assessments 27

Guiding Principle 6: Evidence-Based Infrastructure 34

Guiding Principle 7: Assessment Instruments 41

Guiding Principle 8: Assessment Reports 46

Guiding Principle 9: Monitoring and Evaluation 51

The Way Forward: Judicial Leadership and Lessons Learned 59

Conclusion 63

Appendix: Jurisdiction Profiles A-1

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INTRODUCTION

In 2007, the Conference of Chief Justices and the Conference of State Court Administrators, the policy leaders of the state courts, enacted a resolution calling for states to adopt sentencing and corrections policies and practices "based on the best research evidence of practices shown to be effective in reducing recidivism."[1] The resolution specifically noted that one of these evidence-based practices (EBPs) is the use of validated offender risk and needs assessment (RNA) tools.[2]

RNA instruments are actuarial tools designed to inform community corrections-related decisions regarding risk management and reduction.[3] They consist, in part, of static factors such as criminal history and age at first offense which are related to recidivism but cannot be altered through the delivery of services or treatment programs. In addition, and more importantly for recidivism reduction purposes, the tools identify dynamic risk factors (sometimes referred to as criminogenic needs) such as antisocial attitudes and antisocial peer groups that also are related to recidivism but can be addressed through services and treatment programs. Information from these tools assists in identifying specific offender risk factors that can be targeted with services and treatment programs in

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[1] Conference of Chief Justices and Conference of State Court Administrators, *Resolution 12 In Support of Sentencing Practices that Promote Public Safety and Reduce Recidivism,* NATIONAL CENTER FOR STATE COURTS, *(2007), available at* http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08012007-Support-Sentencing-Public-Safety-Reduce-Recidivism.ashx.

[2] As defined by the Crime and Justice Institute and the National Institute of Corrections:

> An evidence-based approach involves an ongoing, critical review of research literature to determine what information is credible, and what policies and practices would be most effective given the best available evidence. It also involves rigorous quality assurance and evaluation to ensure that evidence-based practices are replicated with fidelity, and that new practices are evaluated to determine their effectiveness.

Meghan Guevara & Enver Solomon, *Implementing Evidence-Based Policy and Practice in Community Corrections, 2nd ed.*, NATIONAL INSTITUTE OF CORRECTIONS, ix-x (October 2009), *available at* http://static.nicic.gov/Library/024107.pdf. *See also* Steve Aos, Mama Miller, & Elizabeth Drake, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates,* WASHINGTON STATE INSTITUTE FOR PUBLIC POLICY,7 (2006) *available at* http://www.wsipp.wa.gov/ReportFile/952/Wsipp_Evidence-Based-Public-Policy-Options-to-Reduce-Future-Prison-Construction-Criminal-Justice-Costs-and-Crime-Rates_Full-Report.pdf (the rigorous evaluation standards the Washington Institute for Public Policy uses for determining EBPs.)

[3] A RNA does not indicate whether a particular offender will actually recidivate; rather it identifies the "risk" or probability that the offender will recidivate. The probability is based on the extent to which an offender has characteristics like those of other offenders who have recidivated. For example, a RNA that results in a high risk classification means that the offender has characteristics like other offenders who have recidivated, and a low risk classification means the offender has characteristics like offenders who typically do not reoffend. *See* Gina M. Vincent, Laura S. Guy, & Thomas Grisso, *Risk Assessment in Juvenile Justice: A Guidebook for Implementation*, MACARTHUR FOUNDATION, 29-31 (November 2012), *available at* http://www.modelsforchange.net/publications/346.

order to help reduce an offender's likelihood of reoffending.[4]

Although at the time of the resolution in 2007 RNA information was a staple used by many probation and parole departments to determine supervision and treatment strategies, it was seldom available to judges when making sentencing and revocation decisions. Because sentencing decisions have multiple purposes, only some of which focus on recidivism reduction, using RNAs to inform sentencing decisions is more complex than using them to inform post-sentencing supervision and treatment decisions. In 2009, a National Working Group of court leaders, criminal justice practitioners and researchers began meeting to develop a set of guidelines, informed by research and practice, to help courts and probation departments effectively use RNA information in making sentencing and probation revocation decisions.

The Working Group's efforts culminated in the 2011 report *Using Offender Risk and Needs Assessment Information at Sentencing: Guidance for Courts from a National Working Group*, which included nine guiding principles discussing how RNA information should be used to inform sentencing and probation revocation decisions as well as suggestions for effectively incorporating RNA information into the sentencing process.[5] The report also summarized the research demonstrating why RNA information is important for risk management and reduction decisions. The Conference of Chief Justices and the Conference of State Court Administrators subsequently endorsed the report, recommending that "offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism."[6]

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[4] *See* Pamela M. Casey, Jennifer K. Elek, Roger K. Warren, Fred Cheesman, Matthew Kleiman, & Brian Ostrom, *Offender Risk and Needs Assessment Instruments: A Primer for Courts*, *National Center for State Courts*, 4-5 (2014), *available at* http://www.ncsc.org/~/media/Microsites/Files/CSI/BJA%20RNA%20Final%20Report_Combined%20Files%208-22-14.ashx.

[5] Pamela M. Casey, Roger K. Warren, & Jennifer K. Elek, *Using Offender Risk and Needs Assessment Information at Sentencing: Guidance for Courts from a National Working Group*, *National Center for State Courts*, (2011), *available at* http://www.ncsc.org/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx.

[6] Conference of Chief Justices and Conference of State Court Administrators, *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*, *National Center for State Courts* (2011), *available at* http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx.

Overview of the Report

This report is a companion piece to the 2011 *Guiding Principles* report. Several jurisdictions now provide RNA information to the court to inform sentencing decisions as part of a broader evidence-based approach to effective risk management and recidivism reduction. To illustrate how some courts are using RNA information, the National Center for State Courts' Center for Sentencing Initiatives published a series of profiles in 2013 and 2014 describing the experiences of ten local jurisdictions from ten states across the nation. The profiles (see Appendix) were based on interviews with judges, corrections officials, prosecutors, defense counsel, and other criminal justice stakeholders from Coconino County, Arizona; Napa County, California; Mesa County, Colorado; Bonneville County/7th Judicial District, Idaho; Grant County, Indiana; Douglas County/4th Judicial District, Nebraska; Cuyahoga County, Ohio; Yamhill County, Oregon; Travis County, Texas; and La Crosse County, Wisconsin.

The current report synthesizes the information across the ten jurisdictions and provides examples of how and the degree to which jurisdictions have implemented each of the nine guiding principles recommended by the National Working Group.[7] It identifies common themes and noteworthy practices from the ten sampled jurisdictions regarding: the purposes for which RNA information is used at sentencing (under Guiding Principles 1, 2, and 3); the EBPs infrastructure supporting the use of RNA information (under Guiding Principles 4 and 6); the selection, validation, and use of specific RNA tools (under Guiding Principle 7); when and how RNA information is provided to the court (under Guiding Principles 5 and 8); and activities established to a) track and monitor data related to the process of using RNA information and its targeted outcomes and b) use evaluation results to inform system improvements (under Guiding Principle 9). The report also provides a summary of lessons learned from the ten jurisdictions that may benefit others seeking to adopt similar practices.

This report is not a comprehensive study of all court activities or stakeholder views on the use of assessment information in the ten jurisdictions or nationwide. Rather, it offers a snapshot in time of how some judges and other criminal justice stakeholders are incorporating RNA information into their sentencing practices for the purpose of general recidivism risk management and reduction. The report does not cover other uses of offender assessment information (e.g., to identify an offender's risk of certain types of recidivism such as violent or sexual offenses), nor does it focus on other sentencing and

[7] In addition to phone interviews with stakeholders in all ten jurisdictions, the authors conducted site visits in three of the jurisdictions: Grant County and the Administrative Office of the Courts in Indiana, Yamhill County in Oregon, and La Crosse County in Wisconsin.

corrections issues, such as prison administration, parole policies, or the punishments prescribed for various classes of offenses.

Why Use Risk and Needs Assessment Information: The Broader Context

Using RNA information to guide risk management and reduction decisions is a fundamental component of the Risk-Needs-Responsivity (RNR) model for addressing offender recidivism. In brief, the risk principle holds that supervision and treatment levels should match the offender's level of risk. That is, to reduce recidivism, low-risk offenders should receive less supervision and services, and higher-risk offenders should receive more intensive supervision and services. The need principle maintains that treatment services should target an offender's dynamic risk factors or criminogenic needs to reduce an offender's probability of recidivism. Finally, the responsivity principle posits that treatment interventions for offenders should use cognitive social learning methods and be tailored to an individual offender's specific characteristics (e.g., cognitive abilities, gender) that may affect successful program outcomes.[8] The 2011 *Guiding Principles* report summarized much of the research related to each of the three RNR principles, including research demonstrating that "adherence to any one of the three principles is associated with a reduction in recidivism, and adherence to all three principles is associated with the greatest reduction, i.e., 26 percent".[9]

Several judges interviewed for this report indicated that it was their exposure to this wide body of research that led them to begin using RNA information. As one judge explained:

> I've described it to other judges as an epiphany to realize that somebody out there actually realized what worked and what didn't. And there was this whole body of research that I was blissfully ignorant of. . . . I was instantly interested because I realized that I'd been on the bench, at that point, for 20 years sentencing people, and I really had no clue what I was doing. I didn't know what worked. I didn't know what didn't. I didn't know whether what I was doing was working. So, I thought, yeah, there's all this information out there. We need to learn it, we need to use it.

[8] *See* Casey et al. (2011), *supra* note 5 at 6. S*ee* D.A. ANDREWS & JAMES BONTA, THE PSYCHOLOGY OF CRIMINAL CONDUCT 279-284 *(4th ed. 2006) (*for information on the specific research findings). *See also* James Bonta, J & D.A. Andrews (2007). R*isk-need-responsivity Model for Offender Assessment and Rehabilitation, Public Safety Canada* (2007-06).

[9] *See* Bonta, *supra* note *8,* at 73-74; *See also* D.A. Andrews, & Craig Dowden, *The Risk-Need-Responsivity Model of Assessment and Human Service in Prevention and Corrections: Crime-Prevention Jurisprudence,* 49 CAN. J. CRIMINOLOGY & CRIM. JUST., 439-464. (2007) [doi: 10.3138/cjccj.49.4.439].

GUIDING PRINCIPLE 1. PUBLIC SAFETY/RISK MANAGEMENT PURPOSE

Risk and needs assessment information should be used in the sentencing decision to inform public safety considerations related to offender risk reduction and management. It should not be used as an aggravating or mitigating factor in determining the severity of an offender's sanction.

In the 2011 *Guiding Principles* report, the commentary to Guiding Principle 1 clarifies the sentencing purposes for which RNA information can properly be used. It first distinguishes between the punitive purposes of sentencing (retribution, "just deserts," "punishment that fits the crime"), which seek to sanction an offender's past criminal conduct, from the use of rehabilitative interventions, specific deterrence, and incapacitation to reduce the offender's risk of future criminal conduct. The principle clearly confines the proper use of RNA information to the purpose of reducing the offender's risk of future recidivism, not sanctioning the offender's past conduct.

RNA instruments were originally designed as corrections tools for use by corrections professionals for the purpose of reducing the risk of re-offense. Because courts make important corrections-related decisions (including whether to grant probation, the terms and conditions of probation supervision, and appropriate responses to violations of probation), RNA information has become an important resource to state court judges across the country in making those decisions. The use of RNA information in the courtroom environment, however, presents challenges not typically attendant to its use in corrections agencies. Although judges have important corrections responsibilities, corrections agencies do not have sentencing responsibilities except, typically, for preparation of the presentence investigation (PSI) reports that inform judicial sentencing decisions. In performing its sentencing responsibilities, courts are required to balance penal considerations related to the offender's past criminal conduct, as described above, with corrections and other prospective considerations in arriving at a just and effective sentence. In doing so, however, courts often do not clearly separate or delineate the specific purposes for which each piece of sentencing-related information is being considered.

Guiding Principle 1 clearly prescribes that RNA information is intended to be considered only in connection with the court's forward-looking corrections responsibilities, not the court's retrospective sanctioning responsibilities. This principle is supported by the first (and so far only) state Supreme Court decision on the proper use of RNA information. In *Malenchik v. Indiana*, the Indiana Supreme Court held that RNA scores were not intended to be and should not be considered as aggravating or mitigating circumstances in

determining the length of a prison sentence but may be employed in deciding whether and to what extent the sentence will be suspended (i.e., probation will be granted).[10]

Although judicial and criminal justice officials unfamiliar with RNA tools may not generally be aware of this first Guiding Principle regarding the use of RNA information at sentencing, judges, probation[11] officers, prosecutors, and defense counsel interviewed from the ten jurisdictions using RNA information at sentencing adhere to this principle quite consistently. It is a key feature of many of the training programs they have attended. In one interview, for example, a judge (correctly) described the holding of the *Malenchik* case:

> What *Malenchik* says is that aggravators and mitigators will address the length of the sentence and then risk/needs assessments can inform as to whether or not a sentence is going to be probated, and whether or not certain interventions should be made part of a case plan while on probation.

A judge in one of the earliest jurisdictions to utilize RNA information at sentencing remarked: "We've had significant discussions, as we've trained in this over the last 13 or 14 years, on not misusing the RNA information for other sentencing considerations; I think there's potential for it to be misused if you don't understand what it's meant for."

A probation leader in another jurisdiction said that stakeholders there recognized the difference between punishment objectives and recidivism reduction objectives, and that they also recognized that in some cases the punishment objectives may override the recidivism-reduction objectives. One judge explained that RNA "mostly informs what conditions of probation you impose, not necessarily how serious the crime is or what the appropriate punishment should be." A defense attorney in another jurisdiction confirmed that "the RNA tool shouldn't be used as a sentence recommendation, as far as the punishment part of it [goes] . . . it is not to determine how much time you should spend in prison, if any; it's to determine what we are going to do to reduce the likelihood of you doing this again." A defense attorney in another of the ten jurisdictions said that prosecutors "are finally realizing this isn't about less punishment, this is about trying to prevent future crime."

Another judge explained that whether the punitive purpose of sentencing or the rehabilitative purpose of sentencing is more important is decided on a case by case basis:

[10] Malenchik v. State, 928 N.E.2d 564 (2010), *available at* http://www.in.gov/judiciary/opinions/pdf/06091001bd.pdf.

[11] Terms such as *probation*, *community-based supervision agency* or *supervising agency*, and *community corrections* are used interchangeably throughout this report.

> It's about appropriate sentences that fit the needs and the rehabilitative possibilities for each individual defendant. That's how I see it. Sometimes when I talk about *punitive* it's because the penalty is the most important part of the sentence. And where that's concerned and I'm not looking at rehabilitation and I'm really not looking at needs, this crime is so heinous that I'm basically just looking for retribution for my community, then I don't think risk/needs assessments and all of this ever have an impact on what I do with that particular defendant. There are those defendants in which really it's all about punishment and it's not about anything else. And I don't think risk assessment really has any impact on those kinds of sentences.

In some jurisdictions using RNA information at sentencing, the risk of misuse of RNA information for a punitive purpose is diminished because the programs are expressly dedicated to a contrary purpose. In Yamhill County, for example, the initiative explicitly focuses on offenders who would presumptively be sent to prison under the state's sentencing guidelines system or a repeat property or drug offender initiative but who instead can be safely and effectively supervised in the community. In two other jurisdictions (Cuyahoga and Travis Counties), RNA information is used specifically and only to recommend the supervision conditions and programming that would be appropriate to address the defendant's dynamic risk factors if the defendant is sentenced in the community. The PSI reports do not provide any recommendation on the sentence that should be imposed, which is left entirely to the discretion of the judge.

GUIDING PRINCIPLE 2. AMENABILITY TO PROBATION

Risk and needs assessment information is one factor to consider in determining whether an offender can be supervised safely and effectively in the community.

The commentary to Guiding Principle 2 recognizes that risk is dynamic: changing and changeable. As a consequence, the offender's current risk level is a relevant but not the exclusive factor in deciding amenability to community supervision, i.e. whether the offender can be safely and effectively supervised in the community. Four other risk-related factors must also be considered in determining amenability: the offender's specific individual risk factors, the local jurisdiction's capacity to effectively supervise the offender, the availability of appropriate intermediate sanctions, and the availability of adequate and appropriate services.

Amenability is not the only issue bearing upon whether probation should be granted. Offense and other information relevant to determining the degree of appropriate punishment must also be considered in determining whether to imprison. Extremely high risk offenders may not be amenable to community supervision even if the seriousness of the crime committed does not by itself warrant imprisonment, but imprisonment of an offender not amenable to community supervision is never justified where imprisonment would constitute a disproportionally severe sentence for the offense committed.

Applying Guiding Principle 2 requires judges, prosecutors, and defense lawyers to consider two fundamental challenges in the use of RNA information. First, the decision whether or not to imprison a convicted probation-eligible felony offender is influenced by several different sentencing considerations, only some of which are related to the use of RNA information (i.e., public safety considerations related to offender risk reduction and management). The decision is influenced most directly by the seriousness of the offense, the defendant's prior criminal record, the harm or injury caused to specific victims or the public generally, and the desire to deter others from committing similar offenses (i.e., punishment, public safety considerations related to general deterrence, and restitution/restoration). None of those considerations is addressed by RNA information. RNA information is not relevant to the determination of a just and proportionate penalty holding the offender accountable for his or her prior criminal behavior, or to the consideration of general deterrence. RNA information is relevant and intended for use only to manage and reduce the risk that the defendant will re-offend.

Second, actuarial assessments can be used to inform sentencing decisions related to offender risk reduction and management in two distinctly different ways. Some advocate

the use of actuarial risk assessment tools to promote public safety by identifying higher risk offenders who might then be incapacitated, typically through imprisonment, at a higher rate or for longer periods of time than lower risk offenders.[12] On the other hand, actuarial risk and needs assessment tools are a more recent development, designed for a distinctly different purpose: to reduce the risk of re-offense not through incapacitation but by changing offender behavior.[13] From a behavioral change perspective, imprisonment is not an effective strategy. Community supervision can be equally or more effective than incarceration in reducing recidivism.[14] Therefore, if the offender is amenable to community supervision, this alternative to incarceration is generally preferred. Although the decision whether or not to imprison a probation-eligible offender requires consideration of multiple sentencing objectives, only one of them – offender risk reduction and management – is specifically related to the use of RNA information. With regard to that objective, the decision whether to imprison a probation-eligible offender turns on whether the offender is amenable to community supervision.

Among the ten local jurisdictions which are the subject of this report, the jurisdiction whose current use of RNA information at sentencing is most targeted at determining amenability to community supervision is Yamhill County. As of this publication, Yamhill County uses RNA information at sentencing specifically to inform determinations of amenability. Under Oregon HB 3194, enacted in 2013, some of the cost-avoidance savings resulting from statutory changes that reduce state penalties for certain non-violent offenses were reinvested in the county-level community corrections infrastructure.[15] Oregon counties are required to show how their use of those monies will impact prison population reduction. In Yamhill County, RNA information is now presented to the court at sentencing through an "Early Defendant Analysis" (EDA) report only in prison-presumptive cases involving non-person felony offenses as identified by the district attorney under Oregon's sentencing guidelines system or a repeat property or drug

[12] The use of actuarial risk assessment tools for this purpose is sometimes referred to as "risk-based" sentencing. *See, e.g.*, Laura Rayon – Chavero, *The Risk Based Sentencing Controversy*, (8/12/14), http://reganlaw.net/risk-based-sentencing-controversy/ ("A number of states and potentially the federal government have and could implement what is known as "risk based sentencing." What is risk based sentencing? It is a numerical approach to establishing terms of imprisonment based upon "analysis" of a convicted citizen's "factors".)

[13] The use of actuarial RNA tools is an evidence-based corrections practice for the purpose of managing risk and reducing recidivism, and the use of RNA information and other evidence-based corrections practices in state sentencing proceedings is commonly referred to in the state court community as "evidence-based sentencing." *See* Malenchik, 928 N.E.2d 564.

[14] *See* ANDREWS, *supra* note *8,* at 378-380.

[15] *See State Fact Sheet Public Safety in Oregon*, *The Pew Charitable Trusts' Public Safety Performance Project*, (May 19, 2015), http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/05/28/public-safety-in-oregon (link to legislation).

offender initiative.[16] The EDA helps the court identify otherwise prison-bound offenders who can be safely and effectively managed in the community.

The EDA is typically prepared immediately after arraignment on the indictment and is thus available to the parties in the plea negotiation process (see Guiding Principle 5). Dedicated Yamhill County Department of Community Justice (DCJ) officers prepare the EDA report, which includes RNA information as well as recommendations to the court regarding the offender's amenability to community supervision and, should the decision be made to place the offender on community supervision, recommendations regarding appropriate conditions of supervision. These recommendations identify appropriate supervision conditions to manage risk and appropriate treatment or other services to address the offender's dynamic risk factors (i.e., reduce risk).

The judge and prosecutor interviewees who have been most involved in EDA implementation find the program helpful. A prosecutor, for example, expresses trust in the EDA process and believes that RNA information is most beneficial in those prison presumptive cases in which the prosecution is undecided at the outset whether to offer a non-prison sentence or has little or no previous experience with the offender. Although supportive of RNA as a helpful tool in providing the court and parties with useful information, the prosecutor also acknowledges the tension between the twin goals of accountability and recidivism reduction and notes that even if probation concludes the offender is amenable to community supervision that does not necessarily mean the prosecution or court will conclude that a non-prison sentence is appropriate in light of other sentencing considerations.

The prosecutor also indicated that in some cases, a non-prison offer even in the absence of the EDA would have been made, and in other cases a non-prison sentence would have been opposed despite a Community Corrections determination that the offender could be safely managed in the community.

Defense counsel report that prosecutors and judges are increasingly adept at identifying the eligible offenders by the time of the arraignment. Defense counsel are very supportive of the EDA process and report that defendants themselves rarely resist the process. "If the defendant wants to have some tools that he can use to move forward and get out of the criminal world, this is a really great beginning," one defense attorney concluded.

[16] Due in part to fiscal constraints, PSIs are rarely conducted in Yamhill County. Violent and sex offenders are excluded from consideration in the EDA program. Participating offenders are commonly defendants charged with drug and/or property crimes. The DA has early access to the criminal history information necessary to make the prison-presumptive designation.

Many other jurisdictions also make significant use of RNA information for determining amenability to community supervision. One county judge, for example, reports using RNA information as "corroborative of what I'm thinking of doing" regarding the appropriateness of probation. He reports that low risk scores often support a determination to grant probation, and even in high risk cases where the crime is not so serious as to mandate prison, an evaluation of the particular risk factors involved sometimes leads to a determination that the offender can be safely and effectively supervised in the community.

Several judges in one jurisdiction discussed their use of RNA information in determining whether to probate a sentence. One judge's comments focused on the use of RNA information with low to moderate risk offenders:

> If you see somebody who is low to moderate risk, certainly that's somebody who you are going to be looking at as a good candidate for a probated sentence. If you see some dynamic risk areas [like] substance abuse, housing, peers and associates and things like that, those are all things you have the ability to make a change in. Those might inform your decision as to whether or not to suspend or to execute [the sentence]. . . . You look at things, also, like the prior history on probation . . . and also the criminal history when you're trying to make the decision too. They help to inform that decision. But, you know, I think, sort of that overall level of risk and then the various domains are the things that you look at.

Another judge commented on high risk offenders, noting that if the high risk level is driven primarily by dynamic risk factors as opposed to criminal history, he would look to see what supervision and services could be offered in the community before sending the offender to prison.

In another jurisdiction, the prosecution often submits the sentencing decision to the discretion of the court without taking a position. When a prosecutor does take a position on a case, s/he considers the offender's dynamic risk factors along with the risk level in forming an opinion whether the offender can be safely served in the community. One prosecutor explains:

> If we feel that, based on the analysis of the instrument and the presentence investigation, that we don't think that we can effectively manage this person safely in the community – and that is the basis for our recommendation for a prison sentence, for instance – we outline that for the judge. If we feel like we *can* effectively manage the person safely in the community, we tie all that RNA information into our rationale that we think we *can*, and this is what we ought to do with this person in the community in terms of addressing the needs issues.

A local judge agrees:

> So it [RNA] really gives us a lot more information about the offender and how likely they are to be amenable to any kind of pro-social or community-based treatments. . . . I think I probably give more people a chance at some form of community-based treatment knowing that it really will be addressing their needs.

Similarly, the Department of Corrections in another jurisdiction may recommend either prison or community supervision depending on its assessment of the offender's amenability for probation supervision, and will provide specific supervision recommendations. One judge describes how he weighs offender RNA information, along with the seriousness of the offense and other factors, in determining whether to imprison or grant probation:

> I think it's been really helpful and have a fair amount of confidence in using it to determine whether probation is something that's necessary. In other words, is this a low-risk person that maybe shouldn't be on probation at all, doesn't need to be on probation? . . . I would say risk level is a factor in making a prison versus probation calculation. Like I said, the fact that a person is high risk isn't necessarily going to mean that he goes to prison, but it's going to be a factor that is considered. Obviously, you're going to weigh the nature of the offense heavily. You have victim issues to be concerned about. You have the whole history on supervision previously. Is this someone who has been amenable to supervision in the past or is it someone who has had five probations and they've all been revoked? So I would say it's a factor in making a prison determination, but it probably doesn't carry as much weight as it would in making a determination that a low-risk offender, for example, ought not be on probation. Certainly it's important in terms of assessing needs and whether there are needs that can be addressed on supervision and, if so, what they are.

GUIDING PRINCIPLE 3. EFFECTIVE CONDITIONS OF PROBATION AND RESPONSES TO VIOLATIONS

Risk and needs assessment information aids the judge in crafting terms and conditions of probation supervision that enhance risk reduction and management. It also provides assistance in determining appropriate responses if the offender does not comply with the required conditions.

The commentary to Guiding Principle 3 indicates that the availability of RNA information at sentencing allows the court to craft probation conditions that are appropriate in the individual case for the purposes of managing and reducing the offender's short-term and long-term risk of recidivism. Inappropriate probation conditions are ineffective or counter-productive in managing and reducing risk. Recognizing that risk is dynamic, probation conditions should provide flexibility to the community supervision agency, allowing authorized agents to suspend certain sanctions or behavioral controls and recommend or determine when early termination may be appropriate. To promote rehabilitation and compliance with conditions of community supervision, prosocial behaviors should receive reinforcement and violations should result in swift, certain, and fair sanctions. The appropriate response in an individual case depends upon the nature of the violation, the seriousness of the underlying offense, the extent of prior compliance, and the current level of risk—re-assessed in light of the most recent violation. The response should also result in appropriate modification of the supervision plan to avoid future violations. Revocation is an appropriate response when a re-assessment concludes that the offender can no longer be safely and effectively supervised in the community.

Effective Conditions of Probation

In all ten jurisdictions reviewed for this report, the offender RNA is used to inform decisions about the conditions of community supervision. Indeed, in many jurisdictions, judges and other stakeholders thought that this was the most effective use of RNA in the sentencing process. The District Attorney in one jurisdiction, for example, said: "Why wouldn't we want to have terms and conditions of supervision which are best suited to reduce recidivism? Of course that's what we want. . . . I still think that's the best place for RNA to be in our system."

To achieve effective supervision, community supervision agencies in these jurisdictions use RNA information in three general ways. First, the agencies use assessment information regarding the offender's risk level to determine the intensity of community supervision, typically supervising higher risk offenders more intensively and in smaller

caseloads with more experienced officers, and lower risk offenders less intensively in larger caseloads with less experienced officers. Several supervision agencies also attempt to keep low risk offenders physically separated from high risk offenders. This physical separation reduces the opportunity for low risk offenders and higher risk offenders to comingle, avoiding the incidental exposure of low risk offenders to higher risk offenders that may result in increased recidivism risk of low risk offenders.[17] In Cuyahoga County, for example, officers supervising high risk offenders operate out of a separate building from officers supervising low risk offenders.

Second, the needs assessment information is used by the agencies in case planning to determine appropriate treatment service types and dosages for the individual offender.

Third and most importantly for this report, RNA information is used by the agencies in making recommendations to the court, through PSI reports or otherwise, regarding appropriate "control" and "treatment" conditions of probation. These are conditions that should be ordered by the court, if the court decides to grant probation, to best manage and reduce the offender's risk of recidivism. The risk assessment information and probation recommendations are then used by the courts to set appropriate "control" conditions (e.g., stay away orders, random drug testing, electronic monitoring, participation in day reporting centers or other semi-custodial programs), while the needs assessment information and related treatment recommendations are considered by the courts in setting appropriate "treatment" conditions of probation designed to reduce recidivism by targeting the offender's dynamic risk factors and promoting behavioral change.

One of the significant challenges faced by community supervision agencies is that, in the absence of RNA information, courts often set inappropriate or inflexible probation conditions. The selected conditions may be inappropriate in light of either the risk level or the specific criminogenic needs of the individual offender. In addition, even if the conditions were appropriate at the outset of supervision, they may turn out to be inappropriate months later. This second challenge arises because risk is not static or fixed but is instead dynamic or changeable, and appropriate supervision and recidivism reduction efforts therefore require flexibility to modify the conditions of probation accordingly.

[17] *See, e.g.*, Christopher Lowenkamp & Edward J. Latessa, *Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders,* in NATIONAL INSTITUTE OF CORRECTIONS (SERIES ED.), TOPICS IN COMMUNITY CORRECTIONS: ASSESSMENT ISSUES FOR MANAGERS, 3-8 (2004), *available at* http://nicic.gov/pubs/2004/period265.pdf.

Providing RNA information to the courts in these ten jurisdictions reportedly allows the courts to make more informed front-end decisions regarding both control and treatment conditions of probation. A prosecutor and defense attorney in one jurisdiction observed, for example, that their newer RNA-based PSI reports contain more consistent and objective information than the traditional PSI reports previously used. Most of the jurisdictions reported that their court "typically follows" the local supervision agency's recommendations regarding appropriate probation conditions. A judge in one jurisdiction estimated, for example, that he follows the agency's recommendations in 75-80 % of cases.

The court and supervision agency in Cuyahoga County took their initiative a step further and cooperated in developing a decision-support tool for use in setting appropriate control conditions based on the offender's risk level. The tool, called the Evidence-Based Practices Sentencing Chart, prescribes appropriate conditions regarding the recommended length of supervision, frequency of reporting and testing requirements, and other standard supervision conditions for each of five identified levels of recidivism risk. It also prescribes appropriate supervision conditions for a sixth "special programs" category of offenders who are eligible for entry into intervention programs designed for certain offense types (e.g., domestic violence or sex offenses).

Although the provision of RNA information to the court allows for more informed and consistent decisions regarding conditions of probation, it does not fully address the second challenge noted above: namely, that the level of the offender's criminogenic needs, and to a lesser extent types of criminogenic needs and overall recidivism risk level, may change during the course of supervision and following effective recidivism-reduction intervention. This is especially true for higher risk offenders who are often ordered to longer periods of community supervision. To address this issue, parties in some jurisdictions have agreed that the court's orders regarding the conditions of community supervision and treatment will be stated in very general terms (e.g., "participate in substance abuse testing and treatment programs as directed by your probation officer"). This solution provides the supervising agency with the flexibility to modify probation requirements as the offender's behaviors, circumstances in the offender's life, and corresponding level of recidivism risk change. Some jurisdictions in which the court had previously ordered some offenders onto intensive supervision for the entire probation period have abandoned that practice.

Other jurisdictions provide even broader discretion to the supervision agency in determining and prioritizing the appropriate interventions. One court, for example,

orders the defendant to "participate in assessments, evaluations, testing, and treatment services as directed by your probation officer." In the words of one judge:

> I think philosophically most of the judges here are lately looking at sentencing somebody to probation and requiring that they comply with all the evaluations and assessments by the agent, and let the agent determine which of these criminogenic factors need to be addressed – as opposed to saying you need to do this, that, and the other thing, and then find out that two or three of those things really don't need to be done.

In Grant County, the supervision agency provides the court with a PSI report that contains the defendant's RNA information along with a specific proposed case plan. After the offender is referred for a PSI and has been assessed, RNA results are used by probation to assign the offender to an appropriate probation officer, as probation caseloads are allocated by risk level (i.e., each supervising probation officer oversees a caseload dedicated to the supervision of offenders with a similar level of risk). The supervising probation officer then develops an initial case plan for the offender, informed by the assessment, and appends it to the PSI report. As a result of the thoroughness of this process, probation conditions are now rarely the subject of plea negotiations as they previously had been. One judge explains:

> There are not a lot of probation conditions that are set forth in the plea agreement. Prosecutors and defense attorneys are open to allowing the court and probation to deal with this through the developed case plan. The only time there will be a lot of discussion at sentencing about probation conditions is if one side looks at the case plan and feels there is something major in there that shouldn't be, or is missing entirely but should be included. . . . But generally the assessments drive the case plan and everyone is comfortable with the fact that the case plan is going to be reflected in the probation conditions and those are the expectations the defendant will have while on probation.

In most of the jurisdictions interviewed, the court still at least occasionally places a felony offender on probation without the benefit of RNA information. In those instances, the courts are prepared upon request or motion by the supervision agency to modify conditions of probation in light of subsequently obtained RNA information. In addition, in at least some jurisdictions, courts have on some occasions concluded based on RNA information that a low risk offender does not need to be on probation at all. One judge told us: "I think [the RNA] has been really helpful and have a fair amount of confidence in using it to determine whether probation is something that's necessary. In other words, is this a low-risk person that maybe shouldn't be on probation at all, doesn't need to be on probation?"

Another use of RNA information is on petitions for early discharge from probation. In at least one jurisdiction, judges request a full risk and needs reassessment to determine whether sufficient risk reduction has occurred to support an early termination of probation.

The transition to use of RNA at sentencing is not always without challenges. Traditionally, in Yamhill County, as in many jurisdictions across the country, the probation conditions recommended by the DCJ and ordered by the court were based on the crime of conviction. A drug offense conviction, for example, resulted in a "package" of conditions related to offenses regarding the use, possession, or sale of drugs. Prior to the passage of HB 3194 in 2013, Yamhill transitioned to the use of RNA in setting probation conditions in probation-presumptive cases under Oregon's sentencing guidelines. As part of this effort, the DCJ recommended and the courts imposed probation conditions based primarily not on offense of conviction but on the risk level and specific risk factors of the individual offender. The use of RNA information to guide the selection of appropriate probation conditions had been well-received by all stakeholders. According to one prosecutor:

> It was a positive experience in that we were being more selective about what terms were appropriate for offenders. In other words, we were looking at terms and conditions for offenders based only in part on their conviction, whereas before that it had been primarily based on crime of conviction.

With the passage of HB 3194 in 2013, Yamhill County turned its focus to prison–presumptive cases and the court now receives neither RNA information nor any recommendations from the DCJ in probation-presumptive cases. The goal and expectation was that in probation-presumptive cases the court would abandon its earlier practice of imposing standard "package" conditions based on offense type and would defer to the DCJ in setting treatment conditions informed by the offender's RNA. Several interviewees claim, however, that the imposition of sentencing packages by the court is still common in probation-presumptive cases and "just so hard for judges to get away from because the packages are so engrained." They acknowledge improvement in the use of sentencing packages, but claim that judicial deference to probation in setting treatment conditions is certainly not uniform.

Responses to Violations

Use of Risk and Needs Assessment Information

Most of the jurisdictions interviewed use actuarial RNA information in responding to probation violations. Supervising probation officers in Douglas County/4th Judicial

District often conduct a reassessment of the offender's risk and needs following serious violations of probation, and judges in that jurisdiction can order a new PSI report with the updated RNA to inform probation revocation proceedings. In Napa County, probation officers also update the probationer's RNA information for probation revocation proceedings. Napa probation officers also typically attend probation violation proceedings and are consulted on the terms and conditions of any reinstatement to probation. Supervision agencies in other jurisdictions have established policies to reassess offenders every 12 months while on probation. In probation revocation proceedings in Coconino County, information from any reassessment of risk and needs that has been conducted within 90 days of the hearing is routinely presented to the court. Other jurisdictions rely on pre-existing RNA information in responding to violations.

Most commonly, risk assessment information is used in conjunction with other information in determining the level of sanction or control to be imposed upon a violation, or whether revocation is appropriate. Equally important, however, is the use of needs assessment information in determining the most appropriate response to a violation. Indeed, identifying the dynamic risk factors that contributed to the violation(s) is the initial step in determining appropriate interventions to reduce future risk. As the probation director in one jurisdiction explained, a treatment intervention to address the risk factor that led to the violation may be more effective in avoiding future violations than a sanction:

> It depends on what the violation is, whether or not there is actually a violation filed or if there is some sort of intervention that results from that. We use a lot of treatment, and so, typically, we'll have folks that come in and they have a dirty UA or whatever, and we re-engage them in treatment rather than file a violation. . . . Lots of times we'll ask for a new substance abuse assessment, or we'll refer them to a specialty court like a drug court. . . . You know, most of the offenders that *we* have, by the time they get into the felony system, most of them can do jail time standing on their heads. So if you're trying to deter behavior, sometimes that is not the best way to do it.

In Napa County, needs assessment information is considered in applying Napa's Sanctions and Positive Response Grids and utilized to ensure that the response is appropriate to address the risk factor that led to the violation. Programs and services offered in response to a violation are not referred to as sanctions in Napa County, but as "opportunities": "we are responding to your behavior, and here's your opportunity to help change that behavior." A probation officer explained that "it's semantics, but it works." Often, the "opportunity" consists of participating in a cognitive behavioral group led by a probation officer.

Similarly, the Grant County Violation Response Matrix considers needs assessment information and identifies appropriate interventions to reduce risk as well as appropriate sanctions to achieve accountability objectives. Needs assessment information is used in similar ways in Coconino County.

Administrative Sanctions Processes

Almost all of the jurisdictions report use of administrative sanctions systems. The common features of such systems are use by the supervision agency of a continuum of intermediate sanctions of graduating severity administered by probation in response to violations of probation not involving an abscond or new law violation. Sanctions are imposed with swiftness and certainty, are proportionate to the severity of the violation, and take into account the nature and severity of the violation, the probationer's criminal and compliance history, the probationer's risk level, and the nature of the offense for which the offender is on probation.

Graduated sanctions systems frequently utilize a violation response grid or matrix that classifies the various violations as low-level, mid-level, or high-level, for example, and then authorizes a specific range of permissible sanctions corresponding to each violation level.[18]

Depending on the severity of the violation and proposed sanction, the sanction may be imposed administratively without any judicial involvement. Typically, low-level sanctions (e.g., reprimands; writing assignments; behavioral contracts; letters of apology; curfews; increased drug screen frequency, reporting requirements, or supervision level; short periods of community service) involving low-level violations may be imposed directly by supervising probation officers. Imposition of mid-level sanctions (e.g., longer periods of curfew or community service, extending the term of probation, electronic monitoring, home confinement) may involve an administrative review or hearing process, with or without any judicial review. In Mesa County, for example, administrative hearings are utilized to resolve violations that may result in such mid-level sanctions. If the probationer ultimately signs off on the sanction imposed (which is common), the matter is submitted to the court for approval without judicial hearing. Judicial approval in these cases is routinely granted. A public defender in Mesa County reports that the supervision agency's increasing use of administrative sanctions "is wonderful, in the sense that many of our clients that we would have been seeing in court on a PV are now getting some stuff

[18] *See, e.g.*, American Probation and Parole Association & the National Center for State Courts, *Effective Responses to Offender Behavior: Lessons Learned for Probation and Parole Supervision*, (2012), *available at* https://www.appa-net.org/eWeb/docs/APPA/pubs/EROBLLPPS-Report.pdf.

worked out before they even get to court." Now in Mesa County only more serious cases escalate to a court hearing on the violation.

A similar process occurs in Grant County, where mid-level sanctions not involving a significant "deprivation of freedom" may be imposed administratively with the probationer's consent. If the probationer consents, a Motion to Enter Admission to Probation Violation and Waiver of Rights is filed with the court for approval. As one judge said, the administrative response system is well-regarded by the court: "I think the biggest recent change that we've made was with the way that . . . we've changed our violation response process and how well, in my anecdotal opinion, that seems to be working in terms of consistency of responding and swiftness in responding to violations."

In most of the jurisdictions surveyed, more serious violations, for which probation recommends either (a) jail time or some other significant deprivation of freedom or (b) participation in a drug court or other specialty court program, must be submitted to the court for approval - even if the probationer has agreed to the disposition. But in many jurisdictions the submission process has been expedited. In Grant County, for example, the prosecutor and judge must sign off on use of "flash incarceration" in response to a violation, but the sign-off typically happens quickly, the same day the paperwork is submitted. Judges are on call and can sign off on each other's behalf.

In Oregon, the Department of Corrections (DOC) has long-standing authority, with the probationer's consent and waiver of rights, to impose substantial periods of incarceration (now up to 30 days) in response to a violation without any judicial involvement. The Yamhill County interviewees indicated that much shorter jail stays of two or three days are now more common and expressed a concern that the current sanctions grid authorizing longer periods of incarceration is "old and needs to be modernized."

Similarly, in Coconino County, the probation department has partnered with the courts to create Project SAFE (Swift, Accountable, Fair Enforcement), modeled on Hawaii's Opportunity Probation with Enforcement (HOPE) program, which is designed to reduce rates of probationer recidivism and revocations to prison by bringing probation violators before the court for expedited probation violation hearings. In response to a violation, probation is authorized to implement a discretionary jail sentence of 2-10 days that has been previously authorized by the court at the time of sentencing by filing a petition to the Project SAFE court. If the probationer wishes to waive his or her right to judicial hearing, the probationer may serve the discretionary jail time directly.

In most jurisdictions, the use of administrative sanctions has resulted in fewer revocation hearings. In Grant County, for example, most revocation hearings result from a new

arrest. The community supervision agency and court have decided not to use administrative responses upon a new arrest. In addition, in certain types of cases (DUI, for example) a revocation petition will be automatically filed upon a new violation after two prior administrative responses. At the hearing, the judge is provided with information regarding the probation officer's history of attempts to use graduated sanctions and the PO's recommendation regarding how to address the violation based on what the supervising agency is trying to accomplish in the case plan. Original assessment results are available to the judge for the hearing and the hearing will often include discussion about how risk factors have or have not been addressed and what remaining supervision options are available.

Administrative Incentives

A more recent development than use of administrative sanctions systems is use of corresponding rewards and incentives grids. Informed by the research indicating that rewards and incentives are more powerful than sanctions alone in changing offender behavior, many of the jurisdictions interviewed discussed their current or planned utilization of administrative incentives systems.[19] Grant County and Napa County already have well–developed incentives processes. The goal of the Grant County process "is to encourage movement towards, and reinforcement of, positive changes in thinking and behavior patterns" on the part of Grant County probationers. The process has been well received by the court: "It's not surprising that you can use incentives to drive offender behavior in business-as-usual processes within probation, too; I'm pretty excited about the fact that that's been working as well as it has," one judge remarked.

The Napa County "Positive Response Grid" describes "Suggested Responses" for each of three levels of pro-social behaviors. Probation officers also have "a little basket of goodies" on their desks for use in rewarding probationers for "going to a job interview, getting a job, attending their third consecutive appointment on time, whatever." Probation officers are required to respond to probationer behaviors with appropriate sanctions and rewards within seven days of learning of the behavior. Probation seeks to respond to every probationer behavior, but on the sanctions side it typically involves an intermediate sanction, not jail: e.g., additional testing, additional appointments, or referral to the County's Day Reporting Center. The court is supportive of the additional authority that the Probation Department is now exercising in dealing with technical violations and notes that the additional authority has resulted in fewer court appearances on violations.

[19] *Id.*

Several other jurisdictions are seeking to develop or are in the process of implementing incentives systems. Cuyahoga County has sought technical assistance to develop a comprehensive sanctions and incentives grid. Yamhill County selected to participate in a national technical assistance project to modernize their existing sanctions grid and build in an incentives component. Recently enacted Justice Reinvestment legislation in Idaho requires the Idaho Board of Corrections, in consultation with the Idaho Supreme Court, to develop a matrix of sanctions and rewards for use by probation officers in responding to probation violations and compliance, including use of incarceration for up to three consecutive days for violations. The legislation also requires the Board of Corrections to consider RNA information in responding to offender behaviors and requires courts to consider RNA information in probation revocation proceedings.[20]

The Wisconsin DOC is currently rolling out a new statewide, electronic "evidence-based response program." The system calls for two responses: an "accountability" response to address the violation and an intervention/treatment/dosage response to reduce the risk of future violations. The intervention response may be a dual response: one by the probation agent and a second by an external provider if there is one. The supervising officer must obtain a local supervisor's approval for a one-step deviation from the grid's recommended response and regional approval for a two-step deviation from the grid. The DOC is currently training officers on use of intervention responses:

> Jail is currently our most frequent sanction used. It only stops the behavior. It doesn't change the behavior. So now we want officers to build in this skill-building component and so we want to get that mindset going and then we're going to better incorporate the rewards/incentives component that's coming out soon.

DOC supervisors currently conduct monthly training sessions with officers to emphasize the importance of using offender skill building exercises.[21]

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[20] *See Idaho's Justice Reinvestment Approach: Strengthening Probation and Parole, Structuring Parole Decision Making, and Measuring Recidivism-Reduction Efforts*, *Justice Center: Council of State Governments,* (September 2014) [hereinafter *Reinvestment*], *available at* http://csgjusticecenter.org/wp-content/uploads/2014/09/Idaho-JR-Approach.pdf; I.C. § 20-219, 20-222 (effective July 1, 2014), http://www.legislature.idaho.gov/legislation/2014/S1357.pdf.

[21] Wisconsin is somewhat unique in that community supervision revocation proceedings are conducted administratively by the DOC rather than in the judicial branch. It is not typical for a reassessment to be conducted by DOC for a revocation proceeding. If upon revocation the case is returned to court for sentencing the judge does not typically obtain a re-assessment but may have done so in exceptional cases. Treatment courts are under the jurisdiction of the judicial branch and the DOC has MOUs with the treatment courts and ultimate authority over when and whether to revoke supervision. One foreseeable challenge will be meshing the new DOC response grids with separate and existing treatment court response grids.

GUIDING PRINCIPLE 4. STAKEHOLDER TRAINING

Education regarding the nature and use of risk and needs assessment information is critical for all stakeholders (e.g., judge, defense attorney, prosecutor, probation officer, victim advocate).

The commentary to Guiding Principle 4 discusses the importance of training and monitoring for community corrections officers to ensure that assessment instruments are used in a reliable and valid manner. It also emphasizes training for judges and other stakeholders to ensure they understand how to properly interpret the RNA information provided by supervision agencies.

Quality Assurance and Probation Officer Training

To increase expertise and efficiency and decrease inconsistencies in conducting and interpreting RNAs, most community corrections agencies dedicate specific staff to administer the assessments. In larger jurisdictions, an entire unit may be tasked exclusively with conducting assessments, whereas in smaller jurisdictions one or two staff may be primarily responsible for assessments.

All community corrections agencies in the jurisdictions interviewed require their assessment officers to undergo training and certification in accord with their respective assessment tool's requirements. Typically, this involves attending a two- to three-day training program and passing a certification test.[22] Many also require routine recertification (e.g., every two or three years) or offer periodic "booster" or refresher training.[23] Some jurisdictions conduct their training with state or local officers who have

[22] *See, e.g., Indiana's Policy for User Certification for the Indiana Youth Assessment System & Indiana Risk Assessment System, Board of Directors Of The Judicial Conference of Indiana* (January 15, 2010), *available at* http://www.in.gov/judiciary/cadp/files/prob-risk-iyas-iras-user-certification-2011.pdf. In some states training and certification is required by legislation. *See, e.g., Ohio House Bill 86, Ohio Department of Rehabilitation And Correction Ohio Risk Assessment System,* (November 17, 2014), http://www.drc.ohio.gov/web/oras.htm.

[23] *See, e.g., Colorado Probation And Evidence-Based Practices, Colorado Division of Probation Services, 6,* (2010), https://www.courts.state.co.us/userfiles/file/Administration/Probation/APPA_Presentation_Material/EBP_Report.pdf (Colorado's requirements for training: "Assessment training is provided to all probation officers during the probation academy and assessment boosters are required every 3-5 years.") *See also Eight Evidence-Based Principles for Effective Interventions & Timeline of Significant Events in Arizona Probation, Arizona Adult Probation Services Division,* (July 2010), http://www.azcourts.gov/LinkClick.aspx?fileticket=lCL48eRs_Nw%3d&tabid=2654&portalid=25 (Arizona's timeline report on properly training staff to conduct assessments.)

been certified through "train-the-trainer" programs, allowing more flexibility in providing training on an as-needed basis.

Community corrections agencies report that they periodically monitor the quality of assessments in various ways. Supervisors in one jurisdiction, for example, routinely use a quality assurance instrument to review the assessment process for fidelity, while in another jurisdiction supervisors are required to review and approve all PSI reports before they are submitted to the court. Typically, monitoring includes use of inter-rater reliability assessments to examine the consistency of RNA results across officers. The monitoring process provides information on specific areas in which additional training may be needed.

Several jurisdictions have either a state or local staff person or stakeholder committee that is specifically tasked with overseeing implementation and fidelity to EBPs across community corrections organizations. Grant County, for example, has a Quality Assurance and Development Officer who is developing formal policies, practices, and performance indicators for core probation activities, including conducting RNAs. The officer also plans to create learning teams of probation officers who will meet regularly with subject matter experts on specific topics in order to expand training and education opportunities beyond the classroom to include peer development and coaching.

General Stakeholder Education and Training

When RNA information was initially introduced into sentencing proceedings, many jurisdictions provided formal stakeholder training events on the research supporting RNA and on how to interpret the results of a RNA for sentencing purposes (see discussion of Guiding Principles 1, 2, and 3). Some of these events focused on specific stakeholder groups while others included two or more stakeholder groups (e.g., judges, probation officers, prosecutors, and defense lawyers). In addition to formal conference settings, some jurisdictions provided training through webinars, brown bag or other small group meetings, peer-to-peer discussions, and individual mentoring. Some jurisdictions brought in outside experts to provide the training; others relied on probation officers who had been trained on the research. Some of the

> "And for the new judges, we get together and we all distribute copies of presentence investigations that we've already done, and everybody looks at it and comes together and we discuss, 'What would you do with this information?' You know, 'What result would you come up with?'"
>
> *Judge interviewee*

trainings involved application of RNA information to hypothetical sentencing scenarios; others reviewed sentences imposed using RNA information in real cases.

Many of the stakeholders interviewed noted that they or other stakeholders were initially skeptical of, or at least surprised by, research that was inconsistent with some of their assumptions about offender recidivism. The skepticism varied among stakeholders in different jurisdictions. In some jurisdictions prosecutors challenged the information; in others, defense lawyers expressed concern. Some judges, particularly those who served in a problem-solving court such as a drug court or mental health court, were more familiar with the research and more comfortable with the concepts than some of their colleagues. Interviewees from several jurisdictions noted that ongoing training, coupled with opportunities to openly discuss questions and concerns about the research and the meaning and appropriate use of RNA information, helped overcome the initial resistance of some stakeholders.

Several judges and other criminal justice stakeholders also noted that greater familiarity with the qualifications and training of the probation officers helped increase their confidence in RNA results and probation officer recommendations. One judge, for example, discussed the importance of knowing probation officers' credentials:

> And I think it was important for even me as a judge to know that of the 150 officers and supervisors, you know, they all have a Bachelor's degree, a lot of them have Master's degrees and Doctorate degrees, a lot of them have their license as social workers and polygraph examiners and things of that sort. . . . So I think it took a while for a judge—and you've got to understand, I could put someone on probation and in two months from now, which has happened, that probationer kills his mother. And I've got to live with that . . . that's something that I have to take ownership in. And so as judges, in order to put that trust in the probation department we believed—I believed that we had to get to know our probation department and the tools they were using.

Similarly, another judge noted that training, observing the use of the instruments over time, and "getting to know the quality of the probation officers we have" raised his comfort level with using assessment information.

Probation officers also expressed an understanding of the importance of establishing credibility with other stakeholders:

> It was a matter of us [probation] establishing some credibility; that we knew what we were talking about. I think it was a lot of persistence and communication and really trying to answer concerns when they came up . . . I think, again, it was just being persistent, having enough background, and information, and the research to be able to defend our position. And then, I think, just over time really showing outcomes that are consistent with the

> message that we've been trying to deliver. . . But I think that over time . . . we've been able to demonstrate successful outcomes that are evident to others in the system. And one thing we always emphasize when we're talking about our outcomes is that we're successful because we use a systemic approach and that without the input and collaboration with all of the other players we wouldn't have these successful outcomes. And so we're always sharing those and giving everybody credit for their piece in those outcomes.

Prosecutors and defense attorneys in some jurisdictions indicated a desire for more training on the instruments and on how probation officers use them to make recommendations. One prosecutor remarked that he would like to have more discussion with assessors outside of the courtroom in order to better understand the RNA information. He commented that as a prosecutor, he only sees the offenders who fail on probation: "I don't know anyone who succeeds on probation because they don't come back, and so I only see failures . . . then after a while, that's the way you're thinking of probation."

Several jurisdictions have stakeholder committees or task forces that provide a venue for ongoing discussions of these kinds of issues, i.e. the effectiveness of evidence-based policies and practices, including the use of RNA information. The committees typically include representatives from the court, probation department, district attorney's office, public defender and/or private defense counsel, and law enforcement. They provide a regular opportunity for probation representatives to describe their processes and quality assurance activities, and to address specific stakeholder concerns.

One of the biggest challenges regarding stakeholder training is turnover. This is particularly problematic for prosecution and defender offices. Several interviewees reported that new prosecutors and defenders often learn about RNA information through mentoring from colleagues and on-the-job training rather than through formal educational programs. Several supervision agency interviewees noted that they meet with new judges to explain how they use RNA information in preparing a PSI report but, unless requested, do not generally do the same with new attorneys.

> "Whenever I get a new judge on board, I've got my own internal training process where I go and I meet with them and explain what we're doing in terms of evidence-based practices and what these assessments are, and how we use them, and what value they are to you, and, whenever you've got questions, call me, and all of that."
>
> *Supervision agency interviewee*

GUIDING PRINCIPLE 5. AVAILABILITY AND ROUTINE USE OF ASSESSMENTS

Jurisdictions should strive to provide risk and needs assessment information on all probation-eligible offenders at all stages of the sentencing process, including plea-bargaining.

The commentary to Guiding Principle 5 calls for the availability of a full RNA on all probation-eligible offenders throughout the plea bargaining and sentencing process, even if availability is phased in through pilot sites or initial focus on a subset of all such offenders. Strategies to address the unavailability of PSI reports may need to be developed. Courts should encourage all stakeholders to use RNA information. Defendants should be assured that information provided during a pre-plea assessment process will not be used against them at a later trial. The court can promote use of RNA information by educating counsel about the importance of recidivism reduction as a sentencing outcome. In the absence of RNA information, the court should discourage counsel from negotiation of the terms and conditions of probation supervision, or clarify that any such terms are subject to later modification upon request of the supervising agency.

Which Offenders

There is significant variation among the jurisdictions regarding the offenders for whom RNA information is provided. In most states, RNA information is incorporated into PSI reports, but PSIs are not conducted in all felony cases. In some jurisdictions, PSIs are conducted for all felony offenders, and others, PSIs are conducted for felony offenders and misdemeanants. In other jurisdictions, the PSI is waived for offenders who are not eligible for probation or for whom a prison sentence is a certainty. For example, in La Crosse County, PSI reports are sometimes not ordered by the judge in cases where there is a plea agreement or where the sentence is "straight-forward". In other jurisdictions, the PSI report is prepared only for probation-eligible offenders, or for offenders for whom community supervision may be appropriate. Cuyahoga County excludes sex and domestic violence offenders while Travis County excludes cases reduced to misdemeanors and some specialized court dockets. Grant County includes RNA in PSI reports in all serious felonies, while it is discretionary and typically waived in most lower-level felony cases and not provided in misdemeanors. In Douglas County/4th Judicial District, RNA is required by statute to be included in all felony PSI reports unless "impractical", which may include agreed-upon dispositions, or when waived by the defense.[24] In Mesa County, PSI reports

[24] In Nebraska, PSIs are reportedly also more often conducted in urban jurisdictions than in rural jurisdictions.

including RNA information are filed in about half of all felony cases, depending on the judge: typically not in low level cases, for first time offenders, or in cases pled down to misdemeanors.

In La Crosse County, RNAs have for many years also been conducted by a local county-funded agency.[25] Prior to the recent decision of the state DOC to incorporate RNA information into all of its PSI reports, locally conducted RNAs were often ordered by judges for use in connection with sentencing. Now that RNA information is incorporated into DOC PSI reports, the use of locally-funded RNAs has declined significantly. However, local pre-trial or full RNAs are still often ordered by judges in cases in which PSIs are not conducted, including misdemeanors and low-level cases in which probation may not be necessary or even in lieu of a PSI because local RNAs are often returned to the court much more quickly than a more comprehensive DOC-prepared PSI report.

Plea-Bargaining

RNA information is often unavailable at the plea negotiation stage of proceedings, although in some jurisdictions the prosecutor expresses openness to that possibility. A prominent exception, as noted earlier, is Yamhill County, where RNA information is provided shortly after arraignment for the express purpose of influencing plea negotiations and sentencing in prison-presumptive (but probation-eligible) cases. Some jurisdictions report that defense counsel are concerned that information reported by the defendant during the assessment process might be used against their clients in the guilt determination stages of the proceedings, or that courts are concerned that conducting pre-plea assessments would result in unacceptable continuances.

In La Crosse County, pretrial or full RNAs have been conducted by the local county-funded agency in connection with pre-trial release decisions and plea negotiation proceedings for many years. Some stakeholders report that RNAs have the greatest positive impact when conducted at the pre-plea stage. Pre-plea assessments are most often conducted in prison-possible felony cases and in cases for which the resolution of a felony charge as a misdemeanor is possible. Other La Crosse County stakeholders report that the assessment is an effective "starting point" for plea negotiations and that pre-plea assessments are especially helpful in medium-risk cases where the potential sentence is not clear.

[25] The practice was originally instituted to reduce local jail overcrowding and, later, to screen cases for specialized courts.

In Travis County, depending on the judge and if counsel agree, RNA is also available to inform plea negotiations. Some Travis County stakeholders would like to have RNA information for use in all plea negotiations, but limited probation staffing resources precludes doing so. At the time of our interviews, Coconino County was experimenting with the use of RNA information in plea negotiations through a pilot project. By rule of court, and with prosecutorial support, information provided by the defendant at the pretrial assessment stage cannot later be used against the defendant in determining guilt. Some stakeholders find that although RNA information may affect plea negotiations in some cases, the prosecution position is more often influenced by other sentencing considerations, including retribution. Although Douglas County/4th Judicial District does not conduct pre-plea assessments for sentencing purposes, it does use pre-plea RNA information in determining eligibility for specialized courts. In Mesa County, information from the Colorado pretrial risk assessment tool, the CPAT, may be used informally by stakeholders during the plea negotiation process as well.

Most jurisdictions report that the recommendations provided in the PSI report are generally consistent with the available RNA information, and that the courts "typically," "generally," or "usually" follow these recommendations.[26] But in the absence of RNA information during plea negotiations, when the PSI report or RNA information available at sentencing raises concerns about the appropriateness of a negotiated disposition, the question arises as to how courts address these circumstances.

Some courts avoid part of this problem by precluding or discouraging plea negotiations about the terms and conditions of community supervision. Also, in some jurisdictions the courts are not bound by any sentences negotiated by the prosecution and defense and can impose a different sentence than the one negotiated. In many other jurisdictions, however, the court is bound by the negotiated sentence if the court approves the negotiated plea. In these jurisdictions, if the court disagrees with the negotiated sentence, either the parties must agree to an alternative disposition or the defendant must be allowed to withdraw his or her plea. Although judges seldom reject a negotiated disposition, in many of the jurisdictions interviewed, RNA information is reported to inform the court's decision whether or not to accept the negotiated disposition. In some jurisdictions, the supervision agency is encouraged to recommend an alternative disposition to the one negotiated if it feels the alternative disposition is better supported by the available RNA information.

[26] One exception is where a recommended disposition is in conflict with available RNA information but required by mandatory sentencing guidelines.

In Mesa County, for example, although the probation department's recommendations regarding sentencing and the available RNA information are usually aligned with any negotiated disposition, it is reportedly not uncommon for judges to question a plea agreement in light of the RNA information. Any inconsistencies between the RNA information and the negotiated plea must be re-negotiated by the parties and approved by the court.

Observations on the Use of Risk and Needs Assessment Information

By Stakeholders Generally

One of the most common observations on the use of RNA information was that some stakeholders erroneously confuse risk with dangerousness, or think that a high risk score automatically suggests a prison sentence. As one probation leader said:

> We try to explain to our constituents and stakeholders that risk assessment refers to the risk to reoffend if we do nothing, that the score on the RNA does not necessarily refer to the *danger* to the community. . . . I can have someone who scores *high* on the RNA on the likelihood to reoffend in the use of *drugs*, but they are not necessarily a risk to *hurt* anybody, whereas I could have somebody else who scores relatively *low* on the RNA, like most sex offenders do, who might present a high risk to harm somebody.

One prosecutor commented that "some judges confuse violence with risk, ignoring that a property crime offender might be high risk." A defense attorney in the same community echoed that theme, especially among defense counsel:

> It's a difficult thing for lawyers in the criminal justice system to understand what high risk means, that it doesn't mean dangerousness. . . . That it's high risk to recidivate, not to go hurt somebody. . . . I think the DA's office most of the time understands that. I think the defense part is really uneven at this point. I think some people really get that, and I think some people really don't.

By the Prosecution

Prosecuting attorneys expressed support for the use of RNA information in sentencing proceedings. All said it was "helpful" or "useful". One prosecutor thought RNA information was particularly helpful in establishing appropriate probation conditions. Another thought it was "definitely worthwhile," because it "looks at understanding current criminal behavior . . . as something that can be viewed less subjectively and more objectively by a set of inquiries that have been determined by social science to have some statistical reliability." He also said that RNA information "can be helpful, not only to

inform what is a just and appropriate plea offer to make, but also our communications with and our relationships with the victims in the case."

The prosecutor in another jurisdiction noted that both the prosecution and defense use RNA information to make their arguments and concluded that "I think the defense bar feels comfortable that they're going to get something fairer than in other places maybe." He and prosecutors in other jurisdictions said that the use of RNA information led to less punitive and shorter prison sentences in recognition that jailing low risk offenders with higher risk offenders and punishing people without addressing their dynamic risk factors increases recidivism risk. He added: "Punishment serves a role, but it's not going to change offenders' behavior; and so it's been probably more of a treatment-based approach than a punitive-based approach." In another jurisdiction, one prosecutor felt that RNA information was a particularly useful tool for dealing with drug and property offenders who might find prison "easier" than being effectively supervised in the community, but for whom community supervision was better "from the perspective of the overall community."

Several prosecutors noted that RNA information is less helpful in more serious cases clearly warranting imprisonment, and several other stakeholders reported that there was initial skepticism on the part of some prosecutors who did not initially buy into the goal of recidivism reduction. One prosecutor noted the "reticence" of other state prosecutors who are concerned that undue weight will be given to a low risk score when the nature of the offense committed warrants imprisonment, but emphasized that RNA information is but one piece of information that must be considered in light of all the other relevant information in determining an appropriate outcome. He concluded: "If in fact what we're saying is that what we're going to require of offenders will reduce the likelihood of recidivism, that works for all of us—it works for the community, it works for us, it works for victims."

By the Defense

Defense counsel also found the RNA information to be "helpful." One defense attorney commented that the use of RNA information had increased objectivity in sentencing and had resulted in sentencing orders containing probation conditions that were fewer in number and focused more specifically on the most critical dynamic risk factors, rather than a long list of conditions that could merely set offenders up for failure. The public defender in that jurisdiction said he uses RNA information to narrow probation conditions and get the judge to focus on just one or two principal needs. He concluded, "I think what use of the assessment is starting to mean is that the sentences are getting more thoughtful and appropriate, and less punitive." A defense attorney in another

jurisdiction said: "No doubt it [having RNA information] is helpful to us; it helps us formulate sentencing arguments . . . you know, structure our sentencing argument to address risk factors." In a third jurisdiction one defense attorney found that the RNA information was helpful in plea negotiations with the prosecution and provided greater consistency in sentencing, and that defendants were more accepting of the sentencing outcomes. Another attorney in the same jurisdiction reported that her clients have often said, "'I've never had anyone actually look at who I am in contrast to the crime I committed.' And that is a real novel thing since most of our clients have been in the criminal justice system for quite a while."

By Judges

Judges too found the availability of RNA information to be "very helpful" in sentencing, saying that it provides an additional source of valuable information for the court and counsel to consider. A judge in one jurisdiction, for example, said, "I think that the more information that a judge has, the better sentencing decisions the judge is going to make. I think the [RNA instrument] is a very good tool for judges to have in order to make good sentencing decisions, make better ones."

A judge in another jurisdiction echoed that theme:

> With tools like this, you can do better than you could without them. And anyone who doesn't realize that is walking around in the fog not knowing really maybe what they're doing as a judge. It's not telling the judge what to do, it's just saying, "Here's some information about this person." And that way hopefully the judge can be better able to come up with an appropriate sentence that's going to meet all the needs that you have to cover – [for] not just that person, but everybody.

Judges from other jurisdictions also emphasized the importance of RNA information in focusing on the specific dynamic risk factors of each individual offender. "And again," one judge (and former prosecutor) concluded, "we want to get at the needs of the offender; we don't want to just have a cookie-cutter mold for every offender who comes through the system." A judge from another jurisdiction commented that RNA information "personalizes the defendant in front of you" and "gives me an ability to talk to the defendant and talk to the attorney about the concerns that I see."

Other judges commented that the use of RNA information has resulted in more consistent and objective sentencing decisions. One judge noted, for example, that RNA information provides a basis for more rational, and less subjective, decision-making: "I think that the needs assessment gives us an opportunity to address needs and gives us a more rational basis upon which to determine how long we need to keep the person in

supervision to get to those needs, and before we were guessing. Okay? Before we were guessing."

A judge from another jurisdiction reinforced the point, concluding that RNA information "provides for a certain level of certainty for the judge when he's making a decision, and also provides the ability to have a certain level of accountability as to what the decision is and why." One of the judges with the most years of experience using RNA information summed up her observation this way:

> These risk/needs assessment tools give me a way of checking myself, that I'm not sentencing out of anger, that I'm not sentencing out of an inappropriate place, but that I have some objective criteria upon which to decide what to do with individuals' lives because it's a huge responsibility to make decisions about what we're going to do with a person's life. And how do we protect our public in doing that? So that's really been I think the biggest positive for me is it takes out that "I know better" paternal gut thing out of my equation.

GUIDING PRINCIPLE 6. EVIDENCE-BASED INFRASTRUCTURE

In order for the use of risk and needs assessment information at sentencing to be most effective, the jurisdiction's probation department or other assessment and supervision agency should have an infrastructure grounded in evidence-based practices.

Guiding Principle 6 highlights the need for judges and other stakeholders to understand the philosophy and operations of the agencies responsible for supervising offenders in the community. Do their organizational policies and practices adhere to known principles of effective intervention? This guiding principle focuses not only on the internal policies and operational practices of the supervision agency, but also on policies related to collaboration with external agencies and the use of community-based programs as treatment interventions.

An Evidence-Based Practices Model for Community Supervision

An infrastructure of EBPs in community corrections must be in place to support any evidence-based sentencing initiative.[27] The agency that is charged with conducting the offender assessments, and that will provide recommendations to the court on appropriate conditions of community supervision, and that is ultimately responsible for supervising offenders in the community must adhere to known principles of effective intervention and, to borrow the words of one prosecutor, "really tow the line on stuff that does make a difference." One judge explained, "I think the first thing you have to look at is your probation department; and if your probation department is not educated and involved in utilizing evidence-based practices, then it is kind of hard to move forward."

In most of the ten jurisdictions reviewed for this report, substantial infrastructure development was necessary as part of their efforts to adopt evidence-based sentencing practices. Implementing an infrastructure of EBPs typically required an initial organizational realignment effort within the supervision agency, with iterative improvements and system refinements thereafter.

In some jurisdictions, the supervision agency was in either early stages of developing or had not yet fully developed an infrastructure of EBPs when broader sentencing reforms were initiated. In Idaho, for example, judges and other stakeholders began using RNA

[27] The National Institute of Corrections promotes eight principles of effective intervention. These include: (1) assessing offender risk and needs; (2) enhancing offender intrinsic motivation; (3) targeting interventions; (4) skill training with directed practice (using cognitive behavioral treatment methods); (5) increasing positive reinforcement; (6) engaging ongoing pro-social support in natural communities; (7) measuring relevant processes/practices; (8) providing measurement feedback. *See* Guevera, *supra* note 2.

information with the state's problem-solving courts and then the DOC expanded the practice to all felony offenders. In Travis County, probation officers had been completing RNAs for years, but the full value of this practice was not realized until 2005, when a new probation director spearheaded an effort to reengineer the department in accord with an operational model based on EBPs. As part of the initiative, the court began to receive RNA information in a new diagnostic report format, which replaced traditional PSI reports. This initiative came to be known as Travis County Impact Supervision (TCIS), a process that was documented in 16 reports that are available on the Travis County Adult Probation website.[28] Texas implemented a new statewide RNA system in 2015, and Travis County Community Supervision and Corrections Department (CSCD) has reportedly integrated the new tool into the existing evidence-based operational structure.

Similarly, in Napa County, the initiative to adopt EBPs was instituted by the county probation department following its participation in an EBPs training event. Interest in the concept spread quickly, however, to other criminal justice stakeholder groups which requested EBPs training for their own departments. At an annual retreat, the Napa County Board of Supervisors established as one of its top five goals the development of an evidence-based criminal justice system. Within two years of the probation department's adoption of a RNA tool, RNA information was being shared with the court at sentencing. Now, probation caseloads are assigned by risk level: low risk offenders report on a quarterly basis by phone; medium risk offenders are on caseloads of about 100; and the department is trying to maintain a ratio of about 50 high risk offenders per probation officer, although caseloads are around 60 or 70 in some cases. As a result of the initiative, the county is reportedly imposing lower jail sentences, using more electronic monitoring and other alternatives to incarceration, and incorporating available treatment programming into probation case plans.

In other jurisdictions, RNA information had previously been used in a limited capacity, but the supervision agency had not yet implemented a comprehensive EBPs infrastructure. The Wisconsin DOC, for example, had been conducting offender assessments to inform case planning decisions since the late 1970s, when it pioneered the field of offender actuarial assessment with the creation of the DOC-502 scale (later combined with the Client Management Classification system to inform case planning). In 1996, La Crosse County established the county-level supervision agency now called Justice Support Services specifically to help reduce recidivism and address its local jail overcrowding problem. Early efforts used assessment instruments to inform bond

[28] Progress reports on the TCIS initiative are posted at https://www.traviscountytx.gov/adult-probation/tcis-initiative.

decisions at the pretrial stage, and also used RNA information as part of an evidence-based approach to case planning for those released into the community. Currently, the Wisconsin DOC has undertaken a comprehensive reform of department operations, aligning policies and practices more closely with the eight principles of effective intervention endorsed by the National Institute of Corrections (NIC).[29] The DOC adopted a new statewide RNA system in February 2011, using assessment results to inform decisions and focus case planning on appropriate treatment programs and resources available in the community. In late 2014, with input from the state's judges, the DOC implemented a new PSI report in the format of its new RNA tool. All DOC agents reportedly receive intensive EBPs training (including on the assessment instrument, motivational interviewing, and communication skills more broadly) and routinely use cognitive behavioral techniques as part of their supervision practices. The DOC continues to work toward full implementation of EBPs, rolling out in the spring of 2015 a rewards/incentives grid to accompany its existing policy on evidence-based responses to violations.

Similarly, in the early 1990s, Colorado implemented practices including the use of actuarial RNA and cognitive behavioral treatment interventions – practices that the NIC later recognized as evidence-based. In 2007, Colorado Probation began to build a formal system of EBPs from this foundation.[30] These practices did not spread to criminal justice system stakeholders in Mesa County, however, until local leadership applied to become a pilot site of the NIC Evidence-Based Decision Making Initiative in 2010. As an EBDM pilot site, a collaborative leadership group in Mesa County introduced local reforms that included a redesigned PSI report that provided offender RNA information to the court.

One Mesa County interviewee observed, "you really can't do anything if you're not assessing people correctly . . . everything else comes second." Once the supervision agency operates according to a framework based on EBPs, efforts to build capacity in a jurisdiction can then focus on expanding treatment services.

Access to Effective Treatment Services

Not only must the operational policies and practices of the local supervision agency adhere to known principles of effective intervention, but offenders must also have access

[29] *See Becky Young Community Corrections Recidivism Reduction FY13 Report, Wisconsin Department of Corrections*, (October 2013), http://doc.wi.gov/Documents/WEB/ABOUT/OVERVIEW/Reentry%20Unit/Becky%20Young%20Recidivism%20Reduction%2013%20Report.pdf (Report describing how it applies each of the NIC's eight principles of EBPs).

[30] *See* Colorado Division of Probation Services, *supra* note 23.

to a comprehensive array of effective treatment programs in the community. Jurisdictions face two main challenges in providing access to effective treatment services. First, jurisdictions must have available in their communities a broad menu of services that may be appropriately used to address the dynamic risk factors identified by the jurisdiction's RNA tool, and these services must be accessible to the jurisdiction's target population of offenders. Second, the available services must be proven effective and therefore appropriate for use as part of an evidence-based infrastructure. A discussion of these two challenges follows.

Access to Appropriate Types of Programming

As jurisdictions adopt a systematic EBP approach to recidivism reduction, stakeholders often acknowledge the need to develop and expand the menu of available types of services and the capacity of available treatment options to address relevant dynamic risk factors. This can be especially challenging in smaller or more rural jurisdictions that generally have access to fewer resources and less funding to support enhancements to the local service infrastructure. Unlike more urban areas, smaller and more rural jurisdictions may have fewer intensive or inpatient treatment options, and available programming may be concentrated on addressing only a subset of criminogenic needs. In one jurisdiction, deficits in the array of available treatment services may have contributed to the perceptions of some attorneys that the EBP approach is more useful with certain dynamic risk factors (e.g., substance abuse) than others.

> "We have to make sure the programming is existent. If you don't have it then what difference does it make?"
>
> *Prosecutor interviewee*

When communities struggle to meet the demand for treatment services, available programs often operate at capacity with long wait times for admission. A judge in one jurisdiction reported that for some programs, offenders may wait as long as three months for a determination of eligibility for admission. And to receive treatment services, offenders may be required to cover the costs associated with their participation, which may further inhibit access to needed services.

In some jurisdictions, the probation department or other supervision agency has tackled these challenges head-on by developing its own resources rather than rely exclusively on programming from independent community-based providers. Coconino County, for example, established a residential substance abuse treatment facility in the jail. In another jurisdiction, much of the programming is now conducted by probation officers. When officers became trained cognitive behavioral facilitators and trained in

motivational interviewing techniques, they "started seeing the offenders as people [who] could change, and the offenders started seeing their probation officers as somebody who was there to help them." In Bonneville County/7th Judicial District, in addition to community-based treatment providers, the District Office of the probation department employs its own clinician and three drug and alcohol rehabilitation specialists. Equipped with this expertise on staff, the District Office is able to provide probationers with access to some free treatment and aftercare services. In Napa County, one of the first initiatives of the local criminal justice team was to create a Community Corrections Service Center (CCSC), a day reporting center, in the probation office building. The reporting center provides an intensive 6-12 month evidence-based program that has reportedly witnessed significant reductions in recidivism and technical violations and increases in probationer employment rates.

In addition, particularly in communities that do have an array of available treatment options, supervision agencies must also equip officers with appropriate information about the objectives of available programs and a meaningful structure for selecting an appropriate program for the individual offender from the array of options. Some programs may often be used out of habit – simply because they service a particular dynamic risk factor, for example, or are offered by the most visible provider in the community, or have a memorable name – but not because the program is necessarily the best fit for the offender or is the most effective program available.

To support efforts to match appropriate treatment services to offenders, supervision agencies in several jurisdictions have compiled comprehensive lists of available services. In Mesa County, a database called the Automated Resource List (ARL) organizes all local treatment options and other support services by service type. Information provided includes contact information such as the provider name, website, e-mail address, physical address, and/or phone number as well as a brief description of services provided and other details such as hours of operation, application process, admission requirements, and fee structure. The Napa County probation department maintains a document in which appropriate programs are identified by dynamic risk factor. To address the needs of an offender with a high antisocial attitude/orientation, for example, probation officers have nine program options from which to choose, programs such as Thinking for a Change and Cognitive Life Skills. Some vendors of newer RNA systems offer customized software to support case planning efforts that can include automated listings of available programs.

Use of Effective Programs

In order to properly employ particular service alternatives available in their community, judges and other stakeholders must have confidence in the effectiveness of the treatment services provided. Although program effectiveness can be assessed in an independent outcome evaluation study, a more common approach undertaken by supervision agencies focuses on assessing program fidelity, or the degree to which the treatment program is aligned with known principles of effective intervention. Research has shown that program fidelity is directly related to treatment effectiveness.[31]

A few of the jurisdictions interviewed for this report have begun to evaluate the integrity of local treatment programs, or are planning to establish a rigorous quality assurance process for treatment programs in the near future. Current efforts to gauge program quality often rely on one of two popular tools developed specifically to measure the degree to which treatment programs adhere to known principles of effective intervention: (1) the Correctional Program Assessment Inventory (CPAI or the revised version, CPAI-2000) or (2) the Evidence-Based Correctional Program Checklist (CPC), a newer assessment tool modeled after the CPAI.[32] In Wisconsin, the DOC has already begun to evaluate treatment programs using the CPC. During the Travis County TCIS initiative, the Adult Probation department hired independent researchers to conduct the CPAI on local programming. A researcher within the probation department also conducted outcome evaluations to demonstrate that local programs were effective in reducing recidivism. In Grant County, the county supervision agency currently requires treatment providers to use a program model that has been validated for the target population if one exists for the particular type of intervention.[33] The agency recently hired a dedicated staff person to

[31] *E.g.,* Christopher Lowenkamp, Edward J. Latessa, & Paula Smith, *Does Correctional Program Quality Really Matter? The Impact of Adhering to the Principles of Effective Intervention*, 5 CRIMINOLOGY & PUB. POL'Y, 575 (2006).
In one study, high-integrity programs were found to reduce recidivism by 22%, whereas low-integrity programs increased recidivism. Edward J. Latessa, & Christopher Lowenkamp, *What Works in Reducing Recidivism?* 3 U. ST. THOMAS L.J. 521 (2006).

[32] P. GENDREAU & D.A. ANDREWS, THE CORRECTIONAL PROGRAM ASSESSMENT INVENTORY (CPAI), (6th ed. 1996); P. GENDREAU & D.A. ANDREWS, CORRECTIONAL PROGRAM ASSESSMENT INVENTORY-2000 (2001). *See also* University of Cincinnati Corrections Institute website, http://www.uc.edu/corrections/services/program_evaluation.html.

[33] For example, Thinking for a Change, a cognitive behavioral change program, has been shown to reduce recidivism among probationers. E.g., Lori Suzanne Golden, Robert J. Gatcheland & Melissa Ann Cahill, M. *Evaluating the Effectiveness of the National Institute of Corrections' 'Thinking For a Change' Program among Probationers. Journal of Offender Rehabilitation, 43* J. OFFENDER REHABILITATION 55 (2006). Further, The Results First Clearinghouse Database, a product of a joint initiative of The Pew Charitable Trusts and the John D. and Catherine T. MacArthur Foundation, is one online resource containing information about the effectiveness of intervention programming. It synthesizes program ratings from eight national research clearinghouses (including CrimeSolutions.gov and the National Registry of Evidence-Based Programs and

focus on expanding the local EBPs infrastructure (efforts that include policy development, staff training and skill building, quality assurance). One goal in expanding the EBPs infrastructure is to develop and implement a policy that will require all offered treatment programs to submit to routine quality assurance observation using the CPAI.

Stakeholder Communication

Finally, to ensure that a jurisdiction's various recidivism reduction efforts are coordinated, it is helpful for all criminal justice stakeholders to understand not only whether a general evidence-based infrastructure exists but specifically the EBPs that are or should be in place within the local supervision agency or across the agencies as part of a coordinated evidence-based sentencing initiative. Some stakeholders in interviewed jurisdictions, for example, were seeking to replace the traditional "package" approach to setting probation conditions based on the type of crime committed, which they believed often overloaded probationers with unnecessary requirements that did not specifically target the offender's particular dynamic risk factors, with more individualized conditions specifically targeting the relevant risk factors. This was not necessarily a consensus view, however, as other stakeholders continued to support use of the traditional packages, at least in some instances. To discuss, and if necessary or possible, resolve such policy issues, many jurisdictions have established and regularly convene active stakeholder steering or oversight committees. Some of these committees employ or have employed the services of an independent facilitator to moderate stakeholder discussions. The facilitator-moderated groups appear to share a healthy, open, and collaborative dynamic, and the meetings appear to be quite productive.

> "I am really trying to get them to think of it more as 'less is more.' Why does this person need 20 conditions? If this person comes under supervision with us and we know they're high risk and they have a lot of needs, and maybe we've identified the driving behavior as a cognitive behavioral situation, [and] you just recommended three conditions of alcohol and drug treatment, random UA testing, you know, random weekly testing and all of this. And I say to them, 'why do you want to lock yourself into something that could set you as the agent up for failure and set your offender up for failure?'"
>
> *Supervision agency interviewee*

Practices). The database may be accessed from http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2014/09/results-first-clearinghouse-database.

GUIDING PRINCIPLE 7. ASSESSMENT INSTRUMENTS

Jurisdictions should select instruments that fit their assessment needs and that have been properly validated for use with their offender populations.

The commentary to Guiding Principle 7 discusses the types of assessment instruments available, the importance of validation, and education and routine audits to ensure proper ongoing implementation of RNA instruments (the last covered in more depth under Guiding Principle 4).

Assessment Instruments

The ten jurisdictions use both proprietary and non-proprietary instruments. The proprietary RNA instruments employed are the Correctional Offender Management Profile for Alternative Sanctions (COMPAS), Level of Service Inventory-Revised (LSI-R), and the Level of Service/Case Management Inventory (LS/CMI). Non-proprietary instruments include the Offender Screening Tool (OST), the Ohio Risk Assessment System (ORAS) or one of its derivatives, and the Wisconsin Risk Assessment with the Strategies for Case Supervision (SCS), a modified version of the Case Management Classification (CMC).[34]

In some jurisdictions, agencies selected a particular instrument or changed the instrument they were using in order to better coordinate activities across the different agencies conducting assessments. Prior to adoption of the Indiana Risk Assessment System (IRAS), for example, criminal justice agencies in Indiana used a variety of RNA instruments, leading to inconsistent supervision levels across agencies, difficulties in measuring outcomes when evaluating local programs, and issues in sharing assessment data on mutual clients. As a result, Indiana's Risk Assessment Task Force adopted one set of instruments for use by all criminal justice agencies, and the Judicial Technology and Automation Committee developed a Risk Assessment Application "to improve communication between criminal justice agencies, contribute to continuity of services for offenders, and store statewide aggregate data needed for revalidation of the tools."[35] In La Crosse County, Justice Support Services used the LSI-R until the Wisconsin DOC adopted the COMPAS for statewide use. Justice Support Services, which conducts pretrial

[34] For a description of each of these tools, *see* Casey, *supra* note 4. The Wisconsin Risk Assessment and Strategies for Case Supervision (SCS) were replaced with the Texas Risk Assessment System during the course of the project.

[35] *See INcite Risk Assessment Application,* Indiana Judicial Branch, Division of State Court Administration, http://www.in.gov/judiciary/admin/2675.htm.

risk assessments as well as RNA at the request of the court or defense counsel in approximately 20 to 30 percent of felony cases, chose to adopt the COMPAS to facilitate information sharing with the local office of the DOC and reduce duplication of effort (i.e., administering two different RNAs to the same person). Justice Support Services staff conduct assessments and enter the information into the same database as DOC staff. In preparing PSI reports, rather than initiating a new assessment process, DOC staff reviews and updates any prior assessments conducted by Justice Support Services. As another example, the Travis County CSCD transitioned from an adapted version of the Wisconsin Risk Assessment, an instrument it had validated and used for years, to the Texas Risk Assessment System (TRAS, a version of the ORAS) when the Texas DOC adopted that instrument for statewide use.

Some jurisdictions use a screening tool to determine if a full RNA is warranted. Cuyahoga County, for example, administers a 13-item static risk tool called the Ohio Offender Risk Assessment Instrument. The Probation Department administers the ORAS-Community Supervision Tool to individuals who score in the moderate or higher risk levels on the screening tool.[36] In Oregon, the 15-item Oregon Public Safety Checklist is used to screen offenders for risk. Those offenders who are probation-presumptive based on Oregon's sentencing guidelines and score as medium or higher risk on the Public Safety Checklist are administered the LS/CMI.[37] Both screening instruments have been validated for the jurisdictions' offender populations.

Jurisdictions often supplement the general RNA instrument (i.e., the instrument designed to assess offenders' general recidivism risk) with a variety of other specialized assessments. Examples of tools used by the ten jurisdictions to identify potential alcohol and drug abuse issues are the Addiction Severity Index (ASI), the Adult Substance Use Survey (ASUS), the Simple Screening Inventory (SSI), the Substance Abuse Evaluation (SAE), the Substance Abuse Questionnaire (SAQ) Adult Probation III, the Substance Abuse Subtle Screening Inventory (SASSI) and the Texas Christian University (TCU) Drug Screen. Douglas County/4th Judicial District uses the Driver Risk Inventory in drunk driving cases. Idaho uses the Global Appraisal of Individual Needs (GAIN) to inform behavioral health diagnosis and treatment recommendations; Cuyahoga County uses the

[36] A full ORAS assessment is administered to some offenders (e.g., domestic violence offenders, sex offenders, those with mental health issues and developmental disabilities) regardless of their score on the screening tool.

[37] Prior to the passage of HB 3194, the screening and full assessment were conducted prior to sentencing for offenders who were presumed to get probation under Oregon's sentencing guidelines. The assessment informed decisions regarding the offender's probation conditions. With the passage of HB 3194, the RNA is now done post-sentence. All prison-presumptive offenders are screened and administered the full RNA prior to sentencing.

Ohio Solutions to Quality Improvement and Compliance (SOQIC) standardized forms for mental health diagnostic assessments. Other instruments used by jurisdictions to assess mental health are the Beck Anxiety Inventory (BAI), the Beck Depression Inventory (BDI), the Brief Jail Mental Health Screen (BJMHS), and the Mental Health Screening Form-III (MHSF-III). Assessment instruments used with sex offenders include the Arizona Sex Offender Assessment Screening Profile, the Stable-2007, the Static-99, and the Vermont Assessment for Sex Offender Risk (VASOR). Tools used when domestic violence is a concern include the Domestic Violence Offender Matrix, the Domestic Violence Screening Instrument (DVSI-R), and the Spousal Abuse Risk Assessment (SARA). Some of the jurisdictions use the University of Rhode Island Change Assessment (URICA) to gauge an offender's readiness to change. Grant County administers the Criminal Thinking Scale when preparing a PSI report. Coconino County administers a reading test to determine literacy level.

The extent to which the results of the supplemental assessments are shared with the courts varies across jurisdictions.[38] Often, the supplemental assessment results inform recommendations made to the court by the probation department regarding appropriate supervision and treatment conditions for the offender. In some cases, the supplemental assessments are administered post-sentence after the offender is placed on probation.

Validation

Several states recently validated their RNA tool or are in the process of validating or revalidating their tool. For example, the Texas Department of Criminal Justice (TDCJ) adopted the ORAS, referred to as TRAS in Texas, and began working with researchers and agency representatives to validate the instrument for use in Texas in 2010. According to TDCJ, the validation study, completed in 2014, eventually included "nearly seven thousand felony and misdemeanor probation offenders" from a variety of small, medium and large counties.[39] Another 2014 study, this one examining the LS/CMI, was completed by researchers from the University of Nebraska-Lincoln for Nebraska's Office of Probation

[38] See the profiles in the Appendix for examples of supplemental assessment information included in each jurisdiction's PSI report or RNA report.

[39] *See* Texas Department of Criminal Justice, *The Texas Risk Assessment System: A New Direction in Supervision Planning,* AGENCY NEWS, *22*(3), 1-2 (2015), *available at* https://www.google.com/url?q=https://www.tdcj.state.tx.us/connections/JanFeb2015/Images/JanFeb2015_agency_TRASS.pdf&sa=U&ei=TS1qVanZD6W1sQTrx4HoAg&ved=0CAcQFjAB&client=internal-uds-cse&usg=AFQjCNEcOVbppDig312S2P4npRLRL43rAA. *Also see* Teresa May-Williams, *Texas Validation of the ORAS Community Supervision*. 49-51, 63 (2012) available at http://westtexaschiefs.org/Events/Conferences/july12/ORAS.pdf.

Administration.[40] While preparing this report, Wisconsin was in the process of validating the COMPAS, and Indiana was preparing to revalidate the IRAS, which was initially validated in 2013.[41] Idaho was in the process of revalidating the LSI-R in response to legislation passed in 2014 requiring routine validation of the RNA tool used by the state's criminal justice system.[42] The tool was initially validated in 2002.[43] Ohio also was in the process of revalidating the ORAS, initially validated in 2009.[44]

Other jurisdictions conducted validation studies when their tool was initially adopted. Arizona conducted a validation study of the OST in 2003 and subsequently revalidated it in 2008. The revalidation study included information on the tool's performance by county as well as state. Napa County validated the LS/CMI on its local felony population in 2005. Colorado undertook an evaluation of the LSI-R in 1998, and the Division of Probation Services annually compiles recidivism rates by risk level for the legislature, demonstrating the tool's predictive strength across risk levels. The report for fiscal year 2013, for example, concluded:

> When considering those adults directly supervised by probation at the minimum, medium, and maximum supervision levels, the results show that individuals assessed as maximum were less likely to succeed and more likely to fail due to technical violations or new crimes. Conversely, low risk individuals succeed at a much higher rate, experiencing few pre-release failures due to technical violations or new crimes.[45]

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[40] Richard L. Wiener, Krystia Reed, Hazel Delgado, & Alisha Caldwell, *Validation Study of the LS/CMI Assessment Tool in Nebraska*, *University of Nebraska-Lincoln Law/Psychology Program*, (July 2014).
[41] Edward K. Latessa, Brian Lovins, & Matthew Makarios, *Final Report, Validation of the Indiana Risk Assessment System,* Center for Criminal Justice Research, University of Cincinnati, (April 2013), *available at* http://www.in.gov/judiciary/cadp/files/prob-risk-iras-final.pdf.
[42] *See Reinvestment*, *supra* note 20 at 3.
[43] *See Justice Reinvestment in Idaho: Analyses and Policy Framework*, *Justice Center: Council of State Governments*, 26 (January 2014), *available at* http://www.idoc.idaho.gov/content/document/justice_reinvestment_in_idaho_report.
[44] Edward J. Latessa, Paula Smith, R. Lemke, Matthew Makarios, & Christopher Lowenkamp, *Creation and Validation of the Ohio Risk Assessment System (ORAS): Final Report*. *Center for Criminal Justice Research, University of Cincinnati,* (July 2009), *available at* http://www.ocjs.ohio.gov/ORAS_FinalReport.pdf. Reportedly, the University of Cincinnati is in the process of revalidating the ORAS tools. *See Descriptive and reliability analysis for the Community Supervision Tool (ORAS-CST, Ohio Department of Rehabilitation and Correction*, 30 (March 2014), *available at* http://www.drc.ohio.gov/web/Reports/ORAS%20webinar.pdf.
[45] *See e.g.*, Kris Nash, *Pre-Release Termination and Post-Release Recidivism Rates of Colorado's Probationers: FY2013 Releases*, *Division of Probation Services, Colorado Judicial Branch*, 7 (October 16, 2014) *available at* https://www.courts.state.co.us/userfiles/file/Administration/Probation/RecidivismReport/FY14_Recid_Report_FINAL.pdf. For original validation study, *see* Maureen L. O'Keefe, Kellie Klebe & Scott Hromas, *Validation of the Level of Supervision Inventory (LSI) for Community Based Offenders in Colorado: Phase II, Colorado Department of Corrections, (April 1998), available at* http://www.doc.state.co.us/sites/default/files/phase_ii.pdf.

The University of Cincinnati's Center for Criminal Justice Research (CCJR) initially validated the ORAS for Ohio in 2009. Early in the process of developing the ORAS instruments, CCJR created a risk screening instrument for interim use by Ohio probation officers. Cuyahoga County opted to retain the preliminary tool because it was validated locally and offered finer distinctions of risk than the final screening tool. Cuyahoga uses the state-validated ORAS Community Supervision Tool when conducting a full RNA.

Proper Implementation

Guiding Principle 4 discusses the types of training and general quality assurance efforts jurisdictions have implemented to ensure proper use of risk assessment tools. An additional measure of fidelity is the extent to which assessment officers override the risk level determined by a RNA because the assessment failed to take information into account that would suggest, in the officer's opinion, a higher or lower risk level. Across the jurisdictions, these accuracy overrides are rarely or never done. When they are done, they require an explanation and/or supervisor approval. A more common practice is to retain the risk level determined by the RNA tool, but suggest or recommend a higher or lower level of supervision. Most often, these overrides are done as a matter of policy (e.g., sex offenders are placed in higher levels of supervision regardless of the RNA score) rather than for concerns regarding the instrument's accuracy.

GUIDING PRINCIPLE 8. ASSESSMENT REPORTS

Judges, in consultation with the probation department or other assessment agency, should determine the format and content of the risk and needs assessment report to the court.

The commentary to Guiding Principle 8 acknowledges that most RNA reports are included in PSI reports but that jurisdictions may develop a briefer report focused on RNA information in lieu of a traditional PSI report. In either case, the report should include a summary of the defendant's overall risk level and dynamic risk factors, as well as supervision, control, and treatment options available in the community to address the defendant's risk factors. The specific content and format of the RNA report will vary across jurisdictions, including as to length, presentation of assessment results, and nature of recommendations. If the assessment result has been subject to an agency override for any reason, the assessment as initially scored should be reported to the court along with any additional information the agency thinks the court should consider.[46]

All ten jurisdictions reviewed for this report submit RNA information to the court in a report that summarizes the offender's overall level of risk and dynamic risk factors and that contains recommendations to address those risk factors if the offender is placed on community supervision.[47] As anticipated, however, the specific content and formats of the reports vary greatly, including in the degree of detail provided on the assessment results and the breadth and detail of their recommendations. Although practices regarding the reporting of agency overrides vary among the jurisdictions, if modifications are made to an offender's RNA results, the court is usually provided with notification of the override.

Risk and Needs Assessment Information

All of the jurisdictions present the offender's overall risk level and identify the offender's high risk factors or "domains". Many jurisdictions provide some additional detail, and some jurisdictions provide significantly more detail.

The overall risk level is generally divided into three to five categories using terms such as "low", "low-moderate", "moderate" (or "medium"), "high", and "very high" (or "extremely high"). The risk assessed is generally the risk of "general recidivism," i.e., that the offender

[46] This recommendation is designed to ensure that the RNA information provided to the court based on a validated RNA instrument has not been overridden by an agency without notice to the court and counsel.
[47] The RNA reports may also contain information from other assessments conducted by the supervising agency in preparing the RNA report (see Guiding Principle 7). Here we focus only on the reporting of RNA information.

will be subsequently arrested (or convicted) for another offense without attempting to predict the dangerousness or gravity of the subsequent offense. In some jurisdictions, the report simply identifies the defendant's primary risk factors (e.g., the "top four needs that must be addressed to successfully reduce the risk of recidivism"), while others describe the level of need for all risk factors. Several jurisdictions provide substantial narrative detail about the individual circumstances that contribute to the offender's risk level, especially for primary risk factors.

Another variation among jurisdictions is in the reporting of specific scores (in addition to classification levels) overall and for individual risk factors. Rarely, judges in some jurisdictions may obtain a copy of the assessment depicting how the defendant scored on each item. Some judges and stakeholders appreciate the additional specificity, whereas others do not find the specific scores meaningful or express concerns about the potential for misuse of the detailed information.

Finally, most of the jurisdictions also report on responsivity factors such as motivation, learning style, physical health, cultural background, transportation, housing, and financial considerations. Several jurisdictions also include discussion of "strengths" (i.e., potential risk areas in which the offender displays significant pro-social characteristics).

Recommendations

In all ten jurisdictions, the reports provided to the court contain supervision-related sentencing recommendations if the court decides to place the offender on community supervision. The supervision-related recommendations typically include the length of the supervision term; appropriate control conditions (e.g., frequency of reporting, electronic monitoring, substance abuse testing, stay away orders, curfew, weapons prohibitions); appropriate treatment conditions regarding substance abuse, mental health, cognitive behavioral, and other treatment services; and available specialized court programs such as drug courts, mental health courts, and veterans courts.[48]

The detail with which probation conditions are recommended in the reports varies from one jurisdiction to another.[49] Increasingly, in recognition that risk is dynamic and that the availability of appropriate treatment services is also often in flux, recommended probation conditions are stated in general terms without specifying particular providers

[48] As discussed earlier in relation to Guiding Principle 3, in Cuyahoga County, where supervision caseloads are based on risk level, RNA information is used by probation and the court to determine to which of 5 supervision groups of varying intensity of supervision the offender should be assigned.

[49] In Grant County, for example, RNA information, along with an offender interview and other information, is used by probation to create a much more detailed offender Adult Case Plan which is attached to the RNA report submitted to the court.

or services, and often require offenders to participate in any services or programs as recommended by the supervising agency.

In most jurisdictions, the reports also contain agency representations or recommendations regarding whether probation should be granted or denied. Although the universal and most common use of RNA by supervision agencies in preparing RNA reports for the court is in informing the agency's recommendations regarding appropriate conditions of probation in the event that probation is granted, in seven of the ten jurisdictions, RNA information is also considered by the supervising agency in informing its representations to the court regarding whether probation-eligible offenders should be granted probation in lieu of a prison sentence. RNA information is considered by the supervising agency in three jurisdictions (Douglas County/4th Judicial District, Mesa County, and Yamhill County) in reporting to the court its opinion or determination regarding whether the offender is amenable to community supervision, but the agency's RNA report makes no specific recommendation regarding whether the offender should be granted probation, or regarding the term of any imprisonment to be ordered. In four jurisdictions (Bonneville County/7th Judicial District, Grant County, La Crosse County, and Napa County), however, RNA information is considered by the agency along with all of the other relevant sentencing information in making a specific recommendation whether the offender should be granted probation or imprisoned.[50] In three of those four jurisdictions (Grant County, La Crosse County, and Napa County), the agency also makes recommendations regarding the length of any prison sentence to be served.

Format

In most jurisdictions and especially in those that have traditionally produced PSI reports for the majority of felony sentencing proceedings, RNA information is incorporated into the existing PSI report format. In some jurisdictions this is accomplished by relatively minor modifications to the PSI report, such as the addition of a few short paragraphs at the beginning and/or end of the report summarizing the offender's overall risk level and most significant risk factors. A copy of the RNA results, "profile sheet," or "score sheet" may also be appended at the end of the PSI report, or can be attached at the request of an individual judge.

In response to a statewide statutory mandate that RNA information be included in PSI reports, in 2013 Mesa County developed a substantially revised and streamlined PSI report

[50] In La Crosse County the RNA report submitted by the State Department of Corrections makes such a recommendation. RNA reports by the local Justice Support Services organization make recommendations regarding appropriate local treatment services but do not contain recommendations regarding sentencing (see Guiding Principle 3).

constructed almost entirely around RNA information. The report includes separate paragraphs detailing the relevant offender circumstances regarding each risk factor. Similarly, in Douglas County/4th Judicial District, a new statewide PSI report format was designed in 2007 when RNA information was initially incorporated into PSI reports. The revised PSI report includes a full paragraph of discussion of the circumstances surrounding each risk factor. A new RNA reporting standard was also recently developed in Indiana and is used in Grant County. The new reports in Grant County include a substantial narrative section dedicated to the detailed discussion of each significant risk factor.

Other jurisdictions designed completely new and more streamlined formats for presenting RNA information. For example, Arizona designed a new two-page RNA results form as an appendix to its statewide PSI report. In addition to providing the overall risk level, the form includes a chart presenting the relevant risk factors along with a bulleted summary of the circumstances supporting each risk factor. On a county by county basis, Coconino and other Arizona counties can determine whether they want the specific overall and individual risk factor scores also included on the form.

The short Early Defendant Analysis form developed in Yamhill County not only identifies the overall risk level and individual risk factor levels but separately lists "Risk Management Concerns", "Risk Reduction Targets", and the corresponding program response or probation condition recommendations. A prominent feature of the Yamhill form, and of the RNA reports in at least six of the other nine jurisdictions, is the use of bar charts (often color-coded) and grids that graphically depict the level of risk associated with each risk factor. Another common feature of some RNA reports are check boxes that allow for easy identification of relevant risk factors.

La Crosse County, along with other counties in Wisconsin, has recently adopted a much different approach to reporting RNA information. Rather than include RNA information in the PSI report, other PSI information is incorporated into the computer-generated RNA report, including through "narrative boxes" where the PSI writer can insert criminal history and other background and explanatory material commonly found in PSI reports into the automated RNA report.

Corrections officials, judges, and counsel generally report satisfaction with the new reporting formats. In comparison with the longer and more traditional narrative PSI report formats, the reporting formats developed more recently to communicate RNA information were reported to be more consistent, useful and objective. Corrections officials report that the newer formats are streamlining the report writing process, reducing the report writing workload, and saving time and money. In many of the

jurisdictions, judges, prosecutors, and defense attorneys were involved along with corrections officials at either the state or local level in designing the new reporting formats, and that opportunity for early input is also cited as a factor in generating support for the new formats.

Override Reporting Policy

The authors had an opportunity to explore the override reporting protocol in five jurisdictions. In those five jurisdictions, the policies varied somewhat but largely satisfied the objective of Guiding Principle 8's recommendation regarding the reporting of agency overrides. In two jurisdictions (Grant County and Napa County), when the assessed risk levels have been overridden by the agency for policy reasons (most typically in order to supervise sex offenders more intensively than their assessed risk level would indicate), the agency reports to the court both the assessed level of risk and the adjusted level of risk with an explanation of the reason for the override. In two other jurisdictions (La Crosse County and Yamhill County), when the assessed level of risk has been overridden for supervision purposes, only the initial assessment score is reported to the court. In the fifth jurisdiction (Cuyahoga County), the typical reason for the override is that certain offenders have been assessed twice, once with a 13 question screening tool and then subsequently with a full RNA tool. When the two assessments produce conflicting results, senior-level managers make a final determination as to the appropriate risk level to report to the court. When the assessment produced by the full RNA assessment is overridden by that determination, both scores and the reason for the override are documented in the statewide risk assessment database but only the modified assessment is included in the RNA report to the court.

GUIDING PRINCIPLE 9. MONITORING AND EVALUATION

Jurisdictions should routinely review data related to the process and outcomes of using risk and needs assessment information and revise the system as appropriate to enhance effectiveness.

The commentary to Guiding Principle 9 points out that it is critically important for jurisdictions to collect and review both process and outcome data to monitor not only the effectiveness of their use of RNA information at sentencing but also the long term effects of such use.

This guiding principle is perhaps one of the most difficult of the Guiding Principles for jurisdictions to realize in practice, in part because of the technical sophistication required to support quality data collection, data monitoring, and evaluation research. Nonetheless, many of the ten jurisdictions reviewed in this report have made significant progress toward sustainable data collection and monitoring practices.

Data Collection

An informed evidence-based sentencing initiative begins with a sustainable method for identifying and tracking key data elements. The need for efficient data collection processes to support subsequent data and process monitoring and evaluation activities poses three initial challenges.

Data Elements

First, leadership in the jurisdiction must identify the data elements required to measure success. No standard set of measures has formally been proposed to assess the effectiveness of the use of RNA information at sentencing. Some examples of the array of data elements that may be monitored are listed in Guiding Principle 9, and for the purpose of evaluating the use of RNA information at sentencing must also include the number and proportion of offenders classified by assessed risk level and identified dynamic risk factors. Tracking these numbers and other key data elements can help leadership identify, through monitoring and evaluation practices discussed later in this section, early warning signs that, for example, a risk assessment instrument needs to be revalidated or gaps in treatment services that must be filled in order to connect offenders with appropriate interventions to reduce recidivism risk.

In some states, the DOC central office has identified and currently collects data for reporting on a statewide set of performance measures. For example, in Arizona, the Adult

Probation Services Division collects data on the number of individuals on probation in each county who successfully exit probation, are revoked, or incur a new felony conviction and uses this and other data to track the overall effectiveness of the department. In Idaho, the DOC publishes periodic performance reports as well, and in 2012 adopted a new item to gauge the effectiveness of community treatment programs in reducing offender risk levels. These statewide DOC measures are usually intended to monitor the performance of the department, however, and therefore do not focus on judicial use of offender assessment information.

In some local jurisdictions, oversight groups or steering committees of justice system stakeholders have collaborated to identify the data elements relevant to the provision of RNA information to the court at sentencing that are required in order to support future monitoring and evaluation activities. In Grant County, for example, an evidence-based decision making policy team of local judges, correctional services representatives, attorneys, law enforcement, and service providers developed a set of 14 performance indicators related to the use of RNA information by the court and by community corrections. In Yamhill County, a sentencing workgroup also recently refined the set of data elements they plan to track locally. Some of the data elements they identified include, for example: offender demographic and case information, RNA scores, and probation outcomes; key dates and timeframes to permit future assessments of process efficiency; and RNA-informed probation recommendations and imposed sentences to determine the rate of agreement between recommendations and sentences actually imposed. Similarly, Mesa County has developed a criminal justice system scorecard to measure success in achieving objectives to increase public safety, improve the use of system resources, and decrease recidivism system-wide.[51] Once indicators of success have been defined, oversight groups can then determine how the identified data elements can be harvested if they are currently collected, or how to capture the identified data elements if they are not already tracked in existing information systems.

Technology

A second challenge to jurisdictions seeking to monitor evidence-based sentencing efforts rests in the ability of local leadership to secure a sustainable technological solution for tracking the critical data elements. Existing data systems may not capture all of the data elements required to support effective monitoring and evaluation of the use of RNA

[51] As noted elsewhere in this report, Mesa County, Yamhill County, and Grant County are three pilot sites in the Evidence-Based Decision Making in Local Criminal Justice Systems Initiative funded by the National Institute of Corrections. Mesa County's scorecard can be found at http://ebdmoneless.org/sites/all/documents/MesaCounty/SCORECARD%20Mesa.pdf. Yamhill County also created a scorecard at http://ebdmoneless.org/sites/all/documents/scorecard_final.pdf.

information at sentencing. Existing systems also may not permit access to the collected information by all stakeholder groups involved in the sentencing process. Most states and local jurisdictions have needed to develop new data systems to track and share RNA data efficiently, a process that can require significant technical expertise, time, and financial resources.

> "Honestly, the more we automate it, the more buy-in we do get from the probation officers, because it saves them time. You know, they initially grumbled about having to complete [the PSI report] electronically. Well, now so much of it's populated from the risk assessment that they don't have to re-enter data – and then they can just type in their notes. They now see the beauty of it. And so that's been a success."
>
> *Supervision agency interviewee*

For those with the resources to develop a new database system (usually statewide initiatives that are coordinated and supported by a central office), a web-based solution is most effective. Several states have invested in the development of a centralized extranet or internet database to capture key data elements overlooked in earlier generations of data warehousing systems (e.g., risk and needs data) and that enables information sharing across key stakeholder groups (e.g., probation, parole, service providers, courts). These web-based systems often link RNA information with other information management systems (e.g., case management systems used by the court and by probation) and justice system applications (e.g., to populate electronic court forms). The statewide RNA system in Wisconsin, for example, allows users from county probation agencies and the state DOC to create new RNA reports for an offender, or to access and update prior versions of a completed RNA to generate a revised report. Soon, the database will be expanded to include case management information (e.g., PSI report recommendations, sentencing information, probation conditions and performance, offender recidivism) in addition to offenders' RNA data.

Similarly, the Idaho Corrections Integrated System is a statewide DOC database that other departments can also access. It houses not only offender RNA information but also the module for preparing the PSI report. The state is working toward a new statewide case management system that would support the collection of better quality data on recidivism by risk level to inform outcome evaluations.

New statewide database solutions can be quite sophisticated. The Gateway Portal, the web-based statewide RNA system used by the Ohio Department of Rehabilitation and Correction, for example, houses offender assessment data from multiple decision points

in the criminal justice system, case management data (e.g., supervision level), and even outcome data (e.g., employment, recidivism). To implement a similar solution, Indiana's in-house court technology team, the Judicial Technology and Automation Committee, developed and hosts a statewide web-based extranet system called INcite. INcite houses the automated RNA instrument, documentation for assessment administrators (including the structured RNA interview guide, scoring guide, scoring tool, and self-assessment component of the RNA tool in multiple languages), and RNA database. Justice system professionals using INcite can export RNA data to their case management system and can use RNA data to automatically populate portions of other court form applications, including the PSI report. Moreover, INcite data are catalogued by person, creating an archive of every offender in the state as a resource for use by officials in any county. These systems can greatly simplify the data collection and reporting process, save officers time on routine tasks such as data entry and form preparation, and improve overall data quality by minimizing opportunities for human error.

The creation of a new web-based information technology system is not typically a feasible option for local evidence-based sentencing initiatives, which require less resource-intensive data solutions. One inexpensive local solution is under development in Yamhill County. Although a centralized DOC data system in Oregon includes a reporting feature that allows counties to obtain information by caseload or by probation officer along eight standard measures (e.g., offender risk levels, probation terminations, recidivism), outcomes are not yet tracked by offender risk level. To supplement outcome data captured in the statewide DOC database, the Yamhill County sentencing workgroup is working with a research consultant to develop a local tool that will house key RNA and sentencing data elements (e.g., risk level, sentencing information, performance on probation, revocation, recidivism) at the case level for future monitoring and evaluation efforts. The new system will also contain built-in automation features to streamline the data collection and reporting process.

Staff Skills and Workload

Once stakeholders are equipped with an effective method for tracking necessary data, the data must be compiled and effectively managed. This can present a third challenge given the additional staff time that is often needed to support accurate data collection. Even the most sophisticated database system will fail to support monitoring and evaluation objectives if staff cannot or will not use it, or if the stored data is contaminated by inconsistent or unreliable data entry. Assigning new database management responsibilities to dedicated staff, such as a trained intake unit responsible for conducting all RNAs as part of the PSI reporting process, may help to minimize concerns about

resulting data quality. Some jurisdictions, including Mesa County, Napa County, and Yamhill County, have hired one or more dedicated staff persons to perform data support and analysis activities.

Data Monitoring

Guiding Principle 9 calls for the routine review of collected data to monitor the effectiveness of providing and using RNA information at sentencing. Data monitoring efforts may occur informally and reactively, such as in response to ad hoc questions of a steering committee or oversight committee, or more formally and proactively, such as to regularly track and report on a set of specified data elements collected in particular reporting periods.

> "You know, the more data we can get to help us see what exactly we're doing, then the better it's going to be. And we've kind of committed to the fact that we're going to let that data drive our decision making in the future. And so if we see things that aren't working, we'll quit doing it up to this point."
>
> *Judge interviewee*

Most of the ten jurisdictions interviewed for this report are still in the process of developing a consistent approach to data monitoring and reporting that provides stakeholders with feedback about the effectiveness of local evidence-based sentencing policies and practices. In Douglas County/4th Judicial District, for example, the statewide Administrative Office of Probation has tracked data in the past but has not recently distributed reports while they transition to a new information system. Now that Cuyahoga County officials have the ability to access RNA data in Gateway Portal and generate custom reports on an as-needed basis, local leadership has been working to develop a standard data report for routine circulation among stakeholders that may include summaries of outcome data (e.g., recidivism or changes in needs) broken down by risk level. In Grant County, a web-based dashboard is under construction to provide local stakeholders with reports on established performance indicators.

Perhaps the most impressive collection of formal progress reports on the use of RNA data to inform correctional decision-making to date was produced from 2006 to 2012 by the Travis County CSCD. Reports were prepared as part of local efforts to document the Travis TCIS initiative. The series of reports includes documentation of efforts to measure process efficiency and to track outcomes: a January 2007 report discusses the development of an Outcome Tracking Report used locally, and a March 2007 report

describes how Travis County measured process efficiency to inform improvements in probation management practices. These resources may be useful to others seeking to implement similar data monitoring practices.[52]

Process and Outcome Evaluations

Guiding Principle 9 also calls for formal process and outcome evaluations on a periodic basis. An independent process evaluation can provide important insights about how to streamline and enhance the effectiveness of local practices, offering guidance informed by innovative or proven practices in other jurisdictions across the country. Outcome evaluations provide critical documentation of the effects of evidence-based sentencing practices such as the use of RNA information at sentencing that can generate and reinforce stakeholder and broader community confidence in the system and support the legitimacy of stakeholder decisions.

Because of the length of time that may be required to accumulate a sufficient sample of data, several years may elapse before a jurisdiction is able to fully evaluate longer-term outcomes. In outcome studies of offenders sentenced to community supervision, recidivism is usually defined as an arrest for a new crime within one to three years of sentencing. Sometimes the follow-up periods extend to several years after the offender's completion of probation. In a jurisdiction that has only recently begun to track and use offender RNA information at sentencing, therefore, it may be many years before outcome data is available to permit a comprehensive analysis. This does not preclude, however, collecting data in the interim regarding offenders' performance while on probation (e.g., violations, revocations, completion of treatment services).

Of the ten jurisdictions reviewed for this report, eight are reportedly in the process of collecting data that can be used in future evaluation work.[53] The executive committee in Mesa County, for example, has organized an effort to collect risk assessment and recidivism data locally, but no reports are yet available. States with statewide RNA data collection systems already in place, such as Indiana, Ohio, Texas, and Wisconsin, are better positioned to conduct formal evaluations in the future. Napa County, one of four

[52]Although Texas has implemented a new statewide standard assessment tool and data tracking infrastructure, Travis County still employs the basic operating framework and goals of the original TCIS initiative. Documentation of early efforts by the Travis County CSCD as an "incubator site" for probation department reengineering efforts is still available on the TCIS website at https://www.traviscountytx.gov/adult-probation/tcis-initiative. No reports are yet available following the statewide transition to a new assessment system.

[53] Two other jurisdictions are awaiting statewide upgrades to their information technology systems that would allow them to track higher quality data on the use of offender RNA information and on offender recidivism.

pilot program sites in the California Risk Assessment Pilot Project (CalRAPP) funded by the National Institute of Corrections and the State Justice Institute, developed its initiative to study and evaluate the use of RNA information at sentencing, but legislative changes in intervening years have complicated evaluation efforts.[54]

Consistent, proactive reporting practices have proven useful in the long run in Coconino County. The Arizona Adult Probation Services division has published fiscal year reports on performance data annually since 2008. Comparing the FY 2014 report to the baseline FY 2008 data which predated the use of RNA information at sentencing, the Coconino County Adult Probation Department achieved a 62.8% reduction in probation revocations to prison or jail and a 68.3% reduction in new felony convictions among probationers.[55] Although other concurrent changes in sentencing and probation practices preclude one from directly attributing these reductions specifically to the decision to provide RNA information to the court, these data provide stakeholders with important feedback illustrating that recidivism rates are declining significantly and that at least some offender outcomes appear to be improving.

In Travis County, the final progress report available on the TCIS website compared data from 1,287 felons placed on probation prior to the TCIS initiative and 614 felons placed on probation during the TCIS initiative.[56] Recidivism was defined as a new arrest within one year following placement on probation. Travis County reported a 77% reduction in the recidivism rate among low risk offenders, a 50% reduction in the recidivism rate among medium risk offenders, and a 9% reduction in the recidivism rate among high risk offenders. Similarly, Travis County reported a "sustained decline" in the number of local felony revocations following implementation of the TCIS initiative.

As a byproduct of implementing EBPs to reduce recidivism, some jurisdictions have reported meaningful cost savings. Comparing TCIS with business-as-usual practices in their 2012 progress report, Travis County estimated a cost savings between July 2007 and August 2011 of $21.3 million. With a state allocation of $172,000 to reinvest in its local community corrections infrastructure, Yamhill County sought through its EDA program to reduce the number of months of prison imposed on offenders by 6% or 285 months

[54] For more information, *see* http://www.courts.ca.gov/partners/realignment.htm.
[55] *Safer Communities Report, Fiscal Year 2014, Arizona Supreme Court Adult Probation Services Division* (June 2014), *available at* http://www.azcourts.gov/Portals/25/SafeCommunitiesAct/FINAL_SAFE_COMM_ACT_FY14.pdf. A historical archive of all Safe Communities Act reports may be found at http://www.azcourts.gov/apsd/SafeCommunitiesAct.aspx.
[56] Geraldine Nagy, *Travis Community Impact Supervision 2012 Progress Report*, *Travis County Community Supervision & Corrections,* (January 2012) *available at* https://www.traviscountytx.gov/images/adult_probation/docs/IncubatorProgReport_12.pdf.

within one year and save the state approximately $786,600. At the end of their first year of operation, the county achieved and exceeded this goal: downward dispositional and durational departures from the state's prison-presumptive sentencing guidelines resulted in a reduction of 485 prison months, a nearly 11% reduction of prison months imposed.

THE WAY FORWARD: JUDICIAL LEADERSHIP AND LESSONS LEARNED

Although a jurisdiction's supervision agency serves as the technical subject matter expert on the use of RNA information, the challenge of extending the use of RNA information into the court system rests on the shoulders of the judiciary. As discussed in the final chapter of the 2011 *Guiding Principles* report, judicial leadership and support is critical for successful implementation of a sentencing process in which the availability and use of RNA information becomes routine. The report notes that the specific contours of the judicial role vary depending on a jurisdiction's local legal and service cultures, the availability of resources, and operational readiness to move forward with an evidence-based approach. That variation is evident across the ten jurisdictions highlighted in this report.

In some jurisdictions, judges took the lead in championing evidence-based sentencing practices and the use of RNAs. As one public defender said, "And honestly, I think because Judge . . . took the time to pull me and the DA aside and lay out his thinking on it—that went a long way towards getting me to buy in. . . ." A probation officer from another jurisdiction explained, "And that's part of why it kept moving forward, because the bench was saying, 'we want to do this.'" In other jurisdictions, judges played a more supportive role, relying on existing criminal justice stakeholder committees or the supervision agency to take the lead while actively participating in meetings, attending educational programs, mentoring colleagues, and requiring discussion of risk and needs factors in sentencing hearings. One probation officer described the collaborative effort between probation and one of the judges in the jurisdiction: "And actually one of our judges . . . was the one to really kind of push us and say we need to do this and I'll help—whatever you need to make it happen on the judicial level."

Judicial confidence in the expertise of the jurisdiction's supervision agency is a critical factor in developing judicial leadership and support for the incorporation of RNA information into the sentencing process (see Guiding Principle 4). The supervision agency's proper administration of a validated actuarial RNA tool and effective use of the RNA results in supervising offenders are indispensable preconditions for the use of RNA information at sentencing (see Guiding Principles 4, 6, and 7). If the supervision agency lacks the capacity to properly administer and use RNA information in changing offender behavior, nothing is gained by the use of such information in the court system. Because supervision agencies serve as the technical experts in efforts to implement evidence-based supervision practices, it is critical that they possess sufficient knowledge and skills to

fulfill that role. The supervision agencies in the ten jurisdictions interviewed fulfilled that role well.

Judges and other stakeholders in the ten jurisdictions identified several other important lessons learned for moving forward. Their observations generally tracked with the guiding principles, e.g., the availability of information confirming the validity of the RNA tool and the importance of quality assurance efforts as discussed in Guiding Principles 4 and 7, and sufficient data collection, monitoring, and evaluation activities as discussed in Guiding Principle 9. Three other lessons learned also stood out as particularly important:

- Education and Training. Not surprisingly, the most often cited lesson learned was the importance of education and training opportunities for all key participants (as discussed in Guiding Principle 4). Interviewees emphasized that participants need to understand the science and research behind EBPs in order to understand the appropriate uses of RNA information and the positive role it can play in helping courts balance accountability and recidivism reduction objectives. Some said that the training helped them trust in the tool rather than continue to believe that their subjective judgment was more accurate in identifying risk level and factors, and to see that rather than taking away their professional judgment, RNAs provided additional helpful information to consider when exercising that judgment. Others felt that training was important in helping stakeholders better understand RNA tools and that assessment is not perfect: some low risk offenders will reoffend and some offenders will go to prison who could have been dealt with in the community.

  From a process perspective, some interviewees emphasized the importance of "getting everyone at the table," "letting people argue," and "listen[ing] to what they think." Some interviewees emphasized the need to ensure that all stakeholders receive proper training, and noted that the lack of systematic and ongoing training, particularly for prosecutors and defense counsel, led to misunderstandings regarding the use of RNA information.

- Stakeholder Steering/Oversight Committees. Another often-cited lesson learned was the important role of a policy-level advisory body to direct or oversee the incorporation of EBPs and RNA information into the criminal justice system. In addition to serving as a forum for discussion and problem-solving as described in the earlier discussion of Guiding Principles 4 and 6, the steering or oversight committees in many jurisdictions provide continuity over time as key stakeholders change.

Committees usually include policy-level representatives from the court, supervision agency, district attorney's office, public defender's office/defense counsel, sheriff's department, and law enforcement. Some include county commissioners. The importance of including all stakeholders was noted by several interviewees. One, for example, explained how important it was to have prosecutors and defense counsel represented:

> One of the big mistakes we made was not having prosecutors and public defenders on our implementation—you know, our decision-making body. . . . We had a judge on there. And a lot of DOC folk, because we were looking at it system-wide, but we had no prosecutors or public defenders. Since that point in time, we have not made that mistake again. . . . [O]nce you involve them in the conversation . . . it has been amazing to me to watch them completely turn around. And so much so they're almost—they're strong advocates now.

Another emphasized the importance of law enforcement representatives: "So the lesson learned is as much as possible have law enforcement not only at the table. . . but going to the training on this stuff, so you have somebody in the department who understands why you do this."

Some interviewees noted that having a professional facilitator has increased the effectiveness of their committee meetings:

> And although, quite honestly, we were getting a little bogged down in the policy team and that's why we brought in the facilitator, and he has really helped kind of open up conversation, because he'll be sitting there. He sits there and watches, and then if he sees someone who looks like they've got something going on in their head but they're not saying something, he'll say, "Well, you know, So-And-So, it looks like you'll want to . . . And so he'll get - you know, kind of drag the information out, too. He's really good at opening up discussion, whereas sometimes, you know, the person who is thinking something that's contrary doesn't want to necessarily say it.

Another interviewee spoke of the facilitator's role as "someone who can sort of—for lack of a better term, facilitate the discussions among judges and defense lawyers and prosecutors and people who are used to being in an adversary position and kind of help work through that and develop some level of trust with each other, while still letting them vent and express their mistrust and their skepticism."

- Cultural Change. Many interviewees reported that in most jurisdictions the use of RNA information at sentencing required significant "cultural change" in the way

sentencing proceedings were conducted. In response to a question of what advice he would give other judges about introducing the use of RNA information at sentencing, one judge said, "I think I would tell them, 'Don't think you can impose this from on high. . . . It's a culture change. It takes time. It takes buy-in from everybody involved. All the players. It requires collaboration. You're going to encounter resistance.'"

One of the important lessons learned for some jurisdictions was that steering committees, along with regular stakeholder education and training opportunities, can be the most important vehicles for building trust and collaboration among the various stakeholders. One judge noted that introducing use of RNA information "really poses some challenges because lawyers are used to zero sum games and trying to win, and to try to get everybody in the system to agree on a single goal is not easy; it's going to require a lot of trust building and a lot of relationship building." Another interviewee explained:

> So it's not like it all went smooth for a while. I mean, it took us several years to get people really buying in, and additional trainings. We went and did trainings with all the public defenders and all the district attorneys on the risk assessment tool, and we've actually gone back and done that about three or four more times as new people come in, just so they understand what we're assessing. . . . But I think you have to have those healthy disagreements too up front, because then it's building that trust. Because now we've built that trust, so if there's a problem we're all in it together.

CONCLUSION

The jurisdictions featured in this report initiated use of RNA information at sentencing as part of local criminal justice reforms, sometimes on their own but sometimes in concert with state level reforms championed by the Judicial or Executive Branch. Three jurisdictions (Grant County, Mesa County, and Yamhill County) applied for and were selected several years ago as three of the original seven pilot sites for the NIC's Evidence-Based Decision Making Initiative, which focuses on evidence-based strategies to reduce risk across key criminal justice decision points, including sentencing.[57] Their selection as original pilot sites for the Initiative was an indication of local stakeholder interest and willingness to engage in system reform.[58]

The Travis County CSCD, which answers to the local court, initiated a system-wide integration of an evidence-based operational model that eventually led to the provision of RNA information to the court in 2005.[59] CSCD met frequently with judges, prosecutors, and defense counsel to develop a useful presentence diagnostic report. The Texas Department of Criminal Justice recently adopted the TRAS as the RNA tool for all Texas CSCDs, providing Travis and other counties access to statewide training on the tool and a database that allows sharing of assessment information across probation, parole and re-entry.

In Cuyahoga County, judges who attended an EBPs training provided by the County Adult Probation Department expressed interest in using RNA results to inform sentencing decisions. In 2008, the existing presentence investigation report was modified to provide RNA information. During this time, the state of Ohio was discussing potential evidence-based criminal justice reforms which served to encourage statewide interest in evidence-based sentencing practices tied to recidivism reduction objectives.

In the late 1990s, La Crosse County established a local county supervision agency, now named Justice Support Services, to focus on programs that address recidivism and reduce the jail population. Justice Support Services began using RNA information for offenders in treatment courts and for pretrial release decisions. In 2006, the Wisconsin Supreme Court created the Assess, Inform, and Measure (AIM) project and provided staff support from

[57] *See* the National Institute of Corrections' Evidence-Based Decision Making Initiative website at http://nicic.gov/ebdm.
[58] Stakeholders in Grant County, in particular, had been working collaboratively on implementing EBPs in the criminal justice system since approximately 2000.
[59] For more information about the Travis Community Impact Supervision Initiative, *see* the Travis County TCIS Initiative website, https://www.traviscountytx.gov/adult-probation/tcis-initiative.

the Administrative Office of the Courts to pilot projects in eight jurisdictions that were experimenting with the use of RNA information in sentencing proceedings.[60] With this support, La Crosse took the opportunity to build on its ongoing efforts by formalizing and expanding the use of RNA information to inform court decisions.

As a result of interest in evidence-based supervision practices and the jurisdiction's need to address jail overcrowding, Napa County began using RNA information in 2005. Gradually, other members of Napa's criminal justice stakeholder team learned about Probation's implementation of EBPs and the importance of RNA information. They, too, sought training on these topics, which was provided with Probation funding initially and then by the County. Probation began sharing RNA information with the court near the end of 2007. In 2009, Napa became one of four counties participating in CalRAPP, a joint initiative of California's Judicial Council and the Chief Probation Officers of California.[61] The project served to enhance and expand Napa's collaborative efforts to use RNA information in sentencing proceedings.

Coconino County took its lead from the state's Adult Probation Services initiative to implement EBPs statewide. Probation Services, which is under the Judicial Branch in Arizona, began statewide training on EBPs and its RNA tool in 2003. In 2007, the Supreme Court established the Center on Evidence-Based Sentencing, and in 2009 required the development of a standardized, evidence-based presentence report.[62] As one Coconino probation officer explained:

> You know I would say that the specific things we've done were initiated by the state. But I think that we are a progressive county and we've always been at that place where we're interested in using innovative approaches and looking at successful outcomes. So I think it was a combination of our culture here and the desire to do those things, but then the specifics were initiated by the state.

[60] For more information on the Wisconsin AIM project, see the Wisconsin Court System, Court programs, Effective justice strategies, Assess, inform and measure (AIM) pilot project web site page, http://www.wicourts.gov/courts/programs/altaim.htm.

[61] *See* the California Courts CalRAPP website page, http://www.courts.ca.gov/5274.htm. Also, the Chief Probation Officers of California is a professional association of the chief probation officers of California's largely county-funded local probation departments. Most chief probation officers report to the state Superior Court in and for that county.

[62] *See Administrative Order No. 2009- 01: Budget Reductions in the Judicial Branch of Arizona, Arizona Supreme Court,* (2009), https://www.azcourts.gov/portals/22/admorder/orders09/2009-01.pdf. The Order also committed to developing a plan to reduce revocations to prison by 5%.

The benefit of state assistance was echoed by another officer: "They [Adult Probation Services] provide oversight, but they also provide resources, and training, and guidance; so their oversight has been invaluable to our EBPs implementation."

Douglas County/4th Judicial District also initiated reform efforts in concert with the state's Office of Probation, which reports to the Nebraska Supreme Court. The Office of Probation led the effort to incorporate RNA information into presentence investigation reports statewide. As part of this effort, the Supreme Court established an Evidence-Based Practices Committee of judges and probation officers to assist with implementing a statewide evidence-based approach to sentencing and corrections reform. The participation of stakeholders from Douglas County/4th Judicial District on the Committee, along with training on EBPs, helped to increase the jurisdiction's acceptance and use of RNA information.

Stakeholders in Bonneville County/7th Judicial District also described their experience with adopting RNA at sentencing as both a top-down and bottom-up approach. The Idaho DOC provided training on the LSI tool for state judges approximately 14 years ago, and the jurisdiction first adopted it for use in problem-solving courts.[63] Its use at sentencing was extended to all felony cases approximately seven years ago. The Supreme Court's Committee on Felony Sentencing, created in 2008, serves as a liaison to the Department of Corrections and works to improve the quality of information available to judges at sentencing. Recent work has focused on improvements to the presentence investigation report format.

In sum, the projects in these ten counties provide many different examples of how and why these jurisdictions decided to incorporate RNA information at sentencing. Some evolved on their own, some were promoted by the state, and some resulted from both grass-roots and state-led activities. Stakeholders in all ten jurisdictions see themselves as growing and changing as a result of the new information and resource availability, and the changing landscape of their local legal and service cultures.

Several of these jurisdictions have also benefitted from recently enacted state-level criminal justice reforms. For example:

- California's 2009 SB 678 provides funding incentives to counties that successfully reduce the rate at which probationers are revoked to state prison. The funding comes from the state corrections savings resulting from reduced probation

[63] The focus on problem-solving courts was due to legislation (Idaho Statute § 19-5606), passed in 2001, that called for the establishment of drug and mental health courts, as well as the development of guidelines for the use of screening and assessment tools for the newly established courts.

revocations. County probation departments are required to use the funding to implement evidence-based supervision practices that reduce recidivism.[64]

- Ohio's 2011 HB 86 seeks to reduce the state prison population in part through activities such as the system-wide use of a validated RNA tool and the adoption of EBP-informed standards for community-based correctional programs, and by authorizing the court to recommend risk reduction sentences when appropriate (e.g., for nonviolent offenses).[65]

- Oregon's 2013 HB 3194 requires in part that defendants be referred for a RNA and that conditions of community-based supervision be informed by assessment results.[66] As a consequence of enhanced sentencing to community corrections and to better support local evidence-based programs to reduce recidivism, it also allows for reinvestment of cost savings resulting from reductions in prison sentences.

- Idaho's 2014 SB 1357 requires the DOC to use EBPs in supervising offenders on probation and to routinely validate its RNA instrument.[67]

- Nebraska's 2015 law L. B. 605 reinforces practices such as ensuring that probation officers are trained on RNAs and evidence-based supervision strategies, the periodic revalidation of RNA tools, and use of a rewards and sanctions matrix in responding to the behaviors of offenders on supervision.[68]

These legislative reforms are broader in focus than the use of RNA information at sentencing for risk management and recidivism reduction purposes, but they encompass these purposes and often serve to reinforce and bolster local and state initiatives already underway. As states implement reforms, it is anticipated that the use of RNA information at sentencing will become increasingly routine. The pioneering efforts of the ten

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[64] *The Impact of California's Probation Performance Incentive Funding Program, The Pew Charitable Trusts' Public Safety Performance Project*, (February 22, 2012), http://www.pewtrusts.org/en/research-and-analysis/reports/2012/02/22/the-impact-of-californias-probation-performance-incentive-funding-program

[65] *See State Fact Sheet Public Safety in Ohio, The Pew Charitable Trusts' Public Safety Performance Project*, (May 19, 2015), http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/01/14/public-safety-in-ohio (link to legislation).

[66] *See State Fact Sheet Public Safety in Oregon, The Pew Charitable Trusts' Public Safety Performance Project*, (May 19, 2015), http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/05/28/public-safety-in-oregon (link to legislation).

[67] *See Reinvestment*, *supra* note 20.

[68] *See State Fact Sheet Public Safety in Nebraska, The Pew Charitable Trusts' Public Safety Performance Project*, (May 19, 2015), http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2013/01/14/public-safety-in-nebraska (link to legislation).

jurisdictions highlighted in this report provide insights for the expanded use of RNA information in sentencing proceedings in other jurisdictions.

APPENDIX: JURISDICTION PROFILES

This Appendix includes the individual profiles, as originally published in December 2013 and January 2014, for ten jurisdictions across the country using offender risk and needs assessment information at sentencing. The profiles are based on information obtained by National Center for State Courts' Center for Sentencing Initiatives staff between June 2013 and January 2014 from interviews and written correspondence with judges, corrections officials, prosecutors, defense counsel, and other criminal justice stakeholders from the ten jurisdictions.

Some of the policies and practices reported in the profiles have evolved since their original publication. The full report identifies some of these changes and includes additional information gleaned from site visits in November 2014 and in February 2015 to Grant County, Indiana; Yamhill County, Oregon; and La Crosse County, Wisconsin.

Jurisdiction Profile	*Page*
Coconino County, Arizona	A-2
Napa County, California	A-10
Mesa County, Colorado	A-24
Bonneville County/7th Judicial District, Idaho	A-38
Grant County, Indiana	A-59
Douglas County/4th Judicial District, Nebraska	A-81
Cuyahoga County, Ohio	A-103
Yamhill County, Oregon	A-122
Travis County, Texas	A-132
La Crosse County, Wisconsin	A-146

Use of Risk and Needs Assessment Information at Sentencing: Coconino County, Arizona

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Center for Sentencing Initiatives

This report was produced by the National Center for State Courts' Center for Sentencing Initiatives (CSI). CSI conducts research, provides information and tools, offers education and technical assistance, facilitates cross-state learning and collaboration, and works closely with the Conference of Chief Justices and the Conference of State Court Administrators to implement their resolution In Support of Sentencing Practices that Promote Public Safety and Reduce Recidivism. To learn more about CSI, visit www.ncsc.org/csi

I. About this Report

In August 2011, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution recommending that "offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism."[1] The resolution noted that supervision and treatment decisions informed by valid and reliable offender risk and needs assessment (RNA) information is a critical component of effective strategies to reduce recidivism.

This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how some stakeholders are incorporating the

[1] Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx).

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the Coconino County criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.[2]

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

II. Offenders Assessed

In Coconino County, full offender RNA information is obtained using the Offender Screening Tool (OST) and provided to the court in all felony cases as part of the standard presentence investigation (PSI) reporting process. Offenders bound for prison, however, may waive their right to a PSI report.

In addition, the Coconino County Adult Probation department is currently piloting a process in which OST information is provided to both parties and the court prior to the defendant entering any plea of guilty or no-contest to help inform plea negotiations in these cases. To trigger the provision of OST information pre-plea, the defense attorney must request the assessment from the probation department. Judges may also request this information when determining whether to accept a plea agreement between parties. In more serious cases in which mandatory sentencing guidelines restrict the range of plea agreements available for consideration, a pre-plea panel in the Coconino County Attorney's Office must be convened to consider a deviation from the guidelines. Pre-plea OST information may be used in arguments to deviate from mandatory guidelines.

COCONINO COUNTY'S PRE-PLEA PILOT PROGRAM

A local pilot program launched in 2012 to provide offender OST information to the court to inform plea-related decisions. The pre-plea report contains OST RNA information but does not contain any information about the current offense. The defendant is not asked to provide a statement. The Coconino County Attorney's Office has informally agreed that any information provided in the pre-plea report will not be used against the defendant if the case later goes to trial. As of October 2013, OST information had been provided pre-plea in 11 cases, all at the request of the defense attorney. At this stage of the pilot program, local stakeholders have mixed opinions about whether or not pre-plea OST information significantly influences plea decisions.

[2] A Coconino County judge, prosecutor, defense attorney, and two probation officers agreed to NCSC requests for an interview.

III. Assessment Process

The OST is a non-proprietary RNA instrument developed in 1998 by Dr. David Simourd for use by the Maricopa County Adult Probation department. The full OST is a 42-item instrument, with items grouped into ten risk and needs domains.[3] It was validated for statewide use with the Arizona probation population in 2003. Arizona Supreme Court Administrative Order 2005-12 called for its statewide implementation in January 2005, and Coconino County Adult Probation implemented the OST in 2005.[4]

Independent researchers from the University of Cincinnati subsequently conducted a statewide revalidation of the OST, releasing their report in 2008. The state of Arizona concluded from the evaluation study that the OST (including the reassessment component of the system, known as the Field Reassessment Offender Screening Tool or FROST) is valid for use with Arizona probation populations. Although not described in the 2008 statewide report, local representatives from Coconino County indicated that University of Cincinnati researchers also provided state officials with OST validation results separately by county.

A dedicated Presentence Investigation Unit of the Coconino County Adult Probation department writes offenders' PSI reports and conducts the initial OST assessment as part of that process. OST assessment results may be overridden with approval from a supervisor. Supervisor overrides occur very infrequently in Coconino County but tend to be policy based, conforming to sentencing guidelines for particular types of offenses (e.g., sex offense or DUI cases). Any FROST reassessments are completed by the offender's supervising probation officer.

In addition to the OST, the Coconino County Presentence Investigation Unit conducts specialized supplementary assessments as needed on probation-eligible offenders. Substance-abusing offenders will complete the Adult Substance Use Survey (ASUS), a 64-item self-report survey, is completed by substance-abusing offenders to assess their perceived substance use. The Arizona Sex Offender Assessment Screening Profile is administered in sex offense cases. Offenders also complete a reading test to determine literacy level. At this time, Coconino County relies on the clinical judgment of treatment service providers to identify offenders with a "serious mental illness;" no formal mental health assessment instrument is currently used.

IV. Assessment Report

In Arizona, a PSI report is provided to the court that includes the offender's OST risk level and a list of needs domains that do not, may, and significantly do contribute to the offender's overall risk to reoffend. Three standardized PSI report formats are

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[3] A shortened screening version of the OST, called the Modified Offender Assessment Tool (MOST), was developed for use in expedited or early disposition cases statewide. Offenders processed through an expedited or early disposition court are screened with the MOST and high scoring offenders are administered the full OST risk and needs assessment.

[4] See Arizona Supreme Court. (2005). *Administrative order no. 2005-12: Adopting the standardized assessment and reassessment tool and conducting a pilot program for reassessment timeframes for adult intensive probationers*. Phoenix, AZ: Author. Retrieved from http://www.azcourts.gov/portals/22/admorder/orders05/2005-12.pdf.

available for use at the discretion of the local jurisdiction. The simplest version of the PSI report provides the defendant's risk level (e.g., high risk) and a summary of his or her identified criminogenic needs; a second version provides the raw risk score (e.g., 21/42) in addition to the risk level and summary of needs; and a third version provides the defendant's actual scores for each needs domain in addition to the risk level and score and summary of needs. Coconino County opted to use the first version of the PSI report noted here (see Appendix for an example).

PSI reports may also vary between counties in other respects: Some probation departments provide only the above RNA information for the court to consider in formulating a sentencing decision, whereas others also provide the court with recommendations about the specific conditions of probation to be imposed. In Coconino County, the probation department typically provides such recommendations in its PSI reports. PSI report writers frame recommendations that focus on the appropriate conditions of probation for the particular offender if the court decides that probation is appropriate, and typically avoid recommendations regarding whether to sentence the offender to prison or to community supervision.

In the month of May 2013, Coconino County Adult Probation provided 56 PSI reports with RNA information to the court.

V. Use of Assessment Information

General reception. Although stakeholders expressed some initial concern about the prospect of change, the new risk-based PSI reports are embraced as a significant improvement over the traditional narrative PSI reporting format. Stakeholders seem to appreciate the uniformity of the new approach and have expressed that the risk-based PSI report also seems fairer to defendants than the old narrative approach, containing more objective and more helpful information about offenders. The knowledge that the information they receive about the offender is generated from a scientifically validated assessment instrument appears to instill confidence that the best possible information is efficiently provided to the judge and to both parties on a consistent basis. Data collection and analysis efforts, which demonstrate a trend toward improved offender outcomes, have also helped to build stakeholder support for this evidence-based sentencing approach. Stakeholders now see a need to expand the menu and capacity of available treatment resources.

Practical use of RNA information among stakeholders. Coconino County stakeholders have engaged in efforts to avoid misuse of the information. In addition to efforts of PSI writers to focus recommendations on the conditions of probation if the court decides probation is appropriate, rules of evidence bar prosecutors from using information disclosed in the OST assessment against defendants in prosecuting them for current or any other offenses.

The Coconino County Attorney's Office reports agreement with PSI report recommendations in the majority of cases.[5]

[5] When a plea agreement is struck before the presentence investigation has been conducted and RNA information is not available, the post-plea RNA information is also believed to be typically consistent with the disposition reached through the plea-bargaining process. In some cases, however, the post-plea RNA information conflicts with the plea agreement. This

There are, however, some instances of disagreement. In general, attorneys from both sides appear to agree that instances of disagreement with PSI recommendations typically involve instances in which criminal history, aggravating or mitigating circumstances, or impact on the victim were not in their view appropriately accounted for by the assessment. In these cases when OST-based recommendations are perceived to be deficient, attorneys from either side may contest the related recommendations, often by providing supplemental evidence or additional information to the court.

In sentencing offenders to probation, local judges also typically rule in accordance with recommended probation conditions. As of May 2013 in Coconino County, five superior court judges hear criminal cases and therefore receive OST-based PSI reports. Coconino County judges meet with the probation department on a monthly basis to discuss in a timely fashion any emerging issues related to the generation or interpretation of OST-based PSI reports and associated probation recommendations. This ongoing dialogue helps to ensure a common understanding about the nature of the information shared.

VI. Outcomes Tracked

Passed by the Arizona Legislature in 2008, the Safe Communities Act (SB 1476) called for a reduction in the number of probationers revoked to prison.[6] A 2009 Arizona Supreme Court Administrative Order (2009-01) committed to developing a plan to reduce revocations to prison by five percent.[7] The Arizona Adult Probation Services Division (APSD) collects and reports data on the number of individuals on probation in each county who successfully exit probation, are revoked, or have a new felony conviction.[8] These measures are part of APSD's set of 15 performance measures to track the overall effectiveness of the department but do not focus specifically on judicial use of the offender assessment information in the PSR.

The Coconino County Adult Probation department provides this performance measure data for its jurisdiction. Comparing FY2013 data to the baseline FY2008 data which predated the use of RNA information at sentencing, the Coconino County Adult Probation department reports a 69% reduction in probation revocations to prison and a 57% reduction in new crimes committed by probationers. In FY2013, 81% of offenders successfully exited probation, compared with 67% successful exits in FY2008. However, at this time, it is unclear

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disagreement is reported to usually emerge when there are significant legal or factual deficiencies with the evidence in the case resulting in significant charge reduction.

[6] The Safe Communities Act, Arizona Senate Bill 1476, Forty-Eighth Legislature, Second Regular Session, 2008. Available at http://www.azleg.gov/legtext/48leg/2r/bills/sb1476h.pdf. The Safe Communities Act originally provided financial incentives to county probation departments that successfully reduced revocations to prison, but this portion of the Act was repealed in a subsequent legislative session. Although no financial incentives were ever given to county probation departments, there continued to be a reduction of revocations and new felonies committed by probationers.

[7] Arizona Supreme Court. (2009). *Administrative order no. 2009-01: Budget reductions in the judicial branch of Arizona.* Phoenix, AZ: Author. Retrieved from http://www.supremecourt.az.gov/eCourts/MainMeetings/090116/2009-01.pdf.

[8] The Arizona Adult Probation Services Division website is: http://www.superiorcourt.maricopa.gov/AdultProbation/index.asp.

whether the observed changes may be directly or wholly attributed to the use of RNA information at sentencing and in offender case planning, or to other factors (e.g., deferred incarceration, efforts of a dedicated probation revocation court). In addition to the state performance measures, the Coconino County Attorney's Office is in the process of participating in a study to examine the effectiveness of using RNA information in various local problem-solving courts.

Appendix
Coconino County Adult Probation Department
Presentence Report - Offender Screening Tool Results
State of Arizona v. SAMPLE, JOHN LEE – 10000001

RISK/NEED ASSESSMENT:

Based on the Offender Screening Tool (OST), the following is an assessment of the defendant's risk to reoffend and criminogenic needs. There are 10 categories, or domains, assessed in the OST. Domains that do not contribute to the defendant's overall risk to reoffend, or represent a criminogenic need area for the defendant do not require intervention. Domains that contribute to the defendant's overall risk to reoffend and criminogenic needs may require intervention. Domains that significantly contribute to the defendant's overall risk to reoffend and criminogenic needs must be addressed when developing community supervision strategies. The OST is a standardized, statewide, validated tool approved by the Administrative Office of the Courts (AOC).

Risk Level: High Risk

Domains that Do Not Contribute to Overall Risk to Reoffend or Criminogenic Needs Level

Domain			Summary
The Physical/Medical Health category has been identified as a responsivity factor and is not shown to impact risk level			
I. Physical/Medical Health*			• The defendant reports that his ruptured disc in his back prevents him from working • Client indicates that he requires constant pain meds to control pain
V. Residence			• The defendant is in a positive, supportive living arrangement.
VI. Alcohol			• The defendant has no alcohol history, no reported problems

Domains that May Contribute to Overall Risk to Reoffend or Criminogenic Needs Level

Domain			Summary
II. Vocational/Financial			• The defendant reports that his ruptured disc in his back prevents him from working.
IV. Family and Social Relationships			• The defendant has no family relationships. • The defendant spends his time with individuals with felony records.
VIII. Mental Health			• The defendant reports that he attempted suicide 5 years ago, but has been treated and is stable at present.

Domains that Significantly Contribute to Overall Risk to Reoffend or Criminogenic Needs Level

Domain			Summary
VII. Drug Abuse			• The defendant reports using meth and cocaine two or three times per week for the past two years.
IX. Attitude			• The defendant feels that the judge was unfair

			with his 3 year sentence. • The defendant feels that the probation department should have no say over his actions.
X. Criminal Behavior			• Age 14 at first arrest. • Felonies.
III. Education			• The defendant was suspended from school three times

Risk Level: High Risk

Use of Risk and Needs Assessment Information at Sentencing: Napa County, California

CENTER FOR SENTENCING INITIATIVES
RESEARCH DIVISION
NATIONAL CENTER FOR STATE COURTS

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Hon. Roger K. Warren (Ret.)

December 2013

Center for Sentencing Initiatives

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I. About this Report

In August 2011, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution recommending that "offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism."[1] The resolution noted that supervision and treatment decisions informed by valid and reliable offender risk and needs assessment (RNA) information is a critical component of effective strategies to reduce recidivism.

This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how some stakeholders are incorporating the

[1] Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx).

information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the Napa County criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.[2]

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

II. Offenders Assessed

Napa County was the first of four California Risk Assessment Pilot Project (CalRAPP) counties to pilot the use of offender risk and needs assessment information at sentencing.[3] In Napa County, the probation department provides offender risk and needs assessment information in all felony and misdemeanor cases for which a presentence investigation report (PSR) is requested. The risk and needs assessments are completed as part of PSRs, which are most often requested for felony cases eligible for community supervision.[4] Probation may also provide a PSR for misdemeanor cases upon special request from the court.

Currently, risk and needs assessment information is not provided pre-plea. However, probation can request that the terms and conditions of a plea be modified after the plea is accepted. This can be done quickly if the attorneys agree to the modification; otherwise, it requires another court hearing.

III. Assessment Process

Napa County Adult Probation Services assesses offenders using the Level of Service/Case Management Inventory (LS/CMI).[5] The LS/CMI was developed in 2004 by Don Andrews, James Bonta, and Stephen Wormith to function both as a case management tool and as an assessment of offender risk, needs, and responsivity

[2] NCSC interviewed a Napa County judge, probation officer, and prosecutor. A defense attorney did not respond to interview requests.

[3] CalRAPP counties (Napa, San Francisco, Santa Cruz, Yolo) engaged in a collaborative effort to explore the implementation of evidence-based practices in criminal courts. As part of the project, county teams from probation departments, public defenders offices, superior courts, district attorney offices, and other justice partners explored the transition to evidence-based practices and the impact individual offender characteristics may have on evidence-based practices in local courts. The CalRAPP website, http://www.courts.ca.gov/5274.htm, provides additional information on the project.

[4] PSRs are not provided for felony cases if prison commitment is a certainty.

[5] The Napa County Adult Probation Services website is: http://countyofnapa.org/probation/Adult/

factors.[6] The LS/CMI consists of 43 items across 8 categories. Researchers from the University of Colorado validated the LS/CMI on the local Napa County felony population in 2005. Probation officers began using the tool that year, and offender risk and needs assessment information was formally incorporated into Napa County PSRs in 2007-2008.

The probation department's Court Investigations Unit is responsible for writing offender PSRs and administers the LS/CMI as part of the presentence investigation process. Assessment results may be overridden with supervisor approval and a written explanation. Overrides are rare, but may occur when a secondary, specialized assessment tool (e.g., domestic violence or substance abuse assessment) shows a higher score than the LS/CMI. For any override, the court is notified of both the original and overridden score. Offender LS/CMI results are routinely updated and provided to the court for any probation violation hearings.

Napa County uses several specialized assessment instruments in addition to the LS/CMI. Domestic violence offenders will complete a Spousal Assault and Risk Assessment (SARA), and sex offenders will complete the Static-99 assessment. Substance-abusing offenders will complete an Addiction Severity Index (ASI) assessment. The ASI is not completed in all cases due to funding cuts; it is used only when the probation officer considers it necessary. A specialized mental health assessment is not currently used.

IV. Assessment Report

The California Rules of Court mandates that all PSRs submitted to the court include, at minimum, the following information: facts about the defendant and the circumstances of the crime, the defendant's prior criminal record, any defendant statements made to the probation officer, victim information, information on defendant's social history, collateral information, evaluation of factors related to disposition, and the probation officer's recommendations regarding sentence type and severity.[7] The specific format of the PSR, however, varies from county to county.

In Napa County, the PSR is a narrative report that contains a special section dedicated to LS/CMI assessment results (see Appendix).[8] This LS/CMI evaluation section includes information on the offender's risk level, risk score, and top four criminogenic needs. Raw criminogenic needs scores and other detailed information from the LS/CMI are not reported. Based on the risk and needs assessment information, the Court Investigation Unit also provides treatment service recommendations if the offender is eligible for probation. In addition, the PSR concludes with the

[6] As of this report, the LS/CMI is the latest version of the commercially available Level of Service Inventory (LSI) system. The prior version, the Level of Service Inventory-Revised (LSI-R), was made available to the public in 1995 and is still widely used as a stand-alone RNA tool. For more information about the LS/CMI, refer to the Multi-Health Systems, Inc. website at: http://www.mhs.com/product.aspx?gr=saf&prod=ls-cmi&id=overview,

[7] California Rule of Court 4.411.5

[8] In December 2013, Napa County began using an updated PSR format, which now includes subscores for all eight LS/CMI domains as well as the total score and risk level. This change was instituted at the request of the District Attorney's and Public Defender's offices. An example of the new version is appended to this report.

probation officer's recommendation regarding whether to sentence the offender to prison or to community supervision.

In 2012, approximately 1200 PSRs were completed and submitted to the court in Napa County.

V. Use of Assessment Information

General reception. In 2004, The Carey Group delivered a three-day training to Napa County probation officers on the principles of evidence-based practice.[9] The County Administrator's Office subsequently paid for all criminal justice stakeholders, including judges, the public defender's office, the district attorney's office, and the police department, to receive this training. Stakeholders expressed some initial skepticism about the accuracy of the LS/CMI scores based on their intuition about defendants who should be high or low risk and were slow to embrace the use of risk-based information in PSRs. Strong probation and court leadership, continued communication and training, and local validation of the LS/CMI tool have helped address these concerns, with stakeholders now generally in agreement that offender risk and needs assessment information is a valuable new component of the sentencing process.

Because a full risk and needs assessment report is not included with the PSR, other concerns (e.g., about potential use of incriminating statements by defendants) are diminished. However, some stakeholders have expressed a desire to see more detailed information from the LS/CMI assessment provided to the court in the PSR.

Practical use of RNA information among stakeholders. As of this report, two Napa County judges routinely receive PSRs. These judges have reportedly found the offender risk and needs assessment information helpful when sentencing defendants and typically agree with the recommendations included in the PSR. Attorneys also generally agree with the probation department's recommendations regarding the conditions of probation. When there is disagreement regarding the provisions, it is addressed with the judge at the sentencing hearing. The judge may elect to involve the PSR writer in the sentencing hearing when a contested discussion about the treatment provisions of probation takes place, but this is not a standard practice.

Disagreement with the recommended conditions of probation may occur, for example, if one party seeks to fulfill an alternate purpose of sentencing (e.g., punishment) than the public safety and offender risk reduction purpose served by the evidence-based sentencing approach. Disagreement may also sometimes arise if a treatment program prescribed to address the defendant's identified criminogenic needs is intensive and, therefore, perceived to be more strenuous than conditions traditionally associated with community supervision of defendants found guilty of a comparable offense. Many of the strongest, most effective local treatment options require additional time and effort that the defendant may be unwilling to invest. In their clients' interests, some defense attorneys argue against such treatment conditions.

[9] The Carey Group website is http://www.thecareygroupinc.com/

VI. Outcomes Tracked

At this time, little data are tracked to evaluate the use of risk and needs assessment information at sentencing in Napa County. Stakeholders have expressed an interest in this capability moving forward and new computer systems are currently being installed to compile the necessary data within the probation department. Modest data collection efforts are underway as part of the CalRAPP initiative: The probation department reported a decrease in recidivism rates since the introduction of evidence-based sentencing practices. However, it is unclear whether the observed changes may be directly or wholly attributed to the use of RNA information at sentencing and in offender case planning or to other factors (e.g., deferred incarceration, efforts of the probation revocation court).

SUPERIOR COURT OF CALIFORNIA
COUNTY OF NAPA

THE HONORABLE

NAME:		)	
AKA:		)	
Address:		)	
Phone:		)	
DOB:	Age:	)	PID Number:
DL:		)	CR Number:
CII:		)	
FBI:		)	Sentencing Date:
Height:		)	Department: at in Dept
Weight:		)	
Hair:		)	Defense Counsel:
Eyes:		)	Report Prepared By:
Race:		)	
		)	**PROBATION OFFICER'S REPORT**
In Custody:	☐ Yes ☐ No	)	**PRESENTENCE**
		)	

SUMMARY OF CHARGES:

CR Number	Count	Crime or Enhancement	LOC (F/M)	Crime Date	Conviction Date	Plea	Trial	Dism	Harvey Waiver

CONDITIONS OF PLEA: ☐ Plea Bargain ☐ Indicated Sentence ☐ Open Plea

The parties agreed there would be no immediate state prison and the defendant would (*example of a plea bargain*)

or

The court indicated there would be no immediate state prison. (*example of an indicated sentence*)

or

There are no conditions attached to the plea. (*use this if it's an open plea)*

STATEMENT OF FACTS:

The following is a summary of facts derived from report # , dated :

PRIOR RECORD: A record check with CII, DMV, FBI, Juvenile Probation, and other state and county agencies reveal the following prior convictions for the defendant:

Date	Agency	Offense	Disposition

DMV:

DEFENDANT'S STATEMENT:

VICTIM'S STATEMENT:

On , a letter was sent to , advising him/her of his/her rights, pursuant to Penal Code Section 1191.1 and 1191.2.

FINE(s)/RESTITUTION/RESTITUTION FINE(s):

SOCIAL HISTORY: (The following information was provided by the defendant without verification)

Additional Social History information mandated in felony presentence reports per Rule of Court 4.411.5, may be found on the face sheet of this felony report. Any pertinent information specific to the defendant, who is the subject of this report, will be included below:

Birthplace:
Came to State:
Came to County:
US Citizen/Legal Status:
Employer: Income: Full time hours/week
Part time hours/week

Occupation: How Long:
Education:
Military Service: Type of Discharge:
Medical Conditions:
Psychological Issues:
Gang Affiliation:

Marital Status:
Spouse's Name:
Spouse's Income:
Dependent Children: Ages:
Custody With:
Person(s) Supported: Source of Income:

The defendant reports

SUBSTANCE ABUSE:

Substance	First Used	Last Used	Frequency	Method of Use	Amount

Prior Treatment and Recommendations for Treatment:

COLLATERAL INFORMATION:

CONDUCT ON PROBATION:

In the event the defendant was on Formal Probation in another local case, the Court's attention is referred to the attached Probation Adjustment Summary for information regarding compliance with court orders. If the defendant was on probation or parole in another jurisdiction, compliance with conditions of probation will be inserted below, if available.

RULES OF COURT:

As the defendant has entered a plea with the understanding that a grant of probation with specific terms will be imposed, Rules of Court are not necessary upon initial sentencing. In the event the defendant is subsequently found to be in violation of probation, and the Court is considering imposing a state prison commitment, the case will be re-referred to the Probation Officer for a Supplemental Report to address Rules of Court 4.413, 4.414, 4.421, 4.423 and 4.425.

CRITERIA NOT EXCLUSIVE; SEQUENCE NOT SIGNIFICANT – RULE 4.408:

(a) The enumeration in these rules of some criteria for the making of discretionary sentencing decisions does not prohibit the application of additional criteria reasonably related to the decision being made. Any such additional criteria must be stated on the record by the sentencing judge.

(b) The order in which criteria are listed does not indicate their relative weight or importance.

PROBATION ELIGIBILITY WHEN PROBATION IS LIMITED - RULE 4.413:

MANDATORY STATE PRISON

list statutory authority here

PRESUMPTIVE STATE PRISON

Pursuant to Section 1203(e)(4) of the Penal Code, "Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony."

EXCEPTIONS TO PRESUMPTIVE STATE PRISON

Rule 4.413 of the Rules of Court delineates unusual cases and probation eligibility when probation is limited.

CRITERIA AFFECTING PROBATION - RULE 4.414:

(a)(1) The nature, seriousness, and circumstances of the crime as compared to other instances of the same crime.

(a)(2) Whether the defendant was armed with or used a weapon.

(a)(3) The vulnerability of the victim.

(a)(4) Whether the defendant inflicted physical or emotional injury.

(a)(5) The degree of monetary loss to the victim.

(a)(6) Whether the defendant was an active or passive participant.

(a)(7) Whether the crime was committed because of an unusual circumstance, such as great provocation, which is unlikely to recur.

(a)(8) Whether the manner in which the crime was carried out demonstrated criminal sophistication or professionalism on the part of the defendant.

(a)(9) Whether the defendant took advantage of a position of trust or confidence to commit the crime.

(b)(1) Prior record of criminal conduct, whether as an adult or a juvenile, including the recency and frequency of prior crimes; and whether the prior record indicates a pattern of regular or increasingly serious criminal conduct.

(b)(2) Prior performance on probation or parole and present probation or parole status.

(b)(3) Willingness to comply with the terms of probation.

(b)(4) Ability to comply with reasonable terms of probation as indicated by the defendant's age, education, health, mental faculties, history of alcohol or other substance abuse, family background and ties, employment and military service history, and other relevant factors.

(b)(5) Likely effect of imprisonment on the defendant and his or her dependents.

(b)(6) The adverse collateral consequences on the defendant's life resulting from the felony conviction would affect the defendant’s ability to possess firearms and to secure employment requiring state and federal licensing. Further, it could result in deportation and exclusion from this country or denial of naturalization.

(b)(7) Whether the defendant is remorseful.

(b)(8) The likelihood that if not imprisoned the defendant will be a danger to others.

Does not apply in this case.

CIRCUMSTANCES IN AGGRAVATION - RULE 4.421:

(a)(1) The crime involved great violence, great bodily harm, threat of great bodily harm, or other acts disclosing a high degree of cruelty, viciousness, or callousness.

(a)(2) The defendant was armed with or used a weapon at the time of the commission of the crime.

(a)(3) The victim was particularly vulnerable.

(a)(4) The defendant induced others to participate in the commission of the crime or occupied a position of leadership or dominance of other participants in its commission.

(a)(5) The defendant induced a minor to commit or assist in the commission of the crime.

(a)(6) The defendant threatened witnesses, unlawfully prevented or dissuaded witnesses from testifying, suborned perjury, or in any other way illegally interfered with the judicial process.

(a)(7) The defendant was convicted of other crimes for which consecutive sentences could have been imposed but for which concurrent sentences are being imposed.

(a)(8) The manner in which the crime was carried out indicates planning, sophistication, or professionalism.

(a)(9) The crime involved an attempted or actual taking or damage of great monetary value.

(a)(10) The crime involved a large quantity of contraband.

(a)(11) The defendant took advantage of a position of trust or confidence to commit the offense.

(b)(1) The defendant has engaged in violent conduct which indicates a serious danger to society.

(b)(2) The defendant's prior convictions as an adult or sustained petitions in juvenile delinquency proceedings are numerous or of increasing seriousness.

(b)(3) The defendant has served a prior prison term.

(b)(4) The defendant was on probation or parole when the crime was committed.

(b)(5) The defendant's prior performance on probation or parole was unsatisfactory.

(c) Any other facts statutorily declared to be circumstances in aggravation.

Does not apply in this case.

CIRCUMSTANCES IN MITIGATION - RULE 4.423:

(a)(1) The defendant was a passive participant or played a minor role in the crime.

(a)(2) The victim was an initiator of, willing participant in, or aggressor or provoker of the incident.

(a)(3) The crime was committed because of an unusual circumstance, such as great provocation, which is unlikely to recur.

(a)(4) The defendant participated in the crime under circumstances of coercion or duress, or the criminal conduct was partially excusable for some other reason not amounting to a defense.

(a)(5) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(a)(6) The defendant exercised caution to avoid harm to persons or damage to property, or the amounts of money or property taken were deliberately small, or no harm was done or threatened against the victim.

(a)(7) The defendant believed that he or she had a claim or right to the property taken, or for other reasons mistakenly believed that the conduct was legal.

(a)(8) The defendant was motivated by a desire to provide necessities for his or her family or self.

(a)(9) The defendant suffered from repeated or continuous physical, sexual, or psychological abuse inflicted by the victim of the crime; and the victim of the crime, who inflicted the abuse, was the defendant's spouse, intimate cohabitant, or parent of the defendant's child; and the facts concerning the abuse do not amount to a defense.

(b)(1) The defendant has no prior record, or an insignificant record of criminal conduct, considering the recency and frequency of prior crimes.

(b)(2) The defendant was suffering from a mental or physical condition that significantly reduced culpability for the crime.

(b)(3) The defendant voluntarily acknowledged wrongdoing prior to arrest or at an early stage of the criminal process.

(b)(4) The defendant is ineligible for probation and but for that ineligibility would have been granted probation.

(b)(5) The defendant made restitution to the victim.

(b)(6) The defendant's prior performance on probation or parole was satisfactory.

Does not apply in this case.

CRITERIA AFFECTING CONCURRENT OR CONSECUTIVE SENTENCES RULE 4.425:

(a)(1) The crimes and their objectives were predominantly independent of each other.

(a)(2) The crimes involved separate acts of violence or threats of violence.

(a)(3) The crimes were committed at different times or separate places, rather than being committed so closely in time and place as to indicate a single period of aberrant behavior.

Does not apply in this case.

STATE AUTHORIZED RISK ASSESSMENT TOOL FOR SEX OFFENDERS (SARATSO) – STATIC 99R RESULTS:

On , Mr. was scored on the Static-99R, which is an actuarial measure of risk for sexual offense recidivism. This instrument has been shown to be a moderate predictor of sexual reoffense potential. Mr. received a total score of , which places him in the (choose one: Low, Moderate-Low, Moderate-High, or High) Risk Category for being convicted of another sexual offense, if he is released on probation. His risk on release from a prison sentence cannot be calculated until his age on release on parole is known, so the risk score stated herein is predictive of risk based on his age on the date of this presentencing report. If Mr. has a prior conviction for a registrable sex offense, his risk score was calculated based on his age at release on the most recent registrable sex offense, or his age today if he had no prior registrable sex offense. There was a 2009 update of the recidivism rates that now applies to scores from 0 to 10+. Mr. scored a on the Static-99R. The estimated risk for this score on the Static-99R is over five years.

Risk factors which are not measured by the Static-99R can raise or lower risk. These include things like substance abuse, personality disorder, deviant sexual interests, emotional identification with children, and self-regulation problems. A sex offender in a mandated treatment program will be assessed by a certified treatment provider using dynamic and violence risk assessment instruments designated by the SARATSO Committee. The combined risk will be used to determine appropriate levels of supervision and treatment.

SPOUSAL ASSAULT RISK ASSESSMENT (SARA) RESULTS:

On , a SARA assessment was completed by the undersigned officer, based on information gathered during the presentence investigation in this matter. The defendant's raw score was , which places him in the percentile and indicates he is of risk to commit a future domestic violence offense. The SARA is an assessment tool that measures a subject's risk to commit a future domestic violence offense, based upon his or her criminal history, psychosocial adjustment, spousal assault history, and the current/most recent offense. A raw score higher than 20 indicates the subject has a relatively high number of risk factors present.

LS/CMI EVALUATION RESULTS:

Based upon the Level of Service/Case Management Inventory (LS/CMI) evaluation conducted on , the defendant scored indicating a (very low, low, medium, high, very high) risk to reoffend. The target areas of concern the defendant needs to address to be successful on probation and to reduce possible recidivism include, . Recommended treatment services will include .

Scores	CH	EE	FM	LR	CO	ADP	PA	AP
Very High								
High								
Medium								
Low								
Very Low								

CH- Criminal History, EE- Education/Employment, FM-Family/Marital, LR-Leisure/Recreation, CO-Companions, ADP-Alcohol/Drug Problem, PA-Procriminal Attitude/Orientation, AP- Antisocial Pattern.

EVALUATION:

RECOMMENDATION:

It is recommended the defendant be ordered to pay a Presentence Report Fee of $560.00/$240.00, pursuant to Penal Code Section 1203.1b along with an annual Supervision Fee in an amount not to exceed $240.00, pursuant to Penal Code 1203.1b.

Therefore, in the matter of , it is respectfully recommended that imposition of sentence be suspended and the defendant be **GRANTED FORMAL PROBATION** for a period of years, under the following terms and conditions:

Dated:

MARY BUTLER
Chief Probation Officer

By: _____

Probation Officer

Approved: _____

Supervising Probation Officer

I have read and considered the foregoing report.

_____
Judge of the Superior Court

Use of Risk and Needs Assessment Information at Sentencing: Mesa County, Colorado

CENTER FOR SENTENCING INITIATIVES
RESEARCH DIVISION
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December 2013

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This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how some stakeholders are incorporating the

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information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

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We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

II. Offenders Assessed

The Mesa County Probation Department provides full offender RNA information to the court as part of the presentence investigation (PSI) report. Judges order PSI reports in approximately half of all felony cases in which the defendant has pled or been found guilty. Judges may deem a PSI report unnecessary for low-level offenses or for cases in which the defendant is a first-time offender or is from out-of state. Misdemeanor charges that are tied to felonies or that are part of global resolution[3] are also addressed in the PSI report. Supervising probation officers approve all PSI reports prior to their submission to the court.

The court does not currently receive full RNA information at the plea stage. Results from the state pre-trial risk assessment instrument (the Colorado Pre-Trial Assessment Tool or CPAT)[4] are used to inform bond decisions and may be used informally in plea negotiations. Stakeholders have discussed the possibility of making full RNA information available to the court at this stage, but have wrestled with concerns about how to structure such a practice to best protect the defendant's right against self-incrimination.

III. Assessment Process

As of 2011, the RNA instrument used by the Mesa County Probation Department in PSI reports is the Level of Service Inventory-Revised (LSI-R).[5] Developed by Don Andrews and James Bonta in 1995, the LSI-

[2] A Mesa County judge, prosecutor, defense attorney, and two probation officers agreed to NCSC requests for an interview.

[3] Global resolution refers to the resolution of felony charges and accompanying misdemeanor charges as part of a plea agreement.

[4] To access the 2012 report on the development of the CPAT, see: http://www.pretrial.org/download/risk-assessment/CO%20Pretrial%20Assessment%20Tool%20Report%20Rev%20-%20PJI%202012.pdf

[5] For more information about the LSI-R, refer to the Multi-Health Systems, Inc. website at: http://www.mhs.com/product.aspx?gr=saf&prod=lsi-r&id=overview

R is a commercially available tool comprised of 54 items across 10 subscales. The LSI-R was validated for use with the statewide Colorado adult probation population in the early 1990s.

In most cases, two dedicated Mesa County probation officers prepare the PSI reports. Mesa County PSI writers do not override the LSI-R score or risk level from the initial assessment; rather, they report the original LSI-R results to the court. Supervising probation officers approve all PSI reports before the reports are submitted to the court.

Supervising probation officers generally update the offender's RNA information every six months. A reassessment may occur prior to this time if the offender violates the conditions of probation. In addition, supervising probation officers may elect to override the RNA results of certain offenders if noncompliance issues warrant more frequent or more intensive supervision.

The Mesa County Probation Department uses several assessment instruments in addition to the LSI-R. All offenders undergoing a presentence investigation also receive the Simple Screening Instrument (SSI) and the Adult Substance Use Survey (ASUS) assessments to identify potential alcohol and drug abuse issues.[6] Results from the ASUS are included in the PSI report to prescribe education and treatment levels. Although there are no secondary assessment tools for mental health issues, this information is incorporated into the PSI report as part of the LSI-R information. In addition, the Static-99, a 10-item actuarial risk assessment instrument developed by Karl Hanson and David Thornton in 1999 for use with adult male sex offenders, is used in sex offense cases.

IV. Assessment Report

Colorado law requires that PSI reports include offender RNA information, although the presentation format may vary from county to county.[7] In 2013, Mesa County developed a new PSI reporting format to include and prominently display LSI-R results (see Appendix).[8] Prior to this redesign, probation officers informally incorporated LSI-R information into the narrative of the PSI report.

The revised report presents 11 bar graphs

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[6] The Simple Screening Inventory, also called the Simple Screening Instrument for Substance Abuse (SSI-SA) or Simple Screening Instrument for Alcohol and Other Drugs (SSI-AOD), is a non-proprietary instrument developed in 1994 by a consensus panel for SAMSA's Treatment Improvement Protocol 11 to screen for substance abuse problems. The Adult Substance Use Survey, a 96-item self-report screening tool originally developed by Dr. Kenneth Wanberg in 1997, is used to identify the presence and severity of alcohol and drug abuse problems as well as the client's willingness to disclose information about these activities. Additional information on the use of these evaluation instruments in Colorado can be found in the *Colorado Alcohol and Drug Abuse Division (ADAD) Approved Evaluation Instrumentation for Substance Using Adolescents and Adults* (2007) *at* http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheadername1=Content-Disposition&blobheadername2=Content-Type&blobheadervalue1=inline%3B+filename%3D%22Approved+Evaluation+Instrumentation.pdf%22&blobheadervalue2=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251694214898&ssbinary=true.

[7] Colo. Rev. Stat. § 16-11-102 (2013).

[8] An example of the LSI-R report on which the PSI is based is available from Multi-Health Systems, Inc. website at http://downloads.mhs.com/lsir/lsi-r-5-profile.pdf.

containing information about the offender's general risk level and score on each of 8 criminogenic risk factors and 3 stability factors. Results from the ASUS "Social" scale are included in the "anti-social personality pattern" risk factor report. The remaining ten factors relay results from the LSI-R assessment. Scores for each factor are tabulated on a percentage scale from 0-100%; factors scoring above 50% represent issues to be addressed in the offender's case plan. The PSI report also contains separate narrative descriptions about the offender for each of the eleven factors.

The concluding paragraph of the PSI report identifies the local programming options available to treat the offender's specific criminogenic needs. PSI writers may recommend certain types of programming (e.g., substance abuse, anger management) but do not include specific suggestions on which service providers should be used.

As a response to feedback from judges about the content of the PSI report, probation officers no longer specifically recommend whether or not an offender is a candidate for successful supervision in the community. The PSI report contains no recommendations as to the term of probation or the sentence a defendant should serve; this is left to the discretion of the judge.

V. Use of Assessment Information

General reception. The use of RNA information at sentencing in Mesa County was generally well received. Stakeholder involvement at early stages of development helped to secure a positive overall reception. Mesa County's Chief Judge helped lead the initiative and other stakeholders in key positions (e.g., leadership from the Public Defender's Office and District Attorney's Office) also supported the effort. In addition, the Mesa County Probation Department conducted trainings on the use of RNA information for all criminal justice stakeholders and increased transparency to stakeholder groups regarding the Department's internal quality assurance efforts. These steps helped alleviate initial attorney concerns regarding the proper and consistent administration of the LSI-R assessment. Because of the changes in the PSI reporting format, more recent trainings for attorneys and judges have focused on how to read RNA information using the new PSI report rather than the LSI-R assessment itself. New probation department staff also receive statewide orientation training on the administration of standard assessment instruments.

Practical use of RNA information among stakeholders. Criminal justice stakeholders periodically hold informal meetings to discuss and resolve any issues regarding the use of the LSI-R-informed PSI report as they arise. Although Mesa County judges order PSI reports at different rates according to their preferences, they seem to find the inclusion of RNA information in the PSI report helpful and typically follow risk assessment-based probation recommendations when a PSI report is ordered.[9] Attorneys also reported finding RNA information helpful, particularly when formulating arguments at sentencing. If there is a particularly high-profile case, defense counsel may request to be present during the probation interview to protect the defendant from making self-incriminating statements. Some stakeholders reported a perception that RNA information is more

[9] As of June 2013, five judges receive PSI reports.

useful with certain types of cases, such as drug crimes. Drug offenders may present behaviors and characteristics (e.g., addiction) that are more amenable to successful treatment using local service options. Some stakeholders acknowledged a need to expand the capacity of locally available treatment services.

In cases where there is a plea agreement, probation officers generally make recommendations that fall within the boundaries of the plea agreement. Any tensions between the PSI report and plea agreement are negotiated between the parties and require approval by the judge in the sentencing hearing. When the agreed-upon disposition is mandated by state sentencing guidelines but seems to conflict with LSI-R results, judges generally accept the plea agreement in lieu of sending the case to trial.

VI. Outcomes Tracked

Mesa County tracks some data as a pilot site for the National Institute of Corrections (NIC) Evidence-Based Decision Making (EBDM) initiative.[10] To oversee these data collection efforts, Mesa County established an EBDM Executive Committee comprised of representatives from all stakeholder groups, including but not limited to judges, attorneys, probation officers, law enforcement, judicial administration and a data analyst. To date, the majority of reports generated by the Executive Committee have focused on the use of pretrial risk assessment information and corresponding outcomes (e.g., days out on bond, number of defendants granted pretrial supervision). Mesa County currently collects recidivism data as part of the EBDM pilot project, but this effort is young and an analysis of outcomes will not be feasible for another year or more. Mesa County stakeholders report a commitment to continuing data collection and reporting efforts on the impact of using RNA information at sentencing beyond their involvement with the NIC pilot initiative.

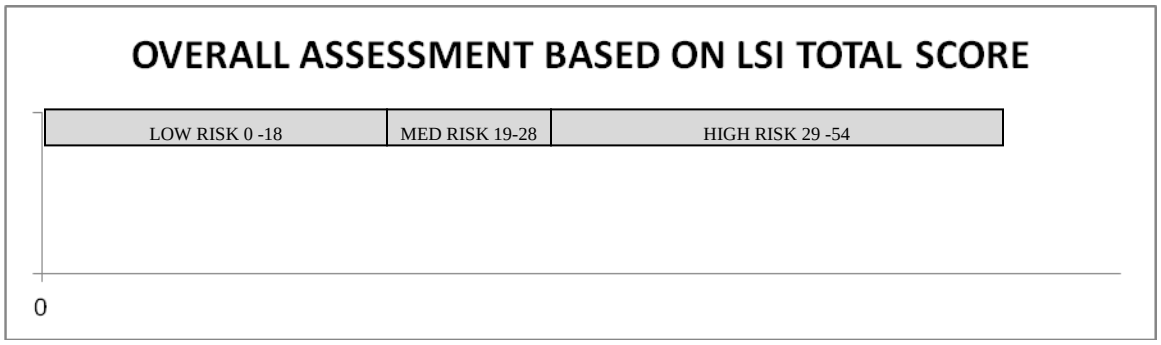
The Colorado Division of Probation Services also collects recidivism data statewide and calculates the rates at which offenders successfully complete their probation sentences. Reports parse data by supervision level and placement type. Tracked outcomes also include recidivism rates among those for whom probation was terminated for technical violations or a new crime, and among those who successfully completed their probation sentence but had a new filing post-release.[11] Mesa County Probation Department representatives report that this information is available internally by county.

[10] NIC partnered with the Office of Justice Programs to select seven sites, including Mesa County, to implement *A Framework for Evidence-Based Decision Making in Local Court Systems*. This framework lays out strategies for applying evidence-based decision making principles and techniques with the goal of risk and harm reduction. Additional information on the project can be found at http://nicic.gov/EBDM. Additional information about Mesa County's involvement may also be found at http://ebdmoneless.org/ebdm-jurisdictions-mesa-county-colorado.

[11] To access the Probation Services archive of available statewide reports, visit http://www.courts.state.co.us/Administration/Division.cfm?Division=Prob

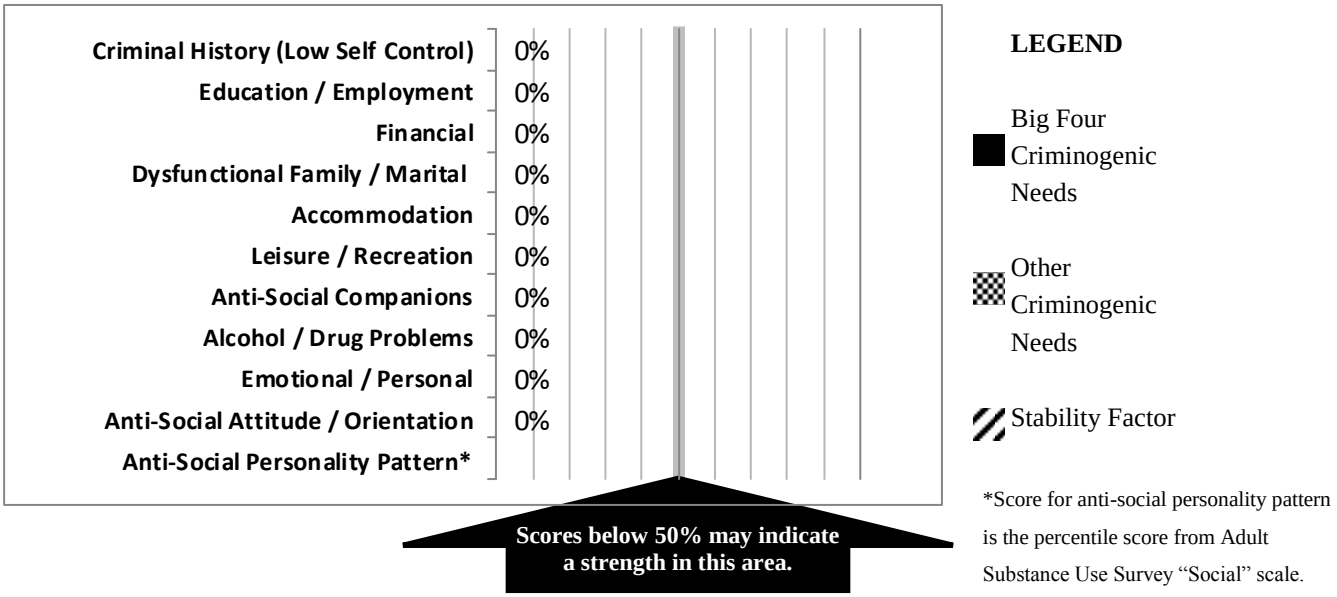
Appendix

The below graph indicates the defendant's overall risk to re-offend or recidivate based on the cumulative scores of areas of need and protective factor scores.



Summary of Criminogenic Needs:

The Level of Service Inventory (LSI) is a broad-based assessment instrument covering a multidimensional set of static (historical/immutable) and dynamic/criminogenic (changeable and correlated to criminal behavior) risk factors. The LSI yields an overall total risk score (0-54), a profile of criminogenic needs and protective factors. These scores may be predictive of the risk of re-offense and recidivism. The LSI is a quantitative survey of offender attributes and their situations relevant to level of supervision and treatment decisions. The instrument is not a comprehensive survey of mitigating and aggravating factors relevant to criminal sanctioning and was never designed to assist in establishing the just penalty. The results of the LSI may, however, be used for supervision planning and providing direction for focusing the intervention or change process. The below graph displays specific criminogenic needs and whether they are low, medium, or high risk/needs area subject to monitoring, supervision, and/or intervention to lower his/her risk of re-offense and recidivism.



Presentence Investigation Report

Name: **Case(s):**
AKA:

Details of the Case:

On , the defendant pled guilty to

According to the Plea Agreement,

The Affidavit in Support of Warrantless Arrest located in the District Attorney's file is attached.

Defendant's Statements or Comments:

Attached is a written statement completed by the defendant and submitted for the Court's review.

Disposition of Co-Defendant(s):

Co-defendant name (case number)

Circumstances of Victim:

A Victim Impact Statement was/was not located in the District Attorney's file.

The District Attorney may have additional victim impact information to share with the Court at sentencing.

Prior Criminal Record:

All cases occurred in Mesa County unless otherwise noted. Sources include NCIC/CCIC, local and statewide Judicial Integrated Colorado Online Network records.

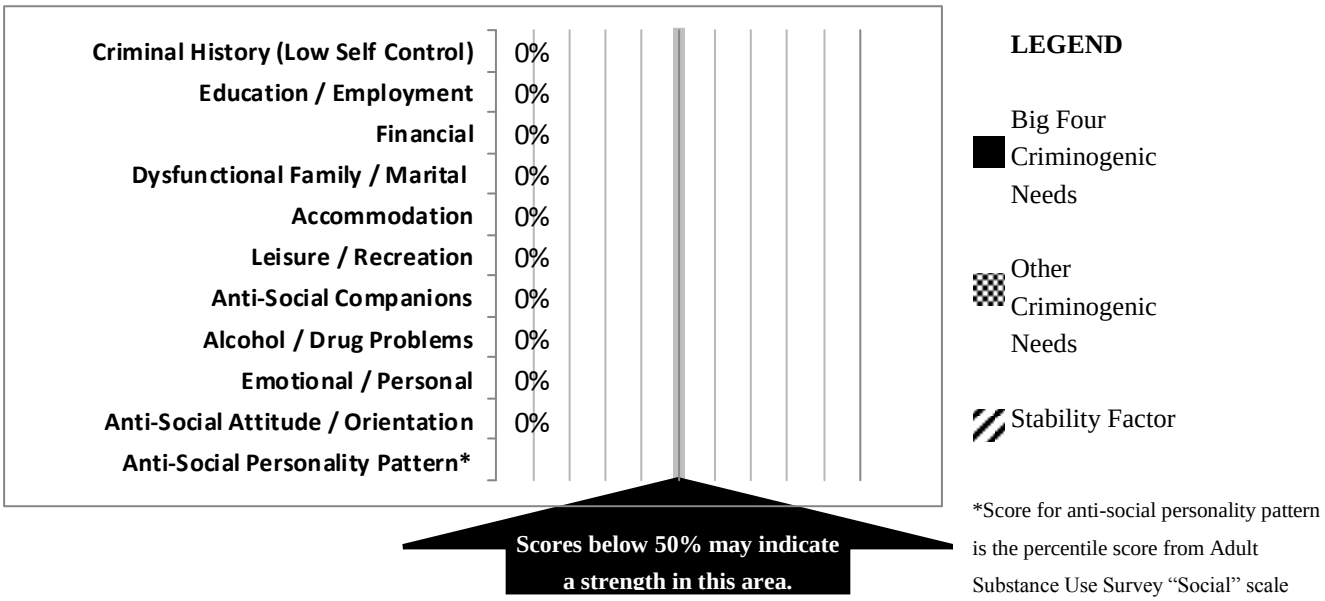
Juvenile:

None Known

Adult:

Summary of Criminogenic Needs:

The LSI is a broad-based assessment instrument covering a multidimensional set of static (historical/immutable) and dynamic/criminogenic (changeable and correlated to criminal behavior) risk factors. The LSI yields an overall total risk score of (0-54), a profile of criminogenic needs and protective factors. These scores may be predictive of the risk of re-offense and recidivism. The LSI is a quantitative survey of offender attributes and their situations relevant to level of supervision and treatment decisions. The instrument is not a comprehensive survey of mitigating and aggravating factors relevant to criminal sanctioning and was never designed to assist in establishing the just penalty. The results of the LSI may, however, be used for supervision planning and providing direction for focusing the intervention or change process. The below graph displays specific criminogenic needs and whether they are low, medium, or high risk/needs areas subject to monitoring, supervision, and or intervention to lower his/her risk of re-offense and recidivism.



Criminal History: (*Anti-Social Behavior/Low Self Control*)

(subtotal = %)

Education/Employment:

(subtotal = %)

Financial:

(subtotal = %)

Family/Marital:

(subtotal = %)

Accommodation:

(subtotal = %)

Leisure/Recreation:

(subtotal = %)

Companions: (or *Anti-Social Companions/Peers)*

(subtotal = %)

Alcohol/Drug Problem:

(subtotal = %)

Emotional/Personal:

(subtotal = %)

Attitude/Orientation: (*Anti-Social Cognition/Attitudes/Beliefs)*

(subtotal = %)

Anti-Social Personality Pattern or Temperament: *(Social score from the ASUS)*

(subtotal = %)

Additional Assessment Information/Significant Medical Information

According to standard substance use assessments completed by this department, the defendant

UA results

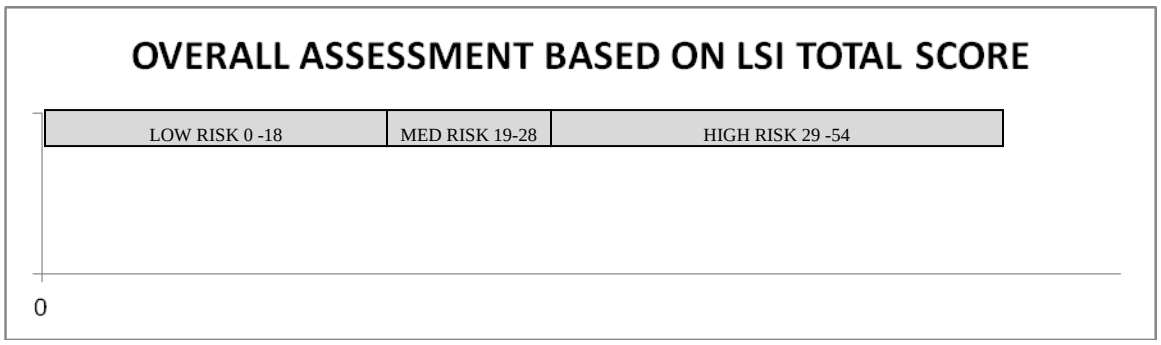
MH screen

Prior supervision

No reference letters were provided at the time of the presentence investigation interview, however, if the defendant submits letters prior to sentencing, they will be forwarded to the Court.

Summary:

The below graph indicates the defendant's overall risk to re-offend or recidivate based on the cumulative scores of areas of need and protective factor scores. The LSI is a quantitative survey of offender attributes and their situations relevant to level of supervision and treatment decisions. The instrument is not a comprehensive survey of mitigating and aggravating factors relevant to criminal sanctioning and was never designed to assist in establishing just penalty. The results of the LSI may, however, be used for supervision planning and providing direction for focusing the intervention or change process.



According to the Level of Services Inventory, the defendant scored as ____ risk to recidivate if he does not address his criminogenic needs. The defendant has a number of barriers to overcome to reduce his likelihood of reoffending. Those include: (we will list these). Of note, (list #) of the defendant's criminogenic needs lie in the top four areas related to recidivism, however, he has a number of protective factors or strengths in his life at the present time. (We will list these at this time).

Recommendation:

It is the probation department's opinion that the criminogenic needs of the defendant can/cannot be addressed through community supervision.

Services/resources

The defendant was screened for Intensive Supervised Probation (ISP). The screening team determined

As ordered by the Court, a Community Corrections Referral Screen was submitted to the Mesa County Community Corrections Adult Review Committee on _____; the results will be forwarded directly to the Court by the Community Corrections Board.

The defendant is eligible for _____ days of presentence confinement.

Fees:

☒ $75 Substance Abuse Assessments

Respectfully submitted:

Date	Date
Probation Officer	Supervisor

Confidential

Restitution:

Purpose of code with respect to sentencing:

18-1-102.5. Purposes of code with respect to sentencing. (1) The purposes of this code with respect to sentencing are:
(a) To punish a convicted offender by assuring the imposition of a sentence he deserves in relation to seriousness of his offense;
(b) To assure the fair and consistent treatment of all convicted offenders by eliminating unjustified disparity in sentences, providing fair warning of the nature of the sentence to be imposed, and establishing fair procedures for the imposition of sentences;
(c) To prevent crime and promote respect for the law by providing an effective deterrent to others likely to commit similar offenses;
(d) To promote rehabilitation by encouraging correctional programs that elicit the voluntary cooperation and participation of convicted offenders;
(e) To select a sentence, a sentence length, and a level of supervision that addresses the offender's individual characteristics and reduces the potential that the offender will engage in criminal conduct after completing his or her sentence; and
(f) To promote acceptance of responsibility and accountability by offenders and to provide restoration and healing for victims and the community while attempting to reduce recidivism and the costs to society by the use of restorative justice practices.

Projected Costs: Sentencing Options
The cost of corrections is directly related to the level of confinement of each sentencing option. The following numbers are from FY2012 and will be updated annually in January. The Division of Probation Services confirms these numbers with each of the respective agencies.

Annual Cost of Sentencing Options Per Offender (FY2012)	
Probation	$1,578
Community Corrections	$7,822
Parole	$4,566
Department of Corrections (DOC)	$32,334

Source: DOC: Office of Planning & Analysis, DCJ: Office of Community Corrections, Division of Probation Services

Big 4	Indicators	Intervention
Criminal History (Low Self Control)	Being arrested at a young age, having a large number of prior offenses, and having rule violations while on conditional release.	Develop skills to avoid high risk situations; build up new non-criminal behaviors in high-risk situations; build self-efficacy beliefs supporting reform. E.g., cognitive behavioral treatment, curfew, electronic monitoring.
Antisocial Attitude/ Orientation	Identification with criminals, negative attitudes toward the law and justice system, a belief that crime will yield rewards, and rationalizations that specify a broad range of conditions under which crime is justified.	Reduction of anti-social thinking and feeling; building and practicing less risky thoughts and feelings. e.g., cognitive behavioral treatment.
Anti-Social Companions	Association with anti-social others and relative isolation from pro-social others.	Reduce association with anti-social others and enhance association with pro-social others. e.g., recreation, life skills programs, support group involvement.
Anti-Social Personality Pattern (ASUS Social Scale)	Impulsive, adventurous, pleasure-seeking, generalized trouble in multiple settings, restlessly aggressive, callous disregard for others, lack of empathy, anger problems.	Build skills in self-control, anger management, and problem-solving. e.g., cognitive behavioral treatment, life skills programs, mental health referral (if applicable, to assess for anti-social personality disorder/psychopathy).
Other/Next 4	**Indicators**	**Intervention**
Dysfunctional Family/Marital	Poor communications, significant conflict (parent-child or spouse-spouse), criminal involvement and lack of appropriate behavioral expectations and rules regarding anti-social behavior.	Reduce conflict, build positive relationships, enhance monitoring and supervision. e.g., family counseling, parenting classes, DV treatment.
Education/ Employment	Low levels of performance and involvement and low levels of rewards and satisfactions.	Enhance performance, involvement, and rewards and satisfaction. e.g., vocational counseling, work force center, GED.
Leisure/ Recreation	Low levels of involvement and satisfactions in pro-social leisure pursuits.	Enhance involvement in pro-social activities and rewards and satisfaction. e.g., recreation center, community center activities.
Alcohol/Drug Problems	Continued use despite significant life disruptions, increased tolerance to drugs/alcohol, increased use over time, inability to stop use.	Reduce substance abuse, reduce the personal and interpersonal supports for substance-oriented behavior, enhance alternatives to substance abuse. e.g., substance abuse treatment, addiction support groups, substance monitoring.
Stability	**Indicators**	**Intervention**
Financial	Inability to meet financial obligations with legal income. May rely on social assistance. Income sources may be from anti-social or criminal means.	Although not directly related to recidivism, stability factors can interfere with a person's ability to be successful in the community. Probation officers should assess offenders' stability factors prior to release from custody and while in the community and include action steps in the case plan that address any concerns that may be an impediment to offenders' ability to lead stable lives in the community.
Accommodations	Lack of stable, comfortable residence, frequent address changes, living in high crime neighborhood.	
Emotional/Personal	Mental health issues that interfere with a person's ability to respond to stressors-may be moderate (e.g., mild anxiety or mild depression) too severe (e.g., hallucinations, delusional thinking, suicidal ideation).	

Andrews, D.A. Bonta, James (2010). Psychology of Criminal Conduct, 5th Ed., 58-59. The Carey Group, "Criminogenic Need Preferred Response Guidelines." Carey, Mark (2010). "Coaching Packet: Effective Case Management."

Use of Risk and Needs Assessment Information at Sentencing: 7th Judicial District, Idaho

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RESEARCH DIVISION
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December 2013

Center for Sentencing Initiatives

This report was produced by the National Center for State Courts' Center for Sentencing Initiatives (CSI). CSI conducts research, provides information and tools, offers education and technical assistance, facilitates cross-state learning and collaboration, and works closely with the Conference of Chief Justices and the Conference of State Court Administrators to implement their resolution In Support of Sentencing Practices that Promote Public Safety and Reduce Recidivism. To learn more about CSI, visit www.ncsc.org/csi

I. About this Report

In August 2011, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution recommending that "offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism."[1] The resolution noted that supervision and treatment decisions informed by valid and reliable offender risk and needs assessment (RNA) information is a critical component of effective strategies to reduce recidivism.

This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how some stakeholders are incorporating the

[1] Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx).

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the 7th Judicial District criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.[2]

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

II. Offenders Assessed

In Idaho's 7th Judicial District, the court orders a presentence investigation (PSI) for all felony cases in which the defendant has pled or been found guilty. Although rare, a PSI may also be ordered for adult misdemeanor cases at the discretion of the court. PSIs are conducted by the probation department and include an offender risk and needs assessment (RNA). RNA information is not provided to inform plea negotiations.

III. Assessment Process

Idaho uses the Level of Service Inventory-Revised (LSI-R) instrument to assess risk factors for recidivism and inform supervision resource decisions for those on probation or parole.[3] The LSI-R consists of 54 questions grouped into 10 domains and is administered through a structured interview with the offender. Originally adopted for use with specialty drug and mental health courts in the state, the Department of Correction expanded the use of the LSI-R assessment in 2002 to all felony offenders statewide.[4] Representatives from the 7th Judicial District indicated that the LSI-R has been validated for use with the statewide adult probation population.

Dedicated presentence investigators in the Bureau of Probation and Parole administer the LSI-R and write the PSI report. Probation officers and presentence investigators must complete an LSI-R certification and must recertify every two

[2] District 7 is comprised of Bingham, Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton counties. In addition to a judge, probation officer, prosecutor, and public defender, a trial court administrator from this jurisdiction participated in interviews.

[3] The LSI-R is one of a family of commercially available Level of Service Inventory instruments and is offered by Multi-Health Systems, Inc. (MHS). For more information, refer to the MHS website at: http://www.mhs.com/product.aspx?gr=saf&prod=lsi-r&id=overview.

[4] In 2001, Idaho passed legislation (Idaho Statute § 19-5606) that called for the establishment of drug and mental health courts, as well as the development of guidelines for the use of screening and assessment tools for the newly established courts.

years to conduct the assessment. The presentence investigator will not override the LSI-R score in the PSI report; judges receive the original assessment results. However, when considering supervision level after sentencing, probationers with certain qualifying offenses (e.g., sex offenses, violent offenses) who score low on the LSI-R will be reclassified as moderate or high by a supervisor or district manager in accordance with statewide policies.

If a revocation hearing is scheduled, a new LSI-R may be conducted by the supervising probation officer, although this is not currently required by the court and occurs infrequently in practice. Some judges have recently started requesting updated LSI-Rs when considering petitions for early discharge from probation.

In addition to the LSI-R, presentence investigators also administer the Global Appraisal of Individual Needs-Initial (GAIN-I) as a screening tool for mental health and substance abuse on every felony offender.[5] The GAIN-I is a standardized biopsychosocial tool used for diagnosis, placement, and treatment planning.[6] If the GAIN-I reveals need for further assessment, the Department of Health and Welfare conducts a comprehensive clinical assessment for inclusion in the PSI report.

Standard operating procedure for those convicted of a felony sex offense calls for additional screening with two specialized sex offender risk assessments, the Static -99 and Stable-2007. PSI reports include results from these assessments. Sex offenders are supervised by a dedicated probation unit when placed in community supervision.[7]

IV. Assessment Report

Idaho recently changed the format of the standard PSI report and is in the process of pilot testing the new format in the 7th District. Stakeholders indicated that defendant assessment information was not easily found or referenced in the old PSI report, which focused primarily on criminal history information and embedded offender risk assessment information in a lengthy narrative without providing actual scores. The new PSI report more clearly identifies the defendant's LSI-R risk scores and levels overall and separately by subscale.In addition, unlike the old PSI report which required a separate order from the judge to obtain specialized assessment information for a defendant, the new report includes mental health and substance abuse assessment information in every case for which a PSI is conducted (see example in Appendix A).

The new PSI report also provides judges with information about the range of sentences ordered in similar cases across the state. A separate section outlines sentences used by other judges for similar offense types by defendants of a similar age and criminal history. This information is

[5] See Idaho Statute § 19-2524 for more information on the consideration of behavioral health needs of offenders.

[6] The GAIN has developed into a family of instruments with multiple measures used to inform and track treatment practices. More information is available at: http://www.gaincc.org/about-gain

[7] The Idaho Department of Corrections has specific policies on the management and supervision of sex offenders outlined in Standard Operating Procedure 701.04.02.006. More information is available at: http://www.idoc.idaho.gov/content/policy/535

provided in lieu of sentencing guidelines, which are not used in Idaho.

At the end of the report, presentence investigators provide sentencing recommendations based on all the information in the report – e.g., the offender's criminal history, face-to-face interview with the offender, prior treatments, as well as the RNA information. The investigator may recommend an unspecified period of incarceration, retained jurisdiction, or probation. The report may also include recommendations for conditions of probation—based on considerations of the availability and appropriateness of treatment options to address the offender's needs—should the judge determine probation to be the appropriate sentence.

In 2012, 4,741 presentence investigation reports were provided to the courts statewide.[8]

V. Use of Assessment Information

General reception. When first introduced in the 7th District for use with the general adult felony population, the local defense bar expressed some concern that LSI-R information would be used incorrectly, resulting in more or longer prison sentences for defendants than might occur following business-as-usual sentencing practices. Over the years, using the LSI-R and other assessment tools in problem-solving courts and through other hands-on experience, the culture of the district evolved to accept and expect RNA information as part of the sentencing process. Stakeholders seem to generally agree that having information on the defendant's risk and needs enables the criminal justice system to divert offenders from prison who can be appropriately managed in the community and to craft conditions of probation that better address offender risk factors for recidivism.

Practical use of RNA information among stakeholders. In the 7th Judicial District, five district judges use LSI-R results in PSI reports to inform decision-making about the conditions of probation, if they decide to grant probation. They view the tool as a way to help them meet their statutory requirement to consider probation as a first option when sentencing. The degree to which RNA information is used in practice, however, varies from judge to judge.

When considering probation conditions, judges typically rule in accordance with the recommendations of probation. Exceptions may occur in cases for which a plea agreement has been reached. The subsequent PSI report may reveal additional information about the case or offender that may not have been previously available to the attorneys. In these cases, the judge may decide whether to deviate from the sentencing-related provisions of the plea agreement, which in most cases are non-binding, or reject the plea agreement in those rare instances in which the sentencing-related provisions are binding.

No dedicated LSI-R training has been provided to the defense bar or prosecutors. Many of these stakeholders are involved with problem-solving courts and their familiarity with the LSI-R has come from problem-solving court training or hands-on experience.

[8] For more information, see the Idaho Department of Correction Annual Report at http://www.idoc.idaho.gov/content/document/annual_report_fy12.

VI. Outcomes Tracked

Idaho has faced prison population growth over the past six years, with the felony inmate population growing 6.8% in fiscal year 2012. A July 2013 statewide study of all offenders completing sentences between January 2008 and January 2011 found an overall recidivism rate (defined by the Research Unit of the Idaho Department of Correction as a return to prison within three years of release into the community) of 35%.[9] In addition to efforts to use RNA information to divert low-level offenders and offenders who can be effectively managed in the community from prison, several other focused methods have been introduced in Idaho to manage the rising adult offender population, such as the use of alternative sanctions for managing probation violations and an expansion of specialty problem-solving courts.

The Corrections Integrated System houses outcome data statewide. This information is not currently tracked by district nor by offender risk level. However, stakeholders shared that efforts to collect more and better quality data on recidivism by risk level are underway as Idaho works to implement a new statewide case management system. In a 2012 Performance Measure Report, the Idaho Department of Correction introduced a new performance measure to gauge the effectiveness of community treatment programs on reducing offender risk levels, paving the way for future evaluation work in this area. [10]

[9] The report is available at http://www.idoc.idaho.gov/content/document/annual_report_fy12.

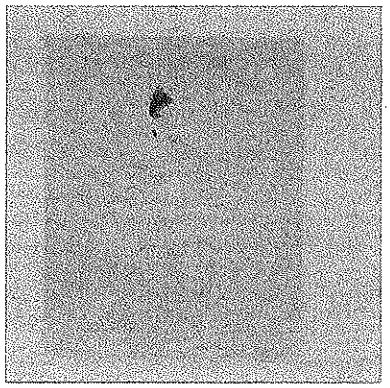
[10] The report is available at http://www.idoc.idaho.gov/content/document/fy12_performance_measures.

PRESENTENCE REPORT

THE STATE OF IDAHO		**Date of Report:**	08/13/2013
	Plaintiff	**Judicial District:**	JUDICIAL DISTRICT 4
vs		**Judge:**	OWEN, PATRICK H.
[redacted]		**Defense:**	GATEWOOD, SCOTT 336-1145 BOISE
	Defendant	**Prosecutor:**	MEDEMA, JONATHAN
Offender #: [redacted] **Investigation #:** [redacted]		**Sentence Date:**	08/21/2013

PRESENT CRIME INFORMATION: - Multiple court cases and/or offenses, see page two for details

DOCKET NO:	CRFE13-4640	COUNTY:	ADA
TYPE:	FELONY	NUMBER OF COUNTS:	1
CRIME:	BURGLARY		
PLEA AGREEMENT:	Plea agreement per Order for Presentence Investigation (PSI): Count II amended to misdemeanor Assault, dismiss Count III (Use of Deadly Weapon);10-year (3+7) prison term with the Court retaining jurisdiction (Rider); no contact with victim; mental health evaluation pursuant to Idaho Code 19-2524.		



IDENTIFYING DATA:

DOB	SSN	SID	FBI
[redacted]	[redacted]	[redacted]	[redacted]

AGE:	26	GENDER:	MALE
HEIGHT:	5 ' 10"	WEIGHT:	140 lbs.
HAIR COLOR:	BLOND OR STRAWBERRY		
COMPLEXION:	FAIR		
EYE COLOR:	HAZEL	GLASSES/ CONTACTS:	NONE
DEXTERITY:	RIGHT	RACE:	WHITE
PLACE OF BIRTH:	SALT LAKE CITY, UTAH		
CITIZENSHIP:	UNITED STATES		
MARITAL STATUS:	DIVORCED		

PRESENTENCE REPORT

THE STATE OF IDAHO		**Date of Report:**	08/13/2013
	Plaintiff	**Judicial District:**	JUDICIAL DISTRICT 4
vs		**Judge:**	OWEN, PATRICK H.
[redacted]		**Defense:**	GATEWOOD, SCOTT 336-1145 BOISE
	Defendant	**Prosecutor:**	MEDEMA, JONATHAN
Offender #: [redacted] **Investigation #:** [redacted]		**Sentence Date:**	08/21/2013

PRESENT CRIME INFORMATION:

DOCKET NO:	CRFE13-4640	COUNTY:	ADA
TYPE:	FELONY	NUMBER OF COUNTS:	1
CRIME:	BURGLARY		
CO-DEFENDANTS:	NONE		
PLEA AGREEMENT:	Plea agreement per Order for Presentence Investigation (PSI): Count II amended to misdemeanor Assault, dismiss Count III (Use of Deadly Weapon);10-year (3+7) prison term with the Court retaining jurisdiction (Rider); no contact with victim; mental health evaluation pursuant to Idaho Code 19-2524.		

DOCKET NO:	CRFE13-4640	COUNTY:	ADA
TYPE:	MISDEMEANOR	NUMBER OF COUNTS:	1
CRIME:	ASSAULT (MSD)		
CO-DEFENDANTS:	NONE		

IDENTIFYING DATA:

DOB	SSN	SID	FBI
05/27/1987	[redacted]	[redacted]	[redacted]

AGE:	26	GENDER:	MALE
HEIGHT:	5 ' 10"	WEIGHT:	140 lbs.
HAIR COLOR:	BLOND OR STRAWBERRY		
COMPLEXION:	FAIR		
EYE COLOR:	HAZEL	GLASSES/ CONTACTS:	NONE
DEXTERITY:	RIGHT	RACE:	WHITE
PLACE OF BIRTH:	SALT LAKE CITY, UTAH		
CITIZENSHIP:	UNITED STATES		
MARITAL STATUS:	DIVORCED		

ALIASES: [redacted] **ALIAS DOB:** **ALIAS SSN:**

SCARS/MARKS/TATTOOS:

TYPE: TATTOO BACK
DESCRIPTION: AIRBORNE RANGER PARACHUTE

TYPE: TATTOO R ARM UPPER
DESCRIPTION: DAUGHTER'S NAME

TYPE: TATTOO R ARM
DESCRIPTION: ARMY CROSS

TYPE: TATTOO L ARM
DESCRIPTION: "HEARTAGRAM"

OFFICIAL VERSION:

Law enforcement reports are attached for the Court's full review. Briefly, they indicate that on 4/5/13 this defendant entered the Boise State University (BSU) bookstore with the intent to steal books. When he attempted to leave the store with books, store employees [redacted] and [redacted] confronted him. The defendant reportedly handed back the books to [redacted] then turned and pulled out a knife, and pointed the blade at [redacted] before leaving the store on foot. Boise Police caught up with him pretty quickly and apprehended him.

VICTIM'S STATEMENT:

I left several messages for [redacted] at the number the State provided for her, and at the BSU bookstore, but as of this writing she had not communicated with me. If she provides any comments she wants the Court to consider, I shall forward them to the Court and counsel.

RESTITUTION AND/OR ABILITY TO PAY FINE:

As of this writing, I had not received a restitution account history in this case.

DEFENDANT'S VERSION:

Typed Verbatim from the Presentence Investigation Questionnaire:

"I went into the Boise State bookstore with the intend (sic) to steal text books. When I got there I walked around the store looking at text books to steal. I pick up (sic) four text books and headed out the other side of the store. I was half way out the store with them when I was confronted by a employe (sic) there. She asked me if I paid for these and I told her yes and she asked if I had a recpeit (sic). At that point she told me that I needed to come with her and that the police would be called. At that time I pulled out a knife and pointed towards her and said 'Do you really wanna do that.' I realized what I had done, I put the knife away and ran away from the bookstore."

When asked how he feels now about having committed the crime, [redacted] wrote (typed verbatim) "I feel really disapointed (sic) in myself. I would never ment (sic) to hurt anyone."

PRIOR RECORD:

CRIME:	MINOR IN POSSESSION OF TOBACCO		
DATE:	01/06/2005	TYPE:	MISDEMEANOR
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	CRMD05-739		
DISPO DATE:	05/24/2005	JUVENILE:	N
DISPOSITION:	FINE AND COSTS $90.50		
VERIFIED:	ISTARS		

CRIME:	I: POSSESSION OF CONTROLLED SUBSTANCE II: DRUG PARAPHERNALIA POSSESSION III: CARRYING CONCEALED WEAPON IV: FREQUENTING A PLACE WHERE CONTROLLED SUBSTANCES ARE USED		
DATE:	03/02/2005	TYPE:	MISDEMEANOR
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	JV05-455		
DISPO DATE:	07/07/2005	JUVENILE:	Y
DISPOSITION:	I-III: TRUE DISPOSITION; PROBATION IV: DISMISSED		
VERIFIED:	ISTARS		

CRIME:	RUNAWAY		
DATE:	06/08/2005	TYPE:	MISDEMEANOR
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	JV05-1374		
DISPO DATE:	07/07/2005	JUVENILE:	Y
DISPOSITION:	TRUE DISPOSITION; PROBATION		
VERIFIED:	ISTARS		

CRIME:	I: PETIT THEFT II: PROBATION VIOLATION		
DATE:	11/03/2009	TYPE:	MISDEMEANOR
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	CRMD09-21146		
DISPO DATE:	12/28/2009	JUVENILE:	N
DISPOSITION:	I: FINE AND COSTS $361.50 [STILL DUE]; 1 YEAR UNSUPERVISED PROBATION II: DISMISSED		
VERIFIED:	ISTARS		

CRIME: I: BURGLARY (F) II: PETIT THEFT III-IV: PROBATION VIOLATIONS

DATE:	11/12/2010	TYPE:	MISDEMEANOR
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	CRFE10-19611		
DISPO DATE:	12/06/2010	JUVENILE:	N
DISPOSITION:	I: DISMISSED II: FINE AND COSTS $811.50 [STILL DUE] III: GUILTY IV: PENDING		
VERIFIED:	ISTARS		

CRIME:	I: PETIT THEFT II: PROBATION VIOLATION		
DATE:	09/11/2012	TYPE:	MISDEMEANOR
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	CRMD12-14176		
DISPO DATE:	12/10/2012	JUVENILE:	N
DISPOSITION:	I: FINE AND COSTS $402.50 [STILL DUE]; JAIL; 1 YEAR PROBATION II: GUILTY		
VERIFIED:	ISTARS		

CRIME:	I: PETIT THEFT II: PROBATION VIOLATION		
DATE:	01/10/2013	TYPE:	MISDEMEANOR
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	CRMD13-787		
DISPO DATE:	03/01/2013	JUVENILE:	N
DISPOSITION:	I: JAIL; 1 YEAR PROBATION II: PENDING, WARRANT ISSUED 4/30		
VERIFIED:	ISTARS		

CRIME:	I: PUBLIC INTOXICATION II: RESISTING ARREST		
DATE:	02/17/2013	TYPE:	MISDEMEANOR
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	CRME13-2427		
DISPO DATE:	04/09/2013	JUVENILE:	N
DISPOSITION:	JAIL, BOTH COUNTS		
VERIFIED:	ISTARS		

CRIME:	PETIT THEFT		
DATE:	03/13/2013	TYPE:	MISDEMEANOR
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	CRMD13-5771		
DISPO DATE:	06/03/2013	JUVENILE:	N
DISPOSITION:	FINE AND COSTS $152.50 [STILL DUE]; JAIL; 18 MONTHS UNSUPERVISED PROBATION		
VERIFIED:	ISTARS		

CRIME:	I: BURGLARY II: ASSAULT - AMENDED FROM AGGRAVATED ASSAULT (F) III: ENHANCEMENT-USE OF A DEADLY WEAPON IN COMMISSION OF A FELONY

DATE:	04/05/2013	TYPE:	FELONY
DEPARTMENT:	BOISE POLICE	STATE:	ID
COURT CASE #:	CRFE13-4640		
DISPO DATE:	08/16/2013	JUVENILE:	N
DISPOSITION:	I-II: INSTANT OFFENSES III: TO BE DISMISSED		
VERIFIED:	ISTARS		

PRIOR RECORD COMMENTS:

In addition to the above record, the defendant had one (1) Valley and two (2) Cassia County traffic infraction convictions, and Idaho Department of Transportation records showed his driver's license (ZE318815J) expired in 2008.

I sought comments from the defendant's misdemeanor probation officer, [redacted], who was out of the office and unavailable. Another staff member provided the defendant's case notes, which indicated the defendant last appeared for an office appointment on 11/27/12. The defendant missed scheduled meetings on 1/7/13 and 1/10/13, and failed to appear for a probation violation hearing on 4/30/13, just prior to his committing the instant offense.

FAMILY HISTORY:

NAME:	[redacted]	RELATIONSHIP:	FATHER
ADDRESS:	[redacted]	AGE:	NOT REPORTED
NAME:	[redacted]	RELATIONSHIP:	MOTHER
ADDRESS:	[redacted]	AGE:	46
NAME:	[redacted]	RELATIONSHIP:	STEP-FATHER
ADDRESS:	[redacted]	AGE:	NOT REPORTED
NAME:	[redacted]	RELATIONSHIP:	STEP-BROTHER
ADDRESS:	[redacted]	AGE:	21
NAME:	[redacted]	RELATIONSHIP:	STEP-BROTHER
ADDRESS:	[redacted]	AGE:	16
NAME:	[redacted]	RELATIONSHIP:	HALF BROTHER
ADDRESS:	[redacted]	AGE:	7
NAME:	[redacted]	RELATIONSHIP:	SISTER

ADDRESS:	NONE SEOUL KOREA, REPUBLIC OF	AGE:	22
NAME:	[redacted]	RELATIONSHIP:	STEP-SISTER
ADDRESS:	NONE SEOUL KOREA, REPUBLIC OF	AGE:	18

SIGNIFICANT FAMILY INFORMATION COMMENTS:

Asked to provide a written statement regarding his/ childhood up to the point of leaving home, the defendant submitted the following, typed verbatim from the presentence questionnaire form:

"When I was 8 my parents divoriced (sic) and I would never see my real dad again. When that happened I held a lot of anger towards my mom, because I did not understand. Then my mom met a man named [redacted] I didn't care for him he was very abusive towards my mom and my sister and me. At age 12 he mesloted (sic) me when my mom was at work. I was embarrssed (sic). A little after that my mom divoriced (sic) [redacted] Then she met a man named [redacted] He seemed nice she was married to him till I was 17. At age 16 that's when I met my first wife and I stared to go down hill. My mom and I were fighting a lot. Finally I moved out at age 16 with [redacted] we stayed with her sister.then we moved to Burely (sic). Down there we split up and I moved back to my parents. I only stayed there for a bit till I moved out again. That time I had met a girl who is now the mother of my child. After a couple months go by and we are caught smoking weed. The courts made me return home. During the time that I am home I am on house arrest and [redacted] and I got into a fist fight because he didn't believe me on something. After that I spent two weeks in dention (sic) till I turned 18."

The defendant reported he has no knowledge of his birthfather's whereabouts. His mother lives in South Korea, but communicated with detectives early on in this case, as did one of her friends, [redacted] Their letters were included in the State's Discovery, and are appended.

As to the abuse the defendant suffered from his first stepfather, the defendant said the man was never prosecuted because he (defendant) "waited too long to tell."

INTERESTS AND ACTIVITIES:

Verbatim from the questionnaire form:

"watching my daughter. Reading. Working on cars, playing guitar."

The defendant listed no organizations he belongs to and denied any gang affiliation.

RESIDENCE HISTORY: NONE

RESIDENCE HISTORY COMMENTS:

As of his presentence interview, the defendant was incarcerated in the Ada County Jail. As of this writing, he had

been the subject of the attached jail topic reports. His post-incarceration plan was "to try to get into the Ship housing program. Or stay at the Mission till I can get a place."

RELATIONSHIPS:

NAME: [redacted] RELATIONSHIP: EX-WIFE
ADDRESS: [redacted] AGE: 34

NAME: [redacted] RELATIONSHIP: EX-GIRLFRIEND
ADDRESS: [redacted] AGE: NOT REPORTED

RELATIONSHIPS COMMENTS:

The defendant described his relationship with his ex-wife as "bad," describing [redacted] as a "two-faced" woman who "never took showers and never cleaned her house."

[redacted] the defendant stated, "we don't have the best relationship."

CHILDREN:

NAME: [redacted] RELATIONSHIP: DAUGHTER
ADDRESS: [redacted] AGE: 8

CHILDREN COMMENTS:

The defendant described his relationship with his daughter this way (verbatim): "I am not the best father, my ex wont let me see my daughter." The Idaho Child Support office advised that the defendant has a $146.00 monthly obligation, and is $9,898.62 in arrears.

EDUCATION:

GED GRANTED BY: [redacted]
GED: YES
VERIFY METHOD: TRANSCRIPT

LANGUAGE:

LANGUAGE:	READ:	SPEAK:	WRITE:	PRIMARY LANGUAGE:
ENGLISH	YES	YES	YES	YES

EDUCATION COMMENTS:

The defendant reported he completed through the 10th grade, and that he last attended Capital High School in May

2004. Attached please find his GED transcript, indicating he passed all subjects in 2010.

MILITARY:

SELECTIVE SERVICE: REGISTERED

MILITARY COMMENTS:

Selective Service Number:
[redacted]

Date of Registration
4/28/2005

EMPLOYMENT:

CURRENT EMPLOYER(S): NONE

PAST EMPLOYER(S): NONE

EMPLOYMENT CAPABILITIES/COMMENTS:

The defendant mentioned during our interview that he had short periods of employment in the past, at Taco Bell and Dairy Queen. He said "Jackson's" store was his longest employment, for about 10 months. He considers his marketable skills to be customer service, money management and leadership.

HEALTH: NONE

MEDICATIONS:

MEDICATION:	LITHIUM		
DESCRIPTION:	PTSD		
STATUS:	CURRENT	VERIFIED:	SELF-REPORTED
FREQUENCY OF USE:	1-2 TIMES DAILY		
MEDICATION:	VALIUM 5MG		
DESCRIPTION:	ANXIETY		
STATUS:	CURRENT	VERIFIED:	SELF-REPORTED
FREQUENCY OF USE:	1-2 TIMES DAILY		
MEDICATION:	PROZAC 40 MG		
DESCRIPTION:	DEPRESSION		
STATUS:	CURRENT	VERIFIED:	SELF-REPORTED
FREQUENCY OF USE:	1-2 TIMES DAILY		

PHYSICAL/MENTAL HEALTH COMMENTS:

[redacted] described his physical health as "Average." He listed allergies to Ibuprofen, and "NASID, Dexycilline." He reported he has had a "full mouth [dental] extraction" and is waiting to get dental implants. As to his mental health, he has had hospitalizations in 2013 at Intermountain (records attached) and reported he has attempted suicide three (3) times; involving at least once putting a gun to his head and pulling the trigger, but the gun jammed. The defendant is open to mental health counseling at this time.

NOTE: Pursuant to signed releases, Ada County Jail medical history is attached, as well as documentation related to the defendant's stays at Intermountain Hospital in 2013.

SUBSTANCE ABUSE:

SUBSTANCE:	MARIJUANA	AGE FIRST USED:	16
FREQUENCY:	1-2 TIMES DAILY	AMOUNT:	NOT PROVIDED
ROUTE:	SMOKE	LAST USED:	est. 12/05/2004
VERIFIED:	SELF-REPORTED		
SUBSTANCE:	PRESCRIPTION	AGE FIRST USED:	24
FREQUENCY:	5 OR MORE TIMES DAILY	AMOUNT:	"10 TABLETS DAILY"
ROUTE:	ORAL	LAST USED:	04/05/2013
VERIFIED:	SELF-REPORTED		

SUBSTANCE ABUSE COMMENTS:

The defendant reported he first drank alcohol at age 16 and, as of our interview, reported last using alcohol on 3/21/13. He did not feel alcohol was a problem in his life. Substance abuse assessment attached.

ECONOMIC STATUS:

ASSETS:

FIREARMS/WEAPONS		$1500.00
	TOTAL:	$1500.00
LIABILITIES:	NONE	
EXPENSES:		
ATTORNEY FEES		$3000.00
	TOTAL:	$3000.00
INCOME:	NONE	

FINANCIAL COMMENTS:

The defendant reported he was in the process of applying for Social Security Disability benefits.

VALUES AND OUTLOOK ON LIFE:

When asked to list those things that are important to him, the defendant wrote (typed verbatim): "I want to Stay out of trouble and go back to school so I can be a better person." He provided the following as his final written comments to the Court (typed verbatim): "I would like to say that I am sorry for what I did. I am not a voliet (sic) person. I need help with my ways of thinking. Also need help with controlling my anger."

TREATMENT PROGRAMS AND/OR OPTIONAL RECOMMENDATIONS:

ASSESSED FINDINGS AND RECOMMENDATIONS:
The purpose of completing a comprehensive risk and needs screening and or assessment is to determine the defendant's likelihood to re-offend. The intent is to consider the defendant's risk/needs and protective factors (strengths) areas in order to develop lasting interventions and qualified recommendations for appropriate placement options. In addition, if ordered and or available, psycho-sexual, mental health evaluations, and substance abuse evaluations will be summarized with full report findings attached as well as full LSIR and GAIN CORE Reports.

SUMMARY OF SCREENING/ASSESSMENT RESULTS:
LSIR (Level of Service Inventory Revised): Based on the findings of the LSIR, the following domain ranges represent [redacted] status as of this writing:

High/Very High Risk Domains have a LSIR score of .60 and above: FINANCIAL, LEISURE/RECREATION, COMPANIONS, EMOTIONAL/PERSONAL, ATTITUDE/ORIENTATION, CRIMINAL HISTORY, ACCOMMODATIONS, EDUCATION/EMPLOYMENT.

Moderate Risk Domains have a LSIR score of .40-.59: ALCOHOL/DRUGS, FAMILY/MARITAL.

TCU Drug Screen II: Page 1 of the TCU Drug Screen is scored as follows:

1. Give 1-point to each "yes" response to 1-9 (Questions 4 and 6 are worth one point each if a respondent answers "yes" to any portion).

2. The total score can range from 0 to 9; score values of 3 or greater indicate relatively severe drug-related problems, and correspond approximately to DSM drug dependence diagnosis.

3. Responses to Question 10 indicate which drug (or drugs) the respondent feels is primarily responsible for his or her drug-related problems.

[redacted] provided a self-score of five (5) on the TCU Drug Screen II and answered "Opiates" to Question 10.

GAIN CORE (Summary Substance Use Evaluation): Completed by [redacted] IDOC, full report

attached.

Diagnosis:
[redacted] meets criteria for Opioid Dependence and Cannabis Abuse and ASAM criteria for LEVEL III Residential Treatment..."

"Axis I-
304.00 Opioid Dependence w/Physiological Sx – In a Controlled Environment
305.20 Cannabis Abuse
296.90 Rule Out – Mood Disorder NOS
300.02 Rule Out -309.81 Posttraumatic Stress Disorder or 308.30 Acute Stress Disorder or other disorder of extreme stress
314.01 Rule Out-Attention Deficit Hyperactive Disorder-Combined Type

Axis II-
None reported

Axis III-
Rule Out – Major medical problems
Use of alcohol may exacerbate nervous system problems

Axis IV-
Weekly intoxication by others in living situation
Weekly substance use by others in living situation
Illegal activity in living situation
Arrested in the past 90 days
In jail, detention or prison in the past 90 days
Other legal system involvement: awaiting sentencing; in jail or prison
High lifetime history of traumatic victimization
Financially support self from illegal activity
Involved in illegal activity
Homelessness

Axis V-
No clinical ratings reported."

ASAM Treatment Recommendations:
"24-hour continuous intervention to shape behavior/skills; removal from a volatile and/or non-supportive living

environment; referral to vocational counseling; residential treatment."

Other Recommendations:
"Random drug and alcohol screenings; address history of narcotic abuse with any future medical providers; address suicide risk; transitional housing and funding; active participation in 12-step program of choice, such as NA or AA; and follow the recommendations of Health and Welfare's MH review.

Substance Abuse Comments: Please refer to comments regarding substance abuse made in an earlier section of the PSI Report.

Summary of Mental Health Evaluation: Completed by [redacted] LMSW, Idaho Department of Health and Welfare, full report attached.

Diagnosis:
"Axis I-Mood Disorder, NOS
Generalized Anxiety Disorder
Rule out Pose Traumatic Stress Disorder
Rule out Bipolar Disorder

Axis II-
Diagnosis Deferred

Axis III-
No Diagnosis on Axis III

Axis IV-
Problems with primary support group
Problems with social environment
Legal problems
Occupational Problems
Problems with access to medical services

Axis V-
Current GAF: 45; Highest GAF Past Year: 45"

Analysis of Degree of Mental Illness and Functional Impairment:
The Global Assessment of Functioning Scale is a 100-point scale that measures a patient's overall level of psychological, social, and occupational functioning on a hypothetical continuum.

[redacted] has a Global Assessment of Functioning (GAF) score of 45.

Individuals with a score of 45 typically display serious symptoms (e.g. suicidal ideation, severe obsessional rituals, frequent shoplifting) OR any serious impairment in social, occupational, or school functioning (e.g. no friends, unable to keep a job).

Risk:
"Considering the potential instability [redacted] could experience given his mental health and substance abuse problems, [redacted] does pose a low risk to the public at Large. He poses a moderate risk in term of committing non-violent crimes such as burglary. This risk could be lowered if [redacted] is actively engaged in appropriate treatment."

Treatment Recommendations:
[redacted] strengths include his expressed remorse over his behavior and desire to change his life. [redacted] is willing to participate in substance abuse, mental health treatment, and job training."

Mental Health Comments: Please refer to comments regarding mental health made in an earlier section of the PSI Report.

SENTENCING DATABASE INFORMATION:
Since 2006, statistics have been compiled regarding sentencing trends in Idaho. Utilizing this research, there were a total of 221 offenders matching the defendant's information: between the ages of 21 and 31, male, with the current offense of Burglary, with three or more prior convictions, and a High/Very High LSIR score.

Of these 221 offenders, eighty-four (84) were sentenced to probation with the minimum median sentence of two (2) years and the maximum median sentence of five (5) years. Ninety-eight (98) offenders were sentenced to Retained Jurisdiction with the minimum median sentence of 2 years and the maximum median sentence of seven (7)years. Thirty-nine (39) offenders were sentenced to Term with the minimum median sentence of 2 years and the maximum median sentence of eight (8) years.

INVESTIGATOR'S COMMENTS AND ANALYSIS OF DEFENDANT'S CONDITION:

26-year-old [redacted] is before the Court for sentencing, having pled guilty to felony Burglary and misdemeanor Assault. Pursuant to Idaho Code 19-5501, all felony cases sentenced after 7/1/13 require DNA sample and thumb print collection.

[redacted] prior record consisted of juvenile convictions for Runaway and Drug Possession, as well as multiple adult Petit Thefts, Public Intoxication and Resisting Arrest. The State previously charged him with Burglary, in 2010, but ultimately dismissed the charge. As of this writing, he had a misdemeanor Probation Violation pending.

[redacted] was incarcerated throughout the presentence process. He submitted a completed questionnaire form as requested and participated in a jail video visit, during which he was polite and appropriate.

As noted, his LSIR, self-scored TCU, and GAIN CORE assessment scores all highlight the defendant's need for long-term substance abuse and mental health treatment. As of this writing, he was unlicensed and unemployed, with no stable residence and virtually no local support system.

Based on the level of assessed need and risk, and other protective factors as discussed above, [redacted] appears to be an appropriate candidate for an order of retained jurisdiction. If a retained jurisdiction is ordered by the Court, based on the recognized criteria, the defendant may be best served completing a CAPP or TC program to address assessed criminogenic needs. The recommendation for the CAPP or TC program would still need to be confirmed by IDOC Receiving and Diagnostic Unit (RDU) staff prior to placement.

COLLATERAL CONTACTS:

Federal Bureau of Investigation; Criminal Identification Bureau; National Crime Information Center; Drivers Services; Ada County Prosecuting Attorney's Office; File Material; all other contacts are reflected in this report.

Respectfully submitted,

_____

[redacted]

PRESENTENCE INVESTIGATOR

[redacted]

Approved: _____

[redacted]

cc: [redacted] Prosecuting Attorney
[redacted] Defense Attorney
File

IMPORTANT NOTE: THIS DOCUMENT IS TO BE PROTECTED IN ACCORDANCE WITH IDAHO CRIMINAL [COURT] RULE 32 AND ALL APPLICABLE STATE OF IDAHO CODE PERTAINING TO PRESENTENCE INVESTIGATION REPORTS.

Use of Risk and Needs Assessment Information at Sentencing: Grant County, Indiana

CENTER FOR SENTENCING INITIATIVES
RESEARCH DIVISION
NATIONAL CENTER FOR STATE COURTS

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Center for Sentencing Initiatives

This report was produced by the National Center for State Courts' Center for Sentencing Initiatives (CSI). CSI conducts research, provides information and tools, offers education and technical assistance, facilitates cross-state learning and collaboration, and works closely with the Conference of Chief Justices and the Conference of State Court Administrators to implement their resolution In Support of Sentencing Practices that Promote Public Safety and Reduce Recidivism. To learn more about CSI, visit www.ncsc.org/csi

I. About this Report

In August 2011, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution recommending that "offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism."[1] The resolution noted that supervision and treatment decisions informed by valid and reliable offender risk and needs assessment (RNA) information is a critical component of effective strategies to reduce recidivism.

This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how some stakeholders are incorporating the

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[1] Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx).

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the Grant County criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.[2]

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

II. Offenders Assessed

Probation officers in the Grant County Correctional Services division conduct a full offender risk and needs assessment (RNA) as part of the Presentence Investigation (PSI) reporting process. Cases involving a level A, B, or C felony require a PSI report; for D-level felonies, PSI reports are discretionary and in practice are often waived. PSI reports are not provided for misdemeanors or during plea negotiations.

In Grant County, probation caseloads are divided by risk level. Each probation officer oversees a caseload dedicated to the supervision of offenders with the same level of risk. If the court does not order a PSI report, probation officers still complete a full RNA for every offender, once placed on community supervision, to assign an appropriate supervising probation officer and to inform case planning efforts.

III. Assessment Process

Grant County began using an offender risk and needs assessment tool in 2001, when they adopted the Level of Service Inventory-Revised (LSI-R).[3] Grant County probation officers used the LSI-R until 2011, when the state transitioned to a new standard tool called the Indiana Risk Assessment System (IRAS).[4] With a technical assistance grant from the National Institute of Corrections (NIC), the Indiana Judicial Center and Department of Corrections partnered with researchers from the University of Cincinnati Corrections Institute to develop and help implement the IRAS, an adaptation of the Ohio Risk Assessment System

[2] NCSC interviewed a Grant County judge, probation officer, prosecutor and defense attorney.

[3] Developed by Don Andrews and James Bonta in 1995, the LSI-R is a commercially available risk and needs assessment tool comprised of 54 items across 10 subscales. For more information about the LSI-R, refer to the Multi-Health Systems, Inc. website at: http://www.mhs.com/product.aspx?gr=saf&prod=lsi-r&id=overview.

[4] The IRAS may be found at: http://nicic.gov/Library/027571. For additional information about the statewide initiative, see: http://indianacourts.us/times/2011/04/risk-assessment/.

(ORAS).[5] The IRAS, comprised of separate assessment tools designed for use at different stages of the criminal justice process (pretrial, community supervision, prison intake, and reentry), assesses offender recidivism risk and criminogenic needs.[6] A statewide validation study is currently underway.

On rare occasions, probation officers may override the IRAS risk level. PSI reports display the original score, but the adjusted risk level appears with a statement explaining the override. Probation officers reassess community-supervised offenders on the IRAS at twelve month intervals for the duration of their probation term.

Grant County stakeholders view the LSI-R and the IRAS as generally similar, but indicated that the LSI-R flagged substance abuse needs at a higher rate than the IRAS. To address this perceived gap locally, Grant County probation officers supplement the IRAS with the Substance Abuse Subtle Screening Inventory (SASSI), a specialized substance abuse assessment tool. [7]

In addition to the SASSI, the Grant County Correctional Services division uses a number of other supplementary assessment instruments. In every case for which a PSI report is ordered, probation officers use the SASSI and the Criminal Thinking Scale (CTS). The CTS is a specialized criminal thinking assessment developed by Texas Christian University (TCU) professor Kevin Knight to capture dimensions of criminal thinking such as entitlement, justification, personal irresponsibility, power orientation, cold heartedness, and criminal rationalization.[8] In sex offense cases, probation officers also complete the Static - 99, a 10-item actuarial risk assessment instrument developed by Karl Hanson and David Thornton in 1999 for use with adult male sex offenders. In problem-solving court cases, the locally developed Housing, Employment and Family Function (HEFF) assessment, the Mental Health Screening Form III (MHSF-III), and the Beck Depression and Anxiety Inventories may also be administered to the offender, but results from these assessments do not appear in typical PSI reports.

IV. Assessment Report

Prior to adoption of the IRAS, Grant County used a PSI report that contained a narrative offender RNA section describing the offender's LSI-R risk level (low, moderate, or high risk) and any offender needs identified by the tool. A new PSI reporting standard, mandated for use in all counties statewide, was developed in conjunction with the IRAS. The new report format describes the offender's risk level on the IRAS and the offender's need level by

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[5] The University of Cincinnati Center for Criminal Justice Research (CCJR) developed the ORAS in 2009 and offer similar services to other states and jurisdictions with interest in adapting the system. For more about the risk assessment services available, see the CCJR website: http://www.uc.edu/corrections/services/risk-assessment.html.

[6] The IRAS includes a separate assessment for each of the four identified stages of the criminal justice process, as well as a short screener tool designed for use at the community supervision stage to trigger a full version of the risk and needs assessment.

[7] Additional information on the SASSI instrument can be found at http://www.sassi.com/.

[8] To access the CTS and other assessments developed by researchers at the Texas Christian University Institute of Behavioral Research, see http://www.ibr.tcu.edu/pubs/datacoll/cjtrt.html.

domain in narrative format (see Appendix).[9] The IRAS domain levels also appear in a summary bar graph.

In addition, the new Indiana PSI report includes a section that captures any complementary assessment information, which in Grant County includes a narrative description of results from the SASSI and the CTS. Probation officers also make case plan and sentencing recommendations in the final section of PSI reports. Their recommendations include whether or not a person can be successfully supervised in the community, the sentence length (executed and suspended), length of probation, and the types of programming to address the offender's identified needs. Judges also receive, attached to the PSI report, copies of the offender's summary assessment results and the proposed case plan. Some judges also request copies of the hand-scored IRAS, SASSI, and/or CTS instruments to permit an itemized review.

In 2012, Grant County probation officers provided approximately 160 PSI reports to the court.

V. Use of Assessment Information

General reception. The use of evidence-based sentencing practices in Grant County began in 1999 or 2000 with stakeholder participation in a three-day "What Works" training event on effective recidivism reduction and prevention hosted by the Indiana Department of Corrections. Teams from five Indiana counties, including Grant County, attended the event.[10] Each team developed a holistic evidence-based implementation plan as part of the event.[11] Grant County representatives implemented their plan in 2001 and have continued to update the original plan as the effort has evolved.

Initially, some Grant County stakeholders were more receptive to the use of evidence-based practices than others. Some thought that the introduction of "What Works" concepts provided an invaluable framework for guiding efforts to make more informed decisions about how to better manage offenders. Others expressed concerns about applying results based on general predictors of recidivism in individualized decisions about offenders. Local stakeholders initially resistant to the use of RNA information appear to be more supportive of the initiative now, in part because of opportunities to openly discuss these concerns and in part because of subsequent trainings that all stakeholders have received on the appropriate uses of the tool and the limitations of the science.[12] A local criminal justice stakeholder group meets routinely to discuss issues and concerns about the use of RNA information as they arise.

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[9] In addition to the body report, appended case plan, and appended IRAS-CST scoring sheet as seen in the Appendix example, scoring sheets from other proprietary offender assessments used (such as the SASSI) are appended to the Grant County PSR as appropriate.

[10] Grant County representatives included the Community Corrections Director, two judges, a defense attorney, and the county prosecutor.

[11] After the conference, Grant County officials focused on developing comprehensive programs and research-based curricula with treatment providers, motivational interviewing, and other principles of effective intervention.

[12] The Indiana Judicial Center has sponsored trainings on risk and needs assessment since the adoption of the IRAS. These included a dedicated training event with attorneys when Grant County shifted from the LSI-R to the IRAS and rolled out the new PSI reporting format.

Although Grant County stakeholders appear to support the use of the IRAS as a valid assessment instrument, some skepticism has been shared regarding assessment reliability. Some local stakeholders expressed the concern that two similarly trained probation officers may not score an offender the same way on an assessment. This concern was voiced more in relation to assessments completed by probation officers in other counties, who may be relatively new to conducting RNAs, compared to the quality assessments conducted by local probation officers.[13] Indiana has taken a step to help achieve greater consistency in assessment scoring statewide by requiring that all probation officers successfully complete an IRAS certification before they are permitted to conduct an assessment on an offender. They must also successfully recertify every other year to continue to administer the IRAS. In addition to these state-level efforts, the Grant County Correctional Services division recently hired a full time staff person dedicated to the topic of evidence-based practices, including issues around effective implementation, staff skill building, and quality assurance. Grant County stakeholders envision that the role of this new position will include efforts to monitor the inter-rater reliability of local IRAS administrators.

Practical use of RNA information among stakeholders. All stakeholders interviewed for this report indicated that RNA information can be useful in the sentencing process. Judges typically approve the proposed probation case plan, but may sometimes diverge from probation recommendations regarding imposition and length of imprisonment. Four judges in Grant County receive PSI reports.

For cases in which a plea agreement has been reached, the parties submit the plea agreement to the court, and a PSI report is ordered. The Grant County probation officer will provide a recommendation in the PSI report to accept or reject the plea agreement. At the sentencing hearing, the completed PSI report informs the court's decision regarding acceptance of the plea agreement. If the plea agreement is accepted, the judge crafts a sentence within the parameters of the agreement. Prosecutors and defense attorneys generally leave plea agreements open-ended to allow for the probation department's case plan recommendations. This lowers the number of rejected plea agreements because of potential mismatches between programming agreed upon by counsel in the case and the RNA-informed recommendations of the probation department.

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[13] Prior to the IRAS, the use of RNA information was not mandatory statewide. However, Grant County probation officers had been administering some form of a RNA tool for well over a decade. Empirical evidence suggests that both the length of time a particular RNA tool has been used by an agency and the provision of formal training to staff charged with administering the RNA tool have significant implications for assessment accuracy. See, for example, Flores, A. W., Lowenkamp, C. T., Holsinger, A. M., & Latessa, E. J. (2006). Predicting outcome with the Level of Service Inventory-Revised: The importance of implementation integrity. *Journal of Criminal Justice, 34,* 523–529. See also Lowenkamp, C. T., Latessa, E. J., & Holsinger, A. M. (2004). Empirical evidence on the importance of training and experience in using the Level of Service Inventory–Revised. In National Institute of Corrections (Series Ed.), Topics in Community Corrections: Assessment issues for managers (pp. 49-53). Washington, DC: National Institute of Corrections.

VI. Outcomes Tracked

The Supreme Court's Indiana Court Information Technology Extranet (INcite) hosts an automated application designed to electronically score the IRAS tools and store completed IRAS data statewide. Statewide data on each of the IRAS tools are analyzed to inform legislative reviews and revisions of the criminal code. The INcite system interface allows assessment data to be exported into the local case management system. Grant County began entering assessment data into INcite in 2011. As part of the National Institute of Corrections (NIC) evidence-based decision making (EBDM) project, Grant County is also in the process of developing a local dashboard to track outcome measures. [14]

In addition, the Indiana Judicial Branch's Division of State Court Administration compiles annual reports on probation activities for general distribution. These annual probation reports include statewide and county summary information such as case data on the number of felony and misdemeanor probation cases supervised and disposed (by method of disposition), the proportion of felony and misdemeanor probationers by supervision level, and the number of adult presentence investigations conducted by case type.[15] The Grant County problem-solving courts (Drug Court, Re-entry Court, Veterans Treatment Court) also reportedly receive detailed statistical information at minimum every six months, which includes the recidivism rates of problem-solving court participants by risk level. However, this level of detail is not currently available on the broader adult probation population.

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[14] NIC partnered with the Office of Justice Programs to select seven sites, including Grant County, to implement the framework entitled *A Framework for Evidence-Based Decision Making in Local Court Systems*. This framework lays out strategies for applying evidence-based decision making principles and techniques with the goal of risk and harm reduction. Additional information on the project can be found at http://nicic.gov/EBDM. Additional information about Grant County's involvement in the EBDM project may be found at http://ebdmoneless.org/ebdm-jurisdictions-grant-county-indiana.

[15] To access the current and archived Probation Reports, visit http://www.in.gov/judiciary/admin/2467.htm.

Appendix

STATE OF INDIANA
PRESENTENCE INVESTIGATION REPORT
FACE SHEET

**** Confidential ****
Pursuant to IC 35-38-1-13

Court Information			
State v: [redacted]		Case #: [redacted]	
Date Ordered: [redacted]	Date Completed: [redacted]	Last Updated: [redacted]	Sentencing Date: [redacted]
Court: GRANT CIRCUIT COURT	Pros. Atty: [redacted]		Def. Atty: [redacted]
Report Prepared By: [redacted]		Probation Dept:	GRANT COUNTY PROBATION DEPARTMENT

Offender's Personal Information			
Legal Name: [redacted]		Alias(es)/Nickname(s): [redacted]	
Address: [redacted]		Phone: [redacted]	
SSN: [redacted]	DOB: [redacted]		Age: [redacted]
Race: [redacted]	Gender: [redacted]	ID Marks: [redacted]	
Height: [redacted]	Weight: [redacted]	Eyes: [redacted]	Hair: [redacted]
U.S. Citizen: YES		Photo:	[redacted]
DOC #: N/A			
FBI #: [redacted]			
Driver's License #: [redacted]			
Issued By: INDIANA			
Status: SUSPENDED			

Criminal Involvement

☑ Pending Charge	☑ Jail/Prison	☑ Felony	☑ Probation
☐ Detainer	☑ Jail/Prison Discipline	☑ Misdemeanor	☐ Parole
☑ Violation/Revocation	☐ Juvenile DOC Commit	☐ Juvenile Delinquent	☑ Community Corrections
☐ Juvenile Detention	☐ Resident Placement	☐ Sex Offender	☐ Felony Sent. Reduced to Misdem.
☐ Gang Activity	☐ Escape/Runaway	☑ Battery Offense	☐ Violent Offense

Case/Offense Information

Case #: [redacted]

Present Offense(s):

Count I: 35-43-5-2(b)(1)/FC: Forgery
Count II: 35-43-4-2.5(b)(1)/FD: Auto Theft

Offense Date:	Arrest Date:	Actual Jail Days: 1	Release Type:
[redacted]	[redacted]	[redacted]	BOND

Sex/Violent Offense Registration: NO	On Probation/Parole at Offense: YES
Non-Suspendable Offense: YES	Interstate Compact Required: NO

A.C.E.: N/A | Co-Defendants/Case #: N/A

Circumstances Attending Commission of Offense:

Count #1: The Defendant did make and/or utter a written instrument, in such a manner that it purports to have been made by another person, to-wit: [redacted]

Count #2: The Defendant did knowingly or intentionally exert unauthorized control over the motor vehicle, [redacted]; with the intent to deprive the person of the vehicle's value or use.

Marital Information

Marital Status: SINGLE	Spouse/Other's Name: [redacted]

Spouse/Other's Address: [redacted]

Number of Dependent Children: 3	Support Order: [redacted]	Current: NO

Education, Employment, Health

High School: [redacted]

Grad/GED: NO	Ever suspended or expelled? YES

College/Vocational: N/A

Employed: NO	Employer: N/A	
Position: N/A	Hire Date: N/A	Hours Per Week: N/A
IC 25 licensed/certified profession: NO	Financial Status: ☐ Stable ☑ Not Stable	

Mental Health Referrals: YES	Physical Problems: YES	Alcohol/Drug Use: YES

Contact Persons

1) Name: [redacted]	Relation: [redacted]
Address: [redacted]	Phone: [redacted]
2) Name: [redacted]	Relation: [redacted]
Address: [redacted]	Phone: [redacted]

Victim Impact

Case # [redacted]

The victims in this case are [redacted] of [redacted], Indiana and [redacted] of [redacted] Indiana. A victim's letter was mailed on [redacted]

Additional Information

Additional Information

Direct Placement: Yes

Credit Time: [redacted] actual day (bonded)

PV on [redacted] Actual days
Sentenced on new charges under cause number [redacted] days jail. [redacted] actual days. [redacted] actual days ([redacted] credit) towards the Probation violation under cause number [redacted]

Mental Referrals

The Defendant stated she has been diagnosed with [redacted]. The Defendant also feels she has [redacted].

Physical Problems

The Defendant stated she has [redacted] problems and has [redacted].

Alcohol/Drug Use

The Defendant stated she has abused alcohol, marijuana, and Benzodiazepines.

Non-Suspendable Offenses

Case [redacted] Based on the convictio [redacted]

STATE OF INDIANA
STANDARD PRESENTENCE INVESTIGATION
REPORT

Offender's Name: [redacted]
Case #: [redacted]

I. Sources of Information

The following sources were used to complete this presentence investigation report:

- The statements of the defendant, [redacted]
- The reports of the Grant County Sheriff's Department.
- The records of the Grant County Prosecutors Office.
- The records of the Grant County Sheriff's Department.
- The records of the Grant County Probation Department.

II. Legal History

A. Juvenile History

No Cases Entered

B. Adult History

Case Numbe [redacted] **Court:** Marion City Court

Offense Date: [redacted] **Arrest Date:** [redacted] **County:** Grant County, IN

File Date: N/A **Disposition Date:** N/A **Sentencing Date:** [redacted]

Charges: Count I: 35-43-4-3(a)/MA: Conversion

Narrative: 180 days jail, suspended. 6 months formal probation followed by 6 months informal probation.

[redacted] Arrested on warrant for Failure to appear.

Additional Information: N/A

Case Number [redacted] **Court:** Marion City Court

Offense Date: [redacted] **Arrest Date:** [redacted] **County:** Grant County, IN

File Date: N/A **Disposition Date:** N/A **Sentencing Date:** [redacted]

Charges: Count I: 9-21-8-52(a)(1)/MB: Reckless Driving

Narrative: 180 days jail, suspended. Formal probation until restitution is paid which is followed by informal probation until [redacted] 20 hours Community Service.

[redacted] Arrested on warrant for failure to appear.

Additional Information: N/A

Case Number: [redacted] **Court:** Marion City Court

Offense Date: [redacted] **Arrest Date:** [redacted] **County:** Grant County, IN

File Date: N/A **Disposition Date:** N/A **Sentencing Date:** [redacted]

Charges: Count I: 35-43-4-3(a)/MA: Conversion
Count II: Probation Violation
Count III: Probation Violation

Narrative: 1 year jail with 355 days suspended and served on probation.

[redacted] Arrested on warrant for failure to appear. [redacted] Released from jail

[redacted] PV No disposition.

[redacted] PV [redacted] Time served.

Additional Information: N/A

Case Number: [redacted] **Court:** Grant Circuit Court

Offense Date: N/A **Arrest Date:** [redacted] **County:** Grant County, IN

File Date: [redacted] **Disposition Date:** N/A **Sentencing Date:** [redacted]

Charges: Count I: 35-48-4-7(a)/FD: Possession Schedule I, II, III, or IV Controlled Substance
Count II: Probation Violation
Count III: Probation Violation

Narrative: 18 months jail, suspended and served on probation. Cost, Interdiction fee ($200), A/D assessment, Curfew.

[redacted] PV filed for failing to report to probation and new charges [redacted] Arrested on warrant. Hearing pending [redacted]

[redacted] PV filed for new charges [redacted] Arrested on warrant. PENDING(Hearing date [redacted]

Additional Information: N/A

Case Number: [redacted] **Court:** Grant Circuit Court

Offense Date: [redacted] **Arrest Date:** [redacted] **County:** Grant County, IN

File Date: [redacted] **Disposition Date:** N/A **Sentencing Date:** [redacted]

Charges: Count I: 35-43-5-2(b)(1)/FC: Forgery
Count II: 35-43-4-2.5(b)(1)/FD: Auto Theft

Narrative: PENDING

Additional Information: N/A

Case Number: [redacted] **Court:** Marion City Court

Offense Date: [redacted] **Arrest Date:** [redacted] **County:** Grant County, IN

File Date: N/A **Disposition Date:** N/A **Sentencing Date:** [redacted]

Charges: Count I: 35-42-2-1(a)(1)(A)/MA: Battery Resulting in Bodily Injury
Count II: 35-42-2-1(a)(1)(A)/MA: Battery Resulting in Bodily Injury
Count III: 35-44.1-3-1(a)(2)/MA: Resisting Law Enforcement

Narrative: Ct 1: 120 days jail
Ct 2: 120 days jail, concurrent.
Ct 3: 120 days jail, concurrent.

Additional Information: N/A

C. Summary of Legal History

This officer can not find a juvenile criminal history. As an adult the Defendant has been convicted of six (6) misdemeanors, one (1) felony, and three (3) probation violations. The Court has sentenced the Defendant to jail and probation. The Defendant has been ordered to completed community service hours, pay restitution comply with a curfew, and complete an alcohol/drug assessment.

The Defendant was out on bond for this offense when she was arrested for charges in Marion City Court [redacted]

The Defendant stated she has had no gang affiliations, has a suspended license, has had a jail write up for trafficking with an inmate (letters to her boyfriend [redacted] has been convicted of a violent crime, has had no escape charges, and has no family at DOC.

D. Criminal History Domain Level

☐Low ☑Moderate ☐High ☐N/A (IRAS-CSST) ☐N/A (IRAS-ST)

III. Present Offense

Case #: [redacted]

A. Official Version

See Information and Affidavit for Probable Cause and Warrant for Arrest.

B. Defendant Version

The Defendant made the following statement, "I was drinking and using Benzo's". "I was dancing and using with my son's dad." "I left him for another guy and he got me messed up (drugs)." "He [redacted] saw the title of my girlfriends car and said we should sell it." "I said no for a week". "He got me high and I finally gave in and told him to do what ever he wants to with it." "I don't remember signing the title, I don't remember much of that day." "I guess we stole the car."

IV. Victim Impact Statement

Case #: [redacted]

A. Victim's Statement

The victims in this case [redacted] of [redacted], Indiana and [redacted] of [redacted], Indiana. A victim's letter was mailed on 10-22-13.

That on [redacted] this officer spoke with [redacted] in person. He stated he turned in financial information to the detective.

B. Victim Notification

Per [redacted] I hereby certify that the victim has been notified in writing of the date, time, and place of the sentencing hearing at least seven (7) days prior to sentencing.

Date Sent: [redacted]
Victim Responded By: Telephone

V. Family/Social Background

A. Parental/Family Information

The Defendant stated she was born to and raised by [redacted] and [redacted] until she was taken by Child Protection Services and placed in a home at age eleven (11). The Defendant stated her parents separated when she was twelve (12). The Defendant stated she was placed with [redacted] who raised her. The Defendant stated she was removed from her parents because of their fighting and drug use. The Defendant stated she was a "daddy's girl" and is talking to him. The Defendant stated she loves her father but understands he is "controlling". The Defendant stated she is now a "mommy's girl" and that "she is my best friend". The Defendant stated both of her parents have a criminal record and recalled how her mother thought she was helping her by providing her with pills. The Defendant described her childhood as that she "raised myself until my sister had custody". "She (sister) kept me busy; I got good grades and had a happy childhood." "My sister was very strict." The Defendant described her relationship with her sister as, "she is more like a mom to me than my own mother."

The Defendant stated she has a half sister and [redacted] half brothers. The Defendant stated her half brothers are young and that she doesn't get to see them.

B. Personal Relationships (Significant Others)

The Defendant stated she is in an eighteen (18) month relationship with [redacted]. The Defendant stated [redacted] is currently in jail. The Defendant stated she has one (1) child with [redacted]

C. Dependents

The Defendant stated she has [redacted] children, they are:

[redacted] age [redacted] whose father is [redacted]. The Defendant stated [redacted] is involved with CHINS and is currently in the custody of [redacted] mother.

[redacted], age [redacted] and [redacted], age [redacted] whose father is [redacted]. The Defendant stated [redacted] has had custody of her daughters for the past [redacted] years and that there is a child support order for [redacted]. The

Defendant stated she had limited access to her daughters the [redacted] custody but later was able to get her girls on weekends.

The Defendant stated [redacted] a step brother raped her and she became pregnant. The Defendant stated [redacted] had her get an abortion.

D. Family & Social Support Domain Level

☐Low ☑Moderate ☐High ☐N/A (IRAS-CSST) ☐N/A (IRAS-ST)

E. Peer Associations

The Defendant stated her best friend is [redacted] whom she has known for the past two and a half (2 ½) years. The Defendant stated [redacted] did not have a criminal record. This officer located [redacted] the Jail Computer System. The Defendant stated since her daughters were born she has been more selective with the people she associates with. The Defendant stated 75% or better are positive people. This officer would note that the father's of her children, her parents, and her best friend all have criminal records.

F. Peer Associations Domain Level

☐Low ☑Moderate ☐High ☐N/A (IRAS-CSST) ☐N/A (IRAS-ST)

VI. Personal Background

A. Education

The Defendant stated she completed the 10th grade at [redacted] and that during her 11th year she became pregnant and left school. The Defendant stated prior to 10th grade she was on the honor role but during the 10th grade her grades were "not good". The Defendant stated she was involved with the choir, orchestra, softball, soccer, cheerleading, dance and martial arts. The Defendant stated some of the activities were through the PAL Club. The Defendant stated she was suspended for fighting.

B. Employment

The Defendant stated her last job was dancing at [redacted] in [redacted] where she worked for four (4) months and could earn between $100 to $300 per night. The Defendant stated she quit that job at the request of her boy friend. The Defendant stated she has also worked at [redacted] (Housekeeping). The Defendant stated the longest she has held a job was nine (9) months.

The Defendant stated she has never served with any branch of the United States Armed Forces.

C. Financial Situation

The Defendant stated she has no income, no assets, owes on medical bills and child support, and was receiving food stamps.

D. Education, Employment & Financial Situation Domain Level

☐Low ☐Moderate ☑High ☐N/A (IRAS-CSST) ☐N/A (IRAS-ST)

E. Residence, Neighborhood & Leisure Activities

The Defendant stated she has been moving around a lot during the last year. The Defendant stated her last home was at her mother's which she described as being "good, half way decent". The Defendant described the neighborhood as good. The Defendant stated there are no drug in the neighborhood unless at her mother's home.

The Defendant stated she enjoys collecting dolphins, watching TV, reading, cleaning, and doing laundry. The Defendant stated she is not a member of any organization or club. The Defendant stated she is Christian and as a child attended [redacted] Church.

F. Neighborhood Problems Domain Level

☑Low ☐Moderate ☐High ☐N/A (IRAS-CSST) ☐N/A (IRAS-ST)

VII. Personal Health, Attitudes & Behavior

A. Physical Health

The Defendant described her physical health as "decent". The Defendant stated she suffers from [redacted] and has a

bad [redacted]. The Defendant stated she is not taking any medication at this time but should be taking and has been prescribed pain medication for her back and knee.

B. Mental Health

The Defendant described her mental health as "I can deal with it". The Defendant stated she was diagnosed at Cornerstone with [redacted]. The Defendant stated she feels she is also [redacted]. The Defendant stated she is not taking any medication at this time but is supposed to be on Adderall. The Defendant stated she has a history of cutting herself. The Defendant stated at age 11 she was inpatient at [redacted] in [redacted] for beating up her sister and for "doing stuff with boys". The Defendant stated she has also been in counseling following her removal from her parent's custody at age 11.

C. Substance Abuse

The Defendant stated she first consumed alcohol at the age of seventeen (17) and the last time she consumed alcohol was at the age of twenty-three (23). The Defendant stated at 17 she was consuming alcohol four (4) times per week, usually a half (1/2) gallon each time. The Defendant stated she stopped drinking until she turned twenty-one (21). From the age of twenty-one (21) the Defendant stated she was consuming alcohol one (1) to two (2) times per week usually consuming two (2) to three (3) shots each time. The Defendant stated her use of alcohol has caused her legal problems.

The Defendant stated she first smoked marijuana at the age of twenty (20) and the last time she smoked marijuana was at the age of twenty-five (25). The Defendant stated at the age of 20 she was smoking marijuana everyday, all day, usually smoking a half (1/2) ounce per week. The Defendant stated she quit smoking when she was pregnant with her son but did smoke marijuana one (1) time after his birth. The Defendant stated her use of marijuana has not caused her any problems.

The Defendant stated she started abusing Benzodiazepines at the age of twenty-one (21) and the last time she abused Benzodiazepines was prior to her arrest. The Defendant stated she used Xanax, Klonopins, and Valium. The Defendant stated on the day she was arrested she had eaten 4 "xaney bars". The Defendant stated she was eating Benzodiazepines one (1) time per week. The Defendant stated her use of Benzodiazepines has caused her legal, family, and relationship problems. "I feel my family got pulled apart because of drugs so I didn't use a lot."

The Defendant denies using any other controlled substances.

D. Substance Use Domain Level

☐Low ☑Moderate ☐High ☐N/A (IRAS-CSST) ☐N/A (IRAS-ST)

E. Attitudes and Behavioral Orientation

The Defendant does not take responsibility for her actions and this crime. The Defendant stated her boyfriend got her high and that she did not remember signing the title. The Defendant does not take responsibility for any of her actions. She blames others for giving her alcohol and drugs, for people upsetting her until she needs to use alcohol and/or drugs. This officer feels that the Defendant minimizes her alcohol and drug use. The Defendant stated many times how messed up she was and how she did not remembering things.

F. Criminal Attitudes & Behavior Patterns Domain Level

☐Low ☑Moderate ☐High ☐N/A (IRAS-CSST) ☐N/A (IRAS-ST)

VIII. Risk & Needs Assessments

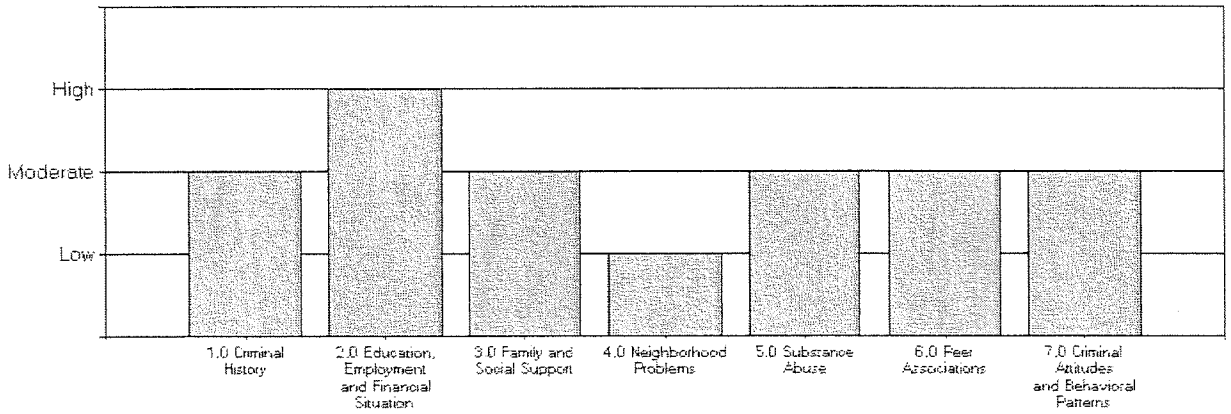
A. Indiana Risk Assessment System (IRAS)

COMMUNITY SUPERVISION TOOL (IRAS-CST)
As part of this report, the defendant was assessed for risk and needs through the Indiana Risk Assessment System Community Supervision Tool. The areas assessed by the Community Supervision Tool were criminal history; education, employment and finances; family and social support; neighborhood problems; substance use; peer associations; and criminal attitudes and behaviors.

The defendant's overall risk assessment score puts the defendant in the HIGH risk category to reoffend.

- Criminal History:
- Education, Employment, Financial Situation:
- Substance Abuse:
- Peer Associations:

o Criminal Attitudes and Behavioral Patterns:



B. Complementary Assessment Instruments

Criminal Thinking Scales:

The Criminal Thinking Scale, a self-report assessment instrument, measure criminal thinking traits as compared with a national normative sample. The Defendant's scores on this tool indicate the following elevated scores:

Personal Irresponsibility (P I) refers to the degree to which an offender is unwilling to accept ownership for their criminal actions. High Scorers are willing to accept responsibility for their negative behavior and prefer to blame others for their behavior. THE DEFENDANT SCORED AT THE 50TH PERCENTILE.

Substance Abuse Subtle Screening Inventory:

The SASSI is a self-report tool that measures various elements of alcohol/drug dependency. According to this tool, the Defendant was determined to have a "high probability" of having substance dependence.

IX. Evaluation/Summary

Comes now [redacted] and stands before the Grant County Circuit Court and the Honorable [redacted] after having pled guilty to Count #1- Forgery, Class C Felony and Count #2- Auto Theft, Class D Felony. The defendant and the State of Indiana have entered into an agreement which states that the defendant will agree that the sentence shall be:

On Count 1, four (4) years incarceration with two (2) years executed. Count 2, eighteen (18) months incarceration. The suspended portion of the sentence shall be served on supervised probation. That the Defendant shall pay Court cost. That all counts shall run concurrent to each other. That the Defendant shall admit the probation violation in [redacted] and receive 180 days incarceration and terminate probation. That the Defendant has the ability to pay restitution and shall pay restitution to the victim in an amount to be determined by the Court at the time of sentencing. That the Defendant shall comply with any other term/condition determined to be appropriate by the Grant County Probation Department and approved by the Court. In addition, as a condition of his supervision (probation/parole), you will be evaluated by the Reentry Court Staff for participation in the Grant County Reentry Court Program and, if admitted, be required to participate and successfully complete the program.

This officer believes the Court should consider the following factors in imposing sentence:

#1- The Defendant accepted the States plea agreement.

The defendant was interviewed at the Grant County Jail, and was helpful in completing this report. The Defendant made the following statement, "I was drinking and using Benzo's". "I was dancing and using with my son's dad." "I left him for another guy and he got me messed up (drugs)." "He [redacted]) saw the title of my girlfriend's car and said we should sell it." "I said no for a week". "He got me high and I finally gave in and told him to do what ever he wants to with it." "I don't remember signing the title, I don't remember much of that day." "I guess we stole the car."

The Defendant stated she wanted the Judge to know that, "I am sorry, since I have been here (jail) I have had a lot of time to think on what lead up to my crime and I regret it." "All I can do is better my life and change." "I need to do better

for my kid's; they are all that matters to me." "I am no good to them in jail."

The Defendant was asked what she needs to do to change and she stated, "get a job to support my kids, get my children back (son is in CHINS and daughters are with their father), attend an anger management, parenting class, and N/A, and get back into church (get good people around me). The Defendant stated she needs to "stay busy". The Defendant stated if she needs to she will stay away from her current boyfriend and mother even though she doesn't want to." The Defendant's mother has a record and her current boyfriend is in jail.

The Defendant was asked what she thought about probation and she stated, "I am scared of probation". "Every time I get close to getting off probation I get into trouble." The Defendant was asked what she thought probation could do for her and she stated, "Support and help me do good."

Aggravating and Mitigating Circumstances

The aggravating factors are:

- The person has a history of criminal or delinquent behavior.
- The person has recently violated the conditions of any probation, parole, community corrections placement, or pretrial release granted to the person.

The mitigating factors are:

None Selected

X. Recommendation

Therefore this officer respectfully recommends to the Grant County Circuit Court and the Honorable [redacted] that the defendant, [redacted] age [redacted], be sentenced for the crimes of Count #1- Forgery, Class C Felony and Count #2- Auto Theft, Class D Felony. This officer recommends that the Defendant be sentenced per the plea.

Respectfully submitted,

[redacted]

Adult Case Plan

18550

Name [redacted] Cause [redacted] DOB [redacted] Risk Score 26

Problem Area:	Objective to decrease risk:	Place	Date
Education/Employment	**Objective**	**Place**	**Date**
☐ Lack of high school diploma/GED	☐ Complete Adult Basic Education		
☑ Currently unemployed	☑ Complete GED	[redacted]	
	☑ Obtain employment/job skills	Voc Rehab	
Financial	☑ Obtain employment	Voc Rehab	
☐ Problems/Reliance on assistance	☐		
Family/Marital			
☐ Non-rewarding marital	☐ Attend marital/family counseling per recommendation of Counselor		
☐ Criminal Family Members	☐ No contact/names:		
Accommodations			
☐ Resides in a high crime neighborhood	☐ Obtain housing in neighborhood with less crime		
☐ Unsatisfactory housing	☐ Obtain housing assistance		
Leisure/Recreation			
☑ Absence of participation in pro-social, organized activity	☑ Actively participate in at least one, pro-social activity. Client choice:		
Companions			
☐ Lack of pro-social friends / acquaintances	☐ Spend at least 3 hours per week with pro-social friends/acquaintances. Names:		
	☐ Avoid activities/businesses where criminals congregate		
	☐ No contact/Names:		
Alcohol/Drug Problem			
☑ Drug/alcohol use has caused problems in one or more areas of client's life	☑ Client will undergo a drug/alcohol assessment and follow through with recommendations made	A/D assessment	
	☐ Other:		
Emotional/Personal			
☐ Moderate/severe interference with continued need for mental health care	☐ Client will meet with a mental health provider and follow recommendations		
☑ Psychological assessment indicated	☑ Client will obtain a mental health assessment	[redacted]	
Attitudes/Orientation			
☑ Anti-social attitudes and beliefs supportive of crime	☑ Client will attend and complete a cognitive/ behavioral program and after-care	Thinking for A Change	
Overall Moderate-High Risk	☐ Structured day (see attached)		
☑ **Curfew** 10p to 6am	☐ Day Programming Center		

Probationer Date Probation Officer Date

Indiana Risk Assessment System
COMMUNITY SUPERVISION TOOL (IRAS-CST)

[redacted]

Offender Information

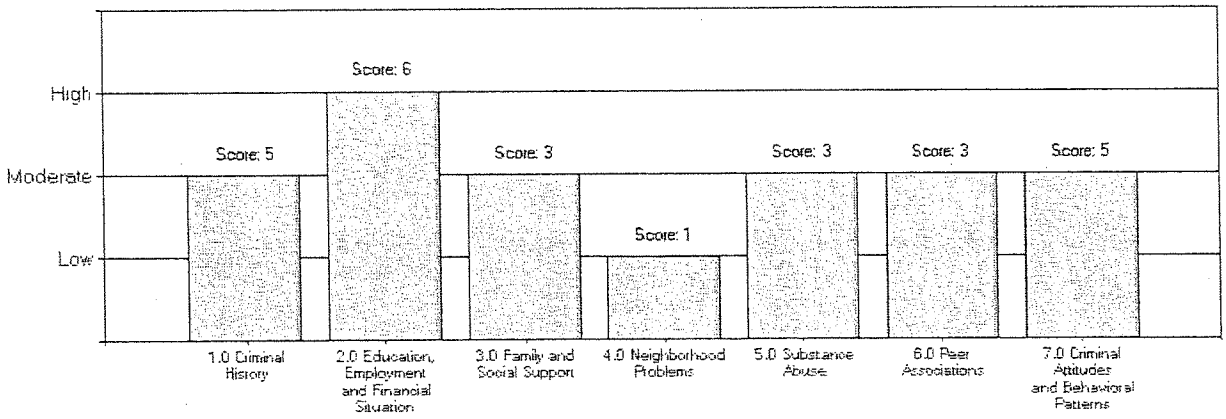
Name	Date of Birth	Age at Assessment
[redacted]	[redacted]	[redacted]

Overview

Date	Assessor	Reason
[redacted]	[redacted]	Re-Assessment

Risk Level	Total Risk Score
High	26

Domain Risk Levels / Scoring



Other Areas of Concern

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

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

1.0 Criminal History

1.1 Most Serious Arrest Under Age 18

- [x] None - 0
- [ ] Yes, misdemeanor - 1
- [ ] Yes, felony - 2

1.2 Number of Prior Adult Felony Convictions

- [ ] None - 0
- [x] One or two - 1
- [ ] Three or more - 2

1.3 Prior Sentence as an Adult to Jail or Secure Correctional Facility

- [ ] No - 0
- [x] Yes - 1

1.4 Received Official Misconduct while Incarcerated as an Adult

- [ ] No - 0
- [x] Yes - 1

1.5 Prior Sentence to Community Supervision as an Adult

- [ ] No - 0
- [x] Yes - 1

1.6 Community Supervision Ever Been Revoked to Prison for Technical Violation as an Adult

- [ ] No - 0
- [x] Yes - 1

Comments/Notes:

2.0 Education, Employment and Financial Situation

2.1 Highest Education

- [ ] High School Graduate or Higher - 0
- [x] Less Than High School or GED - 1

2.2 Ever Suspended or Expelled from School

- [ ] No - 0
- [x] Yes - 1

2.3 Employed at the Time of Arrest

- [ ] Yes - 0
- [x] No - 1

2.4 Currently Employed/School

- [ ] Yes, Full-Time, Disabled or Retired - 0
- [x] Not Employed or Employed Part-time - 1

2.5 Better Use of Time

- [ ] No, most time structured - 0
- [x] Yes, lots of free time - 1

2.6 Current Financial Situation

- [ ] Good - 0
- [x] Poor - 1

Comments/Notes:

3.0 Family and Social Support

3.1 Parents have Criminal Record

- ☐ No - 0
- ☑ Yes - 1

3.2 Satisfied with Current Marital or Equivalent Situation

- ☐ Yes - 0
- ☑ No - 1

3.3 Emotional and Personal Support Available from Family or Others

- ☑ Very Strong Support - 0
- ☐ None to Strong Support - 1

3.4 Level of Satisfaction with Current Level of Support from Family or Others

- ☑ Very satisfied - 0
- ☐ Not satisfied - 1

3.5 Stability of Residence

- ☐ Stable - 0
- ☑ Not Stable - 1

Comments/Notes:

4.0 Neighborhood Problems

4.1 High Crime Area

- ☑ No - 0
- ☐ Yes - 1

4.2 Drugs Readily Available in Neighborhood

- ☐ No, Generally Not Available - 0
- ☑ Yes, Somewhat Available - 1
- ☐ Yes, Easily Available - 2

Comments/Notes:

4.2 No one in the Neighborhood but "my mother".

5.0 Substance Abuse

5.1 Age First Began Regularly Using Alcohol

- ☑ 17 or Older - 0
- ☐ Under Age 17 - 1

5.2 Most Recent Period of Abstinence from Alcohol

- ☑ 6 months or longer - 0
- ☐ Less than 6 months - 1

5.3 Ever Used Illegal Drugs

- ☐ No - 0
- ☑ Yes - 1

5.4 Drug Use Caused Problems

- ☐ None - 0
- ☐ Past - 1
- ☑ Current - 2

5.5 Drug Use Caused Problems With Employment

- [x] No - 0
- [ ] Yes - 1

Comments/Notes:

6.0 Peer Associations

6.1 Criminal Friends

- [ ] None - 0
- [x] Some - 1
- [ ] Majority - 2

6.2 Contact with Past Criminal Peers

- [ ] No Contact with Criminal Peers - 0
- [x] At Risk of Contacting Criminal Peers - 1
- [ ] Contact or Actively Seeks out Criminal Peers - 2

6.3 Gang Membership

- [x] No, never - 0
- [ ] Yes, but not current - 1
- [ ] Yes, current - 2

6.4 Criminal Activities

- [ ] Strong Identification with Prosocial Activities - 0
- [x] Mixture of Pro and Antisocial Activities - 1
- [ ] Strong Identification with Criminal Activities - 2

Comments/Notes:

7.0 Criminal Attitudes and Behavioral Patterns

7.1 Criminal Attitudes

- [ ] No/Limited Criminal Attitudes - 0
- [x] Some Criminal Attitudes - 1
- [ ] Significant Criminal Attitudes - 2

7.2 Expresses Concern About Others

- [ ] Concerned about others - 0
- [x] Concern for Immediate Family/Friends - 1
- [ ] No Concern for Others - 2

7.3 Feels Lack of Control Over Events

- [ ] Controls events - 0
- [x] Sometimes lacks control - 1
- [ ] Generally lacks control - 2

7.4 Sees No Problem in Telling Lies

- [x] No - 0
- [ ] Yes - 1

7.5 Engages in Risk Taking Behavior

- [x] Rarely Takes Risks - 0
- [ ] Sometimes Takes Risks - 1
- [ ] Generally Takes Risks - 2

7.6 Walks Away from a Fight

- ☐ Yes - 0
- ☐ Sometimes - 1
- ☑ Rarely - 2

7.7 Believes in "Do Unto Others Before They Do Unto You"

- ☑ Disagree - 0
- ☐ Sometimes - 1
- ☐ Agree - 2

Comments/Notes:

Use of Risk and Needs Assessment Information at Sentencing: Douglas County, Nebraska

CENTER FOR SENTENCING INITIATIVES
RESEARCH DIVISION
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December 2013

Center for Sentencing Initiatives

This report was produced by the National Center for State Courts' Center for Sentencing Initiatives (CSI). CSI conducts research, provides information and tools, offers education and technical assistance, facilitates cross-state learning and collaboration, and works closely with the Conference of Chief Justices and the Conference of State Court Administrators to implement their resolution In Support of Sentencing Practices that Promote Public Safety and Reduce Recidivism. To learn more about CSI, visit www.ncsc.org/csi

I. About this Report

In August 2011, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution recommending that "offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism."[1] The resolution noted that supervision and treatment decisions informed by valid and reliable offender risk and needs assessment (RNA) information is a critical component of effective strategies to reduce recidivism.

This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how some stakeholders are incorporating the

[1] Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx).

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the Douglas County criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.[2]

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

II. Offenders Assessed

Douglas County probation officers provide offender RNA information for all cases in which a presentence investigation (PSI) report is ordered. According to statute, a PSI is ordered for all felony offenders unless a judge deems it "impractical" in a particular case.[3] Examples offered by interviewees of when a PSI might be considered impractical are when a PSI already exists that contains an RNA report for an offender or when an offender has committed a very low or very high level offense, and the judge considers the sentence clear-cut. In addition, offenders may waive their right to a PSI, and thus RNA information would not be available for these offenders.

RNA information is only available pre-plea in a specialized young adult (ages 16-22) court. Interviewees expressed concerns over logistics and the potential negative implications for high scoring offenders if RNA results are made available at the plea negotiation phase for all cases.

III. Assessment Process

Douglas County utilizes the Level of Service/Case Management Inventory (LS/CMI) assessment instrument to evaluate offenders. The LS/CMI was developed in 2004 by Don Andrews, James Bonta, and Stephen Wormith to function both as a case management tool and as an assessment of offender risk, needs, and responsivity factors.[4] The LS/CMI consists of 43 items across 8 categories. The Nebraska Supreme

[2] A Douglas County judge, probation officer, county attorney, and public defender agreed to NCSC requests for an interview.

[3] Neb. Rev. Stat. §29-2261 *available at* http://nebraskalegislature.gov/laws/statutes.php?statute=29-2261.

[4] As of this report, the LS/CMI is the latest version of the commercially available Level of Service Inventory (LSI) system. The last version, the Level of Service Inventory-Revised (LSI-R), was made available to the public in 1995 and is still widely used as a stand-alone RNA tool. For more information about the LS/CMI, refer to the Multi-Health Systems, Inc. website at: http://www.mhs.com/product.aspx?gr=saf&prod=ls-cmi&id=overview,

Court's Administrative Office of Probation and the University of Nebraska are collaborating on a statewide validation of the LS/CMI.

Douglas County officers utilized the Wisconsin Risk and Needs assessment prior to adoption of the LS/CMI to inform their PSI report preparation but did not include the actual results of the assessments in the reports.[5] Probation officials chose to transition to the LS/CMI because of the instrument's available supporting research and because they thought the tool was more inclusive in terms of outlining risk, needs, and responsivity issues. They also noted that several states geographically and demographically similar to Nebraska use the LS/CMI.

Although rarely done, probation officers may override assessment results. If an override occurs, officers adjust recommendations rather than scoring levels. Overrides most often occur when a probation officer feels the RNA instrument does not accurately take certain factors into consideration. Supervising probation officers conduct reassessments when a major life change or probation violation occurs.

The Douglas County Probation Department uses several assessment instruments in addition to the LS/CMI. Specialized assessment tools for sex offenders include the Vermont Assessment for Sex Offender Risk (VASOR), the Static-99, and Stable-2007.[6] Probation officers screen domestic violence offenders with the Domestic Violence Offender Matrix.[7] The Simple Screening Instrument (SSI) screens chemical dependency levels.[8] Investigation officers use the Driver Risk Inventory developed by Behavior Data Systems in drunk driving cases.[9] Officers also use a supplemental substance abuse questionnaire (SAQ-Adult

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[5] A description of the Wisconsin tool is available in Baird, C. (1981). Probation and parole classification: The Wisconsin model. *Corrections Today*, *43*(3), 36-41.

[6] The VASOR assesses risk in males 18 years or older and is composed of two scales, a thirteen item re-offense scale and a six item violence scale. Additional information on the VASOR can be found at http://www.csom.org/pubs/vasor.pdf. The Static-99 is a 10-item actuarial risk assessment instrument developed by Karl Hanson and David Thornton in 1999 for use with adult male sex offenders. See http://www.assessments.com/catalog/STATIC_99.htm for more information. The Stable-2007 is a sex offender risk assessment instrument designed to capture 13 areas of dynamic risk. Karl Hanson, Andrew Harris, Terri-Lynne Scott, and Leslie Helmus developed the tool in 2007. For more information, see http://soraf.cyzap.net/zap_site/docs/zaps-mr-tab1-85.htm?Stable-2007%26copy%3B-Assessment.

[7] The Domestic Violence Offender Matrix is adapted from a tool developed in Delaware that is based on the Duluth Model. Information about the Duluth model is available at http://www.theduluthmodel.org/about/index.html

[8] The Simple Screening Inventory, also called the Simple Screening Instrument for Substance Abuse (SSI-SA) or Simple Screening Instrument for Alcohol and Other Drugs (SSI-AOD), is a non-proprietary instrument developed in 1994 by a consensus panel for SAMSA's Treatment Improvement Protocol 11 to screen for substance abuse problems. Additional information on how Douglas County utilizes the SSI can be found at http://supremecourt.ne.gov/supreme-court-rules/2418/appendix-standardized-model-delivery-substance-abuse-services.

[9] The Driver Risk Inventory was developed by Behavior Data Systems. Additional information on the DRI can be found at http://www.bdsltd.com/TestsA_DRI-II.asp.

Probation III) developed by Behavior Data Systems.[10]

IV. Assessment Report

In 2007, Douglas County implemented the statewide redesign of the PSI report format to reflect the LS/CMI domains (see Appendix). For each LS/CMI section, officers include the reported risk level and a narrative describing the results for that domain. In addition, the LS/CMI profile sheet with each section's specific score is included at the end of the PSI report.

Probation officers include recommendations in the PSI regarding whether the offender can be supervised effectively in the community and, if so, the suggested length of probation and probation conditions. Although probation officers may identify specific program providers in certain cases, programming recommendations are often generalized to account for the large number of treatment providers in the area. If offenders do not participate in the PSI process, recommendations are omitted from the PSI report.

On average, Douglas County probation officers complete approximately 130 PSI reports each month.

[10] The SAQ Adult Probation III is a 149-item assessment that provides information on seven scales (truthfulness, violence, antisocial, alcohol, drug, aggressiveness, and stress coping abilities). For more information, see http://www.saq-adult-probationiii.com/index.html.

V. Use of Assessment Information

General reception. Nebraska's Administrative Office of Probation led the effort to formally incorporate RNA information into PSI reports statewide. The Supreme Court established an Evidence-Based Practices Committee of judges and probation officers to assist the Office of Probation with implementing an evidence-based approach to sentencing and corrections. The Committee provided a vehicle for obtaining judicial and probation officer input regarding revisions to the PSI report format. Over the years, the Committee has included members from Douglas County which, in addition to various judicial and probation officer training sessions, may have helped increase acceptance of using RNA information by the local bench and probation officers. Overall, the education and buy-in process for the bench took two to three years.

Prosecutors and defense counsel have not had the benefit of formal training on RNA information. Over time, the senior professionals in each office have learned how to interpret RNA results and serve as informal mentors to the junior professionals in their respective offices.

Although stakeholders recognize the validity of the RNA instrument, some reported concerns regarding administrator bias. These types of concerns are addressed through the statewide Evidence-Based Practices Committee and a local criminal justice system management council. Administrator consistency, for example, is being addressed, in part, through training.

Practical use of RNA information among stakeholders. The 16 judges in Douglas County generally follow the sentencing

recommendations made by probation officers in the PSI, although the practice varies by judge. Prosecutors and defense counsel express interest in having the RNA information; however, they are less enthusiastic about probation offering specific sentencing recommendations based on the information.

Probation officers may or may not be aware of a plea agreement when generating a PSI report. Reportedly, knowledge of a plea agreement does not affect probation officers' recommendations. If there is a discrepancy (i.e. plea agreement calls for probation while probation recommends incarceration), it is submitted to the court. Judges retain full discretion on whether or not to accept a plea agreement, including the conditions of the agreement. RNA evaluation outcomes expressed in PSIreports generally do not affect judicial acceptance of plea agreements.

VI. Outcomes Tracked

The Administrative Office of Probation is collecting data to track outcomes. However, the office has been transitioning to a new information system and thus reports are not readily available at this time.

Appendix A

NEBRASKA PROBATION SYSTEM

SENTENCE DATE: Presentence Investigation
Probation District 3A

STATE OF NEBRASKA	)	District Court Lancaster County
	)	
	)	Case
	)	
vs.	)	Judge
	)	
XXXX	)	Probation Officer
	)	
	)	State's Attorney
	)	
	)	Defense Attorney

Original Charge: Count I: Possession of a Controlled Substance (IV Felony); Count II: Attempt Assault on an Officer-3rd Degree (I M); Count III: False Reporting (I M)

Plea Agreement: Agreement Dismiss Count III and no Habitual charge.

Convicted Charge: Count I: Possession of a Controlled Substance
Count II: Attempt Assault on an Officer-3rd Degree

Section: Ct. I: 28-416(3) Ct. II: 28-201; 28-931 Class: Ct. I: IV F; Ct. II: I M

Penalty: Count I: Maximum: 5 years imprisonment, $10,000 fine, or both.
Minimum: None
Count II: Maximum: 0-1 year jail and/or $1,000 fine
Minimum: None.
DNA Sample Required

Date Filed in District Court: 03-08-13

Plea or Verdict: No Contest Date: 05-20-13

Co-Defendants/Disposition:

Arrested by: Lincoln Police Department Date: 11-09-12

Bond: $10,000 (%) Days in Jail: 11-14-12 to 01-24-13,
01-28-13 to 03-28-13,
03-31-13 to 07-22-13 = 246 Days
(As per Lancaster County Jail Records)

Disposition:

IDENTIFYING INFORMATION

True Name:

Alias/Nicknames: N/A

Lives With: N/A

Prior Address: Omaha, NE; New Orleans, LA; Lincoln, NE

Present Address: Lancaster County Jail

Home Phone: N/A

Email: N/A

Cell Phone: 402-601-7921

Age: 29 DOB: Birthplace: New Orleans, LA

Race: Sex: Male Height: 6'1" Weight: 200

Color Eyes: Brown Hair: Black U.S. Citizen: Yes

Scars/Tattoos, etc.:

Marital Status: Single Dependents: None

Education Completed: Eleventh Grade

Employment: Unemployed/Incarcerated

Soc. Sec. #: FBI #: NSP:

License #: (Suspended) SO #: N/A PD #: N/A

Other Information:

PRESENTENCE INFORMATION:

Date Ordered: 05-20-13 Date Interviewed: 06-25-13

Date Submitted: Sentencing Date: 07-23-13

I. CRIMINAL HISTORY:

DATE:	PLACE:	OFFENSE:	DISPOSITION:
Juvenile:			
1998	Omaha, NE	Willful Reckless Driving	Juvenile Probation 09-24-88: Probation Revoked – YRTC-Kearney
Adult:			
06-10-02	Bellevue, NE	1) Theft by Shoplifting 2) Failure to Appear	1) 5 Days Jail, $75 Fine 2) $50 Fine
12-25-02	Omaha, NE	1) Carrying Concealed Weapon 2) Possess Concealed Firearm 3) Possess Unregistered Firearm 4) Carry Loaded Gun 5) DUS 6) No Tail Light **Amended to:** 1) Robbery 2) Use of a Firearm to Commit a Felony 3) Possession of a Controlled Substance	1) 16 Days Jail 2) Dismissed 3) Dismissed 4) Dismissed 5) Dismissed 6) Dismissed 1) 3 to 5 Years Prison 2) 3 to 5 Years Prison 3) Dismissed
08-10-06	Lincoln, NE	Escape – Detailed on Felony/Convicted **Amended to:** Attempted Escape	12-17-07: 1 Year Jail
04-26-09	Sarpy Co., NE	1) DUI 2) DUS	1) 30 Days Jail, 1 Year License Revocation, $450 Fine 2) $100 Fine

I. CRIMINAL HISTORY:

DATE:	PLACE:	OFFENSE:	DISPOSITION:
Adult:			
04-27-09	Sarpy Co., NE	1) False Report 2) DUI 3) Drive on Shoulder 4) Fail to Use Turn Signal 5) Possess Drug Paraphernalia 6) DUS 7) Open Container 8) Possession of Marijuana 9) Failure to Appear	1) Dismissed 2) 30 Days Jail 3) Dismissed 4) Dismissed 5) Dismissed 6) Dismissed 7) Dismissed 8) Dismissed 9) 30 Days Jail
05-08-09	Lincoln, NE	1) DUI/.08-1st Offense **Amended to:** Reckless Driving 2) DUS – Eligible 3) Negligent Driving 4) Failure to Appear 5) Failure to Appear	1) 08-20-09: $100 Fine 2) 08-20-09: $100 Fine 3) 08-20-09: Dismissed 4) 08-20-09: Dismissed 5) 08-20-09: Dismissed
05-21-09	Lincoln, NE	Possession of Marijuana, 1 Ounce or Less – 1st Offense	06-25-09: $300 Fine
07-09-09	Lincoln, NE	1) DUS – Not Eligible 2) Violate Speed Limit 11-15 Over 3) Failure to Appear 4) Failure to Appear 5) Failure to Appear	1) 04-05-10: 5Days Jail, 1 Year License Suspension 2) 04-05-10: Dismissed 3) 08-20-09: Dismissed 4) 04-05-10: Dismissed 5) 04-05-10: Dismissed
08-09-09	Lincoln, NE	Steal Money or Goods, Less Than $300	10-08-09: $50 Fine
09-17-09	Lincoln, NE	Have Open Alcohol Container	10-13-09: $50 Fine
03-29-10	Lincoln, NE	Make False Statement to Police Officer	04-29-10: $150 Fine

I. CRIMINAL HISTORY:

DATE:	PLACE:	OFFENSE:	DISPOSITION:
Adult:			
03-17-10	Lincoln, NE	Steal Money or Goods, Less Than $300	04-29-10: $250 Fine
10-26-10	Lincoln, NE	1) DUS – Not Eligible, Subsequent Offense	1) 09-14-11: Dismissed By CA With Costs
		2) Occupant Protection System	2) 09-14-11: Dismissed By CA With Costs
		3) Failure to Appear	3) 09-14-11: Dismissed By CA With Costs
		4) Failure to Appear	4) 09-14-11: Dismissed By CA With Costs
10-30-10	Lincoln, NE	1) DUS – Not Eligible, Subsequent Offense	1) 03-29-13: $250 Fine
		2) Negligent Driving	2) 09-14-11: Dismissed
		3) Possession of Marijuana, 1 Ounce or Less – 1st Offense	3) 09-14-11: Dismissed
		4) Failure to Appear	4) 09-14-11; Dismissed
		5) Failure to Appear	5) 09-14-11: Dismissed
		6) Failure to Appear	6) 09-14-11: Dismissed
		7) Failure to Appear	7) 09-14-11: Dismissed
11-04-10	Lincoln, NE	1) DUS – Not Eligible, Subsequent Offense	1) 03-29-13: $250 Fine
		2) Negligent Driving	2) 09-14-11: Dismissed
		3) Failure to Appear	3) 09-14-11: Dismissed
		4) Failure to Appear	4) 09-14-11: Dismissed
		5) Failure to Appear	5) 09-14-11: Dismissed
06-01-11	Johnson Co., IA	Possession of Controlled Substance	License Revoked, Substance Abuse Evaluation Ordered, $315 Fine, 14 Days Jail
11-05-11	Lincoln, NE	DUS – Eligible	12-06-11: $50 Fine

I. CRIMINAL HISTORY:

DATE:	PLACE:	OFFENSE:	DISPOSITION:
Adult:			
04-16-12	Lincoln, NE	1) Parks: Closed Enter After Hours 2) Parks: Possess or Consume Alcohol	1) 05-17-12: $50 Fine 2) 05-17-12: $25 Fine
06-02-12	Lincoln, NE	1) DUS – Eligible 2) Disobey Traffic Control Sign or Device 3) Failure to Appear	1) 12-10-12: $250 Fine 2) 12-07-12: Dismissed 3) 12-07-12: $25 Fine
06-20-12	Lincoln, NE	1) DUS – Eligible 2) Violate Stop Sign	1) 12-10-12: $100 Fine 2) 12-10-12: $50 Fine
11-09-12 (CR13-245)	Lincoln, NE	1) Possession of a Controlled Substance (IV F) 2) Attempt Assault on an Officer – 3rd Degree (I M) 3) False Reporting (I M)	1) **PRESENT CASE – PENDING** 2) **PRESENT CASE - PENDING** 3) Dismissed in plea

II. CIRCUMSTANCES OF OFFENSE:

On November 9, 2012, a traffic stop was initiated on a vehicle driven by XXXX. Mr. XXXX and Ms. XXXX were determined to be passengers in the vehicle. Upon contact with the passengers, Ms. XXXX advised Mr. XXX, “doesn’t speak.” He was then given a notepad and asked to write his name. He wrote the name of XXXX and added that he had the right to remain silent. The officer did observe him to have an open bottle of Bud Lite Platinum in between his legs. He was asked to pass the bottle to the police officer and he placed it on the ground. He was then arrested for having an open container in a vehicle and was told to step out of the car. He was handcuffed and officers located an identification card indicating he was really XXXX. He was determined to have multiple warrants and was searched and found to have a meth pipe in his front jeans pocket. He then told the police officer, “I kill cops.” He eventually became resistant and began to struggle with police. He threatened officers that he’d, “be back out on the streets.” Mr. XXXX was described as being very belligerent. While in the police car, he began making noises that he was preparing to spit in the backseat. He was later told not to spit on anyone and said, “I’m saving it up. You have to let me out some time.” He then told the police officer that he had done six years in prison. He was cited and lodged.

III. DEFENDANT'S STATEMENT:

See written statement in the body of this report.

IV. VICTIM'S STATEMENT/RESTITUTION:

None.

V. LS/CMI DOMAINS:

The probation office conducted a face to face interview with the defendant utilizing the Level of Service/Case Management Inventory (LS/CMI). This instrument is a validated "risk/need" assessment tool that is designed specifically to determine the degree of risk that the offender presents to the community and risk to recidivate. The LS/CMI targets eight domains that represent the top criminogenic risk factors for recidivism. The tool also helps to identify other specific responsivity needs to assist in case management, treatment planning and service delivery.

CRIMINAL HISTORY: (high risk)

Mr. XXXX's prior record reveals prior law enforcement contacts for offenses including theft by shoplifting, weapons charges, robbery, and use of a weapon to commit a felony. He has also been cited for steal money or goods, failure to appear in court, make false statement to police and various traffic offenses. It appears Mr. XXXX also has a history of impaired driving, alcohol related offenses and traffic offenses. His license is presently suspended.

Nebraska Department of Corrections reflects Mr. XXXX was convicted of a robbery and weapons offense in 2003. He was sentenced to 3 to 5 years on each count in this matter. In 2006, the defendant was arrested for escape and sentenced to one year in jail.

Mr. XXXX appears to have a general disregard for police, courts, and the laws of his community. This is evidenced by his behavior at the time of his arrest and his citations for offenses including failure to appear, making false statements to police, and escape. He appears to lack respect for authority figures and law enforcement, in general. This poses some difficulties related to considering Mr. XXXX for a term of community based supervision, going forward.

CRIMINAL HISTORY: - Continued

Mr. XXXX self reported he was placed at the Youth Rehabilitation and Treatment Center in Kearney, Nebraska, on four occasions. He said he was also placed at the Cooper Village Facility for six months. He said he was raised, for the most part, by his great grandmother. He said he was removed from his home at the age of nine due to abuse. He said he was eventually returned to his mother's custody after he began to run away from his out of home placements. He said his first arrest as a juvenile occurred at 15 or 16 years of age. He admitted he has been affiliated with the Crips Street Gang, historically.

EDUCATION/EMPLOYMENT: (high risk)

The defendant said he attended *High School* in Nebraska until the ninth grade. He said he left High School when he was committed to the Youth Rehabilitation and Treatment Center in Kearney, Nebraska. He said he earned his GED at this facility.

For the last few months, Mr. XXXX has been employed as a disc jockey with *XXXr*. He said he earns about $350 per week and typically DJ's at parties he promotes. He said these parties might occur on Thursdays, Fridays, or Saturdays.

In the past, the defendant has been employed with *McDonald's*, *BMS*, and *Lenco*. He said his longest period of employment has been for a period of a few months. He denied his alcohol or drug use has ever negatively affected his employment performance.

FAMILY/MARITAL: (very high risk)

Father:

Mr. XXXX denied having any information regarding his biological father.

Mother:

XXXX, age 49, resides in New Orleans, Louisiana. She is reportedly employed in sales and is a recovering addict. The defendant said she does have a criminal arrest record and described her as a neglectful mother when he was growing up. He said the two are close now.

Siblings:

XXXX, age 24, resides in New Orleans, Louisiana.

XXXX, age 34, is presently incarcerated in the State of Louisiana for a Manslaughter charge.

FAMILY/MARITAL: - Continued

Current Relationship Partner:

During the presentence investigation interview appointment, the defendant indicated he is currently involved in a relationship with *XXXX*. He said he has also been involved in an off and on relationship with *XXXX*. He reported he and Ms. XXXX have been together for ten years, off and on, while he and Ms. XXX were together for about two years before he became incarcerated. The defendant denied having any information regarding the whereabouts about Ms. XXXX, but claims Ms. XXXX lives at XXX Street in Lincoln, Nebraska. A letter was sent to this address, but was returned indicating Ms. XXX did not live at this address.

Children:

The defendant's oldest child is *XXXX*, age 13. She resides with her mother, , according to the defendant.

XXXX, age 6, was removed from the defendant's custody in 2010 and placed up for adoption. When asked about the situation, the defendant said his children, XXXX, Jr. and XXXX, were removed from the custody of the defendant and their biological mother, XXXX, because, "the Court system used my past against me." During the entirety of the interview, Mr. XXXX appeared to struggle to take responsibility for his choices, his criminal record, and his addiction. He reluctantly admitted he and Ms. XXXX failed to meet the guidelines of the Child Protective Services plan.

XXXX, Jr., age 3, was recently adopted by the same family that adopted his older sibling, XXXX. The defendant said XXXX's mother is also XXXX

XXXX age 8 months, is believed to reside with her biological mother, XXXX. The defendant said things between him and Ms. XXXX have been strained recently because she recently informed him she was pregnant with someone else's baby.

XXXX, age 3, resides in Lincoln, Nebraska, with her mother, *XXXX*. The defendant stated Ivyanna's twin sister, Iyana, passed away a day after her birth.

XXXX, age 6 months, resides with her mother, *XXXX*, in Lincoln, Nebraska.

XXXX self reported he is ordered to pay child support for some of his children. He said he owes about $2,600 in back child support.

LEISURE/RECREATION: (high risk)

When asked what he likes to do in his free time, the defendant said he enjoys making music, promoting parties, and being a spokesperson for youth who are at-risk.

The defendant scored in the high risk range in this category due to his lack of recent involvement in organized recreational or leisure activities and this officer's perception that the defendant could be making better use of free time (based on police reports or other collateral information).

COMPANIONS: (very high risk)

The defendant listed his friends and associates as *XXXX, t*hree biological mothers to his children. As was previously noted, Mr. XXXX self reported he has been affiliated with the Crips Street Gang, historically. He said he moved away from Omaha in 2007 to escape from the gang life. He said since that time, he has been focused on changing his life and being a dad. His criminal record appears to reflect otherwise, based on the number of criminal arrests he has accrued since moving to the Lincoln area.

The defendant scored in the very high or high risk range in this category as he was not able to provide information about positive persons that he might associate with. Alternatively, the defendant may have scored in the very high or high risk range in this category if he identified only pro-social companions, but admitted to engaging in criminal activities using behaviors, or other anti-social behaviors with others (who are likely pro-criminal companions).

ALCOHOL/DRUG PROBLEM: (very high risk)

Alcohol:

The defendant said he first used alcohol at 13 years of age. He said he last used this substance on November 9, 2012. He noted he typically uses alcohol every other day or so, consuming six beers per occasion. The defendant said he does not believe he has a problem with alcohol and said when he drinks, he tends to think more than usual and stress about his past while under the influence of alcohol.

ALCOHOL/DRUG PROBLEM: - Continued

Marijuana:

At the age of 13, Mr. XXXX began experimenting with marijuana. He said he last used this substance on November 9, 2012. He noted he typically used this substance on a daily basis, smoking a half of an ounce per day. Mr. XXXX self reported that using marijuana makes him think everything he is doing is acceptable or, "cool." He self reported he was actively using this substance until he became incarcerated on the present charges. He rationalized drugs have always been a part of his life.

Methamphetamine:

In August of 2012, the defendant said he began using methamphetamine. He said he last used this substance in November of 2012 and typically used this substance on three occasions per day. He rationalized he began using this substance to escape the loss he experienced after his children were removed from his care.

Ecstasy:

Mr. XXXX self reported for a one month period, during 2012, he was using Ecstasy on a weekly basis. He said he also experimented with acid on one occasion during October of 2012.

Treatment:

When asked how he feels about participating in a substance abuse treatment program, the defendant said while he has never been to treatment, he believes a treatment program could be beneficial. He said he isn't getting any younger and his kids need him in their life. However, when asked about his arrest in the present offense, the defendant said he was just in the wrong place at the wrong time with the, "wrong shit in my pocket." He said he was really unaware that having a pipe was a felony and only had a couple of warrants. He said he is angry about his arrest and appears to take little responsibility for the consequences of his addiction. He was determined to be in the pre-contemplative stage of change, given his own assertion that he was actively using chemical substances until the day of his present incarceration.

Sale and Delivery:

Mr. XXXX self reported he began his involvement in the sale and delivery of chemical substances at 13 years of age. He said he sold substances until he was 18 and became incarcerated. He said he was earning about $1,500 per week through his involvement in this activity, but has not sold drugs since being released from prison.

PROCRIMINAL ATTITUDE/ORIENTATION: (very high risk)

As was previously noted, Mr. XXXX has been involved in a wide array of criminal offenses. He has demonstrated a poor or indifferent attitude toward the police, courts, and the laws of his community. His ongoing involvement in criminal activities reflects a general disregard for laws and an attitude that is supportive of crime. Criminal thinking patterns identified include rationalizing, blaming, and making excuses. He appears to believe he is a victim of the system, to a large degree.

Mr. XXXX was determined to be unfavorable toward convention. He appears to have few ties to conventional settings and likely spends the majority of his free time alone or with deviant others. He appears to have a very limited community support network.

When asked about his feelings about his arrest, the defendant appeared to take little responsibility for his own choices and addiction. He did not appear apologetic or remorseful and seemed mostly unaffected.

While Mr. XXXX indicated he would be willing to participate in a substance abuse treatment program, going forward, the reason for his willingness to participate in treatment appears to be mostly external. He appears to be more focused on avoiding further incarceration than actually addressing his addiction. This is evidenced by his own admission that he did not attempt to address his addiction in any way prior to his current incarceration. He was determined to be in the pre-contemplative stage of change. Barriers to participating in a treatment program going forward include his level of motivation and unwillingness or inability to obtain and maintain sobriety, long term.

Mr. XXXX did not seem particularly committed to making any lasting changes, going forward.

The Procriminal Attitude/Orientation section takes into account whether the defendant's overall attitude is: a) supportive of crime; b) unfavorable toward convention; c) poor, toward sentence/offense; d) poor toward supervision/treatment. Occasionally, clients will claim that they feel one way about a particular area, but supporting information (past performance on probation, criminal history, attitude toward society, attitude toward arresting officers, etc) will be located elsewhere. Thus, this section is scored using both collateral information and the interview question responses provided by the interviewee.

Note: Unfavorable toward convention is identified as having a general disregard for (or indifference about) convention/non-crime alternatives. An offender who is unfavorable toward convention might be hostile, and/or rejects the values underlying convention. He or she may show weak ties to conventional settings such as home and family, and school/work. He or she may reject non-criminal activities and their reward or have a tolerance for deviance. He or she may also be negative or hostile toward authority.

ANTISOCIAL PATTERN: (high risk)

Mr. XXXX denied ever participating in a specialized assessment for antisocial pattern. He does appear to meet the LS/CMI defining criteria for having engaged in early and diverse antisocial behavior. He self reported experiencing severe problems of adjustment in childhood and has an official record of assaultive and violent offenses. He has also been charged with escape.

Though Mr. XXXX has been arrested and incarcerated for similar offenses, it appears he has continued to engage into similar behavior patterns despite the consequences.

Mr. XXXX detailed a pattern of generalized trouble during the course of the interview. This is evidenced by his own admission that he is experiencing some financial problems related to his unpaid back child support, the fact he has never been employed for a full year, his own admission he has a poor relationship with his mother, the fact he could make better use of his free time, and the likelihood that he has seemingly few anti criminal friends.

The Antisocial Pattern section is scored by assessing whether the client has: a) participated in a specialized assessment for antisocial pattern; b) engaged in early and diverse antisocial behavior (childhood adjustment problems, out of home placements as a child, juvenile record, history of assault or violence, escape history, probation or parole violations); c) has an overall criminal attitude and; d) has engaged in a pattern of generalized trouble (financial problems, frequent address changes, lack of long term, stable employment, less than grade 10 or equivalent, suspended or expelled one or more times, has a generally non-rewarding relationship with parents, could make better use of time, and associates with few anti-criminal associates). Again, the investigating officer uses both collateral information and responses from the interview to score this section.

The following sections of the LSCMI do not contribute to the total score, rather provide detailed information for investigating and supervising officers, as well as Courts and corrections personnel regarding any barriers, special considerations, or other areas to consider when working with this particular client.

SPECIFIC RISK/NEED FACTORS:

This section details any personal problems with criminogenic potential, history of perpetration, engagement in violence or assaultive acts, and other forms of antisocial behavior (impaired driving, shoplifting, white collar crime, gang participation, organized crime, hate crime, or terroristic activities).

Probation records reflect Mr. XXXX was revoked from the one probation supervision opportunity he has been afforded. He denied ever being diagnosed as psychopathic or with a personality disorder. He denied having any concerns about his personal safety.

Problem solving skill deficits identified for Mr. XXXX include taking care of his responsibilities, making appropriate decisions, and dealing with his emotions. He also appears to struggle with effectively solving problems, using good judgment, and setting boundaries. Finally, he appears to struggle to take responsibility for himself and his dependents, has trouble with authority, and a history of violence and weapon use.

While Mr. XXXX denied having any concerns about managing his anger, based on his conduct at the time of his arrest, it would appear he struggles in this area. He might also be characterized as intimidating or controlling. He denied ever engaging in inappropriate sexual activities.

Possible social skill deficits for Mr. XXXX include getting along with others, being respectful, and controlling his own impulses. Mr. XXXX denied having friends or acquaintances outside of his own age range. He denied ever engaging in racist or sexist behaviors.

Mr. XXXX does appear to be underachieving in the areas of employment, financial management, problem solving, parenting, and taking responsibility for himself and his dependents.

Patterns identified in Mr. XXXX's criminal record include a history of alcohol and drug offenses, theft related charges, weapon offenses, as well as assaultive and violent offenses.

OTHER CLIENT ISSUES:

This section allows officers to denote any social or health-related considerations to be considered when working with this client.

Mr. XXXX self reported he owes about $2,000 in back child support. He said his only source of income prior to his arrest was the money he earned through his DJ job at XXXX. He denied any recent periods of homelessness or transience. Accommodation problems identified for Mr. XXXX include his lack of stable, full time employment, his lack of self direction and independent decision making abilities. In addition, he appears to struggle with taking responsibility for himself and his dependents. He admitted he and his former girlfriend relinquished their parental rights after failing to follow through with a Child Protective Services reunification plan requirement. He has also demonstrated an inability to steer clear of criminal activities, other users, and using behaviors. He lacks a valid driver's license and insight into the seriousness of his addiction and how his addiction may have affected other areas of his life.

The defendant denied having any immigration related concerns. While he doesn't appear to believe he has any parenting concerns at this time, his lifestyle likely provides little to no stability for children in his care.

Mr. XXXX denied having any physical health problems at this time. He said he was shot in 2008 in a drive-by shooting. He said he has not been diagnosed with any serious illnesses and is not taking any medications for physical health reasons. When asked about his mental health, the defendant said he has been diagnosed with depression. He said he has been struggling recently because a few of his cellmates have attempted suicide. He said he struggled with depression as a kid, but has not been recently taking medications or addressed this condition in any way. He denied ever attempting suicide and denied ever being hospitalized for mental health reasons. It would appear he would benefit from participating in a mental health evaluation.

Mr. XXXX does not appear to be struggling with low self esteem or to be shy or withdrawn. He denied ever being the victim of physical or sexual abuse, but admitted his mother was neglectful during the majority of his childhood.

One thing that stood out when talking with Mr. XXXX is the fact he takes little responsibility for his children having been removed from his care. He tends to blame others and rationalized or justified his poor choices.

SPECIAL RESPONSIVITY:

This section specifically addresses any differences in learning styles or personal interests of the client. This section also discusses the client's level of motivation and any areas of concern related to denial or minimization.

As was previously noted, Mr. XXXX was determined to be in the pre-contemplative stage of change. While he claims he would like to make some changes, going forward, he seemed to believe he could obtain and maintain sobriety by moving into a sober living environment, without completing a treatment program. When he was told he would need to complete a treatment program prior to entering a halfway or three quarter way house, he seemed discouraged. His motivation to participate in treatment programming appears to be mostly external and based on the fact he would like to avoid future incarceration. He tends to engage in denial and minimization and makes every attempt to justify his actions or blame others for his problems.

Barriers to completing a community based supervision or treatment program include Mr. XXXX's documented problems with authority, his lack of transportation, his unstable employment, and his apparent lack of responsibility and accountability.

SUMMARY:

Appearing before the Lancaster County District Court on the Class IV Felony charge of Possession of a Controlled Substance and the Class I Misdemeanor charge of Attempted Assault on a Police Officer is Mr. XXXX. Mr. XXXX has had prior law enforcement contacts for a wide array of criminal offenses. He self reported he is the father of seven children, one of who is deceased. He said two of his children were removed from his care and his parental rights were terminated after he failed to meet the guidelines of a Child Protective Services plan. In addition, Mr. XXXX said he owes more than $2,000 in back child support. He appears to lack financial responsibility for himself and his children.

Mr. XXXX said he has not been employed on a full-time, permanent basis in some time. He said he has never been employed for more than a few months. Mr. XXXX was determined to be in the pre-contemplative stage of change at the time of the interview. While he indicated he would be willing to participate in a substance abuse treatment program, his motivation appears to be mostly external. He acknowledged he made no effort to stop using alcohol or drugs prior to his arrest in this matter. He alluded to the fact he has never been able to obtain or maintain sobriety outside of a correctional facility or a structured environment.

SUMMARY: - Continued

Barriers to supervising Mr. XXXX in a probation or community based programming setting include his problems with authority, his propensity to engage in violence, and his history of weapon use. Whether Mr. XXXX is sentenced to a straight court sentence or a term of probation, it would appear he would benefit from following all recommendations made in a substance abuse evaluation and obtaining a mental health evaluation. Mr. XXXX would also likely benefit from participating in some individual and family counseling to help him accurately assess how his addiction has affected other areas of his life, including his minor children. In addition, a cognitive behavioral therapy program might help him to become more accountable for his own actions.

Respectfully Submitted,

X
Adult State Probation Officer

Use of Risk and Needs Assessment Information at Sentencing: Cuyahoga County, Ohio

CENTER FOR SENTENCING INITIATIVES
RESEARCH DIVISION
NATIONAL CENTER FOR STATE COURTS

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December 2013

This report was produced by the National Center for State Courts' Center for Sentencing Initiatives (CSI). CSI conducts research, provides information and tools, offers education and technical assistance, facilitates cross-state learning and collaboration, and works closely with the Conference of Chief Justices and the Conference of State Court Administrators to implement their resolution In Support of Sentencing Practices that Promote Public Safety and Reduce Recidivism. To learn more about CSI, visit www.ncsc.org/csi

I. About this Report

In August 2011, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution recommending that "offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism."[1] The resolution noted that supervision and treatment decisions informed by valid and reliable offender risk and needs assessment (RNA) information is a critical component of effective strategies to reduce recidivism.

This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how

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[1] Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx).

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the Cuyahoga County criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.[2]

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

some stakeholders are incorporating the information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

II. Offenders Assessed

The Cuyahoga County Adult Probation Department provides a presentence investigation (PSI) report to the court for every felony case (including sex offenses and domestic violence cases) eligible for community supervision. Approximately 37 dedicated officers in the Probation Department conduct all presentence investigations, which include offender risk and needs assessment (RNA), and prepare the reports to the court.

The court does not receive PSI reports or full RNA information at the plea stage, although results from the state Pretrial Assessment Tool (a component of the Ohio Risk Assessment System, or ORAS, that is referred to as the ORAS-PAT) are made available and are used to inform bail decisions.[3]

III. Assessment Process

Presentence investigators in Cuyahoga County use a two-stage process to assess

[2] A Cuyahoga County judge and probation officer agreed to NCSC requests for an interview.

[3] In 2006, the Ohio Department of Rehabilitation and Correction contracted with the University of Cincinnati Center for Criminal Justice Research (CCJR) to develop the ORAS, a new, automated, centralized, statewide system of offender assessment tools for use at each of four key decision-making stages of the criminal justice process. CCJR researchers developed the ORAS, including the ORAS-PAT, and validated the system statewide in Ohio in 2009. Additional information from the Ohio Department of Rehabilitation and Correction (ODRC) on the ORAS can be found at http://www.drc.ohio.gov/web/oras.htm. The University of Cincinnati Corrections Institute (UCCI) now offers similar services to other states and jurisdictions with interest in adapting the system. For more about the risk assessment services available from UCCI, see their website: http://www.uc.edu/corrections/services/risk-assessment.html.

[3] H.B. 86 mandated the use of a single, validated risk assessment tool in sentencing. Additional information on the ORAS can be found at http://www.drc.ohio.gov/web/oras.htm.

offender recidivism risk. First, presentence investigators administer a 13-point static risk tool called the Ohio Offender Risk Assessment Instrument.[4] The 13-point tool classifies the defendant into one of five risk levels (low, low-moderate, moderate, high, extremely high). The probation department uses the 13-point scale as a screening tool to determine whether or not a full risk and needs assessment should be administered.[5] The full assessment tool used by presentence investigators in Cuyahoga County is the Community Supervision Tool (ORAS-CST), a component of the Ohio Risk Assessment System (ORAS) that was created and validated for statewide use in 2009 by the University of Cincinnati Center for Criminal Justice Research (CCJR).[6] Offenders who score low or low-moderate on the 13-point tool do not receive the full ORAS-CST and their risk level on the 13-point tool is included in the PSI report to the court. For offenders who score in the moderate or higher risk levels on the 13-point screener tool, presentence investigators then administer the full ORAS-CST and report the results from the full assessment in the PSI report. An exception to this process involves special populations (e.g., domestic violence, sex offender, mental health and developmental disabilities, criminal non-support), who receive a full ORAS assessment regardless of their results on the 13-point screening tool. In addition to the general screening and assessment process described above, if needed, a Treatment Alternatives to Street Crimes (TASC) or psychiatric clinician will conduct a mental health diagnostic assessment using Ohio's Solutions to Quality Improvement and Compliance Initiative (SOQIC) standardized forms.[7] Other evaluations for specialized populations (e.g., domestic violence, sex offender) are conducted by probation officers post-sentencing and are thus not included in the PSI report to the court.

On occasion, the 13-point tool and subsequent ORAS-CST assessments may produce conflicting results. When a clear discrepancy arises, senior-level probation department managers review the case and make a final determination regarding the appropriate risk level to report. When overrides of the ORAS-CST results occur, the risk level from the 13-point tool and

[4] CCJR researchers created the short 13-point tool (13 questions) in 2006-2007 for interim use by Ohio criminal justice agencies until the new statewide ORAS system was fully developed and validated. The 13-point tool was validated statewide and locally in Cuyahoga County in 2010.

[5] Before the ORAS was validated and implemented statewide, the Cuyahoga County Adult Probation Department restructured their process based on the five levels of offender risk identified by the 13-point tool. The probation department elected to retain the locally validated 13-point tool as the screening tool in lieu of the screening version offered within the ORAS (the Community Supervision Screening Tool, or ORAS-CSST) for several reasons, including (a) validation research supporting local use of the 13-point tool, (b) the implications for department structure, and (c) the finer distinctions between five levels of offender risk (as opposed to two levels, as provided by the ORAS-CSST).

[6] Probation officers must complete a two-day training and pass a standard test to become a certified administrator of the ORAS assessment. Every probation officer in Cuyahoga County completes this ORAS certification. For more information on the ORAS set of tools and on the services provided by University of Cincinnati researchers, refer to footnote 2.

[7] For more information on the SOQIC, refer to the SOQIC manual at http://www.mtmservices.org/Downloads/Ohio_Standardized_Documentation_Implementation_Manual.pdf

reasoning for the override are documented in the statewide web-based information system on which the ORAS resides.[8,9] Only the modified risk level is included on the PSI report.

The assessed risk level is used to determine the appropriate supervision group for the offender as defined by a locally developed Evidence Based Practices (EBP) Sentencing Chart (Appendix A). The EBP Sentencing Chart was developed in conjunction with the EBP Sentencing Journal Entry form (Appendix B), an evidence-based judicial sentencing form, in 2010 by a local team of stakeholders.[10] The Sentencing Chart accounts for the five identified levels of risk as well as a sixth "special programs" category and describes the recommended supervision conditions for each risk group. Offenders will be assigned to the special programs category if they are eligible for entry into any of the dedicated intervention programs in Cuyahoga County that are designed specifically for certain offender or offense types (e.g., domestic violence, sex offender cases). Per local policy, special program offenders must be supervised more intensively (at a level otherwise appropriate for high risk offenders) even if assessed as low risk. Overrides never occur for offenders with the special programs designation.

In Cuyahoga County, probation caseloads are divided by risk level. Each field probation officer oversees a caseload dedicated to the supervision of offenders with the same risk category as depicted in the EBP Sentencing Chart. In addition, supervising probation officers assigned to high risk offender caseloads operate out of a separate building from those who monitor low risk and moderate-low risk offenders. This physical separation was initiated to reduce the opportunities for lower risk offenders to intermingle with higher risk offenders.

Cuyahoga County officials are in the process of developing a new reassessment policy. Currently, probation officers are encouraged to reassess offenders on the 13-point tool after any major event to inform the appropriate supervision response. However, local stakeholders acknowledged that because the 13-point tool was designed as a short, static risk assessment for interim use until the ORAS-CST was developed and validated for use statewide, it is not sensitive to changes in offender risk as a result of treatment interventions or other recidivism reduction interventions. Local stakeholders expect that the new reassessment policy will call for offender reassessment on the ORAS-CST after one year or any major life event. Original and updated assessment information is provided to the court for probation revocation hearings.

[8] Override levels are targeted to not exceed 10% of cases.

[9] The ORAS is housed on the Ohio Department of Rehabilitation and Correction (ODRC) Gateway Portal, a web-based system which allows information to be exchanged between ODRC and external stakeholders and partner agencies (e.g., county jail, treatment providers).

[10] Local stakeholders met over a series of retreats to develop a plan for implementing evidence-based sentencing practices in Cuyahoga County. Participants included local judges, probation administration, court administration, and trainers who specialized on the topic of evidence-based community corrections. The development effort resulted in the new EBP Sentencing Chart and a new EBP Sentencing Journal Entry form to log sentencing decisions. The new journal entry form is discussed further under *Use of Assessment Information*.

IV. Assessment Report

Prior to 2008, judges did not receive offender risk and needs assessment information at sentencing. The Cuyahoga County Adult Probation Department used RNA information exclusively for internal case management purposes. Now, PSI reports (Appendix C) contain the offender's assessed level of risk, as determined by the 13-point tool (if low or low-moderate risk) or the ORAS-CST (if moderate risk or higher). When the full ORAS-CST assessment is administered, the PSI report also includes risk information for the five criminogenic need domains. Based on the offender's assessed risk level, the presentence investigator identifies the corresponding supervision group on the EBP Sentencing Chart, which describes the recommended supervision conditions if the judge decides that probation is appropriate. No other probation recommendations are provided in the PSI report. The change to include assessment information in the PSI report was motivated by feedback from local judges who, following an evidence-based training provided by the Cuyahoga County Adult Probation Department, expressed an interest in using offender risk and needs assessment results to inform sentencing decisions.

Currently, the first page of the PSI report provides a brief narrative description of the offender's risk level and recommended supervision group if placed on probation.[11]

The body of the PSI report includes descriptive information about the defendant, his or her criminal history, and the current offense. It also includes primarily narrative information regarding family history (including family criminal history) and the defendant's physical health, mental health, substance abuse history, employment and income, pro-social activities, peer associations, and criminal attitudes and behavior patterns. The final page of the PSI report provides a summary of ORAS-CST results, identifying the overall risk level, level on each of 5 criminogenic needs domains (low, medium, high), and responsivity factors.

Cuyahoga County presentence investigators generate upwards of approximately 8,000 PSI reports per year.

V. Use of Assessment Information

General reception. When the Cuyahoga County Adult Probation Department began to offer training on evidence-based practices[12] in 2008, the reception among local judges was mixed. Continued communication helped to cultivate broader acceptance of the evidence-based sentencing approach over time. Judges who supported the idea of a new EBP approach to sentencing worked with probation officials

[11] PSI reports contain only the assessed risk level and its associated grouping on the EBP Sentencing Chart, not the raw risk score. Cuyahoga County is in the process of removing risk level information from the cover page of the PSI to more effectively communicate risk group information based on the EBP Sentencing Chart, which may include potentially sensitive Special Programs eligibility information.

[12] The probation department organized periodic trainings, led by the Carey Group, for judges, prosecutors, and defense attorneys over the years. These trainings were scheduled for each stakeholder group separately (e.g., judges only). For more information about the Carey Group, see http://thecareygroupinc.com/.

to educate other judges in the county of its potential value. In addition to the ongoing group training sessions provided by the local probation department, state judicial conferences routinely feature probation-led trainings on EBP. Moreover, a local justice system reform initiative group convenes on a quarterly basis and provides a forum in which stakeholders may raise issues related to criminal justice processes, such as the use of RNA information in sentencing.

Practical use of RNA information among stakeholders. Using the new EBP approach, judges sentencing an offender to probation (or *community control*) may refer to the supervision group identified in the PSI report to inform the conditions of community supervision. The EBP Sentencing Chart defines the recommended supervision period, reporting frequency, drug testing frequency, and programming attendance. Judges do not define specific treatment conditions, but instead release these programming decisions to the probation department. The new EBP Sentencing Journal Entry form allows the court to determine whether to order community service for lower level offenders and requires that program attendance by moderate and high risk offenders be "as indicated in the case plan" or "as directed by [the supervising probation officer]."

Cuyahoga County installed the new EBP sentencing approach incrementally, starting with a small group of approximately six cooperating judges. All 34 judges in the county are now encouraged to use the new evidence-based sentencing approach and the new EBP Sentencing Journal Entry form to log their sentencing decisions, but may opt to continue to use traditional sentencing practices. A July 2013 review revealed that seventy-three percent of Cuyahoga County judges use the new EBP Sentencing Journal Entry form to log their sentencing decisions, and sentence in accordance with the supervision conditions recommended on the EBP Sentencing Chart in 69% of their cases.

VI. Outcomes Tracked

The Ohio Department of Rehabilitation and Correction can track outcomes through the statewide web-based portal on which the ORAS resides. Recidivism rates are reported by county. Cuyahoga County officials may access data and reporting options through the statewide portal and currently generate custom reports on an as-needed basis. In Cuyahoga County, officials may evaluate some forms of recidivism and probation success rates by supervision unit, which are divided by risk level. Other data are captured, such as GED completion and employment rates that may be disaggregated by risk level, which may ultimately prove valuable in demonstrating "what works" locally.

Outcome data are not routinely shared with local stakeholders at this time. The probation department will often share with the court any custom reports that are generated (e.g., to inform Corrections Planning Board processes). New leadership in Cuyahoga County is reportedly working to develop a standard data report for circulation among local stakeholders on a routine basis.

E.B.P. Sentencing Chart

Risk Levels

	Group A Low 0-5	Group B Low-Moderate 6-7	Group C Moderate 8-10	Group D High 11-14	Group E Extremely High 15	Group F Special Programs
Goals	Efficiency	Monitoring Conditions	Deterrence	Risk Reduction	Public Saftey	CBCF
Supervision Period	1 year with the eligibility for early termination request when conditions have been met	1 year with the eligibility for early termination request when conditions have been met	1.5 years with the eligibility for early termination request when conditions have been met	2 years	5 years	Domestic Violence Home Detention
Reporting Frequency	Every 6 months	Every 3 months	Monthly, or more frequently, if directed by P.O.	Weekly for 3 months and every 2 weeks thereafter	Weekly	Intervention in Lieu of Conviction
Drug Testing Frequency	None	As determined by Probation Officer	Random testing until 3 consecutive negative tests	Random testing	Testing 2 times per week	Interstate Transfer
Financial Conditions	Pay restitution, costs and fines. Pay $20.00 monthly supervision fee	Pay restitution, costs and fines. Pay $20.00 monthly supervision fee	Pay restitution, costs and fines. Pay $20.00 monthly supervision fee	Pay restitution, costs and fines. Pay $20.00 monthly supervision fee	Pay restitution, costs and fines. Pay $20.00 monthly supervision fee	Mental Health Non Support
Programming Attendance			As directed by Probation Officer	As indicated in Case Plan		Sex Offender
Court Community Service	Complete 20 hours within 6 months (optional)	Complete 20 hours within 6 months (optional)				Welfare Fraud Work Release

Group F: Special Programs

	C.B.C.F	Domestic Violence	Home Detention	Intervention in Lieu of Conviction	Interstate Transfer
Supervision Period	1 Year	2 Years	2 Years	1 Year	1.5 Years
Reporting Frequency	Weekly for 3 months & every 2 weeks thereafter	Weekly for 3 months & every 2 weeks thereafter	Weekly for 3 months & every 2 weeks thereafter	Monthly	As directed by Probation Officer
Drug Testing Frequency	Random testing	Random testing	Random testing	Regular testing	As determined by Probation Officer
Financial Conditions	Pay restitution, costs & fines. Pay $20 monthly supervision fee	Pay restitution, costs & fines. Pay $20 monthly supervision fee	Pay restitution, costs & fines. Pay $20 monthly supervision fee	Pay restitution, costs & fines. Pay $20 monthly supervision fee	Pay restitution, costs & fines. Pay $20 monthly supervision fee.
Programming Attendance	As indicated in Case Plan	As indicated in Case Plan	As indicated in Case Plan	As determined by Probation Officer	
Program Specific Conditions		Attend Domestic Violence Programming as determined by Probation Officer	Pay all applicable E.H.D. Fees. Upon completion of the term of EHD, defendant to be transferred to appropriate level of supervision based on risk score & assessment results	Complete a Substance Abuse Assessment & follow all treatment recommendations	If denied supervision by receiving jurisdiction, deft. to return/remain in Ohio and be transferred to appropriate level of supervision based on risk score & assessment results

Group F: Special Programs

	Mental Health	Non Support	Sex Offender	Welfare Fraud	Work Release
Supervision Period	2 Years	5 Years	2 Years	1 Year	2 Years
Reporting Frequency	As directed by Probation Officer	As directed by Probation Officer	As directed by Probation Officer	Every 6 months	Weekly for 3 months & every 2 weeks thereafter
Drug Testing Frequency	Random testing	As determined by Probation Officer	Random testing	None	Random testing
Financial Conditions	Pay restitution, costs & fines. Pay $20 monthly supervision fee	Pay restitution, costs & fines. Pay $20 monthly supervision fee	Pay restitution, costs & fines. Pay $20 monthly supervision fee	Pay restitution*, costs & fines. Pay $20 monthly supervision fee	Pay restitution, costs & fines. Pay $20 monthly supervision fee
Programming Attendance	As indicated in Case Plan	As determined by Probation Officer	As indicated in Case Plan		As indicated in Work Release facility Case Plan
Program Specific Conditions	Follow recommendations of treatment team, attend all mental health appointments & take all meds as prescribed	Attend Non-Support programming as determined by Probation Officer & make monthly child support payments.	Submit to Sex Offender assessment, which may include polygraph examination & follow all recommendations of treatment team	*Restitution ordered in the amount of $_____ to Cuy. Co. Employment & Family Services. Pay a minimum of $_____ per month. Complete 20 hours of Community Service	Upon completion of Work Release, defendant to be transferred to appropriate level of supervision based on risk score & assessment results

Appendix B

E.B.P. SENTENCING JOURNAL ENTRY

Misdemeanor Probation / Felony Community Control

Case Number(s): _____ Date: _____ ☐ Bail ☐ Jail

Defendant's Name: _____ Defendant's Counsel: _____

Court Reporter: _____ Statements: ☐ Defendant ☐ Pros. ☐ Victim/Rep ☐ Others

Misdemeanor Sentence

☐ Defendant sentenced to County Jail (d*esignate sentence for each misdemeanor count*) _____

_____

☐ Sentence suspended; Defendant placed on probation (*designate group; term and conditions below*)

Felony Sentence

☐ Defendant sentenced to **Community Control** (*designate group; term and conditions below*)

Violation of conditions may result in a term of (*designate sentence for each count and whether served concurrently or consecutively*): _____

PRC: CT(S) _____ CT(S) _____ CT(S) _____ CT(S) _____

E.B.P. Supervision Conditions

	☐**Group A** (Low)	☐**Group B** (Low Mod.)	☐**Group C** (Moderate)	☐**Group D** (High)	☐**Group E** (Ext. High)	☐**Group F ****
Supervision Period	1 year Eligibility for early termination or extension until restitution, costs and fees are paid in full	1 year	1 1/2 years Eligibility for early termination	2 years Eligibility for early termination	5 years	☐ CBCF **1 year** ☐ Domestic Violence **2 year** ☐ Home Detention Time: _____
Reporting Frequency	Every 6 months	Every 3 months	Monthly or more frequently, if directed by P.O.	Weekly for 3 months and every 2 weeks thereafter or as directed by PO	Weekly	☐ Interstate Trans. **1 ½ year** Location:_____
Drug Testing Frequency		As determined by PO	Random testing until 3 consecutive negative tests	Random testing	2 times per week	☐ Intervention in lieu **1 year** ☐ MH/DD **2 year** ☐ Non Support **5 years**
Programming Attendance	☐ Court Community Work Service for **<u>20</u>** hours.		As directed by PO	As indicated in the case plan		☐ Sex Offender **2 year** Tier:_____ ☐ Work Release Time: _____

**** Each specialized program in Group F carries a designated period of Community Control with specific conditions. See EBP material for details.**

Financial Sanctions

☐ Defendant indigent ☐ Costs waived ☐ Fine waived ☐ Supervision Fee waived

☐ Restitution $ _____ Payable to _____

☐ Fine $ _____ ☐ Repay Assigned Counsel Fees $ _____

☐ CCWS in lieu of: ☐ Costs _____ ☐ Fees _____ ☐ Fine _____

Other Conditions

☐ No Contact with Victim ☐ License Susp. _____ Points: _____ ☐ Sex Offender Tier:_____

☐ Defendant remanded for: { ☐ CBCF ☐ Home Detention ☐ Housing ☐ Release Plan
☐ Inpatient Treatment ☐ Mental Health ☐Work Release ☐ Jail days: _____

☐ Sheriff to transport ☐ Defendant ordered released

☐ Forfeit: _____ ☐ Forfeiture items returned to: _____

[redacted] 06/13/2012
Def # Creation Date

Cuyahoga County
Court of Common Pleas
Adult Probation Department

Defendant Picture Here

ORAS PRE-SENTENCE INVESTIGATION

Case Name	Judge	Court Room	Sentence Date
		JC [redacted]-A	
True Name	**ORAS Assessment Officer**		**Assessment Completed**
	Joseph Test, (216) 443-7900		

Recidivism Risk Level (if community supervision is considered)
Results of this assessment place the defendant in the **HIGH** (11-14) **Risk Level.** If placed on community supervision, according to research and Probation Department Policy, the defendant would best be served in **GROUP D supervision.**

Case Information

Docket # CR-12-99999-A

Indictment Date	Original Charges
03/22/2012	BURGLARY (COUNT 1) PETTY THEFT (COUNT 2)

Plea/Conviction Date	Offenses	ORC	Level
05/31/2012	BURGLARY AS AMENDED FROM 2911.12(A)(1) COUNT 2 WAS NOLLED	2911.12(A)(3)	F-3

Defendant Information

Alias
Robert Test, Jeffrey Testing

Sex	Race	Birth Place	Birth Date	Age	Height	Weight	Social Security #
Male	Black	Cleveland, Ohio	[redacted]	26	5'9"	165 lbs.	[redacted]

Address	Citizenship	Telephone	Marital Status	Children
[redacted] Cleveland, OH [redacted]	United States	Home: (216) 333-3333 Cell: (216) 333-3333	Single	2

Residence Information
The defendant resides with his girlfriend and their two children.. The defendant reports living at this address since 06/2009. **Rent or mortgage payments**- and they split the $450 monthly rent. They have been living at this address for the past five years. The defendant considers his [redacted] neighborhood to be in a high crime area. There are gangs and a lot of violence in the area. He admits that drugs are easily available. According to Probation Department statistics, the [redacted] zip code is considered a high crime area as the percentage of probationers residing in that area (0.72%) is above the county-wide average (0.55%).

Education Summary
South High School : 12th Grade
The defendant reports that he completed the 12th grade but never earned his diploma. He earned his GED while incarcerated in 2007. He was never enrolled in special education classes and he has no difficulty reading or writing. He admits that he had been subject to in-school suspensions as a child but never any out-of-school suspensions or expulsions.
Difficulties Reading/Writing: No Special Education Classes: No

Military History
None

Offense Information

Docket # CR-12-[redacted]-A

Offense Summary

Codefendant's Status

Codefendant	Plea Date	Sentence Date	Sentence
None			

Victim Statement / Restitution

None

Defendant's Version

The Defendant does not admit committing the present offense.

Prior Record

Defendant Justice Identification Numbers

BCI# **FBI#** [redacted] **Sheriff #** [redacted]

Defendant currently on Probation/Parole: No
Date of CCH Record Check:
Has the Defendant lived in other states? No

Date	Location	Charges	Disposition / Sentence
[redacted]/1999 Filing	Cleveland, Ohio	**ASSAULT (F-2)** **ARSON (F-1)**	**Case#:** DL[redacted] **Court:** Cuyahoga County Juvenile Court **Date:** [redacted]/2000
		Outcome: THE DEFENDANT ADMITTED TO COUNT 1, AMENDED TO DISORDERLY CONDUCT (MM) AND THE COURT MADE A FINDING OF GUILT. COUNT 2 WAS NOLLED. NO FURTHER INFORMATION IS AVAILABLE.	
[redacted]/2001 Filing	Cleveland, Ohio	**AGGRAVATED ARSON (F-1)**	**Case#:** DL[redacted] **Court:** Cuyahoga County Juvenile Court **Date:** [redacted]/2003
		Outcome: ON 6/19/2001, THE DEFENDANT FAILED TO APPEAR AND A WARRANT WAS ISSUED. ON 3/2/2001, THE DEFENDANT WAS IN COURT. ON 8/7/2002, THE DEFENDANT ADMITTED TO AN AMENDED CHARGE OF CRIMINAL MISCHIEF (M-3). ON 1/14/2003, THE CASE WAS DISMISSED.	
[redacted]/2002 Offense	Cleveland, Ohio	**NOISE IN MOTOR VEHICLE**	**Case#:** 2005CRB[redacted] **Court:** Cleveland Municipal Court

Date: 10/06/2006

Outcome: ON [redacted], THE DEFENDANT FAILED TO APPEAR AND A WARRANT WAS ISSUED. ON 10/6/2006, THE WARRANT WAS RETURNED. THE DEFENDANT ENTERED A PLEA OF NO CONTEST AS CHARGED AND THE COURT MADE A FINDING OF GUILT. THE COURT IMPOSED A FINE OF $75 PLUS COSTS, BUT GRANTED THE DEFENDANT CREDIT FOR THREE DAYS SERVED IN SATISFACTION OF THE FINE.

[redacted]2005 Arrest | Cleveland, Ohio | **DRUG POSSESSION (COUNT 1)** | **Case#:** CR-05-[redacted]-B
Court: Cuyahoga County Common Pleas
Judge: [redacted]
Date: 09/20/2005

Outcome: ON [redacted]2005, A CAPIAS WAS ISSUED FOR THE DEFENDANT OUT OF THE ARRAIGNMENT ROOM. ON [redacted]/2005, THE WARRANT WAS RETURNED.

ON [redacted]2005, THE DEFENDANT ENTERED A PLEA OF GUILTY TO DRUG POSSESSION (F-5).

ON [redacted]/2005, THE COURT PLACED THE DEFENDANT ON COMMUNITY CONTROL SUPERVISION FOR 2 YEARS WITH THE CONDITIONS THAT HE SUBMIT TO REGULAR DRUG TESTING AND PAY A SUPERVISION FEE PLUS COURT COSTS.

ON [redacted]2006, A CAPIAS WAS ISSUED FOR THE DEFENDANT FOR FAILURE TO REPORT SINCE 1/5/2006 AND FAILING TO NOTIFY PROBATION OF A NEW ARREST. ON 3/20/206, THE WARRANT WAS RETURNED.

ON [redacted]/2006, THE COURT FOUND THE DEFENDANT TO BE A PROBATION VIOLATOR. HIS SUPERVISION WAS CONTINUED AND HE WAS PLACED IN THE ISP UNIT.

ON [redacted]/2006, A CAPIAS WAS ISSUED FOR THE DEFENDANT FOR FAILURE TO REPORT SINCE [redacted]2006. ON [redacted]2006, THE WARRANT WAS RETURNED. ON [redacted]2006, THE DEFENDANT WAS FOUND TO BE A PROBATION VIOLATOR. HIS SUPERVISION WAS TERMINATED WITHOUT IMPOSITION OF SENTENCE.

[redacted]/2005 Arrest | Cleveland, Ohio | **RECEIVING STOLEN PROPERTY; MOTOR VEHICLE (COUNT 1)**
DRUG POSSESSION (COUNT 2)
TRAFFICKING OFFENSES (COUNT 3) | **Case#:** CR-06-[redacted]-A
Court: Cuyahoga County Common Pleas
Judge: [redacted]
Date: [redacted]/2006

Outcome: ON [redacted]2006, A CAPIAS WAS ISSUED OUT OF THE ARRAIGNMENT ROOM. ON [redacted]/2006, THE WARRANT WAS RETURNED.

ON [redacted]2006, THE DEFENDANT FAILED TO APPEAR ON THE DATE OF TRIAL AND A CAPIAS WAS ISSUED. ON [redacted]/2006, THE WARRANT WAS RETURNED.

ON [redacted]/2006, THE DEFENDANT ENTERED A PLEA OF GUILTY TO COUNT 1, AMENDED TO UNAUTHORIZED USE OF A VEHICLE (M-1) AND COUNT 2, DRUG POSSESSION (F-4). THE COURT IMPOSED A PRISON TERM OF ONE YEAR AT THE LORAIN CORRECTIONAL INSTITUTION.

ON [redacted]/2007, THE COURT GRANTED THE DEFENDANT'S MOTION FOR JUDICIAL RELEASE AND PLACED THE DEFENDANT ON COMMUNITY CONTROL SUPERVISION FOR THREE YEARS. HE WAS ORDERED TO SUBMIT TO REGULAR DRUG SCREENING, OBTAIN VERIFIABLE EMPLOYMENT, ATTEND THREE AA/NA MEETINGS PER WEEK AND OBTAIN A SPONSOR AND HOME GROUP.

ON [redacted]2008, A CAPIAS WAS ISSUED FOR THE DEFENDANT FOR FAILURE TO REPORT AFTER [redacted]2007. ON [redacted]/2008, THE WARRANT WAS RETURNED. ON [redacted]/2008, THE DEFENDANT WAS FOUND TO BE A PROBATION VIOLATOR AND ORDERED TO REPORT EVERY TWO WEEKS.

ON [redacted]2009, THE DEFENDANT WAS AGAIN FOUND TO BE A PROBATION VIOLATOR AFTER BEING CONVICTED OF DRUG TRAFFICKING IN CR-09-[redacted]. THE COURT ORDERED THE DEFENDANT'S SUPERVISION TERMINATED AS HE WAS SENTENCED TO PRISON ON THE NEW CASE.

[redacted]2006 Offense | Cleveland, Ohio | **DRUG ABUSE**

Case#: 2006CRB[redacted]
Court: Cleveland Municipal Court
Date: [redacted]2006

Outcome: THE DEFENDANT ENTERED A PLEA OF NO CONTEST AS CHARGED AND THE COURT MADE A FINDING OF GUILT. THE COURT IMPOSED A FINE OF $75 PLUS COSTS, BUT GRANTED THE DEFENDANT CREDIT FOR THREE DAYS SERVED IN SATISFACTION OF THE FINE.

[redacted]2006 Offense | Cleveland, Ohio | **CONSUMPTION OF INTOXICATING BEVERAGE IN MOTOR VEHICLE**

Case#: 2006CRB[redacted]
Court: Cleveland Municipal Court
Date: [redacted]2009

Outcome: ON [redacted]2006, THE DEFENDANT FAILED TO APPEAR AND A WARRANT WAS ISSUED. ON [redacted]2007, THE WARRANT WAS RETURNED.

ON [redacted]2007, THE DEFENDANT FAILED TO APPEAR AND A WARRANT WAS ISSUED. ON [redacted]2008, THE WARRANT WAS RETURNED.

ON [redacted]2008, THE DEFENDANT FAILED TO APPEAR AND A WARRANT WAS ISSUED. ON [redacted]2009, THE WARRANT WAS RETURNED.

ON [redacted]2009, THE CASE WAS NOLLED.

[redacted]2007 Offense | Cleveland, Ohio | **PUBLIC GAMING**

Case#: 2007CRB[redacted]
Court: Cleveland Municipal Court
Date: [redacted]2009

Outcome: ON [redacted]2007, THE DEFENDANT FAILED TO APPEAR AND A WARRANT WAS ISSUED. ON [redacted]2009, THE DEFENDANT WAS IN COURT AND THE MATTER WAS CONTINUED.

ON [redacted]2007, THE DEFENDANT FAILED TO APPEAR AND A WARRANT WAS ISSUED. ON [redacted]2008, THE WARRANT WAS RETURNED.

ON [redacted]2008, THE DEFENDANT FAILED TO APPEAR AND A WARRANT WAS ISSUED. ON [redacted]2009, THE WARRANT WAS RETURNED.

ON [redacted]2009, THE CASE WAS NOLLED.

[redacted]2009 Arrest | Cleveland Police | **TRAFFICKING OFFENSES (COUNT 1)** **DRUG POSSESSION (COUNT 2)**

Case#: CR-09-[redacted]-A
Court: Cuyahoga County Common Pleas
Judge: [redacted]
Date: [redacted]2009

Outcome: ON [redacted]2009, A CAPIAS WAS ISSUED OUT OF THE ARRAIGNMENT ROOM. ON [redacted]209, THE WARRANT WAS RETURNED.

ON [redacted]2009, THE DEFENDANT ENTERED A PLEA OF GUILTY TO COUNT 2, DRUG POSSESSION (F-4). COUNT 1 WAS NOLLED. THE COURT IMPOSED A PRISON TERM OF 6 MONTHS AT THE LORAIN CORRECTIONAL INSTITUTION.

ON [redacted]2009, THE DEFENDANT WAS RELEASED FROM PRISON.

[redacted]2011 Cleveland, **DRUG ABUSE**

Case#: 2011CRB[redacted]

Offense Ohio

Court: Cleveland Municipal Court
Date: [redacted]2011

Outcome: ON [redacted]2011, THE DEFENDANT FAILED TO APPEAR AND A WARRANT WAS ISSUED. ON 6/29/2011, THE WARRANT WAS RETURNED.

ON [redacted]2011, THE CASE WAS NOLLED.

[redacted]/2012 Arrest — Cleveland, Ohio — **BURGLARY (COUNT 1)** **PETTY THEFT (COUNT 2)**

Case#: CR-12-[redacted]-A
Court: Cuyahoga County Common Pleas
Judge: [redacted]

Outcome: ON [redacted]/2012, THE DEFENDANT ENTERED A PLEA OF GUILTY TO COUNT 1, BURGLARY (F-3), AS AMENDED FROM 2911.12(A)(1). THE REMAINING COUNT WAS NOLLED. THE DEFENDANT WAS ORDERED TO MAKE RESTITUTION IN THE AMOUNT OF $17.00 TO THE VICTIM. A PRE-SENTENCE INVESTIGATION WAS REQUESTED. THIS IS THE PRESENT OFFENSE.

Miscellaneous Criminal Information

Defendant currently on Probation/Parole: No
Has the Defendant lived in other states? No

Gang / Security Threat Activity
The defendant denies any past or present gang affiliation. ODRC records associate the defendant with the [redacted]. The defendant admits that he grow up in that neighborhood but he has never associated with the gang.

Other prior record or case Information
The defendant has had two prior No Operator's License convictions in Cleveland Municipal Court (2008TRD[redacted] and 2011TRD[redacted]). He has had one No Operator's License case dismissed (2010TRD[redacted]).

Family/ Home History

Mother
Mary [redacted], 60 , Living

Father
[redacted], 58, Living

Siblings
[redacted] (32), [redacted] (31), [redacted] (29), [redacted] (27), [redacted] (26), [redacted] (24), and [redacted] (22). The defendant has a fair relationship with his siblings. They all get along. He sees them on a daily basis.

Family History in the Criminal Justice System
Not to the defendant's knowledge. Further investigation reveals that his father was convicted of Receiving Stolen Propert and Possessing Criminal Tools in CR-85-[redacted], prior to the defendant's birth. He was placed on and completed probation.

Marital Status	Spouse Name	Married Date
Single	None	None

Ex / Estranged Spouse	# of Children	Names / Ages
	2	[redacted], age 1 [redacted], Jr., age 5

Defendant Raised by: his parents. The defendant reports that he has a great relationship with his mother. They call each when they need each other. His relationship with his father is not as good. He is not around nearly as much.

Other Information
[redacted] is the defendant's girlfriend and the mother of his two children. The defendant reports that he has a great relationship with [redacted]. They have been together for five years. Overall, he is very satisfied in his relationship status. He does not want for anything. When he comes home from work, his wife has the house clean and has taken care of the kids.

The defendant believes that he receives strong personal and emotional support from his support system. He can call on any one of his siblings whenever he needs help and they will support. [redacted] and his mom are also there whenever he needs it. Overall, he is very satisfied with the level of support that he does receive.

The defendant denies any past physical or sexual abuse and he has never been involved in the foster care system.

Defendant has been arrested for assaulting a family member: No

Physical Health

The defendant reports having the following current medical problems: None.

The defendant has received treatment or has been hospitalized for a physical problem. The defendant suffered a burn [redacted] when he was approximately 18.

The defendant is not currently diagnosed with an infectious disease.

Mental Health

The defendant reports never having participated in Mental Health Treatment. None

When asked if the defendant ever attempted to hurt himself, the response was: No

Prior Mental Health Hospitalizations: No

Substance Abuse History

Defendant answered no when asked whether he was under the influence of drugs when arrested. The subject stated the last time he used alcohol or drugs was marijuana on [redacted], 2012..
He described the following history of alcohol or drug use:

Drug	Age Began	Age Ended	How Much	How Often
Marijuana	18		Three blunts a day	Daily
Alcohol	18	25	A six pack of beer	One six pack a day

When asked whether he had ever had prior treatment, the defendant answered no.

Additional Substance Abuse Information: The defendant began drinking a six pack a day about five years ago when he had his first child. He stopped drinking a year ago. He knew that drinking was not good for him if he is working. He reports that his drug use has never negatively affected his relationship with his family or friends but it has negatively affected employment opportunities. In February 2012, he failed a drug screen after being hired for a job.

Drug Test History (Last 60 Days):

Date	Result
[redacted]2012	MARIJUANA(Positive), COCAINE(Negative), OPIATES(Negative)

Employment and Income

Current Employer	Occupation	Wages	Contact Person	Start Date	End Date
None					

Other Income Type

Other Income Information

The defendant reports that he has been performing lanscaping work for [redacted] for about four months total since September 2011. When they have work, he works about four days a week, five or six hours a day. He has been working more regularly since the end of March 2012. He makes about $5.75 per hour in taxable employment. He recently was hired as a cook at the [redacted]. He is scheduled to begin this part-time job on June 7, 2012. (The interview was held on [redacted], 2012.

He worked at [redacted] from January 2006 until March of 2008 refurbishing computers.

Presently Collecting Unemployment: No

Assets/Debts

The defendant reports that he has no assets or debts. He is able to pay his bills in a given month but he does not have any extra money left over for savings.

Other Information

Pro-Social Activities

On a typical day, the defendant wakes up around 7:30 in the morning. If he is working, he leaves at 9 a.m. and goes to the worksite. He works for a few hours and then he goes back home. He cleans up and plays with the kids. He then goes to get marijuana and gets high. He returns home, watches a few movies and cooks dinner for the kids.

In those days when he is not working, he watches his children. [redacted] does hair on the side and she often has to run off for appointments. With [redacted] and the kids, the defendant lives to go to the zoo or to the park.

With his friends, the defendant lives to play football, basketball, video games and watch sports.

Peer Associations

The defendant reports that he has three close friends whom he sees on a daily basis, if they are off from work. Each of them smokes marijuana but only one of them has been in trouble with the law. This one friend was arrested for Drug Trafficking last year.

Regarding acquaintances, the defendant admits that some have been in trouble with the law in the past but he does not know the details. He may see these people on a daily basis in the neighborhood. He does not really interact with them socially.

Criminal Attitudes and Behavioral Patterns

As a general rule do you worry about other people's problems? Some concern- Another person's problem is not his problem. If he knows the person, he may be a little concerned.

Do you feel sometimes that you have lost control over the events in your life? Sometimes lacks control- Sometimes he catches himself doing things that he shouldn't be doing. He thinks about it and questions why he would do something if he knows that he shouldn't.

Do you think of yourself as someone who takes chances or risks? Does not take chances or risks- There are consequences behind taking chances and risks and things could go wrong.

Would you describe yourself as someone who walks away from a fight, tries to avoid it but it seems to find you, or the first one in? Tries to avoid fights but sometimes they find him- People try to pick on other people. If they see you trying to walk away, they may think you are a sucker.

Do you think it is sometimes okay to tell a lie? Not okay to lie- You have to tell more lies to cover up the first lie.

Have you ever heard the saying, "Do Unto Others Before They Do Unto You,"? Do you agree? Disagrees- You shouldn't do things like this. You can be hurt just going after the other person. Anything can happen. It is better to avoid the situation.

Additional attitude or behavioral information

Ohio Risk Assessment Summary

Recidivism Risk Level (if community supervision is considered)

Results of this assessment place the defendant in the **HIGH (11-14) Risk Level.** If placed on community supervision, according to research and Probation Department Policy, the defendant would best be served in **GROUP D supervision.**

Criminogenic Need Domains:

	HIGH	MEDIUM	LOW
Criminal Attitudes/Behavioral Patterns		X	
Peers	X		
Family/Social Support			X
Education/Employment/Finance		X	
Substance Abuse		X	

Responsivity Assessment

Reading or Writing significantly below normal No
Homelessness No
Mental Health / Developmental Disability Issues No
Physical Disability No
Motivation is a problem No
Transportation is a problem No
Child care is a problem No
Language is a problem No
Ethnicity or Culture barriers No
History of abuse / neglect No
Interpersonal Anxiousness No
Other No **Additional History and Observations / Impressions**

Remanded: **Remand Reason:**

Approved,

[redacted]
Supervisor
[redacted]

Respectfully submitted,

[redacted]
Probation Officer
(216) 443-[redacted]

****ORC Sec. 2951.03 (B)(1) provides in pertinent part:**
...the court shall not permit the defendant or the defendant's counsel to read any of the following:
(a) Any recommendation as to sentence;
...
(c) Any sources of information obtained upon a promise of confidentiality;
(d) Any other information that, if disclosed, the court believes might result in physical harm or some other type of harm to the defendant or to any other person

Use of Risk and Needs Assessment Information at Sentencing: Yamhill County, Oregon

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December 2013

Center for Sentencing Initiatives

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I. About this Report

In August 2011, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution recommending that "offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism."[1] The resolution noted that supervision and treatment decisions informed by valid and reliable offender risk and needs assessment (RNA) information is a critical component of effective strategies to reduce recidivism.

This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how some stakeholders are incorporating the

[1] Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx).

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the Yamhill County criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.[2]

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

II. Offenders Assessed

In the fall of 2013, as a result of the passage of HB 3194, Yamhill County changed its focus on the offenders for which RNA information is sought prior to sentencing.[3] Before enactment of HB 3194, a "case analysis" including RNA information was prepared for presumptive probation cases to help judges tailor probation conditions to address an offender's criminogenic risk factors.[4] All felony offenders were screened for risk; and those whose scores were medium and above were given a full RNA.

With passage of HB 3194, RNA information is prepared prior to sentencing only for presumptive prison cases – those involving non-person, felony offenses – to help identify offenders who could be safely managed in the community.[5] The "early defendant analysis," including the RNA information, is prepared after arraignment on indictment and thus is available in the plea negotiation process. Presumptive probation offenders are assessed post-sentence, and community corrections determines probation conditions to address risk and needs factors based on the assessment.

III. Assessment Process

The flowchart in Appendix A depicts the early defendant analysis (EDA) pilot process

[2] A Yamhill County judge, defense attorney, and two representatives from community corrections agreed to NCSC requests for an interview.

[3] See text of legislation at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB3194/Enrolled.

[4] Presumptive-probation is determined according to Oregon's sentencing guidelines. For more information, see the Oregon Sentencing Guidelines Grid at http://www.oregon.gov/CJC/docs/guidelinesgrid.pdf. Also see Kauder, N., & Ostrom, B. (2008). *State sentencing guidelines profiles and continuum*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/~/media/Microsites/Files/CSI/State_Sentencing_Guidelines.ashx).

[5] The district attorney designates cases as either presumptive prison or probation. Violent and sex offenders are excluded from consideration of the diversion program.

underway in Yamhill.[6] A dedicated Yamhill County Community Corrections officer prepares the EDA. The EDA includes the results of the Oregon Public Safety Checklist, an automated actuarial risk assessment screening tool used with all offenders to distinguish those who pose a low risk to recidivate from those who pose a higher risk.[7] Regardless of their risk level on the Public Safety Checklist, however, offenders who undergo EDA all complete the full Level of Service/Case Management Inventory (LS/CMI) assessment. The LS/CMI was developed in 2004 by Don Andrews, James Bonta, and Stephen Wormith to function both as a case management tool and as an assessment of offender risk, needs, and responsivity factors.[8] The assessment consists of 43 items across 8 categories.

Oregon Community Corrections began using the LS/CMI statewide several years ago as part of its effort to incorporate evidence-based practices into its operations. However, LS/CMI results were not shared with the court in a formal manner until 2011 when Yamhill developed the case analysis form for presumptive probation cases as part of its work with the National Institute of Corrections' Evidence Based Decision Making Initiative (EBDMI). [9]

When administering the LS/CMI, the officer may override the results of the instrument for policy reasons, i.e., based on community norms and tolerance for certain types of offenders or offenses. Overrides result in changes to the level of supervision recommended but not to the offender's actual LS/CMI score. However, because person offenses (e.g., sex offenses, domestic violence offenses) are not eligible for prison

[6] The pilot process will be reviewed in February 2014.

[7] The Oregon Public Safety Checklist was developed by the Oregon Criminal Justice Commission in collaboration with the Oregon Department of Corrections and validated by researchers at Western Oregon University in 2012. The tool uses static demographic and criminal history information available from four state law enforcement and court information systems to calculate the risk for felony reconviction or for rearrest on a person or property offense. In the traditional sentencing process, offenders identified as low risk on this screening tool do not subsequently receive a full RNA assessment, which is conducted post-sentence only with higher risk offenders to inform decisions about the conditions of supervision and case planning. Additional information on the checklist can be found at https://risktool.ocjc.state.or.us/psc/. For additional information on the implementation of the PSC, see http://www.oregon.gov/DOC/CC/popularity_boxes/psc_service_request.pdf. The validation study report is available at http://www.oregon.gov/CJC/Documents/Publications/Public_Safety%20_Checklist_Rpt.pdf.

[8] As of this report, the LS/CMI is the latest version of the commercially available Level of Service Inventory (LSI) system. The last version, the Level of Service Inventory-Revised (LSI-R), was made available to the public in 1995 and is still widely used as a stand-alone RNA tool. For more information about the LS/CMI, refer to the Multi-Health Systems, Inc. website at http://www.mhs.com/product.aspx?gr=saf&prod=ls-cmi&id=overview.

[9] EBDMI seeks to expand the use of evidence-based information and practices throughout the criminal justice system. For more information on the EBDMI, see Yamhill County, OR, Evidence Based Decision Making Initiative (EBDMI) web page at http://www.co.yamhill.or.us/content/evidence-based-decision-making-initiative-ebdmi and National Institute of Corrections, Evidence-Based Decision Making web page at http://nicic.gov/EBDM.

diversion, overrides in EDA cases are less likely.

The EDA also includes the results of four assessments examining issues related to the offender's motivation: the University of Rhode Island Change Assessment Scale (URICA), a motivational assessment that captures a defendant's readiness to change; the TCU Substance Abuse Screening tool to assess substance abuse severity; and the Jail Brief Mental Health Screening instrument to determine if additional mental health assessment is appropriate. [10]

IV. Assessment Report

Traditional narrative presentence investigation reports are rarely used in Yamhill because of Oregon's determinate sentencing guidelines which focus on criminal history and severity of offense. [11] However, to provide the court guidance regarding conditions of probation for individual offenders, Community Corrections, in consultation with local stakeholders, developed a short, case analysis form. The case analysis provided probation recommendations to address an offender's likelihood to recidivate based on the results of the LS/CMI and other assessments that were conducted as well as information obtained from other sources such as treatment providers or a mental health specialist.

In response to HB 3194, Yamhill County stakeholders modified the case analysis form and created the EDA form for use pre-plea to identify defendants who could be supervised in the community rather than incarcerated. The EDA form (see Appendix B) is usually two or three pages in length and provides more detailed RNA information than the previous case analysis form. In addition to the overall LS/CMI risk score, the EDA presents a color-coded bar graph which displays the individual risk levels for each of the eight LS/CMI domains. The EDA also includes results from supplemental assessment tools used.

The Community Corrections officer recommends whether or not the defendant can be effectively supervised in the community and suggests programming and other conditions of probation if the individual remains in the community. In addition, at the district attorney's request, the form includes a summary of the offender's prior performance on community supervision, if applicable.

Yamhill County Community Corrections began using EDA in November 2013. In November and December 2013, 10 EDAs were conducted.

[10] The URICA contains 32 self-report measures and is often used to assess clinical processes. Additional information on the URICA may be found at http://pubs.niaaa.nih.gov/publications/AssessingAlcohol/InstrumentPDFs/75_URICA.pdf. Additional instrument and validation information on the TCU Drug Screen may be found at https://www.ncjrs.gov/pdffiles1/nij/grants/196682.pdf. Comprehensive information on the Jail Brief Mental Health Screening may be found at http://gainscenter.samhsa.gov/topical_resources/bjmhs.asp. Community Corrections also conducts additional assessments for cases involving sex offenses or domestic violence, but these cases are not eligible for prison diversion; assessments are completed post-sentence to aid in case plan development.

[11] See note 4.

V. Use of Assessment Information

General reception. Although the EDA process is early in its implementation, Yamhill County Community Corrections has been providing RNA information to the court since 2011. Local stakeholders generally find RNA information helpful and seem open-minded about the new EDA process and reporting format.

When Yamhill County initially adopted the LS/CMI, stakeholders expressed some concerns regarding the proper and reliable administration of the LS/CMI assessment. Periodic training sessions, conducted by the National Institute of Corrections and other national leaders in the field and open to all local stakeholders (e.g., law enforcement agencies, the district attorney's office, defense attorneys, judges, Community Corrections staff), played a critical role in addressing these concerns and generating local buy-in for the continued use of RNA results to inform court decision making. In addition, a sentencing working group comprised of the county's presiding judge, district attorney, community corrections staff, and a local defense attorney meets regularly to discuss EDA issues, such as the effectiveness of the current referral process.

Practical use of RNA information among stakeholders. All stakeholders interviewed for the report indicated that RNA information can be useful in the sentencing process. Judges generally follow EDA recommendations.[12]

The EDA process was developed by stakeholders as a pilot effort and likely will be modified as stakeholders gain more experience with the process. Stakeholders expressed no due process concerns to date with the EDA process. Defense attorneys direct clients not to discuss the current offense with the Community Corrections officer during assessment, and pending charge information is not included on the EDA form.

For presumptive probation cases, the court no longer receives RNA information prior to sentencing. For these cases, the plan is for the court to order any "control" conditions that are necessary for public safety purposes (e.g., no possession of alcohol or entry into taverns for an alcohol-related offense) at the time of sentencing. After sentencing, Community Corrections conducts the RNA and develops conditions to target the offender's criminogenic risk factors and needs. These conditions become effective within five days of filing a report of the assessment and recommendations to the court. The new Oregon law does not specify any process for defense review before or after the conditions are imposed, but clients have the right to consult with counsel and to object to imposed conditions.

VI. Outcomes Tracked

The Oregon Department of Corrections tracks statewide recidivism rates, offender risk levels, and probation terminations among other data measured as part of an ongoing evaluation of Oregon's Community Corrections Act.[13]

As part of its EBDMI work, Yamhill criminal justice stakeholders prepared a

[12] Four Yamhill County judges use EDA forms.

[13] An example of the report may be found at http://www.oregon.gov/DOC/CC/docs/pdf/evaluating_oregons_cc_act.pdf.

scorecard to measure progress in reducing community harm.[14] Yamhill County is working with George Fox University to evaluate its progress based on the previously-used case analysis approach. The data measures tracked for this effort include recidivism rates, absconsion rates, and positive case closure.[15]

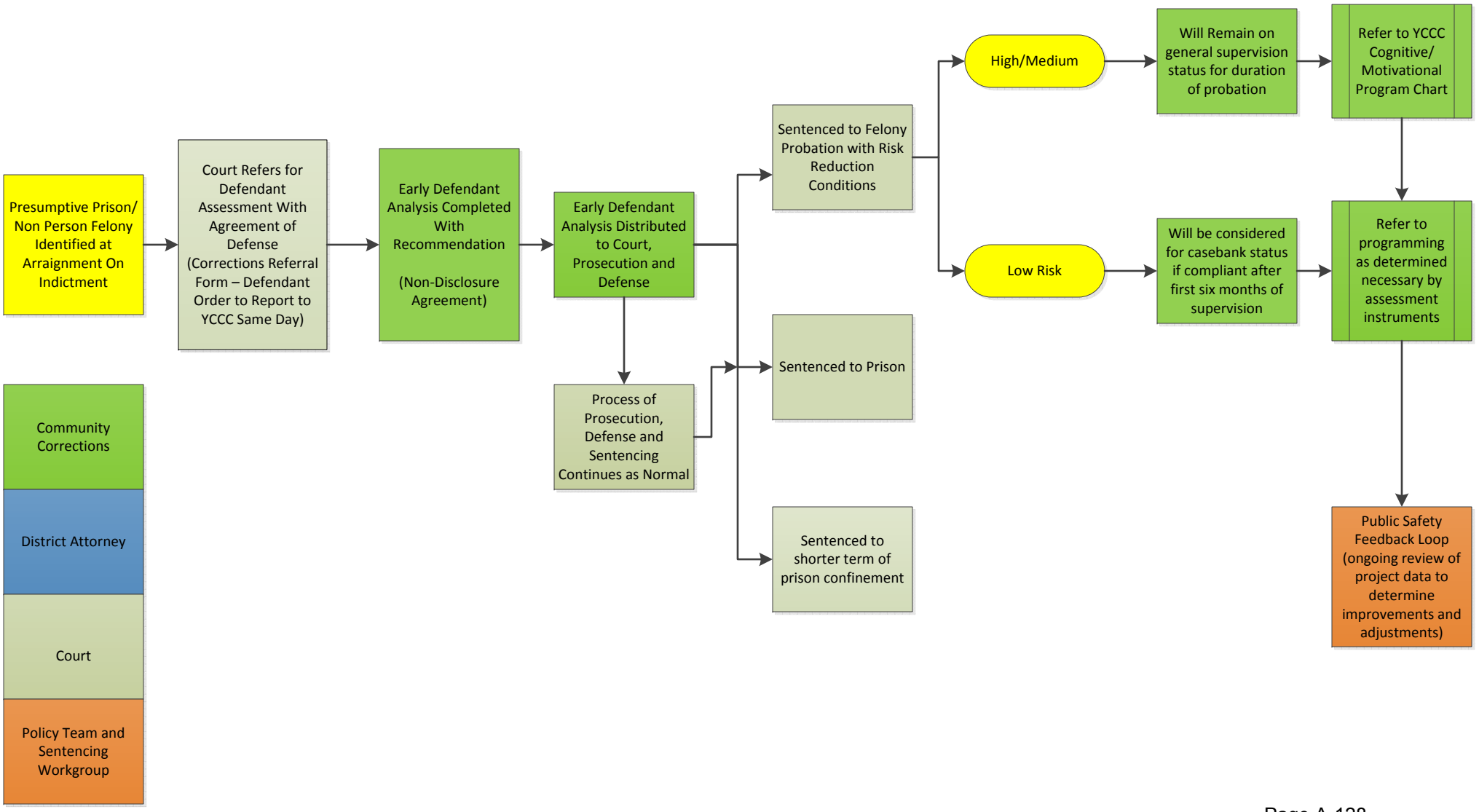
Measures for the new EDA process are not yet finalized but likely will include risk level information, referral rates, and type of sentence. In addition, Yamhill is seeking to reduce the number of months of prison imposed on offenders by 6% or 285 months in 2014. If it reaches this goal, the state will save approximately $786,600, and Yamhill will receive $172,000 to bolster its community-based sanctions, services and programs.[16]

[14] The Yamhill County Criminal Justice System Scorecard is available at http://www.co.yamhill.or.us/sites/default/files/scorecard_final.pdf.

[15] Additional data measures are described in the plan, available at http://www.co.yamhill.or.us/sites/default/files/2011-2012%20annual%20pdf.pdf.

[16] The Justice Reinvestment Program is part of HB 3194. See note 3.

Yamhill County Oregon Smart Sentencing Initiative
Early Defendant Analysis
State Justice Reinvestment Program
Arraignment on Indictment



Appendix B
Sample EDA Form

YAMHILL COUNTY COMMUNITY CORRECTIONS

EARLY DEFENDANT ANALYSIS

Summary Page

DATE:	
DEFENDANT NAME:	
TRUE NAME:	
AKA:	
SID#:	
DOB:	

Defendant Photo Here

INSTANT OFFENSE					
Case #	**County**	**Judge**	**District Attorney**	**Defense Attorney**	**A/R**

INSTANT OFFENSE DETAIL					
Case #	**ORS**	**CLS**	**CSS**	**CHS**	**Type**

Overall Risk Level: **Low** ☐ **Moderate** ☐ **High** ■

Treatment Dosage: **N/A** | **200 hours** | **300 hours**

RISK REDUCTION TARGETS	
Primary Risk/Need Factors	**Program/Condition Recommendation**
Secondary Risk/Need Factors	**Program/Condition Recommendation**

RISK MANAGEMENT CONCERNS		
Management Concern	**Program/Condition Recommendation**	**Rationale**

EARLY DEFENDANT ANALYSIS
Detail Page

Recommendations:

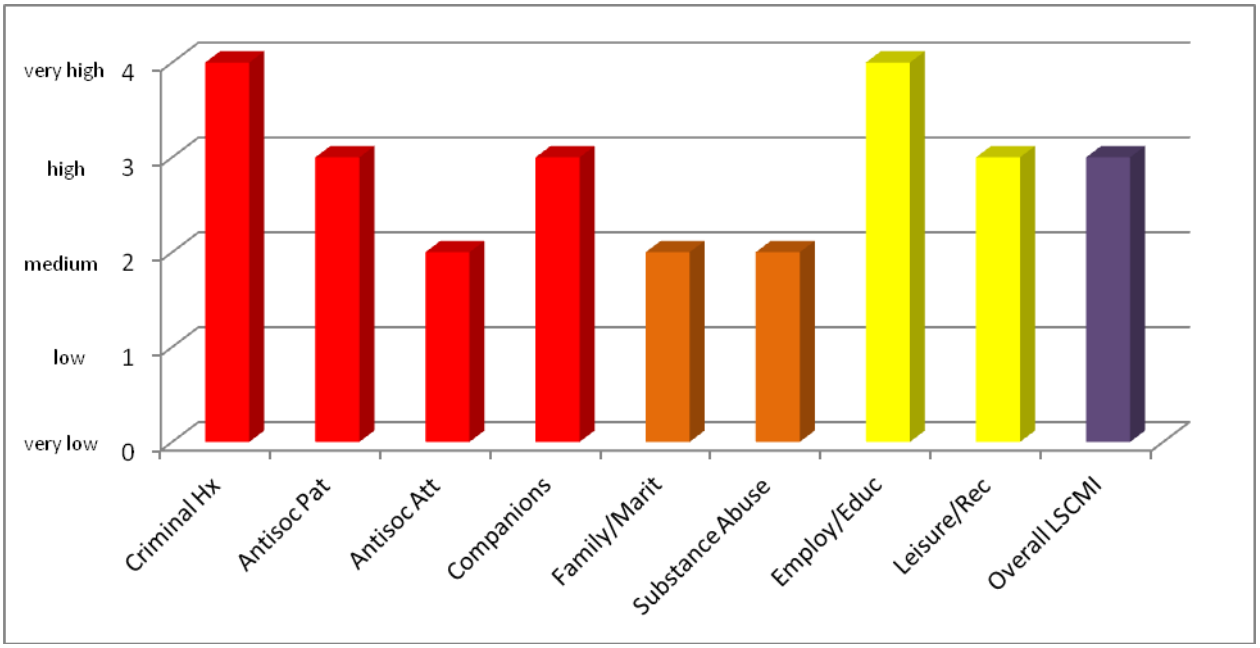
Prior conformance on community supervision:

Comments:

Risk Assessment Results		
Instrument	**Score**	**Level**
LSCMI		
PSC/PROXY		
TCU (A&D)		
Mental Health Screen	N/A	

Motivation Level Assessments	
URICA Score	
Stage of Change	

LSCMI Domain Scores



EARLY DEFENDANT ANALYSIS
Detail Page Continued

Responsivity Factors *Check all that apply that are relevant to service needs*			
Functional ability: attention span		Mental health (MH screening)	
Functional ability: cognitive deficits		Cultural background	
Functional ability: emotional age		Minimization	
Language		Physical health	
Learning style		Transportation	
Level of motivation (URICA score)		Other *(specify)*:	

STRENGTHS (Top 3)
1.
2.
3.

Prepared by:

_____
Community Corrections Manager Date

C: Honorable Judge [Name]; Sentencing Judge; District Attorney; Defense Attorney; PO of record (if applicable)

Use of Risk and Needs Assessment Information at Sentencing: Travis County, Texas

CENTER FOR SENTENCING INITIATIVES
RESEARCH DIVISION
NATIONAL CENTER FOR STATE COURTS

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I. About this Report

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This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how

[1] Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx).

some stakeholders are incorporating the information into their sentencing practices.

The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

Travis County Update

NCSC staff initially interviewed stakeholders in Travis County in late 2010 as part of a project to develop guiding principles for using RNA information at sentencing.[2] At the time, the Travis County Community Supervision and Corrections Department (CSCD) was in its fourth year of a reengineering effort, referred to as Travis Community Impact Supervision (TCIS), to incorporate evidence-based practices, including the use of offender assessment information to inform supervision and treatment strategies, into its operations.[3] Travis County CSCD thoroughly documented and provided outcome data on the success of the TCIS initiative; as a result, TCIS continues to serve as a model for other jurisdictions.[4]

When NCSC contacted Travis County in the fall of 2013 to update the initial interview information, staff learned that Travis County was in the process of changing its RNA instrument to the Texas Risk Assessment System (TRAS), the instrument adopted for statewide use. Thus some of the information in this report will be changing. The report discusses Travis County's operations prior to the adoption of the TRAS.

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the Travis County criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.[5]

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

II. Offenders Assessed

In Travis County, CSCD conducts full offender RNAs for adult felony offenders. The RNA is completed as part of the presentence investigation process, and results are included in the diagnostic report that is prepared for the court. A diagnostic report is mandatory for all felony offenders for which a community supervision sentence has been deemed appropriate, although certain case types are exempt. For example,

[2] See Casey, Warren & Elek (2011) at footnote 1.

[3] The department website is: http://www.co.travis.tx.us/community_supervision/default.asp.

[4] For general information and reports on the effort, see Travis Community Impact Supervision (TCIS) Initiative web page at http://www.co.travis.tx.us/community_supervision/TCIS_Initiative.asp.

[5] In 2010, NCSC interviewed a Travis County judge, four probation officers, and three prosecutors. Staff followed up with the CSCD Assistant Director in 2013 to update the information.

special dockets designed to expedite first-time offender drug cases and felony cases that have been reduced to misdemeanors as part of the plea bargaining process typically do not require a diagnostic report. Offenders who plead guilty and for whom a straight prison sentence is assured are also entitled to a diagnostic report but often choose to waive this right.

In addition to providing RNA information at sentencing, CSCD also provides this information pre-plea. Pre-plea diagnostic reports containing RNA information are not statutorily required nor are they issued for particular case types; instead, they are ordered by the court on a case-by-case basis in a manner that varies depending on the philosophy of the presiding judge. One judge, for example, orders a pre-plea diagnostic report only if the parties agree that the information provided by the report will substantially affect plea negotiations for probation. Other judges will order a pre-plea diagnostic report if the offender is probation-eligible, even if the state is recommending a straight prison sentence. Attorneys may also request pre-plea diagnostic reports in a variety of circumstances. For example, defense attorneys sometimes request a diagnostic report to help them determine whether or not the conditions proposed by the prosecutor are appropriate for their client. Alternatively, the defense and prosecution may firmly disagree on the conditions of a plea and request a diagnostic report to facilitate agreement. In all cases, however, the presiding judge decides whether or not to order the diagnostic report, and the court officer (a liaison that represents the probation department at all court hearings) then submits the request to a specialized unit of the Travis County CSCD for processing.

PROVIDING RNA INFORMATION PRE-PLEA IN TRAVIS COUNTY

To manage due process concerns about conducting pre-plea presentence investigations, the Travis County CSCD Diagnostic Unit officer conducting the RNA interview is not permitted to ask the alleged offender questions about the charged offense. Moreover, if the individual admits to the offense or discloses other information pertinent to the judgment of guilt, the officer must omit these references from the official record and from the diagnostic report that is provided to the court.

The CSCD estimates that approximately 40-50% of their diagnostic reports are issued pre-plea. Reportedly, many stakeholders would welcome the opportunity to access pre-plea diagnostic reports for all cases. Some judges often order diagnostic reports pre-plea. Others, while acknowledging the value of a diagnostic report, express concern about the availability of staff resources to prepare the reports. These judges may limit their requests to specific cases and reject requests from attorneys wishing to use a report as a form of discovery.

III. Assessment Process

Prior to the winter of 2013, Travis County CSCD used the Wisconsin Risk Assessment tool and the Strategies for Case Supervision (SCS) system to assess offender risk and needs.[6] The Wisconsin Risk Assessment is an 11-item non-proprietary risk assessment instrument that was originally developed and validated in the state of Wisconsin in the late 1970s; the Texas Community Justice

[6] Also referred to as the DOC-502.

Assistance Division (CJAD) of the Department of Criminal Justice adapted the instrument and reported on a validation study in a 2005 report.[7] The Wisconsin Risk Assessment was most recently validated for use in Travis County in 2006.[8] Typically, the Wisconsin Risk Assessment tool is used in conjunction with the Client Management Classification (CMC) system, an interviewing and case planning system designed to identify offender needs and responsivity factors for use in the development of a meaningful case plan.[9] To complement the risk assessment tool, a modified version of the CMC, called Strategies for Case Supervision (SCS), was adopted statewide.[10] As noted earlier, however, Texas officials recently adopted the Texas Risk Assessment System (TRAS) as the new statewide standard, and Travis County is in the process of transitioning to that instrument. The TRAS is a modified version of the Ohio Risk Assessment System (ORAS), which was originally developed by University of Cincinnati researchers in 2010.[11] University of Cincinnati researchers have been hired to develop and help implement the TRAS.

In addition to the general offender risk and needs assessments described above, specialized assessments are also conducted on an as-needed basis. This includes mental health and substance abuse. Screening.[12]

Currently, Travis County CSCD uses a centralized diagnostic unit (also referred to as the Diagnostic Unit) of 10 officers, 2 seniors, and 1 manager to conduct all presentence investigations (including the above assessments). Any reassessments are completed by the offender's supervising probation officer.

IV. Assessment Report

In addition to providing current offense and criminal history information, the diagnostic report summarizes information about an offender known to be correlated with recidivism or positive adjustment in the context of probation supervision. The report,

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[7] Texas Department of Criminal Justice – Community Justice Assistance Division. (2005). *Validation of risk assessment instrument*. Austin, TX: Author (available at http://cjadweb.tdcj.state.tx.us/Research/Documents/Risk%20Assessment%20Validation%202005.pdf).

[8] See Bryl, J., Fabelo, T., & Nagy, G. (2006, August). *Travis Community Impact Supervision. Guiding justice decisions with risk assessment instruments*. Washington, DC: The JFA Institute (available at http://www.co.travis.tx.us/community_supervision/tcis/travisincubator3.pdf).

[9] See Baird, C., & Neuenfeldt, D. (1990). *Improving correctional performance through better classification: The Client Management Classification System*. Madison, WI: National Council on Crime and Delinquency.

[10] See pp. 10-13 in Fabelo, T., & Nagy, G. (2006, June). Travis Community Impact Supervision. Better diagnosis: The first step to improve probation supervision strategies. Washington, DC: The JFA Institute (available at http://www.co.travis.tx.us/community_supervision/tcis/TravisIncubator2.pdf).

[11] See p. 16 in Latessa, E. J., Lemke, R., Makarios, M., Smith, P., & Lowenkamp, C. T. (2010). The creation and validation of the Ohio Risk Assessment System (ORAS)*. *Federal Probation, 74*, 16-22. Retrieved from http://www.uscourts.gov/uscourts/FederalCourts/PPS/Fedprob/2010-06/02_creation_validation_of_oras.html.

[12] Mental health questions are included on the substance abuse evaluation (SAE) and the Addiction Severity Index (ASI). In addition, some individuals are assessed in the jail with the Texas Recommended Assessment Guidelines (TRAG). As needed, probation will contract with outside professionals to obtain a full psychological evaluation.

as constructed prior to the use of the TRAS, contains a "diagnosis matrix," a color-coded chart which identifies the offender's risk level and SCS category (see Appendix). It also provides tabular information about the offender's criminogenic needs and responsivity factors that are of moderate to high concern for the specific individual, with further explanation provided in bulleted format. These visuals provide an "at-a-glance" synopsis of the offender for both the court and the supervising officer, should the offender be placed on probation supervision. Using standardized language derived from the SCS instrument, the diagnostic report also contains a short narrative that highlights the key results of the diagnosis.

The diagnostic report in Travis County lists the standard conditions of supervision required by law and specifies the strategies that may be used as part of the supervision plan. Unlike the old PSI report format, the diagnostic report does not explicitly recommend whether or not the offender should be placed on probation. The diagnostic report only describes the diagnosis for an individual and identifies the types of conditions that would apply, should the court decide to place the individual on probation.

Currently, a total of approximately 130 diagnostic reports are prepared per month.

V. Use of Assessment Information

General reception. Court stakeholders initially had some reservations about changing the PSI report. However, once implemented, most seemed pleased with the report format. Judges and attorneys have stated that the new diagnostic report is better organized, more comprehensive, permits a more comparative analysis of problem areas, and is easier to use to identify an individual's problem areas than the old PSI report.

Practical use of RNA information among stakeholders. Generally, judges and attorneys appear to routinely use and rely upon the diagnostic reports prepared by the CSCD Diagnostic Unit staff to inform decision-making at sentencing. These stakeholders appear to trust the probation unit to formulate informed case plan decisions about treatment services appropriate to each probation-eligible adult offender and typically rely on recommendations from the CSCD Diagnostic Unit regarding specific conditions of probation. With the assessment-driven change in court culture, the district attorney's office now often negotiates plea conditions using general language such as "treatment and counseling as recommended by the probation department." This trust is likely due, in part, to the decision within the Travis County CSCD to establish a well-trained, centralized Diagnostic Unit and to publicize the successes of their evidence-based policies using empirical data from routine fidelity studies and other performance measures. Interestingly, some attorneys and judges have found that sharing the diagnostic report with defendants can also help certain offenders understand how the court's decision is in their own best interests.

As the evidence-based diagnostic reports gained relevance in the court community, attorneys pushed to receive the reports more quickly for review – a testament to the perceived value of the report information. The Travis County CSCD worked with the Bar to expedite that process and generally return diagnostic reports to the court and to

attorneys within 5-10 days from the initial order.

Attorneys have raised objections involving individual diagnostic reports in some cases. Defense attorneys, for example, have requested the review of a case to ensure that the assessment was conducted properly (called *restaffing*), but these objections are infrequent and are handled internally on a case-by-case basis.

VI. Outcomes Tracked

The Travis Community Impact Supervision (TCIS) initiative prompted an organizational realignment of the probation department to support a more effective, evidence-based operational model. Continuous monitoring and evaluation activities have been a cornerstone of the initiative. The Travis County CSCD disseminates all findings from TCIS evaluations to the court. Routine evaluations shared with the court include a biannual report of revocation rates for each judge and an annual report on treatment program evaluation results.

For offender outcomes, the Travis County CSCD primarily tracks absconsion rates, noncompliance rates, revocation rates (including rates for individual judges' courts), and recidivism (re-arrest) rates. A comparison study of felony probationers pre-TCIS realignment (January-June 2006) and of felony probationers post-TCIS realignment (July-October 2007) revealed significant decreases in re-arrest rates by risk level that are attributed to the new evidence-based approach. Pre-TCIS, 26% of low-risk, 26% of medium-risk, and 34% of high-risk felony probationers had been rearrested within one year of probation placement. With the evidence-based approach (post-TCIS), Travis County observed rearrest rates of 6% for low-risk (a difference of -77%), 13% for medium-risk (a difference of -50%), and 31% for high-risk felony probationers (a difference of -9%) one year after placement.[13] All major reports documenting evaluations of this initiative are publicly available on the TCIS website.[14]

[13] Nagy, G. (2012, January). *Travis Community Impact Supervision (TCIS)*. Travis County, TX: Travis County Adult Probation Department (available http://www.co.travis.tx.us/community_supervision/tcis/IncubatorProgReport_12.pdf).

[14] The TCIS website is: http://www.co.travis.tx.us/community_supervision/TCIS_Initiative.asp

Appendix

TRAVIS COUNTY ADULT PROBATION DEPARTMENT
P. O. Box 2245, Austin, Texas 78768 (512) 854-4600
EXAMPLE DIAGNOSTIC REPORT-PSI

NAME (Last) Miller	**(First)** Melanie	**(Middle)** R	**(Maiden)**	**COURT DATE** 09/06/07
Aka: Mary Miller		**TRN** **TRS**		**CAUSE NO.**
SSN	**APD**	**FBI NO.**	**SID NO.**	**DL NO.**
MAILING ADDRESS		**PHYSICAL ADDRESS** Same		**CITIZENSHIP** United States
PHONE NUMBER 512-		**OTHER NUMBER** 512-		**ALIEN NO.** None
PLACE OF BIRTH Texas	**DOB** 09/19/1960	**AGE** 46	**SEX** Female	**RACE** Caucasian
MARITAL STATUS Single		**DEPENDENTS** 1		**EDUCATION** 10th grade
MONTHLY INCOME $817.00		**MONTHLY EXPENSES** $714.00		
OFFENSE FORGERY				**OFFENSE TYPE** State Jail Felony
PENALTY RANGE 180 days - 2 years confinement, 2-5 years supervision, Fine up to $10,000.				**OFFENSE DATE** 12/xx/06
CO-DEFENDANT None				**DATE OF ARREST** 12/xx/06
PLEA Has Not Pled		**CUSTODIAL STATUS** Personal Bond		**DATE OF PLEA** N/A
DETAINERS/ CHARGES PENDING None				
PROSECUTOR		**DEFENSE ATTORNEY**		**RESTITUTION** None
SENTENCING JUDGE		**COURT** xxth District Court		
PROBATION OFFICER **DIAGNOSTIC UNIT**		**PROBATION MANAGER** **DIAGNOSTIC UNIT**		

PRESENT OFFENSE NARRATIVE:

On December xx, 2006, at approximately 2:15 pm, Austin Police Department (APD) Officer K. and Officer P. responded to a report of a forgery passing at ABC Cash Express located at 517 A Ave. Upon arrival they met with Mary Smith who stated that a female, identified as Melanie Miller, the defendant, was attempting to cash a fake 7-11 check worth $2962.30. Mary called the Bank of America to confirm if the check was real. Bank of America told her that the account number on the check did not exist. Mary advised the defendant, who also presented a letter trying to prove that the check was good.
Mary added that the paper used for the check was regular paper, not paper that is consistent in the preparation of checks. She continued to state that the business has cashed valid 7-11 checks in the past and the check number was too small.

When Mary told the defendant and her cousin, identified as Esther Jones, that she was calling the police, the defendant and Jones got scared and left the scene. The defendant (and Jones) returned to the scene and explained to Officer K. and Officer P. how she got the check. The defendant stated that she enrolled herself in a Yahoo post for a Christmas job or to receive financial assistance for Christmas. She stated that she got paid in many ways, including gift cards and this check with number 0009999337. The defendant said that the check was delivered from Canada. The letter that came with the check was from Alliance Processing Center. It was an Award Notification Letter telling the defendant that she had won $50,000 and that they were mailing her an assistance check of $2962.30 to help her pay for tax and administrative expenses involved with her winnings. The defendant was upset and stated that she did not know that the check was not real.

The defendant stated that she did not know who sent her the check, and did not have an explanation for why the check was stated to be from Dallas, TX, but mailed from Canada. It should be noted that the phone number on the check returns to Ontario, Canada, not Texas.

SUMMARY OF CRIMINAL HISTORY: (PRIOR RECORD)

DATE	ARRESTING AGENCY	OFFENSE	DISPOSITION
06/00/80	PD, Austin, Texas	Credit Card Abuse	12/00/80, Three years probation
03/00/80 (Offense date)	SO, Travis County, Texas	Theft by Check	07/00/82, 20 days Travis County Jail
02/00/86 (Offense date)	PD, Austin, Texas	Burglary of Habitation	07/00/86, 10 years Shock Probation; 04/00/88, Revoked, 90 days Travis County Jail
10/00/87	PD, Austin, Texas	Theft	02/00/88, 60 days Travis County Jail

11/00/87	PD, Austin, Texas	Theft	02/00/88, 60 day Travis County Jail
08/00/87 (Offense date)	PD, Austin, Texas	Forgery by Possession with Intent to Pass	01/00/88, Eight years TDCJ
11/00/94 (Offense date)	Park Police, Austin, Texas	Theft of Property	11/00/95, Four days Travis County Jail
01/00/95	PD, San Marcos, Texas	Criminal Mischief	03/00/95, Fined

Sources available to this department indicate that the defendant has been convicted of three prior felony offenses and served two prior terms of probation for Credit Card Abuse and Burglary of Habitation. There was no record found for the Credit Card Abuse probation. The Burglary of Habitation probation term was revoked on 04/00/88 due to committing the subsequent offense of Forgery by Possession with Intent to Pass on 08/00/87 and failure to report as directed.

PENDING CASES: None.

VICTIM IMPACT STATEMENT:

Victim: None
Loss: None

SUMMARY EVALUATION SOCIAL INDICATORS:

Based on the SCS protocol, the following shaded areas in the Potential Concern and Salient Problem categories indicate criminogenic risk factors placing this individual at greater risk of recidivating.

Domains	Not An Issue (NI)	Potential Concern (PC)	Salient Problem (SP)
Criminal Behavior	*Minimal or no arrest record. Mostly Pro-Social.*	*Criminal history. Moderate criminal value system.*	*Lengthy criminal history. Entrenched criminal value system.* **●Lived off prostitution. ●Nine prior offenses of theft, forgery, or burglary. ●One prior felony term of probation revoked.**
Peer Relations	*Generally positive and associations with non-offenders*	*Occasional association with other offenders*	*Frequently associates with other offenders; associates with drug dealers or gang members.* **●Offenses were generally committed with accomplices.**

			●Pimps or people around her made her commit the offenses she has in her prior history. **●Now isolates herself because she admits she is easily influenced by people.** **●Thinks she is really weak and does whatever anyone tells her to do.**
Assaultive Behavior	*No assaultive behavior*	*Single episode of assaultive behavior*	*Multiple episodes of assaultive behavior*
Alcohol Use	*None or Social.*	*Episodes of abuse; negative results from use; some disruption of functioning.*	*Frequent episodes of abuse with disruption in multiple areas of life; serious disruption of functioning*
Drug Use	*Never used; history of experimental use with no Current Use*	*Episodes of abuse; negative results from use; some disruption of functioning*	*Frequent episodes of abuse with disruption in multiple areas of life; serious disruption of functioning*
Sexual Behavior	*No evidence of inappropriate sexual behavior*	*Non-victim, sex related offense such as prostitution* • **History of Prostitution**	*Any sex offender conviction or incidents with a sexual element*
Vocational/ Employment –Work Skills	*Full-time employment and/or student/homemaker*	*Sporadic full and/or part-time employment history, including brief periods of unemployment*	*No employment record, unskilled, unmotivated, or involved in illegal activity* **●Unemployed 50% of the time or more.** **●Disabled for four years.** **●History of unskilled labor.** **●Longest job reported was five to six months long and she quit because she was pregnant with her son.**
Family/ Marital Relations	*Stable/ Supportive/ Effective Controls. No Abuse*	*Some Disorganization and Stress/ Marginal Controls. Prior Abuse.*	*Major Disorganization or Stress/Ineffective Controls. Current Abuse.* **●In CPS custody since the age of eight.** **●Mother was physically abusive.** **●Recently found out her father is her mother's biological brother and that he raped her mother when she was 12 or 13 years of age.**

			●Reports being molested while in foster homes. **●Ran away from foster home at the age 16 and ended up on the streets.** **●Was forced to prostitute herself since the age 16.** **●Had several children and all but one have been placed under adoption.** **●Only son is 17 years of age now.** **●Married once in the 80's but marriage was annulled one week later.**

Additional problem areas that may interfere with the individual's adjustment and/or compliance with probation.

Medical Health	*Sound physical health; health issues but does not interfere with social functioning*	*Handicap or illness that interferes with social functioning* **●Suffers from asthma and should be taking albuterol but has run out.** **●Recently suffered head trauma because a tree fell into her window and on her and was prescribed depakote for the pain.**	*Serious or chronic illness*
Residential	*Self-Sufficient, Stable environment*	*Short-term periods of residential instability* **●Lived at current address for three years.** **●Lives with 17 year old son.** **●Has been stable for the past eleven years.** **●Was at Salvation Army homeless shelter with son eight years ago.** **●Grew up in 24 different foster homes until the age of 16 when she ran away and ended up on the streets.**	*Chronic residence problems with frequent address changes homelessness, or shelter care*

Education	*GED or HS; higher education*	*No GED or HS* **●Dropped out school during the tenth grade.** **●Received remedial education and had trouble learning.** **●Believes foster parents did not care about her education.** **●Obtained her GED in 1993 while on parole.** **●Does not remember how many times she was suspended from high school or why she was suspended.**	*Unable to read or write*
Financial Management	*Current income exceeds expenses. Living within means*	*Expenses exceed income; unstable income* **●Receives Social Security disability, food stamps, and TANIF for 17 year old son.** **●Offense committed for monetary gain.** **●Has $103 left over after all expenses are paid.**	*Expenses exceed income and excessive debt; inability to meet basic living needs*
Mental Health Status	*No Mental Health problems*	*Past or present Mental Health problems that could potentially interfere with functioning*	*Serious Mental Health problems that presently interfere with functioning* **Has active MHMR diagnosis since December 2005.** **●Currently receives services from the MHMR/ANEW program.** **●Currently on several psychotropic medications, that despite taking them, the defendant still has symptoms present.** **●Receives pension for psychiatric disability.**

CLASSIFICATION AND SUPERVISION GROUP:

Initial Risk	SCS Score				
	SIS	**SIT**	**ES**	**CC**	**LS**
Low					
Medium					
High			**XXX**		

This person is High Risk of recidivating and falls into the Environmental Structuring (ES) strategy group.

Characteristics: These offenders make choices due to their inability to solve problems correctly and their naiveté and social gullibility. ES offenders tend to have below average mental capacity. They are often impulsive, because they are less capable of weighing the consequences of their behavior for either themselves or others. They have a low ability to perceive the motives and concerns of others and are easily led by more sophisticated individuals. Even though malice is rare in their motivation, offenders can become involved in assaultive offenses due to a lack of insight.

Supervision Strategy: Will require intensive supervision and referrals to enhance skill levels as well as improve interactions with others. Will also require collateral contacts with family members.

URINE SPECIMEN RESULTS:
Results from the urine specimen collected on 08/21/07; Tested Negative for THC, Cocaine, PCP, Amphetamines, Opiates Status: Negative; Assessment.

SUBSTANCE ABUSE EVALUATION RESULTS:
Based on Lack of current indicators, Travis County Adult Probation is recommending No need for treatment.

CONDITIONS OF PROBATION:
If placed under the supervision of the Travis County Adult Probation Department the following conditions would be appropriate:

Treatment Conditions

- Assign to Mental Health Specialized Caseload and continue to participate in MHMR/ANEW for an assessment of services.

Control Conditions

- Do not open or maintain a checking account until approved, in writing, by the Court and/or your Supervision Officer.

“Off Grid” Conditions (Conditions that apply because of the special nature of the offense):

Use of Risk and Needs Assessment Information at Sentencing: La Crosse County, Wisconsin

CENTER FOR SENTENCING INITIATIVES
RESEARCH DIVISION
NATIONAL CENTER FOR STATE COURTS

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Center for Sentencing Initiatives

This report was produced by the National Center for State Courts' Center for Sentencing Initiatives (CSI). CSI conducts research, provides information and tools, offers education and technical assistance, facilitates cross-state learning and collaboration, and works closely with the Conference of Chief Justices and the Conference of State Court Administrators to implement their resolution In Support of Sentencing Practices that Promote Public Safety and Reduce Recidivism. To learn more about CSI, visit www.ncsc.org/csi

I. About this Report

In August 2011, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution recommending that "offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism."[1] The resolution noted that supervision and treatment decisions informed by valid and reliable offender risk and needs assessment (RNA) information is a critical component of effective strategies to reduce recidivism.

This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how some stakeholders are incorporating the

[1] Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available http://ccj.ncsc.org/~/media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~/media/Microsites/Files/CSI/RNA%20Guide%20Final.ashx).

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the La Crosse County criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.[2]

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.org/publicsafety.

information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

II. Offenders Assessed

Most felony offenders are assessed for risk and needs prior to sentencing. Of these, some are assessed initially at the pretrial stage, some at the plea negotiation stage, and others at the presentence stage.

At the pretrial stage, judges use the Proxy screening score as one basis for making referrals for a RNA.[3] Judges refer pretrial assessments to Justice Support Services, a county agency.[4] The assessment offers an opportunity to review whether the defendant can be released prior to adjudication and, if so, what needs should be addressed to ensure the public's safety and the defendant's presence at court hearings. In addition, Justice Support Services also conducts assessments for individuals who were given a cash bond of $1,000 or less but remain in jail.[5] Justice Support Services forwards the RNA information on these defendants to the court for further review.

The RNA conducted on these defendants also is available to all parties at the plea negotiation stage. Occasionally, defense counsel also requests that Justice Support Services assess a client who did not receive a RNA at the pretrial stage to have the assessment available at the plea negotiation stage. Thus RNA information is available to inform the plea negotiation process for a significant number of cases.

[2] A La Crosse County judge, prosecutor, defense attorney, corrections officer, and Justice Support Services professional agreed to NCSC requests for an interview.

[3] The Proxy Risk Triage Screener tool is a 3-item screen for risk. For more information, see Justice System Assessment & Training, Proxy Risk Triage Screener website page at http://www.j-satresources.com/Toolkit/Adult/0d79bac6-6818-4ac3-bec9-5e51890358a6.

[4] Justice Support Services (formerly, Justice Sanctions and also Chemical Health and Justice Sanctions) also conducts assessments for some diversion programs and treatment courts. For information on the full range of services provided by Justice Support Services, see the La Crosse County Human Services Chemical Health and Justice Sanctions website at http://www.co.la-crosse.wi.us/humanservices/js/index.htm.

[5] Justice Support Services reports that the goal is to conduct a RNA on all defendants to better inform the court's pretrial release decisions.

The Department of Corrections (DOC), a state agency, prepares all presentence investigation reports. All presentence investigation reports include RNA information. Occasionally, (e.g., when there is a stipulated sentence) the court may request only the RNA report rather than the full presentence investigation report. The prosecutor and/or defense counsel can request a presentence investigation report, but only the court can order it.[6]

III. Assessment Process

Justice Support Services began using RNA information informally in the late 1990s and early 2000s for offenders in treatment courts and for pretrial release decisions. In 2006, La Crosse became a Wisconsin AIM (Assess, Inform, Measure) pilot site which formalized and expanded the practice of using RNA to inform court decisions.[7]

Initially Justice Support Services staff administered the Level of Service Inventory-Revised (LSI-R) to determine a defendant's risk and needs but transitioned to the Correctional Offender Management Profile for Alternative Sanctions (COMPAS) in 2012 when the state DOC began using that tool.[8] COMPAS provides an assessment of risk probability for pretrial release misconduct, general recidivism, and violent recidivism.[9] A statewide COMPAS validation is currently underway.

Justice Support Services and DOC officers use the identical COMPAS instrument, and all offender assessment information is maintained in a centralized database.[10] If Justice Support Services has done an assessment on an offender prior to sentencing, DOC will review the COMPAS and update it as necessary based on DOC records (e.g., previous probation revocations). Because both agencies have access to the offender information, they are able to access and update the most recent COMPAS results when needed and develop case plans informed by the offender's supervision and treatment services history.[11]

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[6] Occasionally, defense counsel will obtain an independent presentence report prepared by a private consultant. This most often occurs in cases where prison is a likely sentence (e.g., in certain sex offense cases).

[7] For more information on the Wisconsin AIM project, see the Wisconsin Court System, Court programs, Effective justice strategies, Assess, inform and measure (AIM) pilot project web site page at http://www.wicourts.gov/courts/programs/altaim.htm.

[8] Developed by Don Andrews and James Bonta in 1995, the LSI-R is a commercially available risk and needs assessment tool comprised of 54 items across 10 subscales. For more information about the LSI-R, refer to the Multi-Health Systems, Inc. website at: http://www.mhs.com/product.aspx?gr=saf&prod=lsi-r&id=overview. COMPAS, also a commercially available instrument, was developed by Northpointe Institute for Public Management in 1998. For more information, see http://www.northpointeinc.com/files/downloads/FAQ_Document.pdf.

[9] See Northpointe Institute for Public Management (2012). *Practitioner's guide to COMPAS*. Traverse City, MI: Author (available http://www.northpointeinc.com/files/technical_documents/FieldGuide2_012813.pdf). COMPAS has 41 scales that can be customized to address different decision points and offender populations of interest to a jurisdiction.

[10] Neither agency has designated assessment staff at this time; all staff conducts assessments.

[11] Currently, Justice Support Services administers both the primary COMPAS, consisting of 74 items, and the core COMPAS,

Neither Justice Support Services nor DOC officers override COMPAS risk scores or levels. DOC will override the supervision level in some cases (e.g. sex offenders will not be supervised at less than medium risk even if they score at low risk) according to state policy.

Justice Support Services staff administers several specialized assessment instruments in addition to the COMPAS. The University of Rhode Island Change Assessment (URICA), a motivational assessment that captures a defendant's readiness to change, is incorporated into the full COMPAS.[12] Additionally, staff also administers the Spousal Abuse Risk Assessment (SARA) in relevant cases.[13]

DOC agents also use the COMPAS with the URICA built into it. At this time, they do not use other assessment tools. DOC officers reassess offenders every twelve months. Offenders may also receive a reassessment when a probation violation occurs, although this is not automatic.

consisting of 137 items for pretrial defendants. A work group is considering first using the Proxy or other instrument to screen for risk, administering the COMPAS pretrial RNA for those who score high on the Proxy, and then administering the full COMPAS based on the results of the COMPAS pretrial assessment.

[12] The URICA contains 32 self-report measures. For additional information on the URICA, see http://pubs.niaaa.nih.gov/publications/AssessingAlcohol/InstrumentPDFs/75_URICA.pdf.

[13] The SARA is a 20-item tool that screens for risk factors to determine the threat level of domestic violence to spouses and family members. For additional information, see http://www.mhs.com/product.aspx?gr=saf&prod=sara&id=overview.

IV. Assessment Report

COMPAS automatically generates a report based on an offender's information. The report includes a summary of the offender's probability of risk, client strengths, current charge and criminal history information, institutional history, and criminogenic needs. Justice Support Services staff customizes the report with additional information about the offender's needs and potential strategies available to address the needs; however, staff does not offer recommendations regarding ultimate release or sentencing decisions.

Currently, the DOC prepares a more traditional narrative presentence investigation report (see Appendix A) and attaches the COMPAS report at the end. The state DOC is in the process of revising its current presentence investigation report to incorporate the results of the COMPAS more directly. The current presentence report includes officers' recommendations regarding prison, length of sentence, and suspended time, in addition to the COMPAS results. If community supervision is appropriate, the DOC officer will suggest the level of supervision needed, the length of the proposed supervision, and potential programmatic responses to address the offender's needs.

In 2013, 871 COMPAS reports were provided to the court. In addition, DOC estimates that officers provided approximately five presentence investigation reports to the court each month.

V. Use of Assessment Information

General reception. The use of RNA information at sentencing initially met with

varying degrees of acceptance by stakeholders. For some stakeholders, the use of RNA information was a welcome and natural evolution of evidence-based criminal justice reforms implemented in La Crosse across a decade or more. Others stakeholders are skeptical about the extent to which reported risk assessment levels significantly influence the plea bargaining process in comparison to other factors such as the seriousness of the current offense, victim's statement, strength of the prosecution's case, and prior sentences. Concerns were also expressed regarding the accuracy of information the offender provides for the COMPAS assessment. Still others were uncomfortable with the changes to standard operating practices that were required to fully implement an evidence-based approach using RNA information.

Over time, some of these concerns have been alleviated through training and experience. Seminars and stakeholder meetings have provided opportunities to discuss the meaning of and appropriate use of RNA information.[14] In addition, La Crosse has a robust Criminal Justice Management Council which has provided a forum for all stakeholders in the decision making process to discuss issues and concerns related to the use of RNA information and evidence-based reforms more generally.

Practical use of RNA information among stakeholders. The degree to which counsel consider RNA information during plea negotiations varies. For some, it is the starting point for any negotiation. For others, it is seen as most useful for offenders whose offenses are of medium seriousness and where the likely sentence is not readily clear. Plea agreements typically do not include recommendations regarding treatment and services. However, in Wisconsin, the sentencing provisions of plea agreements are not binding on judges. Even in cases where recommendations are provided in the plea agreement, judges have full discretion to accept or reject the recommendations. To date, no concerns have been raised regarding self-incrimination as information about the current offense is not obtained at the pre-plea stage.

If RNA information is not available at the plea negotiation stage, the court and counsel will usually receive the information at sentencing. Judges rarely reject a plea based on RNA results.

Although use of RNA information varies among individual stakeholders, stakeholders generally report that the use of RNA information has increased objectivity in sentencing. Stakeholders also report general agreement with sentencing, supervision and treatment recommendations provided in the presentence reports. Some disagreement occurs at times with respect to incarceration recommendations. Generally, stakeholders report that RNA information has resulted in sentencing orders containing probation conditions that focus more specifically on a couple of the most critical criminogenic needs rather than a long list of conditions that could merely set offenders up for failure.

[14] Two years ago, Justice Support Services organized a training for all judges, defense attorneys, prosecutors, juvenile justice workers, social workers, and DOC agents. State court leaders organized subsequent stakeholder trainings including a recent *Smarter Sentencing Training*. Probation officers undergo regular trainings on the administration of the COMPAS, and other stakeholders also provide trainings for new staff in their respective offices.

VI. Outcomes Tracked

COMPAS results are stored in a statewide database from which local statistical reports can be generated. Reports can break offenders down by risk level and also track recidivism rates. However, the database is relatively new, and stakeholders are mostly using it for workload reports at this point.

The state also is working on expanding the database to include case management information. Eventually, a local jurisdiction will be able to see what presentence recommendations were made, what sentences were ordered, whether the provisions of the sentence were followed, and the success of sentencing outcomes.

Appendix A

La Crosse Presentence Investigation Report

PRESENT OFFENSE Error! Bookmark not defined.

DESCRIPTION OF OFFENSE:

On 03/15/10, at about 10:00pm, Badger City Police were called to the K & D Tap located at 223 W. Main Street, Badger City, in reference to a fight there. Upon arrival, victim Sandra Williams advised the police officers that she had been hit in the head with an umbrella by Joe A. Slugger. Ms. Williams further advised that she was the girlfriend of Mr. Slugger and that he "beats me all the time." Ms. Williams told police that she was at the bar having some drinks when Mr. Slugger came in and accused her of "sleeping around." He then called her a "bitch" and a "slut." Ms. Williams attempted to leave, but Mr. Slugger told her she wasn't going anywhere. He then picked up her umbrella and hit her in the head with it. The officer observed that the back of Ms. Williams' head was bleeding and that a white napkin that Ms. Williams was holding over her wound was saturated in blood. Ms. Williams was transported to the Badger City Hospital by ambulance, where she received 6 stitches to her head to close her wound.

Police Officers also talked to witness Wayne Tio. Mr. Tio stated that he was at the K & D Tap where he observed a woman sitting at the bar "minding her own business" when a white man wearing a bandana came in, walked up to the woman, and hit her in the head with an umbrella. The man then left the bar. However, the man returned after police arrived and Mr. Tio identified him as the person who had hit the woman in the head with the umbrella.

Mr. Slugger returned to the bar after police arrived. He told the officers that he wanted to get Ms. Williams' attention so that he could get the keys to their apartment. He stated that he was going to tap her on the shoulder with the umbrella, but accidentally hit her in the back of the head. Ms. Williams gave him the keys and he left, but returned a short time later. Mr. Slugger admitted that he had been drinking alcohol and was given a breathalyzer test by the officer, resulting in a reading of .18 BAC. Mr. Slugger was arrested for Battery and transported to Badger County Jail.

OFFENDER'S VERSION:

Mr. Slugger was interviewed on 4/15/10. Mr. Slugger stated that he had been drinking beer on the date of the current offense. He drank because he and Sandra Williams had been arguing all day and he was frustrated and angry. He estimated that he had about 3-4 beers between the hours of 5:00pm to 10:00pm. Mr. Slugger believed that Ms. Williams had been cheating on him and that was why they were arguing. Mr. Slugger left the apartment before "things got out of control." He walked to a friend's home, but the friend was not there, so he came back to the apartment. However, the apartment was locked and he did not have his keys. He went to find Ms. Williams to get the keys to the apartment. Mr. Slugger saw Ms. Williams sitting at the bar at the K & D Tap. He meant to tap Ms. Williams to get her attention, but accidentally hit her in the head. Mr. Slugger did not intend to injure Ms. Williams. He denied that he called her any names or refused to allow her to leave. He stated that Ms. Williams gave him the keys and he left. However, Mr. Slugger decided to return to the bar as he had seen Ms. Williams bleeding and figured that the police would be looking for him.

Mr. Slugger stated that he should not have been convicted of a felony offense in this case because it was an accident. He believes that alcohol played a part in this offense and would like to stop drinking and getting into "situations." However, he has already completed an inpatient treatment program and does not wish to return to inpatient treatment. He believes that he can remain sober with a community support program, such as Alcoholics Anonymous. Mr. Slugger would like the judge to consider a minimal sentence because the whole incident was an accident.

VICTIM'S STATEMENT:

Ms. Sandra Williams was interviewed on 4/14/10. Ms. Williams stated that the current offense has caused her a lot of stress and anxiety. Ms. Williams was residing with Mr. Slugger up until this offense occurred, but they had a lot of problems with their relationship. This was not the first time Mr. Slugger had physically assaulted her, but it was the first time that she required medical treatment because of his physical abuse. She received 6 stitches to her head due to Mr. Slugger hitting her with the umbrella. It also caused her dizziness and pain. She missed work the next day because of the pain. Ms. Williams does have medical insurance, but had to pay 20% of her hospital bill out of pocket, which was $225.00. Ms. Williams was given a written warning at work due to calling in sick the day after she was struck.

Ms. Williams stated that since the offense occurred, Mr. Slugger has been in custody and has not been able to provide any financial assistance with rent or the household bills, which was usually split equally between the two of them. Ms. Williams is currently struggling financially just to keep a roof over her head.

Ms. Williams stated that she was "torn" about what Mr. Slugger should be sentenced to. She still loves and cares for Mr. Slugger a great deal. She does not want him to serve any more time in jail. However, she does want Mr. Slugger to stop drinking and hurting her. She would like to help Mr. Slugger, but is also afraid for herself. She wants Mr. Slugger to complete alcohol and drug treatment as well as an anger management program before they live together again. She does want to have contact with Mr. Slugger though, and wants the court to lift the "no contact" order.

PRIOR RECORD

JUVENILE RECORD:

DATE	LOCATION	OFFENSE	DISPOSITION
08/30/99	Badger City	Burglary, Obstructing	9/17/99 adjudicated delinquent 1 year supervision.
10/14/00	Badger City	Entry to Locked Vehicle **Read-In:** Theft, Criminal Damage to Property	12/06/00 adjudicated delinquent. 1 year commitment to Ethan Allen School. 11/30/01- extended 6 months.

ADULT RECORD:

DATE	LOCATION	OFFENSE	DISPOSITION
12/30/02	Badger City	Disorderly Conduct	3/7/03 Sentenced to 30 days county jail
01/19/04	Badger City	Operating While Intoxicated	1/29/04 Sentenced to 10 days county jail
05/14/04	Badger City	Retail Theft (plead down from theft)	6/16/04 – Convicted. With-held sentence. Placed on 18 months probation supervision. Revoked on 1/1/05 – Sentenced to 9 months county jail.
11/16/05	Badger County	Theft	1/31/06 – Convicted Sentenced to three (3) years WSP: One (1) year Incarceration and two (2) years Extended Supervision 1/29/07 released 1/28/09 discharged from Extended Supervision.
11/20/07	Badger City	Disorderly Conduct (plead down from Soliciting a Prostitute)	11/21/07 – Convicted Sentenced to 60 days jail time
02/09/09	Badger City	Substantial Battery With a Dangerous Weapon Court Case #09CF158	04/11/09- Convicted. With-held Sentence Place on 5 years probation supervision. Given 30 days conditional jail time as a condition of his supervision. Revoked on 5/10/10. Sentenced to 3 years Initial Confinement to the Wisconsin State Prison System, and 3 years Extended Supervision

CORRECTIONAL EXPERIENCE:

Records from Badger County Human Services indicated that Mr. Slugger had been on juvenile supervision on two occasions. He did complete both periods of juvenile supervision, including completing court ordered community service and payment of restitution. However, while he was placed at Ethan Allen School, his placement was extended an additional six months. It appears from the records that this extension was due to a number of reasons including completion of programming, behavioral reports, and finding an appropriate placement upon return to the community.

According to the Department of Corrections file information, Mr. Slugger had been placed on adult supervision on three occasions. During his first period of probation commencing on 6/16/04, Mr. Slugger failed to report to his agent as directed, failed to be involved in AODA programming as recommended and directed by his agent, and failed to pay his court-ordered financial obligations. Furthermore, Mr. Slugger committed a new offense of Theft. As a result of his non-compliance and new criminal offense, Mr. Slugger's probation supervision was revoked on 10/31/04 and he was sentenced to 9-months in the county jail.

With respect to the Theft offense committed on 09/16/04 Mr. Slugger was convicted on 11/10/04. He was sentenced to Three (3) years in the WSP; two (2) years incarceration and one (1) year extended supervision. While incarcerated, Mr. Slugger did not complete any programming due to the lengthy waiting lists. After his release on 11/8/06, Mr. Slugger reported to his agent as directed, paid his court-ordered financial obligations, and completed AODA programming in the community. Mr. Slugger's extended supervision successfully discharged on 11/7/07.

Mr. Slugger did commit a new crime on 11/20/07 of Disorderly Conduct (plead down from Soliciting a Prostitute). As a result, on 11/21/07, Mr. Slugger was sentenced to 90 days jail.

On 4/11/09, Mr. Slugger was convicted of Substantial Battery with a Dangerous Weapon. His sentence was withheld and once again he was placed on probation supervision; this time for a period of five (5) years. Mr. Slugger had several violations prior to the current offense. These violations include: failing to attend anger management programming and outpatient AODA treatment, failing to report to his agent as directed, and consuming alcohol and THC.

Due to Mr. Slugger's continuous use of alcohol and his failure to comply with AODA programming in the community, he was offered an Alternative to Revocation to the Residential Drug Treatment Program, which he successfully completed. However, upon his release from this treatment facility, he was referred to AODA aftercare at Badger Mental Health. Mr. Slugger was ultimately terminated for unexcused absences.

Due to all of the violations in combination with the need to protect the public, and the seriousness of his violent behavior towards Ms. Williams, probation was subsequently revoked on 5/10/10 and he was sentenced to three (3) years initial confinement and three (3) years extended supervision.

PENDING CHARGES:

There are no known pending charges at this time.

OFFENDER'S EXPLANATION OF RECORD:

Mr. Slugger stated that his criminal record as presented in this report is accurate. He attributed his criminal behavior to his alcohol and drug use. He first began committing criminal acts around the age of 14, when he stole from his employers. He would steal to pay for alcohol and illegal drugs. He did not do well on supervision when he was younger because he continued to use alcohol and drugs and "did not take it seriously." However, Mr. Slugger felt that despite his current offense and revocation of probation, he really did try to be successful on supervision this time. He did

complete an inpatient treatment program while on supervision and did remain sober for a longer period of time than he ever has before.

FAMILY BACKGROUND

IDENTIFYING INFORMATION:

FATHER: The identity of Mr. Slugger's biological father is unknown.

MOTHER: Madeline Ziareck Slugger, DOB 10/20/60, resides at 3810 South 38th Street, Omaha, Nebraska. She is a high school graduate and is currently employed as a waitress. She is married to Clyde Slugger, but they have been separated for three years. She has no known criminal record.

STEPFATHER: Clyde Slugger, DOB 10/11/58, married Madeline Ziareck on 12-24-87, when the defendant was three years old. Mr. and Mrs. Slugger are still legally married, but have been separated for three years. Clyde Slugger's residence and employment are unknown to the defendant. Clyde Slugger does have a prior criminal record for Robbery and Aggravated Battery.

SIBLINGS:

SISTER: Janet Slugger, DOB 6/14/80, resides with her mother and is currently attending the University of Nebraska-Omaha. She has no known criminal record.

SISTER: Joyce Slugger, DOB 2/8/82, is single, has no children, and resides in Florida. She is employed as a computer programmer. She is a high school graduate and has taken some courses at a technical college. She has no known criminal record.

BROTHER: Danny Slugger, DOB 11/25/86, resides in Omaha, Nebraska with his girlfriend. He is currently laid off from construction work. He has a no known prior criminal record.

SISTER: Maggie Slugger, DOB 9/1/88, resides with her mother in Omaha, Nebraska. She is a high school graduate and is employed as a bank teller. She has no known prior record.

STABILITY AND VALUES:

Mr. Slugger stated that he was never told who his biological father was, and is unsure if his mother knows who it is or not. His mother married Clyde Slugger when the defendant was age three. However, his mother and Clyde had been together since before he was born. His birth certificate indicates his last name as "Slugger," although he was never legally adopted by Clyde. Mr. Slugger described his childhood as very unhappy. He stated that Clyde was a "Dr. Jekyll/Mr. Hyde" personality. He was nice when he was sober, but was physically abusive when he was drinking alcohol. Mr. Slugger described his stepfather as an alcoholic, who would fly into rages when provoked. Clyde was physically abusive to Madeline as well as the defendant. Mr. Slugger's younger siblings were not physically abused like he was, although physical punishment was used on them as well. Mr. Slugger believed that he was abused more than his siblings because he "wasn't really" Clyde's child.

Mr. Slugger stated that he has not had contact with his stepfather for several years now. Clyde would take him to the bars with him and let him drink alcohol at a young age. Mr. Slugger loves his mother, but has not remained close with her since she moved away from Badger City. He has some animosity towards her because she failed to protect him from Clyde's physical abuse. Mr. Slugger has not remained in contact with his siblings either, other than seeing his youngest sister Maggie on a regular basis. However, he was protective of them while growing up. Because he was the oldest, he would sometimes step in between his stepfather and his siblings when they were arguing. He tried to protect his mother from his stepfather as well. Although his mother was usually home with the children, she would wait for Clyde to come home to do the disciplining. Mr. Slugger reported a close relationship with his maternal grandmother, Kay Ziareck. He would often stay with her to get away from his stepfather.

Mr. Slugger described his family's financial situation as "poor" while growing up. His stepfather would work hard in the construction field, but would often get laid off or fired due to his drinking. He would then spend his paycheck on alcohol and marijuana, rather than family expenses. They moved often and did receive financial assistance from state agencies, such as food stamps, rent and utility assistance, and Badger Care medical assistance. Mr. Slugger's mother did not work outside of the home while he was growing up. School was never really emphasized by his parents when he was growing up. They would often all sleep in and he and his siblings would be late for school. Due to their many moves, Mr. Slugger was often absent from school as well.

FAMILY ATTITUDES:

Madeline Slugger was interviewed on 4/20/10. She confirmed the information that the defendant provided regarding his childhood. She stated that she loved her children dearly and now that she has been separated from Clyde for some time, she sees that she failed to protect her oldest son. She regrets some of the mistakes she made as a mother and wishes that she had left Clyde a long time ago, before he became so abusive to her and her children. However, Ms. Slugger tried to instill good values in her children and believes strongly in family ties. The defendant is the only one of her children to not complete school or to have a criminal record. Her youngest son was arrested, but only paid a fine and "learned his lesson." She is close with all of her children and hopes that the defendant "comes around" and establishes a relationship with her and his siblings again. She would welcome him back at any time.

Kay Ziareck, the defendant's grandmother, was also interviewed. She stated that although she did what she could, her grandson began to go with the wrong crowd and started drinking and using drugs at a young age. She described her grandson as having a good heart, but has trouble controlling his temper when he has been drinking. She believes that he needs better treatment than he has been provided in the past, as well as a lot of support. She stated, "If he could just stop using alcohol, he would be a different man." She does not believe that the criminal justice system has helped him to overcome any of his issues at this time and she does not want to see him "get sent away with no treatment again." Ms. Ziareck has loaned her grandson money over the years and he has always made attempts to pay her back, if only minimally, and has helped her out over the years. Ms. Ziareck again stated, "He is a good man with an alcohol problem. He learned it from his stepfather and it is hard for him to overcome. He needs treatment, not punishment."

The defendant again stated that he loves his mother, but just is not close with her anymore, due to some hard feelings from his childhood. He would like to eventually forgive her and move on, but is "not in a place to do that yet." He does not wish to have any contact with his stepfather ever

again. He recently has contacted his siblings and is hoping they become closer now. He appreciates the love and support of his grandmother and would do anything for her as "she is the only reason I survived." At this time, Mr. Slugger stated that he has a desire to change his behavior and he does not want to continue to be incarcerated. He stated, "I really have goals now. I'm not faking it like I would in the past just to get by and get away with things. I am too old for this. I don't want to waste any more of my life."

PERSONAL HISTORY

ACADEMIC/VOCATIONAL SKILLS:

Mr. Slugger dropped out of high school after completing the 11th grade. He stated that he was getting into too much trouble outside of school with drinking and also got suspended from school for fighting. He was placed at Ethan Allen School as a juvenile, where he did well in school, earning several credits and passing all of his classes.

Records from high school indicated that Mr. Slugger mostly earned grades of "C," with an occasional grade of "A" in his technical education classes. His cumulative GPA was 2.3. Mr. Slugger had many unexcused absences throughout his high school years. During his 11th grade year, he missed 76 out of 180 days of school.

Other than the suspension for fighting, there were no other disciplinary reports regarding Mr. Slugger. Mr. Slugger was not involved in any type of special education programming.

EMPLOYMENT:

Mr. Slugger was most recently employed at the Open Hearth Restaurant where he was the second head chef. He was employed there from November 2005 until his incarceration on the current offense. Mr. Slugger earned minimum wage, averaging about 30-40 hours per week.

Mr. Smith, owner of the Open Hearth Restaurant, stated that the defendant was an excellent employee when he was first hired. However, at one point in time, he did come to work under the influence of alcohol and was sent home. Mr. Slugger also began to call in sick on a more regular basis as time went on. Mr. Smith worked with Mr. Slugger when he entered into inpatient treatment the last time. However, Mr. Smith is disappointed that Mr. Slugger is back in jail. Mr. Smith stated that if Mr. Slugger could get his act together, he would hire him back as long he did use alcohol or drugs.

Prior to the this employment, Mr. Slugger stated that he held numerous short term jobs as a dishwasher, bus boy, waiter, salad prep, and cook. He would usually get fired for poor attendance or he would not show up to work any longer.

Mr. Slugger would like to own his own restaurant some day.

FINANCIAL MANAGEMENT:

Mr. Slugger stated that he has always had financial management issues due to his alcohol and drug use. He is not earning any income at this time, as he is incarcerated. He owes about $3000 in credit card debt and has not made any payments towards this debt. Therefore, it has been turned

over to a collection agency and he has a poor credit history. He is considering filing for bankruptcy. He also owes his grandmother several thousand dollars and it is a priority of his to pay her back as soon as he is able. He does give her money when he can. Mr. Slugger's wages have never been garnished.

MARITAL/ALTERNATE FAMILY RELATIONSHIPS:

Mr. Slugger stated that he has never been married, nor does he have any children. Mr. Slugger has been in a significant long-term relationship with the victim in the current offense, Sandra Williams. Mr. Slugger and Ms. Williams had been in a relationship for approximately three years when he committed the current offense. They had been living together for the past two years. Mr. Slugger stated that although their relationship was sometimes "rocky," he loves Ms. Williams and would like to re-establish their relationship when he is able to. Currently, Mr. Slugger is not allowed to have contact with Ms. Williams per court order. Mr. Slugger described Ms. Williams as a very caring woman, who has stood by him "even when I didn't deserve it." Although Ms. Williams does consume alcohol, she is not an alcoholic and drinks only socially. She does not use illegal drugs. Ms. Williams is employed full time and will continue to maintain their apartment on her own. She has no known mental or physical health issues or concerns.

Ms. Williams stated that Mr. Slugger is a great guy until he has had too much to drink. He then can sometimes become unreasonably angry and "fly off the handle." He has been physically abusive to her in the past, but only when he was intoxicated. Ms. Williams is apprehensive about Mr. Slugger at this point in time, but would consider resuming their relationship if he were to get treatment. Ms. Williams does wish to have contact with him and would like the court to lift the "no contact" order, so that they could work on their relationship. She stated, "I don't want him to move back in just yet, but I do want to talk with him and see where he is at."

Mr. Slugger did not report any other significant, long term relationships. He stated that he usually always had a girlfriend, but the relationship typically would not last more than a few months.

COMPANIONS:

Mr. Slugger reported few close friends. Most of his "acquaintances" also use alcohol and illegal drugs and they would hang out at bars or "party" together. His only close friend at this time, besides Sandra Williams, is Gerry Garcia. They worked together at the Open Hearth Restaurant. Mr. Garcia does not have any alcohol or illegal drug issues. Mr. Garcia visits Mr. Slugger regularly in jail.

EMOTIONAL HEALTH:

Mr. Slugger stated that he has never been diagnosed with any type of mental illness or disorder, nor has he ever been prescribed any type of medication for mental health purposes. However, he does feel that he may suffer from depression and knows that he needs to get help with controlling his temper. Mr. Slugger will sometimes sleep a lot, not feel good about himself, and not want to leave the house for long periods of time. Mr. Slugger would like to meet with a counselor at some point in time, but is unsure if he could "open up" to someone to receive help.

PHYSICAL HEALTH:

Mr. Slugger reported being in good physical health, with no known health concerns or disabilities. He is not currently taking any type of medication. Mr. Slugger has not seen a doctor in a few years, but was told some time ago that he should quit drinking or at least cut down on his drinking by the last physician that he saw. He is worried that he will have health concerns in the future if he continues to drink. Mr. Slugger does not exercise regularly, but stated that he is in "decent" shape.

MENTAL ABILITY:

Based on Mr. Slugger's academic records, it appears that he is of average intelligence. He was able to complete a written questionnaire thoroughly for purposes of this investigation. It appears that he has adequate written and verbal skills and is able to function independently in society.

CHEMICAL USAGE:

Mr. Slugger states that he started drinking alcohol at a young age because his stepfather would take him to the bars and let him drink. Mr. Slugger began drinking alcohol on his own at about the age of 14. He started out drinking beer, but then began drinking hard liquor around the age of 17. His alcohol use has caused many problems in his life. He has been arrested for OWI on three occasions. He was intoxicated during his previous Aggravated Battery case, as well as the current offense. In the past, his girlfriend has asked him to cut back on his drinking.

Mr. Slugger stated that he began using marijuana around the age of 16. He used marijuana mostly on the weekends, but did not like the effect it had on him. He quit smoking marijuana entirely around the age of 18. He first tried cocaine at the age of 20 and began injecting it around the age of 22. His cocaine use increased to about $150 per day around that period of time in his life. He used credit, criminal behavior, and borrowed from his grandmother to support his drug use.

Mr. Slugger stated that he did maintain periods of sobriety, and has cut back greatly on his cocaine use. However, he still "slips up" sometimes. Mr. Slugger recently completed an inpatient alcohol and drug treatment program as an alternative to revocation. Records received from Badger Services indicated that Mr. Slugger attended all sessions and was an active participant in all groups. His prognosis upon completion was "guarded" and it was recommended that he continue with support groups and an aftercare program in the community. Mr. Slugger initially attended aftercare, but failed to continue to attend support groups. He stated, "I know what I need to do, I just slip up sometimes." Mr. Slugger feels that he has made great progress because he no longer uses any type of illegal drugs and has cut back a great deal on his use of alcohol. He has not consumed any alcohol whatsoever since he committed the current offense, and plans to maintain absolute sobriety upon his release from jail. He is now interested in support groups to help him maintain sobriety.

SEXUAL BEHAVIOR:

Mr. Slugger denied ever being the perpetrator of any type of sexual assault or misconduct. He was sexually abused by an uncle when he was a young child. Mr. Slugger did not want to discuss this and did not go into detail regarding the sexual abuse. However, when Mr. Slugger was initially placed on probation, he reported to his agent at his intake meeting that he was angry with his uncle

and had wanted to "kill the son of a bitch" when the abuse occurred. The abuse was never reported to police and his uncle was never charged with any type of criminal offense.

Mr. Slugger stated that he is a heterosexual and became sexually active around the age of 15. He reported no problems with his sexual functioning. Mr. Slugger was arrested for Soliciting a Prostitute on 11/20/07, a charge that was reduced to Disorderly Conduct. Mr. Slugger admitted that what he did was wrong, but he wasn't out "shopping" for a prostitute. He was at a party and was "really high." He offered a girl some cocaine to have sex with him and she agreed. Mr. Slugger was in a monogamous relationship with Sandra Williams for the past three years and would like to continue that relationship upon his release.

MILITARY:

Mr. Slugger has no military experience.

LEISURE ACTIVITIES:

Mr. Slugger stated that he used to just "hang out and party." However, as he got older, he began to engage in activities like fishing, playing sports, attending sporting events, and cooking out with friends. Prior to his current incarceration, Mr. Slugger worked a lot of hours, attended treatment in the community, and spent free time with his co-worker, Jerry Garcia, and girlfriend, Sandra Williams.

RESIDENTIAL HISTORY:

Mr. Slugger stated that he was born and raised in Badger City. His last residence was an apartment he shared with Sandra Williams. Prior to that, he lived with his grandmother. Mr. Slugger has had a pretty unstable residential history which he attributes to his alcohol and drug usage and lack of stable employment. He has never had a lease solely in his name, nor has he ever owned any property. He would move frequently to stay with various friends and when no one would take him in, he would return to his grandmother's residence.

SUMMARY AND CONCLUSIONS

AGENT'S ASSESSMENTS AND IMPRESSIONS:

Mr. Slugger was generally compliant with this investigation process. He completed all the relevant questionnaires and appeared open with respect to his background information. With respect to this index offense and his domestic relationship, however, Mr. Slugger became defensive and evasive when answering questions.

The defendant has two juvenile adjudications for property offenses. He was subject to juvenile supervision as well as one year confinement in Ethan Allen School.

As an adult, the defendant committed a variety of offenses including OWI, Theft, Disorderly Conduct and Substantial Battery (Dangerous Weapon). He has been subject to a variety of sentencing options, including fines, community service, probation, jail, prison and extended supervision. Mr. Slugger was revoked from both of his periods of adult probation supervision for rules violations and re-offending (including this current offense).

Growing up, Mr. Slugger described his family life as 'very unhappy'. His stepfather was a violent alcoholic who abused both him and his mother. Mr. Slugger noted that he has a close relationship with his grandmother as she let him stay there to get away from his stepfather. He stated that he does not spend much time with his mother or his siblings.

In interviewing Mr. Slugger's mother and grandmother, it appeared that his mother felt remorse for staying in the abusive marriage. She expressed much love for all of her children. Mr. Slugger's grandmother appeared to enable Mr. Slugger. She indicated that the criminal justice system has failed in helping him with any of his issues. She stated, "He needs treatment, not punishment."

The defendant has had stable employment since 2005. He has worked as a chef at Open Hearth. Mr. Slugger's boss, Mr. Smith, commented that Mr. Slugger is an 'excellent employee'; however, his attendance became sporadic due to his alcohol misuse. Mr. Smith would take Mr. Slugger back if the defendant ceased using drugs/alcohol.

Prior to his relationship with Sandra Williams, Mr. Slugger had many short term relationships. He stated that his relationship with Ms. Williams was 'rocky' at times but they do love each other. Mr. Williams did state that Ms. Williams is a caring woman who has stood by him "even when I didn't deserve it". He denied that Ms. Williams has any issues with alcohol or other substances.

The defendant denied any mental or physical health concerns. However, he did state that he was sexually abused by an uncle when he was a young child. This abuse was never reported to the police, and Mr. Slugger did not want to discuss the abuse any further with this interviewer.

Mr. Slugger has struggled with alcohol misuse and drug misuse since he was approximately 14 years old. Mr. Slugger did ingest marijuana from 16-18 years old. He first used cocaine at the age of 20 and started injecting it at the age of 22. He has had periods of sobriety but he still "slips up" sometimes. Mr. Slugger did complete an inpatient AODA program in January 2010; however, he

failed to complete his AODA aftercare. As already indicated, Mr. Slugger was under the influence at the time of this current offense.

When discussing this offense, Mr. Slugger refused to take any responsibility for his violent behavior. He said that he meant to "tap her but accidentally hit her in the head". He stated that Ms. Williams was the cause of his drinking and arguing, because Mr. Slugger believed Ms. Williams was cheating on him.

The victim, Ms. Williams, was taken to the hospital for the injuries she sustained as a result of Mr. Slugger hitting her over the head with the umbrella. Ms. Williams' injury was severe enough to require multiple sutures. Mr. Slugger's inability to accept responsibility for the serious harm he caused to Ms. Williams is of great concern. Since he is unable to admit culpability and continues to blame the victim, Mr. Slugger poses a very high risk of re-offending. Furthermore, according to the victim, Ms. Williams, this is not the first time Mr. Slugger has assaulted her; therefore, the defendant's behavior also appears to be escalating in severity.

RESTITUTION INFORMATION:

Any restitution should be determined by the District Attorney's Office.

CHALLENGE INCARCERATION PROGRAM:

Mr. Slugger is not eligible for the Challenge Incarceration Program based on his conviction of Substantial Battery with use of a dangerous weapon, statute #940.19(3), 939.63.

EARNED RELEASE PROGRAM:

Mr. Slugger is not eligible for the Earned Release Program based on his conviction of Substantial Battery with use of a dangerous weapon, statute #940.19(3), 939.63.

RECOMMENDATION:

Mr. Slugger is being sentenced on one count of Battery (Class D). This offense has a maximum period of incarceration of 25 years and a fine of $100,000. Therefore, the Department of Corrections respectfully recommends that Mr. Slugger be sentenced to two years initial confinement and five years extended supervision.

ANTICIPATED SUPERVISION PLAN

The Department of Corrections respectfully requests that the following conditions be imposed as a condition of extended supervision:

- No contact, direct or indirect, with the victim Sandra Williams.
- Enrollment and completion of Domestic Violence programming.
- Enrollment and successful completion of AODA programming as deemed necessary
- Provide a DNA sample
- Pay all court ordered court obligations, restitution, supervision fees and any other fees
- Obtain/maintain full-time employment and/or education and/or combination thereof.
- Release of Pre-Sentence Investigation for purposes of treatment.

Respectfully submitted,

Ann Agent, Probation & Parole Agent #39999

Approved by:

Marcus Twain, Corrections Field Supervisor

SOURCES OF INFORMATION:

- Joe Slugger, Defendant
- Sandra Williams, Victim
- Madeline Slugger, Defendant's mother
- Kay Ziareck, Defendant's grandmother
- Badger City High School, records and transcripts
- Bill Smith, Defendant's employer
- Badger Services, AODA records
- District Attorney's file
- Badger County Human Services
- CIB/NCIC/CCAP records

The COMPAS assessment report also is appended.