

Pretrial Risk Assessment Instruments (PRAIs)

JUDICIAL COUNCIL

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Why we are here today

- ▶ Article Published by Pretrial Justice Institute
- ▶ Specifically, PJI claims that all PRAs are racially biased against Black, Latinx, Indigenous, and low-income people, and where implemented, will serve to increase the current level of racial and ethnic disparity in the nation's jails.
- ▶ PJI cited civil-rights organizations, impacted people, and researchers as the source for the claims made in their article.

PJI Proposed Solutions

- ▶ “The focus should be on implementing a very narrow detention net and providing robust detention hearings that honor the charge of the Supreme Court forty years ago. And we must prioritize helping people succeed—from assistance with court appointments to connecting people to support services—while addressing the needs of all people victimized by crime.”

We believe that the use of PRAs are not incompatible with achieving these same goals. Instead, PRAs are one strategy that can be used to support pretrial reform efforts.

We do not seek to abolish PRAs but to ensure that any form of bias in the assessment process is reduced as much as possible. This can be achieved by adopting the following practices:

Due Process and Transparency

Validated on Local Population

Tested for Racial/Gender Bias in Prediction

PRAs are certainly not the only approach, nor should they be...

The PAT is only one factor in determining Release

- ▶ Our SOR Investigative Report includes the following as a part of our detention recommendation;
 - ▶ A full interview with the client
 - ▶ A full interview with the victim (if applicable)
 - ▶ Contacting Personal Ties
 - ▶ Verifying Employment
 - ▶ Verifying Residence
 - ▶ Severity of the current offense
 - ▶ Prior history on SOR
 - ▶ History of FTA's to court
 - ▶ History of offenses committed while on Bail
 - ▶ AND the PAT Assessment
- ▶ All parties “weigh in” on the detention recommendation during arraignment prior to the courts determination

LOCAL VALIDATION:

On 4/17/2020, Yolo County Probation contracted with The Bauman Consulting Group for a scope of work that includes the following with regards to our Pretrial Assessment Tool (PAT):

To provide a Local Validation of the PAT, meaning using scientifically accepted methods to measure both of the following:

- a. The accuracy and reliability of the risk assessment tool in assessing (i) the risk that an assessed person will fail to appear in court as required and (ii) the risk to public safety due to the commission of a new criminal offense if the person is released before the adjudication of the current criminal offense for which they have been charged.*
- b. Any disparate effect or bias in the risk assessment tool or its application based on gender, race, or ethnicity.*

The PAT shall be validated using the most recent data collected by Yolo County Probation Pretrial Services and a full report will be available mid December 2020.

Probation consulted experts in the field of Pretrial Supervision

- ▶ **California Chief Justice Tani G. Cantil-Sakauye**
 - ▶ “Ultimately risk assessment is a tool - not the only piece - but it is important in order to run safe and efficient pre trial services which is far superior to a current system that relies on none of the tools.”
- ▶ **National Association of Pretrial Services Agencies:** recommends that justice systems adopt empirically developed pretrial risk assessment tools to predict the likelihood of court appearance and arrest-free behavior pending adjudication.

Experts continued...

- ▶ **Advancing Pretrial Policy and Research (APPR):** mission is to demonstrate equitable improvements in pretrial outcomes through high-fidelity implantation and comprehensive research on assessments, policies and practices.
 - ▶ Assessments, including the Public Safety Assessment, can play a positive role in a jurisdiction's pretrial system. However, implementing an assessment alone cannot and will not result in the pretrial justice goals we seek to achieve.
- ▶ **National Center for State Courts (NCSC)**
 - ▶ "Our position continues to recognize that pretrial reform is multifaceted and no one approach or solution can be expected to provide a singlehanded remedy."

Experts continued...

- ▶ **Dr. Edward Latessa, University of Cincinnati**
 - ▶ Developer of the Ohio Risk Assessment System and the Pretrial Assessment Tool used by Yolo County Probation's Pretrial
 - ▶ "Most empirical studies have not found much bias in risk assessment tools including pretrial instruments. The way we determine bias is by looking at how accurate is the prediction across different sub groups and do these different groups fail at similar rates across risk levels."
 - ▶ "What is the alternative? Professional Judgment? Guess work? A major advantage of using an actuarial tool is that you have data, which in turn allows us to look for and address bias, something that cannot easily be done when we rely on professional judgement for decision making."

Next Steps...

- ▶ Based on PJI's position, all pretrial (and subsequent) hearings would bar consideration of information on current charge(s) and criminal history because they are biased.
- ▶ ***What would pretrial release decisions be based on?***
- ▶ ***How does data play a role?***

Any Questions

THANK YOU FOR YOUR TIME