



**EXAMINING THE POTENTIAL USE OF A  
PRETRIAL RISK ASSESSMENT TOOL  
IN KING COUNTY, WASHINGTON  
Final Report**

Presented to the King County  
Pretrial Risk Assessment Work Group

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## I. INTRODUCTION

Two recent reports looking at the King County court and community corrections systems have recommended that the county examine the implementation of a pretrial risk assessment tool that would be used by the Intake Services Unit to help the court identify risk levels when making pretrial release decisions.<sup>1</sup> As a result of these recommendations, in 2009, King County established a Pretrial Risk Assessment Work Group for the purpose of exploring the feasibility of implementing a pretrial risk assessment tool, to be used by the Intake Services Unit of the Community Corrections Division, Department of Adult and Juvenile Detention.

This unit serves the function of a pretrial services program for King County courts, interviewing defendants shortly after arrest to gather information about their residence, ties to the community, employment, and substance abuse and mental health status. Unit staff also conduct research into the defendants' prior criminal history. In carefully selected circumstances, the unit has the authority to issue administrative releases, and uses the information obtained in the interview and investigation to make those administrative release decisions. In the vast majority of cases, the Intake Services Unit presents the results of its interview and investigation to a district court judge at initial appearance to aid the court in reaching a pretrial release decision. The information is presented without an assessment of any risks the defendant may pose to be a danger to the community or to fail to appear in court while the case is pending.

The Community Corrections Division within the Department of Adult and Juvenile Detention currently operates three options for monitoring defendants on pretrial release – Work Education Release, Electronic Home Detention, and the Community Center for Alternative Program – a day reporting center.

On July 1, 2009, King County contracted with the Pretrial Justice Institute (PJI) to work with the Pretrial Risk Assessment Work Group to examine the potential use of a pretrial risk assessment tool by the Intake Services Unit, and to determine the steps that need to be taken to lead to a successful implementation of a tool. Under the terms of the contract, PJI was responsible for assisting the Work Group by:

- Assessing the perceived benefits of and concerns about a pretrial risk assessment tool;
- Presenting the Work Group with options regarding the implementation of a pretrial risk assessment tool; and
- Developing an implementation plan for the selected option.

PJI Senior Associate John Clark visited King County once in July and once in August, 2009. The first visit focused on meetings with county criminal justice officials, including both members and non-members of the Work Group, to assess their views of and issues with pretrial risk assessment. The second visit involved researching cases

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<sup>1</sup> *Use of Community Corrections Division Review: Report to King County Council*, King County Office of Management and Budget, May 2008; and *King County Caseflow Management Project: Conclusions and Recommendations*, Justice Management Institute, August 2008.

that had been investigated by Intake Services, and then leading an exercise with the Work Group, in which the researched cases were presented. The group discussed the risk factors associated with each case, then applied a draft risk assessment tool that Mr. Clark had drafted based upon factors that system officials had stated during the first site visit to be related, in their views, to risks of danger to the community and failure to appear in court. The group was then presented with the actual results of the cases, i.e., the pretrial release decision that was made by the court and whether the defendant was arrested for a new offense while the case was pending or had at least one failure to appear in the case. The purpose of this exercise was twofold: first, to give the group a sense of how the use of a risk assessment tool by Intake Services might work, and second, to identify any gaps either in the information that was available from Intake Services to complete a risk assessment or in the options available to the court to act upon the identified risks.

In all, 31 officials participated in either the Work Group meetings or the interviews with non-Work Group members. (A list of these persons appears in Appendix A.)

This report presents the findings from this project. The next section presents the views of system officials regarding the potential benefits of and concerns with the implementation of a pretrial risk assessment tool, and then seeks to address each of the concerns. Following that is a section that describes the options that were presented to the Work Group for how they should proceed. The final section presents an implementation plan for the option initially selected by the group.

## II. BENEFITS AND QUESTIONS RELATING TO PRETRIAL RISK ASSESSMENT IN KING COUNTY

As noted, during the first site visit officials were asked what they saw as the potential benefits of implementing a pretrial risk assessment tool. Several expressed the belief that such a tool could help bring about greater efficiencies. Several different ways of doing so were mentioned, including: it could help organize the report of the Intake Services Unit; it could help speed up the pretrial release decisions of the court; and it could help to better manage the jail population by identifying those whose risk could be addressed outside of jail. A common view expressed was that a pretrial risk assessment tool could also help to protect the safety of the community by identifying higher risk defendants. It was also noted that a tool could reduce the likelihood of biases that might result in disproportionate confinement of minorities or other groups or individuals, and that it might help the public better understand decisions that are made.

Officials were then asked to express any questions that they had about implementing a pretrial risk assessment tool. The concerns that were raised can be categorized into the following:

- Whether risk assessment tools in general are effective in enhancing decision making in criminal justice settings, including pretrial services;
- Whether the use of pretrial risk assessment tool will overtax the existing infrastructure of the Intake Services Unit including the unit's information management system;
- Whether a pretrial risk assessment instrument could have unintended consequences;
- Whether the implementation of a pretrial risk assessment instrument by the Intake Services Unit would expose that staff to liability; and
- Whether separate pretrial risk assessment tools could be devised for discrete populations, such as defendants charged with domestic violence and sex offenses.

The remainder of this section addresses each of these questions in turn.

### Effectiveness of Risk Assessment Tools

The question that has been raised about the effectiveness of risk assessment is not a new one. As Peter Bernstein relates in his book, *Against the Gods: The Remarkable Story of Risk*, the effectiveness of risk assessment in aiding decision making has been debated for centuries.

“The story [of risk assessment] is marked by a persistent tension between those who assert that the best decisions are based on quantification and numbers, determined by the patterns of the past, and those who base their decisions on more subjective degrees of belief about the uncertain future. This is a controversy that has never been resolved. The issue boils down to one's view about the

extent to which the past determines the future. We cannot quantify the future, because it is unknown, but we have learned how to use numbers to scrutinize what happened in the past. But to what degree should we rely on the patterns of the past to tell us what the future will be like? Which matters more when facing risk, the facts as we see them or our subjective belief in what lies hidden in the void of time. Is risk management a science or an art? Can we even tell for certain precisely where the dividing line between the two approaches lies?"<sup>2</sup>

After thoroughly reviewing the history and current status of risk assessment, Bernstein concludes: "In engineering, medicine, science, finance, business, and even in government, decisions that touch everyone's life are now made in accordance with disciplined procedures that far outperform the seat-of-the-pants methods of the past. Many catastrophic errors of judgment are thus either avoided, or else their consequences are muted."<sup>3</sup>

Extensive criminal justice literature also makes clear that "actuarially developed predictions outperform human judgments" in areas such as recidivism among probationers and parolees and institutional misconduct.<sup>4</sup>

The Washington State Legislature has recognized the important role that scientifically-established objective risk criteria can play in improving decision making. In 1999, the Legislature passed the Offender Accountability Act, which required the Department of Corrections to classify and supervise felony offenders according to their recidivism risks. The Washington State Institute for Public Policy recently completed a study that resulted in the development of a validated risk assessment tool for use by the Department of Corrections.<sup>5</sup> In King County, the juvenile court recently implemented and evaluated a risk assessment tool to be used in the release/detention decision.

There is a very logical use of a risk assessment tool in pretrial settings as well. Statutes and court rules tell judges *what* factors to consider in assessing a defendant's risk of danger to the community and failure to appear in court when making a pretrial release decision, but provide no guidance on *how* those factors are to be considered. Yet substantial research has been done to demonstrate that the question of how factors should be considered can be answered with empirical evidence.

While pretrial risk assessment does not predict individual behavior, research has repeatedly demonstrated that it is possible to group defendants into categories of risk in

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<sup>2</sup> Peter L. Bernstein, *Against the Gods: The Remarkable Story of Risk*. New York: John Wiley & Sons, Inc., 1998, p. 6.

<sup>3</sup> *Ibid.*, p. 336.

<sup>4</sup> See, for example, Stephen D. Gottfredson and Laura J. Moriarty, "Statistical Risk Assessment: Old Problems and New Applications," *Crime & Delinquency*, Vol. 52, No. 1, 2006, and Edward Latessa, "Best Practices of Classification and Assessment," *Journal of Community Corrections*, Winter 2003-2004.

<sup>5</sup> Robert Barnowski and Elizabeth K. Drake, *Washington's Offender Accountability Act: Department of Corrections' Static Risk Assessment*, Olympia: Washington State Institute for Public Policy.

such a way to predict the probability that persons assigned to each group will either be rearrested on a new charge or fail to appear in court. (Several pretrial risk assessment validation studies done over the past two decades are summarized in Appendix B.)

### **Impact of a Pretrial Risk Assessment Tool on the Intake Services Unit Operations**

The concerns relating to the impact of implementing a risk assessment tool on the resources available to the Intake Services Unit involved both gathering the information required to validate a risk tool and actually using the tool in all the cases it investigates.

These are valid concerns. The information system that the unit must use is significantly outdated, limiting its ability to capture and report complete information. The exercise that was done with the Work Group clearly demonstrated that information that the courts deem important for pretrial release decision making is often missing, leaving judges to engage in guesswork.

Some of the problems with missing or incomplete information can be addressed in the short-term, within the constraints of the existing information system. More substantial enhancements, however, will require the development of a new information system. Gathering the data required for a validated pretrial risk assessment tool will certainly have resource implications for the Intake Services Unit, but need not present an insurmountable obstacle.

### **Risk of Unintended Consequences**

Three concerns were raised relating to unintended consequences: that a pretrial risk assessment tool may increase the jail population; that it may result in biases against minorities or others; and that it may be used for purposes other than those for which it was designed – to the detriment of the defendant. Again, these are all valid concerns.

There clearly is the chance that the introduction of a pretrial risk assessment instrument will increase the jail population. After all, if, as is being posited here, a validated pretrial risk assessment tool is superior in identifying risk levels, some defendants will no doubt score as high risk on the tool who might otherwise have been judged to be low risk. On the other hand, some defendants who might have been judged as high risk would be scored by the tool as low. The extent to which these two situations might cancel each other out can be tested by running simulations on the final risk assessment tool to gauge its likely impact on changing existing pretrial release decision making practices. Depending on the results of those simulations, the weights and scoring of the tool can be adjusted to minimize the chance of more restrictive pretrial release practices.

Regarding the concerns about building biases into the risk assessment tool, this is something that can also be checked before a tool is implemented. There are

statistical techniques available that can check to assure that the tool is unbiased toward groups based on sex, race, ethnicity, ethnicity, or any other factors of concern.

As to the use of risk scores for purposes other than that for which they are intended, this is an area that will require cooperation between parties. For example, if the defendant has a concern about the use of this information, the defendant could refuse to participate in the Intake Services Unit interview, a lose-lose situation for all. Issues such as this one have been arising with greater frequency in jurisdictions across the country as officials look for innovative approaches to protecting community safety, improving the efficiencies of courts, and aiding in the rehabilitation of the defendant or offender. For example, the implementation of specialty courts has forced prosecution and defense to reach agreements regarding the use of information. There is no reason why similar agreements, if necessary, could not be reached regarding the use of pretrial risk assessment scores.

### **Impact on Liability Exposure**

As a result of Washington case law<sup>6</sup>, it is not clear what the liability issues would be for the Intake Services Unit were it to begin assessing risks of pretrial misconduct and presenting that information to the court.

For over 30 years, PJI has served as a clearinghouse of information on pretrial program practices and pretrial release decision making. PJI has compiled significant amounts of information regarding pretrial program practices from all over the country and have only encountered issues relating to the liability of those practices in one state – Washington. And this was a result of case law from Washington addressing the liability of pretrial program staff and the practices they engage in. To check that no other cases had missed our attention, we conducted a comprehensive search through LexisNexus and were not able to identify any cases on point from any other jurisdictions.

The absence of any identified examples from other jurisdictions does not, of course, guarantee that no other jurisdictions have had to deal with this issue. However, the discussion that follows demonstrates that risk assessment is viewed as a vital function of pretrial programs, and the overwhelming majority of pretrial programs do assess risks.

### ***Standards and Pretrial Risk Assessment***

It is clear from a review of the three sets of professional standards that address the pretrial release decision making process that pretrial risk assessment by a pretrial program is seen not only as an acceptable practice, but a core function of a pretrial program.

The American Bar Association, in its Pretrial Release Standards, Standard 10-1.10, lists as one of the roles of a pretrial program to: “present accurate information to

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<sup>6</sup> *Hertog v. City of Seattle*, 138 Wn.2d 265.

the judicial officer relating to the risk defendants may pose of failing to appear in court or of threatening the safety of the community or any other person and, consistent with court policy, develop release recommendations corresponding to risk.” The Commentary to this Standard explains this position. “In calling on pretrial services agencies to provide judicial officers information about risks associated with releasing a defendant, the Standard recognizes that these agencies are in a unique position to analyze objective individual and circumstantial factors likely to impede the defendant’s appearance in court or to pose a threat to the safety of the community or individual members of the community.”

The National Prosecution Standards of the National District Attorneys Association, in the standard relating to the first appearance of a defendant in court, state that an “inquiring agency,” presumably a pretrial services program, should explore factors relating to pretrial misconduct. Standard 45.4(b)(4) then reads: “Where appropriate, the inquiring agency should make recommendations to the judicial officer concerning the conditions, if any, which should be imposed on the defendant’s release. The results of the inquiry and the recommendations should be made known to all parties at the first appearance in court.”

The National Association of Pretrial Services Agencies, in its Pretrial Release Standard 3.2, lists five “essential functions” of a pretrial services program. One of those functions is to “present written, accurate information to the judicial officer relating to the risk a defendant may pose of failing to appear in court or of threatening the safety of the community or any other person, and recommend conditions that could be imposed to respond to the risk.”

### ***Legislation and Pretrial Risk Assessment***

Several states have mandated that pretrial services programs make recommendations to the court based on assessments of the risks of pretrial misconduct. For example, the Illinois statute states that “[p]retrial services agencies shall perform the following duties for the circuit court: (a) Interview and assemble verified information and data concerning the community ties, employment, residency, criminal record, and social background of arrested persons who are to be, or have been, presented in court for first appearance on felony charges, to assist the court in determining the appropriate terms and conditions of pretrial release; (b) Submit written reports of those investigations to the court along with such findings and recommendations, if any, as may be necessary to assess: (1) the need for financial security to assure the defendant’s appearance at later proceedings; and (2) appropriate conditions which shall be imposed to protect against the risks of nonappearance and commission of new offenses or other interference with the orderly administration of justice before trial.” (Illinois Compiled Statutes, 725-185.)

In addition, in laying out the duties of the pretrial program, the District of Columbia pretrial release statute states that the program is required to conduct an investigation on defendants awaiting first appearance in court, and prepare a written

report. “The report to the judicial officer shall, where appropriate, include a recommendation as to whether such person should be released or detained...” (D.C. Code § 23-1303.)

One state legislature has even required that the state develop and implement a pretrial risk assessment tool to be used by all pretrial programs operating in the state. The Virginia General Assembly mandated, as part of the Pretrial Services Act, that the Virginia Department of Criminal Justice Services “shall develop risk assessment and other instruments to be used by pretrial services programs in assisting judicial officers in discharging their duties” in pretrial release decision making. (Code of Virginia, § 19.2-152.3.)

### ***Pretrial Program Risk Assessment Practices***

PJI has recently completed a survey of pretrial services nationwide. The purpose of the survey was to gather information about the current practices of pretrial programs. That survey showed that the overwhelming majority of pretrial programs – 90 percent – follow the national standards by conducting risk assessments for the court.

### **Use of Risk Assessment for Targeted Sub-Populations**

There was interest in the Work Group about the feasibility of developing risk assessment tools for discrete sub-populations, such as those charged with domestic violence or sexual offenses. This is an important consideration. These two types of offenses in particular raise serious concerns in the community about a defendant repeating the same crime or escalating the offense, especially with the same victim, while on pretrial release awaiting adjudication.

While some jurisdictions have developed pretrial risk assessment tools specifically for defendants charged with domestic violence, these tools are not yet research-based and have not been validated. A fundamental barrier has stood in the way of doing this – the development of a research-based tool requires sufficient numbers to distinguish the low risk from the medium risk from the high risk defendants. The more that the overall population of defendants is divided into discrete groups, the more difficult it becomes to do this. This is especially true of some discrete groups, such as those charged with sexual offenses – many of whom will not be released pretrial, and thus will have had no opportunity to succeed or fail on pretrial release.

These barriers, however, are not insurmountable. If the Work Group decides to move in the direction of developing separate risk assessment tools for discrete populations, the recommendations presented in Section IV, particularly Recommendations II-a through II-f should provide helpful guidance.

### III. OPTIONS AVAILABLE FOR THE IMPLEMENTATION OF A PRETRIAL RISK ASSESSMENT TOOL IN KING COUNTY

Three options were presented to the Work Group regarding the implementation of a pretrial risk assessment tool:

- Implement an interim instrument now and begin collecting the data necessary to validate that tool in the future;
- Collect data now to construct a research-based tool in the future; or
- Defer any decision to implement a pretrial risk assessment tool at this time but proceed with short term improvements where feasible.

The first option is one that has been used in a number of jurisdictions. Many jurisdictions have conducted rigorous validation studies of their risk assessment tools. A jurisdiction taking this option would choose one of these tools that have been validated elsewhere, adapt it to its own needs, and put it in place – with the intention of testing the tool for local validity after it has been in use after a period.

The second option, also used by a number of jurisdictions, requires holding off on the implementation of a risk tool until data are collected on a wide range of factors that the jurisdiction selected to test. Two samples would be drawn – a construction sample and a cross-validation sample. The results of the analysis of the construction sample would be used to build a research-based pretrial risk assessment tool. The cross-validation sample would then be used to test the validity of that tool.

The third option is to simply defer any decision to implement a pretrial risk assessment tool until other issues, such as the limited information system capacity of Intake Services, are addressed. Deferring this decision would not have to delay proceeding with some of the short term enhancements suggested in the next section.

Regardless of the option chosen, it would be desirable to re-validate the risk assessment tool at least every five to seven years to test for any changes in demographics or crime patterns that may have implications for the on-going validity of the tool.

The Work Group engaged in a discussion of the advantages and disadvantages of each of these options.

Option 1 presented the advantage that an interim instrument could be built using research findings from other jurisdictions and implemented relatively quickly. It would be based on factors shown at least somewhere to be related to risks of pretrial misconduct. One disadvantage was that this interim tool would not be normed for King County population. This tool might exclude factors that are potentially valid in King County. Another disadvantage was that it would require additional resources to collect the data needed for testing the tool.

Option 2 has the advantage of examining a broader set of factors for validity in King County prior to designing and implementing a tool. This process would better assure that the assessment of risk made by Intake Services was based on the patterns of local defendants. One disadvantage was that this option, too, would require additional work for Intake Services. Another disadvantage is that the implementation of a tool would be take much longer than Option 1.

The third option had the advantage that it would not require additional resources, an important consideration in a time where resources are especially scarce. The disadvantage would be that King County would continue to have unavailable a tool that most other jurisdictions have found to be extremely effective in sorting out the risk levels of defendants. However, as noted in the following section, King County could proceed with short term enhancements where feasible.

After discussion, the consensus of the Work Group was to consider what would be involved in moving toward Option 2. Accordingly, the next section presents an implementation plan for Option 2.

#### **IV. PLAN FOR IMPLEMENTING A PRETRIAL RISK ASSESSMENT TOOL IN KING COUNTY**

Implementing a risk assessment tool encompasses more than simply putting a tool in place and expecting it to work. A pretrial risk assessment tool is but one of a number of parts of a process designed to lead to more enhanced pretrial release decision making. If the other parts of the process are not in place, the tool will not be effective, and may do more harm than good. Thus, any plan for implementing a pretrial risk assessment tool in King County should begin with a wider plan for improving the information and options available to judges when making pretrial release decisions.

Several of the proposed steps in this section will require additional resources. King County will need to take its current financial challenges into consideration when deciding how to proceed.

##### **I. Short-Term Enhancements to the Intake Services Unit**

The Intake Services Unit has a long and proud history of providing information to the court for pretrial release decision making. It is clear from discussions with system officials that the unit is well regarded and the information it provides well received. It is also clear that other system officials are very aware of the challenges faced by the unit in regards to its outdated information system.

Still, there are several possible steps the unit can take in the short-term that would improve their product – the information that they provide to the court. These steps should be examined carefully regardless of whether a decision is ultimately made to pursue a plan for implementing a pretrial risk assessment tool. But any plan for risk assessment cannot succeed unless these steps are taken.

**I (a). The Intake Services Unit should examine the feasibility of reporting to the court the number of times a defendant has failed to appear in court in the past, and the dates of those failures.**

##### **Timeline: Immediate**

In the Level One reports, the unit states how many prior warrants the defendant has had. Prior warrants can include failures to appear, but they also can include arrest warrants and warrants for such matters as failures to pay fine. From observing several court sessions and from discussions with system officials, it is clear that “warrants” in the Intake Services Unit report are typically interpreted to mean that the defendant failed to appear. Information on prior failures to appear for King County cases may be available in the information systems that are currently available to the unit. However, the Intake Services Unit should ensure this information is provided consistently and accurately.

The implications of reporting prior failures to appear for a pretrial risk assessment tool are apparent. Prior failures to appear are consistently shown in research to be related to higher risks of failure to appear. If that information is not being captured, as is currently the case, this very important factor in assessing risks would be unavailable.

**I (b). The Intake Services Unit should begin reporting to the court the level of prior convictions and the sentences received.**

**Timeline: Immediate**

The prior record information submitted to the court is typically confined to the year of the case (it is not clear whether it is the year of the conviction or the year of the arrest on the charge) and a non-specific charge name. For example, the report might read: "04, Assault." During the exercise with the Work Group and the discussions that followed, it became clear that judges are often left to guess whether the charge was a felony or misdemeanor. Even beyond the charge level, having the sentence can also shed light on the seriousness of the offense, plus give an indication of whether the defendant may still be under sentence.

The charge level is important for developing a risk assessment tool. Many validated pretrial risk assessment tools have found that prior convictions, and whether they were felonies or misdemeanors, are correlated with risks.

**I. (c). The Intake Services Unit should develop a standardized interview form, train staff on using it, and require its use.**

**Timeline: Within three months**

One of the cornerstones of effective pretrial services is an effective structured interview of the defendant, and one of the cornerstones of an effective structured interview is a standardized interview form. Currently, unit interviewers know what information they can report using their mainframe computer system, and simply ask questions designed to get that information, and nothing more. As was seen during the exercise with the Work Group, this often results in judges, prosecutors and defense guessing about missing information.

Guesswork cannot support risk assessment. In order to construct and validate a pretrial risk assessment tool, very specific information about factors relating to risks must be collected. Much of that information can only be collected in the interview.

In Appendix C is an example of a thorough pretrial interview form – from the Allegheny County, Pennsylvania pretrial services program. Intake Services staff should review this interview form and adapt it to their needs. Once a new form is developed, all staff of the unit should be trained on effective techniques to use the form.

**I. (d). In the short term, the Intake Services Unit should supplement its reports to assure that more complete information is presented to the court.**

**Timeline: Within three months**

Given the outdated nature of the unit's information system, it is difficult and time-consuming to make any changes in the pages from its automated system that are printed out for the court and which represent the report to the court. Still, the unit can attach a sheet to the computer-generated report that contains information that there was no room for on that report. For example, the complete criminal history, along with charge level and sentence, as well as the number and dates of prior failures to appear in court could be attached as a Word document. The attachment could also include any other relevant information, such as extended comments by references.

## **II. Planning for the risk assessment**

The discussion that follows assumes that the Work Group will pursue Option 2 – which would involve collecting data necessary to construct a research-based risk assessment tool that would then be cross-validated.

**II (a). The Work Group should begin to explore the feasibility of obtaining the funding for a risk assessment study.**

**Timeline: Begin immediately**

It is assumed that the collection of data for the study would be done in-house, but the analysis of the data would be done through contract with a competent researcher capable of conducting a methodologically rigorous study. A number of different options for identifying a competent researcher may exist, such as through the faculty of local universities, local groups, or national groups. The Work Group should seek a budget of at least \$25,000 for the contract. As a general proposition, the earlier in this risk assessment study process that a researcher is selected the better.

**II (b). The Work Group should determine the final list of factors to be tested to construct a research-based risk assessment tool.**

**Timeline: Within one month**

Appendix D shows a list of the factors that system officials listed as being important to examine in determining valid predictors of risk. Based on these factors, Appendix E presents a draft of a coding sheet designed to collect information on those factors, or factors that have been found to be related in other studies. The Work Group should use this draft as a starting point in a discussion of the final list of factors it would like to see tested. The draft coding sheet could then easily be edited to include the final factors. Selecting the final list of factors should be done in close coordination with

Community Corrections to assure that the information sought can be obtained by Intake Services.

**II (c). The Work Group should determine which cases will be included in the sample.**

**Timeline: Within one month**

At minimum the sample should include all cases interviewed and investigated by Intake Services with either (1) and administrative release, or (2) a report submitted to the court, during the sampling period selected by the Work Group.

**II (d). The Work Group should identify how the collection and entry of data for the risk assessment study will be completed.**

**Timeline: Within three months**

The Intake Services Unit is probably the best positioned entity to collect and enter into a database the data for the study. That does not necessarily mean that existing staff would have to take on data collection on top of their existing duties. Other pretrial programs that have collected and entered data for risk assessment studies have had great success in using student interns for this purpose. The Work Group, in coordination with Community Corrections, should establish how data collectors will be identified.

Whatever entity is selected for data collection and entry should establish quality control procedures, including training staff and monitoring their work to assure that complete and accurate data are being assembled.

**II (e). The Work Group should work closely with the selected researcher to assure that any other needs of the study are being met.**

**Timeline: Beginning with the selection of the researcher and on-going until the completion of the study**

Experience has repeatedly shown that studies in criminal justice settings fail to reach a desired level of conclusiveness because of either lack of communication between the practitioners and the researchers or lack of attention by practitioners of the stated needs of the researchers. The Work Group should assure that there is very close communication with the selected researchers throughout the data collection and data entry process.

One example of the need of the Work Group to work closely with the selected researcher is so that the structure and framework of the risk assessment tool constructed as a result of the research meets the wishes of the Group. For instance, the Group would like a tool that provides separate assessments of the risk of danger to the

community and of failure to appear in court. By making the researcher aware of this or any other preferences as the study begins will assure that these preferences are addressed.

**II (f). Once the study is completed and researchers have constructed a draft research-based risk assessment tool, the Work Group should work with the researchers to finalize that tool.**

**Timeline: Immediately upon completion of the study**

Since the tool drafted by the researchers as a result of the study's findings will be based on science, the Work Group should give great weight to that tool. However, the tool can only be effective if it is used, and to be used, it must have face-validity with those who will be using it. The Work Group will be in a better position than researchers to assess the face-validity of the drafted tool, so it should closely examine the tool. Any changes that the Work Group contemplates should be reviewed with the researcher prior to being finalized to assure that the changes do not corrupt the drafted tool.

### **III. Long-Term Enhancements to Give Full Support to Pretrial Risk Assessment**

Two significant changes need to be considered along with pretrial risk assessment for King County's pretrial services efforts to reach their full potential— an expansion of the pretrial supervision options and the implementation of a new automated information system. A target for implementation of these changes is two years hence, about the time it will take to complete a prospective study and have the research-based tool ready for implementation.

**III (a). A pretrial supervision component should be considered as another option in the continuum of pretrial options operated by Community Corrections.**

**Timeline: Within two years**

Assessment of risk of pretrial misconduct is only one part of an important equation. The other part is to provide viable and safe options for minimizing identified risks. To do so, the Standards of the American Bar Association state that pretrial services programs should “develop and provide appropriate and effective supervision for all persons released pending adjudication who are assigned supervision as a condition of release” (ABA Pretrial Release Standard 10-1.10(b)(iii)). For those defendants identified as low risks, release with no conditions, or perhaps with minimal reporting requirements would be appropriate. For those with mid-range risks, more restrictive conditions are often appropriate. Failure to tie identified risks to adequate supervision options will lead to one of two undesirable results: defendants with known risks will be released to the community with no attention paid to those risks, or courts would be left with no choice but to set high bails on defendants with known risks with the hopes that they are unable to post those bails.

The Community Corrections Division within the Department of Adult and Juvenile Detention currently operates three options for pretrial defendants – Work Education Release, Electronic Home Detention, and the Community Center for Alternative Program. A careful review is needed to compare the capacity of these programs to their potential use if a pretrial risk assessment tool is implemented. Moreover, in most other jurisdictions, the continuum of pretrial options includes a pretrial supervision program. King County should examine whether this option is appropriate and feasible. (See Appendix F for a discussion of pretrial supervision options.)

**III (b). The Intake Services Unit should be provided with a new automated information system capable of recording and reporting complete information to the court regarding both pretrial release decision making and compliance on supervision.**

**Timeline: Within two years**

The American Bar Association Standards state that pretrial services programs “should develop and operate an accurate management information system to support prompt identification, information collection and presentation, risk assessment, release conditions selection, compliance monitoring, and detention review functions essential to an effective pretrial services agency.” (ABA Standard 10-1.10(b)(ix). The system currently in use by Intake Services is an outdated mainframe program that places severe constraints on the unit’s ability to record and present information that is vital to effective pretrial release decision making.

Ideally, a pretrial program should maintain a systematic automated case tracking and information system for the following purposes: recording and reporting information for bail-setting purposes, monitoring defendant compliance on supervised release, measuring program performance/effectiveness, validating program practices, diagnosing problems, and testing the impact of implemented or proposed changes.

Two types of information are needed to accomplish these: defendant-based and aggregated numbers. The latter should be compiled on a regular basis in reports.

A. Defendant-based data elements:

- defendant characteristics, including:
  - age,
  - sex,
  - race/ethnicity,
  - length of residence in county,
  - marital status,
  - drug use, and
  - other factors deemed to be appropriate in the county;
- prior record information, including:

- the number of previous felony and misdemeanor arrests/convictions,
- number of previous failures to appear,
- number of previous parole/probation revocations,
- number of previous pretrial release revocations,
- number previously incarcerated;
- current defendant criminal justice information, including
  - arrest date,
  - initial appearance date,
  - pretrial release date,
  - conditions of pretrial release
  - compliance with those conditions
  - date(s) when defendant failed to appear,
  - date defendant was returned to court,
  - date of final adjudication, and
  - sentencing date.

B. Regularly generated reports:

- Aggregate program data, including the number of persons interviewed, the number of persons recommended for release by type of conditions, reasons for not recommending release; court actions and final outcome information, including release decision, adjudication, and sentence, lengths of sentences imposed (by charge and form of release or detention), time between arrest, initial release from detention, and case disposition; and,
- Current criminal justice information, including the number of persons arrested and charged with a criminal offense (misdemeanors and felonies), the number of persons released prior to trial on each form of release, the number of persons detained prior to trial according to charge and length of detention, the number of persons who failed to appear at a scheduled court appearance (by charge and form of release), and the number of persons rearrested (by initial charge and rearrest charge and form of release).

This information should be reviewed periodically to evaluate program practices and for planning.

There are a myriad of benefits of having an information system that captures the data elements described above. For the program, it provides critical data for continual validation of the factors incorporated in the risk assessment tool. The aggregate reports that can be generated with the above data can be of assistance to treatment centers (by charting increases or decreases in drug use in the community), court planners (by charting variations in judicial decision-making) and virtually every other system participant, since the data collection begins when defendants first enter the system.



## **APPENDIX A**

### **Interviews and Non-Work Group Meetings on July 14 -15, 2009:**

Judge Helen Halpert, Superior Court  
Judge Ron Kessler, Superior Court  
Judge Arthur Chapman, District Court  
Judge Anne Harper, District Court  
Mark Larson, Prosecuting Attorney's Office  
Mindy Young, Prosecuting Attorney's Office  
David Martin, Prosecuting Attorney's Office  
Rick Lichtenstadter, Defender Association  
Pat Valerio, Associated Counsel for the Accused  
Kathy VanOlst, Department of Adult and Juvenile Detention  
Toni Rezab, Department of Adult and Juvenile Detention  
Doug Justus, Department of Adult and Juvenile Detention  
Mike West, Department of Adult and Juvenile Detention  
Shiquan Liao, Judicial Administration  
Lea Ennis, Superior Court  
Cathy Grindle, District Court, Technology Director  
Nate Caldwell, Community Corrections  
Runette Mitchell, Community Corrections  
Ron Kitner, Court Services  
Steve Barber, Court Services  
Michael Gedeon, OSSPM  
Jeannie Macnab, OSPPM

### **Officials Participating in July 16, 2009 Work Group Meeting:**

Judge Sharon Armstrong, Superior Court  
Judge Rick Bathum, District Court  
David Martin, Prosecuting Attorney's Office  
Mark Larson, Prosecuting Attorney's Office  
David Hocraffer, Office of Public Defender  
Dave Roberson, Northwest Defender Association  
Nate Caldwell, Community Corrections Division  
Runette Mitchell, Community Corrections Division  
Toni Rezab, Department of Adult and Juvenile Detention  
Michael Gedeon, OSPPM  
Jeannie Macnab, OSPPM

### **Officials Participating in August 5, 2009 Work Group Meeting:**

Judge Sharon Armstrong, Superior Court  
Judge Rick Bathum, District Court  
Melinda Young, Prosecuting Attorney's Office

Cindi Port, Prosecuting Attorney's Office  
Dan Clark, Prosecuting Attorney's Office  
Mary Jane Ferguson, Office of Public Defender  
Judy Garcia, District Court Probation  
Nate Caldwell, Community Corrections Division  
Runette Mitchell, Community Corrections Division  
Toni Rezab, Department of Adult and Juvenile Detention  
Michael Gedeon, OSPPM

## **APPENDIX B PRETRIAL RISK ASSESSMENT RESEARCH FINDINGS**

This section summarizes what the research has shown about the factors shown to be relevant to risks of danger to the community and FTA.

Studies of these early risk assessment instruments showed mixed results in terms of their effectiveness in identifying factors that help predict FTA. For example, a 1981 summary of studies that were done in the 1960s and 1970s in different jurisdictions (Eskridge, 1981) showed the following results.

### Community Ties:

- Four studies showed strong community ties were significantly related to appearance in court.
- Ten studies showed that community ties were not significantly related to appearance in court.

### Employment:

- Four studies showed being employed was significantly related to appearance in court.
- One study showed employment not related to appearance in court.

### Having a Telephone:

- Two studies showed that defendants who had telephones in their names were more likely to appear in court.
- Two studies showed that this did not matter.

### Prior Record:

- Five studies showed that having a prior record was a predictor of failure to appear in court.
- Four studies showed that the existence of a prior record was not related to appearance in court.

Beginning in the 1970s, states have been changing their bail laws to make the risk of danger to the community, in addition to the risk of FTA, a consideration in the bail decision. As a result, pretrial risk assessment studies had to look at both danger to the community, as measured by rearrests, as well as FTA. A number of studies done in the 1990s and in this decade have looked at both FTA and rearrest, with each one identifying different factors relating to risks.

For example, a 1994 risk assessment study in Ramsey County, Minnesota identified two variables that were predictive of appearance in court: being charged with an offense against a person and having completed high school and some college. Four variables were found to be predictive of failing to appear: having prior convictions for felony weapons offenses; having prior felony arrests; being 18 or 19 years of age; and being at the current address for less than three months. Three variables — having prior felony arrests; having prior misdemeanor convictions; and being 18 or 19 years of age — were predictive of being rearrested, while one variable, the current charge being for a drug offense, was predictive of not being rearrested. (Dickinson, 1994).

A 1999 evaluation of the risk assessment instrument used in Maricopa County, Arizona identified five factors associated with higher risks of both FTA and rearrest:

- Prior FTA;
- Being charged with a property or drug offense;
- Being single or separated;
- Paying child support, and
- Having prior convictions.

Two factors – having family in the area and having a verified address – lessened the likelihood of FTA and rearrest. (Henry, Clark, Austin and Naro, 1999.)

Seven localities in Virginia participated in a 2003 study on pretrial risk assessment. Nine factors were identified as being predictive of pretrial misconduct:

- Having two or more prior FTAs;
- Being charged with a felony;
- Having one or more outstanding warrants from another jurisdiction for charges unrelated to the current arrest;
- Having one or more misdemeanor or felony convictions;
- Having two or more violent convictions;
- Living at the current address for less than one year;
- Not being employed continuously for the previous two years and not the primary caregiver for a child at the time of arrest; and
- Having a history of drug abuse. (VanNostrand, 2003.)

In 2006, researchers in New York City identified several community-tie factors that predict likelihood of pretrial failure. Having a New York City address, having a telephone in their residence, and being employed, in school, or in a training program full-time predicted lower likelihood of pretrial misconduct. Regarding criminal history factors, defendants with prior misdemeanor convictions, having pending cases, and having a history of FTA were more likely to either FTA or be rearrested. (Siddiqi, 2006.)

At least two jurisdictions – Harris County, Texas and Hennepin County, Minnesota – conducted comprehensive validation studies in the 1990s and then repeated the studies very recently. In both cases, the variables that were found to be valid in the 1990s were, in many cases, different than those found to be valid in the most recent studies.

Six factors were identified in a 1993 study of the Harris County, Texas pretrial risk assessment instrument (Cuvelier and Potts, 1993) as being predictive of pretrial misconduct:

- Having a Harris County address;
- Having a telephone;
- Being employed full time, a student, on disability, or a homemaker;
- Having a prior FTA;
- Having prior felony convictions;
- Having prior misdemeanor convictions.

A 2008 re-validation in Harris County (Austin and Murray, 2008) of the factors found to be valid in 1993 found some variables that were different and others that were refined:

- Current charge of burglary, theft, fraud, other property, or deliver controlled substance;
- On probation and/or parole;
- One prior misdemeanor conviction (worth 1 point) as opposed to two or more prior misdemeanor convictions (worth 2 points)
- One prior felony conviction (worth 1 point) as opposed to two or more prior felony convictions (worth 2 points);
- One or more FTAs;
- No high school diploma or GED;
- Lives with someone other than spouse, children, or self;
- Does not own automobile;
- Unemployed and not in school full time, not retired, disabled or a homemaker. (Austin and Murray, 2008.)

A 1992 study of risk assessment in Hennepin County, Minnesota identified two variables (defendant lived at least five years in the area, and defendant was charged with drug offense) that were predictive of appearance in court, and one variable (prior history of FTA) that was predictive of failure to appear in court. Regarding rearrest, one variable (the defendant was employed) was found to be predictive of having no rearrest, while five variables (prior felony convictions, prior misdemeanor convictions, current charge a property offense, current charge a drug offense, and the defendant was 21 years old or younger) were predictive of being rearrested. (Goodman, 1992.)

In 2006, researchers evaluated the risk assessment instrument that was put in place after the 1992 Hennepin County study. Three factors were identified as being significant in predicting both pretrial crime and FTA: having higher number of prior convictions; having a history of failure to appear; and being unemployed or employed less than 20 hours a week. One factor – being charged with a felony against a person – decreased the odds of a defendant committing pretrial crime and of failing to appear in court. (Podkopacz, 2006.)

All of these studies looked at risk assessment instruments whose structure was based upon the model that was developed by the Vera Institute in 1961 – that is, a point scale that assigns certain points (either negative or positive) to factors believed – either intuitively or from research findings – to be related to risks of pretrial misconduct. The factors included and the weights assigned have varied, but the basic structure has been the same.

There are certainly some commonalities among the findings of studies that have looked at these instruments. For example, defendants with prior histories of FTA and prior convictions are more likely to FTA in the current case and be rearrested. Still, the studies disagree on the specifics of these variables. For example, some studies show

that any prior FTA raises the risk of FTA, while others show that risk is not raised until a defendant reaches at least two prior FTAs. Likewise, some show that having any prior convictions raises risk, but in others only a certain number of convictions or convictions for certain types of offenses are relevant.

Even with these commonalities, however, study after study has failed to replicate the findings of previous studies. These findings raise caution about simply borrowing a pretrial risk assessment from one jurisdiction and expecting it to work in another.

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**APPENDIX C**  
**Allegheny County, PA Pretrial Interview Form**

**ADVISEMENT PRIOR TO INTERVIEW**

My name is \_\_\_\_\_ and I am from the Allegheny County Pretrial Services Agency. I am here to ask you for information that will be used by the court to determine your pretrial release status. I will not ask you anything about your charge. Please do not tell me anything about your charge; if you do it can be used against you in court. The information that you give me will be verified. Please understand that any false information that you give can delay final decisions about your release status. Do you wish to proceed with this interview?

<b>DEFENDANT INFORMATION</b>			
Name: _____		Date of Birth:     /     /	
Aliases: _____		SS #:     -     -	
Sex: Male Female	Race: White   Black   Hispanic Asian   Other	Height:     Weight: Passport: Yes   No	
Marital Status: Single   Married   Separated   Divorced   Widowed			
Children: Yes   No	If Yes, Number: _____	Live With Children Yes   No	
Ages of Children _____		Primary Caregiver of Children: Yes   No	
Verified by: _____		Unverified	
Comments:			
<b>RESIDENCE INFORMATION</b>			
<b>Length of residence in Pennsylvania:</b> _____ years   _____ months   _____ days   Not Pennsylvania Resident			
<b>Own Property in Pennsylvania:</b> Yes   No			
<b>Present Address:</b> (Street) _____			Apt. # _____
(City) _____		(State) _____	(Zip) _____
Who do you live with: _____		Relationship: Spouse   Children   Parent(s) Other Family   Non-Family   Live Alone	
Telephone: _____		Can return? Yes	Own   Rent

	No	
How long at this address: ___ years ___ months ___ days		
Get mail at this address: Yes No	When last at this address:	
Stay at any other address: Yes No		
<b>Any Other Present Addresses:</b> (Street)		Apt. #
(City)	(State)	(Zip)
Who live with?	Relationship: Spouse Children Parent(s) Other Family Non-Family Live Alone	
Telephone:	Can return? Yes No	Own Rent
How long at this address: ___ years ___ months ___ days		
Get mail at this address: Yes No	When last at this address:	
Verified by: _____	Unverified	
Comments:		
<b>EMPLOYMENT/SCHOOL STATUS/MILITARY HISTORY</b>		
<b>Unemployed?</b> Yes No	If yes, how long?	
How supported:		
<b>Current Employment:</b> Full time Part time		
Where employed:	Occupation:	
How long? ___ years ___ months ___ days	Date last worked:	
Work address: (Street)	Room #	
(City)	(State)	(Zip)
Supervisor's name:	Phone:	
<b>School Status:</b> Last year of school completed:	Currently in school: Yes No	
If in school, name:	Type:	

<b>Military Status</b>			
Currently in military: Yes No		If yes, unit:	
Ever in military: Yes No		Branch:	Discharge Type:
<b>HEALTH INFORMATION</b>			
Current problem with: Alcohol Drugs Mental Illness			
Currently in treatment for: Alcoholism Drug Abuse Mental Illness			
Name of treatment program: _____			
Ever in treatment for: Alcoholism Drug Abuse Mental Illness			
Name of treatment program: _____			
Verified by: _____		Unverified	
Comments:			
<b>SELF-REPORTED CRIMINAL HISTORY</b>			
Number of prior arrests:		Number of prior convictions:	
Are you currently on: pretrial release ARD probation parole			
Name, phone number and location of supervising officers:			
<b>REFERENCES</b>			
<b>Name</b>	<b>Address</b>	<b>Telephone</b>	<b>Relationship</b>

## APPENDIX D

Officials were asked for their views on what factors they believed were related to higher risks of danger to the community and failure to appear in court in King County.

Many community ties factors were noted, including:

- length of time in the King County area,
- length of time at the current address,
- having a stable current address to which the defendant could return, and
- employment.

Other factors related to the defendant's past behaviors, including:

- criminal history,
- history of failure to appear in court,
- history of compliance with protection orders and other court orders, and
- history of compliance while on pretrial release.

Factors relating to the defendant's current status included:

- presence of substance abuse or mental health problems,
- gang ties, and
- the defendant's age.

Other factors revolved around the current offense, including:

- the facts of the case,
- whether the charge involved a firearm,
- the potential sentence that the defendant faced if convicted, and
- the relationship between the defendant and the alleged victim.

**APPENDIX E**  
**King County Risk Assessment Study Coding Sheet**  
**DRAFT**

- 1. Defendant Name: \_\_\_\_\_
- 2. Defendant Identifying Number: \_\_\_\_\_
- 3. Case Number: \_\_\_\_\_
- 4. First Appearance Date: \_\_\_\_/\_\_\_\_/\_\_\_\_
- 5. Arraignment Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**DEFENDANT DEMOGRAPHIC INFORMATION**

- 6. Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_    Don't Know
- 7. Sex:    Male    Female    Don't Know
- 8. Race:    White    Black    Other    Don't Know
- 9. Of Hispanic Origin:    Yes    No    Don't Know
- 10. Marital Status:    Single    Married  
                          Divorced    Separated    Don't Know
- 11. Last Year of School Completed: \_\_\_\_\_    Don't Know

**CHARGE INFORMATION**

- 12. Name of Most Serious Current Charge:  
\_\_\_\_\_
- 13. Type of Charge:            Violent Felony  
                                      Other Felony  
                                      Violent Misdemeanor  
                                      Other Misdemeanor  
                                      Don't Know
- 14. Name of Second Most Serious Charge:  
\_\_\_\_\_
- 15. Type of Charge:            Violent Felony  
                                      Other Felony  
                                      Violent Misdemeanor  
                                      Other Misdemeanor  
                                      Don't Know
- 16. Number of Counts to Current Charge: \_\_\_\_\_
- 17. Was a Firearm Involved?    Yes    No    Don't Know

## PRIOR RECORD INFORMATION

*Prior to the Arrest in the Instant Case, Record the Following:*

18. Number of Misdemeanor Convictions: \_\_\_\_\_ Don't Know
19. Number of Violent Misdemeanor Convictions: \_\_\_\_\_ Don't Know
20. Number of Misdemeanor Convictions Involving Domestic Violence: \_\_\_\_\_ Don't Know
21. Number of Felony Convictions: \_\_\_\_\_ Don't Know
22. Number of Violent Felony Convictions: \_\_\_\_\_ Don't Know
23. Number of Felony Convictions Involving Domestic Violence: \_\_\_\_\_ Don't Know
24. Number of Prior Failures to Appear: \_\_\_\_\_ Don't Know
25. Number of Prior Violations of Protection Orders: \_\_\_\_\_ Don't Know

## CURRENT STATUS WITH CRIMINAL JUSTICE SYSTEM

26. At the Time of the Arrest in the Instant Case Check Any Involvement the Defendant Had With the Criminal Justice System (check all that apply):  
On Parole On Probation  
Currently on Bond Pending Trial  
Outstanding Arrest Warrant for Felony or Misdemeanor Offense  
None Don't Know

## DEFENDANT'S COMMUNITY TIES

27. Time in Washington: \_\_\_\_\_ Days  
\_\_\_\_\_ Months \_\_\_\_\_ Years  
Life Not A Resident Don't Know
28. Time in King County area: \_\_\_\_\_ Days  
\_\_\_\_\_ Months \_\_\_\_\_ Years  
Life Not a Resident Don't Know
29. Length of Time at Current Address:  
\_\_\_\_\_ Days \_\_\_\_\_ Months  
\_\_\_\_\_ Years Life Homeless  
Don't Know
30. Can Return to Current Address: Yes No Don't Know
31. Who Live With (Check All That Apply):  
Spouse Children Parent(s)  
Grandparent(s)  
Other Family \_\_\_\_\_  
Friend/Other Non-Family  
Alone Don't Know

32. Have Address Where Receive Mail?  
 Yes No Don't Know
33. Employed: Yes No Don't Know
34. If Employed, For How Long:  
 \_\_\_ Days \_\_\_ Months  
 \_\_\_ Years Don't Know
35. If Unemployed, How Supported?:  
 Unemployment SSI  
 Family Other \_\_\_\_\_  
 Don't Know
36. Primary Caregiver of Minor Child:  
 Yes No Don't Know

## HEALTH STATUS

37. Indications of Alcohol Problem?  
 Current Past None Don't Know
38. Treatment for Alcoholism?  
 Current Past None Don't Know
39. Indications of Drug Addiction?  
 Current Past None Don't Know
40. Treatment for Drug Addictions?  
 Current Past None Don't Know
41. Indications of Mental Illness?  
 Current Past None Don't Know
42. Treatment for Mental Illness?  
 Current Past None Don't Know

## PRETRIAL RELEASE STATUS

43. Was the Defendant Released in the Instant Case at Any Point Between Case Filing and Final Disposition?  
 Yes Date: \_\_\_/\_\_\_/\_\_\_  
 No  
 Don't Know
44. If Yes, Type of Release  
 ROR  
 Nonmonetary Conditions  
 Unsecured Bail  
 Ten Percent Bond Amount: \_\_\_\_\_  
 Monetary Bail Amount: \_\_\_\_\_  
 Don't Know
45. If No, Why?: (Check All That Apply)

Couldn't Post Bail Amount: \_\_\_\_\_  
Held Without Bail on Current Charge  
Active Detainer or Hold on Another Charge  
Don't Know

*(The following two sections, ADJUDICATION and PRETRIAL MISCONDUCT are only to be completed once the case has reached final disposition, i.e., dismissal, acquitted, sentenced.)*

## **ADJUDICATION**

46. Date of Final Adjudication: \_\_\_\_/\_\_\_\_/\_\_\_\_

*(If defendant was not released pretrial do not complete the next section.)*

## **PRETRIAL MISCONDUCT**

47. Did Defendant Fail to Appear in the Instant Case?

Yes No Don't Know

48. Was the Defendant Rearrested for a New Offense Allegedly Committed While on Release for the Instant Case?

Yes No Don't Know

49. If Yes, What Was the Most Serious Rearrest Charge?

\_\_\_\_\_

50. If Yes, What Was the Most Serious Rearrest Charge Type?

Violent Felony  
Other Felony  
Violent Misdemeanor  
Other Misdemeanor  
Summary or Traffic  
Don't Know

## **APPENDIX F PRETRIAL SUPERVISION OPTIONS**

There are a number of different types of supervision options that comprise a menu of best practices in pretrial supervision. The first are the status quo conditions, such as maintain current address or employment. These conditions require very little, if any, supervision on the part of the pretrial program. The next are the restrictive conditions, which limit the defendant's movement in the community or associations. Examples of restrictive conditions would be: stay away from the complaining witness; stay away from a certain part of town; or observe a curfew or house arrest. Next are the contact conditions, which require the defendant to remain in contact, either in person or by telephone, with the pretrial program, or some other supervisory program – i.e., the probation department if the defendant is also on probation. Finally, there are the problem-oriented conditions, which address such issues as drug or alcohol abuse or mental illness. Defendants with these types of conditions are typically referred to treatment or testing, which is then monitored by the pretrial program.

A recent PJI survey of pretrial services programs showed that 97 percent of pretrial services programs nationwide provide supervision. Nearly all of these programs have the ability to monitor defendants who have the condition to report in to the program on a regular basis either in person or by telephone. Over 90 percent also have the capacity to test for drug or alcohol use, and about the same percentage refer defendants to substance abuse or mental health treatment. Over 60 percent monitor a house arrest condition through the use of electronic monitoring, and about half use GPS technology to monitor court orders restricting the defendant's movements in the community.<sup>7</sup>

The Helpdesk at the PJI web site ([www.pretrial.org/PretrialServices/EssentialFunctions/Pages/MonitoringAndSupervision.aspx](http://www.pretrial.org/PretrialServices/EssentialFunctions/Pages/MonitoringAndSupervision.aspx)) contains numerous examples of supervision practices and procedures used in other jurisdictions.

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<sup>7</sup> 2009 *Survey of Pretrial Services Programs*, Pretrial Justice Institute, 2009.