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REPORT

OF THE

RISK PREDICTION RESEARCH GROUP

A SUBCOMMITTEE OF THE
CJC VIOLENCE REDUCTION COMMITTEE

NCJRS

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ACQUISITIONS

for the
Criminal Justice Council
State of Delaware

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EXECUTIVE SUMMARY

The consensus of previous risk prediction research is that prediction of who will be violent is extremely difficult. Nonetheless, risk prediction instruments have two major utilities. First, these instruments can be used to identify a class or aggregate with a higher probability of violence. In this way, appropriate supervision and treatment approaches can be developed to intervene in their criminal behavior, and protective factors can be enhanced to reduce risk. Protective factors are the positive aspects of a person, things like a good employment history and a strong family support system upon which treatment and supervision approaches can build.

A second utility of risk prediction is to identify those offenders who are not likely to be violent and thereby to screen out those who do not need intensive programming or lengthy and maximum supervision in order that scarce resources are not wasted.

The Research Group set the following goals:

- o To review relevant literature on violent acts, violent offenders and risk prediction to address the question of whether it is possible to better predict which offenders may commit violent acts;
- o To determine which decision points in Delaware's criminal justice system from post-arrest to prison release use risk prediction instruments;
- o To identify factors used by Delaware's post-arrest decision-makers to predict the offender's risk to the community; and,
- o To assess the feasibility of validating a currently used risk prediction instrument and/or developing a validated risk prediction instrument.

To pursue these goals, the Research Group interviewed key decision-makers representing post-arrest decision points from pretrial through prison release. These included representatives of Magistrates Court bail, Pretrial Services, Superior Court Presentence, the judiciary, Family Court's domestic violence program, Youth Rehabilitative Services, the Public Defender, the Attorney General, Department of Correction Prisons, Department of Correction Community Custody, and the Board of Parole.

Criminal justice information is often fragmented and disjointed, and this is perpetuated if the focus is on one facet to the exclusion of others. The Committee reviewed a variety of issues related to risk prediction constraints. Appendix G contains a summary of correspondence about these issues. Appendix E summarizes existing data bases relevant to risk prediction.

Throughout the interview process, the Committee's goal was to take a holistic view, in order to link the subject of risk prediction to the overall mission of the criminal justice system. Additionally, the goal of the review process was to make a determination of priorities - to concentrate on one or more places where the Committee could validate a risk prediction instrument currently in use, or alternatively, develop and validate a risk prediction instrument where one did not exist.

The interview process and research resulted in one major finding: **There is an acute need to focus on juveniles, in terms of programmatic services to address violence.** The ability to access relevant information and to predict risk of violence were viewed as essential to identifying preventive and rehabilitative strategies and programs. Multiple presenters and the literature reviewed suggested placing greater resources into high risk children and families as a major violence prevention strategy. (For summaries of their presentations *see Appendix A*. For summaries of the literature, *see Appendix B*.) Based on this finding, the Research Group recommended actions in six major areas - programs, risk prediction, information needs, correlates of juvenile violence research, funding for research, federal program funding.

(1) **Programs.** Programmatically, early intervention is essential. A holistic approach involves partnership among the education, economic, and social services infrastructure; the communities, families and the components of the criminal justice system must be utilized. The decision-makers within this partnership need to think in terms of strategies and services to families which assist in reducing the experience of violence in the home. Children at risk need to be identified and treated. While some children raised in violent family situations become violent themselves, others do not. Those protective factors which intervene in the violence cycle need to be identified, and resources need to be focused on these protective factors. The priorities should be to enhance the protective factors and to provide for the treatment needs that prevent children from becoming violent adolescents and violent adults. Ultimately, this will save resources and have a greater impact. From a broader perspective, society must be convinced that it is a function of families and not the state to raise non-violent children.

(2) **Risk Prediction.** The Committee reviewed risk prediction instruments currently used in the Delaware criminal justice system. These and a summary of the risk prediction data elements are contained in Appendices C and D, respectively. Based upon this review, it was the opinion of the Committee, that the Division of Youth Rehabilitative Services (DYRS) needs better assessment for pre-adjudication placement. The risk assessment instrument used for adjudication placement needs validation to assist in determining when juveniles are ready to be released, to assess their strengths and weaknesses in the community, their opportunities for success, and their risk of recidivism.

(3) **Information Needs.** Decision-makers need information for making decisions concerning the placement of juveniles. Current research suggests that the best predictor for young adult offenders is the juvenile record. Decision-makers should look at who has access to juvenile records. Because of the difficulty of getting juvenile records from Family Court for Superior Court sentencings, liaison should be worked out to enable Superior Court to gain Family Court juvenile information.

(4) **Correlates of Juvenile Violence Research.** Substantial research on the correlates of violence does exist. Research into the correlates of youth violence in Delaware should be conducted. A sample of violent youth should be selected and analyzed in order to identify what factors are associated with violence and what can be done to intervene in the cycle of violence. This information, carried over to the adult level, would be valuable to judges, presentence officers, and prison and community officials, as an aid in determining security and supervision levels.

(5) **Funding for Research.** Funding is available from the National Institute of Justice (NIJ), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and other federal agencies for risk assessment and research projects. It is recommended that the Criminal Justice Council submit an application for federal funding to conduct the study and assist DYRS with its risk assessment needs.

(6) **Federal Program Funding.** The Senate's version of the 1994 Federal Crime bill has allocated funding in the millions of dollars for prevention, intervention and treatment services. It is recommended that the Department of Services to Children, Youth and Their Families (DSCYF) spearhead an effort to secure that portion of the funding that may be used for abused children and work in coordination with other relevant state agencies (e.g., Child Mental Health, Division of Family Services, Division of Youth Rehabilitative Services) and private providers to establish these services.

Based on the aforementioned, it was the concluding opinion of the risk prediction committee that, in order to address the problem of violence in society effectively, a major preventive strategy which focuses on society's children and families must be developed; and this strategy must rely on collaboration among Delaware's education, social services, economic, community, family and criminal justice systems. Resources to fund research on correlates of violence and risk prediction measures must be aggressively pursued. Relevant information must be shared among these systems to ensure that those decision-makers who influence the lives of Delaware's children and families can respond effectively to their charge. The ultimate goal of this preventive strategy would be to empower families, through appropriate policies and programs, to serve as the foundation for deterring entrance into the criminal justice system.

CJC RISK PREDICTION RESEARCH GROUP REPORT

INTRODUCTION

On December 1, 1992, the CJC Violence Reduction Committee issued a report to the Criminal Justice Council which offered a series of recommendations for addressing the problem of violence in society.

On the subject of violence prediction, the Committee recommended that the Criminal Justice Council support efforts to undertake research into risk prediction. The proposed objectives of the research were to review the current state of the art in the field of risk prediction research in order to determine the potential for identifying persons who are likely to commit or repeat violent acts.

The Criminal Justice Council agreed that risk prediction research should be undertaken. Subsequently, the Risk Prediction Research Group was formed. Note that the establishment of this research group for the stated purpose has been cited by SENTAC as a major activity associated with the SENTAC goal "to incapacitate the violence-prone offender" (SENTAC Press Conference, December 13, 1993).

THE NATURE OF RISK PREDICTION

The consensus of previous risk prediction research is that prediction of who will be violent is extremely difficult. For example, one model developed in Michigan indicated that three in ten offenders would reoffend, but only one actually did so. Like medicine, risk prediction is an inexact science.

Nonetheless, risk prediction instruments have two major utilities. First, these instruments can be used to identify a class or aggregate with a higher probability of violence. This means that an individual who has the characteristics that are common to this class or group of individuals has a greater chance of recidivism and violence than individuals without the characteristics of the class or group. A risk prediction instrument can be used as a guide to the general class, but it cannot be used as the sole reason for denying or giving release. Decision-makers need to recognize the limitations of risk prediction models. The correlations between certain characteristics and violence mean only that the individuals with these characteristics are at greater risk.

Risk prediction can identify those who are likely to be repeat offenders and/or to commit violent acts. In this way, appropriate supervision and treatment approaches can be developed to intervene in the criminal behavior, and protective factors can be enhanced to reduce risk. Protective factors are the positive aspects of a person upon which treatment and supervision approaches can build. These include such things as a good employment history and a strong family support system.

A second utility of risk prediction is that it can be used to identify factors which do not relate to violence and which have little to do with what happens in the world. It is possible to identify those offenders who are not likely to be violent. Risk assessment can be used as a tool for screening out those who do not need intensive programming or lengthy and maximum supervision in order that scarce resources aren't wasted.

To summarize, decision-makers need tools to sort offenders so that supervision and programming resources can be focused on those at greater risk of recidivism and violence and, alternatively, to prevent scarce resources from being dissipated on those unlikely to recidivate or commit violence.

As a caveat, the consensus of the Committee is that Delaware cannot simply use another jurisdiction's risk prediction tool. Only the method is transferable. Delaware needs to develop its own data to demonstrate what factors have some predictive value in this jurisdiction.

GOALS AND METHODOLOGY

In order to approach the task in the most efficient and effective manner possible, the Research Group set the following goals:

- o To review relevant literature on violent acts (*see Appendix A*), violent offenders and risk prediction to address the question of whether it is possible to better predict which offenders may commit violent acts;
- o To determine which decision points in Delaware's criminal justice system from post-arrest to prison release use risk prediction instruments;
- o To identify factors used by Delaware's post-arrest decision-makers (*see Appendix B*) to predict the offender's risk to the community; and,
- o To assess the feasibility of validating a currently used risk prediction instrument and/or developing a validated risk prediction instrument.

To pursue these goals, the Research Group scheduled meetings monthly or bimonthly. Each meeting was structured with an interview component and a research-discussion component. Key decision-makers representing post-arrest decision points from pretrial through prison release were interviewed or provided written input. Decision points represented included Magistrates Court bail decision/bail review, Pretrial Services, Superior Court Presentence and judges, Family Court's domestic violence program, Youth Rehabilitative Services, Family Court juvenile sentencing, the Public Defender, the Attorney General, Department of Correction Prisons, Department of Correction Community Custody, and the Board of Parole.

Pretrial and bail decisions determine whether offenders are detained or released to the community prior to trial. The Presentence Office gathers information to inform the sentencing decision. The prosecution and the defense uses information to make sentencing recommendations to the court. The judge at sentencing must make the in/out decision and determine the length of sentence. If the judge sentences the offender to community supervision, the judge must determine which of four levels is most appropriate. Family Court's domestic violence program and Family Court judges make decisions concerning domestic violence offenders and victims. Family Court makes juvenile adjudication decisions. Youth Rehabilitative Services makes placement decisions for juveniles prior to trial and after adjudication. Prison classification makes decisions with respect to movement within Level V security levels and makes recommendations for release on parole and for commutation or modification of sentences. Under the Truth-In-Sentencing (TIS) statute, the Department of Correction may apply to the Court through the Board of Parole for a modification of sentence. Pursuant to the statute, the Department must certify that the person being released to the community is not a risk to the public. The Board of Parole, upon holding a hearing, presents its findings to the court. Although parole has been abolished under TIS, the Board of Parole continues to make parole release decisions for offenders sentenced prior to TIS. The Department of Correction Bureau of Community Custody makes decisions concerning field supervision and reduction of supervision - the community population movement among Levels IV, III, II, and I.

In addition to interviewing representatives of these decision points, the group interviewed the director of the Statistical Analysis Center to learn what data actually exists and a University of Delaware research scientist to gain a better understanding of the correlates of violence. Specific information was acquired from decision-makers at each decision-making point. A brief summary of the information appears below. Appendix A is complete list of persons interviewed. Appendix B contains summaries of their interviews.

Throughout the interview process, the Committee's goal was to take a holistic view. Criminal justice information is often fragmented and disjointed, and this is perpetuated if the focus is on one facet to the exclusion of others. The Committee reviewed a variety of issues related to risk prediction constraints. Appendix G contains a summary of correspondence about these issues. Appendix E summarizes existing data bases relevant to risk prediction.

Additionally, the goal of the interview process was to make a determination of priorities - to concentrate on one or more places where the Committee could validate a risk prediction instrument currently in use, or alternatively, develop and validate a risk prediction instrument where one did not exist.

SUMMARIES OF INTERVIEWS (*See also Appendix B.*)

Bail Decisions-Bail Review/Magistrates Courts. Bail decisions, traditionally, have been in-out decisions and are based upon criminal history, the recommendation of the police and the circumstances of the alleged crime. Unfortunately, criminal history information may not be up to date. Since Magistrates often do not have sufficient information to assess risk, bail reviews are critically important. At this stage of the process, Pretrial Services makes the assessment. Bail guidelines are utilized in the Magistrates Courts to determine both amount and placement (prison versus an enhanced supervisory level). While enhanced supervisory levels (i.e., SENTAC levels) can be utilized at any time, space often is not available. In assessing risk, Magistrates use aggravating and mitigating circumstances which are products of their experience. Judicial discretion was cited as the most important factor in decision-making, once all these issues are known.

Pretrial Services. Pretrial Services does utilize a validated risk assessment tool. The specific factors are residence arrangement and length of time in residence, employment, education, prior record and aggravating/mitigating factors. Mitigating factors relate to stability, while aggravating factors identify treatment needs.

Domestic Violence Program/Family Court. Family Court domestic violence coordinators utilized a risk assessment instrument in 1993, although it was not validated. Use has been discontinued. Obsession with the victim, child abuse and alcohol/illegal drug usage seem to be factors which relate to future violence. Because alcohol is legal, it is easier to gain the perpetrator's acknowledgement of use of alcohol. Use of illegal drugs may be inferred from prior criminal history. A majority of domestic violence cases reflect use of alcohol and/or illegal drugs.

Superior Court Presentence/Judge. Superior Court presentence officers expressed that, although a validated risk assessment tool is not available, they do not feel a need to construct one. Their position was that access to pertinent information in a timely manner was the real issue.

Criminal history is found to be the most reliable predictor of risk. In the case of young adult offenders, information about Family Court adjudications is important, but the information is not always accessible in all counties in a timely manner. A liaison arrangement between Superior Court and Family Court to facilitate the sharing of this information is desirable. In addition to criminal history, the focus is placed on the nature of the specific offense(s), employment history, stability of residence and relationships, history of substance abuse and other addictive behaviors. Where crimes of violence are concerned, the concern is directed to the defendant's mental health. Sentence recommendations represent a proposed plan to address the needs of the defendant and the needs of the community and the victim, with the goal toward decreasing the likelihood the defendant will repeat the antisocial

behavior. SENTAC sentencing guidelines, including aggravating and mitigating factors, are the frame of reference for sentencing recommendations.

The Superior Court President Judge offered written comment that at least one Superior Court judge finds the following information most important at sentencing: nature and circumstances of offense; prior criminal history; defendant's background (including education, family ties, employment history, alcohol/drug usage, intellectual abilities or deficit); and remorse or lack thereof.

Youth Rehabilitative Services. The Division of Youth Rehabilitative Services (DYRS) utilizes a risk assessment tool which had been developed from a joint Family Court-DYRS research project. Among the factors rated are most serious instant adjudication, most serious prior adjudication, number of felony adjudications during a period of two years, out-of-home placement as a result of adjudication, escape from secured facility, and substance abuse adjudications.

Family Court Judge. The following represents the position of one family court judge: There is a different philosophical approach in sentencing adults versus juveniles. Adults are expected to understand consequences and conform with the law, whereas, with children, it is important to gain appropriate treatment. Factors such as whether the child has been assessed as ADD (attention deficit disorder) or ADHD (attention deficit hyperactivity disorder) are important. In dealing with children, sentencing needs to be more global, that is we must think in terms of services to the family rather than sending the child back to the same environment. Neglect and abuse seem to be correlates of violence. Therefore, the state of the family makes a difference. Intervention in families, however, must only be until it is no longer needed. The goal should be to instill responsibility into families and the child. To predict violence, it is necessary to know if a child is witnessing or experiencing violence in the home. Statistics show that large numbers of adults who commit violent acts had been abused as children.

With respect to domestic violence, SENTAC guidelines contain a domestic violence category that encourages judges to impose incarceration as presumptive for first domestic violence offenses. Statistics suggest that recidivism can be halved if there is an arrest followed by prosecution and conviction with jail time. Factors related to domestic violence seem to be alcohol/illegal drugs and child abuse. Allowing children in the home to witness spouse abuse establishes a frame of reference for future violence, thus establishing a cycle of violence.

Office of the Public Defender. The focus of the Public Defender's Office in offering recommendations to the court is to identify the appropriate treatment to address the behavior. If the defendant can be placed in treatment prior to sentencing, the need for treatment may be approached as a mitigating factor, depending upon the crime. The assessment is from the client's perspective and, while incarceration may be the only way to break the cycle, these cases are few. Usually incarceration is not in the client's best interest. If there is an indication

of substance abuse or mental health problems, the case is turned over to psycho-forensic evaluators, who review school records, mental health records, and hospital records.

Office of the Attorney General. The Office of Attorney General has no risk prediction instrument. The prosecutor's role is to concentrate on the gate function--establishing the offense. Extreme violence is being seen in younger children. In fact, the younger ones--under 20s--are often more dangerous than the older ones. When they are in the active stage--15-25 years of age--they commit hundreds of crimes. The solution is to convince families that it is their function to raise non-violent children, not the state. Among the criteria used to predict future criminal behavior is age at first arrest and first conviction. The right messages are that the state cannot raise children; the criminal justice system cannot solve the drug problem; children cannot be returned to the same destructive environment. Proposed programs such as "Being Safe In America" which involve the family/schools/church/police/etc. are important, but resources do not exist to support such programs.

Department of Correction Prisons. Prison officials deal with people who have documented records of criminal behavior. Criminal history, including juvenile history seems to be the best predictor of future criminal behavior, particularly if there has been no intervention. One real issue is the accessibility of juvenile criminal history, since juveniles are adjudicated delinquent under civil law and, thus, are not considered criminal. A predictive tool is better utilized before the offender begins establishing a criminal career, perhaps with individuals aged 18-20, when the judge is determining the appropriate sanction level. From a larger perspective, the SENTAC philosophy is to incapacitate the violent offender, but many who are incarcerated are non-violent offenders.

Department of Correction Community Custody. The Division of Community Custody and Supervision is analyzing movement among the different levels with the goal of developing a classification system for SENTAC levels I-IV. Among the objectives is to attempt to predict violent behavior so that offenders are not artificially upgraded. An important concern currently is violations of probation (VOPs). VOPs are 20% of the prison population, a high percentage of which need treatment.

Board of Parole. The Board of Parole utilizes a judgmental risk assessment instrument. Among the factors the Board considers to make decisions for release are nature of current offense; most serious prior offense; number of prior adult incarcerations; number of prior periods of adult probation/parole supervision; indications of violent behavior while incarcerated. Mitigating and aggravating factors (rehabilitative efforts; victim restoration; mental health; age at hearing; substance abuse history; release plan; community support, etc.) are influential in guiding the decision. Criminal history seems to be the best predictor of future criminal behavior, although this factor seems to become less significant as offenders "age out." Based on social histories, child abuse seems to be highly correlated with violent behavior.

MAJOR FINDING: FOCUS ON JUVENILES

The major finding of this report is that there is an acute need to focus on juveniles, in terms of programmatic services to address violence. Multiple presenters and the literature review suggested placing greater resources into high risk children and families as a major violence prevention strategy. (For summaries of their presentations *see* Appendix A. For summaries of the literature, *see* Appendix B.) Those decision-makers emphasizing the need to focus on juveniles included Presentence officers, Family Court representatives, the Division of Youth Rehabilitative Services, the Chief Prosecutor, the Chief of the Bureau of Prisons, and the Parole Board.

Recommendations. Based on the major finding, the Research Group recommended actions in six major areas. These areas are:

- o **Programs**
- o **Risk Prediction**
- o **Information Needs**
- o **Correlates of Juvenile Violence Research**
- o **Funding for Research**
- o **Federal Program Funding**

(1) **Programs.** Programmatically, early intervention is essential. A holistic approach involves partnership among the education, economic, and social services infrastructure; the communities, families and the components of the criminal justice system must be utilized. The decision-makers within this partnership need to think in terms of strategies and services to families which assist in reducing the experience of violence in the home. Children at risk need to be identified and treated. While some children raised in violent family situations become violent themselves, others do not. Those protective factors which intervene in the violence cycle need to be identified, and resources need to be focused on these protective factors. The priorities should be to enhance the protective factors and to provide for the treatment needs that prevent children from becoming violent adolescents and violent adults. Ultimately, this will save resources and have a greater impact. From a broader perspective, society must be convinced that it is a function of families and not the state to raise non-violent children.

(2) **Risk Prediction.** The Committee reviewed risk prediction instruments currently used in the Delaware criminal justice system. These and a summary of the risk prediction data elements are contained in Appendices C and D, respectively. Based upon this review, it was the opinion of the Committee, that the Division of Youth Rehabilitative Services (DYRS) needs better assessment for pre-adjudication placement. The risk assessment instrument used for adjudication placement needs validation to assist in determining when juveniles are ready to be released, to assess their strengths and weaknesses in the community, their opportunities

for success, and their risk of recidivism.

(3) Information Needs. Decision-makers need information for making decisions concerning the placement of juveniles. Current research suggests that the best predictor for young adult offenders is the juvenile record. Decision-makers should look at who has access to juvenile records. Because of the difficulty of getting juvenile records from Family Court for Superior Court sentencings, liaison should be worked out to enable Superior Court to gain Family Court juvenile information.

(4) Correlates of Juvenile Violence Research. Substantial research on the correlates of violence does exist. Research into the correlates of youth violence in Delaware should be conducted. A sample of violent youth should be selected and analyzed in order to identify what factors are associated with violence and what can be done to intervene in the cycle of violence. This information, carried over to the adult level, would be valuable to judges, presentence officers, and prison and community officials, as an aid in determining security and supervision levels.

(5) Funding for Research. Funding is available from the National Institute of Justice (NIJ), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and other federal agencies for risk assessment and research projects. It is recommended that the Criminal Justice Council submit an application for federal funding to conduct the study and assist DYRS with its risk assessment needs.

(6) Federal Program Funding. The Senate's version of the 1994 Federal Crime bill has allocated funding in the millions of dollars for prevention, intervention and treatment services. It is recommended that the Department of Services to Children, Youth and Their Families (DSCYF) spearhead an effort to secure that portion of the funding that may be used for abused children and work in coordination with other relevant state agencies (e.g., Child Mental Health, Division of Family Services, Division of Youth Rehabilitative Services) and private providers to establish these services.

OTHER FINDINGS

Magistrates Courts. There is a need to validate the Magistrates Court's Bail Guidelines and to provide training for magistrates in the use of risk prediction.

Pretrial Services. Pretrial Services validated risk assessment instrument can be used as a basis for risk assessment at other decision points, using elements that can be carried over from one point to the next.

Superior Court Presentence. The majority of felony offenders in Superior Court are sentenced without PSIs. A correlate of the reliance on immediate sentencing to meet speedy trial requirements is insufficient information at immediate sentencing. Lack of PSIs impacts negatively on the information needs of other decision-makers who deal with offenders after sentencing.

Classification. Prison classification has better data now, but they do not have the people to analyze it. They need to sort prisoners to provide public safety and to avoid wasting resources. It makes no sense to put prisoners in max if they could be in minimum.

Community Custody. Probation and Parole is looking at developing classification for Levels I-IV for fundamental fairness. They need also to predict who won't be violent, so offenders are not artificially pushed up. The goal is to get a handle on movement and on classification. They are concerned with down and up, and to snag the "uppers" early in the game. They need to start with a fresh beginning, not using old risk/needs. In this adult system, the early intervention offenders are those at Level I and II probation and the eighteen- and nineteen-year-olds. This is where the focus should be. By the time they get to Level III or into their twenties, they have a long criminal history.

Rule 11. Interviewees suggested that Rule 11 pleas result in non-compliance with SENTAC sentencing standards and the New Castle County Dispositional Guidelines for juveniles. This needs further study.

Violations of Probation. VOPs are important. They comprise twenty percent of the prison population. An additional increase in this population can result in a need for expansion of prison facilities. DOC is avoiding building by managing that population. The system needs to distinguish between those who have technical violations and who are not a threat to public safety, and those who should go to prison for violation of probation.

Board of Parole. The Board of Parole uses a risk assessment instrument. It is not validated. The Board of Parole has been using this instrument for about a year and a half and has accumulated data from this time period. It could be validated with today's incarcerated population.

Risk Assessment Information. The information system among the various criminal justice agencies is itself disjointed. The same kinds of information about offenders are collected at multiple points, but little is shared. This results in duplication of effort, wasted resources, and inappropriate decisions. As one presenter stated, based on what looks like the first offense for an 18 or 19 year old offender, the outcome is likely to be probation. But in reality, this is the sixth or seventh offense in the life of a youth, and a decision-maker knows this, then the sentencing and placement outcome is likely to be much different. The juvenile and adult systems need to be connected. Methods for better sharing of information need to be developed.

More than a decade ago, the Business Systems Plan (BSP) highlighted the need for information sharing. The DELJIS Criminal Justice Information System is working toward this goal, but many decision-makers still find that its information is unreliable. Charges and dispositions are still lacking from criminal histories, so that they are an inadequate decision-making tool.

APPENDIX A.
LIST OF PRESENTERS TO THE RISK PREDICTION COMMITTEE
(Listed by Order of Presentation)

The HONORABLE WILLIAM RICHARDSON, formerly CHIEF MAGISTRATE, JUSTICE OF THE PEACE COURTS, Speaking on Bail Guidelines Risk Determination, JULY 14, 1993

JOSEPH PAESANI, ACTING DIRECTOR, DIVISION OF COMMUNITY SERVICES, formerly MANAGER OF PRETRIAL SERVICES, Speaking on Pretrial Risk Assessment, JULY 14, 1993

SANDRA EWING, FAMILY COURT, Speaking on Domestic Violence Risk Assessment, SEPTEMBER 13, 1993

The HONORABLE HENRY DUPONT RIDGELY, PRESIDENT JUDGE, SUPERIOR COURT, by memo, Speaking on the Information Needs of Superior Court, OCTOBER 1, 1993

WILLIAM ECHOLS, JAMES ADAMS, JANA MOLAHAN, CHIEF PRESENTENCE OFFICERS, SUPERIOR COURT, NEW CASTLE, KENT AND SUSSEX COUNTIES, respectively, Speaking on Presentence Information, OCTOBER 17, 1993

The HONORABLE WILLIAM NICHOLAS, FAMILY COURT, Speaking on Juvenile Sentencing, OCTOBER 28, 1993

The HONORABLE GUY SAPP, DIRECTOR, DIVISION OF YOUTH REHABILITATIVE SERVICE, Presenting An Overview of How DYRS Determines Placement of Juveniles, OCTOBER 28, 1993

The HONORABLE WILLIAM NICHOLAS, FAMILY COURT, Speaking on Domestic Violence Risk Assessment and Information Needs, NOVEMBER 10, 1993

ANGELO FALASCA, CHIEF DEPUTY PUBLIC DEFENDER, Speaking On Defense Information Needs and Risk Assessment, NOVEMBER 19, 1993

EUGENE HALL, CHIEF PROSECUTOR, Speaking on Prosecution Information Needs and Risk Assessment, NOVEMBER 19, 1993

STANLEY TAYLOR, JR., CHIEF, BUREAU OF PRISONS, DEPARTMENT OF CORRECTION, Speaking on Prison Information Needs and Risk Assessment, JANUARY 14, 1994

NOREEN RENARD, CHIEF, BUREAU OF COMMUNITY CUSTODY AND SUPERVISION, DEPARTMENT OF CORRECTION, Speaking on Probation and Parole Supervision Information Needs and Risk Assessment, JANUARY 14, 1994

The HONORABLE MARLENE LICHTENSTADTER, CHAIR, PAROLE BOARD, Speaking on Parole Board Risk Assessment

**APPENDIX B.
COMMENTS OF PRESENTERS**

**The HONORABLE WILLIAM RICHARDSON, formerly CHIEF MAGISTRATE,
JUSTICE OF THE PEACE COURTS
Speaking on Bail Guidelines Risk Determination
SUMMARY OF REMARKS, JULY 14, 1993**

Setting bail when someone is arrested involves serious risk prediction. At presentment, judges traditionally think in terms of an "in or out" decision. They don't think of what's best for this person's life right now. The initial information comes almost exclusively from the police officer who wants the defendant incarcerated. The decision is based *on criminal history, the recommendation of the police, and the circumstances of the alleged crime*. The defendant is committed or released. If released, the defendant is given a date for arraignment. If the plea is guilty, the sentence is immediate.

When defendants are released on bail, they have conditions. Bail insures they will appear in court, that they will not pose a threat, and that they will comply with conditions.

Judges don't have a lot of information for risk assessment. So when they have bail reviews, Pretrial Services gets involved. Pretrial Services contacts the defendant, the employer, reviews the person's standing and connections to the community, how long he's lived there, his income and family life. The initial judge's notes are on paper for the bail review judge. The court needs all the information it can get for bail review. Bail review is the first time real information can be presented. The judge needs to know if there are "no contact" orders issued against the defendant.

After bail review, bail may be reduced or the court may decide that the person need not be incarcerated. If the person is not incarcerated initially, there is no bail review unless the Deputy Attorney General asks for it.

The next stage is the trial. Here the court deals with the evidence. At sentencing, information is important. Other courts may have a Presentence Investigation. Magistrates sentence without other information than what the defendant, the DAG or Pretrial Services say. By the time it gets to trial, the judge has a feel for the crime and knows the record. This is the stage where risk prediction comes in. If the sentence is to probation, then there are conditions. The court wants to make an informed decision on the conditions to place on the person, and whether they're likely to be followed and have an impact. If not, then the defendant should be incarcerated because he may terrorize the victim.

Prior to the bail guidelines, judges sentenced more on intuition. Now they have recommendations for secured or non-secured bail for each type of crime. The bail guidelines also recommend alternatives, mirroring the SENTAC levels for pretrial purposes. These are called enhanced supervisory levels.

The conditions of bail, and the aggravating and mitigating circumstance are important for the court to make its risk assessment. Use of aggravating and mitigating circumstances are a product of experience.

If we have an instrument that predicts violent behavior, it wouldn't be helpful initially, but it would be at the bail review. Because the court is dealing with someone's liberty, it needs good information. Anything the Committee can give provide for risk prediction would help. Training for judges that gives recognition of danger signs would be extremely helpful.

So far, no one has collected data to validate the bail guidelines to see if they do make sense. Few data exist that could be used to determine if the bail guidelines should be modified to be more useful to the judge. The data may not be complete, and are subjective. However, the Magistrates's Bail Guidelines instrument has been used for more than a year, and if the data could be found, they could be used to validate the Bail Guidelines.

**JOSEPH PAESANI, ACTING DIRECTOR, DIVISION OF COMMUNITY SERVICES
FORMERLY, MANAGER OF PRETRIAL SERVICES**

**Speaking On Pretrial Risk Assessment
SUMMARY OF REMARKS, JULY 14, 1993**

Pretrial Services has technical assistance from the Pretrial Resources Center in Washington, D.C. to revise and validate pretrial's risk prediction instrument. The consultant recommended that pretrial not use an exclusion list.

The instrument has *15 scenarios*. *If any one of them (had pending charges, lived out of state, etc.) is present, then there is secured bail.* It speaks to stable employment, home, and willingness to come to court.

It's based on an interview and verification, and a criminal history check. They do telephone verification. They collect information from the defendant, for example, are you buying or renting? Then they ask the parents and compare the answers to the defendant's answers concerning mostly living circumstances, and past drug and alcohol problems. People underplay their criminal history. They discuss it with the defendant if they have discrepant answers. They confront the person with it. Eighty percent of the time, it's a family member that is used for verification.

The risk assessment breaks out *aggravating and mitigating circumstances*. *Mitigating factors are based on stability. Aggravating factors are treatment related.* A treatment problem causes new offenses or "no show" at court. It is used at the initial bail setting. If the defendant is detained, then Pretrial also uses it at the subsequent hearings.

Pretrial Services invented the list. Everyone on staff gave input. They looked at old cases and how they came out and adjusted the risk instrument based on this. That they don't use age at first arrest may be an oversight.

They do have overrides. The Public Defender didn't want to make decisions by the numbers. They wanted overrides so pretrial officers don't get embarrassed in court. Pretrial wanted D.C. to look at the overrides, e.g., Felony A's, and if they should change their overrides.

When all this is done, they get a point score, and based on the total, they recommend unsecured, pretrial supervision and conditions, or secured bond. It takes out the subjectivity. It's easy to train people, and not make them decide what's best.

The Pretrial Resources Center is in the process of validating it. They took a 1990 population pre-risk assessment, and a 1992 population with the tool. They are using JIC's information on who showed and who didn't, and whether they were rearrested. They are supposed to look at all aggravating and mitigating factors to see which do something and which don't. Family ties, residence and employment in the literature search were important.

The preliminary numbers show that in 1990, the Failure To Appear (FTA) rate (missed one court appearance) was 20 %. The rearrest rate was 36 % while under pretrial supervision or on bail. In 1992, preliminary figures show that FTA was 16 %, and rearrest was 18 %. More people are being released in 1992, and the results are better.

**SANDRA EWING, FAMILY COURT, Speaking on Domestic Violence Risk Assessment,
SUMMARY OF REMARKS, SEPTEMBER 13, 1993**

Introduction. The Ad Hoc Committee on Domestic Violence is working on a risk assessment instrument to predict who might kill their spouses or further assault them. They have developed an instrument and finished a pilot test of it. It contains 26 items and was drawn from three major instruments on domestic violence prediction. The items get one or two points. The maximum score is 36. The highest was 33. The mean was 16. The instrument includes such items as whether they abused animals, destroyed the victim's personal items, or assaulted the victim during pregnancy. Bed wetting and fire setting as children are also included.

They developed the items from three sources. They picked all factors common to the three instruments. Some items came out of the community. They ran the instrument by domestic violence counselors. Most of the valid information came from victims, but they also interviewed perpetrators. Family Court will see if they can apply the instrument to those who only threaten and those who carry threats out. The very serious people are few, since Family Court only handles misdemeanor domestic violence cases.

Sandy Ewing. On the Domestic Violence Risk Assessment Form, look at items 13 (Is excessively jealous of and/or blaming of victim), 14 (Is actively hostile, angry, or out of control and not fearful of consequences), and 15 (Is obsessed with the victim). These are indicators of future violence. Child abuse is also a factor. A violent act is correlated to violent situations.

On the Case Tracking Worksheet, the perpetrator information is on one side and the victim information on the other. It contains information concerning whether the case is alcohol or drug related, if they are "co-habs," how long they have been acquainted and how long together, how many kids in the household, and whose children they are, what JP court the charge is in, if there was a weapon involved. Before looking at criminal history, I ask if they've been arrested, and if a native of Delaware. I confront them with what's on the criminal history, then they remember. They may have lived with someone else they've assaulted. I ask if they were under the influence of drugs or alcohol during the offense, and did this contribute to it. Sometimes they don't comprehend what an arrest means. They may have been in jail but don't consider it an arrest.

I ask the questions to the victim differently. I ask if there has been domestic violence before, e.g., arguments and how many times the police have come. People mostly are open and honest. I prepare information for the bond hearings on detainees and walk-ins.

The risk assessment was tried with the offenders, but it doesn't work. I do it with the victims. The victim's information is more accurate. The best time to take it is right after the arrest when the woman is still hurt and angry.

To interpret the "Excessively jealous and/or blaming the victim" item, I ask if the man wants to know where she's going, with whom; tells her when to be home, if she is allowed to have friends.

Here is how the risk assessment is scored. An asterisk doubles the score to 2. The other items get 1. 25+ is acute, 6-17 is average, 4 or less is little or no risk. We're using the instrument for the first offender program. The score is put on back.

They will admit to being under the influence of alcohol because it is legal. They won't admit to drugs, but arrests for it in the criminal history indicate if drugs are involved. Those coming down from drugs will use alcohol to ease the transition. In 90-95 % of the cases, there is some kind of drug involved in domestics. If they have an anger control problem, substance abuse aggravates it. Alcohol activates something in the brain that triggers anger.

I want to look at whether they're Vietnam vets. They may have post traumatic stress disorder or have a weapon in the home, or have head injuries. These can be related to violence. They may be on medications, like Prozac and other mood altering medication which may be related to mood swings.

The offender's view of the victim is put on the tracking sheet.

The Deputy Attorney General (DAG) and Public Defenders have this information available. The judge has it only for sentencing. They will plea bargain, and only 5-10 % get to trial with a judge or commissioner. If there is a plea bargain, the judge doesn't use it. The victims are required to be there. They sign in and are interviewed by the DAG. Victims are more involved in the plea bargains now.

NOTE: As of 1/1/94, use of the tracking sheet and risk assessment for general domestic violence cases have been discontinued. Ms. Ewing no longer interviews victims. The domestic violence risk assessment continues to be used for Protection from Abuse Act assessments.

**The HONORABLE HENRY DUPONT RIDGELY, PRESIDENT JUDGE, SUPERIOR COURT,
by memo, Speaking on the Information Needs of Superior Court, OCTOBER 1, 1993**

SUPERIOR COURT OF DELAWARE

MEMORANDUM

FROM: PRESIDENT JUDGE RIDGELY

Re: Sentencing Information Needs

1st
October
1993

To: Emily Reed

I regret that I was unable to attend the meeting on September 13, 1993. I wanted to pass on to you a comment of at least one judge regarding information that judge finds most important at sentencing. That information is as follows:

1. The nature and circumstances of the offense;
2. The prior criminal history of the defendant; and
3. Defendant's background (including such factors as education, family ties, employment history, alcohol/drug usage, intellectual abilities or deficits, etc.); and
4. Defendant's remorse or lack thereof.

The judge I spoke with believes that while certain factors within paragraph three above may not be available at the time of sentencing, especially when the sentencing is immediate, most of them are available as are the items set forth in paragraphs one, two and four.

cmh
xc: File



**WILLIAM ECHOLS, CHIEF PRESENTENCE OFFICER, JAMES ADAMS, JANA MOLAHAN,
SENIOR PRESENTENCE OFFICERS, SUPERIOR COURT, NEW CASTLE, KENT AND
SUSSEX COUNTIES, respectively**
Speaking on Presentence Information
SUMMARY OF REMARKS, OCTOBER 17, 1993

Could you spell out what you do in the PSI, the practical context, what may not be addressed because of time, what the time frames are, what your first priority is, and if assessment fits in?

Bill Echols. Under SENTAC, the factors in the Bench Book are used to determine sentences. *The major factor is criminal history within sentencing guidelines. We use that, and then the mitigating and aggravating factors.* Ninety-five % of offenders in NCC Superior Court are sentenced without a PSI. They're sentenced under the sentencing guidelines. Immediate sentencing is problematic and needs attention. Judges need more information at immediate sentencing.

Criminal history is the most reliable predictor of risk. Past behavior predicts future. We do gather juvenile history, but under SENTAC, it washes after a certain time, and only goes back to age 14. We look mostly at adult things, since most offenders we deal with are beyond youth. What we can use in Family Court files are the mental health and other evaluations, but it is difficult to get it because of the volume of records in NCC Family Court. We should work out a liaison between Family Court and Presentence.

We're better off looking at adult behavior and what sanctions have been applied as an adult. Juvenile things aren't punishment. If they've been on adult probation or parole and it hasn't made a difference, then we are pessimistic. Practically, we try to punish. We look for anything that gives hope on the horizon. Things don't change much for our offenders. Criminal history is significant, but DELJIS information has duplicity and incompleteness.

The goal is 75 % immediate sentencing. Judges don't give reasons, but if the judge is specific about what he or she wants, he'll say limit the PSI to this or that - criminal history, work history, or psychological. The attorney's must get the psychological.

Jim Adams. In Kent County, we are doing more PSIs on 18 and 19 year olds, and on juveniles found not amenable to Family Court. If offenders are in their 30s, we're not concerned about juvenile information, but if they are 18 or 19, we try to get information from Family Court, which is difficult. Presentence provides rap sheets for all defendants, and we verify the prior record through Family Court, but it is very difficult. Presentence physically has to go to Family Court and look through the file, and this is too much to do. Judges are asking for PSIs because the records have arrests but no dispositions. They won't sentence without dispositions. We do PSIs for 15 %, the serious cases, and where aggravating or mitigating factors dictate sentences outside the guidelines. The judges say why they want a PSI, stating exactly what they want. Lengthy, repetitive or violent history is important, or the judge may feel the guidelines indicate prison, but he wants an alternative.

We don't do PSIs for nonviolent and property offenses except if there is a huge amount of restitution. Rule 11 pleas have a major effect on when PSIs are ordered. Here, the PD and AG agree on the plea and the sentence. It's up to the judge to go along with it, and they do in most instances. If the judge sentences more than the agreement, the defendant can withdraw the plea.

Jana Molahan. In Sussex County we have good information from Family Court, especially for 18 and 19 year olds, because we all know each other. They have an automated system with bar codes on files and have a docket sheet to find the file. We are doing 50-50, some with mitigating-aggravating circumstances. Sometimes we're puzzled why the judge asks for a PSI. Judges may want the victim interviewed, or there may be out of state charges. In property offenses, there may be restitution. Judges order PSIs for serious cases, or they want the records from the State Hospital, or something said in the courtroom triggers a request for a PSI.

Sentencing Information. Judge Ridgely's memo to the committee refers to the nature and circumstances of the offense, the prior criminal history, the defendant's background, and remorse or lack thereof. Do they use these? Bill Echols responded that we only keep track of how frequently

judges go with the recommendation. They usually go along with the idea, probation or prison but may change the length.

Substance Abuse Discussion. When the issue of substance abuse was hot, the judges would get upset if there wasn't a slot. Now, the inclination to get treatment is not as strong. You can't get a bed for 6 months, and they need to sentence today. The standard provision is to order an evaluation, but the waiting list is long. The Substance Evaluation Team (SET) has more power than the judge. That's changing with TASC, but TASC won't be available in Kent and Sussex indefinitely. Presentence may spend a lot of time looking at prior treatment, finding appropriate treatment, and the judge will say he wants the offender in the 28-day program based on this. The evaluator or SET may alter what the judge wants. They say, "Release to SET-approved in-patient only." Judges now say to an in-patient program, the length to be determined by the SET. The amount of treatment available and dent it's making are minimal.

Judge Gebelein has approved Greentree and Crest as in-patient treatment. Crest is a problem. In three cases in which Judge Steele ordered offenders to the Recovery Center, they went to Crest, and the judge was angry. They're substituting Crest for the Recovery Center, because it's easier to get them in there, but they can't arbitrarily change a court order. The MDT may classify to work release with substance abuse treatment. The bench book says they can do this with judicial approval, but it's happening by by-passing the court. We should look at the bench book policy, and at the three specific cases where this occurred to see if it's illegal.

[SENTAC Policy 10 states, "When ordering a sentence, the Judge will order the offender to a specific initial level of supervision (Assessment of Risk). The judge *may recommend* a specific treatment program. The DOC will make every effort to assign the offender, or procure admittance into, the recommended program, *or equivalent*, as slots become available." (Emphasis added.)]

Sentencing orders say "hold at Level V until Recovery Center available." The offender stays in prison and leaves without the treatment. There are a lot who don't get to the halfway house or Recovery Center. That's how Greentree has come to be substituted.

TASC is trying to get offenders into specific programs, and they have to use the sentence order to insure this. The Automated Sentencing Order Committee should have a list of treatment resources that are comparable. They have to make an approved list. We need flexibility in treatment. We will draft a letter to Judge Herlihy, the Committee chair, concerning treatment comparability and an approved list on sentencing orders.

The judges still say, "What is DOC really doing?" Judges keep trying to change the sentencing orders to prevent DOC from doing other things than what it says. TIS requires judges to say that if DOC wants the offender to move in the last six months they can do so.

Presentence Risk Assessment. Should we focus on validating risk assessment at the presentence stage. Are they doing well enough without a validated risk assessment tool? Bill Echols said he hears about probation wanting something to tell them how to supervise, and they would benefit the most. If there was something validated how would it impact sentencing recommendations and orders? Would it impose itself over the guidelines? Virginia is developing a risk assessment that will be in line with their guidelines.

We're focusing on incapacitating the violent offender, predicting violence. Where should we do this? Would sentencing people be willing to commit themselves to this? This may be bad timing because the Automated Sentencing Order and Integration projects are just getting under way. They don't need anything else. All information needed is put in the PSIs. If anything, they have an information overload.

Probation officers say offenders are on inappropriate levels. Someone on Level I should be on home confinement or vice versa. On Rule 11s, they are pulling (level) numbers out of the air. For example, there was a domestic violence case that was put on Level I. It's now called administrative probation, not unsupervised probation.

The HONORABLE WILLIAM NICHOLAS, FAMILY COURT
Speaking on Juvenile Sentencing
SUMMARY OF REMARKS, OCTOBER 28, 1993

With juveniles, the idea is the child needs help. Delinquency is civil not criminal. I like to have as much information as I can get. I want to know who the person is. The more you know, the better able you are to predict violence. Psychiatrists say you can't predict violence, or if you can, it is if there is violence in the past. With kids, you need to consider if he is assessed as ADD (attention deficit disorder) or ADHD (attention deficit hyperactivity disorder), or he may be undiagnosed. Kids with a lot of violence in the past have low self-esteem and are impulsive. If you know that history exists, you can funnel them to treatment. There is controversy over the methodology of treatment. The Feds require schools to develop programs for them. It's treatable.

Whether we get information is spotty. Under the pilot guidelines, it will be better. A treatment plan will have to be developed. If the file has a history of past delinquencies, the mental health evaluation may be there or not. You need to decide if it is important enough to get a PSI. If the kid is already on probation, the officer may know that the school has evaluated him. He asks how he's doing in school, and it may sometimes come out.

I wonder what is going on at home. If he is already on probation, the P.O. says he can't keep track of him. The mother is never there. I begin to think he may be neglected. We should think in terms of services to the family. He will go back to the same parents and lack of supervision.

The mental health exams are important. They are angry. There are problems between parents and kid. They say he's hanging out with the wrong kids. We need services for the mother to help her supervise the child. The remedies the government can provide may never be adequate.

Neglect and abuse are correlates of violence. They are going through the revolving door. Does the family have criminal records? As a prosecutor I prosecuted the fathers and uncles. Families make a difference in sentencings.

It's socially more effective to treat children than to wait until they become adults. To allocate resources, we need to start with the kids. If we are trying to keep kids out of jail, we should focus resources on children. *We need to look at family background as a predictor, and not just criminal history.* We use criminal history because it's quantifiable and attainable. It's there. Assessments are more expensive, and family issues are qualitative. To predict violence, we have to know if he is witnessing or experiencing it in the home. With adult offenders, you would be surprised at the number of domestic violence offenders who say they were abused as children, and sex offenders too.

The HONORABLE GUY SAPP, DIRECTOR
DIVISION OF YOUTH REHABILITATIVE SERVICE
SUMMARY OF REMARKS
Presenting An Overview of How DYRS Determines Placement of Juveniles
OCTOBER 28, 1993

A juvenile is arrested and comes in through detention. We assess him for appropriate pre-adjudication placement. If he comes into secured care, we look at Level IV and V. Level V is a secure setting - NCC Detention or Stevenson, or it may be with contractors in other states. Level IV is staff secure - Camelot or YWCA, as opposed to facility secure like Ferris. Level III is probation, and Level II is the lower end of probation. Whether it is staff or facility secure is

based on the charge. If it's Robbery 2nd, they'll end up at Level IV, if theft at Level II or III. After arraignment, at the next appearance, we have a plan for the judge, especially if the juvenile doesn't need a secure setting.

Once adjudicated, we use another risk instrument which quantifies risk factors from 1 to 50. It leads to a cutoff. Above 16, he goes to Level II, above the mid-20's to Level IV, and above that to secure facilities. Factors used are *prior history, instant offense, and school attendance.* It is one page. One thing it doesn't do is look at behavior, or whether he is working with the Family Service Division.

The interface between what they do and the juvenile sentencing guidelines is that the court determines the level, and DYRS determines the program. The courts consider the work of their case managers, and look at the instant offense. For second offenses, there are mandatories. In the initial pilot of the guidelines in New Castle County, they were overridden in forty percent of cases, either up or down. The judges have to list an aggravating or mitigating factor. We want to pinpoint why override of the guidelines occurred.

The challenge for the juvenile system is in determining when someone is ready to go out. The juvenile record is not as great a predictor as an adult record. DYRS has to get them in the right program, and we are hoping to revise what they're doing now. We try to assess strengths and weaknesses in the community. It's more subjective than objective, whether the family can deal with the special needs. The family is the reason why they're there in the first place. So we may want to move to a transitional living arrangement, but we aren't effectively measuring whether the kids will come back or not. We have to deal with the problems in a therapeutic environment. We try to work with him in his environment, without putting him into a negative situation. But often it doesn't happen. The problem is that kids are dependent. DYRS can do wonders in 5-6 months, but if we put him back in the same dysfunctional family and community, it doesn't last. Recidivism doesn't show what DYRS did. Youth need to live in a better setting.

In a lot of cases, they just need to mature, and get out of the peer group. The years of inclination to crime are now 14-34. A lot of kids at Ferris need therapy. We have to teach them how to behave, and the difference between right and wrong. Only the strongest can resist the environment.

I am not satisfied with what DYRS does. I am interested in research that could predict someone's chance of success.

The HONORABLE WILLIAM NICHOLAS, FAMILY COURT
Speaking on Domestic Violence Risk Assessment and Information Needs
SUMMARY OF REMARKS, NOVEMBER 10, 1993

In domestic violence cases, judges are not confined strictly to predictive factors. The SENTAC guidelines contain a special domestic violence category that encourages judges to impose incarceration as presumptive for first domestic violence offenses, even for unclassified misdemeanors like disorderly conduct. The recidivism rate can be halved if there is an arrest followed by prosecution and conviction with a sentence to jail time. The last part is the most important. Recidivism means the man will commit the same offense, and often it is when the defendant and victim are living together.

The enhanced SENTAC sentence is a presumption that this behavior has been going on, although this is the first formal charge. As a court we can send a message that there is no societal tolerance for this, and they will go to jail. They are surprised that they go to jail for disorderly conduct. Even if jail time is suspended, there has to be domestic violence counseling. It's a special condition.

A lot of domestic violence offenders have substance abuse and claim alcohol abuse. Many came out of violent homes themselves. There is victim involvement frequently. They are combative in their home. There are an awful lot of problems for them to resolve on 6 month probation with "go to counseling." There are also economic problems. Either way, the victim suffers in choosing to prosecute or stay in the home.

If the victim is reluctant to prosecute, and if there are kids in home and the violence was committed in front of the kids, they are also victims. If we allow another generation to watch, we're spinning wheels. Sometimes I involve Child Protective Services, where the victim allows abuse and violence to go on. She is making a choice for the children, that she can't make for them. Children are also victims. Allowing the children to watch leads to a need for more counseling, and economic assistance. We have to change the culture and environment, or resign ourselves to bandaids.

As prosecutors, we want to punish him, but it's not that simple. Putting him in jail for x time with nothing else, that's not effective. There has to be consistent aggressive prosecution, followed by secure sentencing orders. It doesn't need mandatory jail time, but it needs to be known, especially if a second offense, then you're gone [to jail].

A Protection from Abuse Statute, a civil statute, is effective January 1, 1994. There is also a proposal to the Courts 2000 Commission that some thought should be given to consolidate jurisdiction over all family offenses, including felonies in Family Court. The definition of abuse includes felony offenses and civil offense, which creates problems for the defendant/respondent. The civil track is the fast track. If he testifies in the civil proceedings, what he says can be used against him in the criminal trial. If he says nothing, he can lose his children and his home.

We'll have a civil trial in Family Court and a criminal trial in Superior Court, two different courts for the same incident, with two different outcomes and monitoring, and subjecting the victim to numerous proceedings, arraignments, case reviews, missed trial dates, plus civil proceedings. If there were consolidated jurisdiction, there could be a system with two filings. The victim files the civil papers, the prosecutor the criminal charges. The victim could say, "Here's what I'd like to do. Since the civil is a closed procedure, I don't want to expose myself to a public criminal trial. I'll try a civil order for 18 months, and what the prosecutor should do is see if he complies with civil order, then the criminal charges would be dropped."

Failure to comply is an A misd, up to one year in jail. If charged with Unlawful Sex Contact, and non-compliance with civil results in criminal trial, he's more likely to comply with the civil. It can include child custody, counseling, and anything you can get in a complete divorce proceeding. If he wants his criminal trial, then no need to proceed on the civil. The criminal order can include the civil relief too. This is a bigger hammer. Getting it all in one place including all elements where it's all being monitored at one place might work better, empower victims more, give the victims and system more choices and stop contradictory things happening.

There is no inquiry between courts given the press of time. It is inherently inefficient to have two proceedings in different courts.

ANGELO FALASCA, CHIEF DEPUTY PUBLIC DEFENDER
Speaking On Defense Information Needs and Risk Assessment
SUMMARY OF REMARKS, NOVEMBER 19, 1994

What we look at in presenting a case, in making a point to keep a person in the community, varies. There are some conditions where a family member is opposed to having them where they resided before, or there is a program or an institution that will take the person.

We look at the history, and personally what he did. If he has no history of this type of behavior, it was probably an aberration. If he has a history, we try to get him into a treatment program. We look not only at criminal history, but if there is a mental illness background, school problems, or low level intelligence. The psycho-forensic unit gets the case from the background, or referral from the attorney on the case. If the person has a mental illness background, the psycho-forensic unit looks to see what to do. There is a form that the interviewers use to determine if there is drug/alcohol involvement. If so, we try to get them into treatment.

Is it looked at as a mitigating factor? If you can get him into treatment, then that's how you approach it. This approach may be successful, depending on the crime. The more serious the offense, the less likely it is the court will put him on probation, for example, for murder, a series of assaults or robberies. For drug-related offenses, the court is more likely to go for probation.

We distinguish between dealers and users. For users, we look for treatment. If they are sellers and not using, we look for other forces driving them to do this. Is it just for money, or is there another problem? Most, even the sellers, aren't making much money.

Are there any attributes that put them in the position that the circumstances of the offense and record would lead you to consider or expect harsher sanctions, or accept a plea bargain? No, we look at it from the client's perspective. It may be in his best interest to have incarceration, the only way to break the cycle, but there are very few that you come to that point on. Usually, incarceration is not in the client's best interest.

How do you access the treatment? Usually, you have to be aggressive with it. There's only so much out there. You get him qualified and then present it to the court as the alternative. The beds spaces are on the computer, and we can go out-of-state too. Whether they can get him into the bed is important.

Does a treatment recommendation carry the day? It depends on the offense. If it's such that the court won't consider probation, no. If the judge feels he can take the chance, it's more likely.

Do the interviewers have training? Most are former policemen. All have been with the Public Defender at least five years. They have a form they follow. They put it in the file and it goes to the attorney. If there is an indication of substance abuse or mental health, it goes to the psycho-forensic evaluators. They go after school records, mental health records, hospital records. The attorney is ultimately responsible. The psycho-forensic unit can't handle some cases. You go where you get the biggest bang for the buck, those that you can get results for. Some cases, whatever you do, you can't affect the outcome. Most are repeat offenders. If they're doing the same thing, they've had their bite at the apple.

If p & p violators are back 6 months later, is there any difference in how they're handled? Formerly, VOPs went through the system with the least input from the PDs. They would be notified the day of the hearing, walk in and be expected to participate. Two years ago, the PD said no more. Now they get a calendar, but things are moving so fast that there's little you can do about it. Superior Court is putting together a way to deal with the probation violator. Judge Cooch is working on it. If he's on probation and commits an offense, you deal with the VOP and the offense at same time, and not have it languish on.

EUGENE HALL, CHIEF PROSECUTOR,
Speaking On Prosecution Information Needs And Risk Assessment
SUMMARY OF REMARKS, NOVEMBER 19, 1994

Remember that you have to think of the context. We're in the adversarial process. The

function isn't to decide this person's fate. It's a combatant relation, give and take. We have no risk prediction instrument. The DAGs rely on the PD's information, and plug it into their mix. We don't use a formal instrument. We understand that there is valid information, and have to consider it, but you can't add it up and get the answer. You're more comfortable when it's there. One of the first things is *you have to establish the offense*. That's where the prosecutor is concentrating, the gate function. If there is no conviction, the rest is irrelevant.

The criminal justice system is out of control. The cops are trying to put out fires. With corrections, parole, some have to come out. You're trying to take the least risk. Everyone has the same problem. *The solution is to convince our society that it's a function of families to raise loving beings. It's a social family function.* There is a mentality that it's YRS's responsibility to get them through without killing someone. As far out of control as the system is, you concentrate where you can be most effective. *A deputy in CCP has 50 cases. Another deputy has one murder case. We are able to devote more attention to rape against women and kids. Even if it's a burglar, we have our own internal criteria. If they flag as a career criminal, they get extra emphasis. As long as they're at liberty, they will commit crime. We have a few less objective criteria, like how early they start and age at first arrest and conviction.* A person stealing cars at 14, and a burglar at 16, kicks in earlier with different criteria than a 20-year-old. We're cutting their legs off too late. Some may be ready to burn out anyway, too tired and too old. When they're in the active stage, they do hundreds of crimes a year, the 15-25-year-olds. Younger kids are becoming extremely violent. Sixteen-year-olds will kill for \$10. That's where we are now. *Younger ones, the under 20s, are more dangerous than the older ones.*

How do we advocate against the wrong indications? We beat up on YRS. Why aren't they rehabilitating? You put them back in the same environment. *The right message is that the State can't raise children. It takes at least one loving parent. If there isn't any, you need to convince those who have kids not to have them if they don't love or want them. The criminal justice system can't solve this drug problem. Our eye is off the ball. We don't know where the problem is. We have to focus on where the problem is.*

In the near term, we're trying to address social and behavioral scenes. We've been doing a lot with domestic violence in the last 6-12 months. We were doing it backwards. The guy would beat the wife, and it would escalate. If something didn't happen, it got worse, and everyone enabled this to go on. The cop would walk him around the block to cool off. Nothing happened. Three weeks later it was the same thing. The doctor didn't know what to do either, the same in the hospital. Every once in a while, the cops would get called. An arrest would be made, and she would be in to drop the charges. "He says if I don't drop, he'll punch me tonight." It became predictable. They've been at it for ten years when she stabs him.

So we said, we're doing something different. We began encouraging the cops, if you have probable cause to believe there was an assault, lock him up and we'll prosecute. We'll force her in, even if we have to send a police car after her. We're trying to demonstrate he can't do it with impunity. Dan Armstrong turns a lot of them around. Some get off it early on. There's a certain segment that really has no problem with smacking his wife. He doesn't see it as a crime, doesn't view it as an assault. Some of them you can take minimal steps, and it goes away. If you don't do anything, it doesn't get better.

I've prosecuted the offspring of guys we put in jail. The father murdered the mother, and now the kid is sticking guns in faces. There is a strong correlation. In domestic violence, in a generation we can help the offspring. You can be in a family violent situation, and the offspring may not become violent, or vice versa. *This is where the priorities have to be.* The violence harm to the victims is so much worse than the non-violence harm.

There was a pedophile who had abused 40 kids. Of those 40, 20 ended up in trouble. Any abuse screws them up.

The topic of this committee is extremely important. The "Being Safe in America"

program is a serious habitual offenders program which involves everyone in their probation process - mom, school, police, pastor. YRS appreciates this but has no resources.

Juvenile delinquents aren't what they used to be. Family preservation is out the door. That's where they were victimized or learned what they're doing.

**STANLEY TAYLOR, JR., CHIEF, BUREAU OF PRISONS, DEPARTMENT OF
CORRECTION**

**Speaking on Prison Information Needs and Risk Assessment
SUMMARY OF REMARKS, JANUARY 14, 1994**

Ninety percent of those people currently incarcerated will eventually be released from prison. Classification has better data now, but they don't have the people to analyze it. We need to sort the prisoners to provide public safety. There is no sense in putting them in max if they could be on minimum, etc.

We're dealing with people who already have records of behaviors. *Past behaviors are the best predictor of future ones. Criminal records predict, absent intervention.* A predictive tool is better used before they begin a career in violent crime, maybe with a juvenile of 18-20, when the judge is deciding to give Level V or something else. *The best predictor is the juvenile record.* We should look at who has access to it.

From a larger perspective, the SENTAC philosophy is to only give the prisons violent people, but here are a lot that aren't violent. So the initial assessment has already been made concerning violence. My assessments have to deal with asking if anything has made an impact before they leave prison.

There was a problem with adult p & p using juvenile records, but it was resolved. Most juveniles who will graduate to the adult system are continuous, and are transferred immediately to the adult system. There is no problem with releasing the juvenile records, but it may be a legal issue. Technically, a juvenile adjudication is a civil action on behalf of the juvenile, even though charges are filed.

The State has this document (the juvenile record) that has valuable information, and the information is already there. Most juvenile offenders have a long trail, and they're not amenable for expungement. The downside of this is that you will sometimes convict an innocent person. These are the false positives. You also have false negatives.

But have an idea of the reliability and variability. Any type of treatment or intervention can reduce false positives and negatives. With drug abuse it takes 3 or more interventions before it finally sticks.

Could we take a sample of violent youthful offenders and look at them? We believe Judge Poppiti would give support. The time is right to do this kind of study. This would be most valuable to judges and presentence to decide whether they go to Levels I-V. It would be valuable because they get a fresh start at 18, and generally go to probation with the first adult offense, because the juvenile offenses don't count as criminal history. If they get a short sentence for lesser violent offenses, the courts are trying to give them a break. But if this is Number 7 after Number 6, and not the first, it would be important to know that.

Could we take a sample of violent youthful offenders and look at them? We believe Judge Poppiti would give support. The time is right to do this kind of study. This would be most valuable to judges and presentence to decide whether they go to Levels I-V.

**NOREEN RENARD, CHIEF, BUREAU OF COMMUNITY CUSTODY AND SUPERVISION,
DEPARTMENT OF CORRECTION, Speaking on Probation and Parole Supervision
Information Needs and Risk Assessment
SUMMARY OF REMARKS, JANUARY 14, 1994**

George Hawthorne has a two-pronged project. He is analyzing movement among the different levels, and looking at developing classification from I-IV for fundamental fairness. We need also to predict who won't be violent, so they are not artificially pushed up. The goal is to get a handle on movement and classification. We are concerned with down and up, and to snag the "uppers" early on. Early intervention is important. The early intervention ones are at I and II, by the time they are at Level III, they have a substantial history, or a fairly serious act. We need to start a fresh beginning, not using old risk/needs.

VOPs are also important. We have a problem with distinguishing bad behavior and those that are a threat. Not reporting isn't nice, but does he belong in prison just for that? VOPs are 20 % of the prison population. VOP ties into the movement. It's an inter-departmental issue. A percentage point play is a new prison, so VOPs are important. DOC is avoiding building by managing that population. Can we adapt or tinker with an existing risk assessment? We should contact ACA and the courts. Aren't there tools already? Validation is done for political reasons. Don't we just adjust for the political code? So let's find things validated in other places, and modify them for us. It would be less staff time.

Some instruments are missing key elements, like child abuse. Different political and legal variables are important at different points in the system so we are talking with people to find similarities or differences.

The tool for work release isn't what the judge needs for Level V. I want to focus on the youthful offender, and target the under 21. The boot camp will be youthful offenders. The decision to put someone in boot camp will be the AG, PD, judges and presentence. DOC's decision will be to exclude who's not appropriate. DOC will receive their decision.

**The HONORABLE MARLENE LICHTENSTADTER, CHAIR, PAROLE BOARD, Speaking on
Parole Board Risk Assessment**

The Board of Parole does utilize a risk assessment instrument which was developed two years ago and has undergone several revisions. Although not validated, the instrument contains those factors which in the judgment of Parole Board members and supported by local and national research have a demonstrated relationship to future criminal activity. The instrument is considered to be advisory only. The Parole Board has established a data base for the purpose of tracking the recidivism of those offenders for whom the risk instrument was used. Among the factors considered by the Board to make decisions for release are the nature of the current offense, most serious prior offense; number of prior adult incarcerations; number of prior periods of probation/parole supervision (adult); indications of violent behavior while incarcerated. Mitigating and aggravating factors (rehabilitative efforts; victim restoration; mental health; age at hearing; substance abuse history; release plan; community support, etc.) are influential in guiding the decision.

Criminal history seems to be the best predictor of future criminal behavior, although this factor becomes less significant as offenders "age out." Based upon the documented social histories, the factor most related to violence seems to be child abuse. An overwhelming percentage of violent offenders seems to have histories of physical/sexual abuse. This suggests a powerful need to focus violence reduction efforts on prevention strategies directed toward children and their families.

**APPENDIX C.
LITERATURE REVIEW**

1. CORRELATES OF VIOLENCE

Compiled by Dorothy Lockwood, Ph.D., Associate Scientist, Center for Drug and Alcohol Studies, University of Delaware, June 10, 1993.

CRIMINAL VIOLENCE:

Most research on criminal violence is based on the subculture of violence theory (Wolfgang and Ferracuti, 1967). This theory purports that certain characteristics are common among violent persons, including race, socioeconomic status, educational background and gender.

Social learning theory is another common framework used to explain criminal violence (Scott, 1979; Archer, 1977). This theory is based on the idea that violence is learned.

Race

- * Higher rates of violent crimes among Blacks are frequently explained as result of dysfunctional adaptation and lack of cultural identity (Oliver, 1989; Johnson, 1985; Thomas, 1987).
- * Correlation between race and violent crime disappear when socioeconomic status is considered (Hamparian et al., 1978; Blau and Blau, 1982; Messner and Gold, 1992; Brownfield, 1982;

Victim of childhood abuse

- * Violent offenders are more likely to have been victims of child abuse than are nonviolent offenders (Fagan and Wexler, 1987; Widom, 1989; Riveria and Widom, 1990; Lewis et al., 1989).
- * Black males who have been abused as children are at greatest risk of committing violent acts (Riveria and Widom, 1990).

Gender

- * The correlates of violence are different for males and females.
- * Victims of females are usually family members/significant other (Rosenblatt and Greenland, 1974)
- * Black women have violent crime rates equivalent to those of men (Laub and McDermott, 1985; Simpson, 1991; Lewis, 1981). Again, income inequality explains much of the difference in rates of criminal violence (Hill and Crawford, 1990).

Drug Use and Participation in Drug Sales

- * The association between drug use and violence is most frequently explained in terms of the tripartite conceptual framework -- the pharmacological effects of

drugs cause violence; the economic factors associated with obtaining drugs results in violence; or violence is intrinsic to involvement with any drug use (Goldstein, 1985).

- * Participation in drug sales is highly correlated with criminal violence (McBride, 1981; Hamid, 1990; Klein et al., 1991; Inciardi, 1992)
- * Alcohol abuse is highly correlated with violence (Frieze and Noble, 1980; Wolfgang and Ferracuti, 1967; Banay, 1942; Murdoch et al, 1990; Harper, 1976; Gary, 1986, Collins, 1988; Lindelius and Salum, 1975; Spunt et al., 1990).
- * Cocaine and crack use are highly correlated with violence (Budd, 1989; Inciardi and Pottieger, 1991; Inciardi, 1990; Fagan et al., 1986; Spunt et al., 1990).

Victim/Offender Relationship

- * Violent offenders are more likely to know their victims than are nonviolent offenders (Hancock, 1981).
- * There are gender differences in victim offender relationships (Rosenblatt and Greenland, 1974).

DOMESTIC VIOLENCE

- * Domestic violence results from economic and work related stress (MacEwen and Barling, 1988; Kantor and Strauss, 1989).
- * Battering is learned (i.e. batterers observed physical abuse between their parents which also increases likelihood of recidivism) (DeMaris and Jackson, 1987; Hancock 1981; Kantor and Strauss, 1989; Haver, 1987).
- * Arrest deters continued battering (Sherman and Berk, 1990).
- * Treatment and education programs reduce recidivism (Habegger and Hastings, 1988; DeMaris and Jackson, 1987).
- * Alcohol abuse is correlated with domestic violence (DeMaris and Jackson, 1987; Roberts, 1987; Sauders, 1992; Silva and Howard, 1991; Miller et al, 1990; Kantor and Strauss, 1989).
- * Victim's use of alcohol increases likelihood of domestic violence (Eberle, 1982; Miller et al, 1990).

SEXUAL VIOLENCE

- * Perpetrators exhibit poor anger control and have histories of previous violence (VanNess, 1984).
- * Rapists are likely to continue to commit sexual and other violent offenses (Rice et al, 1990; Grunfeld and Noreik, 1986; Soothill and Gibbens, 1978)

NOTES:

- * No single correlate is overwhelmingly associated with any type of violence.
- * Most correlates are interrelated.
- * Except for homicide, recidivism rates are highest among violent offenders.
- * Treatment/intervention reduces likelihood of recidivism.

**ADDENDUM
SYSTEMIC CORRELATES OF VIOLENCE**

Systemic correlates of violence derive from the breakdown of the:

strong threads of personal and family commitment, sound moral values, and faith in democracy.... A host of societal problems, intensified by greater population, is removing once-effective curbs on violence. The breakup of the family, epidemic illegitimacy, the loss of unskilled and mid-level jobs, drug addiction, deepening poverty, growing illiteracy, urban decay, erosion of moral and ethical standards, and relentless communication by the media of killing and aggression [and the easy availability of guns] are the root causes of violence.*

*"War Against Crime," *The Lippmann Report*, 15 December 1993, p. 2.

2. CHILD ABUSE AND FUTURE VIOLENCE by Emily A. Reed, Ph.D.

with the assistance of
Bill Brindle

Introduction. This paper examines child abuse, including sexual abuse of children and witnessing of parental violence, as correlates of violence committed by child victims when they become adolescents or adults. That "abused children become abusers, and victims of violence become violent victimizers"¹ has been so widely documented and has become so generally accepted that this phenomenon has been given the titles "the cycle of violence" and "the intergenerational transmission of violence."² Many different research approaches provide verification and explanations of child abuse as a correlate of future delinquency, criminality, and violence. Keep in mind, however, that definitions may vary from one research study to another, and among different population subgroups in self-reported studies. For example, the phrase "parental supervision" can mean dissimilar things in dissimilar groups.

Abused Boys and Violence. In one of the most widely known and respected studies of abused children, Widom compared a sample of 908 children aged 11 or under who had been the victims of documented child abuse or neglect to a matched sample of non-abused children. An examination of their adult criminal records some twenty years later showed that 28.6% of the abused and neglected had committed adult crimes compared to 21.1% of the non-abused.³ Neglected or abused males had significantly higher rates of arrest for violent crimes as adults (15.6%) than non-abused males (10.2%). There were no significant differences in the adult violent crime rates of abused or neglected women and non-abused women.⁴ Additionally, there were no significant differences in the adult rates of arrest for abusing children of those who had themselves been abused and those who had not. Widom concludes that "being abused as a child significantly increases one's risk of having an adult criminal record (and, for males, a violent one)," although abused or neglected children "were no more likely to be arrested for child abuse as adults than were those in the non-abused control group."⁵

In a further explanation of this research, Rivera and Widom showed that males are more violent than females, and abused/neglected African Americans have higher rates of violent offending than non-abused African Americans. White abused/neglected children did not show an increased likelihood of arrest for future violence in comparison to their white counterparts. This data suggests that parental violence is greater among Blacks than Whites; however, the data proves otherwise. Twenty percent of Whites suffered physical abuse, compared to only nine percent of Blacks in the study. Another possible explanation, which Rivera and Widom were unable to investigate further, is that African American children are subjected to more extreme victimization before being brought to the attention of the authorities.⁶

A Psychological Explanation. Lewis echoes Widom's research by identifying that boys, because of their increased levels of "masculinized" hormones, are "more susceptible than girls to the aggression-promoting effects of maltreatment." She provides a psychological explanation of the correlation between child abuse and adult violence. Although "not all abused children," even abused boys, become violent, some are more vulnerable "to the violence engendering effects of abuse and neglect" than others. Abused boys

with psychiatric, neurological, and cognitive impairments are far more likely to act aggressively than those whose central nervous system functions are intact... Ongoing abuse and neglect, especially in early childhood, have conditioning effects, setting up the kinds of neurophysiological circuits and response that contribute to violence. The more vulnerable the child is to begin with, the more likely that maltreatment will...result in recurrent aggressive [violent] behavior.... When neuropsychiatric and cognitive deficits [e.g. learning disabilities, brain-damage, impulsivity, cognitive impairment, or retardation] exist together, maltreatment is an especially potent precipitant of aggression.⁷

Maltreatment engenders rage and provides "a model of violent behavior." It increases "an outpouring of substances that enhance competitive and retaliatory aggression [violence]... In an already vulnerable child...maltreatment is often sufficient to create a very violent individual..." Lewis concludes her analysis by stating that "our correctional system reproduces all of the ingredients known to promote violence: isolation, discomfort, exposure to other aggressive individuals, insecurity, and lack of intellectual stimulation."⁸

Abused Children and Parricide. Early research dating back as far as 1940 which studied adolescents and adults who had attempted or committed murder showed that they had suffered from "severe parental aggression" as children.⁹ The following study is typical of more recent research of this phenomenon.

By examining four case studies of teenagers who murdered their parents, Post was able to discern common factors leading to parricide. Parricide "is often the product of the perpetrator's chaotic emotions that result, in turn, from a pattern of child abuse in the family..." In each case, the "family had created an untenable situation in which murder is a reasonable conclusion."¹⁰

In all instances, the child abuse was extreme. "There was typically a pattern of frequent assaults on the children, and all of the adolescents had either been threatened by parents with a gun or had watched other members so threatened.... Abuse was 'normal' for those families...."¹¹

Six characteristics were common to the four cases. The onset of adolescence intensified the abuse of the children because the parents found the adolescents' movement to autonomy and changes in personality "threatening to their sense of control." For the adolescents, the abuse becomes more intolerable, because they experienced the rapid emotional changes associated with adolescence and were "more vulnerable to rejection and abuse."¹²

Each case had a "pressure cooker" precipitating event within six months of the murders. In one case, the perpetrator's favorite brother left home. In another, the perpetrator's mother gave birth to a baby who was beaten, and the perpetrator felt powerless to protect the baby. In the third case, the stepfather victim shot a gun at the perpetrator and her mother a month before the murder. In the fourth case, a sister of the perpetrator had to be psychiatrically hospitalized after a severe abuse incident.¹³

Extreme physical isolation, with no hope of outside help and with no way "to alleviate tension through social outlets" characterized all the families.¹⁴

All the families had multiple guns in the home, and the parents used "guns as a means of asserting power and controlling conflict.... The adolescents were desensitized to guns and learned to accept violence as the way to deal with problems."¹⁵

In each case, the perpetrators' role was that of protector of the mother or the other children who were abused. Finally, denial of the abusive situation was common by other relatives and outside agencies that might have intervened.¹⁶ Post concludes that "parricide by adolescents is the culmination of parental abuse that can no longer be tolerated."¹⁷

Abused Boys and Criminality. A 1988 study conducted by Hotaling, et al., compared the rates of criminality of boys who were raised in aggressive and non-aggressive homes. Thirty percent (30%) of the those raised in aggressive homes committed juvenile crimes compared to six (6 %) percent of those raised in non-aggressive homes. Similarly, eighteen percent (18%) of those from aggressive homes committed adult crimes, while six percent (6%) of those from non-aggressive homes committed adult crimes.¹⁸ Allen-Hagen and Sickmund also found that child maltreatment is a significant predictor of juvenile delinquency.¹⁹

Racial Differences in Child Abuse. Kruttschnitt and Dornfeld found that the correlates of violence differ among African Americans and Whites. White offenders were five times more likely than White nonoffenders to report emotional neglect and physical abuse, and the extent of the abuse was related to violent offending among Whites. However, neither child abuse nor spouse abuse were significantly correlated with violent crime among African Americans.²⁰ Lack of parental supervision is the strongest predictor of violent criminality in this group.²¹ The researchers concluded that "childhood experiences, as they relate to violent crime, are in fact different for Blacks and Whites."²²

Abused Children and Aberrant Behaviors. Jaffe, et al. compared the psychological and emotional development of three groups of boys. The first group had suffered physical abuse. The second had witnessed parental violence. The third, a community comparison group, were from non-abusive families. The boys who were "direct and indirect victims of...violence" had significantly greater levels of "internalizing" and "externalizing" problem behaviors than the control group boys. Internalizing behaviors included "clinging to adults, complaining of loneliness, feeling unloved, unhappiness or sadness, easily jealous, and worrying." Externalizing problem behaviors included "disobedience at home or school, lying and cheating, destroying things belonging to self or others, cruelty to others, associating with bad friends, and fighting." The authors conclude that "exposure to family violence may be as harmful to the child as physical abuse."²³

In a self-reported study of boys and girls aged 11-15 from high risk neighborhoods, Esbensen and Huizinga found that the greater the numbers of delinquent acts committed, the more likely were the children to have been victims of violence or property crimes. Those who used alcohol also had higher rates of violent and property victimization. The authors, however, state that it is unclear as to whether the victimization or the delinquency came first, and no causal order is known. They did not examine whether the personal victimization came in the home from parents or from the outside.²⁴

Similarly, Green compared a group of children who were both abused and neglected, to a group of neglected children, and to a group of children who were neither abused nor neglected. He found significant differences in the rates of self-destructive behaviors, including "biting, cutting, burning, banging" and "suicide attempts." Forty (40%) percent of the abused, 17.2 % of the neglected, and 6.7% of the control group exhibited these behaviors.²⁵

Witnessing Parental Violence. Silvern and Kaersvand examine the traumatizing effects on children of witnessing parental violence. Such children "are at considerable psychological risk" and have "posttraumatic disorders" from having witnessed this violence. "Watching as one's mother is beaten by a father figure is similar to other events that have been documented as traumatizing many adults and children. [It] entails fear, helplessness, and overstimulation that are the crux of trauma." Initially, victims often experience a "psychological shutting down" that is manifested by "depression, emotional numbing, disinterest in relationships and activities, and cognitive constriction," and dissociation. In a second phase, the traumatic event is repeated and reexperienced, although "symbolically disguised," "until dissociation is overcome." In children, this takes the form of "posttraumatic play," in which they "re-create a situation in which they were actually powerless, but now, in fantasy, they become the instigator or aggressor." This process is illustrated by the case of one eight-year-old boy who had witnessed his father choking his mother. The boy was generally compliant, but repeatedly had severe violent outbreaks in which he attacked other children with little provocation. The authors concluded that we need "to address directly the specifics of the catastrophe and to recognize the symptoms as unresolved memories... the inexorable impact of unresolved trauma suggests that it is dangerous to leave children unsupported in their efforts to master the experience of witnessing spousal abuse."²⁶

Abuse and Mental Illness. Carmen, et al. conducted an investigation into the relationship between physical and sexual abuse and psychiatric illness. In a sample of 188 psychiatric inpatients, eighty had histories of physical or sexual abuse or both. An important family characteristic of the abused patients was "excessive use of alcohol by parents" compared to the non-abused patients. The abused and non-abused patients differed significantly in how they "dealt with anger and aggression." A higher percent (33 %) of the abused males than the non-abused males (18 %) "directed their anger outwards with aggressive and sometimes violent behaviors toward others. Such loss of control was reflected in outbursts of barely contained murderous rage, threatening harm to others, and actual assaults." Abused females tended more to direct their anger and aggression inward upon themselves. Abused males were far more likely than abused females (and other males) to have abused others. Sixty (60%) of the abused males had been violent toward others, while only 17% of the abused females had been violent. Abused males were also more likely than abused females (and other males) to have had criminal justice involvement." The authors conclude that "Victims of physical and sexual abuse are faced with the extraordinary task of conflict resolution as they look for a context in which bodily harm and threats to life can be understood.... These victims have extreme difficulties with anger and aggression, self-image, and trust."²⁷

Abused Females. The Oregon Department of Corrections interviewed eighty-nine female inmates of Oregon Prisons. Two-thirds were sexually abused as children, almost half suffered some physical abuse, and almost a third had been injured by a parent at least once. "Sexual or physical abuse, household instability, and family violence" were found to be correlates of teenage dysfunction including "criminality, substance abuse and running away." Although the abuse factors were just part of "a general complex of dysfunctional family behavior," the study concludes that "a high proportion of the women in Oregon's prisons experienced sexual and/or physical abuse as children," and "the incidence of physical and sexual abuse in this population...is considerably higher than the incidence reported for the general population."²⁸

Baskin and Sommers studied 85 women arrested for nondomestic violent felonies in New York City. The women grew up in multi-problem households in which they were victims of physical and sexual abuse as well as witnesses of such abuse. The authors concluded that the multi-problem household, along with the neighborhood environment, strongly influenced the initiation into street violence. The household abuse, the stresses of poverty, the lack of social control capabilities of neighborhood institutions (school, marriage, employment), and the lack of positive role models all led to substance abuse and deviant lifestyles.²⁹

Abused Violent Prisoners. Kruttschnitt, et al. compared a sample of prisoners who were incarcerated for crimes of violence to a matched sample of men who had no history of violent crimes. They found that those men whose parents resolved conflict violently rather than verbally, who scored highest on an emotional neglect scale, with one or more family members who had been arrested, who had been abused by their fathers as compared to their mothers or no abuse, who lacked any family support system, and who had no involvement in team sports were most likely to commit violent crimes. The authors conclude that "when the environment provides few, if any, positive or counterbalancing experiences" to physical abuse, childhood abuse is more likely to lead to "violent criminal behavior." This analysis provides at least a partial explanation of why some abused children become violent adults while others don't.³⁰

Conclusions. Many other studies have found a link between child abuse and juvenile delinquency,³¹ between child sexual abuse and delinquent behaviors,³² and between "abusive family environments"³³ and a greater likelihood of growing up to become abusers.³⁴ The evidence is overwhelming that child abuse is a correlate of future maladjustments, delinquency, criminality, and ultimately, of violence.

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⁴Ibid., 363.

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¹²Ibid., 450.

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¹⁶Ibid., 453.

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²⁵A.H. Green, "Self-Destructive Behavior in Battered Children," *American Journal of Psychiatry*, 135 (1978) 579-582, as quoted in Elaine Carmen, Patricia Rieker, and Trudy Mills, "Victims of Violence and Psychiatric Illness," *American Journal of Psychiatry*, 141 (March 1984).

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²⁹Deborah R. Baskin and Ira Sommers, "Females' initiation into Violent Street Crime," *Justice Quarterly*, Vol. 10, No. 4, (December 1993) 559-581.

³⁰Kruttschnitt, Ward, and Sheble, 505, 510-513.

³¹F.G. Bolton and J.W. Reich, "Delinquency Patterns in Maltreated Children and Siblings," *Victimology* 2 (1977) 349-357; M. Geller and L. Ford-Somma, *Violent Homes, Violent Children: A Study of Violence in the Families of Juvenile Offenders* (New Jersey: Department of Corrections, Division of Juvenile Services, 1984); J. Garbarino and M.C. Plantz, "Child Abuse and Juvenile Delinquency: What are the Links?" *Troubled Youth, Troubled Families* (New York: Aldine-DeGruyter, 1986); A.A. Caviola and M. Schiff, "Behavioral Sequelae of Physical and/or Sexual Abuse in Adolescents," *Child Abuse and Neglect* 12 (1988) 181-188, as quoted in Brenda A. Miller, William R. Downs, and Dawn M. Gondoli, "Delinquency, Childhood Violence, and the development of Alcoholism in Women," *Crime & Delinquency* 35 (January 1989) 95.

³²See, for example, J.W. Reich and S.E. Gutierrez, "Escape/Aggression Incidence in Sexually Abused Juvenile Delinquents," *Criminal Justice and Behavior* 6 (1979) 239-243; M. Runtz and J. Briere, "Adolescent 'Acting-Out' and Childhood History of Sex Abuse," *Journal of Interpersonal Violence* 3 (1986): 326-334; A. McCormack, M.D. James, and A.W. Burgess, "Runaway Youths and Sexual Victimization: Gender Differences in An Adolescent Runaway Population," *Child Abuse and Neglect* 10 (1986) 387-395.

³³Kruttschnitt, Ward, and Sheble, 501.

³⁴See, for example, Vincent J. Fontana, *The Maltreated Child: The Maltreatment Syndrome in Children* (Springfield, IL: Thomas, 1971); Richard J. Gelles, *Family Violence* (Beverly Hills, CA: Sage Publications, 1979); C. Henry Kempe and Ray E. Helfer, *Child Abuse and Neglect: The Family and the Community* (Cambridge, MA: Ballinger Publishing Co., 1976); Martha B. Strauss, *Abuse and Victimization Across the Life Span* (Baltimore: Johns Hopkins University Press, 1988); Murray A. Strauss, Richard J. Gelles, and Suzanne K. Steinmetz, *Behind Closed Doors: Violence in the American Family* (Garden City, N.Y.: Praeger Publishers, 1977).

3. ALCOHOL USE, DRUG USE, AND PARTICIPATION IN DRUG SALES AS CORRELATES OF CRIMINAL VIOLENCE

excerpt from Dorothy Lockwood, Ph.D., Criminal Violence And Seriously Delinquent Youth (Newark, DE: Unpublished Dissertation, 1993).

One of the more popular explanations for the increase in violent crimes among both adults and juveniles has been the reported increase in drug use and the expansion of the illicit drug business. In 1981, Duane McBride reviewed the literature on the relationship between drugs and violence. At that time, much of the research indicated that criminally involved drug users tended to commit property offenses in order to support their drug habits. The studies focused primarily on heroin users and, as findings from studies on the pharmacological effects of heroin indicated, heroin had a depressant rather than a stimulating effect on the user. However, McBride cites several studies indicating the changing pattern of criminal activity among drug using offenders. He pointed out that due to the rise in cocaine use among offenders and the expanding drug markets in which turf is protected through violence future research would most likely substantiate a relationship between drug use and criminal violence.

For adolescents, however, much of the research on drugs and crime has not examined violence separately from other types of delinquent activity. In fact, drug use was not introduced as an explanatory factor of juvenile offending until about two decades ago. For instance, the Youth in Transition study, conducted annually between 1969 and 1975 and designed to examine delinquent activity, did not include questions about drug use until the fourth and fifth surveys (Johnston et al., 1978).

Research on drug use among juvenile delinquents has found little support for the thesis that drug use causes crime in general and violence in particular. For instance, Denise Kandel and her associates (1986) found that among a representative sample of 1004 tenth and eleventh graders in New York public schools, drug use was not significantly related to aggression. She found that past drug use most strongly predicted current drug use and past delinquency most strongly predicted current delinquency. Similarly, other research substantiates that drug use and criminal activity are related but not particularly causally (Johnston et al., 1978; Kandel, 1978; Elliott et al., 1985; Fagan et al., 1990). Most of the research on drug use among adolescents has explored the etiology of drug use. Frequently in these studies, drug use is the deviant behavior of interest. As such, the relationship between drug use and crime is not explored. In addition, drug use usually entails marijuana and/or alcohol use and does not address more serious drug use such as cocaine, heroin or amphetamines.

On the other hand, research among adult populations has examined the association between drug use and violence, specifically exploring the causal effect of drug use on violence. In 1985, Paul Goldstein suggested a "tripartite conceptual framework" to explain the relationship between drugs and violence. Within this framework, Goldstein offered three explanations for this relationship. One is that violence among drug users results from the pharmacological effects of the drugs. Goldstein refers to this as the psychopharmacological explanation. This

psychopharmacological perspective has been the traditional explanation of the relationship between drug use and violence. Many studies, prior to Goldstein's work, had relied on this theory. For instance, in 1983 Edward Senay and Robert Wettstein explored the role of psychoactive drugs in homicides. They concluded that the use of psychoactive drugs immediately prior to the murder caused "illogical thinking" and that if the drugs had not been taken, many of the murders would not have occurred.

The second explanation for violence among drug users is economic; drug users become involved in violent offenses such as robbery in an effort to obtain resources with which to purchase drugs. Lastly, the systemic explanation holds that violence is "intrinsic to involvement with any illicit substance (1985: 497)." In an historical analysis of the production of illicit substances, drug use and drug trafficking, James Inciardi (1992: 161-162) describes the drug/violence connection in terms of both the economic and systemic explanations. He discusses the increase in the number of robberies and burglaries in terms of the economic explanation posed by Goldstein. And he describes the violence associated with drug trafficking and distribution in terms of the systemic explanation.

Goldstein and three of his associates (Spunt et al., 1990) used this tripartite framework to compare violence among drug users in methadone maintenance treatment and those not in treatment. Employing data gathered through life history questions and eight weekly interviews, they found that alcohol and cocaine consumption to be similar between the two groups. However, those in treatment were less likely than those not in treatment to report violence associated with heroin use.

Much of the research on drugs and violence has addressed drug use in general without differentiating the possible effects of specific drugs. However, two drugs in particular, alcohol and cocaine, have been the focus of research on the effects of use on violence. First, the association between alcohol and violence has been of interest for centuries. Numerous studies have substantiated this association within diverse situations ranging from domestic violence to criminal violence (Murdoch et al., 1990; Wolfgang and Ferracuti, 1967) and for specific populations such as offenders or black men (Banay, 1942; Murdoch et al., 1990; Benjamin and Benjamin, 1981; Gary, 1986).

However, as James Collins (1988) notes, much of the research on the association between alcohol and violence has been disjointed and limited as the result of the lack of a theoretical framework in which to study the phenomenon. He suggests four frameworks in which to examine this relationship. The pathological framework contends that violence is the result of alcohol consumption by those with pathological disorders. The American Psychiatric Association refers to this as "alcohol idiosyncratic intoxication" and considers the disorder rare. However, several other adaptations of this framework have emerged. For instance, studies exploring the negative effects of alcohol use on cognitive ability and judgment as well as studies of the power theory of alcohol use and violence are derived from this pathological framework.

The second framework Collins discusses is the cultural framework, in which violence that

results from alcohol use is considered the outcome of cultural norms and rules. As such, it is expected that similar drinking patterns have differing effects on behavior depending on the cultural context. Wolfgang and Ferracuti's (1967) work on violence, including the association between alcohol consumption and violence, greatly added to the development of this theory. Their work concluded that there is culture which condones violence. One aspect of this culture is the acceptance of alcohol consumption.

Lawrence Gary (1986), on the other hand, points out that within cultures or subcultures where violence and alcohol use are prevalent, neither of these is particularly condoned or considered a cultural norm. Instead, they both result from other stress inducing circumstances, such as high unemployment rates, relative deprivation, poor and/or inadequate housing and discrimination. As such, Gary contends that to consider higher rates of alcohol consumption and higher rates of homicide among black males as cultural norms is erroneous and inaccurate.

Collins (1988) also suggests the deviance disavowal framework in which to study the effects of alcohol consumption on violence. Within this framework, the violence associated with alcohol use is explained in terms of the alcohol itself. As such, the drinker is not held accountable for the violence, rather it is blamed on the alcohol. Collins (1988) points out that this explanation is commonly used within the legal profession to lessen the punishment of violent offenders for whom alcohol use was an integral aspect of their crime.

The final framework Collins (1988) suggests for studying the relationship between alcohol use and violence is the situational framework. Within this framework, different situations explain violence which occurs as a result of alcohol use. In other words, "drinking norms and subsequent drinking behavior vary with drinking context" (Collins, 1988: 117). For instance, different consumption patterns and behaviors are expected in family celebrations than in bars. Regardless of the theoretical perspective, the association between alcohol and violence continues to be debated (Fagan, 1990). As such, alcohol use remains an important correlate of violence.

An increase in cocaine use and cocaine related deaths during the 1980s generated a renewed emphasis on cocaine in the drug research field. In one study, Budd (1989) analyzed the circumstances of cocaine related deaths among 114 victims. He compared those involved in violent deaths, 70 of the 114, to those not. Most of the violent deaths involved shootings or stabbings. In these cases, most of the victims were black males. On the other hand, Hispanics were equally represented in both the violent and nonviolent groups. These findings suggest ethnic differences in the association between cocaine use and violence. In short, Budd found significant differences between cocaine related deaths involving violence and those not involving violence. However, as James Inciardi explains in The War on Drugs II, even with its increased use and popularization, cocaine can not be considered a new drug; by the 1980s it had a long history in the United States. Nonetheless, cocaine and now crack have remained the drugs of particular interest among media, policymakers, treatment professionals and researchers.

Mostly due to media presentation, crack is considered a direct cause of increased violence. Using twelve years of observational data, Ansley Hamid (1990) compared the distribution

structure and markets of marijuana and of crack in New York City. He concluded that violence is inherent to the structure of the crack market, a characteristic not evidenced in the distribution of marijuana. A 1989 study of crack houses in Spanish Harlem, NY addressed the manner in which crack affects the economy. It is perceived by youths in this area that the underground economy dominated by the crack market is one of the only ways to achieve a sense of dignity and real possibility for advancement in a job market (Bourgois, 1989).

Media reports also frequently portray crack distribution as a gang activity. Malcolm Klein and his colleagues (1991) explored the extent to which this depiction was true. They found that there were no differences in the number of gang versus nongang arrests in police and sheriff records. However, little violence was involved in these incidents primarily because the cases were handled by narcotic agents. Therefore, the identification of the case by the police or sheriff was not a result of activity on the streets, where violence is more likely to occur.

In an earlier study, Klein and Maxson (1985) traced the rise in crack sales in Los Angeles County. In that study, they used records from the narcotics unit and the patrol unit of the Sheriff's Department. Those records indicated that 25 gang related murders in the previous year had involved drug sales. In addition, they also noted as crack sales rose so did the number of murders, burglaries, and narcotic offenses.

During the course of a larger study of serious delinquents in 1985 and 1986, Inciardi and Pottieger (1991) noted the prevalence of crack use and sales among the respondents. In response to the emerging crack phenomenon in urban areas across the nation, they added a supplement to the original interview eliciting information specific to crack use and participation in crack sales. The subsample consisted of 254 youths. Examining the association between involvement in the crack business and other delinquent activities, Inciardi and Pottieger found that those youths most involved in the crack business were also more involved in drug use and other criminal activity than those either not involved in the crack business or only minimally involved. For instance, only 2% of the respondents who were not involved in the crack business used crack daily, whereas 87% of those who were heavily involved in the crack business used crack daily. Similar differences were apparent in criminal activity in the 12 months prior to the interview. On the average, those not involved in the crack business committed 8.9 major felonies, whereas those heavily involved in the crack business committed 63.9 major felonies. From these findings, it appears that the more involved youths were in the crack business the more involved they were in other drug use and criminal activity.

The association between violence and drug use remains a part of the federal research agenda. In 1990, the National Institute on Drug Abuse published Drugs and Violence: Causes, Correlates, and Consequences, a volume in the research monograph series. This 13 chapter publication presented a diversity of perspectives on drugs and violence. The continued interest in the violence/drugs connection is a reflection of the many unanswered questions. One of the major gaps in research on violence and drug use is the violence/drugs connection among juveniles. Do drugs play a role in violence among juveniles? If so, what is the relationship between violence and

drug use among this group? The limited research indicates that drug use influences criminal violence. In a study comparing chronically violent male juveniles, male students and male school drop-outs in four cities, Jeffrey Fagan, Elizabeth Piper and Melinda Moore (1986) found that drug problems dominated the violence model which emerged from their analysis. Inciardi (1990) found that within a sample of seriously delinquent juveniles, those who used drugs as well as participated in the drug business, either selling and/or dealing drugs, were more involved in violent crimes, such as robbery and assault, than those who used drugs but were not involved in the drug business.

In a 1991 study of 387 ninth and tenth grade males, 307 randomly selected from schools serving students living in low socioeconomic census tracts and 80 contacted at community centers, David Altschuler and Paul Brounstein (1991) examined to what extent drug use was related to criminal activity. Only 5% of this group were using drugs prior to initiating criminal activity. The major focus of this study was the degree to which drug use varied by different types of criminal activity. In general, youths who used and sold drugs had similar delinquent histories as youths who only sold drugs, whereas youths who used drugs but were not involved in drug sales had delinquent histories similar to those who did not use or sell drugs. In regards to criminal violence among this sample, the youths who only sold drugs were the most likely to commit violent crimes. Of those who only sold drugs, 31% had assaulted an adult compared to 11% of the entire sample and 17% had committed a robbery compared to 9% of the entire sample.

In a similar vein, Richard Dembo and his colleagues (1990) found a significant and positive relationship between commission of a crime against a person and participation in drug sales among juveniles interviewed in a detention facility. Furthermore, the analysis of this self-report data did not indicate any differences between blacks and whites, and few differences between males and females in regards to cocaine use, drug sales and crimes against the person. The lack of racial and gender differences among these drug using violent juveniles in this study is contrary to findings presented previously. Other research on violence among juvenile offenders indicates both gender and race differences. However, most of these studies exclude drug use as a variable of interest.

Watters and his associates (1985) noted that the relationship between drugs and violent crimes among juvenile delinquents "remain relatively uncharted." They went on to purport that the incidence and prevalence of drug abuse among violent delinquents was unknown. In an extensive review of the literature on the research between violence and drug use from various disciplines, Jeffrey Fagan (1990) clearly depicts the complexity of this relationship. He contends that the lack of consensus on the effects of drug use on violence is partially the result of differing theoretical perspectives, definitions of violence and methodological designs. He also noted that for adolescents one of the primary weaknesses in understanding violence and substance abuse is the reliance on samples from the general population. These samples frequently either exclude or underrepresent adolescents involved in criminal activity, particularly those heavily involved in crime and drug use. Although some research on the relationship between violence and drug use among delinquents now exists, further exploration of this relationship is needed.

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**APPENDIX D.
SUMMARY OF RISK PREDICTION ELEMENTS**

**SUMMARY OF RISK PREDICTION ELEMENTS
REVISED - 2/16/94**

JP COURT BAIL GUIDELINES

Instant Offense

Drug related charge

Criminal History

No/few/many prior convictions
Escape conviction(s) last 5 years
3 violent convictions last 5 years
No capiases or self surrender
on prior FTAs
No arrests last 3 years
or pending case(s)
dangerous
Prior successful p-p supervision/
prior p-p violation(s)
Successful or negative p.o.
recommendation(s)

Substance Abuse

Substance abuse problem

Family/Community/
Residential Ties

Lives with family
or no family ties
Permanent resident or transient
Out of state
Steady or unstable employment or
educational situation
Telephone in his/her name

Victim Related Items

Mental Health

Mental Health Illness

Employment Characteristics

Union member

Other

PRETRIAL RISK ASSESSMENT

Instant Offense

Severity based on crime classes
and violent-nonviolent
Inducement by others to commit
crime
Committed to avoid arrest or escape
Against a witness to prevent
testifying

Criminal History

No priors/repetitive criminal
conduct
2 fels. or 3 misd. last 3 years
Lack of amenability to lesser—
sanctions
Evaded arrest or a fugitive
Likely to appear or non-
On conditional release or bail
at time of arrest
2 FTAs in last 3 years

Substance Abuse

Family/Community/
Residential Ties

Non-resident

Victim Related Items

Victim precipitated
Old-young, or mentally-physically
handicapped victim

Mental Health

Employment Characteristics

Other

FAMILY COURT DOMESTIC VIOLENCE

Instant Offense

Used weapon or threatened victim
(present)
Imprisoned or held victim hostage
(present)
Serious incident?
Injury to victim?

Criminal History

Used weapon or threatened victim (past)
Imprisoned or held victim hostage (past)
Previously arrested for domestic
violence or other violence
Previously detained for
domestic violence charges
Has access to weapons or
experience with weapons
Has escalating pattern of
domestic violence incidents
On probation or parole?
Out on bail? Breach of conditions?

Substance Abuse

Has history of crack, amphetamine,
PCP, or cocaine use
Has history of alcohol/drug use
Has DUIs
Rehabilitation? Outpatient? In-patient?

Family/Community/Residential Ties

Faced w/ final separation or divorce
Children in home? How many? Ages?
Referred to DCPS?

Victim-Related Items

Past injury to victim
Destroyed victim's personal
property, especially
sentimental items
Previous unreported physical
or sexual abuse of victim
Has access to victim
Has assaulted pregnant victim

Mental Health

Currently suicidal or homicidal
Past suicide attempts
Killed or injured pets
Excessively jealous or blaming
of victim
Hostile, angry, out of control,
not fearful of consequences
Obsessed with victim
Controlling, resents outside interference
Has unusual or bizarre behavior or
history of psychiatric problems

Employment Characteristics

Employed? Place? Number of years?
Permanent? Temporary? Layoff?

PAROLE BOARD RISK ASSESSMENT

Instant Offense

Seriousness of instant offense
Time served as related to offense
Time served as related to offense seriousness

Criminal History

Most serious prior offense
Number of prior adult incarcerations
Number of prior periods of probation
parole supervision (adult)
Performance as trusty
Prin violence
Performance on probation/parole
Performance on work release/
supervised custody

Substance Abuse

Substance abuse history

Family/Community/Residential Ties

Concrete plan/community support

Victim Related Items

Victim restoration

Mental Health

Mental health evaluation
Acceptance of responsibility for offense

Employment Characteristics

Other

Community Supervision

Performance on Probation/parole, work
release, supervised custody, as trusty

Institutional Conduct

Assaultive institutional behavior
Rehabilitative efforts

PRESENTENCE INVESTIGATION

Instant Offense

If restitution, then income, debts,
property owned, dependants
Custody status indicating risk to community,
likelihood of FTA

Excessive violence

Domestic violence

TIS Sentencing Guidelines

TIS aggravating/mitigating factors

Criminal History

If pattern of violence, then evaluation,
treatment, diagnosis, prognosis, medication,
prior successful intervention

Verified prior record including arrest,
dispositions, VOPs, numbers of violent &
non-violent convictions

Substance Abuse

History of substance abuse?

Availability of appropriate program,
treatment, counseling & who pays?

Family/Community/Residential Ties

Married?

Family ties, dynamics, structure

Stability of residence

Stability of relationships

Social history/needs

Family influence on anti-social behavior

Alternatives to social relationships if
they impact anti-social behavior

Needs of community

Victim-Related Items

Needs of victim

Mental Health

If violent offense, then status of mental health

Employment Characteristics

Availability of training & who pays

Verified employment or education

Full time job?

Other

Supervision needed for success

SENTENCING GUIDELINES

Instant Offense

Crime Class, Felony A, B, C

Felonies D, E, F, G violent/ nonviolent

Escape, Special Category

Misd. A Violent, Escape, Property, Order & Decency

Other Misdemeanors: Title 16, 21,

Violent Vehicular, Class B, Unclassified

Domestic violence - Special Category

Violations

VOP Standards

Prior History Aggravations

Secondary Offense Violent Felonies

Lack of amenability to lesser sanctions

Repetitive criminal history

Excessive Cruelty

Criminal History

Violent Felonies as Instant Offense

One or less prior felonies

On release, pending trial/sentencing

Two or more prior felonies

One prior violent felony

Two or more prior violent felonies

Aggravating Factors

Excessive cruelty

Prior violent criminal conduct

Repetitive criminal conduct

Needs correctional treatment

Undue depreciation of offense

Major economic offense/series of offenses

Prior abuse of victim

Custody status at time of offense

Lack of remorse

Betrayal of public trust

Supervision to monitor restitution

Lack of amenability

Vulnerability of victim

Statutory aggravation

Statutory habitual offender

Sentenced to time served

Other

Mitigating Factors

Victim involvement

Voluntary redress or treatment

Under duress or compulsion

Inducement by others

Physical/mental impairment

Concern for victim by non-principal

No prior convictions

Treatment need more than punishment need

Could lose employment

Statutory mitigation

Assistance to prosecution

Mental retardation

Other

SENTENCING INFORMATION

Nature & circumstances of offense
Prior criminal history
Defendant's background, including
education, family ties, employment
history, alcohol/drug usage,
intellectual abilities or deficits
Remorse or lack thereof

JUVENILE SENTENCING

Violence in the past
Attention deficit disorder
Attention deficit hyperactivity
disorder
Low self-esteem
Impulsivity
History of past delinquencies
Home neglect, abuse, & lack
of supervision
Anger, especially between
parents and children
Families with criminal records
Witnessing/experiencing violence
in the home
Previous sexual abuse

DOMESTIC VIOLENCE

Man & woman living together
with previous D.V. events
Substance & alcohol abuse
Coming from violent homes
themselves
Combativeness in the home
Economic problems
Allowing children to watch
violence
Judge tells him leave her alone
or he'll go to jail & he
doesn't

DOMESTIC VIOLENCE RISK ASSESSMENT

Excessively jealous or blaming victim
Actively hostile, angry, out
of control
Not fearful of consequences
Obsessed with victim
Previous child abuse
Violent situations
Under drug/alcohol influence
Previous arguments
Previous police visits to house
Anger control problem
Post-traumatic stress disorder
Mood altering medications

DEFENSE

History of violent behavior
Personally what he did
Mental illness
School problems
Low intelligence
Drug/alcohol involvement

PROSECUTION

Youth under 20
Past history of D.V.
Offspring of murderer or parents in jail
Any abuse as children
The offense
Career criminals at liberty
How early in life they start
Age at first arrest/conviction
Protective Factors
Convincing society its a function of families
Focus priorities on offspring in violent families
One loving parent or surrogate

OTHER SUGGESTED CORRELATES OF VIOLENCE

Behaviorial Factors

Intuitive idea of behavior, training & experience of decision - makers, gut reaction
Demeanor such as head hanging, failure to look decision-maker in the eye, other body language
History of acting out
History of violence
Prior failure to appear rate

Demographic Factors

Socioeconomic status, including income, educational level, occupation and employment history, currently employed or unemployed.
Age
Race
Gender

Early Life Factors

Age at first arrest
Victim of child abuse
Victim of child sex abuse
Coming from single-parent family
Childhood bed wetting
Childhood fire setting
Hyperactivity
Failure in school

Substance Abuse Factors

Alcohol abuse/drinking problem
Pharmacological effects of drugs, e.g. Prozac, cocaine, crack, herion vs. marijuana
Economic factors associated with obtaining drugs
Participating in selling drugs

Correlates are different according to the type of violence

Domestic Violence

Economic and work related stress
Observation of physical abuse in family as a child
Perpetrator alcohol abuse
Victim alcohol abuse
Arrest acts as a deterrent

Sexual Violence

Poor anger control
History of previous violence
Previous sex offenses

Female Perpetrators

Victims are family members, significant others

Other Considerations

What is violence? How do we define violence?
What are protective factors that reduce risk?
What are the treatment needs?
What is needed to make it in the community?
What security level is needed?

APPENDIX E.
EXISTING DELAWARE RISK PREDICTION INSTRUMENTS

MAGISTRATES COURT'S BAIL GUIDELINES

PRETRIAL SERVICES RISK ASSESSMENT

PROBATION AND PAROLE RISK/NEEDS ASSESSMENT

DYRS RISK ASSESSMENT

STATE POLICE DOMESTIC VIOLENCE RISK ASSESSMENT

PAROLE BOARD RISK ASSESSMENT

TITLE 11 CRIMINAL OFFENSES

<u>CLASSIFICATION OF LEAD OFFENSE</u>	<u>MONETARY RANGE</u>	<u>ENHANCED SUPERVISORY ALTERNATIVES</u>	<u>DAY BAIL ALTERNATIVES</u>
Murder 1st Degree	Hold w/o bail	Hold w/o bail alternatives	Hold w/o bail alternatives
Class A Felony	\$20,000 - \$50,000 secured		500 - 1250 days income
Class B Felony	\$10,000 - \$30,000 secured		250 - 750 days income
Class C Felony	\$2,000 - \$10,000 secured		50 - 250 days income
Class D Felony (Violent)	\$1,000 - \$5,000 secured	Level IV halfway house or electronic monitoring	25 - 125 days income
Class D Felony (Non-Violent)	\$1,000 - \$5,000 unsecured	Level III supervision Level II supervision	25 - 125 days income unsecured
Class E Felony (Violent)	\$500 - \$3,000 secured	Level IV halfway house Level IV elect monitor'g Level III supervision	12 - 75 days income secured
Class E Felony (Non-Violent)	\$500 - \$3,000 unsecured	Level II supervision	12 - 75 days income unsecured
Class F Felony (Violent)	\$250 - \$1,500 secured	Level IV elect monitor'g Level III supervision	6 - 38 days income secured
Class F Felony (Non-Violent)	\$250 - \$1,500 unsecured	Level II supervision	6 - 38 days income unsecured
Class G Felony (Violent)	\$250 - \$1,000 secured	Level III supervision	6 - 25 days income secured
Class G Felony (Non-Violent)	\$250 - \$1,000 unsecured	Level II supervision	6 - 25 days income unsecured
Class A Misdemeanor (Violent)	\$100 - \$500 unsecured	Level II supervision	3 - 12 days income unsecured
Class A Misdemeanor (Non-Violent)	OR up to \$500 unsecured	None	OR or up to 12 days income unsecured
Class B Misdemeanor	OR up to \$100 unsecured	None	OR or up to 3 days income unsecured
Unclassified Misdemeanor	OR up to \$50 unsecured	None	OR or up to 1 day income unsecured
Violations	OR up to \$25 unsecured	None	OR or up to 1 day income unsecured

TITLE 16 DRUG OFFENSES

	<u>MONETARY RANGE</u>	<u>ENHANCED SUPERVISORY ALTERNATIVES</u>	<u>DAY BAIL ALTERNATIVES*</u>
A. Trafficking in Narcotic or Non-Narcotic Drugs:			
1. Marijuana	\$1,000 secured per pound		25 days income per pound
2. Hashish	\$1,000 secured per ounce		25 days income per ounce
3. Methamphetamine, amphetamine, phencyclidine and drugs not mentioned above	\$1,000 secured per gram		25 days income per gram
4. Cocaine, heroin and other narcotic drugs	\$2,000 secured per gram		50 days income per gram
B. Manufacturing, Possession with Intent to Deliver or Delivery of Narcotic or Non-Narcotic Drugs:			
1. Marijuana:			
a. Less than 1 pound	\$1,000 - \$3,000 unsecured		25-75 days income unsecured
b. 1 pound or more	\$500 secured per pound		10 days income per pound
2. Hashish:			
a. Less than 1 ounce	\$1,000 - \$3,000 unsecured		25-75 days income unsecured
b. 1 ounce or more	\$500 secured per ounce		10 days income per ounce
3. Cocaine, heroin, methamphetamine, amphetamine, phencyclidine and other narcotic or non-narcotic drugs not mentioned above	\$5,000 secured or secured bail in the amount of the street value of the drugs, whichever is greater		125 days income or the street value of the drugs, whichever is greater
C. Possession of Narcotic Drugs:			
1. First offense	\$500 - \$1,000 unsecured	Level II supervision	12-25 days income
2. Defendant has prior Title 16 convictions	\$500 - \$1,000 secured	Level II supervision	6-25 days income
D. Possession of Non-Narcotic Drugs			
	\$500 - \$1,000 unsecured		12-25 days income
E. Other Drug Charges			
	\$500 - \$1,000 unsecured		12-25 days income

Where the Day Bail Alternative is less than the street value of the drugs, bail should be set in an amount equal to the street value of the drugs.

AGGRAVATING FACTORS

An unsecured bail guideline recommendation may, in the ordinary case, be converted to a secured bail amount whenever any one of the following non-exclusive¹³ aggravating factors is present:

1. Two or more capiases for failure to appear have been issued for the defendant within three years from the date of the instant offense and none resulted in the defendant's voluntary surrender to the issuing authority. (Every effort should be made to obtain the records from other Courts concerning capiases issued for the defendant.)

2. The defendant has shown a tendency toward repetitive criminal conduct, to wit:

a. the defendant has been twice or more convicted of committing the same violent offense as the instant offense within five years preceding the date of the instant offense during which the defendant was not incarcerated, or

b. the defendant has three times or more been convicted of the same non-violent offense within three years from the date of the instant offense.

3. the defendant's prior criminal record consists of at least two felony convictions, or at least four misdemeanor convictions excluding Title 21 traffic convictions within the past three years.

4. The defendant has shown a lack of amenability to less restrictive measures through violation of a prior period of probation or a failure to meet substantive conditions during a prior or current period of probation.

5. The defendant was on a conditional release status from the Department of Correction on the date of the instant offense.

6. Defendant was on bail, either having posted a secured bail or having been released on unsecured bail or on the defendant's own recognizance, at the time of the commission of a new offense.¹⁴

¹³Both the aggravating and mitigating factors listed herein are provided as examples and are not intended to be exclusive reasons justifying departures from the bail guidelines.

¹⁴If a defendant is charged with committing a subsequent offense while on bail for having committed a prior offense, especially a violent offense, Justices of the Peace are encouraged

7. The prosecutor or police officer proffers facts to the Court which demonstrate that the defendant was aware before his arrest that the charge or charges for which bail is to be set had been filed and thereafter the defendant intentionally attempted to evade arrest on such charge or charges.

8. A fugitive's warrant has been issued against the defendant or he or she is a prison deserter from the military.¹⁵

9. The offense was allegedly committed against a victim who is considered to be helpless or defenseless; i.e., the victim is very young or very old, either physically or mentally handicapped, etc.

10. The defendant is a non-resident and at least one other factor exists which makes it unlikely, in the Court's view, that the defendant will appear for future court proceedings without secured bail being set.

11. The crime was committed for the purpose of avoiding or preventing an arrest or for the purpose of effecting an escape from custody.

12. The crime was committed against a person who was a witness to a crime for the purpose of preventing that witness's appearance or testimony in any grand jury, criminal or civil proceeding.

to set bail in a high secured amount as the circumstances of each individual case may justify.

¹⁵See: Legal Memorandum No. 81-75.

MITIGATING FACTORS

A secured bail guideline recommendation may, in the ordinary case, be converted to an unsecured bail whenever any one of the following non-exclusive mitigating factors is present:

1. The defendant has demonstrated through recent behavior that it is likely that he or she will appear at scheduled court dates, obey court orders and will not endanger victims, witnesses or the public in general.

2. The defendant has ties to the community which suggest that he or she is unlikely to flee prior to scheduled court dates. Such factors include a stable job and family ties to the community.

3. The defendant's record shows no prior criminal convictions, excluding Title 21 traffic violations.¹⁶

4. To a significant degree, the victim was an initiator, willing participant, aggressor or provoker of the incident.

5. Before detection, the defendant compensated or made a good faith effort to compensate the victim of the criminal conduct for any damage or injury sustained or, before detection, the defendant sought professional help for drug/alcohol treatment or any other recognized compulsive behavioral disorders related to the offense.

6. The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

7. The defendant, because of physical or mental impairment, lacked substantial capacity for judgment when the offense was committed. The voluntary use of intoxicants (drugs or alcohol) does not fall within the purview of this factor.

8. The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or wellbeing of the victim.

9. The defendant has or is willing to cooperate with the police with regard to an ongoing investigation and the police or prosecution requests low or unsecured bail because of this fact.

10. The defendant entertains an honest and reasonable belief that his or her actions causing arrest were justifiable and legal.

¹⁶Numerous convictions for Driving Under the Influence, Driving During Suspension or Revocation and Failure to Stop at the Command of a Police Officer should not be excluded from consideration of the defendant's prior convictions.

Remember, when secured bail is set, the reasons for setting secured bail must be indicated in the record.¹⁷ You will note that the bail guideline recommendations place strong emphasis on the nature of the offense and the safety of the community in determining the appropriateness of setting secured bail.¹⁸ This emphasis explains the high secured bail recommendations for serious violent felonies and the unsecured bail recommendations for most other offenses.¹⁹ Nevertheless, judges should not lose sight of the primary focus of the bail setting process. That is, is the bail or alternative being imposed sufficient to secure the defendant's appearance at subsequent court proceedings while providing the necessary incentive to the defendant to comply with all conditions imposed by the Court, including those pertaining to the safety of victims and the community in general? In this light, the following examples are offered:

¹⁷11 Del.C. §2105 (c).

¹⁸See: 11 Del.C. §2101, et. seq. As an example of the importance of these factors as recognized by the United States Congress, see 18 United States Code, Section 3142 (e) which creates a presumption that no combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if there is probable cause to believe that the person has committed a drug offense punishable by ten years or more of imprisonment.

¹⁹In deciding between secured and unsecured bail, remember that under no circumstances should secured bail ever be set for Violations. See: Legal Memorandum 83-111, Incarceration of Persons For Non-Incarcerable Offenses.

PRETRIAL RISK ASSESSMENT

FAMILY TIES

- 3 Lives with spouse and children
- 2 Lives with parents/family
- 1 Lives with non-family or alone with family contact
- 0 Lives alone and has no family contact

RESIDENCE (present/prior pattern)

- 3 2+ years
- 2 1-2 years
- 1 5-11 months
- 0 1-4 months
- 1 Less than 30 days

EMPLOYMENT/EDUCATION

- 3 Full time employment, student, homemaker, 1 year or more
- 2 Full time employment or part time, student, SSI/Workman's Comp, 3 months to 1 year
- 1 Full time employment or part time, less than 3 months
- 0 Intermittent employment/Welfare
- 1 unemployed

PRIOR RECORD

- 3 No adult convictions
- 0 Misdemeanor convictions/non-violent
- 1 One or two felony conviction/non-violent
- 1 Misdemeanor convictions/violent
- 1 One felony conviction/violent
- 2 Two or more felony convictions/violent
- 2 Three or more felony convictions/non violent
- 2 Any combination of four or more violent felony/misdemeanor

MITIGATING FACTORS

- 1 Own, buying house or supports household
- 1 Has a telephone in his/her name
- 1 No capias history
- 1 Self surrender on capias
- 1 Prior successful pretrial, probation or parole supervision (w/i five years)
- 1 No arrests within three years
- 1 Union member
- 1 Positive recommendation current period of supervision

AGGRAVATING FACTORS

- 1 Prior FTA (each, w/i five years-felonies only unless verified)
- 1 Probation/Parole violation (each, within five years)
- 1 Pending case (each)
- 1 Drug related charge
- 1 Substance abuse problem
- 1 Mental health illness
- 1 Escape conviction (within five years)
- 1 History of violence related convictions (three w/i five years)
- 1 Out of state
- 1 Negative recommendation current period of supervision

PRETRIAL RISK ASSESSMENT (CONTINUED)

NAME: _____

MITIGATING FACTORS:

These are factors which tend to demonstrate stability.

AGGRAVATING FACTORS:

These are factors which demonstrate a less than responsible lifestyle.

Once these categories are tallied, add the scores to obtain the total point score.

8 & above = unsecured

3 - 7 = pretrial supervision

2 & below = secured bond

If the defendant is deemed to be inappropriate for the score indicated the officer will note specifically the reasons on the assessment form. Supervisory approval must if possible be given for an override. For example, stating the arrestee is a risk to the community is not sufficient for an override. The exact nature of the risk the arrestee presents must be documented.

**STATE OF DELAWARE
PROBATION AND PAROLE INITIAL RISK/NEEDS ASSESSMENT**

Client Name - Last		First	Middle	AKA
SSI Number	DOB:MM/DD/YY	MED		Officer

- 1. Residence (Prior to incarceration for parolees)
 - 0-Stable, No reported disruption
 - 1-Occasional disruption; not cause for legal intervention
 - 2-Serious Disruption; cause for legal intervention1

- 2. Employment
 - 0-Stable Employment and/or financially sufficient
 - 1-Underemployed/Unemployed with sufficient skills
 - 2-Unemployed, lacks sufficient skills2

- 3. Alcohol Usage (Prior to incarceration for parolees)
 - 0-No Interference with functioning
 - 1-Occasional abuse; some disruption of functioning
 - 2-Frequent abuse; serious disruption; needs treatment3

- 4. Other Drug Usage (Prior to incarceration for parolees)
 - 0-No Interference with functioning
 - 1-Occasional abuse; some disruption of functioning
 - 2-Frequent abuse; serious disruption; needs treatment4

- 5. Mental Health Status
 - 0-No Interference with functioning
 - 1-Occasional instability, some disruption of functioning
 - 2-Unstable, serious disruption of functioning; needs treatment5

- 6. Attitude
 - 0-Motivated to change; receptive to assistance
 - 1-Dependant or unwilling to accept responsibility
 - 2-Rationalizes behavior; negative; not motivated to change6

- 7. Age at First Conviction
 - 0-24 or older
 - 1-20 to 23
 - 2-19 or younger7

- 8. Number of Prior Periods of Probation/Parole Supervision (Adult or Juvenile)
 - 0-None
 - 1-One or more8

- 9. Number of Prior Probation/Parole Revocations (Adult or Juvenile)
 - 0-None
 - 1-One or more9

- 10. Conviction or Juvenile Adjudication for a Sexual Offense(s). (Include past and Current Convictions)
 - 0-None
 - 7-One or More10

- 11. Convictions or Juvenile Adjudications for bad checks, forgery, theft, shoplifting within the last 3 years.
 - 0-None
 - 3-one or more11

- 12. Conviction or Juvenile Adjudication for an violent offense within the last 3 years.
 - 0-No
 - 7-Yes12

Comments:

TOTAL: _____

Supervisor Edit: _____
 Probation/Parole Officer _____ PO# _____ Date _____

D YRS RISK ASSESSMENT FORM

NAME _____ FILE # _____

DOB _____ AGE _____ RACE _____ SEX _____ COUNTY _____

MOST SERIOUS INSTANT ADJUDICATION _____

MOST SERIOUS PRIOR ADJUDICATION _____

CIRCLE THE APPROPRIATE NUMBER IN EACH COLUMN: POINT VALUE

	MOST SERIOUS INSTANT ADJ.	MOST SERIOUS PRIOR ADJ.
Class A or B Felony	20	10
Class C Felony	16	8
Other Felonies (Violent)	12	6
Other Felonies (Non-Violent)	10	4 (Instant) _____
Class A Misdemeanor (Violent)	6	3 (Prior) _____
All Other Misdemeanors	4	2
All Violations	2	1
Technical Violations	1	0

OTHER SCORING FACTORS **POINT VALUE**

Three Adjudications for a Felony within the Prior 2 Years (or two felonies and an adjudication for a violent misdemeanor)	6	_____
Prior Secured Out of Home Placement (As the result of an adjudication)	1	_____
Escape/AWOL from Secured Facility at Time of Instant Offense	2	_____
Number of Instant Adjudications	(Actual Number)	_____
Number of Prior Felony Adjudications	(Actual Number)	_____
Number of Prior Misdemeanor Adjudications	(Actual Number)	_____

SUBSTANCE ABUSE ADJUDICATION(S) (INSTANT OFFENSE) **NO** **YES**

(A) Alcohol, Marijuana, Inhalants	0	2	_____
(B) Hallucinogens	0	2	_____
(C) Cocaine, Heroin, Amphetamines	0	3	_____

SCORER _____ DATE _____ TOTAL SCORE _____

COMMENTS _____

STATE POLICE DOMESTIC VIOLENCE RISK ASSESSMENT

Beginning in 1993, the State Police have to identify how many "No Paper Required's" there are when they go to domestic violence situations. These are cases where no crime has been committed in a domestic dispute. They have a form on a 3" x 5" card. Anytime the state police go to a domestic, they must fill out the form. The information is inputted into a computer at Headquarters in Dover. The troops keep one copy of the form in a file for their own use.

They track the victim and suspect's sex, race, kids present, injuries, arrest information, and past involvement. The police can identify if it is a repeat, if the kids were present, if there were injuries, and whether to get victims' services involved. This happens after two or three calls to the same place. If there has been past police involvement, the perpetrator should be arrested. They make the officer check the computer or the paper file as to how many referrals in order to see if there should be follow-up services. The police decide if the domestic participants should get follow-up. They offer services primarily to the victims.

DELAWARE BOARD OF PAROLE

NAME:

DPB#

SHD:

SUMMARY OF OFFENSE:

I. Risk Score**A. Instant Offense**

- 5 Murder 1 or 2, Unlawful Sexual Intercourse 1 or 2, Habitual Offender, Kidnapping 1, all other Class A or B Sex Offense
- 4 Robbery 1, Man/Del/PWID Non-Addict, Drug Trafficking, all other Class B felonies, Class C sex offenders
- 3 Assault 1 or 2, Manslaughter, Kidnapping 2, Arson 1 or 2, Burglary 1 or 2, Vehicular Homicide 1 or 2, all other Class C and violent felonies
- 1 All Other Offenses

B. Most Serious Prior Offense

- 5 Murder 1 or 2, Unlawful Sexual Intercourse 1 or 2, Habitual Offender, Kidnapping 1, all other Class A or B Sex Offense
- 4 Robbery 1, Man/Del/PWID Non-Addict, Drug Trafficking, all other Class B felonies, Class C sex offenders
- 3 Assault 1 or 2, Manslaughter, Kidnapping 2, Arson 1 or 2, Burglary 1 or 2, Robbery 2, Vehicular Homicide 1 or 2, all other Class C and violent felonies
- 1 All Other Offenses

C. Number of Prior Adult Incarcerations

- 5 Three or More
- 3 One or Two

DELAWARE BOARD OF PAROLE

REV 10/93

NAME:

DPB#

SHD:

D. Number of Prior Periods of Probation/Parole Supervision (Adult)

4 One or More

0 None

E. Number of Major Institutional Infractions Involving Assaultive Behavior (in last three years)

5 Three or More

2 One or Two

0 None

RISK SCORE

RISK
LEVEL:

7 or Less = Low ; 8-13 = Moderate ; 14 or More = High

**APPENDIX F.
EXISTING DELAWARE DATA BASES**

CENTER FOR DRUG AND ALCOHOL STUDIES LEVEL V RELEASEES

1987 SUPERIOR COURT CASES

DOC/SAC RECIDIVISM COMPUTER PROGRAMS AND DATA BASE

FAMILY COURT DOMESTIC VIOLENCE DATA BASE

STATE POLICE DOMESTIC VIOLENCE DATA BASE

DELJIS

EMILY REED'S DATABASES

PAROLE BOARD DATABASES

APPENDIX F. EXISTING DELAWARE DATA BASES

Level V Releasees. Under two National Institute of Drug Abuse grants, the University of Delaware's Center for Drug And Alcohol Studies are interviewing 900 offenders coming out of Level V and computerizing this information. Data includes if they have a history of acting out and criminal history.

All 1987 Superior Court Cases. The University of Delaware's School of Urban Affairs, with Dr. Danilo Yanich as principal investigator, has computerized information from every Superior Court case from 1987.

DOC/SAC Recidivism Computer Programs and Resultant Data Base. See attached memo from Jack O'Connell.

Family Court Domestic Violence Data Base. Family Court has a domestic violence data base in all three counties. There are two separate data bases, the demographic and treatment information, and the perpetrator data base. They collected data from November, 1992 through the end of January, 1993. They have 2,500 cases statewide. They are working with the totals. In New Castle County, they have only tracked those cases from the county, but they also have the information for all cases originating in the City of Wilmington. The City's cases can be used as a built in control group.

State Police Domestic Violence Data Base. Formerly, when police answered a "domestic" call, they had to write a crime report when a crime was committed, but could also do a "no paper required (NPR)" when no crime was committed. Now, the police have to identify how many NPR's there are. State Police developed a new form on a 3 x 5 card. Anytime the state police go to a domestic, they must fill out the form. The officers send two copies to headquarters where they're inputted into a personal computer. They keep one copy in a file at the troop which officers are required to use when they go to a domestic. They can identify if it is a repeat, if the kids were present, if there were injuries, and whether to get victims services involved. After 2 - 3 calls, victim services gets called in. They offer services primarily to the victims. They began the system on July 1, 1992. For 1993, there were 2,414 domestics. Arrests were made in 834 cases, or 39 %. They wrote reports for 1,672. Children were involved in 1,302. 1,148 cases were referred to Victim Services for follow-up.

DELJIS. The DELJIS data base contains criminal history information. Many efforts have been made to improve the disposition information. Although dispositions are still missing, the quality of the information is improving.

Emily Reed's Databases. These include a Level III Intensive Supervision sample containing information on 281 offenders as of December 21, 1989, and two comparison samples, one containing a matched sample of 162 Level II regular probationers, and a matched sample of 200 Level V prison releasees. A second data base contains information on 184 offenders in Level IV sentencing options in 1988. A third data base contains a sample of 83 sex offenders released from prison in 1989. A fourth database contains a sample of 66 Level III probationers at the Day Reporting Center between 11/1/93-2/28/94.

Parole Board Databases. The Parole Board has twelve established databases. The primary data bases are the Scheduling and Warrant databases.

**APPENDIX G.
CORRESPONDENCE**

MEMO TO JUDGE HERLIHY RE "SUBSTANCE ABUSE TREATMENT AND THE
AUTOMATED SENTENCING ORDERS, DATED OCTOBER 25, 1993

JUDGE HERLIHY'S RESPONSE, DATED NOVEMBER 17, 1993

MEMO TO HON. THOMAS EICHLER RE "SERVICES FOR CHILDREN OF DOMESTIC
VIOLENCE," DATED DECEMBER 29, 1993

MEMO TO HON. VINCENT POPPITI RE "CONSOLIDATION OF JURISDICTION OVER
DOMESTIC VIOLENCE EVENTS," DATED DECEMBER 3, 1993

DRAFT RESOLUTION OF THE CRIMINAL JUSTICE COUNCIL RISK PREDICTION
RESEARCH GROUP RE CONSOLIDATION OF DOMESTIC VIOLENCE MATTERS,
INCLUDING FELONY CRIMINAL CHARGES, IN FAMILY COURT

NORTHPOINTE PROPOSAL; NORTHPOINTE MEMO TO COMMISSIONER ROBERT
WATSON DATED NOVEMBER 2, 1993; MEMO TO DR. TIM BRENNAN,
NORTHPOINTE, DATED FEBRUARY 17, 1994

MEMO TO PRESIDENT JUDGE RIDGELY FROM WILLIAM G. ECHOLS DATED
AUGUST 31, 1993

MEMO TO PRESIDENT JUDGE HENRY DUPONT RIDGELY FROM JANA E. MOLAHAN,
DATED SEPTEMBER 3, 1993

MEMO TO PRESIDENT JUDGE HENRY DUPONT RIDGELY FROM JAMES R. ADAMS,
DATED SEPTEMBER 8, 1993

LETTER OF SUPPORT FOR SAC'S APPLICATION FOR FUNDING TO THE NATIONAL
INSTITUTE OF CORRECTIONS, DATED JUNE 29, 1993



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
STATISTICAL ANALYSIS CENTER

60 THE PLAZA
DOVER, DELAWARE 19901
February 16, 1994

TELEPHONE: (302) 739 - 4626
FAX: (302) 739 - 4630

TO: Emily A. Reed, Ph.D.

FROM: Jack O'Connell *Jack*

SUBJ: Information for Risk Prediction Committee Report

In your report, I think it is important to mention three items relating to risk assessment methodologies.

(1) The Delaware Statistical Analysis Center and the Management Information Section of the Department of Correction are currently involved in a joint project that will provide five years of recidivism information for detention, jail, and prison populations.

The analysis will control for gender and type of crime. This study, by itself is not a risk assessment methodology, but it is a necessary precursor to new developments of risk assessment methodologies for the Department of Corrections.

The recidivism analysis computer programming is dependant upon the final implementation of the new Department of Correction's main frame DELJIS/OIS computer system. The new Department of Correction's computer system is scheduled to start-up the Spring of 1994. The project is being funded by the McConnell-Clark Foundation.

(2) The best example of on going applied risk assessment, is the pretrial screening underway in the Department of Correction. In our monitoring of the detention population, this new procedure has freed-up hundreds of beds in the Department of Correction system. This activity being conducted by Alan Henry deserves a significant write-up in your report. This project, too, has been funded by the McConnell-Clark Foundation.

(3) Karen Nold has had a number of conversation with Dr. David Cowan of SRA Technologies, Inc. He is applying what appears to be a logit analysis embedded in an epidemiologic framework to assess risk relating to juvenile offenders. His work may be worth exploring. His address is 8110 Gatehouse Road, Suite 600, Fall Church, VA 22042. His phone number is (703) 205-8500.

cc: Commissioner Watson
Tom Quinn



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
CRIMINAL JUSTICE COUNCIL
STATE OFFICE BUILDING - FOURTH FLOOR
820 FRENCH STREET
WILMINGTON, DELAWARE 19801

TELEPHONE: (302) 577-343C
FAX: (302) 577-344C

MEMORANDUM

DATE: October 25, 1993

TO: Hon. Jerome O. Herlihy
Superior Court

FROM: *Marlene Lichtenstadter*
Marlene Lichtenstadter, Chair
Risk Prediction Research Group

RE: Substance Abuse Treatment and
The Automated Sentencing Orders

At its meeting last week, the Risk Prediction Research Group discussed the lack of availability of substance abuse treatment, particularly Level IV residential treatment, and the fact that offenders who are held at Level V awaiting Level IV treatment often complete their sentences without ever getting to Level IV. The Research Group suggested that a list of approved and comparable treatment resources be compiled and made a part of the automated sentencing orders, so that if a bed at a specific treatment facility (e.g., the Recovery Center) is unavailable, the offender could be transferred from Level V to comparable treatment. Such a list would provide greater flexibility in putting offenders in treatment.

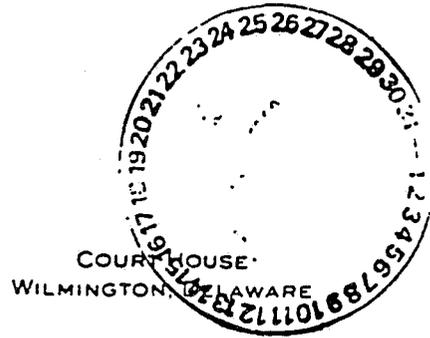
I am passing this idea on to you for the Automated Sentencing Order Committee to consider. Please let me know if this idea is feasible and if the Committee agrees with it.

Thank you for your anticipated consideration of this idea.

cc: Risk Prediction Research Group
File

SUPERIOR COURT
OF THE
STATE OF DELAWARE

JEROME O. HERLIHY
JUDGE



November 17, 1993

Ms. Marlene Lichtenstadter
Board of Parole
Carvel State Office Building
820 North French Street
Wilmington, DE 19801

Dear Ms. Lichtenstadter:

I have received and reviewed your memorandum of October 25, 1993 regarding some possible additions to the automated sentence orders. I have further discussed your memorandum with Judge Gebelein. He and I are of the same mind. Specifically, we do not believe that it is advisable to be too specific about the treatment program which we believe is appropriate for a given defendant. First of all, many defendants have not been evaluated and we do not know whether they need inpatient or outpatient treatment or which variant of inpatient or outpatient is appropriate.

I am sending a copy of your memorandum and a copy of this letter to Beth Peyton at TASC for her to see. I am also enclosing a copy of some information regarding various treatment programs.

I appreciate your comments and I hope that this letter and the enclosed do provide answers to your suggestions and/or comments.

Sincerely,

JOH/bsr
Enclosures
cc Honorable Richard S. Gebelein
Ms. Beth Peyton



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
CRIMINAL JUSTICE COUNCIL
STATE OFFICE BUILDING - FOURTH FLOOR
820 FRENCH STREET
WILMINGTON, DELAWARE 19801

TELEPHONE: (302) 577-3430
FAX: (302) 577-3440

MEMORANDUM

DATE: December 29, 1993

TO: Hon. Thomas Eichler, Secretary
Department of Services to Children, Youth and Their
Families (DSCYF)

FROM: Robert J. Watson, Chair *Robert J. Watson*
CJC Violence Reduction Committee

RE: Services for Children of Domestic Violence

The Risk Prediction Research Group, a subcommittee of the Criminal Justice Council Violence Reduction Committee, has been examining factors that are related to violence in society. One such factor is the effect of children witnessing or being victims of violence in the home, especially violence involving parents. Results of research in this area suggest strongly that, without intervention, children of domestic violence have a greater likelihood of becoming perpetrators of violence than other youth.

In order to break this potential cycle of violence, the Violence Reduction Committee urges the DSCYF to consider offering intervention services to these children. We understand that under your initiative, the services within the Division of Child Protective Services, Child Mental Health, and the Division of Family Services are being reorganized to focus on the holistic needs of individuals and families. We feel that such a reorganization provides an ideal opportunity to initiate intervention services such as counseling for these children.

Please let me know if we can encourage support for initiatives in this area.

cc: CJC Violence Reduction Committee
CJC Risk Prediction Research Group ✓
File



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
CRIMINAL JUSTICE COUNCIL
STATE OFFICE BUILDING - FOURTH FLOOR
820 FRENCH STREET
WILMINGTON, DELAWARE 19801

TELEPHONE (302) 577-3430
FAX (302) 577-3440

MEMORANDUM

DATE: December 3, 1993

TO: Hon. Vincent Poppiti
Chief Judge, Family Court

FROM: Robert J. Watson, Chair
CJC Violence Reduction Committee

RE: Consolidation Of Jurisdiction Over Domestic Violence Events

In discussion of the handling of domestic violence in the courts, the CJC Risk Prediction Research Group, a Subcommittee of the CJC Violence Reduction Committee, has been made aware that, with the implementation of the Protection From Abuse Statute on January 1, 1994, there will be substantial new civil protections available in Family Court for the victims of domestic violence.

We also understand that you have made a recommendation to the Courts 2000 Commission that jurisdiction over domestic violence matters, including felony level criminal charges, be consolidated in the Family Court. We are in support of this recommendation, and would like to offer whatever assistance we can to you in getting this implemented.

In order to bolster your proposal, the CJC Risk Prediction Research Group has drafted a resolution (attached) laying out the advantages we see in consolidating jurisdiction over domestic violence in Family Court and the disadvantages of keeping it in Superior Court.

Thank you for your support for measures to reduce domestic violence.

cc: CJC Violence Reduction Committee
CJC Risk Prediction Research Group ✓
File

**DRAFT RESOLUTION
of the
CRIMINAL JUSTICE COUNCIL
RISK PREDICTION RESEARCH GROUP**

WHEREAS, the Protection from Abuse Act will take effect on January 1, 1994, and this Statute will provide increased civil protections in Family Court for victims of domestic violence;

WHEREAS, jurisdiction over felony level domestic violence will remain with the Superior Court which has several disadvantages, namely:

two proceedings in two different courts are inherently inefficient;

the parties will have to appear in both criminal and civil proceedings, and be subjected to double the court appearances for the same incident;

two different outcomes in two different forums with monitoring of conditions by two different courts will result, with inconvenience and possible contradiction arising;

if the defendant testifies in the civil case which is on the fast track, what is said may then be used against the defendant in the later criminal proceedings, or if the defendant does not testify, then the defendant may be subjected to loss of children and home.

WHEREAS, consolidation of jurisdiction over domestic violence, including felony criminal charges, in Family Court would have several advantages, namely:

it would lessen the burden of court appearances for the parties;

it would allow for consistent and coordinated civil and criminal orders;

it would allow for the victim to file the civil papers and the prosecutor to file the criminal charges, thereby removing the onus of prosecution from the victim and the possible repercussions and risks to safety that pursuing prosecution presents;

it would allow the victim to proceed initially in closed civil proceedings without exposing the family to public criminal proceedings, but yet to hold the criminal charges over the defendant to get compliance with conditions such as no contact and counseling;

the expertise in family matters lies in Family Court and consolidation would put the matters where the expertise lies;

it would reduce the caseload of Superior Court;

it would elevate the status of the Family Court in the public's eye and may thereby improve compliance with Family Court's domestic violence court orders;

BE IT RESOLVED that:

The Courts 2000 Commission be encouraged to consolidate the jurisdiction over all domestic violence matters, including felony criminal charges, in the Family Court.

Risk Prediction Research Group

Northpointe Proposal

Background

In October 1993, the Director of the Statistical Analysis Center, Jack O'Connell, submitted a packet of information to the Committee. It came from a company named Northpointe Institute for Public Management. This Company was embarking on a project to develop a risk prediction tool and was looking for "pilot tests sites" to participate. These "sites" would collect information at different points as people moved thru various stages of criminal justice processing. This information would be sent to Northpointe. They would analyze it and develop common factors for different outcomes. Once the correlations between these common factors and outcomes are known and predictable, Northpointe would produce a risk prediction tool. If Delaware chose to be a participant in the study, once the final product was developed, tested, and verified, we would be treated favorably in the negotiations for purchasing the product. The committee's initial reaction was to review the provided materials and to discuss it.

The Committee's Initial Review

The Committee reviewed the initial Northpointe information packet and discussed it. The questionnaires and the points of collection require the Delaware Department of Correction's commitment and participation. In November, Northpointe sent a package of information to Robert J. Watson, Commissioner of the Delaware Department of Correction. He forwarded the information to the two Bureau Chiefs who would be involved in the implementation. They would have to evaluate the time and resources required to participate in the project. This Committee evaluated the project from a more generic and technical view. Although many questions and concerns were raised about the project and the benefit Delaware would receive from participating, the consensus was to pursue it further.

Telephone Conference with Northpointe

The committee arranged a telephone conference with the representatives of Northpointe. The result of this conference was a willingness from Northpointe to negotiate any modifications and implementation issues. Some of the topics discussed included, the level of Delaware's participation in the project, the definitions used in the data collection, the amount and type of training provided, the usefulness of a nationally developed product at the local level, technical implementation, and the final product price. Although many questions were not specifically answered, Northpointe said they would work with Delaware to resolve all the issues if we would participate as a "pilot test site".

Final Review

The Committee believes there is a requirement to have a verified risk prediction instrument, and the final product from the Northpointe project could fulfill that need. The product Northpointe produces will be available for purchase by Delaware whether we are a "pilot test site", or not. The advantage is by participating now we can be assured the risk prediction tool will address the needs of Delaware as it is being developed, and the cost of the product will be discounted. Therefore, we recommend this project be further explored by the Department of Correction. The DOC must decide whether or not to proceed. The Committee will discuss any future involvement in this project if it is requested by the Department of Correction. Stan Taylor and Noreen Renard from the DOC are the people who decide this. Pending a request by them, the Committee's involvement with this issue is completed.

Northpointe

INSTITUTE FOR PUBLIC MANAGEMENT

November 2, 1993

Commissioner Robert Watson
Delaware Department of Corrections
Administration Building
80 Honrovia Ave.
Smyrna, DE 19977

Dear Commissioner Watson:

This letter is in reference to conversations we have had with Jack O'Connell regarding our Risk Assessment Project for Community Release. This is designed for use at several decision-making points in the Justice System.

Northpointe has been researching and developing this project for the past two years. We now have pilot Risk Screening instruments which are collecting offender data for validation purposes in Detroit, Michigan and Boulder, Colorado. Our proposed project is to refine and validate this Risk Assessment procedure within the Delaware DOC as well. There would be no cost to your agency - except to help collect the basic data on your offenders. We believe the project would be mutually beneficial since we would conduct all the design and statistical work, and provide customized and validated instruments to your agencies. These would be designed to help at various decision-points in your operations (incarceration decisions, jail release, community program placement decisions, work release, parole, pre-trial release, etc.).

Thus we are writing to you to explore options and to assess whether the DOC would be willing to assist, possibly with the SAC under our direction, in the collection and analysis of the needed data. The specific help we would need is to select agencies or decision points, and allow our data collection instruments to be used to build up a sample of statistical data on your offenders. No offender management decisions would be made as a result of our instruments during this pilot project.

Our hope is that by sampling offenders at several decision points in the DOC, and collecting follow-up data, we can refine and validate the current assessment instruments for routine use as "decision-guidance" tools. Practitioners in the agencies would be clearly assured that they can exercise an override option once the Assessment Tools are in use for "live" decision-making. Thus, the staff can still exercise their discretionary judgment whenever needed.

In initial discussions with Emily Reed consideration may be given to coordinating the Delaware project in conjunction with issues being addressed with the Risk Prediction Research Committee. As we

G10

understand it some risk instrument development work has already been conducted by this group. Given the comprehensiveness of our pilot instruments the groups risk factors are likely encompassed within our instrument. If this is the case we could consider doing some simultaneous validation work on both instruments.

Regarding timing, we expect initial data collection to occur over about a 3 month period - although this could be shortened if more agencies or decision points are used. We believe a sample size of at least 300 cases would be needed for defensible validation although if possible would be interested in collecting as many as 500 cases. This would be followed by a statistical analysis phase of as much as another 3 months. We envision "follow-up" to assess outcomes at 6, 12, 18 months and possibly up to 24 or 36 months. However, provisional instruments could be based on the 6 month outcomes - in order to speed the process of implementation.

A similar project proposal of ours was a finalist in a recent NIC Prisons Division competition during 1993, and was rated highly by NIC staff. They expressed considerably interest in the project. We will be submitting a grant application to NIC for some research funding assistance and your Department's participation may assist in securing those funds. Funds would be used to assist in the data collection effort as we are sensitive to Department staffing workloads and want to minimize any additional work.

The participation of your agency - at selected decision making points - would be of great benefit to us in testing and refining these instruments. We would look forward to working with you to explore your potential interest and participation.

If you would like to proceed we would suggest a conference call between the Northpointe principals, yourself, Jack O'Connell, Emily Reed, etc. We could discuss some of the particulars, answer any questions, and gather information necessary to develop the grant request.

We look forward to hearing from you.

Sincerely



Tim Brennan Ph.D.
Research Director

P.S. My resume can be obtained from Jack O'Connell - who has a copy of our original proposal to NIC, and various publications of mine regarding risk assessment techniques for criminal justice can also be made available if needed.

cc: Jack O'Connell
Emily Reed
Marlene Lichtensdatder



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
CRIMINAL JUSTICE COUNCIL
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February 17, 1994

Dr. Tim Brennan, Research Director
Northpointe, Inc.
2200 Dendrinos Drive
P.O. Box 309
Traverse City, Michigan 49685-0309

Dear Dr. Brennan:

I am sorry to have to inform you that Delaware will be unable at this time to participate as a pilot site in your "Risk Assessment Project for Community Release." Although the Risk Prediction Committee finds your project very worthwhile and valuable, after lengthy discussion among ourselves and with policymakers at the Department of Correction, we were unable to avoid the conclusion that the resources required on our part are beyond our capacity to provide.

We will certainly keep you in mind for the future should the situation change, and we would be better able to accommodate our mutual needs.

Very Truly Yours,

A handwritten signature in cursive script that reads "Marlene Lichtenstadter".

Marlene Lichtenstadter, Chair
CJC Risk Prediction Committee

cc: Risk Prediction Committee
File

MEMORANDUM

9-7-93

TO: PRESIDENT JUDGE RIDGELY

FROM: William G. Echols
Chief Presentence Officer *WGE*

DATE: August 31, 1993

RE: RISK PREDICTION RESEARCH GROUP MEETING

Both of us have been invited to meet with the Group on September thirteenth. Unless you suggest otherwise I will offer my regrets to the Group and I submit the following information to you for use in your presentation.

We met this morning with the presentence officers and they were asked to comment on what is important to them in making a sentencing recommendation. Generally the answer is everything that relates to the nature of the specific offense or offenses. We covered the usual pieces of information such as the criminal history, employment history, stability of residence, stability of relationships and history of substance abuse or other addictive behaviors. Usually this information is available.

Our discussion then turned to the specific nature of the instant offense or group of offenses. Where significant amounts of restitution are involved we become more concerned about the status of the defendant's finances; income, debts, property owned, dependents, etc. Where crimes of violence are concerned we become more concerned about the defendant's mental health; is there a pattern of violence, has evaluation/treatment taken place in the past, what is the diagnosis/prognosis, is medication indicated, has there been a successful intervention in the past. This type of information is sometimes available.

It was pointed out that the Sentac list of aggravating and mitigation factors shows the kind of information an officer is attempting to uncover during the interview and research phases of the investigation. We consider the purpose of the sentence recommendation to be different from the Pre-Trial decision or Parole Board decision to release or not to release to the community. By the time a defendant gets to the presentence stage of the proceedings we find his custody status to be a good indicator of his perceived risk to the community and/or his risk of skipping out on his court hearings. Unfortunately it is easy to be pessimistic about the risk of recidivism.

MEMO TO P.J. RIDGELY
RE: RISK PREDICTION RESEARCH GROUP MEETING
AUGUST 31, 1993
PAGE TWO.

What we do in our sentence recommendation is fashion a plan which, if followed, should address the needs of the defendant, the needs of the community (victim), and thus decrease the likelihood that the defendant will repeat the antisocial behavior. While we have information up front in most instances about the defendant's criminal and social history and needs we do not always have information at sentencing about the probability of success if the sentencing recommendation (plan) is actually followed. (For example: Have we properly identified the needs of the defendant and the community? Is the appropriate program or treatment community or counselling or training available to the defendant (who pays)? Is the defendant sincerely motivated to participate? How much supervision will he need to be successful and is it available to him?)

We do not have enough information about each defendant's family dynamics and the impact of his family structure on his antisocial behavior. Even if we had the time and opportunity to interview family members we would get into areas that the sentencing recommendation could not address. The concern here is that the defendant will likely return to the same set of social relationships that spawned the antisocial behavior.

This memo has been written before the other officers have had a chance to fully consider and respond to this subject. Ms. Andersen will forward to me any other thoughts from the officers and that will be given to Your Honor before the Group meeting in September.

My vacation is from 9/1/93 thru 9/10/93. Ms. Andersen can be reached at 577-24010 ext. 281 and will forward any messages to me.

pc: Cillie Andersen

SUPERIOR COURT OF THE STATE OF DELAWARE

PRESENTENCE OFFICE

11 East Market St.

P.O. Box 14

Georgetown, Delaware 19947

9-7-93

JANA E. MOLLOHAN
Senior Presentence Officer

MARY BETH BURTON
Presentence Officer

TAMMY A. SEVERSON
Presentence Officer

TELEPHONE
Area Code 30
856-5549

M E M O R A N D U M

TO: President Judge Henry duPont Ridgely
FROM: Jana E. Mollohan, Senior Presentence Officer *JEM*
DATE: September 3, 1993
RE: Sentencing Information Needs

Of the categories noted in the Pretrial Services Risk Assessment and Recommendation Guidelines and the "decision-making instrument" used by the Board of Parole, the categories with the most influence on sentencing recommendations in the Sussex County Presentence Office appear to be the Prior Record and Employment/Education sections.

The Prior Record section lists the defendant's arrest record noting the disposition for each charge and any violations of probation that occurred during the period of supervision. The officer can determine the number of convictions for violent and non-violent offenses, the number of prior incarcerations and periods of supervision by the Department of Corrections.

The Employment/Education section provides an indication of the defendant's marketable job skills, ability to support himself/herself and the ability to pay fines, costs and restitution.

Serious consideration is given to the categories of Mitigating and Aggravating factors regarding prior performance on pretrial, probation or parole supervision, positive or negative recommendations from current supervision, substance abuse problems, mental illness, and a history of convictions for violent offenses.

Information regarding Family Ties, Residence, Employment/Education is self-reported by the defendant in the initial intake and further information regarding same is obtained by the officer in the presentence interview. Letters of inquiry are sent to verify employment and educational data. Information regarding the offender's prior record is verified by computer inquiry to DELJIS, NCIC and JIC. In cases where dispositions are not listed, contact with the appropriate court agency is initiated. Comments regarding past or present probation

supervision are obtained from contacts with the Office of Probation and Parole. Copies of mental health and/or substance abuse evaluations are obtained from the appropriate facility with a release of information signed by the defendant. In some cases the defendant refuses to sign a release and only the dates of admission and discharge are released by the facility.

While the majority of the categories and risk factors addressed in the materials provided are reviewed by the Presentence Officer in preparing sentencing recommendations, the information regarding employment history and prior record appear to have the greatest impact on the officer's recommendation.

Presentence Office Superior Court

KENT COUNTY COURTHOUSE
THE GREEN
DOVER, DELAWARE 19901

9-8-93

Senior Presentence Officer:
JAMES R. ADAMS
Presentence Officers:
NORMA JEAN JOLLY
JEANNE M. CELIBERTI
Secretaries:
SHARON L. IVORY
LISA C. PERMELIA

Telephones:

Area Code 302 } 739-5275
739-5330
739-5274
739-4500

MEMORANDUM

TO: President Judge Henry duPont Ridgely
FROM: James R. Adams, Senior Presentence Officer *J.R.A.*
DATE: September 8, 1993
RE: Sentencing Information Needs

In response to your recent request I would like to provide some of my views on risk prediction instruments and information and instruments our office uses in preparing sentencing recommendations. First of all, I have reviewed the Pretrial Services Risk Assessment and Recommendation Guidelines and the "decision making instrument" used by the Parole Board. Both instruments appear to be designed to meet the needs of each agency. Quite frankly, I have to admit that I am not a supporter of point systems in determining bail recommendations in Pretrial Services, however, at least the Pretrial Services point system does include a section in which prior violent criminal conduct is considered. It should be pointed out though that under the Pretrial Services point system if a defendant has a stable residence, a full time job, or is married; any one of these factors alone outweighs prior violent criminal convictions and indicates a recommendation for unsecured bail. The Pretrial Services assessment tool places almost total emphasis on whether a person will appear for court appearances, rather than on a defendant's proclivity toward violence.

The Parole Board's assessment tool also includes a rather basic point system, however, the aggravating/mitigating factors included in the instrument is a positive feature. The Parole Board also has the advantage of reviewing an inmates' entire prison file prior to making any decision. Inmate files usually contain prior Presentence Reports, psychiatric evaluations, probation supervision information, and prison disciplinary information.

Sentencing Information Needs
Page 2 of 2

In the Presentence Office the main "instruments" we use in preparing sentencing recommendations are the TIS Sentencing Guidelines and the TIS aggravating and mitigating factors for exceptional sentences. The SENTAC Sentencing Guidelines were designed in large part to make incapacitation of the violence prone offender a priority. The presumptive aggravated sentencing recommendations and aggravating factors both place special emphasis on a defendant's history of violent conduct and possible excessive cruelty in an instant offense. The SENTAC Special Domestic Violence category also provides an emphasis on violent domestic related cases.

I feel that the TIS Sentencing Guidelines, used in conjunction with the TIS aggravating and mitigating factors for exceptional sentences are adequate risk prediction instruments. If a Presentence officer uses these instruments in determining a sentencing recommendation, after completing a thorough Presentence Investigation which includes an interview with victims in violent cases, I believe the recommendation which is made will have an appropriate emphasis on risk prediction.

JRA:sli



STATE OF DELAWARE
DEPARTMENT OF CORRECTION
BUREAU OF PRISONS
80 MONROVIA AVENUE
SMYRNA, DELAWARE 19977
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OFFICE OF THE BUREAU CHIEF
HENRY RISLEY

June 29, 1993

Ms. Alethea Camp
National Institute of Corrections, Prison Division
500 1st Street, N.W., 7th Floor
Washington, D.C. 20001

Dear Ms. Camp:

The Delaware Statistical Analysis Center (SAC) has submitted an application to the National Institute of Correction (NIC) which, if funded, will provide resources for it to participate with the Colorado SAC in a study of the NIC risk assessment model used for classification of prison inmates.

The Criminal Justice Council's (CJC) Risk Prediction Research Group, a subcommittee of the CJC's Violence Reduction Committee, is highly interested in this application, and wishes to offer the SAC its support for this project. The Risk Prediction Research Group is working on ways to allow Delaware criminal justice decision makers to make better decisions concerning violent offenders at all stages of the criminal justice process. Our committee's mission is to protect the public and reduce violence in Delaware.

Funding this research under the auspice's of the Delaware SAC will assist the State to make better classification decisions and to insure the public's safety without wasting expensive prison resources. The Risk Prediction Research Group urges you to fund this application. It will help us in our mission, and help in our general violence reduction efforts.

Ms. Alethea Camp
June 29, 1993
Page 2

Please let me know if there is anything that the Research Group can do to assist you in making a positive funding decision.

Sincerely,

A handwritten signature in cursive script, appearing to read "Henry Risley".

Henry Risley
Chief, Bureau of Prisons

HR:db

xc: Risk Prediction Research Group
File