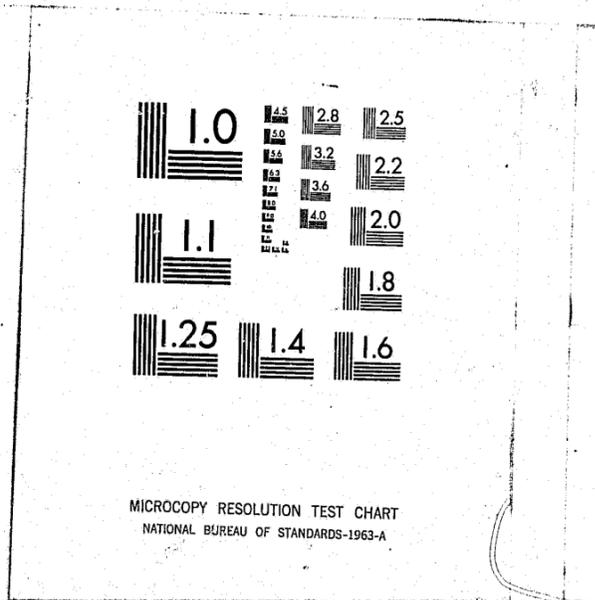


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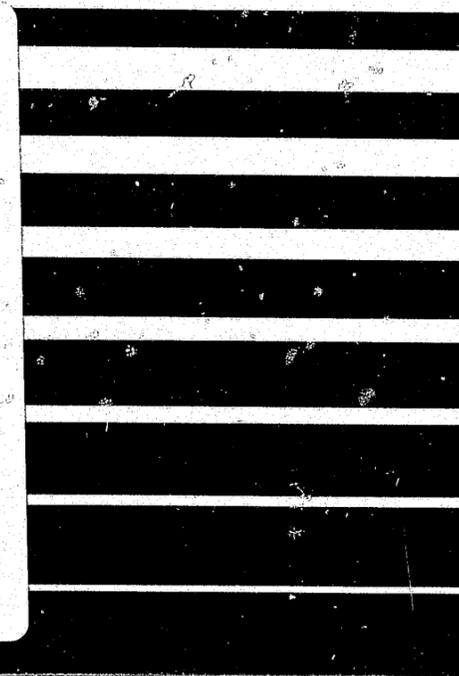
U.S. Department of Justice National Institute of Corrections

Classification
Instruments
for
Criminal Justice
Decisions

Volume 1

Pretrial
Release

76058



PRETRIAL RELEASE

SOURCEBOOK

prepared by the

AMERICAN JUSTICE INSTITUTE

with the

NATIONAL COUNCIL ON CRIME AND DELINQUENCY

CLASSIFICATION INSTRUMENT DISSEMINATION PROJECT

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June 1, 1979

NCJRS

MAR 10 1981

ACQUISITIONS

Prepared under Grant No. AT-2 from the National Institute of Corrections.
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PRETRIAL RELEASE
SOURCEBOOK

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INTRODUCTION

The American Justice Institute, along with the National Council on Crime and Delinquency, has recently completed a national survey of screening and classification in criminal justice. Sponsored by the National Institute of Corrections, the year-long survey assessed the current state-of-the-art in the design and utilization of classification tools for decision-making. The present volume contains a portion of those findings.

In building a data base, National Survey staff made over 350 telephone contacts with classification experts, research organizations, and justice system agencies. These contacts combined with an extensive review of the existing literature reveal a recent trend toward formalizing offender classification, establishing more explicit criteria for screening decisions, and shifting emphasis from subjective judgements to reliance on standardized instruments in the classification and decision-making process. For the purpose of this study, "instruments" are defined as written forms which contain a fixed set of weighted criteria that are combined into an overall offender summary score. Consideration of this score in the classification process assists justice system practitioners in making more consistent and uniform classification decisions. Familiar examples of instruments include:

1. Vera Scale: used to classify the eligibility of pretrial defendants for release on own recognizance;
2. Base Expectancy Tables: used to screen offenders for risk of recidivism;
3. Federal Parole Guidelines: used to reduce disparity in parole-release decisions.

Though these examples emphasize different criteria and were created for different purposes, they all serve to structure the classification process so that resulting decisions become more objective, uniform, and potentially replicable. Among the survey's 350+ primary contacts, project staff identified 105 sites where instruments, as defined, appeared to be used. Excluded from consideration were sites not using instruments, sites using instruments mainly for program placement (since the survey's research charter explicitly excluded diagnostic classification), and

sites using instruments duplicated elsewhere. Thus, the 105 identified sites are those we believed to be using unique classification instruments and related procedures.

National survey staff made considerable effort to ensure that the study systematically sampled different geographical regions and different levels of jurisdiction. However, the survey does not claim to be statistically representative of the overall population of classification programs in the U.S., nor even of the more restricted population of programs that use instruments. Although staff contacted a broad distribution of agencies using classification tools, limited resources made it impossible to reach all such programs. Moreover, since the total population of classification programs is at present unknown, standard research methods such as random or quota sampling were not used. Nevertheless, the purpose of the survey was to describe the current variety (some would say similarity) of approaches and techniques in the field of criminal justice classification, and this we believe has been achieved.

The national survey also selected agencies that represent different decision points in the criminal justice system. A "decision point" is defined for the purpose of this study as a juncture in the criminal justice system where decisions are made which affect the path of an individual through, or out of the system. These points include pretrial release and diversion, sentencing, institutional custody level, parole release, and parole/probation supervision level.

The results of our study have been organized with the practitioner specifically in mind. Accordingly, findings are categorized by decision point; material pertaining to each of four decision points has been grouped together in a separate volume or "Sourcebook." Each of these Sourcebooks addresses one of the following types of classification:

1. Pretrial Release
2. Sentencing and Parole Release
3. Institutional Custody
4. Probation/Parole Supervision

This approach should help practitioners to quickly and easily locate information pertinent to their field. A fifth volume is devoted to general information. It contains a review of the classification literature, a bibliography, discussion of research methods, and the data collection forms used in the study.

The state-of-the-art summaries, site visits, and telephone interview summaries have been written by different authors. Consequently, the individual components of the Sourcebooks may differ somewhat stylistically. We chose to emphasize accuracy of content, rather than consistency of style; the various research staff who collected the information and best understood the on-site operations were assigned the task of writing the summaries and reports.

The Sourcebooks are divided into three main sections: (1) State-of-the-Art Summary, (2) Site Reports, and (3) Telephone Interview Summaries. The last two sections include descriptions of instrument usage in specific agencies, and copies of the instrument(s) used by that agency. The State-of-the-Art Summary describes current classification instruments and practices that are employed at the decision point assessed by each Sourcebook. The Summary is essentially a synthesis and evaluation of the findings generated by the site visits, telephone interviews, and literature review. It also includes recommendations about development and implementation of classification instruments at the respective decision points.

Section II of the Sourcebook, the Site Visit Reports, provides the reader with an in-depth look at currently used instruments, and how they operate in specific agencies. On the basis of the 105 telephone interviews, survey staff selected 22 locations that employed 25 distinct instruments for more intensive study through on-site observations and interviews. National survey staff, usually working in pairs, spent from two to four days at each site. During these visits, an effort was made to observe the classification system in operation, to interview as many people as possible who use or who are affected by the process, and to collect research results and statistics on the use of the instrument. A detailed interview protocol developed by staff (see Research Volume) was used while on site in order to ensure complete and consistent data collection. The form was not always rigidly followed, however, in order to allow for spontaneous comments and other advantages gained by a flexible interview approach. Information was obtained under general headings as follows:

- Agency Characteristics
- Decision Points Involved
- System Flow
- Caseload Characteristics
- Research and Development of the Instrument
- Instrument Implementation

- Formal Instrument Characteristics
- Screening Process
- Decision Process
- Review Process
- Results and Impact
- Policy Issues

The third section of the Sourcebook, the Telephone Interview Summaries, contains succinct, one or two page descriptions of agencies and their use of classification tools. In contrast to the in-depth analysis of the site reports, the telephone summaries present brief overviews of classification techniques used by specific agencies. Agencies contacted were identified by staff through published reports discovered during the literature review, and through leads from consultants and practitioners. The agencies thus identified were contacted, interviewed when appropriate (i.e., if they were using operational instruments), and then used as a source of referrals to other jurisdictions. Our assumption was that a relatively inclusive sample of agencies had been obtained when leads uncovered in this manner referred us back to agencies previously contacted.

The agencies interviewed were sent a pre-interview notice describing the survey objective and the kinds of questions that would be asked. Telephone interviews were then held by appointment using the interview questionnaire given in the Research Volume. Each interview lasted from 30 to 90 minutes, depending upon the complexity of the classification system in question. Most interviews were with a single respondent although several calls involved two or more agency representatives. In each case, information was obtained under the following general headings:

- Identification of Respondents
- Use of Screening Instrument
- Automatic Selection Criteria
- Characteristics of Screening Instrument
- Administration of the Instruments
- Results and Effects of the Instrument
- Accessibility for Site Visit and Referrals

The Sourcebook materials were sent for verification to the agency staff who were originally contacted during site visits and telephone interviews. During this verification process we learned that 34 of the telephone interview sites are not using classification instruments according to our definition, so we dropped them from the study sample. Some of these excluded sites are using lists of criteria without any weights or total scores, and others are not using any formalized criteria at all. The agencies remaining in the sample after the verification process provided us with updated information and statistics, cleared up any apparent misunderstandings, or approved the initial drafts as written. We will now turn to the State-of-the-Art Summary describing current issues and practices specific to the use of instruments in pretrial decisions.

PRETRIAL RELEASE
STATE-OF-THE-ART

Introduction

The prototype for most classification instruments¹ currently used for pretrial screening is the Vera Point Scale, first introduced by the Manhattan Bail Project in 1961 under the auspices of the Vera Foundation (now Vera Institute of Justice). The original instrument, presented in Figure 1, places heavy emphasis on the strength of a defendant's ties to the community (local address, length of residence, family ties, and employment or school). Secondary emphasis is placed on aspects of the defendant's prior record. Positive points from the community-ties categories are combined with negative points from the prior-record category to generate an overall summary score.² Defendants with a local address and a total of five or more points are recommended for release on their own recognizance (ROR) pending trial, without having to post cash bond.

The Vera Point Scale and ROR program signalled the beginning of the "bail reform movement."³ The impetus for bail reform stemmed from the recognition that the surety bail bond system was both discriminatory and wasteful of criminal justice resources. As the American Bar Association concluded in a 1968 study:

The bail system as it now generally exists is unsatisfactory from either the public's or the defendant's point of view. Its very nature requires the practically impossible task of translating risk of flight into dollars and cents and even its basic premise--that risk of financial loss is necessary to prevent defendants from fleeing prosecution--is of doubtful validity. The requirement that virtually every defendant must post bail causes discrimination against defendants who are poor and imposes personal hardship

1. For purposes of this study, "instruments" are defined as: written forms containing a fixed set of weighted criteria that are combined to obtain an overall summary score to be used in offender classification. Such instruments are designed to permit greater objectivity and uniformity in case decisions.
2. A discretionary point, either positive or negative, can also be assigned by the pretrial interviewer.
3. For an account of this movement, see Wayne Thomas, Bail Reform in America (Berkeley: University of California Press, 1976).

on them, their families and on the public which must bear the cost of their⁴ detention and frequently support their dependents on welfare.

Despite widespread criticism of the bail system, early advocates of bail reform had to show that alternative forms of pretrial release could be effective in assuring that defendants appeared for trial. Preliminary research suggested that defendants with strong ties to the community were more likely to appear in court, prompting the Manhattan Bail Project to emphasize community-ties criteria in devising the original point scale. A controlled experiment undertaken by the Manhattan Project to evaluate the effectiveness of the Vera ROR program established that "good risk" defendants released on their own recognizance had a lower failure-to-appear (FTA) rate than that traditionally associated with cash bail. This finding led to increased confidence in the point scale and its more liberalized use. Although the Manhattan Project began by excluding several categories of offense from consideration for ROR, most of these exclusionary criteria eventually were removed. A 1964 report summarizes the experience of the first three years:

The results of the Vera Foundation's operation show that from October 16, 1961, through April 8, 1964, out of 13,000 total defendants, 3,000 fell into the excluded offense category, 10,000 were interviewed, 4,000 were recommended and 2,195 were paroled [released on ROR]. Only 15 of these failed to show up in court, a default rate of less than 7/10 of 1 percent. Over the years, Vera's recommendation policy has become increasingly liberal. In the beginning, it urged release for only 28 percent of defendants interviewed; that figure has gradually increased to 65 percent. At the same time, the rate of judicial acceptance of recommendations has risen from 55 to 70 percent. Significantly, the District Attorney's office, which originally concurred in only about half of Vera's recommendations, today agrees with almost 80 percent. Since October, 1963, an average of 65 defendants per week have been granted parole on Vera's recommendations.⁵

4. American Bar Association, Project on Standards for Criminal Justice, Standards Relating to Pretrial Release (New York: Office of the Criminal Justice Project, 1968).
5. Daniel Freed and Patricia Wald, "Bail in the United States: 1964," working paper for the National Conference on Bail and Criminal Justice (New York: Vera Institute of Justice and U.S. Dept. of Justice), pp.62-63.

Figure 1

Vera Point Scale

To be recommended, defendant needs:

1. A New York Area address where he can be reached, and
2. A total of five points from the following categories:

Interview Verified

		<u>Prior Record</u>
1	1	No convictions.
0	0	One misdemeanor conviction.
-1	-1	Two misdemeanor or one felony conviction.
-2	-2	Three or more misdemeanor or two or more felony convictions.
		<u>Family Ties (in New York area)</u>
3	3	Lives in established family home and visits other family members (immediate family only).
2	2	Lives in established family home (immediate family).
		<u>Employment or School</u>
3	3	Present job 1 year or more, steadily.
2	2	Present job 4 months or present and prior 6 months.
1	1	Has present job which is still available. OR unemployed 3 months or less and 9 months or more steady prior job. OR Unemployment Compensation. OR Welfare.
3	3	Presently in school, attending regularly.
2	2	Out of school less than 6 months but employed, or in training.
1	1	Out of school 3 months or less, unemployed and not in training.
		<u>Residence (In New York area steadily)</u>
3	3	1 year at present residence.
2	2	1 year at present or last prior residence or 6 months at present residence.
1	1	6 months at present and last prior residence or in New York City 5 years or more.
		<u>Discretion</u>
+1	+1	Positive, over 65, attending hospital, appeared on some previous case.
-1	-1	Negative - intoxicated - intention to leave jurisdiction.

Spurred by the success of the Manhattan Bail Project, many jurisdictions across the U.S. developed similar ROR programs. By 1972, about 100 such programs were in operation,⁶ most of which employed a Vera-type point scale. In addition, point scales were adapted for use at other decision points in the pretrial area, including citation release (see Cincinnati Institute of Justice) and diversion (see Golden, Colo. and Kalamazoo, Mich.). However, the rapid increase in the use of "point scales" (now a generic term denoting various adaptations of the Vera instrument) has not occurred without difficulty. Many jurisdictions adopted the Vera scale without conducting independent research on the relationship between FTA and characteristics of the local defendant population. This has raised questions about the applicability of the point scale in jurisdictions where the defendant population might be significantly different from that where the instrument was originally developed. Other jurisdictions have been forced to modify the original scale (usually without benefit of research) in order to gain acceptance from local authorities or to comply with case law and bail statutes. Also, because the original point scale was concerned primarily with FTA, ignoring other factors believed to be important such as recidivism or dangerousness, some jurisdictions have retreated to a more subjective approach or dropped the point scale entirely.

These and other problems encountered in transferring the point scale to other jurisdictions suggested a need to take a closer look at the state-of-the-art of pretrial classification. Sections III and IV of this Sourcebook (site reports and telephone interview summaries) describe the instruments, procedures, and classification systems in the agencies surveyed. The present section highlights the major problems associated with their application and the modifications, in both the instrument and its administration, that have been introduced to resolve these problems.

The Study Sample and Instruments Used

The survey sample upon which this report is based consisted of 27 pretrial classification programs in 24 different sites.⁷ The main criterion for inclusion

6. Office of Economic Opportunity, The OEO Pre-Trial Release Program (Washington, D.C., OEO, 1972).

7. In three jurisdictions, two programs were studied.

in the sample was the use of an "instrument" (as defined for purposes of the study) in classification decisions. This criterion led to the exclusion of several pretrial programs that used lists of criteria or a fixed set of variables in classification decisions but did not combine them to produce an overall score. (The list of survey sites appears in Table 1.) It is impossible to determine the degree to which the pretrial programs included in this survey are typical of all such programs in the United States.⁸ But the striking consistency of responses from one site to another does suggest that the problems these jurisdictions report and the instruments they use are fairly representative of pretrial agencies throughout the country.

The survey results suggest that classification instruments are used far more often for release on recognizance (ROR) decisions than for any other type of case decision in the pretrial area. There have been some efforts to extend the use of point scales to citation release and diversion decisions (four diversion programs and two citation release programs surveyed reported their use); but ROR remains the main pretrial decision point at which standardized classification instruments are employed. (21 ROR programs surveyed used such decision-making aids.)

Significantly, the instruments used by all 21 ROR programs appear to be based on the original Vera Point Scale. Although many programs had made modifications in the scale (such as changing the definitions or weightings of variables), all follow the original Vera formula to some extent: verified local residence plus positive points for community ties and negative points for prior record. The similarity of these instruments to the Vera scale is illustrated in Table 2, which shows the variables most frequently appearing in the survey's sample of 21 ROR point scales. The top five most commonly used variables are those included in the original Vera instrument.

Nevertheless, differences from the Vera Point Scale are also in evidence. In addition to changes in the definition or weighting of variables, some ROR programs (e.g., Ann Arbor) have developed a more extensive list of defendant characteristics or behaviors within the community-ties and prior-record categories. Other programs have added special categories, such as those dealing with health (e.g., Cincinnati).

8. The National Association of Pretrial Service Agencies (NAPSA) is planning to compile a comprehensive national inventory of pretrial programs in 1979.

Table 1
SITES INCLUDED IN SURVEY

Sites Visited by Survey Team	ROR	Type of Program	
		Diversion	Citation Release
1. California, Santa Clara	X		
2. Colorado, Boulder (2 programs)	X	X	
3. Louisiana, New Orleans (2 programs)	X	X	
4. New York, New York City	X		
<u>Sites Surveyed by Telephone</u>			
5. California, San Francisco	X		
6. California, San Mateo	X		
7. Colorado, Arapahoe	X		
8. Colorado, Denver	X		
9. Colorado, Golden		X	
10. D.C., Washington (2 programs)	X		X
11. Hawaii, Honolulu	X		
12. Indiana, Indianapolis	X		
13. Iowa, Cedar Rapids	X		
14. Iowa, Des Moines	X		
15. Kentucky, Frankfort	X		
16. Michigan, Ann Arbor	X		
17. Michigan, Kalamazoo		X	
18. Minnesota, Minneapolis	X		
19. Missouri, St. Louis County	X		
20. New York, Rochester	X		
21. North Carolina, Charlotte	X		
22. Ohio, Cincinnati (Bail Bond Project)	X		
23. Ohio, Cincinnati (Police Division)			X
24. Washington, Seattle	X		
TOTAL	21	4	2

Table 2
VARIABLES USED IN 21 SAMPLE
ROR POINT SCALES

<u>Variable</u>	<u>Number of Instruments Using Variable</u>
Prior record	21
Family ties/social factors	21
Employment (or substitute)	21
Length of residence in area	19
Possesses local address	18
Length of residence at present address	17
Physical health	9
Drug/alcohol involvement	8
On ROR or bond/pending charges	7
Discretionary category	6
Owens or is buying home	5
Nature of current charges	3
Possesses telephone	3
On probation or parole	2

drug or alcohol history (Ann Arbor), prostitution (Seattle), or "character" (Indianapolis). In general, however, the similarities to the Vera scale are more striking than the differences. Indeed, several programs (e.g., Hawaii) use instruments that are virtually identical to the original Vera scale. (Interestingly, in New York City, where the scale originated, quite a few changes have been made.)

The reasons for adopting point scales have also changed somewhat over the years. In the early days of bail reform, reducing the injustice and discrimination of the bail system was a principal theme. In contrast, today some very practical concerns--alleviation of jail overcrowding and more efficient use of criminal justice resources--have been added to the legal and moral rationales that accompanied the original movement. Of the 21 ROR programs surveyed, 18 (86%) emphasized the reduction of jail populations as an expected or actual benefit of the use of point scales, while only three (14%) stressed legal or moral concerns.

Common Problems in Adopting Point Scales

The survey revealed a variety of problems typically encountered by pretrial release agencies in the course of adopting (and adapting) point scales. One of the most prominent concerns the lack of research. Other problems had to do with organizational resistance to the use of point scales, legal and statutory constraints on their use, data availability and the logistics and timing of case screening, and perceived tensions between the goals of increasing the number of persons released before trial and minimizing rates of failure to appear. The unidimensional character of the point scale (i.e., the overriding emphasis on likelihood of court appearance) also has presented problems in many jurisdictions.

Lack of Research

Some pretrial agencies have adopted the original Vera scale virtually intact, with little apparent thought given to how their defendant population might differ from that of the Manhattan Project. Even in jurisdictions where modifications have been made, political and managerial considerations, rather than research

findings, have guided the introduction of most changes in the point scale or its application. Of the 21 ROR programs surveyed, only three (14%) had conducted independent research on local defendant populations.

Curiously, most program administrators seemed unconcerned about the lack of local research on ROR point scales. Of the administrators contacted, 86% expressed "much" or "very much" confidence in the accuracy and reliability of their point scales in predicting failure to appear. Such confidence, in the absence of data to support the validity of their instruments, may stem in part from the politics of bail reform. The "scientific" nature of the Vera scale and its reputation for objectivity have tended to increase judicial acceptance of ROR recommendations. Program administrators thus may discourage questioning of the research base or the transferability of the point scale because they perceive it as a potential threat to the existence or success of their programs.

Another important reason for both program administrators' confidence in the point scale and their failure to undertake research is a general misunderstanding about the nature of prediction research and what it can accomplish. Many administrators point to low FTA rates as proof that their point scale is a good "predictor" of appearance in court. In fact, however, the vast majority of pretrial releasees are likely to appear for trial even if the point scale is not used. The Pretrial Resource Center, in Washington, D.C., reports that from 80 to 98% of all persons released will show up for trial regardless of what the program does to ensure that they do. Any point scale, therefore, has to be highly discriminating to improve on such a low FTA rate.⁹ Since available research suggests at most only a .20 correlation both between individual point-scale items and FTA rates, and between total point scores and FTA rates, point scales actually "explain" or "predict" less than 5% of the variance in FTA rates.¹⁰

While perhaps disappointing, such findings should not be taken to imply that prediction research is not worth undertaking. Some recent studies have suggested that the community-ties criteria employed in the Vera scale may not be as effective as other criteria (particularly prior-record data) in predicting violation rates.¹¹

9. Michael Kirby, "The Effectiveness of the Point Scale" (monograph), Pretrial Resource Center, Washington, D.C., September, 1977. p. 14.

10. *Ibid.*, pp. 16-17.

11. *Ibid.*, p. 17 and Appendix. "Violation" rates refer to both FTA and new convictions while on release.

Pretrial release programs thus may be able to further reduce FTA rates by describing more accurately the characteristics of the "poor-risk" defendant in their jurisdictions.

The most significant potential benefits of research, however, involve improvements in release rates rather than FTA rates. Here the concern is not so much with improving the efficiency of the point scale in predicting FTA's, as with improving the effectiveness of the ROR program in releasing as many defendants as possible without increasing the FTA rate. Several studies have shown that increasing the release rate, even dramatically, has little appreciable effect on FTA rates.¹² Such findings, if replicated by local programs, could provide potent ammunition in the effort to win acceptance for more liberalized use of ROR.

In view of the potential benefits of research, it is strongly recommended that pretrial agencies develop a local research capability. One model is provided in the site visit report of the New York program (see Section III), which describes the most extensive pretrial research operation in the United States. Based on computer tracking of all defendants who enter the system, this operation permits continuous monitoring of the point scale in order to assess its effectiveness and point up areas in which modifications may be needed. The high costs of such a program are more than compensated for by reductions in jail populations and related expenditures. However, the New York model may not be appropriate for some jurisdictions. An excellent source of information on developing a research capability tailored to local needs and resources is the previously cited monograph prepared by the Pretrial Services Resource Center,¹³ an agency that also provides technical assistance to local agencies in undertaking point-scale development and research.

Organizational Resistance

A second problem commonly encountered by agencies in adopting point scales is resistance from local criminal justice authorities, particularly prosecutors and judges. Resistance may take a variety of forms. Local authorities may require

12. *Ibid.*, p. 3.

13. *Ibid.*, supra note 9.

the imposition of a large number of exclusionary criteria that severely restrict the number and types of defendants who may qualify for pretrial release. They may insist on modifications of point-scale variables, weights, and eligibility scores--changes that also result in more conservative release policies and practices. Or, if they do not succeed in limiting releases by these means, judges may simply reject the program's ROR recommendations on a regular basis.

Exclusionary criteria refer to automatic decision rules that preclude a defendant from being considered for ROR eligibility or, if interviewed, from being recommended for release. Such criteria operate to prevent release even when the defendant is otherwise qualified on the point scale. One of the most common types of exclusionary criteria eliminates from consideration any offender charged with a serious offense, such as murder, aggravated assault, or rape.

All 21 ROR agencies surveyed employ exclusionary rules, but there are large variations among jurisdictions in the number and type of such rules. At one extreme is Washington, D.C., which is "charge blind" except when the charge involves offenses (such as prior FTA) directly related to the likelihood of appearing for trial. Washington, D.C. and New York City are among the most "liberal" (i.e., non-exclusionary) programs, interviewing almost all defendants and recommending release even for many persons charged with serious crimes (although these recommendations are often overruled). At the other extreme are jurisdictions such as New Orleans, the most "conservative" (i.e., exclusionary) agency surveyed and one of few ROR programs in the nation run out of the district attorney's office. New Orleans employs an extensive set of rules that exclude from consideration for ROR all defendants who:

- are under 17 years of age;
- have an open charge pending;
- are on probation or parole;
- have a previous felony conviction;
- have ever escaped from jail or a mental institution;
- exhibit an established pattern of deviant or non-social behavior;
- are charged with:
 - a violent offense, or any crime involving direct victim contact or aggravating circumstances;

- burglary of a home or occupied building;
- prostitution, procurement, or pandering;
- carrying a concealed weapon;
- purse snatching;
- possession of large quantities of drugs, and sale of drugs.
- are under the influence of alcohol.

These criteria exclude an average of about 50% of all defendants. An additional 25% who could qualify for ROR recommendation instead post bond prior to interview. The New Orleans ROR program thus interviews and assesses only about 25% of the defendant population. Since less than half of those interviewed are recommended for release, only about 11% of the defendant population ultimately qualify for ROR. The program does have a very high rate of judicial acceptance of ROR recommendations and a low FTA rate, but this appears to have been achieved at the expense of any significant impact on the size of the pretrial jail population.

Modification of point scales is another response often encountered in jurisdictions where the Vera scale is perceived as too liberal. Modifications may take the form of lengthening the residence requirement (e.g., Denver), increasing the number of negative points that can be assigned for prior record (e.g., Indianapolis), or changing the numerical rating of any category. Rarely are such changes based on research findings, however. Decisions to modify point scale items or ratings generally reflect the program administrator's judgment of their acceptability to local criminal justice authorities.

There do appear to be differences among agencies in the tendency to alter eligibility criteria in the direction of greater conservatism. Some differences seem to be related to the organizational location and structure of the release agency (that is, whether it is run by the probation department, the district attorney's office, or an independent board; and whether it is federally or locally funded). It is known, for example, that programs run by probation departments tend to be more conservative in their recommendations than are programs run by independent agencies.¹⁴

14. Ibid.

It should be noted that point-scale modifications do not necessarily signal a more conservative release policy. Once an agency establishes itself, liberalization is possible. A case in point is the Santa Clara (California) ROR program. As this program gained credibility with judges and prosecutors, it was able to introduce several changes in the point scale that expanded the range of defendants eligible for ROR. Employment status was broadened to include welfare status, student status, and (in the case of unemployed housewives) husband's employment status. The residential eligibility criterion also was expanded from the Bay Area only, to a 300-mile radius around Santa Clara.

Judicial rejection of ROR recommendations is another manifestation of organizational resistance to the use of point scales in pretrial decision-making. There was considerable variation among the jurisdictions surveyed, but in many cases rates of judicial rejection were quite high. San Francisco, Rochester (New York), and certain boroughs of New York City reported rejection rates of over 40%. Des Moines and Cincinnati reported rates of less than 1%, but of the 21 ROR programs surveyed, 11 (52%) reported rejection rates of at least 20%. One of the most frequently cited reasons for rejection of ROR recommendations was the judges' belief that the point scale was "insensitive to important factors," especially severity of offense charged. No precise data were available in most jurisdictions, but it appears that overruling usually takes the form of rejecting a positive recommendation rather than reversing a negative one.

Evidence from the pretrial agencies surveyed suggests that overcoming resistance from local authorities is no easy task. If the agency attempts to accommodate the demands of local criminal justice authorities, it is likely to find itself saddled with numerous exclusionary criteria and point-scale modifications that limit its impact on the size of the pretrial jail population. On the other hand, if the agency resists these demands, its effectiveness may be restricted by frequent rejection of its recommendations. Some of the larger and better financed programs, such as New York, have managed to escape this dilemma; but many find it problematic, especially if they lack an independent organizational base or funding source. Santa Clara is one example of an agency that has overcome this problem through the judicious leadership of its ROR program administrator. By co-opting key local interest groups, choosing program staff carefully, and avoiding either conservative or liberal labels, this program was able to not only establish itself but substantially expand its impact upon the pretrial jail.

Legal and Statutory Constraints

When adopting point scales, ROR agencies also must take into account developments in statutes and case law relating to pretrial classification. Since the Vera scale was introduced, the most significant legal development has been passage of the 1966 federal Bail Reform Act. This Act states:

Any person charged with an offense, other than an offense punishable by death, shall, at his appearance before judicial officers, be ordered released pending trial on his personal recognizance . . . unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required.¹⁵

Two substantive features of the Bail Reform Act are especially noteworthy. First, the statutory language appears to create a presumption in favor of ROR. This interpretation was sustained in a 1969 case, United States v. Leathers,¹⁶ in which the U.S. Court of Appeals ruled that the Act did create such a presumption and that only if ROR did not reasonably assure appearance in court could other conditions of release be imposed. The second important feature of the Act is its exclusion of factors other than the probability of court appearance from consideration in release hearings. By explicitly emphasizing appearance in court, the Act implicitly excludes offense seriousness or a defendant's potential "dangerousness," factors traditionally considered in release decisions.

Although the Bail Reform Act is potentially of far reaching significance for release practices in the U.S., its impact has been quite limited. This is due largely to a 1975 Federal Circuit case, Kelley v. Springett,¹⁷ in which the court stated that the right to release under the Bail Reform Act applied only to federal prisoners. As a result of this decision, the field of pretrial release seems to have split into two legal camps. One group, composed primarily of federal jurisdictions, but including some states (e.g., California and Vermont)¹⁸ and pre-

15. 18 U.S.C., 3145 (2).

16. 412 F. 2d 169 (1969).

17. 527 F. 2d 1090 (9th Cir. 1975).

18. The Supreme Court of California (In re Underwood, 9 Cal. 3d 345, 1973) ruled that "dangerousness" is not a proper consideration in arriving at a bail-release decision, even though the defendant in the case in question was charged with attempted murder. The Supreme Court of Vermont (State v. Pray, 346A. 2d 227, 1975) also found the denial of bail based upon "dangerousness" to be unconstitutional. Both of these rulings follow the lead of the Bail Reform Act in emphasizing likelihood of appearance in court as the controlling principle in pretrial release decisions.

trial professional associations, supports and follows the provisions of the Bail Reform Act. The other group, which includes most states, continues to follow a more conservative pretrial release policy that sometimes departs drastically from the philosophy of the federal Act. Court decisions in such states have upheld the consideration of factors other than likelihood of court appearance,¹⁹ demonstrating the wide latitude allowed some state courts in denying ROR.

Another area that has sparked some litigation concerns the "community-ties" criteria used in point scales. In general, the courts have sustained their use as legitimate. Indeed, many courts have supported the emphasis on residence as an indication of a defendant's likelihood of appearance for trial.²⁰ Employment status, however, has been somewhat more problematic. Many courts have found this to be an appropriate release criterion,²¹ but the emphasis on employment has raised questions about the disadvantage this imposes on the poor. Since the bail reform movement sought to overcome such inequalities in release procedures, these and other challenges²² to the use of employment criteria have suggested that employment status should be considered only as one among many indicators of stable community ties.

The only kinds of criteria that are strictly forbidden are those considered "suspect" classifications. The Supreme Court has stated:

19. For example, in a Texas case (Ex parte Toppings, 422 S.W. 2d 459, 1968) the defendant challenged the denial of ROR based on the sole criterion that a felony had been charged. The court ruled that this factor alone was sufficient to deny release and that the trial court had properly exercised its discretion.
20. As illustrated in White v. United States, 412 F.2d. (D.C. Cir. 1968): Here the defendant (charged with first degree murder and assault with intent to kill) had been denied bail on the grounds that the potential punishment upon conviction might cause him to flee. On appeal, the court agreed with the defendant that not enough weight had been given to his stable community ties (ten years in the community) and overturned the trial court's ruling.
21. In Missouri (State v. Thomkins, 515 S.W. 2d 808, 1974), the court ruled that an unemployed defendant charged with a serious crime could be detained pending trial. Similarly, in United States v. Figueroa (347 F. Supp. 112, 1972), stable employment was found to be a positive factor in granting ROR.
22. It has been claimed (e.g., U.S. ex rel. Tyrrel v. Speaker, 347 F. Supp. 112, 1972) that court appearance is the only legitimate state interest that can be taken into account when the defendant cannot afford bail.

We, the Justices of the Supreme Court, feel that some rights are so fundamental, and some classifications so suspect, that any legislation which uses a suspect category or which operates to deny a fundamental right to some and not others will be nullified unless the government sustains the burden of showing a compelling state interest in the classification imposed.²³

The primary "suspect" classification, of course, is race; but race, apparently has never been used as a selection criterion in pretrial classification instruments. Classification based on sex, which is attaining the status of a suspect or quasi-suspect classification,²⁴ is more difficult to detect. "Male" and "female" categories do not appear in point scales, but some items clearly place women at a disadvantage, particularly employment and occupational status. Accordingly, employment and occupational categories are now being modified to allow points for housewives, children in the home, husband's employment status, aid to families with dependent children or alimony, and other factors.²⁵

Problems with Data and Logistics

Difficulties often arise in the administration of the point scale by ROR interviewers. Two key problem areas are data availability and the logistics and timing of case screening. Of the 22 ROR programs surveyed, nine (41%) reported the accuracy and/or availability of data on defendants as an important problem. Retrieval of prior-record data is often difficult, either because such data are incomplete or unavailable, or because obtaining this information takes so long that significant delays in case processing result. Programs with hook-ups to state and federal computerized data banks appear to have less difficulty obtaining the necessary information, but even here staff report problems with the accuracy and completeness of information received.

23. Robert Dixon, Jr., "The Supreme Court and equality: legislative classifications, desegregation, and reverse discrimination," Cornell Law Review 82: 494 (1977). This doctrine also applies to administrative classifications. See French v. Heyne, 547 F. 2d 994 (7th Cir. 1976).
24. Stanton v. Stanton, 421 U.S. 7 (1975).
25. For illustrations, see the point scales used in Arapahoe County (Colorado), Denver, Ann Arbor, and Washington, D.C., which are presented with the respective telephone interview summaries later in this volume.

Logistical problems in ROR screening were reported by 11 (50%) of the programs surveyed. Frequently mentioned were excessive caseload volume, personnel shortages, and problems with delays and timing. One program (Ann Arbor) reported that because the court held arraignment hearings only once a day at 9:00 A.M., ROR staff were often unable to complete the interview and verification process for defendants arrested the previous night. As a result, these cases had to be held over until the following day. Santa Clara has dealt with this problem by increasing the number of times interview data are brought to judges (to three times a day), providing for data to be telephoned in to judges on rotating duty, and authorizing ROR interviewers to grant release independently in the case of misdemeanor defendants who qualify on the point scale. (The provision for misdemeanants has reduced average time in jail from booking to release for such defendants from three days to less than three hours.) Santa Clara also has speeded up release screening in felony cases by introducing a new bail-affidavit form completed by the arresting officer at time of booking.

Optimizing Release and FTA Rates

A persistent dilemma for many ROR agencies is the perceived tension between the goals of increasing the volume of releasees and lowering FTA rates. The problem arises when these goals are perceived as mutually competing; that is, when liberalized release rates are believed to cause higher FTA rates, while lowering FTA rates is thought to require more restrictive release policies. This dilemma may be more imagined than real, however, since there is research to suggest that many programs could increase their release rates substantially without any appreciable increase in the FTA rate. Nevertheless, since local authorities who work with the pretrial agency believe the problem to exist, program options may be genuinely limited by political realities.

When faced with such constraints, there are alternatives to changing the point scale. Two options--notification and conditional (or supervised) release--can help the pretrial agency to improve its performance without introducing modifications that make the point scale more restrictive. Notification involves reminding the pretrial releasee, either by telephone or by mail, of the date of his or her court appearance. In New York City, for example, where the notification process has been computerized so that defendants are automatically informed of their court date, FTA

rates have been lowered without restricting either release rates or the use of the point scale.

Conditional or supervised release involves the creation of new kinds of release categories in addition to straight ROR. Defendants who cannot qualify on the point scale for regular ROR, such as those without local residence or those with "minus areas" such as narcotics use, qualify for alternative release categories if they meet certain conditions. These conditions may require that the defendant live in an approved third-party custody organization or report periodically for drug testing. The idea is that release conditions can be used to overcome certain kinds of "weaknesses" in the defendant's community-ties or prior record. (Examples of agencies that make extensive use of conditional and supervised release include Boulder, Colorado, and San Mateo, California.) Such alternative release procedures generally do not increase violation rates, again illustrating how performance can be maintained or improved without modifying the point scale.

Conditional or supervised release may be especially attractive in jurisdictions where the courts are resistant to straight ROR. However, the National Association of Pretrial Service Agencies warns that release conditions may be overused.²⁶ Some questions have been raised, for example, about the use of conditional release in Boulder, Colorado. Faced with very high rates of arrest for alcohol-related offenses, this program often recommends antabuse treatment as a condition for pretrial release. This has been justified on the grounds that it improves the chances that the defendant will appear in court, but the imposition of antabuse as a release condition has been challenged on legal grounds. "Treatment" or "rehabilitation," it is argued, are legitimate concerns only after an adjudication of guilt. NAPSA advocates a clear presumption in favor of release without conditions on the principle that arrestees should be released under the least restrictive alternative necessary to ensure appearance in court.²⁷

26. National Association of Pretrial Service Agencies, Performance Standards and Goals for Pretrial Release and Diversion (Washington, D.C., Pretrial Services Resource Center, 1979).

27. Ibid.

Overcoming Unidimensionality

A major problem faced by agencies that use the point scale in pretrial release recommendations has been the heavy emphasis placed by such scales on a single outcome factor--the likelihood of a defendant to appear for trial. Judges and prosecutors (as well as the general public) tend to believe that other factors--especially the severity of the offense charged and the probability of further criminality while free in the community--also should be considered in deciding whether or not to release a defendant before trial. Concern that point scales do not take sufficient account of such factors has led to the imposition of a variety of constraints on their use: exclusionary rules, "subjective overrides" (to exclude "dangerous" defendants), and judicial rejection of ROR recommendations. Regardless of the validity of such responses, the effect has been to diminish the impact of the point scale upon release rates.

An instructive parallel is found in the early use of "experience tables" in parole decision-making. Similar in form to ROR point scales, these tables were first introduced in the 1920's as a means of screening prospective parolees for potential recidivism. The tables were based on actuarial research to identify parolee characteristics most closely associated with recidivism. Variables shown to have predictive power, such as current offense and prior record, were included in the tables. By summing the prospective parolee's rating on each variable into an overall score, the parole board could use the table to assess the individual's chances of success on parole. The original experience tables were rather crude by current standards, but later research added much refinement and sophistication.²⁸

Researchers worked for years to improve these classification instruments. However, by the 1960's a glaring problem had become evident: most parole boards found experience tables unworkable and refused to use them. Research on parole decision-making revealed the reason for parole board resistance.²⁹ Risk of recidivism is only one

28. The level of predictive accuracy, however, remains disappointingly low. See: Marvin Bohnstedt and Saul Geiser, Classification in Criminal Justice: A National Survey of Screening Instruments (Sacramento, Calif.: American Justice Institute and National Council on Crime and Delinquency, 1979).

29. For a more extended discussion of the problems with experience tables, see Bohnstedt and Geiser, ibid.

consideration (and not necessarily the most important) in the parole decision-making process. Severity of offense and institutional behavior, among other factors, are often given equal weight by parole decision-makers. Significantly, some of these factors stand in an inverse or competing relationship to risk of recidivism: offenders convicted of petty theft, for example, have a consistently higher rate of recidivism than those convicted of more serious offenses such as homicide.

Since experience tables ignored the multidimensional character of parole decision-making, it is not surprising that parole boards refused to use them. Had they based their decisions on such tables alone, they would have been forced to grant many of the most "serious" offenders the earliest possible release date--a policy that would be very difficult to justify. To overcome such limitations in parole prediction instruments, the field of parole classification has developed a decision "matrix" (see Figure 2) that takes into account both offense severity and risk of recidivism. The matrix is comprised of two axes. The horizontal axis, called a "salient factor score," is graduated according to the number of negative items in the offender's criminal history, that is, items shown by research to be predictive of parolee recidivism. The vertical axis, or offense-severity scale, is graduated according to the gravity of the offender's current crime. Within each cell of the matrix is the expected range of time-to-be-served before parole. These ranges were derived by monitoring past board decisions to find the time normally served by inmates with each combination of offense severity and parole violation risk. It should be emphasized that these ranges are presumptive and not binding; the board may go outside the ranges if mitigating or aggravating circumstances exist (the board must provide written reasons for such departures).

A similar decision matrix could be developed for use in pretrial release decision-making, retaining the offense-severity scale and replacing the salient factor score with a Vera type point scale.³⁰ At the intersection of the two scales, the parole instrument's time-to-be-served ranges would be replaced by release recommendations: grant ROR, deny ROR, and possibly also conditional release options. This would create a kind of sliding point scale, whereby the number of points

30. For a more extended treatment of the development and use of "matrix" instruments, see Don Gottfredson, Leslie Wilkins, and Peter Hoffman, Guidelines for Parole and Sentencing (Lexington, Mass.: D.C. Heath, 1978).

Figure 2

U.S. Parole Commission
 Guidelines for Decision-Making:
 Months to be Served before Release

Severity of Offense Behavior	Parole Prognosis Salient Factor Score			
	Very Good	Good	Fair	Poor
Low	6 - 10	8 - 12	10 - 14	12 - 18
Low Moderate	8 - 12	12 - 16	16 - 20	20 - 28
Moderate	12 - 16	16 - 20	20 - 24	24 - 32
High	16 - 20	20 - 26	26 - 34	34 - 44
Very High	26 - 36	36 - 48	48 - 60	60 - 72
Greatest I	40 - 55	55 - 70	70 - 85	85 - 110
Greatest II	Greater than above (specific ranges are not given due to the limited number of cases and the extreme variation possible within the category.)			

required for pretrial release would vary with the severity of the offense charged. The parole decision matrix, also called "parole guidelines," has proven quite successful in the parole field and has been adopted by the federal parole system in a growing number of states. In the pretrial field, this type of classification system would be less acceptable in jurisdictions that follow the Bail Reform Act, since such jurisdictions attempt to be "charge blind" as much as possible. In most states, however, severity of offense and the dangerousness of the defendant are considered in recommending and granting ROR anyway. In these jurisdictions the matrix format could provide for considerably greater uniformity and explicitness in pretrial release policy.

Summary

Although the point scale developed for use in the Manhattan Bail Project has served as a model for most pretrial classification instruments, problems encountered in transferring the instrument have necessitated a number of modifications. Little research has been undertaken to support such changes in the original instrument; but survey data on 21 ROR programs found numerous modifications in point-scale items and an array of exclusionary rules and practices restricting their application. The result generally has been to limit the proportion of defendants released on ROR before trial, and thus also to limit the impact of ROR programs on the size of the pretrial jail population.

Rates of pretrial release can be increased, and reductions in jail populations and related expenditures thereby achieved, without increasing rates of failure to appear in court or danger to the community. Several studies have shown that increasing the release rate has little effect on rate of failure to appear. If local jurisdictions conduct research on the characteristics of their defendant population, and if they institute notification procedures and provisions for conditional release, they may be able to further expand their rates of pretrial release without negatively affecting court appearance or community safety. In addition, where offense severity and offender dangerousness are considered in pretrial release decision-making, the development and use of a decision matrix may encourage both greater use of ROR and greater uniformity in release policy.

SITE VISIT REPORT

DECISION POINT: PRETRIAL RELEASE

PRETRIAL RELEASE PROGRAM

SANTA CLARA COUNTY, CALIFORNIA

SITE VISIT: March 29 and 30, 1978

INTERVIEWERS: Peggy Smith, Ph.D.
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Overview

The Santa Clara County Pretrial Release Program (PTRP) was implemented in the fall of 1971 at the request of judges who were seeking additional information on which to base pretrial release decisions. At that time, judges were often forced to make decisions about bail and eligibility for pretrial release with little or no verified information regarding the defendant's character and background. Expanding jail populations and overcrowded jail conditions were also creating pressure for the early release of defendants. The PTRP was therefore funded through an LEAA grant to (1) provide judges with needed information at arraignment, and (2) provide for pre-arraignment release on own recognizance in those cases in which danger to the community and/or failure to appear in court is low. Project staff screen defendants at jail booking areas primarily for risk of failure to appear at court hearings. Qualified misdemeanants who pass the screening interview are released on their own recognizance (OR) by the sheriff. Felony cases are also screened; relevant information is presented to the on-duty judge who decides whether to detain felons pending court appearance, or to release them on own recognizance.

The PTRP is an independent agency within the county, but is responsible to an Advisory Board of judges. The Advisory Board and the Project Director together decide policy on eligibility criteria and other issues. Under the Director is a supervisor who oversees the screening staff, which consists of three full-time screeners, and 15 to 20 part-time temporary screeners. A senior pretrial screening specialist coordinates daily functions and is the primary liaison with the court, reviewing felony cases with the on-duty judge twice daily. The principal requirements for employment of full-time personnel include training and background in corrections. Part-time temporary help are primarily university students in criminal justice or law. The permanent screening staff began as student interns and were later promoted to full-time positions.

Legal authority for the PTRP is based on Section 1318 of the State Penal Code, which gives the court discretionary authority to release defendants without bail (under the pretrial release program, judges make the final disposition decision for felons). In addition, Section 853.6 authorizes officers of detention facilities to release defendants on their promise to appear in court.

This same section also authorizes any other person designated by a city or county for this purpose to release defendants.

The PTRP serves the geographic area of Santa Clara County, which covers 1,312 square miles and has a population of 1,500,000. The county includes 15 municipalities (primarily suburban) and some rural areas. The population is primarily middle-class white, although 28% are Mexican-American. The crime rate is low for a community this size.

Bookings entering the three pretrial jails in the county act as the source of referrals. All bookings are eligible for release except the following:

- Drunk in public cases (processed by drunk court every morning on a group basis);
- Individuals who reside more than 300 miles from the county;
- Cases in which there is a hold from another jurisdiction, a bench warrant, or the defendant is already out on bail or on own recognizance.

The director estimates that 9,000 to 10,000 cases are released on own recognizance each year. Approximately 22% of all felons and about 85% of all misdemeanants screened are released. Characteristics of those released are as follows:

- Sex: 95% male, 5% female.
- Ethnicity: 62% Caucasian, 28% Mexican-American, 10% Black.
- Median age: 30.
- Household: 44% living with spouse, 26% living with parents, 11% living with friends, 14% living alone, 6% other.
- Employment: 79% employed. Of those unemployed, 25% are on welfare, and 28% are supported by parents.
- Prior record: 57% had no prior record. Of the remaining 43%

who have a prior record, the largest percentage have one prior for the same offense, drunk driving. By comparison, those not released were more likely to have lengthy priors, a hold from another jurisdiction, and one or more serious instant offenses (although no breakdowns were available).

The Instrument and Its Development

The screening instrument was designed after Vera-type instruments utilized elsewhere (see Appendix A). Since predicting failure to appear in court was the primary goal of the risk screening process, the instrument variables were selected to focus on community stability. Hence, the variables of family ties, employment, length of residence, and prior record are all included. Variable selection was made according to the subjective judgment of the Project Director and Advisory Board. The variables have not been evaluated statistically in terms of their predictive validity.

Since the agency first introduced risk assessment in 1971, several changes have been made in the variables used. A discretionary health category has been added. Employment status has been expanded to include welfare status, student status, and in the case of unemployed housewives, husbands' employment status. The residential eligibility criteria have expanded from initially including only the Bay Area, to now including a 300 mile radius of San Jose.

Implementation

As suggested earlier, several pressures in the criminal justice system led to the implementation of the PTRP in 1971. First, over-crowded jails created pressures to reduce jail populations. Second, judges desired more information on which to base pretrial release decisions. Screening for risk assessment met both needs by releasing 85% of misdemeanants on OR, and providing valuable screening information to judges on all arraigned cases. The project director indicates that an additional goal of the program was to produce equity in decision making and reduce variability among judges. By providing objective, verified data to judges, the project strives toward achieving this goal.

The implementation phase was funded in 1971 by an LEAA grant. The county provided \$20,000 cash and in-kind support of \$32,338, for a total of \$130,845.

Since the initial phase, the project has been funded by county support with a current operating budget of \$175,000 per year. Also, judges have been highly supportive and their power has been influential in gaining community support. Two factors have been instrumental in winning the acceptance of the courts: first, the Advisory Board is comprised of judges; second, final decision authority over felons remains with the judiciary.

Initial resistance was encountered from law enforcement agencies, but the Project Director appeared at officer staff meetings and was in some measure able to alleviate their fears regarding a "revolving door" at the jail. In addition, screening staff were carefully selected to "fit in" with law enforcement personnel. At this time, the program is supported by all law enforcement agencies operating in the county and by the local District Attorney's office. Probation officers were also initially skeptical that risk screening would release too many offenders. However, the program gained credibility as discrimination in release recommendations was demonstrated. In addition, there are close links with the probation department because both the Project Director and supervisor have corrections backgrounds, and staff requirements are similar to those in probation. Presently, the only source of opposition are bail bondsmen, who object to the program because it affects their business.

Another problem in implementation was the unavailability of police reports which are necessary for the prompt screening of felony cases. This problem was resolved by introducing a new bail affidavit form completed by the arresting officer at the time of booking. This affidavit provides circumstances of the arrest, and since it is immediately available, release screening is not delayed. Introduction of the bail affidavit was undoubtedly a crucial factor. If arresting officers had been asked to complete a new form specifically for the pretrial release program, their resistance to the new program would undoubtedly have been increased.

Screening and Decision Processes

Most screening (80%) takes place at the main jail immediately after booking. At auxiliary jails which process fewer cases, screening takes place through telephone contacts with workers in the main jail when on-site personnel

are not available. Improved service at auxiliary facilities was instituted recently due largely to pressure exerted by local women's groups and the bar association, both of which complained that women were not receiving equal treatment with men.

Screening staff determine eligibility scores for pretrial release by the following procedures. First, a computerized criminal offense record is obtained. Second, the defendant is personally screened in an interview lasting five to ten minutes. The defendant supplies information for scoring variables and the name of a personal reference who can verify interview data. Third, the screening specialist verifies interview data by telephoning the personal reference named by the defendant. In addition to the three data sources listed above, the screening specialist has available a pre-booking information sheet, and in felony cases, the arresting officer's bail affidavit describing circumstances of the offense.

If eligibility points and telephone verification indicate low risk (score of five or more), the screening specialist authorizes immediate release for misdemeanants and informs them of a court appearance date (usually in two weeks). For felons, release must be authorized by a judge. After the above screening data have been compiled, the information is presented to an on-duty judge who either authorizes immediate release or detention pending court hearing. Screening data are presented to the on-duty judge three times daily. At 9 a.m. and 1 p.m., screening documents are taken to the judge's chambers. In addition, at 10 p.m. each evening screening data are telephoned to a rotating duty judge who authorizes release or detention.

In the case of felons, the screening score is only one of several factors considered by the judge. Staff report that criminal records, including type of offense and prior convictions, are the factors which most influence a judge's decisions. Type of offense is not included in the risk score, and lack of prior convictions adds only two points. However, the computerized criminal record check is presented to the judge along with the screening score. Regardless of whether release is authorized or denied, all of the screening information and supporting documents, as well as an arraignment report (Appendix B), become a part of the defendant's file when he appears before the judge for the initial court appearance. Hence, the judge has information at his disposal that would not otherwise be available.

Depending on volume of arrests, there may be considerable time pressures

to expedite screening. If there are no delays (due to workload volume or inaccessible references), the booking/pretrial release process can be completed within a minimum of 30 minutes for misdemeanants, and is followed by immediate OR release. The site visit team observed processing of nine cases which indicated the following time factors: the computerized record checks of prior criminal record averaged three minutes, and interviews averaged eight minutes. Telephone verification was not observed but was estimated by staff to take five to fifteen minutes. Completion of paper forms averaged five to six minutes. The entire process was estimated as taking one to three hours to complete. However, on the site visit date there was a 12 hour backlog due to caseload volume.

For felons, the same screening process is utilized, but delays occur because of the necessity of contacting the judge for approval before release. Staff indicate that felons are usually released within one to six hours. The 1973 report indicates average release time for felons OR'd in 1971 was 11.6 hours, although this time may have decreased with new procedures. Missing information most frequently occurs when it is impossible to reach the reference for telephone verification. In such instances, the defendant is not released until verification is obtained or until the court hearing. It is assumed that the defendant will supply an accessible reference, since it is in his interest to do so. In ambiguous or unusual cases, consultation is sought from the supervisor who makes a recommendation. Such consultation occurs in only about 1% of the cases. Difficult decisions and ambiguous information are handled by giving the benefit of the doubt to misdemeanants who are then usually released. As indicated earlier, in felony cases the final decision is rendered by the duty judge. It appears that for felons, doubts are resolved by denying OR pending court appearance.

As with most risk assessment procedures, informal discretion can operate at several points during screening and decisions. In felony cases, the judge retains decision making power, as risk screening was never intended to eliminate judicial discretionary power. In January, 1978, 43% of all felons were eligible for OR solely on the basis of a risk screening score, but only 22% were released by judges. In other words, in roughly half of the cases of eligible felons, judges denied OR. Judge variability was reported as a problem

by screeners, who indicated that release rates of various judges may vary from 35% release to 20% release.

An additional factor affecting informal discretion is workload volume. In 40% of the felony cases, verification was impossible prior to court appearance. This may be due to the reference being unavailable. When a reference is unavailable on an initial attempt, however, the screening specialist does have the option of repeat attempts (if workload permits). Presumably, informal discretion could operate in a number of repeat verification attempts and in prioritizing workload demands. The screening specialist also has some discretion in scoring variables. Whether or not points are given for "close family ties," for example, can vary with the extent to which defendant are probed for information and with the screener's interpretation of "close family ties." In short, informal discretion can occur in decisions about which cases to process promptly in scoring variables, in repeat verification attempts, in informal comments to judges about the defendants' attitude and demeanor, and in judge variability.

Results and Impact

The primary impact of the program has been to reduce jail custody time, thereby reducing jail populations. Average time in jail from booking to pretrial release decreased significantly for misdemeanants (from 74 hours in 1970 to 2.4 hours in 1971). For felons, average jail time decreased from 72 hours to 11.6 hours in the same time period. Although precise statistical data are not available, the Project Director estimated costs as follows: \$5.45 per screening and \$17.00 per release. The Project Director also indicated that jail populations have been significantly decreased in the main jail compared to what would have been the case in the absence of the program. Although exact savings are not known, local authorities are convinced that the program more than pays for itself by significantly reducing jail costs.

Since the primary emphasis is on screening out the low-risk offender, "risk" is formally defined as failure to appear in court. Failure to appear rates have been found by the project to be comparable to those of bailed defendants. Failure to appear rates based on initial no-shows are 7%. However, roughly half of these are subsequently cleared by program follow-up contacts, voluntary appearances, or arrest on bench warrant, leaving a final skip rate of 3%.

An earlier evaluation research study compared processed cases in 1971 to quasi-compared data on 1970 bookings. In establishing comparative OR rates, every 40th case was sampled. For misdemeanants, the percentage of OR'd cases increased from 13% in 1970 to 31% in 1971. For felons, the percentage released on OR decreased from 28.4% to 19.2%. The same statistics reported for the main jail only (where screening was better staffed than at auxiliary facilities) indicated that the percentage of misdemeanants released on OR increased from 25.1% in 1970 to 69.4% in 1971. For felons, the percentage decreased from 30.7% in 1970 to 24.4% in 1971. It should be noted, however, that the decrease in the percentage of felons released OR is an artifact of the data available. Information on the number of felons released OR after arraignment was available for the 1970 sample only. If the felons released OR after arraignment in 1971 had been included in the sample, it would likely have indicated a greater percentage of felons released in 1971 than in 1970.

Commentary

The PTRP has achieved its objectives and is well accepted locally. Several factors contribute to the success of the program. First, the program owes much of its success to politically astute decisions on the part of the Program Director. Judges needed information, which has been provided. Judges were also interested in retaining their decision making prerogatives, which the program allows them to do in the case of felons. In addition, the fact that the Advisory Board consists of judges allows the judiciary an opportunity to participate in policy deliberations. By starting with the most powerful justice agency in the community, the Program Director was also able to build support among other agencies. Providing both positive and negative information to judges on all screened cases helped the program avoid the label of being "too liberal."

Secondly, overcrowded jails contributed to the sheriff's support since he needed either to release more defendants or build new jails. It soon became apparent that the program was effectively reducing jail population pressures. Third, with few exceptions the staff have been able to avoid adverse publicity by "bad" decisions. Finally, the politics of implementation included careful selection of staff who would foster harmonious working rela-

tionships with both jail personnel and judges. The administrators found that police science students developed better working relationships with officers than law or social service majors.

Despite the success of the program, several problems were noted. First, a lack of hard data on which to evaluate the program is a disadvantage. The latest data available dates from 1971-1972 on many important facets, and this has been outdated by an expanded program. A more current statistical data base would provide a more accurate picture of program operations. Secondly, the criteria for eligibility appear to ignore some important variables which commonly influence local judicial decisions. The present offense is not scored, and past criminal record carries little relative weight, even though judges place heavy subjective emphasis on these factors. Screening criteria more in line with factors actually considered by judges might lead to increased judicial reliance on risk screening scores. Third, as noted above, there are opportunities for subjectivity in scoring, probing references, and establishing priorities for speedy case processing. Finally, some backlog in case processing was noted; yet on one shift screening staff spent considerable time answering questions from defendants and listening to anecdotal reports, rather than placing highest priority on speedy processing.

In spite of these limitations (and particularly if they are eliminated), the PTRP appears to have considerable potential for replicability in other communities. Although current statistical data are unavailable, it appears that several objectives of law enforcement officials, judges, and defendants have been realized with no great risk to the community. Since the implementation of PTRP, judges have more information on which to base decisions, jails are less crowded, costs have been reduced by expediting early release, and, of course, defendants have enjoyed the advantages of early release.

Interviewer _____ Date _____	COUNTY OF SANTA CLARA PRETRIAL RELEASE PROGRAM	RELEASED: YES _____ NO _____
		CRT. RPT. YES _____ NO _____ NEEDS _____ DONE _____
		INTERVIEW: _____
		VERIF: _____
		REC. CHK: _____
		P.O. CHK: _____
		JUDGES O.R. _____
		CODE: _____

SECTION 1 - IDENTIFICATION		Booking # _____	Booking Date _____
Name _____	Age _____	DOB _____	SS # _____
Charge _____	Agency _____	Ct of App _____	Sex _____ M F
			W MA N I Other _____

SECTION 2 - RESIDENCE		
Street address _____	City & State _____	How Long _____
Can be reached by phone _____	Telephone owned by _____	Time/Bay Area _____
		Time/SC Co. _____
Previous Address _____	City & State _____	How Long _____

INTERVIEW SCORE	Pres.res. 1 yr or more	Pres.res. 6 mos OR pres & prior 1 year	Pres.res. 4 mos OR pres & prior 6 months	5 yrs OR more	VERIFIED SCORE
	3 pts.	2 pts.	1 pt.	1 pt.	

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SECTION 3 - FAMILY TIES

Client resides with (relationship & name)	Marital Status No Yes	L M T LS S
Spouse's Name & Address	Children Number Ages	With △ Other

Relatives & References that △ keeps in close contact with:				HOW
NAME	ADDRESS	PHONE	RELATIONSHIP	OFTEN SEEN

INTERVIEW SCORE	Lives w/fam AND wkly cont 3 pts.	Lives w/fam OR wkly cont 2 pts.	Lives w/nonfamily 1 pt.	VERIFIED SCORE
-----------------	-------------------------------------	------------------------------------	----------------------------	----------------

SECTION 4 - EMPLOYMENT (If housewife, refers to spouse)

Present Employer	How Long FT PT	May Contact Do Not Contact
Type of Work	Phone	Wages/month
Previous Employer	How Long FT PT	May Contact Do Not Contact
If unemployed How long	How Supported Welfare	UIB Other
Currently enrolled in school or training No Yes		

INTERVIEW SCORE	Pres. job 1 yr OR more OR FT Student 3 pts.	Pres. job 4 mos OR pres/prior 6 mos 2 pts.	Current job UIB/W/F-S 1 pt.	VERIFIED SCORE
-----------------	--	---	--------------------------------	----------------

APPENDIX A
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SECTION 5 - DISCRETIONARY

INTERVIEW SCORE	<input type="checkbox"/> Pregnancy <input type="checkbox"/> Medical Problems	<input type="checkbox"/> Old Age <input type="checkbox"/> 1 pt.	VERIFIED SCORE
-----------------	---	--	----------------

SECTION 6 - PRIOR RECORD

Number of convictions:			
DATE	PLACE	CHARGE (F/M)	DISPOSITION

INTERVIEW SCORE	No conv 2 pts.	1M/conv 1 pt.	2M/conv OR 1 felony conv 0 pt.	3 or more M/conv OR 2 or more F/conv -1 pt.	VERIFIED SCORE
-----------------	-------------------	------------------	-----------------------------------	--	----------------

TOTAL INTERVIEW SCORE	TOTAL VERIFIED SCORE
-----------------------	----------------------

Other Charges Pending No Yes To _____ Holds No Yes To _____ Officer's Name _____

ON PROBATION/PAROLE No Yes To _____ (NAME OF AGENCY)

I voluntarily authorize the Pretrial Release Project to contact the people named above and to make any and all inquiries and investigation for obtaining information useful to the court in establishing my eligibility for being released on my own recognizance.

Signature _____

Date _____

PRIOR RECORD: Verified: yes no

LOCAL ARREST HISTORY ATTACHED: yes no

COMMENT _____

CURRENTLY ON PROBATION: yes no ; PAROLE: yes no ; DRUG DIV. yes no

SUPPLEMENTAL INFORMATION (Holds, Pending Charge, etc.)

REASON DEFENDANT WAS NOT RELEASED ON O.R. AT TIME OF BOOKING:

- | | |
|---|--|
| <input type="checkbox"/> Insufficient Points | <input type="checkbox"/> Non-Resident |
| <input type="checkbox"/> Pending Charge(s) | <input type="checkbox"/> Refused Interview |
| <input type="checkbox"/> Hold (Probation, Parole, Military) | <input type="checkbox"/> Other (Specify) _____ |
| <input type="checkbox"/> Outstanding Warrant(s) | |

ADDITIONAL PERTINENT INFORMATION: _____

5323

1/75

SITE VISIT REPORT

DECISION POINT: PRETRIAL RELEASE

PRETRIAL RELEASE AND DIVERSION PROGRAMS

BOULDER COUNTY, COLORADO

SITE VISIT: April 19 - 25, 1978

INTERVIEWERS: Michael Jamison
Saul Geiser, Ph.D.

CONTACT PERSON: Chuck Murphy
Director of Community Corrections
Tele: (303) 441-3690

Overview

Boulder, Colorado, located about 25 miles northwest of Denver, is the geographical and cultural center of Boulder County which has an urban and rural population totaling 186,000. Boulder is also the location of a newly constructed Justice Center, which houses all segments of the local criminal justice system, including the County jail and Community Corrections.

Established as a governmental agency serving the Boulder County criminal justice system, Community Corrections has two primary functions. The first is to coordinate a variety of programs which supply alternatives to incarceration, such as pretrial release, supervised release, community treatment referral, and diversion programs. The second function is the screening and evaluation of individuals for program suitability by the Diagnostic Unit of Community Corrections. The Diagnostic Unit performs a variety of activities which include:

- Conducting bonding interviews with felony and misdemeanor defendants, and making recommendations to the District Attorney and court concerning the release decision;
- Attempting to identify defendants during the bonding interview who appear to have mental health, drug, or alcohol problems;
- Making recommendations to the court at the preliminary (bail) hearing for testing and diagnosis of defendants with possible mental health, drug, or alcohol problems;
- Attempting to identify defendants during the bonding interview who appear to be good candidates for diversion programs, and making such recommendations to the District Attorney;
- Conducting in-depth diagnostic testing of defendants referred by the court, and making evaluations for sentencing, treatment, and referral.

The Diagnostic Unit screens all felony and some misdemeanor defendants

for pretrial release within 24 hours after arrest. For this purpose, it employs the Washington, D. C. point scale (see Appendix A) which has been modified to fit the inmate population of Boulder County. However, release recommendations are not determined solely by the point scale; they also depend upon the Colorado State Bail Statute and the overall subjective decision of the Diagnostic Unit staff. The Unit is able to make a variety of bond recommendations at the preliminary bond hearing, including personal recognizance (PR) release, co-signed personal recognizance, and supervised release. It can also recommend certain defendants for in-depth diagnostic evaluation and appropriate treatment of possible mental health, drug, or alcohol problems. The Unit makes "no recommendation" for specific cases covered under the bail statute where only the District Attorney is allowed to make recommendations. The Diagnostic Unit also screens those referred by the court to determine suitability for diversion. This diagnostic assessment is primarily a subjective clinical evaluation which uses in-depth personal interviews combined with psychological testing.

Community Corrections, which began in April of 1977, consists of eight decentralized programs. These programs employ eight full-time staff members, of which three make up the staff of the Diagnostic Unit: Dr. Gary Richardson (the Director), and two bonding interviewers who perform diagnostic assessments. A part-time psychiatrist also provides backup consultation for clients of Community Corrections programs who need medical or psychiatric care. Volunteers are used occasionally by the Diagnostic Unit to aid in interviews, but this practice is limited because the interview does not focus so much on the routine gathering of information as it does upon intuitively obtaining information about a defendant. The two Bonding Interviewers were hired because they possess such "clinical intuitive" abilities. Such abilities include the identification of defendants who appear to have mental health, drug, or alcohol problems, and those who appear to be good candidates for Community Correction's diversion programs. The interviewers are trained to screen out such individuals during the bonding interview for later testing and diagnosis.

This diversity of role responsibility apparently allows the Diagnostic Unit to function more efficiently than if interviewing and testing-diagnosis were conducted by different personnel. The small number of personnel within the Diagnostic Unit also allows for close ties within the Unit and with other agencies in the local criminal justice system. For example, the Diagnostic Unit

conducts their interviews within the jail facility, verifies interview information with the aid of the Sheriff's Department computer terminal, expresses concerns relating to individual cases to the Deputy D.A. prior to arraignment, makes recommendations concerning bonding to the court, and aids the Probation Department in conducting presentence investigations.

Besides maintaining such ties with the local criminal justice system, the Diagnostic Unit must also work closely with non-criminal justice groups in Boulder County to fulfill its role of providing alternatives to incarceration. Due to the severity of drug, alcohol, and mental health related problems in the county, the Unit has nurtured a variety of ties with referral agencies that provide services such as alcohol detoxification, and counseling and supervision for drug addicts. The Boulder County Public Defender recently estimated that 80% of his clients are alcoholics or "under the influence" at time of arrest, or show drug or mental health problems. The local District Attorney agreed that the problem is severe, but he estimated such involvement at 60 - 65% of all offenses.

The District Attorney and Boulder County judges also stated that defendants with mental health problems in need of referral account for approximately 35 - 40% of all those arrested. This high rate of mental health problems has created a dilemma for the Diagnostic Unit. Although the Unit was created to screen out such defendants for referral services, frequent usage of referral agencies has created a referral backlog. According to Dr. Gary Richardson of the Diagnostic Unit, "this problem [mental health] greatly increases the risk of their recidivating . . . if we can't hook them up for services [after release], then they still remain a high risk." If the Unit is to maintain a rehabilitation-treatment philosophy, a central diagnostic/referral unit could prove very useful in combating these problems.

The Instrument and Its Development

The Diagnostic Unit performs two main functions: (1) the pretrial screening of defendants for bond recommendations, and (2) the diagnostic testing and assessment of defendants for program inclusion, specialized referral, and sentencing recommendations. Both of these activities involve risk assessment, and both use specific instruments and processes to evaluate various forms of

risk, including risk of non-appearance, risk of recidivism, and risk of dangerousness (see Figure 1). The bonding interview, for example, attempts to assess risk of non-appearance in court, but also considers risk of recidivism and dangerousness. The diagnostic function primarily identifies problems and needs of defendants which might increase their potential for recidivism and dangerousness. Both of these procedures use instruments, but the decision-making in each case is more dependent upon a subjective determination.

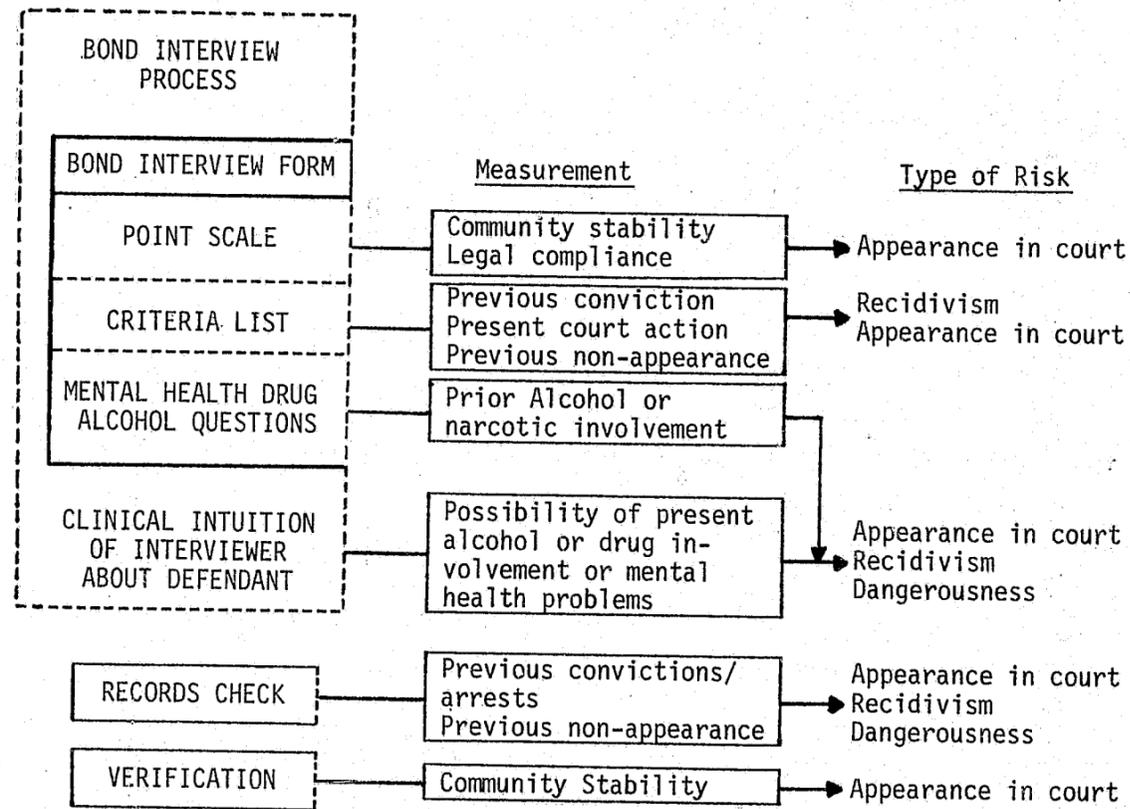
The Pretrial Bonding Assessment. The bonding interview is conducted with all felony and those misdemeanor defendants who have not been released on a surety bond or a personal recognizance bond granted by the court bonding commissioner. The interview assesses the defendant's suitability for pretrial release, that is the likelihood of his or her appearing in court after release. The decision to use the Washington, D. C. point scale was actually made prior to the establishment of the Diagnostic Unit by Charles Murphy, the Director of Community Corrections. Soon after being appointed, he began to search for a technique to measure risk of failure to appear (FTA). With the success of the Vera scale in other jurisdictions, Mr. Murphy felt that a similar objective instrument should be used. Therefore, he examined various point scales in use around the country and decided that the Washington, D.C. scale best reflected Boulder County's needs. This decision was based on a qualitative comparison of point scales, however, not on any validation study conducted in the jurisdiction.

Although not tested on the Boulder County defendant population, the point scale has been highly researched and correlated with community stability (and appearance in court) in Washington, D.C. The variables and weights (points) used on the Boulder point scale have remained unchanged, but the total point score necessary for a personal recognizance recommendation has been increased from four to six points. This change exemplifies the more conservative nature of the release recommendations in Boulder County. However, if under six points are obtained and the defendant has good community ties, then he or she is released on a co-signed personal recognizance bond. As one judge stated during an interview, "I consider all co-signed personal recognizance bonds to be personal recognizance bonds."

The Boulder County point scale measures the same factors considered by

Figure 1

Risks Considered at Various Stages of the Screening Process



most pretrial release classification instruments: length of residence, family ties, length of employment, and prior record. This instrument avoids many of the discriminatory tendencies prevalent in many other instruments by giving points to homemakers; those incapacitated and under medical care; and those receiving welfare, disability, a pension, or unemployment compensation. Since the primary consideration of the release recommendation is appearance in court, the point scale benefits from a special set of criteria which deduct points for previous failures to appear (FTA). Deductions are also made if the defendant is presently on bond, probation, parole, or has a past history of non-appearance on bond. The point scale also makes deductions for the number and type of prior convictions of the defendant. The rationale is that a defendant with a prior record faces a higher probability of a stiffer sentence, and is therefore more likely to flee from prosecution.

Unlike the Washington, D.C. agency, which strictly depends upon the point scale for the release determination, the Diagnostic Unit is mandated to consider additional factors, such as the requirements of the Colorado Bail Statute interacting with the defendant's possible mental health, drug, or alcohol problems. These additional considerations were instituted to reduce recidivism and dangerousness since the presence of such problems tends to compound the risk presented by a defendant.

When the Boulder screening program began, the instrument score dominated the final bail recommendation unless staff suspected mental health, drug, or alcohol problems. In such a case, the point scale would serve as a measure of possible failure to appear, but the score would be set aside if the identified problems could increase the risk of FTA, recidivism, or dangerousness. In these cases, the interviewer would recommend in-depth diagnostic testing and assessment by the Diagnostic Unit in order to establish the potential risk of the defendant. However, after one month of attempting to fulfill this mandate, it was felt that a still more conservative stance concerning the bonding recommendation should be considered. A subjective override was therefore established to include the clinical, intuitive opinions of the bonding interviewer and to make the bonding decision a total staff responsibility rather than the responsibility of just one staff member. This formalized discretion in bonding recommendations lessens the likelihood of individual biases occurring.

Diagnostic Assessment. The second major function of the Diagnostic Unit is the in-depth testing and assessment of defendants for diversion or treatment referral. The techniques used employ a general clinical approach including a variety of psychological tests which are "problem-specific." In other words, once the "referral question" is known about a particular defendant, the appropriate testing procedure is chosen which best reflects the "problem" to be considered.

The general diagnostic testing and assessment follows what is called a "stair-step" approach. This begins with an in-depth interview and is usually followed by the administration of the Minnesota Multiphasic Personality Inventory (MMPI), which is used as the first step, basic screening instrument. These results are analyzed according to the specific scales of the MMPI appropriate to the referral question. In some cases, this step is followed by the application of psychological projective tests, such as the Thematic Apperception Test (TAT), the Rorschach, the Bender Gestalt, and the Holtzman.

The clinical assessment procedures include a mixture of objective test scores and intuitive, clinical techniques. The results of the test scores are studied, but are not used to specifically classify the individual. Instead, defendants are evaluated by an overall subjective clinical determination; test scores are studied in conjunction with prior offense history, severity of current offense, and any obvious personal problems which have been discovered. These factors are then considered in light of the reason for the assessment, such as evaluation for diversion suitability, or referral to a drug treatment program.

Implementation

Community Corrections and the Diagnostic Unit are the result of an increased call earlier this decade in Boulder and throughout Colorado for community based alternatives to incarceration. During the late 1960's and early 1970's, Boulder became a center for esoteric religious and lifestyle groups which attracted large numbers of youths, many of whom were involved in a drug subculture and without means of financial support. This influx of transients severely affected the local criminal justice system: as documented in a report

on the Boulder County criminal justice system, "in 1971, one-third of the average daily inmate population was attributable to drug, alcohol or mental health problems . . . with 38% of all offenses involving such defendants."¹ At that time, such problems were also complicated by overcrowded jail conditions and the lack of coordinated social services and referral agencies. These factors were exemplified by the "revolving door offender" who, because of untreated drug, alcohol, or mental health problems, continued to recidivate. As reported at that time, "of the drug and alcohol-related bookings into the Boulder County Jail in 1971, nearly 40% were caused by multiple arrests of [the same] 200 individuals."²

In an attempt to deal with these problems, the County Board of Supervisors hired a research organization to develop a "master plan" for the entire criminal justice system. In 1972 Helmuth, Obata, and Kassabaum, Inc. released the "HOK Report" which called for the construction of a new justice center, and for closer relationships between various local criminal justice agencies. They also recommended a prototype of what would later become Community Corrections and the Diagnostic Unit. The report stated that:

County and local law enforcement agencies must be concerned with maintaining effective control over those offenders who are a danger to the community. At the same time, they must help the citizens of Boulder County recognize that massive custodial controls are only a short run solution and that, in the long run, societal protection can be achieved only if the offender is successfully reintegrated into the free community. Very few offenders will be confined for life and unless they are changed, societal protection will not be achieved.³

The report further explained that "the ultimate test of criminal justice effectiveness is the adjustment the offender makes to the community, not to jail. Therefore, the primary concentration of attention and resources should be focused upon the successful realization of that adjustment."⁴

1. Helmuth, Obata, and Kassabaum, "Criminal Justice System Study for Boulder County, Colorado" (San Francisco, Calif.: Helmuth, Obata, Kassabaum, Inc. 1972), pp. 90-91.
2. Ibid.
3. Ibid., p. 77.
4. Ibid.

The first step towards implementing the recommendations of the HOK Report was to limit the jail population by the release and referral (for treatment) of pretrial defendants. To achieve this goal, the court operated a bonding commissioner program which began in 1971 for pretrial release, and was expanded to cover misdemeanants on a 24-hour basis. Similarly, a citation release program was implemented by both the county sheriffs and the Boulder City police to limit the number of defendants incarcerated. In addition, the District Attorney implemented informal diversion through deferred prosecution, as did the court through deferred sentencing.⁵

The second step came when the Criminal Justice Advisory Council (CJAC) approved the development of the new Justice Center. By deliberately limiting jail size in spite of increasing arrests, the local criminal justice system was forced to seek alternatives to incarceration. Officials felt that if all units of the local criminal justice system were housed at the Justice Center and tied together in a single system by the general policies set by CJAC and the HOK master plan, then the utilization of such alternatives might result.

The third step required passage of "enabling legislation." Senate Bill No. 55, passed in May 1974, called for the establishment of community correctional programs, but did not provide state funds for this purpose. Funding had to await passage of Senate Bill No. 4 (May, 1976), which provided the funds necessary for Community Corrections to serve as an umbrella agency in implementing alternatives to incarceration.⁶

The fourth step involved the hiring of Charles Murphy as Director of Community Corrections in April of 1977 by the Criminal Justice Advisory Council. Mr. Murphy was authorized to implement the master plan, to establish operational policies, and to hire program personnel. In September of 1977, Mr. Murphy hired Dr. Gary Richardson to head Community Corrections' Diagnostic Unit. Although still accountable for the maintenance of Community Corrections as a

5. This practice later became institutionalized through legislation in the 1973 Revised Colorado Statutes (16-10-101/202 and 16-7-401/403).

6. Colorado Revised Statutes, 1973, 27-27-101/102. Community Corrections received \$142,000 for the 1977-78 fiscal year; \$102,000 came from the state, and \$40,000 from the county.

whole, Murphy turned over much of the decision-making authority within the Diagnostic Unit to Dr. Richardson. Besides being given full authority for the hiring of the felony and misdemeanor bonding interviewers, Dr. Richardson was granted full approval to develop the screening and testing procedures to be used within the Unit.

Screening and Decision Processes

The Diagnostic Center screens all felony and some misdemeanor defendants for pretrial release within 24 hours after arrest. Those defendants arrested on felony charges, as well as misdemeanor defendants not released by the misdemeanor bonding commissioners,⁷ are interviewed Monday through Friday between 8:30 a.m. and 9:30 a.m. by the Diagnostic Unit's bonding interviewers. The form used includes all questions applicable to the point scale; questions related to mental health, drug, and alcohol use, history, and treatment; and six questions related to the requirements of the Colorado Bail Statute.

The Colorado Bail Statute states that certain specified categories of defendants cannot be recommended for a personal recognizance bond without the written consent of the District Attorney. This criteria list includes:

1. any person convicted of a felony within the past five years,
 2. any person convicted of a class-1 misdemeanor within the past two years,
 3. any person at liberty on another bond of any kind in another criminal action involving a felony or a class-1 misdemeanor,
 4. any person who has willfully failed to appear while on bond, or has a pending charge of willfully failing to appear while on bond,
-
7. The Bonding Commissioner Program has been interviewing misdemeanants for personal recognizance release since 1971. The program also uses a point scale, and can release defendants who do not qualify by the point scale but who can post a surety bond in accordance with a bond schedule. This means that most of the misdemeanor arrestees interviewed by the Diagnostic Unit do not have established community ties.

5. any person who has an outstanding attachment, warrant, or detainer against him, and
6. any person presently under the influence of narcotics or alcohol to the degree that an intelligent interview cannot be conducted.

This information is obtained from each interviewee and verified through a records check using the sheriff department's criminal information computer. Then at 10:30 each morning, the Diagnostic Unit staff meet and decide what should be done concerning each case. For instance, if interview information indicates that drug or alcohol problems exist, staff members may recommend that the court evaluate the defendant for referral to a treatment program. In particular, these Diagnostic Unit staff meetings serve as group forums to decide the type of recommendation to give the court at the preliminary hearing.

Up until a few months ago, Dr. Richardson and his staff met at 11:00 a.m. daily with the District Attorney to hold a "charging meeting." These meetings served various purposes, including the discussion of facts about the case, discussion of cases which the District Attorney may release according to the Bail Statute criteria, and the provision of additional drug, alcohol, and mental health information on defendants to the Diagnostic Unit. The charging meeting also provided the opportunity for the Unit to recommend to the District Attorney likely candidates for diversion (deferred prosecution), and help the District Attorney assess the risk involved in certain cases. These meetings were viewed by all participants as highly beneficial. Unfortunately, the time of the charging meetings was recently changed to 8:30 a.m. This earlier time has made it impossible for the Diagnostic Unit to relay pertinent information and recommendations to the District Attorney since the Unit's interview process is just beginning at 8:30 a.m. What the Unit now attempts to do is meet with the Deputy District Attorney who will be presiding at the preliminary hearing and communicate to him any concerns about specific cases.

The preliminary hearing takes place Monday through Friday at 2:00 p.m. At this time, the Diagnostic Unit makes its recommendation to the court concerning the pretrial release of the defendant. Possible recommendations include:

- P.R. Bond, which is usually recommended if the defendant obtains six or more points according to the point scale, qualifies

according to the Bail Statute Criteria List, and exhibits no indication of mental health, drug or alcohol problems.

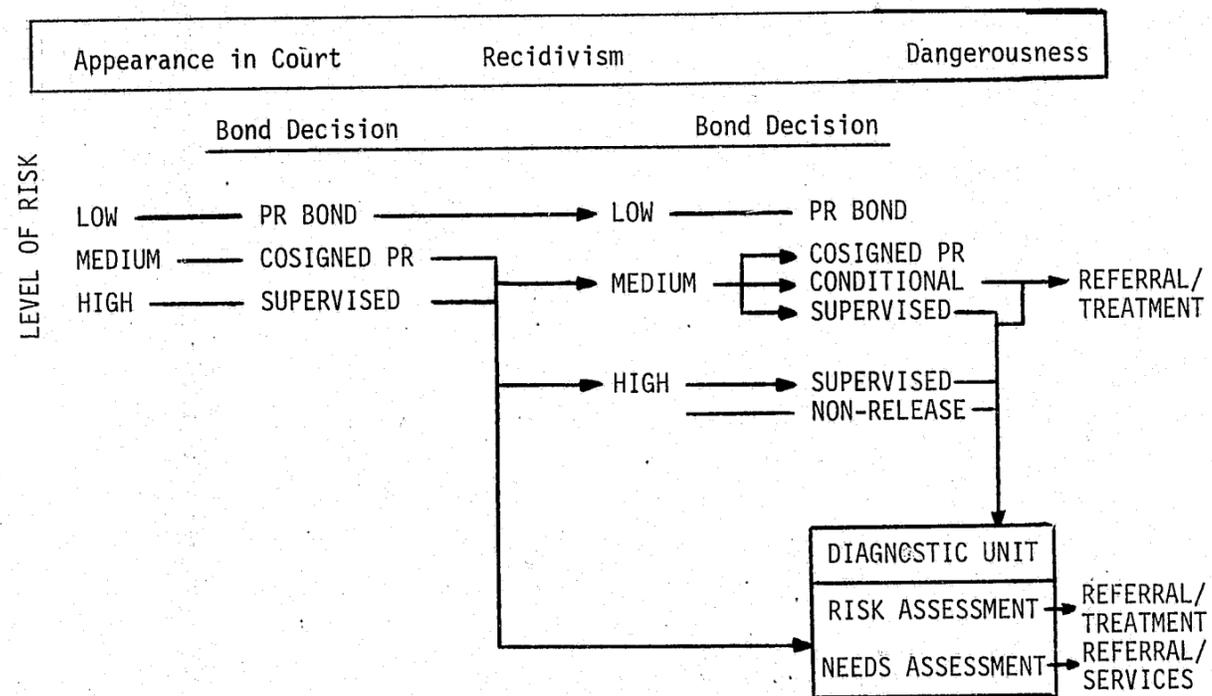
- Co-signed P.R. Bond, recommended if the defendant obtains under six points on the point scale, qualified by the Bail Statute Criteria List, and exhibits no indication of mental health, drug, or alcohol problems.
- No Recommendation, given to the court if there has not yet been time to verify information given by the defendant in the bonding interview, or where the Diagnostic Unit is disallowed from making recommendations by the Bail Statutes criteria list.
- Diagnostic Unit Evaluation, recommended in those cases where the Diagnostic Unit feel that the defendant exhibits possible mental health, drug, or alcohol problems. This decision is based on responses given during the bonding interview.
- Supervised Release, recommended to the court in cases where the defendant "can't make it alone," and there is a high probability of his/her recidivating. However, the defendant must also be open to personal change, must be responsive, and would benefit from a highly structured program. Such a recommendation refers the defendant to Community Corrections Pretrial Community Treatment Program.

The District Attorney also makes pretrial release recommendations to the court at the preliminary hearing in those cases where the Bail Statute grants him the power to make such recommendations. Instead of specific categories of release recommendations, however, the District Attorney usually recommends a fixed money bond which the court need not follow. In fact, in hearings observed during the site visit, the District Attorney's money request was usually cut in half by the presiding judge.

Risk in the pretrial recommendation is evaluated through a stair-step approach, as shown in Figure 2. First of all, risk of non-appearance (FTA) is assessed by use of the point scale, and then considered through an analysis of

Figure 2

Risk in Pretrial Release Decisions



possible mental health, drug, or alcohol problems. This is followed by an appraisal of past offense history to establish the risk of both failure to appear and recidivism (the next risk considered). The Unit assesses risk of recidivism by asking the questions mandated by the Bail Statute which concern prior offenses. If prior felony convictions have occurred within the past five years or a misdemeanor conviction within the last two years, then the release recommendation can only be made by the District Attorney. This restricts the use of ROR and ensures that recidivism will be taken into consideration.

Dangerousness, the next risk considered, is assessed through a clinical evaluation by the bonding interviewer of possible mental health, drug, or alcohol problems, and an appraisal of specific case information such as the severity of the current offense, and prior offense history. As shown in Figure 2, the type and level of risk result in different bond recommendations.

Diagnostic Assessment. When an individual is referred to the Diagnostic Unit for assessment, he or she is first given an in-depth interview. With specific knowledge of the reason for the assessment, the psychologist is able to gear the interview to obtain information relevant to that purpose. For instance, in a diversion assessment, the individual is tested to evaluate the likelihood of his fulfilling the program requirements by administering psychological tests which assess factors of motivation and performance. Attitude is also tested because it is felt that this plays an important role in a successful diversion program.

The individual is then given the Minnesota Multiphasic Personality Inventory (MMPI) and other psychological tests in an attempt to evaluate risk of recidivism and dangerousness. Critical scores on the MMPI are studied, especially the subtle and obvious psychopathic deviance scales. If appropriate, projective tests are then given, and all information obtained is used to make the subjective clinical assessment. Although these tests are used to assess risk, the program does not claim that such a clinical evaluation constitutes an objective risk assessment. As Dr. Richardson explained: "I make no decision based on any one scale, but I use them as a hazy picture of some basic personality variables." Determinations are instead based on a total clinical approach.

Results and Impact: A Commentary

Boulder County Community Corrections is an innovative alternative to similar programs around the country. Its function as an umbrella agency allows it to integrate the local criminal justice system into a smooth functioning unit. The mandate of diagnosis, rehabilitation, and treatment requires that the Diagnostic Unit serve as the hub of that criminal justice wheel. The question which arises, however, stems from the agency's many functions: what, in fact, is the appropriate role of a pretrial release agency: Is it to assess defendants for more than personal recognizance release? Should its release assessment function be used for additional purposes, such as diversion suitability or referral for treatment? In this regard, is such an agency legally able to take more into consideration than community ties?⁸

Questions as to the appropriateness of considerations used in pretrial release decisions may have to await litigation to be answered. Similarly, the legality of widespread conditional release and the issue of possible coerced treatment have yet to be challenged. Boulder apparently evades the issue of whether conditional release and treatment referral entail coercion by linking such alternatives to ensuring appearance in court. The Eighth Amendment, interpreted through Stack v. Boyle (342 U.S. 1(1951)), justifies bail conditions if they help to assure a defendant's future appearance in court.⁹ However, if such a recommendation is not directly related to the likelihood of non-appearance, then it could be more restrictive than needed to assure court appearance. Therefore, such conditional release decisions may very well be of questionable legality. The Diagnostic Unit is aware of this potential problem, but it has no solution since conditional release involves the very mandate of the Unit's pretrial responsibilities. As Dr. Gary Richardson stated during an interview, ". . . given the nature of the offenders here in Boulder, I don't know what we could do unless we changed the Constitution."

The impact of the Diagnostic Unit's pretrial release component is hard to

8. As long as Community Corrections follows the mandates of the Colorado Bail Statute mentioned earlier, it legally may consider factors besides community ties.

9. For analysis of these and other legal problems concerning pretrial release and classification, the reader is referred to the NRAS volume entitled "Legal Issues in Risk Screening/Classification."

measure: statistically the results are not yet in. A comparison of the Unit's bond recommendations with judicial release decisions is now being conducted. Rates of failure to appear and recidivism will be compared between the two decision-making bodies to ascertain which approach is more accurate. The Diagnostic Unit feels that the study results will bear out the logic of their actions.

The impact of the Unit upon the Boulder County criminal justice system is even harder to assess. On the average, the Unit only conducts 25 bonding interviews and five diagnostic assessments weekly. This may not appear significant in numbers, but the Unit provides great assistance to the variety of programs that it serves. Moreover, by identifying high risk defendants through its bonding interview process, the Unit may possibly lower the risks of recidivism and non-appearance, and help preserve public safety. The referral for treatment of high risk defendants also furnishes counseling and supervision for clients in need of special attention.

It is doubtful, however, whether such a system for pretrial release could be instituted in a larger system. High numbers of arrests would call for an increase in the size of such an agency, as well as an increase in budget. The dependency upon subjective clinical determinations would also require large numbers of highly qualified interviewers, and higher costs in salary. Furthermore, the community's referral agencies would have to absorb defendants identified as needing such services. In communities with limited funding, this would not be possible unless referrals were restricted to defendants with severe or chronic problems. In a community the size of Boulder, this has not been a serious problem, but in a larger community with less community services, the number of referrals could quickly create an enormous referral backlog.

POINTS

APPENDIX A

TIME IN BOULDER AREA:

- 1.....Five years or more.

RESIDENCE: (In Boulder Area, NOT ON AND OFF)

- 3.....Present address one year OR present and prior addresses 1-1/2 years.
 - 2.....Present address six months OR present and prior addresses one year.
 - 1.....Present address four months OR present and prior addresses six months.
- * Add 1 extra point if the arrestee is buying his home.
 * Add 1 extra point if the arrestee has a verified operable telephone listed in his own name.

FAMILY TIES

- 4.....Lives with family AND has contact with other family member(s).
- 3.... Lives with family.
- 2.....Lives with non-family friend whom he gives as a reference AND has contact with family member(s).
- 1.....Lives with non-family friend whom he gives as a reference OR lives alone and has contact with family member(s).

EMPLOYMENT OR SUBSTITUTES

- 4.....Present job one year where employer will take back OR homemaker with children in elementary school.
- 3.....Present job one year or more OR homemaker with children.
- 2.....Present job three months OR present and prior jobs six months or full-time student other than secondary school student.
- 1.....(A) Present job; OR
 (B) Unemployed three months or less with nine months or more single job from which not fired for disciplinary reasons; OR
 (C) Receiving unemployment compensation, welfare, pension, disability, alimony, etc.; OR
 (D) Full-time secondary student; OR
 (E) In poor health (under a doctor's care, physically impaired, etc.)

DEDUCTIONS

- 5.....On Bond on pending felony charge OR on probation or parole for a felony.
- 2.....On bond on pending misdemeanor charge OR on probation or parole for a misdemeanor charge OR on probation or parole for a misdemeanor; OR knowledge of present drug use of alcoholism.
- 1.....Prior negligent no show while on Bond; OR knowledge of past drug use.

PRIOR CONVICTIONS:

NOTE: Use the chart below for single offenses and for combination of offenses.

CODE: One adult felony = 7 units ---- One adult misdemeanor = 2 units

CIRCLE TOTAL RECORD UNITS

UNITS	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	21	21
POINTS	0				-1						-2											-4

SITE VISIT REPORT

DECISION POINT: PRETRIAL RELEASE

ORLEANS PARISH DISTRICT ATTORNEY'S OFFICE

NEW ORLEANS, LOUISIANA

SITE VISIT: May 7 - 9, 1978

INTERVIEWERS: Michael Jamison

Jerome R. Bush

FOR FURTHER INFORMATION CONTACT:

Robert Donnelly
New Orleans Diversion
& Release Program
(504) 822-1357

Overview

During the late 1960's and early 1970's, the New Orleans criminal justice system was characterized by overburdened court dockets which caused court backlogs and severely overcrowded conditions in the Parish Prison. In response to this situation, the City of New Orleans applied for and received an LEAA grant in July, 1973 to establish a Diversion Program, the project becoming operational in May, 1974. Through a grant adjustment with the funding source, the Diversion Program assumed the responsibility for an existing Release on Recognizance Program in the parish, thus serving two purposes: pretrial release and diversion from prosecution (with supportive services).

The District Attorney's Diversion and Release on Recognizance (ROR) Programs were established to offer an alternative to normal judicial processing. The goal of the ROR Program has always been the reduction of the pretrial detention population of Orleans Parish Prison by approximately 100 inmates per month through pretrial release of certain offenders who qualify under established criteria. The Diversion Program's primary goals are the reduction of recidivism among program participants, and the reduction of court and correctional workloads by 5%. The program attempts to accomplish these goals by offering intensive counseling, education, job training, and placement services to selected offenders as an alternative to incarceration and court adjudication.

Organizationally, the Diversion and ROR Programs are under the direction of the District Attorney of Orleans Parish. The District Attorney's Office is responsible for prosecuting all persons in Orleans Parish accused of state offenses. Both the diversion and release components are administered by a program director who is responsible to the First Assistant District Attorney for the operation of the Diversion Program. The director is also aided by an administrative assistant. A board of directors invited by the District Attorney functions as an advisory body on policy, and acts as a forum to gain community support and future funding. The Diversion Program employs four staff counselors

whose primary background is social work. Counselors are responsible for screening potential clients and serving a caseload. In addition to group and individual counseling duties, counselors place and refer clients according to their individual needs. Counselors presently have an average case load of 35 clients, with a total of 140 clients now served by the Program. The ROR Program employs five staff interviewer/investigators whose responsibility is to screen arrestees for potential ROR candidates and make recommendations to the judges for bond. The interviewer/investigators prepare the bonds and maintain weekly contact by telephone with those released to assure adherence to mandated court appearances.

The ROR staff interview all arrestees detained in the Orleans Parish Prison to determine if they meet the criteria for release. The major criteria for release include prior record, seriousness of the charge, local references, prior juvenile record, employment, and schooling. Priority is given to arrestees who have been living at their current address one year or more, live with their family, have held their current job for one year or more, and have no previous criminal convictions. Automatically excluded are those persons accused of prostitution, or offenses such as homicide, rape, robbery, and aggravated assault. Approximately 50% of the 200 cases screened per month are recommended for release. The average offender recommended is a 21 year old male, accused of a first offense theft, or commercial burglary.

Most referrals to the Diversion Program are alleged offenders released on their own recognizance. The ROR investigation is the preliminary screening for potential diversion clients. The eligibility requirements for ROR and diversion are similar, but being released on ROR is not a prerequisite for being invited to participate in the Diversion Program. In some cases, a trial assistant can make a recommendation for diversion after a case has been assigned to a section of court.

The ideal diversion candidate would be an adult offender who is accused of a felony or high misdemeanor, is a resident of Orleans Parish, and does not display a continuing pattern of anti-social or deviant behavior. Persons accused of violent crimes, alcoholics, and drug addicts

are automatically excluded from consideration. The arresting officer is interviewed, and the victim of the alleged offense is contacted to obtain his/her permission for the defendant's participation in the Program. Once it is determined that the eligibility requirements have been met, an invitation is extended to join the Program. Participation in the Program is usually a minimum of three months and a maximum of one year, with an average involvement of six months. When the director and the counselor feel that a client has participated sufficiently in the Program they make a recommendation to the District Attorney for refusal of the charges.

The Instrument and Its Development

Pretrial Release. The ROR Program has used a Vera-type point scale (see Appendix A) for determining eligibility for release since it was first taken over by the District Attorney's office in 1974. The previous court operated program, which began in 1965, used the same point scale. Presently, however, the dependency of the Program upon the point scale has diminished. Although still used in certain cases, the rating sheet has been virtually abandoned for normal operations:

The rating sheet is not consistently used in determining eligibility and is used mainly with new personnel or at a judge's request which rarely occurs. Although the point system is not extensively used, those criteria included in it set the parameters for the subjective assessment.¹

The main criteria which are considered, however, have remained virtually the same except for the application of points. Three major criteria are used: community stability, prior criminal record, and the seriousness of the current charges. While there is room for discretion in the

1. S. Carroll (evaluator) and R. Sternhell (director), A Preliminary Evaluation of the Pre-trial Release and Diversion from Prosecution Program in Orleans Parish, the Mayor's Criminal Justice Coordinating Council - New Orleans (May 1976), pp.40 and 42.

application, this subjectivity has not been a problem for the Program due to the explicit nature of much of the criteria, especially exclusionary criteria related to present offense and prior record. The specific criteria which comprise this instrument follow:

1. Exclusionary Criteria

Automatically not recommended are those defendants who:

- a. are under 17 years of age (because these are handled in Juvenile Court),
- b. presently have an open charge pending,
- c. presently are on probation or parole,
- d. have a previous felony conviction,
- e. have escaped from jail or a mental institution,
- f. exhibit an established pattern of deviant or non-social behavior,
- g. are presently charged with:
 - a violent offense, or any crime which entails a direct victim contact, or occurs under aggravating circumstances,
 - a burglary of a home or an occupied dwelling,
 - prostitution, procurement, or pandering,
 - carrying a concealed weapon,
 - purse snatching,
 - possession of large quantities of drugs,
 - sale of drugs.
- h. are under the influence of drugs or alcohol.

2. Eligibility Criteria

In addition to the exclusionary criteria which are automatically applied, a defendant must either have no prior record, or only a minor one. Designation of a minor record could involve a misdemeanor conviction, combined with the current charge, but still not be seen as exhibiting a pattern of deviant or non-social behavior (item "f" above) because a substantial period of non-criminal involvement could exist between the

two offenses. In the case of a young adult arrestee, the juvenile record would be obtained to aid in this determination.

Community stability is the major criterion which has to be met if a defendant is not first disqualified by the exclusionary criteria. The minimum requirement for an ROR recommendation is six months residency in the greater New Orleans metropolitan area, with priority given to those defendants who have been living at their current address for one year or more, or who live with their family. The only exception to this requirement is made in the frequent case of a student attending one of the many colleges in the New Orleans area. In general, after exclusionary criteria are applied, an ROR recommendation is made by looking at:

- a. Length of residence in the New Orleans area,
- b. Length of residence at one's present address,
- c. Length of employment, and
- d. Family ties.

To qualify for release, however, three personal references are required, of which two should be close relatives. This requirement establishes community and family ties. Unlike some ROR programs in the country, the New Orleans Program does not require that the defendant have a telephone. In spite of this, the defendant should be able to be contacted by phone since the ROR Program calls all defendants at least two days before each court date. The references should also have telephones since they are called by the interviewers and requested to appear at the ROR Program's office on the behalf of the defendant.

In general, the eligibility criteria in conjunction with the exclusionary criteria can be considered as the current "instrument." The instrument has been designed to recommend for release only those defendants who are "low risks" to fail to appear in court, and "low risks" to recidivate. For example, individuals who can not establish community ties will not be considered for a release recommendation because of the risk of non-appearance. In addition, items b and c of the exclusionary

criteria screen out those presently on bond, probation, or parole who may be considered higher risks for non-appearance in court due to their previous violations of legal requirements, and the likelihood of doing jail time. This same set of criteria with the addition of item "d" (previous felony conviction) also measures risk of recidivism by screening out those who exhibit an established pattern of deviant or non-social behavior. Due to the existence of cash bond in New Orleans, however, this program does not prevent those with the financial means from securing release (except in capital offense cases).

The instrument also attempts to screen out defendants who are charged with committing crimes against persons. With the exception of prostitution, most of the present offenses which are excluded are those which the District Attorney considers "dangerous." The District Attorney, who established the offense related exclusionary criteria, feels that these restrictions are needed to protect the "rights of the victim." It is the policy of the District Attorney that the ROR Program should be available only to those defendants who are not charged with such offenses. This does not mean that certain defendants should be denied bail, however, only that they should not be considered for release on their own recognition.

Although in some programs inconsistency can occur when interviewers rate the same type of defendant differently, the New Orleans Program has handled this problem by ensuring that all of the interviewers have long-term experience in the Program. A low turnover of employees and a high degree of interaction between the interviewers have led to consistent decision making. In addition, there are occasional in-house training sessions for all interviewers to aid them in making their recommendations. If an interviewer is unsure of himself in any situation, it is understood that he/she will contact the head interviewer, or the program director. But, since the interviewers often have to work alone, they learn quickly to depend upon themselves. New interviewers begin their work alongside a trained staff member for a period of time, and attend in-house training sessions held for that purpose. Training techniques such as these

guarantee consistent decision making between the new and the old interviewers.

Experience in making discretionary decisions has given the interviewers knowledge of what recommendations are followed by the judges and which are not. Since the interviewers have no authority to release defendants, but only to make recommendations concerning release, the result is that they only make recommendations which they feel the judges will accept. They feel that such cases are usually so clearcut that the application of points is unnecessary. In fact, the interviewers must know fairly well which recommendations to make, for in 1977 there were only four cases in which a judge rejected the ROR Program's recommendation for release.

Diversion. The vast majority of diversion programs in the country utilize some form of specified criteria for accepting program participants. All of these programs are concerned with the problems of client "risk," but most do not use what we would term a risk assessment instrument: New Orleans District Attorney's Diversionary Program is no exception. In spite of this, the criteria used to designate referrals for program suitability are specially structured to take risk of recidivism and dangerousness into consideration. These criteria have been set forth to accept for diversion primarily the nonviolent, felony, first offender.

The criteria for considering a defendant for the Diversion Program are similar to the criteria for an ROR recommendation. The defendant must be 17 years of age or older, a resident of the greater New Orleans metropolitan area, and must not display a continuing pattern of anti-social or deviant behavior. Persons accused of violent crimes, alcoholics, and drug addicts are automatically excluded from consideration. Most of the same exclusionary categories of the ROR Program apply to the Diversion Program. Purse snatching, for example, is excluded from both programs because it is seen as evidence that the arrestee is well on his way to committing further criminal actions. While it accepts mostly felony defendants, the program does not usually accept expungable

misdemeanor cases, such as first possession of marijuana. Instead, most of the Program's clients are charged with property offenses such as burglary of a business, or possession of stolen goods. However, misdemeanors punishable by a fine or imprisonment and demanding a jury trial are also considered. Due to the similarity of the criteria between the Diversion and the ROR Program, an ROR recommendation for release is sometimes used as a criterion for diversion. Yet an ROR recommendation is not mandatory for diversion. Many suitable referrals are released on a cash bond prior to an ROR interview, and are then discovered as potential divertees by the District Attorney's Screening Unit staff, or are referred by a private attorney for consideration.

Meeting the general eligibility, however, is not enough for an individual to be considered for diversion. In fact, both the arresting officer(s) and the victim must agree to the diversion; without this consent, the defendant will not be referred for possible program inclusion.

The primary consideration of the diversion criteria is to screen out those who exhibit a high risk of recidivating. By accepting primarily the first offender, the Program effectively screens out those who have recidivated in the past. But in order to limit future recidivism among Program participants, it is necessary to depend upon other factors, such as the defendant's attitude during the preliminary interview with the diversion counselor. Like the ROR interviewers, the diversion counselors depend upon extensive experience for making the final discretionary decision to accept a defendant. Risk assessment in this regard is primarily subjective.

The only exception to the lack of objective instruments in the decision to divert a defendant is the use of psychological tests. This occurs only in certain cases where the Program would like an outside evaluation performed. The evaluation summary is useful for counseling those clients who are accepted into the Program and for specifying possible problems that a client may have. In certain problem cases, clients will still be allowed into the Program but will be required to obtain professional counseling at their own expense. In the case of a defendant who may

possibly inflict self-harm or harm to others, the psychological assessment may aid in identifying a potential for violence, even though the offense for which he/she was arrested was nonviolent. In this case, a second evaluation would be conducted by a psychiatrist, and on this basis the individual would be considered for program inclusion.

Since all referrals for program suitability are initially made by the District Attorney's Screening Unit, the greatest degree of discretion occurs in the diversion decision prior to the actual referral. The program director has the authority to reject referrals as being non-suitable on grounds other than failure to meet the primary criteria, but such rejections are minimal. The greatest number of referral rejections which do occur are usually related to prior offense.

Implementation

Diversion. During the late 1960's and early 1970's, the New Orleans criminal justice system was severely impacted by overburdened court dockets which created concurrent problems of court backlog and overcrowded jail conditions. It was believed that these problems arose for three primary reasons. The first was the increasing rate of arrest. Between 1969 and 1971 the number of arrestees increased by 12%, and by the middle of 1972 this trend showed no signs of halting. The second factor was the processing of an excessive number of minor offenses involving first offenders and a similar rise in the arrest of repeat offenders. The third reason involved the large number of defendants awaiting trial who could not afford to post a money bond and subsequently had to be held in pretrial detention.

The Mayor's Criminal Justice Coordinating Council decided in its Target Area Crime Specifics Plan that one way the city could reduce these problems would be to establish a diversion program for the first offender. They believed that such a program could curb recidivism in general, and reduce the court backlog resulting from an excessive volume of minor offenses. The Council agreed that traditional processing and modes of

punishment were not viable solutions to the problem. As the preliminary evaluation of the Program conducted in 1976 stated:

. . . local criminal justice officials saw the overload problem as resulting in great measure from nuisance and situational crimes. . . It was felt that some mechanism could be developed which would divert first offenders and repeat offenders charged with minor crimes from establishing a recidivist, and, in the extreme, a career criminal pattern.²

To face these problems, the city applied for a grant under its Target Area Crime Specifics Plan, and received a two year LEAA discretionary grant in July of 1973 amounting to \$117,886, of which \$80,914 was LEAA funded and \$36,972 matching funds. The Orleans Parish District Attorney at the time, Mr. Jim Garrison, was designated as project director, but program funds were not spent immediately. In April 1974, Mr. Harry Connick was elected Orleans Parish District Attorney, and the Program began implementation. Once in office, Mr. Connick immediately hired Mr. Robert Donnelly to establish the Diversionary Program.

The District Attorney sent Robert Donnelly to Flint, Michigan to study the Diversion Program operated by the Genesee County Citizens Probation Authority. After an intense period of observation, Donnelly returned and submitted a grant revision to LEAA to completely change the character of the Program. The original 1973 grant was based on a Department of Labor "Manpower Type" proposal which specified an age and income limit for program eligibility. Initially limited to defendants between the ages of 17 and 25, the original program was designed to accept misdemeanants and certain marijuana cases. The District Attorney changed the age limit to 17 and up, and expanded the offense criteria to include nonviolent felonies. In addition, the Orleans Parish residency requirement was expanded to include defendants arrested in Orleans Parish but living elsewhere in the greater New Orleans Metropolitan area.

2. Carroll and Sternhell, op. cit., p.2.

The criteria of the Diversionary Program was explicitly designed to meet the requirements of the District Attorney for the types of cases that should qualify. Defendants charged with crimes against persons were excluded from the Program since it was felt that the rights of the victims had to be considered. This consideration for the victim is also the reason for consent being required for diversion in cases involving property crimes. The District Attorney further designated the types of defendants who should be given the opportunity for diversion. Similar criteria rejecting repeat offenders were also established because the District Attorney believed that the Program should not aid those with an established pattern of anti-social behavior. Instead, priority was given to the first time felony offender who could be diverted not just from the criminal justice system, but from the path of future criminality.

The policies of the Program have not visibly changed since its inception in 1974. Instead there has been a consistency in the Program which probably reflects the stability of the individual personalities involved. Both the program director and the District Attorney are the same as when the Program first began. In addition, there has been a low staff turnover over the past four years. It is likely that these factors helped establish the close working relationship between the District Attorney's office and the court, which has allowed the Program to survive and be successful. Such an institutional framework was even commented upon in the 1976 evaluation report:

It is our observation that much of the success of the Program is due to factors rarely discussed in evaluation literature: project staff and institutional support. Throughout the course of the program, the District Attorney maintained regular communications with, and firm control of, the policy aspects and administration of the diversionary and ROR projects. He was aided in this capacity by the work of the operating director of the program who gained considerable respect for his administrative talents. These factors are mentioned because of their central relationship to the success of the program and because, unfortunately, data-based research evaluations tend to de-emphasize

the importance of both competent personnel and institutional support. The District Attorney's program possessed both.³

Many diversion programs across the country have been criticized for taking cases which would otherwise be acquitted in court. Such a practice is not apparent in New Orleans. The policy of the Orleans Parish District Attorney is to screen out those cases that cannot be successfully prosecuted. There is minimal plea bargaining permitted. Even though this is official policy, occasionally such a diversion will occur.

Pretrial Release. An ROR Program has been in existence in Orleans Parish since 1966. The first program was staffed with volunteer interviewers and operated by the court. The number of cases screened, however, did not adequately deal with the problem of reducing pretrial detentions. With 57% of the Orleans Parish Prison inmates in 1972 being pretrial detainees, there was a severe need for overhauling the entire pretrial system in the Parish. In April of 1974, the ROR Program was taken over by the District Attorney's office and made a companion of the District Attorney's Diversionary Program under the directorship of Robert Donnelly. Also in 1974, legislation affecting only Orleans Parish was passed in the Louisiana State Legislature which concerned itself with the problem of pretrial detention. This legislation provided funding to hire three magistrate commissioners who would work part time on evenings, holidays, and on weeknights to sit at preliminary bond hearings. Since the District Court Judges heard the 10:00 a.m. bond sessions, individuals could have bail set all day and until 10:00 p.m. at night. By defendants having their bond set more than just once a day, the court backlog for bail setting was greatly reduced. Once hired, the magistrate commissioners conducted two preliminary hearings a day during the week at 6:00 p.m. and at 10:00 p.m., and three times a day on weekends -- taking over the 10:00 a.m. hearing on Saturdays and Sundays as well.

3. Ibid., p.vi.

The magistrate commissioners would also handle "status hearings" for all defendants, and arraignments for misdemeanors punishable with maximum of six months in jail or a \$500 fine. The status hearing was established to reduce court backlog and to guarantee that defendants whose charges had not been accepted by the District Attorney would be released. It is basically a short hearing to review the current status of a defendant. These hearings are held for a defendant every ten days, and if the District Attorney has not formally accepted charges by the time that the second status hearing takes place, then the defendant is ordered released. Prior to 1974, defendants frequently would have to wait 72 hours before their bond was set, and if unable to post bond, would stay in jail 30 days before charges might be accepted against them by the District Attorney. The establishment of the magistrate commissioners and the status hearings in New Orleans greatly reduced the court backlog and the amount of pretrial detainees in the Orleans Parish Prison.

With the magistrate commissioners reducing both court backlog and the time between arrest and bond setting, the District Attorney's ROR Program was also able to work in a more effective manner. The original long term program goal of reducing the pretrial detention population of Orleans Parish Prison by approximately 100 inmates a month was met. Since 1974 this goal has remained the same. Monthly program statistics demonstrate that the number of monthly releases has remained the same since the Program began. The reason why this number has not steadily grown is that program policy has never been aimed at continual expansion. Instead the criteria first established by the District Attorney have remained virtually the same since 1974.

Appearance in court remains the fundamental consideration for any ROR recommendation. If an individual qualifies by use of the offense related and prior record criteria, that defendant is then considered by community stability criteria. In New Orleans, community stability is measured in basically the same way as in other pretrial release programs: by length of employment, length of residence, and family ties. However,

the most important criteria for consideration by program interviewers is length of residence. They feel that the character of New Orleans is different from other cities because residents rarely leave, and if someone does, they usually return. They feel that a certain stability of the population is established which guarantees that a local defendant will appear in court. In addition, interviewers believe that it is quite easy to find someone who has failed to appear if one tries. Thus, program staff feel that non-appearance is not a problem with their program, and a failure to appear (FTA) rate of about 2½% for the ROR Program supports this assumption.

Occasionally, someone might appear as a good risk for appearance in court, but the individual has been excluded from program consideration because of specific offense criteria. One judge interviewed talked of such cases:

There might be some reason that the District Attorney cannot consider him for ROR, like if it's a burglary of a residence by a first offender, but I'll look at the facts that the man has been here most of his life, he has family ties, a job, and there's no prior record on him. He'll probably stay here and so I'll sign a recognizance bond on him anyway.

The judges will occasionally reject an ROR recommendation made by the Program, although it is rare--it occurred four times during 1977. The same judge talked of this:

You've got to judge someone on first impression. You get someone out there who's cocky and flip, and you feel like he doesn't respect the fact that he's been arrested. He's taking everything lightly. He's not likely to come back whether or not the ROR program recommends him, so I won't sign a bond.

The judges appear to consider a variety of factors in making the ROR decision, including not just the record and the charge, but who in the community is used as a personal reference for the defendant:

I like to look at the kind of record the person has. I look at the charge they've been charged with, and who's requesting the recognizance bond. If it's coming from someone I know who in the past has been reliable to have their people appear before, then I'm inclined to give it to them. If it's from someone who's given you a bad bond on somebody who didn't show up, then I'm not inclined to give it to them.

In asking the judge what type of people carry such a weight in interceding on a defendant's behalf, we discovered that politics are occasionally involved in the ROR decision:

. . . a person gets arrested, calls his friend and his lawyer, and he calls a politician who will call here to ask if we can consider him on a recognizance bond. What I'll usually try to do is to say 'let's see what the ROR program says first,' and if it is somebody who you'll obviously know the program will not consider, then you've got to play it by ear.

The operating director stated that the ROR Program focused on those defendants without the power to help themselves: "We get a lot of indigent defendants who would have no other way of getting out of jail. They have no political connections, and no one who can help them get out." This is also why reaction has been favorable to the Program in the community where people are aware of it. In the neighborhood "projects" for example, the residents oftentimes know about the Program.

Screening and Decision Process

Pretrial Release. The District Attorney's ROR Program operates 16 hours a day, from 8:00 a.m. to 12:00 midnight. During this time it conducts interviews with defendants who qualify for ROR consideration on the basis of current arrest charge. After verifying the information obtained in the interview, it makes recommendations at three preliminary (bond) hearings which are held at 10:00 a.m., 6:00 p.m., and 10:00 p.m., seven days a week including holidays. The bonding interviewers can only make

recommendations to the court and have no releasing authority themselves. As a result, they make only two decisions: to recommend for ROR, or to make no recommendation. This bonding process is dependent upon the court schedule itself, following the same daily process:

1. After an individual is arrested, he or she is brought to police central lockup to be booked. At the booking the basic information is placed immediately into the police computer. The individual is photographed and fingerprinted (if the offense requires it), and then is either placed in a holding cell at central lockup, or brought across the street by police van for processing into Orleans Parish Prison. The defendant is held until his first appearance (bond) hearing which usually takes place within six hours of arrest. For example, an individual who is arrested during the night will be brought to the Magistrate Court between 9:00 and 9:30 a.m. for the preliminary hearing at 10:00 a.m. Between 8:30 and 9:00 a.m., the bonding interviewer receives the arrest register which lists those to be bonded at the preliminary hearing, along with the current charges.
2. The arrest register is checked for charges which would immediately make a defendant ineligible for interviewing. Some information is then taken from the arrest register of those defendants who appear to qualify and is transferred to a bonding interview form. This information includes name, age, sex, race, birth date, nationality, marital status, current address, current employment status, and address of employment.
3. The defendant is then usually interviewed by the bonding interviewer to establish eligibility for an ROR recommendation. The defendant is asked to list three references, including two relatives, who would be willing to come down to the ROR Program's

office to sign a personal recommendation form. While this does not make the reference liable for the money bond which is always set regardless of the ROR decision, it does require that this person will do all in his or her power to make certain that the defendant will appear in court. The defendant is also questioned about current and past addresses of residence and employment, and past criminal convictions. This interview is conducted in the court while all defendants are seated at benches waiting to have their individual bonds set by the judge.

4. After the interviews are completed, the interviewers walk downstairs to the District Attorney's Office to use the computer to tie to NCIC (National Crime Information Center) to check the past record of each defendant. This happens very quickly with a turn around time of under one minute. Municipal and local charges can also be checked with the New Orleans Criminal Information System or if necessary with the FBI. If the defendant is young, juvenile records (if any) are requested and usually obtained the same day. These records show arrests, but not convictions, and are used primarily to see if the defendant appears to have an established pattern of "deviant" or criminal involvement. Adult records, however, show both arrests and convictions and are used in the same way. If the staff are doubtful about someone, they might request the arrest file to study the particular factors involved in a previous arrest and conviction. In the case of juveniles, the interviewers look to see if the youths have ever been sent to Louisiana Training Institute (LTI), and then use this information in making the release recommendation.
5. During this time references are called and requested to come down to the office. Employment is also checked by calling the

place of business in such a way as not to jeopardize the defendant's job. If any of these references cannot be reached, the interviewer keeps trying until the people can be contacted. The interviewers base their recommendation on all the information which they receive, but they will not make any unverified recommendations. People arrested at night, for example, are often held over until morning because it is not possible to verify employment and community ties at night.

6. Once all information is obtained, the interviewer decides what his recommendation to the court will be. He then goes immediately to the magistrate commissioner with the recommendation, and if the bond recommendation is accepted by the judge, the defendant is ordered released. The judge will set a money bond regardless of the lack of recommendation by the bonding interviewer, and thus the defendant may still be released if he wishes to post a cash or a property bond with the court, or go through a private bondsman.
7. The preliminary (bond) hearing begins at about 10:00 a.m. and can continue up to 11:00 or 11:30 a.m., depending upon the amount of other activities which are occurring, such as status hearings and arraignments.

Status hearings usually occur first at 10:00 a.m. and are held for each defendant every ten days to review the status of the current bond, and to determine whether the District Attorney has accepted the charges against the defendant, and if so what those charges are. If the District Attorney, for example, has not accepted the charges against a defendant by the second status hearing (usually 20 days after the preliminary hearing), that defendant may be ordered released. If the charges are accepted for a lesser offense than the arrest charge, the defendant's new status may allow for a bond reduction or make the defendant eligible to be interviewed for an ROR bond.

Arraignments also occur during these daily court sessions. Since this is Magistrate's Court, these would be misdemeanor offenses which carry a minimum six month sentence, five hundred dollar fine, or qualify for a jury trial. The preliminary hearing is the major portion of this court session, however, and takes the most time. During the hearing, the judge states the arrest charge against the defendant and may ask defense council and the District Attorney for particulars of the offense, such as the condition of the victim in an assault case. This information aids the judge in determining the proper bond to set. If the individual receives an ROR recommendation by the Program, the judge must then decide whether to grant personal recognizance release or set a money bond.

8. All defendants are brought back to the Orleans Parish Prison after the preliminary (bond) hearing. They are then either processed out, or returned to the pretrial detention cell. Those defendants who do not qualify for ROR and can not post a money bond remain in the pretrial detention facility of the Prison until they go to trial.
9. Once an arrestee is recommended for release and subsequently discharged by the judge, he is brought to the ROR Program office in the Criminal Court Building to talk with the interviewer. A staff member discusses his obligations with him, making sure that he understands what he is required to do. These requirements include weekly telephone calls into the Program office to inform the staff of his current status, and any changes in employment or residence.
10. The court informs program staff of all court dates of those released on the recommendation of the Program. The Program then calls and notifies all releasees at least three days prior to each court appearance.

Diversion

1. The diversion process usually begins where the pretrial release process ends. The interviewer, who works on a daily basis with members of the District Attorney's Screening Unit, might inform the screener that a potential candidate should be considered for diversion. The ROR process continues in the normal manner and the defendant is usually released. However, not all cases are referred in this way. Some eligible defendants, for example, may have posted a cash bond prior to being interviewed by the bonding interviewers. These potential clients are referred by either the Screening Unit, or in some instances by a trial assistant after the case has been set for arraignment in a section of the court. But the Screening Unit is always consulted, and the defendant must meet the qualifications for diversion eligibility (see the "Diversion" portion of the "Overview" section of this report).
2. Once the referral occurs, a careful review is made of all pertinent information, including the record of the defendant. In the case of young defendants, a check of the juvenile arrest records may be performed. The permission of the arresting officer is then required for the diversion to take place.
3. The victim of the offense is then contacted by the Diversion Program, and the matter is discussed. The permission of the victim must be secured in order for the diversion to take place.
4. Once it is determined that the eligibility requirements have been met, clients are sent a letter advising them to contact the program immediately to set up an appointment. The defendants are invited to come into the office along with a member of their immediate family and their lawyer in order to ensure that they are not being coerced into the Program.

5. After the client accepts the invitation, a case file is started and criminal history data is reviewed. Defendants are then interviewed by an intake counselor, and their constitutional rights are explained. They then sign a form that waives their right to a "speedy trial " and grants release of confidential information.
6. The police are notified that the defendant has been accepted into the Diversion Program, and the client's history record is updated to reflect program participation. This ensures that the Program will be notified in the event that the client is rearrested. During participation in the Program, the charges against the client are held in abeyance pending the successful completion of the Program. In those cases where it is required, a restitution agreement with the victim also must be made. This completes the intake activities of the Diversionary Program.
7. After intake, a variety of activities occur including the initial assignment of the client to a counselor who then schedules individual counseling appointments. The primary interview then takes place with the counselor. During this meeting, specific goals are set which the client is expected to meet during the diversionary period. A contract is then executed between the client and the counselor which lists these goals, explicates the repayment plan for restitution (when required), and enumerates the group counseling or other activities possibly required of the client. In addition, the client is usually assessed by the psychological tests, and this information is then used to help specify the needs of the client in the area of vocational or educational training. Those who are unemployed or underemployed are referred to public employment services or other job placement centers in the community.

8. When the counselor feels that the client has sufficiently met the goals of the contract (usually after 6 months), a recommendation for dismissal of charges is made to the District Attorney. A positive recommendation is based on attendance and participation in counseling sessions; satisfactory educational or vocational adjustment; appearance at appointed meetings with staff, referral agencies, or prospective employers; and by not being charged with an additional offense during program participation. If the client meets these general requirements and a positive recommendation is made, then the charges are usually dismissed.
9. However, if the client violates the participation conditions, voluntarily withdraws from the Program, or is rearrested on another charge, his name will be sent to the District Attorney for further disposition. This generally means that court processing will resume from the point where it was initially diverted.

Results and Impact

The problems within the Orleans Parish criminal justice system which led to the establishment of the District Attorney's Diversion and ROR Programs have diminished somewhat. Nevertheless, it is difficult to trace the actual impact of these Programs upon the problems which led to their creation. Additional factors must be considered in any analysis of the improvements made in the pretrial system since 1974 when the Programs first began. For instance, the establishing of magistrate commissioners in Orleans Parish has helped to reduce court backlogs. With bond setting taking place within 12 hours after arrest, the daily pretrial population of Orleans Parish Prison has been reduced. In addition, the length of time between arraignment and trial has decreased to just under 60 days for the Criminal Court Division, and less for the Career Criminal Unit. This length of processing makes the New Orleans court system one of the

fastest in the nation for a city of its size. It is also not rare for a Criminal Court Judge to have a zero docket. The creation of a large case screening unit within the District Attorney's Office has also helped reduce the load on the courts. The appointment of seasoned trial attorneys to the unit enables more cases that lack evidentiary basis of probable cause to be screened from the system.

The Diversion and Release Programs have also helped expedite these changes. The evaluation conducted in 1976 pointed out that both Programs were "successful" in meeting their professional goals.⁴ For diversion this meant reducing recidivism rates among program participants; for the ROR component this goal consisted of releasing 100 pretrial detainees a month. The Diversion Program's recidivism rates among participants have remained very low, the 1976 analysis showing a New Orleans recidivism rate of 7.79%, while the national average was 9.98%. Moreover among terminated participants, the recidivism rate was 3.4%, while the national average at that time ran about 5.95%.⁵

The Release On Recognizance Program has similarly met its goal of releasing 100 pretrial detainees a month. This figure has remained stable over the past few years, along with a low non-appearance (FTA) rate of about 2½%. It is almost impossible, however, to compare this rate with that of other programs around the country since many programs have different definitions of the terms "failure to appear" and "forfeiture of bond."

Since our site visit to New Orleans focused on processes of risk assessment and was not for the purpose of evaluation, we were not able to obtain current statistics which could be analyzed to provide data for evaluation. As a result, we cannot tell whether program performance has stabilized since 1976 or not. With the eligibility criteria remaining the same, however, and the policies of the District Attorney as well as the Programs also not changing, such an analysis would probably not show too many changes.

4. Ibid., p.66.

5. Ibid.

The ROR Program is expanding the services which it presently provides. The Louisiana State Legislature recently passed a bill which provides funding for an additional magistrate commissioner for Orleans Parish. This new commissioner will allow bond setting to take place 24 hours a day. In addition, the commissioners will now be present at the courthouse instead of merely on call, a situation which should speed up the bond setting mechanism. As a result of the expanded hours for bond setting, the ROR Program is also planning to expand its operation to 24 hours a day. Interviewers will now be placed within the central lock-up so they can conduct interviews as soon as a defendant is brought in to be booked. As a result, the interviewers will have more time for verification of information received during the interview, and will also be able to interview and recommend for release more of those defendants who would otherwise post a money bond. While this expansion will not change the eligibility criteria or the definition of risk, it should increase the number of defendants who will be interviewed by the Program and subsequently released.

APPENDIX A

NEW ORLEANS INSTRUMENT
POINT VERIFICATION SHEET

Name of Defendant _____ Date _____
Charge _____ Bond _____

_____ Total Points 6 Points = Qualification

RESIDENCE:

_____ Current address 1 year 3
_____ Current address 6 months or current and prior 1 year 2
_____ Current address 4 months or current and prior 6 months 1
_____ Current address less than 4 months or current and prior less than 6 months 0
_____ Resident of area 5 years 0

FAMILY TIES:

_____ Lives with family 3
_____ Has weekly contact with family 2
_____ Lives with non-family member 1
_____ Lives alone 0

EMPLOYMENT:

_____ Current job for 1 year 3
_____ Current job 4 months or current and prior 6 months 2
_____ Evidence of employment in past 2 months 1
_____ No employment in past 2 months 0
_____ Retired, Poor Health, Pregnancy, Student 3

APPENDIX A (Contd.)

CRIMINAL HISTORY:

_____ No previous convictions 2
_____ 1 misdemeanor conviction or 1 felony conviction 1
_____ 2 misdemeanor convictions or 3 juvenile or 1 misdemeanor and 1 felony conviction -1
_____ Definite knowledge of present narcotic or alcohol addiction -1

NOTE: The following persons ARE NOT recommended even though they may have the required number of points:

1. Any person who presently has an open charge pending.
2. Any person who is presently on probation or parole.
3. Any person who has willfully failed to appear while on bond.
4. Any person who has an outstanding attachment, warrant or detainer against him.
5. Any person who has not resided in the New Orleans area at least 6 months.
6. Any person who has ever escaped from jail or mental institution.
7. Any person who cannot provide at least two local telephone references.
8. Any person having a previous felony conviction.
9. Any person being presently charged with Aggravated Rape, Aggravated Kidnapping or Murder, Armed Robbery, Sale of Drugs, Possession of Large Quantities of Drugs, Most Residence Burglaries, Aggravated Burglary, Most Concealed Weapons (Guns), Most Purse Snatching, Prostitution, and Transients.

CONTINUED

1 OF 2

SITE VISIT REPORT
DECISION POINT: PRETRIAL RELEASE

PRETRIAL RELEASE PROGRAM

NEW YORK CITY, NEW YORK

SITE VISIT: May 21 - 27, 1978

INTERVIEWERS: Michael Jamison
Dean Babst

CONTACT PERSON: Jeremy Travis
Director
New York City
Criminal Justice Agency, Inc.
Tele: (212) 577-0500

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Overview

In New York City more than 100,000 persons are arrested each year; detaining such a large number of individuals during the pretrial period is extremely costly. To deal with this problem, the New York City Criminal Justice Agency, Inc. (CJA) was established to determine which defendants might be safely released while awaiting trial. CJA interviews those defendants processed in the criminal courts and evaluates them for possible pretrial release. The Criminal Justice Agency's primary functions are:

1. To decrease the number of days spent in detention by defendants who could be safely released into the community while awaiting trial.
2. To reduce the rate of non-appearance in court by defendants released from detention and awaiting trial.

To achieve these goals, CJA engages in three principal activities:

1. The gathering and verification of defendant background information.
2. The provision of court date notification services to released defendants.
3. Research and evaluation.

The Criminal Justice Agency occupies a very important position in the nation's criminal justice system. It is one of the largest pretrial screening programs in the world, and staff of this agency interview more persons every year than probably any other program in the U. S. criminal justice system. Historically, it is also one of the oldest pretrial screening programs in operation.

The Criminal Justice Agency is a non-profit corporation working for the benefit of the public. The Agency is governed by a board of directors which includes the Deputy Mayor for Criminal Justice of New York City. It was funded by a federal grant of \$1.6 million from the Criminal Justice Coordinating

Council for 1977-1978, and by matching funds provided by New York City. Its total budget for fiscal year 1978/79 will be \$3.5 million, to be funded totally by the City of New York. The agency's overall administration is handled by a small central office staff. The Director, two Associate Directors, and a Deputy Director of Operations work together to set policy and share administration. They emphasize decentralization of administration, with each of the city's five boroughs (Manhattan, Bronx, Queens, Brooklyn, and Staten Island) having its own director who is responsible for daily operations. The agency employs 189 people (180 full-time and 9 part-time). Seventy-three full-time researchers prepare periodic and special agency reports from the central office.

The Criminal Justice Agency functions as an integral part of the New York City criminal justice system. Its interviewing and information gathering centers are housed in the city's police and Department of Corrections facilities. The Agency is charged with working with other departments to improve the administration of justice. CJA is developing a computerized information system jointly with the Department of Corrections and has received a joint grant with the Department to expand inmate risk classification. Other cooperative projects are also in progress with the Police Department, the Office of Court Administration, the Legal Aid Society, and District Attorney's Offices.

CJA is well regarded by other agencies, and the services it provides are utilized continuously by courts and police. Even when an emergency arose such as the New York City blackout in 1977, the courts insisted on having CJA interview and rate all persons arrested. The workload was greatly increased at that time, but CJA did carry out its share of the work.

The agency personnel responsible for making recommendations for ROR are the interviewers. After they have interviewed the defendant and the information is verified by telephone, the recommendation is calculated according to an objective point scale. There are supervisors and assistant supervisors to help interviewers in each borough. In addition, each borough has a director and deputy director responsible for overall administration, hiring staff, and coordinating data entry operations with community and other agency contacts. The organization of the Bronx borough is shown in Table 1. Other boroughs follow a similar pattern.

Table 1

<u>Title</u>	<u>Number of Staff</u>
Director	1
Deputy Director	1
Secretary-Receptionist	1
Fiscal Officer	1
Full Supervisor	2
Assistant Supervisor	4
Interviewers	17
Data Entry Staff	7
Area Representative	1
Messenger	1

Once a person is arrested, he/she is taken to the precinct jail and then to a central facility to be booked. The Criminal Justice Agency interviews all defendants at Central Booking, except those issued Desk Appearance Tickets, and, in Manhattan, those charged with prostitution. The CJA interviewers do not refer defendants to service agencies, but only rate them for the arraignment hearing.

The main function of the agency is to recommend whether the defendant should be considered for release on personal recognizance (ROR) based on community ties. In the fourth quarter of 1977, CJA interviewed 30,322 persons. The percent assigned to each decision category is shown in Table 2.

Table 2

Recommended (community ties-verified)	32%
Qualified (community ties-unverified)	20%
No Recommendation (insufficient community ties)	30%
No Recommendation (bench warrant or for information only*)	12%
Other	6%

*"For information only" is used for all murder and attempted murder cases.

The relative proportion in each category has remained fairly stable for each quarter.

The Instrument and Its Development

Section 510.30 of the New York Criminal Procedure Law states that a judge must consider community ties when setting bail. CJA uses a predictive model which relates defendant characteristics to the likelihood of failure to appear (FTA). This model was developed and is reassessed from the historical information maintained by the New York City criminal justice system.

The current evaluation instrument was reassessed and updated in 1974 using procedures based on an evaluation of an earlier instrument. Paul Lazarsfeld carried out the study for the Vera Institute of Justice. The construction sample consisted of the 2,000 persons interviewed by the New York City Office of Probation in Brooklyn from June 1972 to May 1973. The data from this sample were compared with that from a validation sample of persons interviewed during the first year of the Pretrial Services Agency (PTSA) program. The PTSA sample consisted of the 2,500 persons interviewed from June 1973 to May 1974 in Brooklyn.

The criterion variable used as an indicator of risk was failure to appear in court. The percentage of ROR'd defendants who failed to appear was compared between the Probation and PTSA samples (the time period covered was from the date of arrest, to date of trial or disposition). The recommendation for ROR was based on community ties such as stability of residence and employment which were operationally defined.

The procedure Paul Lazarsfeld used for developing the PTSA (now CJA) recommendation system was Latent Structure Analysis. This procedure allows for the development of a rating system which is fairly simple to administer. The final predictor variables chosen were those that could best differentiate between individuals who were likely to appear in court and those who were not. Six items were selected for the rating system. All items selected are moderately and positively related; in other words, they are indicators of community stability. The system is similar to a true-false test; individuals are assigned

scores which reflect the number of items on which they are classified positive. The investigator then rates the defendant according to an objective point scale, deciding whether he is likely to appear in court. The first item on the point scale is given the greatest weight.

The Criminal Justice Agency continuously reassesses the ability of its risk rating system to predict failure to appear. These reassessments, which are reported in CJA's quarterly reports, attempt to demonstrate that during each new period, the percent who failed to appear in court is lower for those recommended for release than for those not recommended but released anyway.

The interviewers are responsible for completing the interview questions on the screening instrument. Because of the specific formula used, no formal discretion is allowed in weighting and scoring. There is some room for discretion in the information items, but even these are very carefully specified. Under no circumstances, however, is subjective weighting or scoring permitted by the instructions. Also, the rater is not allowed to add any input to the final risk assessment.

According to the Director of Research, there are no informal understandings, conventions, or rules influencing the administration of the screening instrument. The interviewers simply ask questions in the order indicated by the instrument. A verified NYC address and certain other verified responses must be present for a positive recommendation (See Appendix A, page 2). If the information cannot be verified, the defendant's score is adjusted negatively: the defendant receives a "qualified" rather than a "recommended" stamp. A "no recommendation" score will be given if the community ties are insufficient, a bench warrant is outstanding, or the interview could not be completed.

There have been no attempts to carry out inter-rater reliability checks by having different interviewers rate the same cases independently, but the supervisory staff continuously review a sample of cases. Due to the mechanical nature of the rating system, certain interviewing personnel do not have a reputation of being either "tougher" or more "permissive," and inter-rater reliability is not considered a problem. The reporting system is so intimately connected with the on-line computer system that any interviewer who makes a fair number of errors can be detected.

Implementation

In 1961, the Vera Institute of Justice (then called the Vera Foundation) developed a pretrial release on own recognizance (ROR) procedure in its Manhattan Bail Project. From October 1964 to June 1973, the New York City Office of Probation ran an ROR program in the city's criminal courts. In June 1973, the Vera Institute of Justice was asked to assume the responsibility for the creation and operation of an independent ROR program, and as a result, Vera created the Pretrial Service Agency (PTSA). PTSA began operation in Brooklyn and expanded its services to Staten Island in June 1974. The Bronx office of PTSA was established in December 1974, while Manhattan PTSA commenced operation in February 1976. With the opening of the Queens office in December 1976, PTSA had established itself as the city-wide ROR program. The Vera Institute of Justice relinquished administrative control of PTSA when the latter was institutionalized as the New York City Criminal Justice Agency, Inc. on August 1, 1977.

Screening and Decision Processes

The information gathering instrument is the Interview Report presented in Appendix A. The questions on this form are designed to ascertain the offender's degree of residential and employment stability. The back of the form is designed to provide verification information which is obtained by calling the references given by the defendant. The rating system relies heavily on the degree to which the interview information can be verified: the less information that is verified, the more unlikely the recommendation for ROR.

The interview is usually conducted while the defendant is in a holding cell. The interviewer begins with an introductory statement outlining the program and the purpose of the interview, and then informs the defendant that the interview is voluntary and that all information received will be verified for accuracy. If the defendant refuses to be interviewed, he or she cannot be recommended for ROR. While the interview is being conducted, the police send the fingerprints to the New York State Identification Department (NYSID).

Within two to three hours, the information concerning prior criminal involvement is returned. While the police and the interviewers are awaiting the information from NYSID, the arresting officer fills out the arrest report and takes it to the screening unit of the District Attorney which is housed in the same building. The interviewer, in the meantime, attempts to verify the information which the defendant has given him during the interview by calling the references and checking the employment and residence information.

The interviewer then activates CJA's own computer tracking system to check on the local criminal history of the defendant and any open cases still pending. The computer is "primed" with the defendant's name, address, date of birth, and CJA's own sequency number. The computer returns any information which it has concerning the defendant, listing local arrests with dates of arraignment and final dispositions. The computer is able to generate this information because court outcomes are entered into its memory banks daily. CJA gathers this information for updating and upgrading the records they keep on all defendants.

When the NYSID information is returned, cases listed as open on NYSID are checked through CJA's computer by their docket numbers to see if there have been any final dispositions. The number of convictions and open cases are then listed on the interview sheet, and these data are placed into CJA's computer. With the criminal history information complete, the interviewer calculates the release recommendation and places the appropriate decision on the form. At a later date, the computer automatically generates notification letters for those defendants who are released on their own recognizance to further reduce the risk of non-appearance in court. Staff follow up with phone calls to those who do not answer the letters.

A staff of 73 full-time interviewers complete about 2,500 interviews per week, averaging about 34 interviews per interviewer. On the basis of a 40 hour week, less vacation and sick leave time, this is about one interview completed per hour, including the time the interviewer spends verifying calls and calculating the defendant's score. The interviewers are current on the interviews and there are few delays. The computer also double-checks the

interviewer's calculation of the risk rating score.

When the judge makes his or her bail/ROR decision at arraignment, he or she uses other information besides the CJA interview and rating. The CJA rating does not include any information on the severity of the current offense, or the defendant's criminal record or mental condition, all factors set forth by statute for consideration. CJA's ROR ratings are based only on stability of residence and employment or school attendance. Table 3 (data taken from the Fourth Quarterly Report) demonstrates the extent to which judges consider CJA's recommendations for ROR:

Table 3

<u>CJA Rating</u>	<u>% of Non-Disposed * Cases ROR</u>
Recommended	58
Qualified Recommended	54
No Recommendation	40
Bench Warrant	--
All Others	20

*City-wide, approximately 50% of cases entering the Criminal Courts are disposed at arraignment; many of these would have been recommended and released had they not been disposed.

Results and Impact

The Criminal Justice Agency interviews more than 120,000 arrestees each year in New York City. This is the largest pretrial screening program in the United States, and many other agencies throughout the country have modeled their programs after this New York City (Vera) program. The interviewing of all defendants has a number of benefits.

- It allows all interviewed defendants to be tracked through the system by the CJA computer. This provides a greater information bank for the agency's research focus which would not be possible if large

groups of defendants were pre-screened for interview suitability.

- It allows CJA to take a neutral role in the assessment of community ties criteria while assessing all defendants, even those who would obviously not qualify for ROR. The court is provided with interview information on all, not just selected, defendants.
- The large base of defendant data in the computer allows the agency to measure the appearance in court and recidivism rates between groups differentially according to the agency's recommendation. This allows the agency to better assess its own effectiveness and change its own system if the need arises.

While the interviewing of a large number of defendants has some advantages, it also has some disadvantages:

- The high cost of operating a system with a large staff and an elaborate computer facility.
- The inability of a large pretrial release agency to individualize its release recommendations for those who are "good risks," but who might not qualify due to a lack of community ties.
- The inability of such a system to assess defendant problems and needs in order to refer them to specialized services. Such referrals could reduce recidivism by identifying problems before they become too serious, or lead to further criminal activity.

While each of these complaints may be valid, the New York Criminal Justice Agency has developed its approach for specific reasons. The cost of an agency which performs functions similar to CJA will definitely be greater than that of most other agencies. The extensive research role (a special emphasis that adds to the expense) is not necessarily needed by all pretrial release agencies. Moreover, a computer facility such as CJA's may be either unnecessary or inappro-

priate in many smaller systems. Yet, such a facility could be shared by more than one agency in a jurisdiction to reduce costs, or could be operated by the courts. The multipurpose computer facility, however, is a valuable system not only for pretrial release recommendations, but also for improvement of court management. For instance, notification of the defendants could be provided by the courts instead of being the sole responsibility and financial burden of pretrial release agencies.

The claim that such a system disregards the assessment of a defendant's special problems or needs may constitute a valid complaint, but this criticism disregards the specific role which the pretrial release agency was designed to perform. Such in-depth assessments are usually conducted by agencies of a different design. Needs assessment and referral would require a change in the designated function of the agency and its present institutionalized role. Such a shift in responsibility does not appear to be a possibility in New York City, since a change would be expensive and time-consuming, especially when applied to the large number of defendants served by CJA. In addition, such a change would demand that a subjective decision-making approach be instituted for special needs assessment and referral purposes. This subjectivity would of course alter the entire nature of CJA's FTA model which is highly dependent upon the point scale in order to work in a smooth, uniform, and consistent manner.

The present FTA model significantly affects the defendant population. Comparison studies conducted by CJA have shown that more defendants are released when a "Recommended: Verified Community Ties" decision is made than when it is not. This demonstrates that in many cases even though judges use additional information in the bail release decision, they depend on the assessment of community ties for their own decision. However, it should be noted that even in New York City, the CJA recommendations are frequently disregarded by judges. This is still considered a problem by the agency. A report for the month of April 1978 summarizing the percentages of recommendations followed by judges showed that percentages varied from a low of 52% in Brooklyn, to 67% in Manhattan. This suggests very clearly that judges are considering a variety of factors besides community ties, some of which are specified in the bail statute, and some of which are not.

Commentary

Much of the success of a service agency is dependent upon how well it relates to agencies around it. CJA is very successful because it is an integral part of the city's criminal justice system. And even though the CJA screening program will cost \$3.5 million in 1979, it would cost the city far more if many of the defendants ROR'd were held in jail before trial and if non-notified defendants failed to appear and increased the warrant rate. Moreover, the cost of the CJA program is only a very small part of the total current cost of the New York City criminal justice system. The jails of New York City are crowded, but if more jails had to be built and staffed, the cost would far exceed that spent on the CJA program. In addition, incarcerating less serious pretrial defendants with stable community ties would probably do them and society more harm than good.

NEW YORK CITY CRIMINAL JUSTICE AGENCY				INTERVIEW REPORT MANHATTAN				APPENDIX A (VERA PRETRIAL RELEASE) (POINT SCALE)			
LAST NAME		FIRST		MIDDLE		ARREST REPORT #					
AGE	DATE OF BIRTH	SEX	ETHNICITY			ARREST DATE	ARREST TIME	ARREST #			
INTERVIEW DATE		INTERVIEW TIME		INTERVIEW LOCATION		ARREST CHARGES		COMMAND		ADDL ID	
CJA INTERVIEWER		INT CLASS	INTERVIEW LANGUAGE		ARREST CHARGES		COMMAND		ADDL ID		
DOCKET NUMBERS		NYSID NUMBER		ARREST CHARGES		COMMAND		ADDL ID		ADDL ID	
<p>VERIFIED INFORMATION</p> <p>CURRENT ADDRESS <input type="checkbox"/> THIS REPORT ASSESSES THE DEFENDANT'S COMMUNITY TIES AS DEFINED IN SECTIONS 2(a)(i) and 2(a)(ii) OF CPL 510.30. A POSITIVE ASSESSMENT IS WITHHELD FOR DEFENDANTS WITH OUTSTANDING BENCH WARRANTS AS DEFINED IN SECTION 2(a)(v). THIS REPORT DOES NOT CONSIDER OTHER CRITERIA LISTED IN CPL 510.30 SUCH AS THE DEFENDANT'S MENTAL CONDITION, HIS CRIMINAL RECORD, THE WEIGHT OF THE EVIDENCE OR THE POSSIBLE SENTENCE.</p> <p>LENGTH OF RESIDENCE AT CURRENT ADDRESS <input type="checkbox"/></p> <p>ALTERNATE ADDRESS <input type="checkbox"/></p> <p>PERSONS LIVES WITH <input type="checkbox"/></p> <p>EMPLOYMENT STATUS <input type="checkbox"/></p> <p>TELEPHONE <input type="checkbox"/></p> <p>NONE OF THE ABOVE <input type="checkbox"/></p> <p>VERIFIER _____</p> <p>REQUESTS NO CJA VERIFICATION <input type="checkbox"/></p> <p>CONFLICT RE: <input type="checkbox"/></p> <p>PENDING CASE (ADDL INFO BELOW) <input type="checkbox"/></p>											
RESIDENCE/FAMILY			CURRENT ADDRESS			CITY/STATE			ZIP		APT FL RM
CURRENTLY LIVES WITH:			<input type="checkbox"/> ALONE			<input type="checkbox"/> SPOUSE			<input type="checkbox"/> COMMON LAW SPOUSE (6 MOS)		<input type="checkbox"/> FRIEND
RELATIONSHIP			ALL THAT APPLY			<input type="checkbox"/> PARENT			<input type="checkbox"/> GRANDPARENT		<input type="checkbox"/> CHILDREN
NAME			<input type="checkbox"/> LEGAL GUARDIAN			<input type="checkbox"/> OTHER RELATIVES			<input type="checkbox"/> INSTITUTIONALIZED		<input type="checkbox"/> INCARCERATED
CAN RETURN TO CURRENT ADDRESS			<input type="checkbox"/> YES			<input type="checkbox"/> NO			PHONE #		NAME LISTED
CAN RETURN TO ALTERNATE ADDRESS			<input type="checkbox"/> YES			<input type="checkbox"/> NO			PHONE #		NAME LISTED
PHONE #			CITY/STATE/ZIP			CITY/STATE/ZIP			CONTACT NAME		CONTACT YES/NO
NAME LISTED			C/O			RELATIONSHIP			PHONE #		RELATIONSHIP
EXPECTS SOMEONE AT ARRAIGNMENT			<input type="checkbox"/> YES			<input type="checkbox"/> NO			NAME		RELATIONSHIP
ON PAROLE			<input type="checkbox"/> YES			<input type="checkbox"/> NO			ON PROBATION		<input type="checkbox"/> YES
IN TREATMENT PROGRAM			<input type="checkbox"/> YES			<input type="checkbox"/> NO			TYPE		
EMPLOYMENT/SCHOOL			EMPLOYED			IN SCHOOL			TRAINING PROGRAM		<input type="checkbox"/> NONE
DEPENDENTS SUPPORTED			NAME			LENGTH OF UNEMPLOYMENT			GRADE COMP		
TAKE HOME PAY			ADDRESS			SUPPORTED BY:			<input type="checkbox"/> PARENTS		<input type="checkbox"/> WELFARE
HOURS PER WEEK			PHONE #			SHIFT			JOB POSITION		CJA CAN CONTACT
CRIMINAL RECORD			FIRST ARREST (EXCLUDING VIOLATIONS)			<input type="checkbox"/> YES			<input type="checkbox"/> NO		<input type="checkbox"/> NYSID NOT AVAILABLE
WARRANT ATTACHED TO NYSID			<input type="checkbox"/> BENCH			<input type="checkbox"/> FAMILY COURT			<input type="checkbox"/> NONE ATTACHED		<input type="checkbox"/> OTHER
OPEN CASES FROM NYSID (MOST RECENT)			ARREST DATE			BOROUGH			CHARGE		DOCKET #
ADDITIONAL CJA INFORMATION			DISPOSITION			OTHER BENCH WARRANT INDICATED IN CJA FILES AND VERIFIED BY NYSD			<input type="checkbox"/> YES (ADDL INFO BELOW)		<input type="checkbox"/> NO
MISC.			GRAY SHADING = INFORMATION FROM OFFICIAL SOURCES			NO SHADING = INFORMATION FROM DEFENDANT			DK = DOESN'T KNOW		NA = NOT APPLICABLE
									RA = REFUSES TO ANSWER		

that the device does not predict FTA with much consistency. The impact of point scale use on release rates is uncertain at this time, but indications are that the number of pretrial defendants released may actually have gone down, though there are no specific data to support this. Judges are positive about using the point scale and encourage its continued use. Pretrial specialists have no problem with the instrument itself, but they often find it difficult to verify the data needed to complete the scale.

A panel of judges reviewed the instrument prior to its use and helped choose the factors considered by it. It is unknown what, if any, changes were made due to legal considerations.

SAN FRANCISCO PRETRIAL RELEASE PROGRAM

"STANDARDS FOR PRETRIAL RELEASE"

TO BE RECOMMENDED FOR RELEASE ON OWN RECOGNIZANCE, A DEFENDANT NEEDS:

- 1) A Bay Area address where he can be reached, AND
- 2) A total of five points (verified by references) from the following:

RESIDENCE

- 3 Present address one year or more
- 2 Present address 6 months, OR present and prior One year.
- 1 Present address 3 months OR present and prior Six months.

- 1 Three years or more in the nine Bay Area Counties

FAMILY TIES

- 3 Lives with family, AND has contact with other family members in Bay Area
- 2 Lives with family, OR has contact with family in Bay Area
- 1 Lives with a non-family person.

MEANS OF SUPPORT

- (includes job, ATD, AFDC, GA or other forms of welfare benefits, School, pension, social security, unemployment insurance benefits, State disability, family support, personal savings)
- 3 Present means of support ONE year or more.
 - 2 Present means of support three months, OR present and prior six months.
 - 1 Present means of support less than three months.

PRIOR RECORD

- (includes convictions and bench warrants within last SIX years)
- 2 No convictions
 - 1 One misdemeanor conviction.
 - 0 Two misdemeanor convictions, OR one felony conviction.
 - 1 Three misdemeanor convictions, OR two felony convictions.
 - 2 Four or more misdemeanor convictions, OR three or more felony convictions.

NOTE: Defendant on ATD or other form of state or federal disability, and who is assigned to a Social Worker or Psychiatric Social Worker should be asked to give the Social Worker's name, department, and phone number. In cases where a defendant does not fall within the above-mentioned disability category, but has a Social Worker, this should be noted.

(Pretrial Release Instrument)

SAN MATEO COUNTY O.R. PROJECT

O.R. PROJECT POINT SCALE

TIME IN SERVICE AREA	INT	VER	+3 20 yrs or more
			+2 10 yrs
			+1 5 yrs

RESIDENCE HISTORY	INT	VER	+3 present 1 yr or more
			+2 present 6 mos-1 yr
			+2 present + last 1 yr
			+1 present 3-6 months
			+1 present + last 6 mos-1 yr

EMPLOYMENT/ SUPPORT/SCHOOL (Go back one year)	INT	VER	+3 present FT 1 yr or more
			+2 present FT 3 mos-1 yr
			+2 present + last for 6 mos
			+1 current FT job or student
			+1 int. work (3 mos)
		+1 current aid	

FAMILY TIES	INT	VER	+3 lives w/family + has contact
			+2 lives w/family + no contact
			+2 doesn't live w/family but has contact
			+1 lives w/person + no contact

MISCELLANEOUS POINTS	INT	VER	+1 self sur.
			+1 union member
			+1 owns/buys home
			+1 med treatment

- +2 No conv
- +1 1 misd
- 0 1 fel
- 0 2 misd
- 1 1 fel + 1 misd
- 1 2 misd + 1 fel
- 1 2 fel
- 1 3 misd

PRIOR RECORD	INT	VER	-2 3 or more fel
			-2 4 or more misd
OTHER			-2 any combo. total 4
			+1 Prior OR
			-1 FTA
			-1 Traff Warr
			-1 Prob/Par Vio
			-1 AWOL
			-1 Pending Case (Each)

TELEPHONE INTERVIEW SUMMARY

AGENCY: Arapahoe County Pretrial Release Services

TYPE OF INSTRUMENT: Modified Point Scale

LOCATION: Littleton, Colorado

CONTACT: Carol Mercurio
Director
(303) 798-9431

DECISION POINT: Pretrial Release

The Arapahoe County (Colorado) Pretrial Release Services Project presently employs a point scale in determining the eligibility of pretrial detainees for release on own recognizance (ROR). The point scale consists of six categories of weighted criteria that when scored and totalled generate a single overall risk score. Approximately 100 defendants are screened monthly for risk of failure to appear in court, recidivism, and harm to others. Most of those screened are charged with felonies, although some are misdemeanor defendants who lack a local address and are therefore ineligible for immediate release by the Sheriff's Department.

The ROR screening process, which began in June of 1977, is the first standardized classification system used by Arapahoe County. The variables used on the point scale and the scoring procedures were adapted from another agency and modified to fit the local defendant population. The instrument has not been altered since implementation.

A pretrial counselor, who receives special training in instrument use, interviews the defendant and scores the point scale according to written instructions. After verifying all information, the counselor makes his release recommendation based on the point score and forwards this recommendation to a judge, who makes the final decision. Judges comply with the recommendation in 95% or more of the cases. Pretrial counselors are allowed discretion in scoring certain categories. All pretrial detainees are screened, and they are informed in writing of the results. Each screening takes about 15 minutes (plus verification time) and costs approximately \$8.00.

Although the project experienced initial problems with an uneven work flow, overstaffing, and incomplete screening data, these obstacles have been overcome in the last year, and the program seems to be running very smoothly. Decision makers express considerable confidence in the accuracy and reliability of the instrument, and other criminal justice agencies have reacted favorably to the

screening procedure. Besides expediting case processing, instrument use has also benefitted local jails by reducing the pretrial inmate population. Evaluative research on the point scale is currently underway, but results are not yet available. The agency considered statutory law in developing the instrument, and confidentiality and declaration of rights were designed into the screening process.

ARAPAHOE COUNTY, COLORADO
PRETRIAL RELEASE SERVICES

POINT SCALE

ARAPAHOE COUNTY PRETRIAL RELEASE ELIGIBILITY CRITERIA

Starting Score - 0

Residence

- Over 1 year at present residence +3
- 6 months to 1 year at present residence +2
- 4 months at present residence or 1 year at present and prior +1
- 3 years in Metro Denver +1

Family Ties

- Lives with spouse; or single parent living with children; or single and supporting dependant parents +3
- Separated or divorced with children in Metro area who are supported +2
- Lives with parents +1

Employment

- Present job 1 year or full-time student or housewife with children 1 year or more +3
- Present job 6 months or present and prior job 1 year or currently full-time student +2
- Has job, but less than 6 months, or unemployed less than 2 months with 9 months on past job, or receiving Employment Comp., ADC, Welfare, or is family supporter +1

ARAPAHOE COUNTY, COLORADO

POINT SCALE

Prior Record

- No prior convictions +3
 - 1 misdemeanor conviction/2 or more Traffic +2
 - 2 misdemeanor convictions or combination of Traffic and Public Ordinance Violations +1
 - 3 or 4 misdemeanor convictions or 1 felony conviction 0
 - 5 or more misdemeanor convictions or 2 felony convictions -1
 - More than two felony convictions -3
- Failure to Appear
- FTA in last 3 years -3
 - FTP in last 3 years -1
- Discretionary
- Pregnancy, old age, or poor health +1
 - Other pending charges or current on-going involvement on probation or parole, etc. -1

Eligibility Score

Recommendation for release on personal recognizance may be made if total score is +5 or more.

Revised 08/03/77

TELEPHONE INTERVIEW SUMMARY

AGENCY: Denver Pretrial Services Program
 TYPE OF INSTRUMENT: "Grading System" (point scale)
 LOCATION: Denver, Colorado
 CONTACT: Donna Jones, Director (303) 575-3891
 DECISION POINT: Pretrial Release

The Denver Pretrial Services uses a point scale entitled the "Grading System" to classify pretrial defendants for eligibility for release on own recognizance (ROR). Approximately 500 felony defendants are screened each month using the scale.

Denver has been using a classification instrument to aid in pretrial release decisions for several years. Although the program was expanded in 1977, as of July 1, 1979 the program will lose state support and be run entirely by the City of Denver, resulting in a cutback of personnel and services. The original point scale (included with this report) was recently revised to include ten variables. Both the old and new point scales are based on the Vera point scale. Neither has been tested for accuracy through research.

A deputy sheriff completes the instrument when an individual is booked, based on information supplied by the defendant. A pretrial release specialist then verifies the information by telephoning referrals and checking official records. Completion of the instrument is straightforward and requires no technical expertise. After arriving at an overall score, the pretrial specialist makes a release or detain recommendation that is forwarded to a judge, who makes the final decision. The judges' release decisions agree with the recommendation in about 95% of the cases. Offenders actively participate in screenings, and they are aware of screening criteria. Judges indicate their release or detain decision directly to the defendant.

The Denver Pretrial Release Program appears to have had a positive impact on the community and other criminal justice agencies. The Program reports an increase in the release rate of pretrial detainees, coupled with a decrease in rearrest rates, the number of failures to appear, and the pretrial defendant population. It should be cautioned, however, that no specific research has been done to determine how much of this is directly attributable to use of the point scale. Most who use the instrument are positive about it, including judges who

see it as a useful tool. The recent modification of the point scale was performed to increase its accuracy, but changes were based on subjective judgments rather than research results. The instrument was not reviewed by legal counsel prior to implementation, but questions regarding the current offense were left off the interview form to avoid legal complications.

DENVER PRETRIAL SERVICES PROGRAM

GRADING SYSTEM IN DETERMINING RECOMMENDATIONS FOR PERSONAL RECOGNIZANCE BONDS

Total grade must be five or more points to be favorably considered, but will not be construed to indicate a mandatory favorable recommendation.

POINT SYSTEM VALUES

The following offenses carry an automatic minus five (-5) points:

- Homicide
- Assault to a Peace Officer
- Aggravated Robbery
- Narcotics or Dangerous Drugs for Sale
- Sex Offenses: Involving children, forcible rape, and assault to rape when coupled with another felony

The following offenses carry an automatic minus three (-3) points:

- Burglary of an occupied private dwelling
- Aggravated crimes against a person

The following offenses carry an automatic minus two (-2) points:

- Menacing (this could be changed after reviewing offense report)
- Arson
- Kidnapping

RESIDENCE:

- Denver resident TWO YEARS or more.....2
- Denver resident nine months to TWO YEARS.....1
- Denver resident less than nine months.....0

FAMILY TIES IN DENVER:

- Lives with/or has contact and SUPPORTS family.....2
- Lives with family member.....1 (9/1/77)

EMPLOYMENT, STUDENT, HOUSEWIFE:

- Present job over one years, or if unemployable.....3
- Present job six months, or present job with prior job over one year.....2
- Employment less than six months.....1
- Other.....0

GRADING SYSTEM (contd.)

PRIOR RECORD:

No prior convictions.....	3
Felony and misdemeanor convictions	
One misdemeanor conviction.....	2
Two misdemeanor convictions.....	1
One felony conviction.....	0
Three misdemeanor convictions.....	0
Two or more felony convictions.....	-3
City Ordinance Violations	
One ordinance violation.....	0
Two or three violations.....	-1
Failure to appear within past five years.....	-3
Failure to appear (traffic) within past five years.....	-1
Convicted for Same or Similar offense within past five years....	-3

DISCRETION:

Points may be added or subtracted by person grading with the reason being shown for such action. +1 point is given to a person who is purchasing his/her own home or business.

Probation and Parole violators may be recommended favorably -- subject to the determination of any pending revocation matter. If previously on Probation or Parole, favorable consideration may be given if adjustment was satisfactory.

PTSP (2/77)

TELEPHONE INTERVIEW SUMMARY

AGENCY: Adult Diversion Program

TYPE OF INSTRUMENT: Council Applicant Rating Scale

LOCATION: Golden, Colorado

CONTACT: Ms. Bente Sternberg
Director
(303) 278-1188

DECISION POINT: Pretrial Diversion

The Adult Diversion Program of Golden, Colorado uses a classification instrument entitled the "Council Applicant Rating Scale" in determining the eligibility of pretrial defendants for diversion. A council of lay citizens oversees the program and makes decisions as to program eligibility. The rating scale consists of eight weighted variables that when scored and summed produce an overall score which assesses the risk of a client recidivating and/or harming others. The scale is used to screen about 20 adult felony defendants monthly. The program described here is designed to provide a diversion opportunity for high-risk, non-violent cases that would not ordinarily qualify for diversion.

The rating scale is the first objective device used by the program to determine diversion eligibility. The instrument and screening procedures were developed intuitively by the council and program director; the scale and language used on it were edited by Stanley Jones, Ph.D., of the University of Colorado. The rating scale has not been altered since implementation.

Based on the results of a two-hour intake interview, each council member completes the rating scale for the prospective diversion candidate. The point totals are used for discussion as the case is deliberated, and the final decision is made by a majority vote of council members. Completion of the instrument does not require any special expertise, but does call for numerous subjective estimates by the scorer. Offenders are aware that they are being screened and are verbally informed of the results. In addition to the two-hour intake interview, the screening process normally requires about 20 to 30 minutes.

Prior to implementation of the instrument, the various backgrounds of council members frequently resulted in disagreement as to the best disposition

for cases under review. The classification device therefore was created to improve consistency in decisions and to make the selection process more efficient. These objectives have apparently been realized; the agency reports that decisions now take less time, and there is more agreement in each case. Since the instrument was developed at the request of its users, no complaints have been registered and implementation was simplified. Council members express confidence in the reliability of the rating scale. Evaluative research on instrument impact is underway, but no results are available yet. The instrument and screening procedures were reviewed for legal concerns by the local District Attorney prior to being implemented.

GOLDEN, COLORADO
ADULT DIVERSION PROGRAM

COUNCIL APPLICANT RATING SCALE SCORING SHEET

COUNCIL MEMBER _____

INSTRUCTIONS: Circle the number that best represents your opinion for each statement.

DATE: _____

	Applicant's Name: _____		Applicant's Name: _____							
D. In your opinion, is the applicant choosing the program with full understanding and consideration of alternatives?	yes	no	yes	no						
1. In your opinion, considering this applicant's prior criminal record and admission of previous crimes, how likely is it that the applicant will recidivate? (5) Very Unlikely (4) Somewhat Unlikely (3) Uncertain (2) Somewhat Likely (1) Very Likely	1	2	3	4	5	1	2	3	4	5
2. In your opinion, based on information available concerning the applicant's life style, how likely is it that the applicant will recidivate? (5) Very Unlikely (4) Somewhat Unlikely (3) Uncertain (2) Somewhat Likely (1) Very Likely	1	2	3	4	5	1	2	3	4	5
3. How likely is it that the resources of this program are adequate for the client's needs? (1) Very Unlikely (2) Somewhat Unlikely (3) Uncertain (4) Somewhat Likely (5) Very Likely	1	2	3	4	5	1	2	3	4	5
4. In your opinion, how likely is it that this program offers services to the client that other programs haven't offered in the past? (1) Very Unlikely (2) Somewhat Unlikely (3) Uncertain (4) Somewhat Likely (5) Very Likely	1	2	3	4	5	1	2	3	4	5
5. In your judgement, how likely is it that the applicant will comply with the terms of the contract? (1) Very Unlikely (2) Somewhat Unlikely (3) Uncertain (4) Somewhat Likely (5) Very Likely	1	2	3	4	5	1	2	3	4	5
6. In your opinion, how likely is it that this program is the best among the alternatives available for this client? (1) Very Unlikely (2) Somewhat Unlikely (3) Uncertain (4) Somewhat Likely (5) Very Likely	1	2	3	4	5	1	2	3	4	5
7. How likely is it that the applicant will be terminated successfully? (1) Very Unlikely (2) Somewhat Unlikely (3) Uncertain (4) Somewhat Likely (5) Very Likely	1	2	3	4	5	1	2	3	4	5
8. How likely is it that the program will succeed in keeping this individual out of the criminal justice system for the remainder of his life? (1) Very Unlikely (2) Somewhat Unlikely (3) Uncertain (4) Somewhat Likely (5) Very Likely	1	2	3	4	5	1	2	3	4	5
TOTAL SCORE										
FINAL VOTE	yes	no	yes	no						
A. Regardless of whether you answered the previous questions generally in a positive or negative way, indicate in the boxes to the right how, in your personal opinion can this applicant benefit from this program.										

TELEPHONE INTERVIEW SUMMARY

AGENCY: Washington, D.C.
Pretrial Services Agency

TYPE OF INSTRUMENT: Vera-Type
Point Scale

LOCATION: Washington, D.C.

CONTACT: Marvin Bohnstedt, Ph.D.
American Justice Institute
(916) 444-3096

DECISION POINT: Pretrial Release

The District of Columbia Pretrial Services Agency employs a point scale in making recommendations for pretrial release of all misdemeanor and felony defendants booked in the district. The weighted criteria included on the scale are similar to those on most pretrial release instruments: residence in area, family ties, employment or substitutes, and prior record. The point scale is used to screen approximately 2,580 defendants monthly for risk of failure to appear (FTA) in court, recidivism, and harm to others. Specific groups of defendants are excluded from recommendation for release.

The Pretrial Services Agency has experimented in the past with different point scales. It developed the current instrument through research conducted by the agency, although the variables are rooted in the Vera point scale. Variables and weights have been changed since the current instrument was introduced.

Staff interviewers (either law students or graduate students) fill out and score the instrument. Interviewers receive one week of formal training and one week of on-the-job training. Those charged with misdemeanors in Washington, D.C. are eligible for citation release by the police department without going to court. In these cases, after booking, the police call the Pretrial Agency which interviews the defendant over the phone to obtain information required to complete the point scale. After verifying the information and arriving at an overall point score (this takes about one hour), the Agency relays its release or detain recommendation to the Police Department. If the Department agrees with the Agency's recommendation (as it does 98% of the time), it releases the defendant pending trial under a citation release agreement. Those defendants charged with a felony and misdemeanants denied release on citation are sent to the central cell block where they are

interviewed by Pretrial Services staff during the night before the first court appearance. At that court date, the Agency either recommends that a preventive detention hearing be conducted to determine if the defendant is dangerous or a high FTA risk, or makes no recommendation. If a preventive detention hearing is conducted, the court is required to follow the guidelines set forth in D.C.'s preventive detention statute. The courts follow the recommendation of Pretrial Services in about 75% of the cases.

Agency administrators and decision makers express confidence in the accuracy and reliability of the instrument. The Agency also believes that the instrument has significantly expedited case processing. Administrators have complained about the time and money necessary for screening, and interview staff expressed discontent over personnel shortages and having to work at night. Overall, however, the system fulfills the purpose for which it was created and processes defendants efficiently, while minimizing risk to the community. The instrument and screening procedures were reviewed by the Agency's legal staff to ensure protection of the legal rights of defendants.

WASHINGTON, D.C. PRETRIAL SERVICES AGENCY

RECOMMENDATION CRITERIA FOR THE CITATION RELEASE PROGRAM

(Pretrial Release Instrument)

NOTE: The following people cannot be recommended even though they may have the required number of points.

1. Any person who is charged with a felony.¹
2. Any person who is a juvenile (unless he or she is between the ages of 16 years and 18 years and is charged with a traffic offense).²
3. Any person who has ever been convicted of escape from jail.³
4. Any person who has willfully failed to appear while on bond (BRA conviction) or who has a pending charge of willfully failing to appear while on bond (pending BRA).
5. Any person who has an outstanding attachment, warrant or detainer against him.
6. Any person who is presently under the influence of narcotics or alcohol to the degree that an intelligent interview cannot be conducted.

To be recommended an arrestee needs:

1. A verified Washington area address where he or she can be reached.⁴
AND
2. A total of four (4) verified points from the following:

POINTS	TIME IN WASHINGTON AREA
1	5 years or more. ⁵
	RESIDENCE (In Washington area; NOT on and off) ⁶
3	Present address 1 year OR present and prior addresses 1 1/2 years.
2	Present address 6 months OR present and prior addresses 1 year.
1	Present address 4 months OR present and prior addresses 6 months.
	*Add 1 extra point if the arrestee is buying his home
	*Add 1 extra point if the arrestee has a verified operable telephone listed in his own name.
	FAMILY TIES ⁷
4	Lives with family AND has contact with other family member(s).
3	Lives with family.
2	Lives with non-family friend whom he gives as a reference AND has contact with family member(s).
1	Lives with non-family friend whom he gives as a reference OR lives alone and has contact with family member(s).
	EMPLOYMENT OR SUBSTITUTES ⁸
4	Present job 1 year where employer will take back OR homemaker with children in elementary school.
3	Present job 1 year or more OR homemaker with children.
2	Present job 3 months OR present and prior jobs 6 months or full-time student other than secondary school student.
1	(a) Present job; OR
	(b) Unemployed 3 months or less with 9 months or more single job from which not fired for disciplinary reasons; OR
	(c) Receiving unemployment compensation, welfare, pension, disability, alimony, etc.; OR
	(d) Full-time secondary student; OR
	(e) In poor health (under a doctor's care, physically impaired, etc.)
	DEDUCTIONS ⁹
-5	On Bond on pending felony charge OR on probation or parole for a felony.
-2	On Bond on pending misdemeanor charge OR on probation or parole for a misdemeanor; OR knowledge of present drug use or alcoholism.
-1	Prior negligent no show while on Bond; OR knowledge of past drug use.
	PRIOR CONVICTIONS
	NOTE: Use the chart below for single offenses and for combination of offenses.
	Code: One adult felony = 7 units
	One adult misdemeanor = 2 units
	Circle total record units
	Units 0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 19 20 21
	Points 0 -1 2 3 4
	RECOMMENDATION CRITERIA FOR TRAFFIC CASES (other than DWI, Negligent Homicides, Hit and Run) 10
POINTS	Present Address 1 month (No Deductions)
4	TRAFFIC CASES (DWI, Negligent Homicide, Leaving the Scene of an Accident, Hit and Run)
	- Complete Interview and Regular Point Tabulation
	(Only Deduction: -2 for Probation, Parole or Bond on misdemeanor <u>or</u> felony)

TELEPHONE INTERVIEW SUMMARY

AGENCY: Oahu Intake Service Center

TYPE OF INSTRUMENT: ROR Point Scale

LOCATION: Honolulu, Hawaii

DECISION POINT: Pretrial Release

CONTACT: Wayne Kanagawa
Executive Director
(808) 548-2880

The Pretrial Services Division of the Oahu Intake Service Center currently uses a modified Vera point scale in making recommendations for release on own recognizance (ROR) and supervised release of pretrial defendants. The point scale consists of four weighted criteria: residence, family ties, employment, and prior record. Weights (points) are assigned to each variable and totalled to arrive at an overall score which assesses risk of failure to appear (FTA) in court. Pretrial Services uses the point scale to screen approximately 110 defendants per month, consisting mostly of those charged with felonies, plus a few misdemeanor defendants referred by the court. About 200 defendants released on OR are on the caseload at any given time, in addition to 25-30 supervised releasees. This adaptation of the Vera point scale is the first screening device used by the Service Center; it has not been altered since implementation.

The instrument is completed by pretrial service counselors according to written guidelines. Counselors are allowed discretion in scoring certain items. Screenings may take up to five hours (including verification time) and cost about \$40.00. Several groups are excluded from screening and consideration for ROR including: current probationers and parolees, prior escapees and FTA's, and those charged with a Class A felony (about 15 are excluded monthly). To be recommended for ROR, defendants need five verified points on the point scale and a local address where they can be reached. Based on these two factors, the counselor makes the detain or release recommendation and forwards it to a judge who makes the final decision. Judges follow the recommendation in about 95% of the cases, usually rejecting it when the charged offense is too serious. Defendants are aware of the screening process and receive written documentation of screening results.

Although no research has been conducted to validate the point scale in this jurisdiction, the agency reports that use of the instrument has resulted in increased numbers of OR releasees, speeded up processing of these cases in an overburdened court system, and a decreased pretrial jail population. The FTA rate has remained constant at 3%. Judges and counselors expressed confidence in the accuracy and reliability of the instrument and were pleased with the operation of the classification system. Agency administrators complained moderately about personnel shortages and case processing time. The instrument and screening process were reviewed prior to implementation by the judges who use the device to ensure protection of the rights of the defendant.

OAHU INTAKE SERVICES CENTER: PRETRIAL SERVICES

Pre-Trial Release Criteria

(Vera Scale)

To be recommended for release on his/her own recognizance a defendant needs:

1. A local address where he/she can be reached; and
2. A total of five (5) points from the following information (the information will be verified):

Number of Points

RESIDENCE

- | | |
|---|---|
| 3 | Present address in community, one (1) year or more |
| 2 | Present address in community, six (6) months, or present address and prior address in community, one (1) year |
| 1 | Present address in community, three (3) months, or present address and prior address in community, six (6) months |

FAMILY TIES

- | | |
|---|--|
| 3 | Lives with family (parents, spouse) |
| 2 | Lives with other family members (siblings, aunt, uncles) |
| 1 | Lives with non-family members |

A study conducted by Pretrial Services ("Report of Pretrial Services of the Municipal Court of Marion Co. for the period Jan. 1, 1975-Dec. 31, 1977") yielded the following statistics: 69% of all those interviewed were released on OR before their first court appearance; 14% were released on OR by the court or received a reduced cash bond; 11% received no recommendation (due to lack of verification or qualification for release); and 6% received conditional release. The failure to appear rate during the same period was 3%. In cases where Pretrial Services did not release a defendant before arraignment but did make a recommendation to the courts, judges followed these recommendations in 80% of the cases. The 1977 report also demonstrated that the Pretrial Services Project has produced considerable cost savings to the County Jail, Municipal Court, and of course to pretrial defendants released on OR.

Decision makers express confidence in the accuracy and reliability of the instrument, and the community as well as other criminal justice agencies have responded favorably to the screening program. The major operational problems seen by administrators are personnel shortages and the logistics of case processing. Those who score the instrument complained of processing delays and some vagueness of variable definitions. In general, though, the screening process seems to work very well. The director, James Droege, also believes the project may be releasing defendants who are less likely to recidivate while on OR release as evidenced by the pretrial crime rate of 4%. Legal staff of the project reviewed the screening instrument and procedures prior to implementation to ensure protection of the legal rights of the accused.

MARION COUNTY, INDIANA
PRETRIAL SERVICES
POINT SCALE

(Pretrial Release Instrument)

To be recommended for release on personal recognizance, a defendant needs:

1. A verified Indianapolis address where he can be reached,
AND
2. A total of 4 verified points from the following:

Points		RESIDENCE (In Indianapolis Area; NOT on and off)
Int. Ver.		
3	3	Present address 1 year, OR Present and Prior address 1½ years.
2	2	Present address 6 months, OR Present and Prior address 1 year.
1	1	Present address 4 months, OR Present and Prior address 6 months.
1	1	TOTAL TIME IN INDIANAPOLIS AREA of 5 years or more. (Not on and off)

FAMILY TIES

4	4	Lives with family, AND has frequent contact with other family member.
3	3	Lives with family.
2	2	Lives with non-family friend given as a reference, AND has frequent contact with family member.
1	1	Lives with non-family friend given as a reference, OR Lives alone and has frequent contact with family member.

EMPLOYMENT OR SUBSTITUTES

4	4	Present job 1 year or more where employer will take back
3	3	Present job for 1 year or more.
2	2	Present job 4 months where employer will take back, OR Present and prior job 6 months where present employer will take back.
1	1	Present job for 4 months, OR Present and Prior job for 6 months, OR Current job where employer will take back, OR Unemployed 3 months or less with 9 months or more single prior job from which not fired for disciplinary reasons. OR Receiving unemployment compensation, welfare, etc. OR Full time student. OR In poor health (pregnant, physically impaired, under a doctor's care, etc.)

== TOTAL NUMBER OF POSITIVE POINTS

CHARACTER

-1	-1	Prior negligent failure to appear while on bond—rearrest explained.
-5	-5	Presently on bond on another pending charge.
-2	-2	Definite knowledge of past drug use, OR present alcoholism.
-3	-3	Definite knowledge of present drug addiction.

PRIOR CONVICTIONS

Circle number of units on record and subtract corresponding points:
Felony—7 units; Misdemeanor—2 units; Juvenile "felony"—4 units.

Units	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
Points	0			-1						-2							-3						-4

MARION COUNTY PRETRIAL SERVICES

EXCLUSIONARY CRITERIA

1. Criteria.

a. **Exclusion.** The bail project will NOT recommend release in the following cases.

- (1) Any person who has ever escaped from jail or a mental hospital.
- (2) Any person who has *willfully* failed to appear.
- (3) Any person who is *presently* under the influence of alcohol or drugs or is mentally disturbed.
- (4) Any person who has a detainer ("Hold"), outstanding bench warrant, or is fugitive.
- (5) Any person arrested after conviction for violation of probation or parole; or a person who has been sentenced.
- (6) Any person charged with murder, treason, or a violent or dangerous felony (unless strict supervisory conditions of release are imposed by the court.)
- (7) Any person who has refused an interview, permission to verify, or where a conflict in information cannot be resolved.

TELEPHONE INTERVIEW SUMMARY

AGENCY: Iowa Dept. of Correctional Services TYPE INSTRUMENT: Pretrial Release Interview Form
LOCATION: Cedar Rapids, Iowa CONTACT: John Suter
DECISION POINT: Pretrial Release Iowa Dept. of Correctional (319) 398-3474 Services

The Cedar Rapids Pretrial Release Program employs an interview form in screening clients for release on their own recognizance. The interview form consists of specific categories, such as family ties and prior record, with points given in each of four categories to generate a single overall score. After the information given in the interview is verified by the staff, the program makes its recommendation to the court based upon the final score. The program interviews about 500 felony and misdemeanor cases each month to assess risk of recidivism and failure to appear.

The point scale and the procedure for its application were adapted from the Vera Institute schedule and the Des Moines, Iowa program. Since the instrument was implemented in 1973, it has been made more comprehensive by including more factors and information. The present instrument considers length and stability of residence, family ties, employment history and status, and past criminal record. The overall score is based primarily on factors relating to stability, not on the seriousness of the crime.

The screening form is completed by Pretrial Specialists in conjunction with the chief interviewer. Interviewers are allowed discretion in scoring some areas, but subjective judgments must first be cleared with the supervisor. About 10% of all cases are automatically excluded from screening. Completing and scoring the instrument involves approximately 15 minutes, the accused actively participating in the screening process.

The judges who consider the program's recommendations report confidence in the accuracy and reliability of the instrument; they overrule the recommendations in only about 15% of the cases. The staff who complete the instrument and decision makers who use it stated that the instrument poses no significant problems. The screening procedure has also been well received by other agencies. Research on the instrument has shown that when it is used correctly, it predicts failure to appear and rearrests fairly accurately (the agency reports a failure to appear incidence of less than 1%). The instrument appears to have been helpful in reducing the number of defendants who are incarcerated pending trial.

RECOMMENDATION: _____ FINAL RECOMMENDATION: _____

ARREST DATE: _____ INTERVIEW DATE: _____ Day or Night

File #: _____ M.F. C.N.M.I.

NAME: _____ Age: _____

DOB: _____ Alias: _____

SSN: _____ Education: _____

COURT APPEARANCES: _____

Attorney: _____ Retained or Appointed Ph: _____

Co. Attorney: _____

CHARGES:	COURT FILE NUMBERS	BOND
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

Arresting Department: _____ Total Bond: _____

TOTAL Verified Points Interviewer: _____

Verified by: 1) _____ Relationship: _____

2) _____ Relationship: _____

VERIFIED POINTS

POINTS RESIDENCE

3 Present residence one year or more

2 Present residence 6 months . . OR . . present and prior 1 year.

1 Present residence 4 months . . OR . . present and prior 6 months.

ADD 1 For _____ County resident for 10 years or more.

(1) PRESENT ADDRESS: _____ With: _____

No.	Street	Apt. #	With:
PHONE: _____	How long? _____	Mths.	Rent or own

ADDRESS DURING RELEASE: _____ With: _____

RESIDENCE LAST 12 MONTHS:

	With:	How Long?
1) _____	_____	_____
2) _____	_____	_____
3) _____	_____	_____
4) _____	_____	_____

(2) HOW LONG HAVE YOU LIVED IN _____ COUNTY? _____

(3) PLACE OF BIRTH: _____

ADDITIONAL INFORMATION: _____

FAMILY TIES

VERIFIED POINTS

- 3 Lives with spouse* AND had contact ** with other family members
- 2 Lives with spouse or parents
- 1 Lives with family person whom he gives as reference

NOTE - Spouse (If common-law, must have been living together for two years to qualify as "spouse")
Contact ** (Must see the person at lease once a week)

(1) LIVING ARRANGEMENT: Single Married Divorced
Separated Widow
Common Law marriage

(2) IF MARRIED: Spouse's name _____ Last _____ First _____ Maiden or Middle

(3) IF DIVORCED: When _____ Final : Yes, No

(4) HOW MANY DEPENDANTS DO YOU LEGALLY SUPPORT _____ Amount \$ _____ Month

VERIFIED POINTS

Employment

- 4* Present job one year or more
 - 3* Present job four months . . OR . . present and prior 6 months
 - 2* Present job one month
 - 1* Current job
- OR unemployed 3 months or less with 9 months or more on prior job
- OR receiving unemployment compensation or welfare
- OR supported by family (full-time housewife considered employed)
- * Deduct one point from first three categories if job is not steady, or if not salaried, if defendant has no investment in it.

(1) PRESENT EMPLOYMENT _____ Company _____ Address _____

Phone	Job title	How Long	Income \$	Week	\$	Hour
Still Available? Yes, No	Verified by: _____	Date				

How many jobs in the last 12 months? _____

(2) PREVIOUS EMPLOYMENT _____ Company _____ Address _____

Phone	Job title	How Long	Income \$	Week	\$	Hour

TELEPHONE INTERVIEW SUMMARY

AGENCY: Des Moines Pretrial Release Program
LOCATION: Des Moines, Iowa
DECISION POINT: Pretrial Release

TYPE OF INSTRUMENT: Point Scale
CONTACT: Jo Baumann
Supervisor
(515) 284-6336

The Des Moines Pretrial Release Program employs a point scale combined with a set of exclusionary criteria in making pretrial release recommendations. The screening instrument is a standard Vera-type point scale which mainly assesses risk of failure to appear (FTA) in court. The Program uses the point scale to classify approximately 315 felony and misdemeanor defendants each month for possible release on own recognizance (ROR). The Program has gradually expanded its services over the last five years to include a component which releases certain defendants who fail to qualify for ROR. These defendants are referred to services programs which supervise "higher risk" clientele until they are adjudicated, or charges are dropped. Besides the Services Component, the Pretrial Release Program also identifies and refers defendants with drug or alcohol problems to diversionary treatment outlets.

The variables on the point scale, the first such device to be used in this jurisdiction, were adapted from the Vera point scale. The Pretrial Release Program has changed its classification emphasis somewhat since its beginning in 1964. Although the point scale has not been changed, interviewers do not follow it as closely as they once did. More subjectivity is now allowed in the release decision; decision-makers consider additional factors such as alcohol/drug problems, mental condition, marital status, and client stability.

Program interviewers fill out the instrument according to written guidelines. Interviewers receive an operations manual, conduct mock interviews, and undergo one week of on-the-job training. While the interviewers' primary function is to evaluate the defendant for ROR, they must also know the available services referral outlets should a case require such referral. Once a defendant has been interviewed, verified, and designated a good risk for release, an ROR bond is prepared and signed by the defendant, interviewer, and judge. Statistics show that judges reject the ROR recommendation very rarely, only

one such instance occurring in 1,700 cases. Specific groups of defendants are ineligible for screening and OR release (these are listed following this report). On the average, interviewers spend 20 minutes interviewing the defendant, 15 minutes verifying the information, and 5 minutes scoring the point scale. These activities cost \$3.50 per hour, or about \$2.50 per screening. Defendants actively participate in the screening process and are informed orally of the results.

Decision-makers and administrators express confidence in the accuracy and reliability of the instrument, but interviewers complain that necessary data are sometimes unavailable or inaccurate. Evaluative research conducted by the Iowa Department of Correctional Evaluations has shown that instrument use has speeded up case processing and helped to reduce the size of the pretrial jail population. The local community and other criminal justice agencies have responded favorably to the classification process. The instrument and procedures were not reviewed by legal counsel prior to implementation; the Program assumed that this task was performed by the Vera Institute on the original Vera point scale.

DES MOINES, IOWA

PRETRIAL RELEASE PROGRAM

POINT SCHEDULE

To be recommended for release on his own bond, a defendant needs:

1. Address in Fifth Judicial District where he can be reached, AND
2. A total of five (5) points from the following categories:

INT	VER	RESIDENCE
3	3	Present residence one year or more
2	2	Present residence 6 months..OR..present and prior 1 year
1	1	Present residence 4 months..OR..present and prior 6 months

FAMILY TIES

3	3	Lives with wife* AND had contact** with other family members
2	2	Lives with wife or parents
1	1	Lives with family person whom he gives as reference

Note - Wife* (If common-law, must have been living together for two years to qualify as "wife")
 Contact** (Must see the person at least once a week)

TIME IN FIFTH JUDICIAL DISTRICT

2	2	Five years or more
---	---	--------------------

EMPLOYMENT¹

4*	4*	Present job one year or more
3*	3*	Present job four months..OR..present and prior 6 months
2*	2*	Present job one month
1*	1*	Current job OR unemployed 3 months or less with 9 months or more on prior job OR receiving unemployment compensation or welfare OR supported by family

*Deduct one point from first three categories if job is not steady, or if not salaried, if defendant has no investment in it.

PRIOR CRIMINAL RECORD

3	3	No convictions
2	2	No convictions
1	1	Misdemeanor conviction(s) in last year
0	0	One felony conviction
-1	-1	Two or more felony convictions

TOTAL POINTS TOWARDS RECOMMENDATION

¹Schooling is considered employment

DES MOINES, IOWA

PRETRIAL RELEASE PROGRAM

EXCLUSIONARY CRITERIA

All defendants are eligible for a Pre-Trial Release interview unless one of the following contingencies is present:

- 1) The defendant has a Mittimus (failure to pay a fine) or Failure to Appear on old charges. Both classifications indicate that the person would be a poor risk for Pre-Trial Release.
- 2) The defendant is charged with simple intoxication.
- 3) The defendant's pending offenses are Federal charges.
- 4) The defendant is a juvenile (includes all charges except those in which case the client is tried as an adult and is eligible for Pre-Trial Release such as traffic violations not in warrant.)
- 5) The client has warrants on Traffic charges.
- 6) If a defendant is "Assigned" to an investigative unit, such as detectives, M.A.N.S.; the individual is NOT eligible for an interview until the assignment is scratched by the appropriate police personnel.
- 7) If the defendant is on HOLD for another agency (i.e. local or state law enforcement agencies), he may be interviewed but not released until the HOLD has been lifted by the appropriate agency.

TELEPHONE INTERVIEW SUMMARY

AGENCY: Pretrial Services Agency,
Administrative Office of the
Court of Kentucky

TYPE OF INSTRUMENT: Point Scale

LOCATION: Frankfort, Kentucky

CONTACT: John Hendricks
Assistant Director
(502) 564-7486

DECISION POINT: Pretrial Release

The Pretrial Services Agency of the Administrative Office of the Court of Kentucky currently uses a point scale on a statewide basis to screen pretrial defendants for release on own recognizance (ROR). The Kentucky point scale contains five categories of weighted criteria that when scored and totalled produce an overall risk score which assesses potential failure to appear (FTA) in court. Approximately 8,000 misdemeanor and felony defendants are screened throughout Kentucky each month using the instrument.

The point scale was developed for use in Fayette County, Kentucky. Variables on the instrument were adapted from the original Vera point scale and the scale developed by the Des Moines Replication Project. The classification device has not been altered since implementation.

The instrument is scored by pretrial service officers according to written instructions. Service officers receive two weeks of formal on-the-job training in instrument use. They are not allowed to exercise discretion in scoring the variables. The Agency excludes certain groups from consideration for ROR, including prior escapees, and those with federal warrants or out-of-state holds against them (about 3,000 are excluded monthly). After officers complete the point scale and arrive at a verified risk score, this information is sent to the appropriate judge who makes the release decision. These decisions run counter to the recommendation of the point scales in about 20% of the cases. Defendants participate in the screening process and are informed in writing of the results. Screenings generally take about 15 minutes.

All those who are involved with the point scale are positive about it, except some judges who consider the points too liberal. Researchers have

conducted two evaluations of the instrument; they found that marital status and two years of local residence were the two variables most highly correlated with FTA. No data are available on the impact of the screening process on the Pretrial Services Agency. Legal staff reviewed the instrument prior to implementation to ensure that it avoided discrimination and violation of defendants' constitutional rights.

KENTUCKY PRETRIAL SERVICES AGENCY

POINT SCALE

Circle only one number for each category of criteria except "miscellaneous."

RESIDENCE

- 5 Has been a resident of the area for more than one year.
- 3 Has been a resident of the area for less than one year but more than three months.

PERSONAL TIES

- 4 Lives with spouse, children, parents, and/or guardian.
- 3 Lives with other relative whom individual gives as a reference.
- 2 Lives with non-related roommates.
- 1 Lives alone.

ECONOMIC TIES

- 5 Has held present job for more than one year OR is a full-time student.
- 3 Has held present job for less than one year but more than three months.
- 3 Is dependent on spouse, parents, other relatives, or legal guardian.
- 2 Is dependent on unemployment, disability, retirement, or welfare compensation.
- 1 Has held present job for less than three months.

MISCELLANEOUS

- 3 Owns property in the area.
- 1 Has a telephone.
- 1 Expects someone at arraignment.

PREVIOUS CRIMINAL RECORD (+)

- 3 No convictions on record (excluding traffic violations) in last two years.

(A) — **TOTAL POSITIVE POINTS**

PREVIOUS CRIMINAL RECORD (—)

- 3 AWOL on record (current military personnel only).
- 5 Felony conviction in last two years, without FTA's.
- 5 FTA on traffic citation in last two years.
- 10 FTA on misdemeanor charge in last five years.
- 15 FTA on felony charge at any time.

(B) — **TOTAL NEGATIVE POINTS**

— **TOTAL PRETRIAL RELEASE POINTS ("A" minus "B")**

TELEPHONE INTERVIEW SUMMARY

AGENCY: Washtenaw County Pretrial Investigation Program
LOCATION: Ann Arbor, Michigan
DECISION POINT: Pretrial Release
TYPE OF INSTRUMENT: ROR Point Scale
CONTACT: Bettie Magee
Program Coordinator
(313) 994-2413

The Washtenaw County Pretrial Investigation Program uses a Vera-type point scale to screen and make release recommendations for pretrial defendants arrested in the county. The point scale assesses risk of failure to appear (FTA) in court and harm to others by considering five groups of weighted criteria: prior record, community ties, length of residency, employment/education status, and drug use. The Program screens approximately 85 defendants each month, consisting of all those charged with felonies and a few charged with misdemeanors when a judge requests a screening.

The first point scale used by the Program in 1974 was an adaptation of the Vera point scale; it was found to be too strict for some cases and too lenient for others, as well as not suited to the characteristics of the Washtenaw County population. As a result, program staff modified the instrument to alleviate these deficiencies and sent it to the local Prosecutor, Public Defender, and Circuit Court Judges for further input. The instrument that emerged from this modification process has not undergone any further alterations except for the introduction of a new "drug scale" (the old and new drug scales are included with this report).

Under the supervision of the program coordinator, pretrial investigators interview defendants, verify information, and complete the point scale according to written instructions. Investigators receive on-the-job training and spend one month observing the screening process. Discretion is allowed in scoring some variables. In cases involving unusual circumstances, investigators may make a recommendation outside the guidelines of the point scale if they provide written reasons for such. After arriving at a verified, overall, defendant point score, investigators make one of the following recommendations:

- 1. Release on own recognizance (ROR) is recommended if the client achieves +6 or more points on the scale;

2. Conditional release on recognizance (CR) is suggested for a score of +3 to +5 points (conditions may include weekly reporting, making all court appearances, and/or accepting referral to service programs);
3. Deferred recommendation is made when the Program prefers to let the court make the release decision independently;
4. Negative recommendation is given for a score of +2 to -11 and implies ineligibility for release without money bail.

The release or detain recommendation is sent to the trial judge who makes the final decision; judges overrule the instrument's recommendation in about 10% of the cases due to circumstances such as serious prior record, drug abuse history, or non-residency. Each screening and verification takes about 90 minutes. The accused participates in the screening and is informed of the results.

Decision makers and administrators express confidence in the instrument's accuracy and reliability. The major problem with the screening procedure is the difficulty of gathering and verifying client information prior to the 9:00 a.m. arraignment conducted by some courts. The instrument has not been formally evaluated, and impact of point scale use on the agency is unknown. The Program currently enjoys a good working relationship with law enforcement agencies, although the Prosecutor occasionally objects to releases. On one occasion the press objected to the Program's release recommendation, but the judge backed the recommendation. Statistics on the Program's operation are available in their annual report. The instrument and associated procedures were reviewed by the Circuit Judges prior to implementation to assure protection of the defendant's legal rights.

(Pretrial Release Instrument)

WASHTENAW COUNTY PRE-TRIAL INVESTIGATION PROGRAM POINT EVALUATION

Name: _____

Verified	Interview	PRIOR CONVICTIONS (Circle only 1 number) Max: +2 Min: -3
+2	+2	No convictions or 1 Misdemeanor (not involving assaultive or seriously anti-social behavior)
+1	+1	1 Misdemeanor (involving assaultive or seriously anti-social behavior)
+1	+1	2 Misdemeanors (assaultive or non-assaultive)
+1	+1	1 Circuit Court Misdemeanor
0	0	1 Non-Violent Felony
0	0	2 Circuit Court Misdemeanors
0	0	3 Misdemeanors (assaultive or non-assaultive)
-1	-1	4 Misdemeanors (assaultive or non-assaultive)
-1	-1	1 Non-Violent Felony and 1 Circuit Court Misdemeanor
-1	-1	1 Non-Violent Felony and 2 Misdemeanors (assaultive or non-assaultive)
-2	-2	1 Violent Felony
-2	-2	1 Non-Violent Felony and more than 2 Misdemeanors (assaultive or non-assaultive)
-2	-2	1 Violent Felony and 1 Non-Violent Felony
-2	-2	3 or more Circuit Court Misdemeanors
-2	-2	2 Non-Violent Felonies
-2	-2	5 or more Misdemeanors (assaultive or non-assaultive)
-3	-3	2 or more Violent Felonies
-3	-3	3 or more Felonies (any type)
		<u>COMMUNITY TIES</u> (Circle points for each applicable factor, accumulating no more than 6 points) Max: +6 Min: -1
+1	+1	Lives with spouse or equivalent (equivalent must be 1 year or more) (stable pattern of co-habitation)
+1	+1	Lives with and supports children

COMMUNITY TIES (cont.)

+1	+1	Lives with and has been living for at least 6 months, with parent(s) (or adequate parent substitute)
+1	+1	Has significant family ties in Washtenaw County area, other than spouse (parents, grandparents, siblings, aunts, uncles, or adult offspring only)
+1	+1	Buying home in Washtenaw County area
+1	+1	Renting for at least 6 months in Washtenaw County area
+1	+1	Washtenaw County area resident for at least 2 years (must be the past 2 years, with exception of military service or college away from home)
+1	+1	Significant family ties outside of Washtenaw County area (verified by investigator). No family ties in Washtenaw County area
		<u>OR</u>
+1	+1	Significant personal contacts in Washtenaw County area
-1	-1	No significant personal contacts or family ties

Verified Interview

EMPLOYMENT/EDUCATION (Circle only 1 number) Max: +3 Min: -1

+3	+3	Present job, essentially full-time, for one year or more
		<u>OR</u>
+3	+3	Full time student (high school or college) with unbroken academic history (except for military service)
		<u>OR</u>
+3	+3	In military service now
		<u>OR</u>
+3	+3	Person caring for own children in the home (unemployed outside of home, but may be employed in the home)
		<u>OR</u>
+3	+3	Person in the home full time with verifiable means of support
+2	+2	Present job 4 months to one year, or present and prior job 6 months or more
+2	+2	Stable employment pattern, but recently laid off due to strike or shut-down (verified by investigator)
+2	+2	Student recently returned to school with tangible education plans
+2	+2	Handicapped person receiving medical comp., veteran's aid, SSI, or other verified benefits (unemployed)

EMPLOYMENT/EDUCATION (cont.)

Verified Interview

+1	+1	Stable employment pattern during past 2 years, but unemployed a maximum of past 6 months
+1	+1	Now employed, but less than 4 months
0	0	Unemployed for past year but has work history
-1	-1	Unemployed with unstable or no work history

Old Drug Use Point Scale

DRUG USE (Circle no more than 3 numbers) Max: None Min: -6

-4	-4	Addiction to narcotic drugs (opiates) and not receiving treatment (not available for release unless on conditional program)
-3	-3	Addict, receiving stable treatment for 3 months or more (other than jail)
-2	-2	Questionable addiction, with addiction history
-1	-1	Addiction history, but with no arrests for preceding 2 years
-1	-1	Admitted excessive use of poly-drugs (non-opiate)
-1	-1	Admitted heavy drinking or admitted alcoholism

New Drug Use Point Scale

0	Heroin or opiate addict in treatment successfully for 90 days or more, verified by treatment program
-1	Heroin or opiate addict in treatment successfully less than 90 days but more than 30 days, verified by treatment program
-2	Heroin or opiate addict in treatment successfully but less than 30 days, verified by treatment program
-2	Heroin or opiate addict in treatment, but with a negative report, verified by treatment program
-3	Untreated heroin or opiate addict
0	Successfully treated alcohol or poly-drug abuser
-1	Person who has had treatment, but may still be an alcohol or poly-drug abuser
-2	Untreated alcohol or poly-drug abuser

TELEPHONE INTERVIEW SUMMARY

AGENCY: Citizen's Probation Authority

TYPE OF INSTRUMENT: Client Program
Placement Forms

LOCATION: Kalamazoo, Michigan

CONTACT: James Fett
Director
(616) 383-8713

The Kalamazoo Citizen's Probation Authority uses a formal classification instrument in assigning selected pretrial defendants to a local diversion program. The Probation Authority attempts to identify low-risk, felony defendants and divert them from the criminal justice system. The instrument used by the agency consists of 18 wide-ranging, weighted criteria which are assigned points ranging from +2 to -2. These points are multiplied by the weight assigned to each variable and then summed to arrive at an overall score. This score is designed to assess risk of recidivism and failure to complete the program, as well as the treatment potential of the client. The agency uses the device to screen about 40 adult felons each month.

Candidates for diversion screening must be: (1) adults, (2) local residents, (3) non-violent, (4) arrested for a property-related felony, and (5) without an extensive criminal history. The District Attorney decides who meets these exclusionary criteria and oversees referrals to the diversion program. Clients who successfully complete the program are dismissed of all charges.

This is the first instrument used by the Kalamazoo Authority to screen diversion candidates. The forms and screening procedures were developed intuitively by a committee established for that purpose. The device has not been altered since implementation.

Intake caseworkers complete the instrument according to written guidelines using information obtained from official records and a personal interview. Several of the variables on the instrument, such as "appearance" and "deficiencies/excesses," call for subjective estimates by the scorer. Caseworkers receive intensive but informal training in instrument use. After assigning points to each variable and calculating an overall risk score,

caseworkers make the eligibility decision. This decision is based solely on the risk score, except in rare cases (less than 1.0%) when factors not considered by the instrument are felt to be important by the caseworker. Clients actively participate in the screening process and are officially informed of the criteria involved and decision in their case.

Those using the instrument and related criminal justice agencies have reacted favorably to the screening and diversion program. Decisionmakers also express great confidence in the accuracy and reliability of the instrument. After initially being apprehensive about having to make concrete decisions, caseworkers are reportedly pleased with the screening procedure. The agency reports that instrument use has cut screening time significantly, and diversion of non-career criminals from the justice system of course saves local resources. The instrument and screening procedure were reviewed by the local District Attorney prior to implementation to safeguard against possible legal complications.

KALAMAZOO CITIZEN'S PROBATION AUTHORITY
SCORE SHEET (INSTRUMENT)

(Pretrial Diversion
Instrument)

(p. 1)

	Weight	Rating	Score
1. Family History	9		
2. Leisure Time	5		
3. Communication	8		
4. Choosing Responses	5		
5. Employment/School	8		
6. Education Level	7		
7. Residences	3		
8. Vocational Values	4		
9. Goals-Living	7		
10. Physical Health	6		
11. Participation-Intake	7		
12. Attendance-Intake	7		
13. Appearance	6		
14. Acceptance of CPA-Intake	5		
15. Deficiencies/Excesses	4		
16. Juvenile Record	9		
17. Value of Crime	8		
18. Defendant's Statement	4		

224 possible points (++) x Weight)
112 points-averaging + (+ x Weight)
0 points-averaging +/- (+/- x Weight)
-112 points-averaging - (- x Weight)
-224 points-averaging -- (-- x Weight)

The cutoff point is a score of 56. Those who score above 56 will be in the Supervision Group. A score of below 56 places a client in the Intensive Group.

CPA SELF REPORT
RATING SCALES

(p. 2)

1. Family Criminal History--number of and type of criminal adjudications

- ++ None
- + 1 arrest--no conviction
- + 1 conviction--misdemeanor other than assault & battery
- 1 conviction--felony or A & B
- More than one felony conviction

2. Leisure Time--Hobbies/special interests

- ++ Long term--recreation, hobbies
- + Short term--projects, reading
- + Attending activities
- T.V., hang around with friends, do things
- Nothing, hang around house, drive around with friends--on the corner

3. Employment/School--status as worker or student

- ++ Currently employed full-time or full-time student or housewife
- + Actively seeking work or part-time student, part-time worker
- + Part-time work or part-time student
- No plans for work or school--unemployment
- Avoiding work and school

4. Education Level--Highest grade completed in formal education/training

- ++ Associates or more
- + H.S. & training
- + H.S. or G.E.D./equivalent vocational training/presently H.S. student
- Finished grade 11--no vocational training
- Less than 11th grade--no vocational training

5. Physical Health--Days sick in the past six months.

- ++ Less than 3
- + 3-4
- + 5-7
- 8-10
- More than 10

6. Residences--Number of residences in the past year

- ++ Same one
- + One residence change
- + Two residence changes
- Three residence changes
- Four or more residence changes

7. Goals/Living--The number of goals listed on demand (Concrete-Behaviorial)

- ++ 6 or more
- + 4-5
- + 3
- 1-2
- None/vague concepts, i.e. "do better"

8. Vocational Values--The number of personal values associated with work/career

- ++ 4 or more
- + 3
- + 2
- 1
- 0

9. Communications - (average) rating on the problems presented for responses.

- ++ more than 2.5
- + 2.1 - 2.4
- + 1.6 - 2.0
- 1.1 - 1.5
- 1.0

10. Discrimination - average discrepancy between client ratings and expert ratings of responses to problems.

- ++ < .6
- + .7 - .9
- + 1.0 - 1.5
- 1.6 - 2.0
- > 2.0

CPA STAFF REPORT
RATING SCALES

1. Participation-Intake--During interview

- ++ Attended and listened to staff, asked questions, completed tasks
- + Attended and listened to staff, completed tasks
- + Completed tasks
- Didn't complete tasks
- Disruptive--didn't complete tasks

2. *Attendance-Intake

- ++ Early for appointment
- + On time
- + Missed appointment--called before
- Missed appointment--called late
- Missed appointment--failed to call

*This assumes the client receives our letter or talks on the phone with the Intake Worker.

3. Appearance

- ++ Ht.-Wt. normal, clean dress, body clean, good muscle tone
- + Ht.-Wt. normal, body clean, clean dress
- + Ht.-Wt. (+ or -10 lbs.) -- clean dress
- More than + or -10 lbs. or sloppy dress or dirty body
- Dirty body, sloppy dress

4. Acceptance of CPA-Intake--Percentage of acceptance of classes/training

- ++ 90%-100% Sounds great
- + 70%-90% Depends on how good they are
- + 50%-70% Suspicious--What are they?
- 30%-50% Don't like groups, don't need them
- Less than 30%--No way

5. Deficiencies/Excesses--The types of behaviors exhibited indicating imbalance in personality development.

- ++ None-Good attitude
- + Assertive without abusive
- + Somewhat shy/withdrawn-insincere
- Withdrawn-obnoxious-know-it-all
- Very aggressive/abusive
- Very withdrawn/hostile

6. Juvenile Record--The number of adjudications as a juvenile

- ++ 0
- + School problems--No juvenile court contact
- + Status offense adjudications
- 1 misdemeanor adjudication
- 2 misdemeanor adjudications

NOTE: More than one felony adjudication means rejection.

7. Value of Crime--Economic

- ++ Less than \$10.
- + \$11-\$50
- + \$51-\$99
- \$100-\$200
- More than \$200

8. Defendant's Statement--Percentage of responsibility for the charge

- ++ 80%-100% I did it-I deserve what I get (apologetic/embarrassed)
- + 65%-80% I did it
- + 50%-65% I did it--I couldn't help it
- 35%-50% Someone else's fault
- Less than 35% I was there--I shouldn't be punished for my part

TELEPHONE INTERVIEW SUMMARY

AGENCY: Hennepin Co. Pretrial Release Program

TYPE OF INSTRUMENT: Vera-Type Point Scale

LOCATION: Minneapolis, Minnesota

CONTACT: David Friedland
Director
(612) 348-4161

DECISION POINT: Pretrial Release

The Hennepin County Pretrial Release Program employs a point scale in screening pretrial defendants for release on own recognizance (ROR) and conditional release. The screening instrument contains five categories of weighted criteria that when calculated produce an overall score which assesses risk of failure to appear (FTA) in court and dangerousness to others. The point scale is used to screen about 165 felons and gross misdemeanants each month. A unique feature of this instrument is the awarding of two points to a defendant who surrenders voluntarily to the local sheriff's department.

This is the first standardized classification instrument to be used by this jurisdiction. Variables and weights used on the scale were adapted from the Vera point scale and have not been validated through research to judge their applicability to the local population. The instrument and screening procedures have not been changed since implementation.

Prior to the first court appearance, a case aid interviews the defendant and scores the instrument according to written instructions. After verifying the information, the aid computes an overall, risk score upon which the release recommendation is based. The scorer may recommend: (1) Release on OR (a local address plus a score of +5 points for felony defendants and +3 for misdemeanants), (2) Conditional release (under +5 points), or (3) No release recommendation. The recommendation for conditional release is where the case aid's subjective judgment comes into play. If a defendant fails to score the points required for an ROR recommendation but shows strength in other areas of stability, the aid may recommend release on conditions (e.g. weekly reporting) which are set by the court. The release or detain recommendation is sent to the court which makes the final decision; the court

follows the recommendation of the Program in 95% of the cases. Screening and verification takes about 25 minutes per case. The accused actively participates in the screening process and is informed in court of the results.

Decisionmakers express confidence in the instrument and classification procedure. Agency administrators expressed concern over the logistics of processing clients, and staff complained of the instrument's insensitivity to important factors (one reason, perhaps, for the conditional release provision). Nevertheless, the Program reports that pretrial defendants have been processed more quickly since initiation of the screening procedure, with a concurrent savings in costs. The instrument and related procedures were not reviewed by counsel prior to implementation to evaluate their legal sufficiency.

VERIFIABLE RELEASE CRITERIA

Int.	Ver.	PRIOR RECORD
2	2	No Convictions
1	1	One Misdemeanor Conviction
0	0	Two Misdemeanor Convictions or One Felony Conviction
-1	-1	Three Misdemeanor Convictions or Two Felony Convictions
Int.	Ver.	HEAVILY WEIGHTED OFFENSES
-3	-3	Crimes Against the Person
-3	-3	Narcotic Offense
Int.	Ver.	FAMILY TIES
3	3	Lives with Family
2	2	Lives with Relatives
1	1	Lives with Nonfamily Individual
0	0	Lives Alone
Int.	Ver.	EMPLOYMENT
3	3	Present Local Job - 1 Year +
2	2	Present Local Job - 6 Months +
2	2	Welfare - AFDC - 6 Months +
2	2	Full-Time Student Status - 6 Months +
1	1	New Job, Relief, Unemployment Compensation, Family Support
1	1	New Student Status
0	0	Unemployed - No Visible Means of Support
Int.	Ver.	RESIDENCE IN AREA
3	3	Present Residence - 1 Year + or Owns Dwelling
2	2	Present Residence - 6 Months + or Present and Prior 1 Year
1	1	Present Residence - 3 Months + or Present and Prior 6 Months
0	0	Present Residence - 3 Months or Less at Any Dwelling
Int.	Ver.	TIME IN AREA
1	1	5 Years or More (continuous)
Int.	Ver.	DISCRETION
1	1	Pregnancy, Old Age, Poor Health
-2	-2	Threat to Himself or Others
-2	-2	Bench Warrant, Escape, Chemical Dependency
-3	-3	Weapon Used in Present Offense

"No Recommendation" should be made for those persons charged, currently out on bail, bond, RPR, or NBR, that are re-arrested for similar or related charges.

To be recommended for release a defendant needs:

- (1) A local address where he can be reached
- (2) A total of 5 verified points for a felony
- (3) A total of 3 verified points for a misdemeanor
- (4) All defendants will be reviewed for the possibility of a Conditional Release recommendation.

Int.	Ver.	TOTAL POINTS
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Date of Recommendation _____ Signed _____
Investigator

TELEPHONE INTERVIEW SUMMARY

AGENCY: St. Louis Co. Intake
Service Center

TYPE OF INSTRUMENT: ROR Rating Sheet
(Point Scale)

LOCATION: Clayton, Missouri

CONTACT: Herbert Bernsen
Supervisor
(314) 889-2582

DECISION POINT: Pretrial Release

The St. Louis County Intake Service Center utilizes a point scale entitled the "ROR Rating Sheet" in making decisions whether to release pretrial defendants on own recognizance (ROR). Intake officers have the authority to release all defendants who are state residents and are charged with a bailable offense. The Rating Sheet contains standard Vera criteria (prior record, family/social factors, employment, and residence), plus a discretionary category which allows the officer to subjectively adjust the score to reflect special circumstances in a case. The instrument is used to screen about 1,500 felons and misdemeanants monthly for risk of failure to appear (FTA) in court and recidivism.

The Rating Sheet is the first classification device to be used in this jurisdiction. After a review of instruments used by other pretrial agencies, the Center decided to design their point scale on the form developed by the Vera Institute. The resultant instrument has not been changed since implementation.

The form is completed during an interview with the defendant by an intake officer who receives informal, on-the-job training. After scoring the scale according to written guidelines and verifying all information, the officer arrives at an overall risk score which guides the officer in the release or detain decision. The agency estimates that officers overrule the point score in about 30% of the cases due to important factors not considered by the instrument. Defendants are informed of screening standards and results. Screenings usually take about 20 minutes.

Exact data on the impact of using the instrument are unavailable; but the agency estimates a 25% increase in pretrial releases since the inception of the screening program without an increase in the FTA rate. The release

of more pretrial defendants has also reduced the local pretrial defendant jail population. Administrators are pleased with the screening program, although there is some feeling in related criminal justice agencies that poor decisions are being made. Those who use the instrument see it as a useful tool, but some question its predictive accuracy and sensitivity to important factors. The instrument was not reviewed by counsel prior to implementation to evaluate its legal sufficiency.

Although the ROR Rating Sheet appears to work well in this screening program, the Supervisor of Intake Center reports that reliance on the point scale by intake officers is decreasing. In essence, the program is moving toward a more subjective decisionmaking process.

DEPARTMENT OF WELFARE
St. Louis County, Missouri
R O R BRANCH
RATING SHEET

(Pretrial Release
Instrument)

To be recommended, defendant needs:

1. A St. Louis metropolitan area address where he can be reached
AND
2. A total of five (5) points from the following categories to be released on a misdemeanor, or a total of eight (8) points to be released on a felony that does not involve an offense against persons:

<u>Int</u>	<u>Ver</u>	
		PRIOR RECORD
2	2	No convictions
1	1	One misdemeanor conviction
0	0	Two misdemeanor convictions or one felony conviction
-1	-1	Three or more misdemeanor convictions or two or more felony convictions
		FAMILY TIES
3	3	Lives with family and has contact with other family members
2	2	Lives with family or has contact with family
1	1	Lives with non-family person and gives this person as reference
		EMPLOYMENT
3	3	Present job one year or more
2	2	Present job 4 months or present and prior job 6 months
1	1	On and off in either of above 2 lines, OR Unemployed 3 months or less with 9 months or more prior job, OR Current job, OR Receiving unemployment compensation or welfare, OR Supported by family
		RESIDENCE (In St. Louis area: NOT on and off)
3	3	Present residence one year or more
2	2	Present residence 6 months or present and prior 1 year
1	1	Present residence 4 months or present and prior 6 months
		TIME IN GREATER ST. LOUIS AREA
1	1	Ten years or more
		DISCRETION
+1	+1	<u>Positive</u> - over 65, requires hospitalization, poor health, pregnancy, appeared on some previous case, attending school
-1	0	<u>Negative</u> - intoxicated - intention to leave jurisdiction
		TOTAL INTERVIEW POINTS: _____
		TOTAL VERIFIED POINTS: _____ R _____ NR _____

Reason(s) for discretionary points:

Verified By _____ Approved By _____

TELEPHONE INTERVIEW SUMMARY

AGENCY: Monroe Co. Bar Association
Pretrial Services Corporation

TYPE OF INSTRUMENT: Point Scale

LOCATION: Rochester, New York

CONTACT: Marvin Bohnstedt
American Justice Institute
(916) 444-3096

DECISION POINT: Pretrial Release

The Monroe County Bar Association Pretrial Services Corporation is an independently operated agency funded by Monroe County and the New York Division of Criminal Justice Services. It is one of the few pretrial release agencies in the country which is not government run. Pretrial Services uses a Vera-type point scale in making recommendations for release on own recognition (ROR) of pretrial defendants. The point scale weights the four categories of criteria commonly found on ROR instruments (residence, family, employment, prior record), in addition to allowing the scorer to add one discretionary point. The instrument is used to screen about 380 felony and misdemeanor defendants monthly for risk of failure to appear (FTA) in court.

The currently used point scale was adapted from the Vera point scale and an instrument developed by a Des Moines project. Pretrial Services previously experimented with a different point scale in a similar type of screening program. The current instrument has not been altered since implementation.

An interviewer fills out and scores the instrument according to written instructions, and the director reviews all cases. Automatically excluded from screening are those accused of murder, on probation or parole, on a warrant, or AWOL. After completing the scale and verifying all information, the interviewer makes the release or detain recommendation (qualification for ROR requires +5 points) which is forwarded to a judge who makes the final decision. Data on how frequently judges overrule release recommendations were not available. Screenings usually take about 10 minutes. The accused actively participates in the screening process and is informed of the results in court.

Decisionmakers express confidence in the accuracy and reliability of the instrument, though some judges believe the device is insensitive to important factors. The main problems in administering the screening program have been a shortage of time and money, and occasional unavailability of needed data. Locally based research has shown that the program has increased pretrial releases with a related cost savings, while the FTA rate has remained a low 1.5%. The Monroe County Bar Association, which sponsors the program, reviewed the instrument and procedures to assure protection of the legal rights of the accused.

MONROE COUNTY BAR ASSOCIATION (Pretrial Release Instrument)
 PRE-TRIAL RELEASE PROGRAM, INC.
 TABULATION SHEET

NAME _____ COURT _____ INTERVIEWER _____
 ADDRESS _____ DATE SUBMITTED _____
 PHONE _____ CHARGE(S) _____ INVESTIGATION # _____

<u>Int.</u>	<u>Ver.</u>	<u>RESIDENCE:</u>
3	3	Three years in Rochester-Monroe County area steadily.
2	2	One year in Rochester-Monroe County area steadily.
1	1	Six months in Rochester-Monroe County area steadily.

FAMILY SITUATION:

3	3	Living with immediate family.
2	2	Living alone with contacts with family members regularly.
1	1	Living alone with occasional contacts with family members or reliable contact.

EMPLOYMENT:

3	3	Steadily employed over past one year.
2	2	Steadily employed over past six months.
1	1	Job -- Welfare -- Compensation -- Support of family.

SCHOOL:

3	3	Regularly attending school.
2	2	Out of school less than six months but employed or in training.
1	1	Out of school three months, unemployed and not in training.

PRIOR RECORD:

2	2	No previous convictions.
1	1	No convictions in past two years.
0	0	Previous convictions or violations or offenses and misdemeanor.
-1	-1	One felony or two misdemeanors over past two years.
-2	-2	Two felonies or three misdemeanors or combination of felonies or misdemeanors over two years.

DISCRETIONARY POINTS:

Reason for discretionary points: _____

_____ TOTAL INTERVIEW POINTS RA RNA NR

_____ TOTAL VERIFIED POINTS

Reason _____

TELEPHONE INTERVIEW SUMMARY

AGENCY: Mecklenburg Co. Pretrial
Release Program

TYPE OF INSTRUMENT: Point Scale

LOCATION: Charlotte, North Carolina

CONTACT: Herbert L. Mann
Director
(704) 374-2027

DECISION POINT: Pretrial Release

The Mecklenburg County Pretrial Release Program has a budget of \$220,000 in fiscal 1978-1979 and employs 15 full-time employees offering services 24 hours a day. The Program uses a Vera-type point scale in screening pretrial defendants for release on own recognizance (ROR). A pretrial release counselor generates an overall risk score by applying points to the following weighted criteria: residence, family ties, employment, prior record, and character (a category calling for subjective estimates). This point scale is used to screen about 2,150 felony and misdemeanor cases monthly for risk of failure to appear (FTA) in court and recidivism.

The currently used instrument represents the third revision of the original point scale developed by the Program. The earlier point scales were evaluated by the University of North Carolina to judge their utility. The current instrument was adapted from a classification tool used by an agency in Baltimore, but it was modified to suit the needs of the jurisdiction. Weights applied to variables on the scale were developed through a combination of committee decision and examination of other instruments.

A release counselor, who receives two to three months of on-the-job training, scores the instrument following written instructions. Automatically excluded from screening are those accused of serious felonies and public inebriates. After arriving at a verified point total, the counselor makes an ROR recommendation to the court if the defendant achieves five or more points and possesses a Charlotte area address. The court rejects the counselor's recommendation in only about 1% of the cases. It takes about 20 minutes to complete the form at a cost of approximately \$10 per screening. The accused plays an active role in the screening and receives written notification of the results.

The primary users of the instrument (counselors and judges) express confidence in its reliability. Except for occasional shortages of time and money, staff and decisionmakers have no problems with the instrument. Other agencies in the local justice system are highly favorable to the release program. Screening procedures have helped reduce the average jail population from 400 per day (1971) to 250 per day (1978) (the current FTA rate is 1.5%). To assure protection of the legal rights of the accused, the instrument and screening procedures were reviewed by a committee consisting of judges, police, sheriffs, District Attorneys, and Public Defenders. Legal counsel is also available for the accused if needed.

well. Administrators and police officers have encountered no problems with the screening device. The Program Management Bureau evaluates the screening program semi-annually. The Bureau reports that instrument use has helped to reduce the prearrest population in the central detention holding facility. The instrument and classification procedure were reviewed by agency staff to assure the legal rights of the accused.

(Pretrial Release Instrument)

CINCINNATI POLICE DIVISION'S
PROGRAM MANAGEMENT BUREAU

CITATION RELEASE POINT SCALE

CITATION EVALUATION REPORT

Using information obtained above, circle score for appropriate statement in each of the following categories and total below. Five points are required to be eligible for release. The Citation Evaluation Report will be completed in accordance with Division policy and procedures.

HAMILTON COUNTY RESIDENCE	3	Over 1 year at present residence	PRIORITY CONVICTIONS	2	No previous convictions
	2	Over 1 year at present and prior residence OR 6 months at present residence		1	One misdemeanor conviction
	1	Between 6 and 12 months at present and prior residence OR 4-6 months at present residence		0	Two misdemeanors OR 1 felony conviction
	0	Under 6 months at present and prior residence		-1	Three misdemeanors OR 2 felony convictions
FAMILY TIES	3	Lives with immediate family and has regular contact with other family members	DISCRETIONARY INFORMATION	1	Favorable; pregnant, old age, poor health, continuous medical treatment, gets financial aid, attends school, etc
	2	Lives with immediate family and has no other family contacts		0	Neutral; no evidence of discretionary ties to the community
	1	Lives alone but has regular contacts with other relatives		-1	Unfavorable; vague answers, lie detected, transient background
	0	Lives alone or with non-family person and has no regular contact with other family members			
EMPLOYMENT	3	Has held current job over 1 year	YEARS IN CINCINNATI	1	Over 10 years in Cincinnati-Hamilton County
	2	Has held current job 6-12 months		0	Under 10 years in Cincinnati-Hamilton County
	1	Has held current job 4-6 months OR current and prior job over 6 months OR supported by family			
	0	Not employed or otherwise supported OR under 4 months at current job			

TOTAL POINTS SCORED BY DEFENDANT ON INTERVIEW

RELATIVES AND OTHER REFERENCES: Names should be supplied by defendant of persons who may verify information given by him, regardless of whether verification interview is conducted or not.

Name	Address	Telephone No.	Relationship	How Often Seen

VERIFICATION: Must be completed. If unable to sufficiently verify for release, so state in officer's report.

Source of Verification (if personal reference, give name) _____ Items verified: Identification Family Ties Discretionary Info
 Residence Employment Time in County

OFFICER'S REPORT

Was Defendant Summoned and Released? Yes No If Yes, give Court Date: _____ If No, state reasons below:

Defendant was detained for the following reasons: Insufficient point score Refused to be interviewed Lives & works out of County Capias Warrant

Other _____

Date _____ Arresting Officer's Signature _____

TELEPHONE INTERVIEW SUMMARY

AGENCY: Greater Cincinnati
Bail Bond Project

LOCATION: Cincinnati, Ohio

DECISION POINT: Pretrial Release

TYPE OF INSTRUMENT: Point Scale

CONTACT: Lucy Crane
Director
(513) 381-5020

The Greater Cincinnati Bail Bond Project uses a point scale in screening pretrial defendants to determine eligibility for release on own recognizance (ROR). The instrument is composed of the four categories of weighted criteria found on most Vera-based point scales, besides a category labeled "health." The overall score achieved when points are applied to each variable is designed to assess risk of failure to appear (FTA) in court and dangerousness. The screening device is used to classify about 500 felony and misdemeanor clients each month.

This is the second instrument used by the Project to screen for risk. The first instrument was two pages long and was abandoned because judges lacked faith in it. The current point scale, which is based on the Vera scale, has undergone several recent modifications, such as varying the points for prior record, including "homemaker" as a form of employment, and adding one positive point if the defendant possesses a telephone.

The instrument is scored according to written instruction by an interviewer who receives on-the-job training. The interview usually takes about 15 minutes and verification about five minutes. Screenings cost the project an average of \$13.00. Public intoxicants and traffic violators are excluded from screening, amounting to about 300 persons monthly. After arriving at a verified, overall point score, the interviewer forwards the release or detain recommendation to a judge who makes the final decision. Judges release approximately 45% of those recommended by the Project for ROR. The instrument's recommendation is only one of several factors considered by the judge in making the release decision. Defendants are informed verbally of screening standards and results.

Decisionmakers have confidence in the accuracy and reliability of the instrument, though some judges express concern over its insensitivity to important factors. No problems have been encountered in administering the device, and most who use it are pleased with the procedure. The Project reports that use of the instrument has increased the number of pretrial defendants released from jail with an accompanying saving in costs. The instrument has not been formally evaluated, nor was it reviewed for legal considerations.

GREATER CINCINNATI BAIL PROJECT

POINT SCHEDULE

IN ORDER TO BE RECOMMENDED FOR RELEASE A DEFENDANT MUST HAVE:

- A) A VERIFIED HAMILTON COUNTY ADDRESS AT WHICH DEFENDANT RESIDES
- B) A MINIMUM TOTAL OF FIVE (5) VERIFIED POINTS FROM THE FOLLOWING CATEGORIES

INT.	VER.	RESIDENCE
3	3	OVER ONE YEAR AT PRESENT RESIDENCE
2	2	OVER 6 MONTHS AT PRESENT RESIDENCE
2	2	OVER ONE YEAR AT PRESENT AND PRIOR RESIDENCE
1	1	BETWEEN 6-12 MONTHS AT PRESENT AND PRIOR RESIDENCE
1	1	4-6 MONTHS AT PRESENT RESIDENCE
1	1	LIVED IN COUNTY LAST FIVE YEARS AND/OR LISTED TELEPHONE NUMBER
0	0	LESS THAN 4 MONTHS AT PRESENT RESIDENCE OR 6 MONTHS AT PRESENT & PRIOR RESIDENCE
FAMILY TIES		
3	3	LIVES WITH SPOUSE AND CHILDREN
2	2	LIVES WITH SPOUSE OR CHILDREN OR PARENT/GUARDIAN
1	1	LIVES WITH OTHER RELATIVE
1	1	HAS WEEKLY CONTACT WITH FAMILY MEMBER
0	0	LIVES ALONE OR WITH NON-RELATIVE OR NO FAMILY CONTACT
EMPLOYMENT/SCHOOL		
3	3	PRESENT JOB ONE YEAR OR MORE
2	2	PRESENT JOB 6-12 MONTHS
2	2	HOMEMAKER WITH CHILDREN OR FULL TIME STUDENT
1	1	PRESENT JOB 3-6 MONTHS
1	1	CURRENT AND PRIOR JOB OVER 6 MONTHS
1	1	UNEMPLOYMENT COMPENSATION, WELFARE, DISABILITY, FAMILY SUPPORT
0	0	NOT EMPLOYED OR OTHERWISE SUPPORTED OR UNDER 3 MONTHS AT CURRENT JOB
HEALTH		
1	1	POOR HEALTH - AT LEAST MONTHLY CONTACT WITH M.D. OR CLINIC
1	1	PREGNANCY OR OLD AGE (OVER 65)
1	1	VOLUNTEERED FOR TASC PROGRAM OR OTHER COURT SERVICE PROGRAM
PRIOR CRIMINAL RECORD		
2	2	NO PREVIOUS CONVICTIONS
1	1	NO CONVICTIONS WITHIN PAST 5 YEARS
0	0	ONE MISDEMEANOR CONVICTION
-1	-1	TWO OR THREE MISDEMEANOR CONVICTIONS
-1	-1	ONE FELONY CONVICTION
-2	-2	FOUR OR FIVE MISDEMEANOR CONVICTIONS
-2	-2	TWO OR THREE FELONY CONVICTIONS
-3	-3	SIX OR MORE MISDEMEANOR CONVICTIONS
-3	-3	FOUR OR MORE FELONY CONVICTIONS
		MISDEMEANOR CONVICTIONS _____ FELONY CONVICTIONS _____ PENDING CHARGES _____

TELEPHONE INTERVIEW SUMMARY

AGENCY: Municipal Court of Seattle
Probation Department

TYPE OF INSTRUMENT: ROR Point Scale

LOCATION: Seattle, Washington

CONTACT: Tom Argites
Pretrial Screener
(206) 625-4618

DECISION POINT: Pretrial Release

The Municipal Court of Seattle Probation Department uses a Vera-type point scale in determining eligibility for release on own recognizance of pretrial defendants. The point scale weights specific criteria such as local residence, family ties, employment, and education, but it conspicuously leaves out consideration of an element found on most ROR point scales-- prior record. This omission is apparently the result of an instrument review by a panel of judges who requested that screening be limited to non-offense related issues. A pretrial specialist assigns points to the variables and totals them to arrive at an overall risk score. The instrument is used to screen about 400 misdemeanor defendants monthly for risk of failure to appear (FTA) in court. Certain groups of defendants are ineligible for release and are not screened (a list is included with the report).

This is the first screening device used for pretrial release in Seattle. It is based on the Vera point scale with some minor modifications to tailor the instrument to the local jurisdiction.

After interviewing the defendant, a pretrial specialist completes the form following written instructions. Participation in the interview is strictly voluntary. Once interview information is verified, the specialist totals the points and grants OR release if the defendant achieves five or more points out of a possible 13. In about 5% of the cases, the specialist subjectively modifies the points (with supervisor approval) to reflect special case circumstances such as mental health problems. Defendants are informed of the screening variables and result in their case. The instrument and screening procedure are straightforward and require no technical expertise.

The instrument has not been formally evaluated, but the Department has kept statistics on FTA's and rearrest rates. Although no specific data are available, Department administrators believe that instrument use has resulted in more pretrial releases with a related savings in detention costs. Decisionmakers express confidence in the instrument, though some pretrial specialists complain that the device is insensitive to important factors and contains information which is difficult to verify. Despite these complaints, most staff who use the instrument generally are satisfied with it. Besides eliminating offense-related considerations from screening, the judicial review of the instrument emphasized that the defendant should have the right to refuse the screening interview.

MUNICIPAL COURT OF SEATTLE
PROBATION DEPARTMENT

(Pretrial Release
Instrument)

P. R. RELEASE POINT SCALE

Residence

- 3 Present residence one (1) year or more (continuously in this area)
- 2 Present residence six (6) months or present and prior one (1) year (continuously in this area).
- 1 Owns property in the area.
- 1 Area address where he can be reached.

Family Ties

- 3 Lives with family.
- 2 Has weekly contact with family.
- 1 Lives with non-family person.
- 2 Children reside with mother or family.

Employment

- 3 Present job one (1) year or more.
- 2 Present job six (6) months or present and prior job six (6) months.
- 1 Current job, or receiving unemployment compensation, welfare, or supported by family or savings account.
- 1 Current verified income.

Education

- 3 Attending high school, college or trade school full time for one (1) year or more.
- 2 Attending same for six (6) months or more.
- 1 Attending for less than six (6) months.

Other

- 1 On probation or parole (li. state, federal).
- 1 On methadone.

Minus Points

- 1 Charges pending in any court (other than traffic).

Special (Prostitution related charges)

- 1 Maintains private attorney.
- 1 Has previously served jail time (more than ten (10) days) for offer and agree.

Charges not Eligible for PR Release

1. All no bail charges.
2. All bench warrants (unless the bench warrant is for failure to appear and was issued when the defendant was in custody).
3. DWI when the defendant has a DWI pending.
4. Assault, reckless endangerment, harrassment, and menacing are not eligible until the victim has been contacted and approves the defendant's release.
5. A PR release can not be given until the defendant has been released from all charges stemming from jurisdictions other than the Municipal Court.

END