

From: [Cathy Halka](#)
To: [SAC](#); [Monica Rouse](#)
Subject: FW: FW: Question about pretrial risk assessment tool
Date: Wednesday, September 14, 2022 5:16:26 PM
Importance: High

From: Stephen Gockley and Ellen Posel <gockleyposel@comcast.net>
Sent: Wednesday, September 14, 2022 1:24 PM
To: Cathy Halka <CHalka@co.whatcom.wa.us>
Cc: brel.alexandre@gmail.com
Subject: Re: FW: Question about pretrial risk assessment tool
Importance: High

Cathy and Brel -

The following account addresses Brel's question about pretrial risk assessment. I apologize for the length and level of detail but I thought it was necessary to understand the care that went into this effort and the complexity of the factors that needed to be considered.

The IPRTF promoted the creation of a Pretrial Processes Work Group (PPWG) in response to the recommendation in the Vera Institute's final report that Whatcom County utilize a statistically valid risk assessment instrument to inform judicial officers in making pretrial release decisions. That recommendation derived from the fact that a majority of the jail population were still awaiting adjudication of their charges and were being held in jail for months simply because they could not afford bail amounts set for them. We decided to target Superior Court cases, which handle the most serious charges and therefore potentially involve the greatest risks in releasing individuals into the community, and for which there was no other release mechanism in place besides bail. Superior Court judicial officers (judges and commissioners) agreed with this effort and the PPWG is led by current Superior Court Judge David Freeman and retired Superior Court Judge Deborra Garrett.

The "risks" that are assessed in pretrial risk assessment are two-fold: whether the individual is likely to return to court as the case proceeds, and whether the individual is likely to commit new crimes, especially new crimes of violence, while allowed to be in the community. Those risks are scored using a formula and some level of monitoring is required while an individual is on pretrial release.

The first task of the PPWG was to request the creation of a Superior Court Pretrial Services Unit (PSU), which had not existed before. The County Council approved and funded a PSU and it is currently staffed and functioning. It provides pretrial defendants with text reminders of upcoming court dates and can also require periodic check-ins by defendants to maintain contact. Other monitoring measures, such as electronic home monitoring devices, may be considered in the coming years.

A risk score does not dictate a specific pretrial release decision or determine the appropriate level of monitoring; the score is simply additional information for a judicial

officer to consider in making such decisions. It is widely recognized that a pretrial risk assessment instrument can improve release decisions by making them more consistent from one judicial officer to another and basing them on statistically relevant information, rather than leaving those decisions entirely to a judicial officer's subjective judgments and individual predilections. There are numerous pretrial risk assessment instruments (PRAI) being used across the country and the selection of a PRAI for local use was made carefully. The work group wanted an instrument that had transparency as to the process, including in regard to the factors scored and the weight given to those factors. We also wanted an instrument that could reduce racial and ethnic disparities in who was incarcerated in Whatcom County, a goal to carry out another recommendation in the Vera Institute's report. We have been working with an experienced data scientist employed in the state's Administrative Office of the Courts, who has supported pretrial reforms at the state level and in other local jurisdictions. Based on the group's research, the Superior Court judicial officers chose to implement the Public Safety Assessment (PSA) developed by Arnold Ventures, a PRAI that is gaining wide acceptance nationally, has had its predictive strength validated in numerous places, and has been shown to reduce disparities where it has been adopted before, such as in Yakima. To ensure it was appropriate for Whatcom County's population, the AOC data scientist validated the reliability of the PSA using past cases and will continue to re-validate its reliability and its effect on disparities periodically in the future. PSU staff have acquired PSA software and been trained on the system. All of this technical assistance was gained at no cost to the county.

As the Superior Court works to re-establish a degree of normal functioning after COVID-19 disruptions, the PSA is being applied by PSU staff to persons booked into the jail prior to their first appearance before the court. People who are "booked and released" due to booking restrictions are not being scored. Whether to release an individual and the conditions for release are entirely within the discretion of the Superior Court judicial officer. Currently, there is no available requirement that a PSA-informed release decision must be a substitute for setting bail as one of the conditions of release, and in fact many people on pretrial release are also subject to bail requirements as well as monitoring measures.

It should be noted that our local District Court and some of our municipal courts have used their own variations of a pretrial risk assessment process. Assuming validation data supports the effectiveness of the PSA, the goal of the PPWG has always been to encourage its uniform adoption in all local courts, since many individuals who have been booked into the jail face charges in more than one jurisdiction and use of the same PRAI would improve the effectiveness of the criminal-legal process.

I hope this information helps SAC members understand where we are in this small part of our reform efforts. I am glad to field questions on any of this information.

Stephen
He/him

Hi Stephen,

Please see the question below, and reply all with this information if you have it. I will post your response to the comments page.

Thanks

Cathy

From: Brel Froebe

Sent: Tuesday, September 13, 2022 1:35 AM

To: Cathy Halka

Subject: Question about pretrial risk assessment tool

Hi Cathy,

A few meetings back someone mentioned that Whatcom County was going to start using a new pretrial risk assessment tool as a bail alternative. Do you happen to know the name of the tool that will be used, or who would know the name of it? Looking through my notes I'm not able to find it!

Thanks,

Brel