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Conducting Justice and Corrections Research for Effective Policy Making

Florida Pretrial Risk Assessment Instrument

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Introduction

Florida Statute 903.046 (2) lists the criteria that judicial officers are to take into consideration in making pretrial release decisions. Those criteria include: the nature and circumstances of the offense; the weight of the evidence; the defendant's family ties, length of time in the community; employment history; financial resources; mental conditions; prior criminal history; prior history of appearance in court; current status on pretrial release, probation, and parole; and the "nature and probability of danger which the defendant's release poses to the community." The statute does not provide any guidance on what weight to assign each of these criterion in assessing a defendant's risk of danger to the community and non-appearance in court.

Over the past several years, as criminal justice agencies across the country have been pressured to implement evidence-based practices, significant work has been done to validate objective risk assessment tools for use in helping judicial officers in determining what weight to give to individual factors, and how individual defendant profiles are related to risks. Research has clearly demonstrated that it is possible to sort defendants into categories that accurately reflect the risks they pose to the safety of the community and to appearance in court.¹

Many of the pretrial risk assessment validation studies completed in the past 15 years focused on single jurisdictions – typically at the individual county level. A 2003 study done in seven geographically disperse counties in Virginia found, however, that it was possible to construct and validate a pretrial risk assessment tool that worked beyond a single local jurisdiction.² The validated instrument has been used throughout Virginia since that time, and a 2009 re-validation of the use of the instrument in 10 sampled counties throughout Virginia confirmed its effectiveness in accurately sorting defendants into risk categories.³ Since the Virginia study, statewide pretrial risk assessment instruments were constructed and validated in Kentucky⁴ and Ohio,⁵ and a single instrument was tested and implemented in all 94 federal

¹ Cynthia A. Mamalian, *State of the Science of Pretrial Risk Assessment*, Washington, D.C.; Pretrial Justice Institute, 2011.

² Marie VanNostrand, *Assessing Risk Among Pretrial Defendants in Virginia: The Virginia Pretrial Risk Assessment Instrument*, Richmond, VA: Virginia Department of Criminal Justice Services, 2003.

³ Marie VanNostrand and Kenneth J. Rose, *Pretrial Risk Assessment in Virginia*, Luminosity, 2009.

⁴ James Austin, Roger Ocker, and Avi Bhati, *Kentucky Pretrial Risk Assessment Instrument Validation*, JFA Institute and Pretrial Justice Institute, 2010.

districts in the country.⁶ Multi-county pretrial risk assessment validation studies are currently underway in Colorado and Michigan.

Given the trend toward the use of statewide pretrial risk assessment instruments, in 2010 the Association of Pretrial Professionals of Florida and the Florida Association of Counties requested from the Bureau of Justice Assistance of the U.S. Department of Justice, through the Pretrial Justice Institute, a multi-county risk assessment study in Florida. The study was conducted by the JFA Institute. This report presents the results of that study.

Research Methods

Sample

Six Florida counties participated in this study – Alachua, Manatee, Osceola, Palm Beach, Pinellas, and Volusia. Table 1 shows several characteristics of these counties. The population of these counties ranged from a high of 1,320,134 in Palm Beach County to a low of 247,336 in Alachua County. Five of the six counties served a geographical area that was a mix of urban and suburban, and one served an exclusively suburban area.

Looking at the characteristics of the pretrial services programs serving those areas, three of the six are administratively located under the County Commissions, one under the Court, one under the Sheriff, and one under the County Justice Services. The 2010 budgets of these programs ranged from a high of just over \$1.5 million in Palm Beach County to \$584,245 in Osceola County. Five of the six programs conduct their interviews and investigations of defendants before the defendant's initial appearance in court, while in one program, Osceola County's, these activities occur after the defendant's initial appearance. The Palm Beach County pretrial services program has no defendants excluded from interviews as a matter of policy, while the programs in Alachua and Manatee exclude defendants with other warrants or holds. The programs in the remaining counties exclude some categories of defendants based on current charges.

The number of interviews these programs conducted during 2010 range from a high of 18,450 in Palm Beach County to a low of 2,824 in Osceola County. All six counties provide supervision of defendants who have conditions of pretrial release set by the court. The number of defendants supervised during 2010 range from a high of 5,072 in Volusia County to a low of 992 in Alachua County.

⁵ Christopher T. Lowencamp, Richard Lemke, and Edward Latessa, "The Development and Validation of a Pretrial Screening Tool," *Federal Probation*, Volume 72, Number 3, 2008.

⁶ Marie VanNostrand and Gena Keebler, *Pretrial Risk Assessment in the Federal Court*, U.S. Department of Justice, Office of the Federal Detention Trustee, 2009.

TABLE 1. CHARACTERISTICS OF THE SIX COUNTIES

	Alachua	Manatee	Osceola	Palm Beach	Pinellas	Volusia
Characteristics of the Six Counties						
County Population	247,336	322,833	268,685	1,320,134	916,542	494,593
Geographic Area	Urban/ Suburban mix	Urban/ Suburban mix	Urban/ Suburban mix	Urban/ Suburban mix	Urban/ Suburban mix	Suburban
Characteristics of the Pretrial Services Program						
Administrative Locus	County Commission	County Commission	County Commission	County Justice Services	County Sheriff	Court
Program Budget (2010)	\$943,079	\$601,428	\$584,245	\$1,525,025	\$1,421,475	\$1,429,601
Timing of Initial Interview	Before initial appearance	Before initial appearance	After initial appearance	Before initial appearance	Before initial appearance	Before initial appearance
Target Population for Interviews	All arrestees except those with out of county holds	All arrestees w/exception of out of county holds and VOPs	Exclusions based on charges and warrants	All arrestees interviewed – no exclusions	All felony arrest & misdemeanor domestic violence exclusions based on F.S. 907.041	Exclusions based on charges and warrants
Number of Interviews Done (2010)	9,001	7,380	2,824	18,450	6,304	4,017
Provide Supervision of Defendants on Pretrial Release	Yes	Yes	Yes	Yes	Yes	Yes
Number Supervised in 2010	992	2,223	2,824	4,270	3,361	5,072

Data collection was separated in two stages. The first stage consisted of establishing the validation samples for each county. It was important to generate a sufficient number of cases for each site to later aggregate the data across all six sites and establish a common risk assessment system. A goal of 250 cases from each of the sites was established. The sample was drawn from defendants who were released in pretrial status from each county in the months of January – March 2011. The sampling scheme was a systematic random sample where each county was given a sampling sequence (e.g., 1 every 10th case, 1 every 5th case, etc.) As Table 2 shows, the goal of a minimum of 250 cases was exceeded in four of the six counties, and in the remaining two counties, the goal was essentially met – with Volusia County having 246 cases and Pinellas County 248.

In terms of the data collected, a code sheet was constructed that contained (among other items) variables that 1) have been used in other risk assessment instruments that have been validated in other jurisdictions and 2) were available at all six sites. The code sheet was pilot tested and finalized for all six counties prior to the actual data collection effort. A listing of each item that was collected at all six sites is shown in Appendix A.

Table 2. Validation Sample Sizes By County

County	Pretrial Releases	Percent
Palm Beach	391	22.3
Pinellas	248	14.1
Volusia	246	14.0
Alachua	267	15.2
Manatee	305	17.4
Osceola	300	17.1
Total	1,757	100.0

A data dictionary was also established to ensure consistency in the coding process. These “background” data included descriptive data on inmates such as demographics and charge but also items typical to risk assessment instrument such as mental health status and ownership of a phone.

The second data collection effort was conducted about six months later to capture the pretrial failure rates. Specifically each sampled case was examined to see if the defendant had been re-arrested for another crime and/or had a FTA warrant issued by the court. These data were then merged with the earlier “background” data to form a complete file.

Validation Methodology

All potential predictor variables that were collected were first converted into categorical variables and their relationship with pretrial misconduct—defined alternately as new crime commission, failure to appear, or either of the two—was assessed using cross tabulations.⁷ Tables 3 through 6 list the variables and show the results of these bi-variate analyses.

This analysis suggested that a set of core predictors to include in the multivariate analysis. Next, multivariate logistic regressions were used to estimate the relationships between each of the predictors with pretrial misconduct *net* of all the other predictors. The analysis removed some of the predictors resulting in a reduced set of predictors in the pretrial risk models. The net result was that the following 11 factors were identified as having an independent effect on predicting pretrial misconduct.

1. Age at Admission,
2. Current most serious charge,
3. Is current charge 907.041,

⁷ Two additional outcomes—failure to comply and return to custody—were also investigated but were not used to create the final scoring algorithm.

4. Employment status at admission,
5. Marital status,
6. Have a Telephone/Cell phone,
7. Time at Current Residence,
8. History of Sub Abuse and/or Mental Health,
9. Previous FTAs , and
10. Previous Adult Felonies, Previous Adult Misdemeanors.

All of these items are typically found on other pretrial risk assessment instruments.

To develop the weights assigned to each category of the final set of predictors, the marginal increase in pretrial misconduct risk attributable to a particular predictor was computed. The marginal increase is measured relative to the base (or omitted category). For example, if having a prior misdemeanor arrest increased the risk of pretrial misconduct by 2 percentage points (relative to not having this history) then it was assigned a weight of 2. In other words, a defendant who does not have a prior misdemeanor arrest is assigned a weight of “0” and a defendant who does have a prior misdemeanor arrest is assigned a weight of “2”. Similar weights are assigned to every category of every predictor included in the final model. Note that the weights are computed from the net effects of the predictor—i.e., controlling for the effects of all other predictors.

**TABLE 3. PRETRIAL RELEASES FROM SAMPLE COUNTIES: FEB. 24 – MAR. 09, 2011
DEMOGRAPHIC INFORMATION**

Characteristic	N	%	% w/ FTA	% w/ New Crime	% w/ FTC	% w/ Return to Custody	% w/ FTA or New Crime
Base	1,757		6.5%	8.4%	3.6%	11.8%	13.7%
Gender							
Male	1,188	67.6%	6.6%	9.2%	4.2%	13.1%	14.4%
Female	555	31.6%	6.3%	6.7%	2.4%	9.0%	12.1%
Race							
White	1,160	66.0%	5.9%	7.9%	4.6%	11.8%	13.0%
Black	532	30.3%	7.7%	9.6%	1.7%	12.0%	15.3%
Other	52	3.0%	9.3%	7.0%	2.3%	9.5%	14.0%
Type of Bond Release							
Cash	183	10.4%	7.1%	6.0%	1.7%	10.1%	12.4%
Surety	731	41.6%	6.7%	8.8%	2.1%	15.2%	14.4%
ROR	682	38.8%	6.7%	8.2%	5.9%	9.7%	13.3%
Other	147	8.4%	3.4%	10.3%	2.8%	6.9%	13.6%
Employment at Admission							
Unemployed	659	37.5%	8.5%	10.3%	4.2%	16.1%	17.3%
Other	1,039	59.1%	5.2%	7.1%	3.3%	9.0%	11.4%
History of Substance Abuse							
No	1,453	82.7%	6.1%	8.1%	3.3%	11.0%	13.1%
Yes	267	15.2%	9.0%	10.1%	6.2%	15.4%	17.1%
Unknown	23	1.3%	0.0%	8.7%	0.0%	13.0%	8.7%
History of Mental Illness							
No	1,488	84.7%	6.3%	7.9%	3.5%	10.9%	13.1%
Yes	215	12.2%	8.4%	9.8%	5.2%	15.6%	15.7%
Unknown	41	2.3%	4.9%	19.5%	0.0%	22.5%	24.4%
Marital Status at Admission							
Single	1,264	71.9%	7.1%	10.0%	4.0%	13.5%	15.6%
Other	480	27.3%	4.8%	4.2%	2.6%	7.2%	8.6%
Have a Telephone/Cell phone							
No	203	11.6%	10.8%	9.9%	2.5%	14.2%	17.6%
Yes	1,505	85.7%	5.8%	8.1%	3.9%	11.4%	12.9%
Unknown	35	2.0%	11.4%	8.6%	0.0%	11.4%	20.0%
Current Charge is 907.041							
No	1,326	75.5%	7.6%	9.2%	4.1%	13.3%	15.3%
Yes	417	23.7%	2.9%	5.8%	2.2%	7.0%	8.4%
Posted Bond Before Seeing Judicial Officer							
No	1,497	85.2%	6.4%	8.6%	4.0%	11.2%	13.7%
Yes	245	13.9%	6.9%	6.6%	0.9%	15.2%	13.0%

TABLE 4
PRETRIAL RELEASES FROM SAMPLE COUNTIES: FEB. 24 – MAR. 09, 2011
MOST SERIOUS CHARGE INFORMATION

Most Serious Charge	N	%	% w/ FTA	% w/ New Crime	% w/ FTC	% w/ Return to Custody	% w/ FTA or New Crime
Base	1,757		6.5%	8.4%	3.6%	11.8%	13.7%
Other violent	105	6.0%	2.9%	9.5%	3.0%	10.9%	11.4%
Assault	46	2.6%	4.3%	10.9%	7.0%	11.9%	13.0%
Battery	443	25.2%	2.9%	7.2%	1.6%	7.4%	9.9%
Drug Sale	47	2.7%	1.8%	15.8%	7.5%	15.1%	17.5%
Drug Poss.	228	13.0%	11.0%	11.8%	6.7%	17.9%	20.9%
Burglary	53	3.0%	7.5%	7.5%	1.9%	11.5%	15.1%
Theft	120	6.8%	3.3%	9.1%	4.2%	13.6%	11.4%
Other property	128	7.3%	7.0%	13.3%	3.9%	14.1%	17.2%
Weapon	24	1.4%	4.2%	12.5%	4.3%	13.0%	12.5%
Driving Suspended License	135	7.7%	14.8%	9.0%	0.8%	12.5%	19.7%
DUI	192	10.9%	2.6%	1.6%	4.2%	6.9%	4.1%
Other non-violent	140	8.0%	9.3%	7.1%	3.7%	12.7%	15.6%
Traffic	13	0.7%	7.7%	7.7%	0.0%	7.7%	15.4%
FTA	38	2.2%	21.1%	5.4%	5.4%	13.2%	26.3%
VOP	17	1.0%	17.6%	0.0%	0.0%	43.8%	17.6%
Unknown	5	0.3%	20.0%	0.0%	40.0%	40.0%	20.0%

TABLE 5
PRETRIAL RELEASES FROM SAMPLE COUNTIES: FEB. 24 – MAR. 09, 2011
AGE AT ADMISSION

Age at Admission	N	%	% w/ FTA	% w/ New Crime	% w/ FTC	% w/ Return to Custody	% w/ FTA or New Crime
Base	1,757		6.5%	8.4%	3.6%	11.8%	13.7%
Unknown	13	0.7%	0.0%	7.7%	0.0%	0.0%	7.7%
19 & younger	188	10.7%	6.9%	8.0%	1.6%	12.1%	13.8%
20-24	427	24.3%	6.8%	8.9%	4.5%	12.6%	14.2%
25-29	303	17.2%	6.3%	11.2%	3.7%	13.5%	16.6%
30-34	204	11.6%	5.4%	6.4%	4.0%	6.6%	10.6%
35-39	136	7.7%	5.9%	4.4%	3.0%	12.2%	10.3%
40-44	143	8.1%	3.5%	4.2%	2.2%	9.6%	7.6%
45-49	119	6.8%	7.6%	9.3%	2.7%	12.4%	14.3%
50-59	160	9.1%	7.5%	11.3%	3.8%	12.7%	16.9%
60-69	38	2.2%	13.2%	5.3%	13.2%	15.8%	18.4%

70 & older	13	0.7%	15.4%	15.4%	0.0%	23.1%	21.4%
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TABLE 6
PRETRIAL RELEASES FROM SAMPLE COUNTIES: FEB. 24 – MAR. 09, 2011
CRIMINAL HISTORY INFORMATION

Characteristic	N	%	% w/ FTA	% w/ New Crime	% w/ FTC	% w/ Return to Custody	% w/ FTA or New Crime
Base	1,757		6.5%	8.4%	3.6%	11.8%	13.7%
Previous FTAs							
None	1,332	75.8%	4.2%	5.6%	2.6%	8.7%	9.8%
One	229	13.0%	10.0%	9.6%	5.3%	14.5%	18.7%
2+	182	10.4%	18.7%	21.0%	8.3%	29.7%	35.5%
Previous Adult Felony							
None	1,386	78.9%	5.6%	6.7%	3.6%	9.6%	11.5%
One	164	9.3%	9.8%	14.0%	2.5%	14.7%	20.7%
2+	193	11.0%	9.8%	15.5%	4.7%	25.0%	23.6%
Previous Misd./Municipal/Traffic							
None	1,075	61.2%	5.4%	5.7%	3.7%	8.3%	10.3%
One	251	14.3%	4.0%	9.6%	2.8%	15.4%	13.0%
2+	418	23.8%	10.8%	14.6%	3.9%	18.4%	22.6%
Time at Current Residence							
12 mos. +	1,115	63.5%	6.1%	7.0%	3.3%	11.4%	11.9%
Under 12 mos.	629	35.8%	7.2%	10.8%	4.2%	12.4%	16.8%
Total Charges at Release							
One	1,195	68.0%	6.1%	8.1%	3.2%	10.6%	13.0%
Two	347	19.7%	7.2%	10.1%	3.5%	13.9%	16.3%
Three+	201	11.4%	7.5%	7.0%	6.7%	15.1%	12.9%

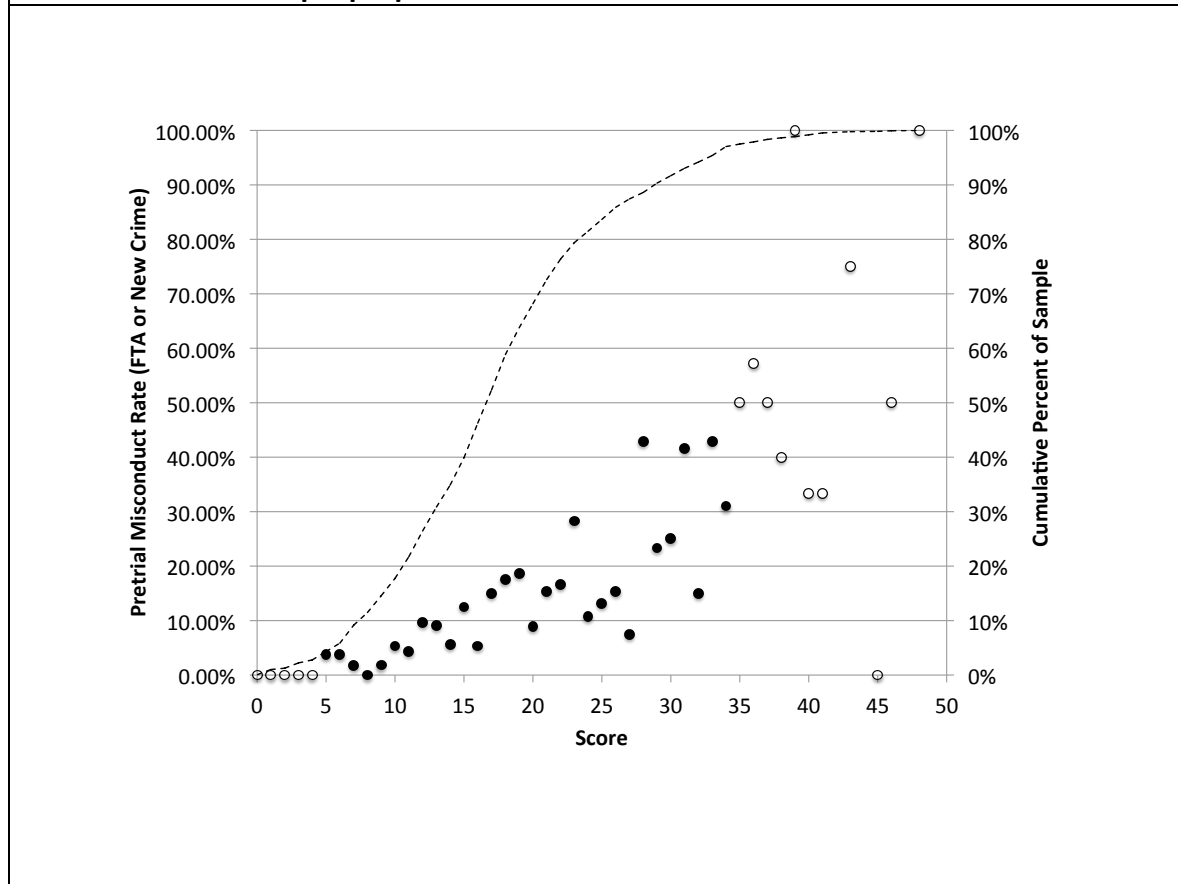
Findings

The final score is computed by summing the weights assigned to all weights in the instrument. The result is a score ranging from a low of “0” to a high of “51.” The final score provides a way to rank all defendants on a common scale in terms of their relative risks of pretrial misconduct.

Figure 1 shows the pretrial misconduct rates of defendants scoring various points on this scale. The left scale measures recidivism rates (shown as filled or hollow circles) and the right scale measures the cumulative sample proportions. As is evident, the misconduct rate increases as the score increase. The hollow circles reflect cells with very small size (less than 20). The dotted line—measuring cumulative sample proportions—shows, for example, that

about half the sample scored on or below 16 on this scale. Almost 90% of the sample scored on or below 28 on this scale.

Figure 1: Diagnostic plots of misconduct rate by points on the risk assessment scale with cumulative sample proportions.

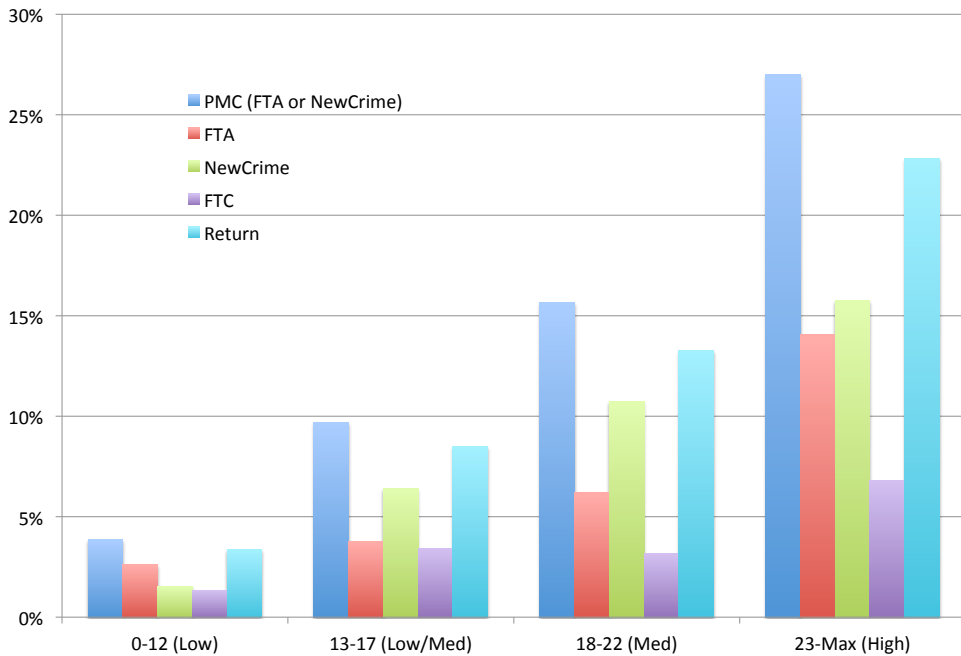


Based on these distributions, a 4-quartile classification scheme was tested. The sample was almost evenly split into 4 groups in increasing order on the scale. These were classified into four categories according to their probabilities of failure on pretrial release, with Category 1 having the highest probability of failure and Category 4 as the lowest rate of failure.⁸ The base failure rate (the pretrial failure rate in the sample as a whole) was 13%. The classification strategy suggests that the Category 1 group had a failure rate of just 4%, the Category 2 group of 10%, the Category 3 group of 16%, and the Category 4 group of 26%. (See Figure 2.)

One should note that the use of categories may be preferable to risk level labels like “low”, “low moderate”, “moderate” and “high” given the overall low failure rates. For example, people assigned to category 4 are not really “high” risk since the vast majority do not FTA or get re-arrested.

⁸ Note, this is merely a diagnostic analysis. While implementing this tool, an agency might decide to use different cut points based, for example, on minimal acceptable misconduct levels.

Figure 2: Pretrial misconduct rates, by quartile classification scheme (outcomes include pretrial misconduct, new crimes, failure to appear, failure to comply, and return to custody).



Two scoring items included in the instrument are worth specific discussion. The first is ‘Current most serious charge’. This item was produced by aggregating individual crime charges into four major categories (see Table 6). The aggregated charge categories provide both an easier scoring item to use and stronger correlations with the failure rates.

The second item of note is ‘History of substance abuse and/or mental health problems.’ This item is also an aggregate of two separate scoring items of substance abuse and mental health problems. Combining the presence of for either item into a single composite item simplifies the scoring process and enhances the association with pretrial failure. (see Table 7).

Table 7. Failure Rates by Aggregate Levels of Failure

Charge	% w/ FTA	% w/ New Crime	% w/ FTA or New Crime
Base Rate	6.5%	8.4%	13.7%
Violent	3.0%	7.9%	10.4%
Drug	9.1%	12.6%	20.2%
Property	5.6%	10.6%	14.5%
Other non-violent	9.2%	5.5%	13.3%
Mental health or substance abuse	8.3%	9.5%	15.5%
Both	11.3%	12.5%	22.2%

Florida Pretrial Misconduct Risk Assessment Instrument

1 Age at Admission			
19 or younger	1		
20 --- 29	2		
30 or older	0		
2 Current most serious charge			
Violent	1		
Drug	2		
Property	4		
Other	0		
3 Is current charge 907.041			
Yes	0		
No	5		
4 Employment status at admission			
Unemployed	3		
Other	0		
5 Marital status			
Single	6		
Other	0		
6 Have a Telephone/Cell phone			
Yes	0		
No/Missing/Unknown	4		
7 Time at Current Residence			
12 months or more	0		
Under 12 months	5		
8 History of Sub Abuse and/or Mental Health			
Neither	0		
Substance Abuse	1		
Mental Health	1		
Both	4		
9 Previous FTAs			
None	0		
One	6		
Two or more	14		
10 Previous Adult Felonies			
None	0		
One or more	2		
11 Previous Adult Misdemeanors			
None	0		
One or more	2		
Total Score =			

Low Risk/Category 1 = 0 to 12 points

Low Moderate/Category 2 = 13 to 17 points

Moderate/Category 3 = 18 to 22 points

High Moderate/Category 4 = > 22 points

Summary and Conclusion

This study has shown that defendants in the six Florida counties can be sorted successfully into groups that show their probabilities of success on pretrial release, with success defined as not being rearrested on new charges and appearing for all court dates. The average success rate of defendants in the study was 87%, with two groups identified as having success rates above that average and two groups with rates below it.

Through the use of the risk assessment instrument validated here, pretrial services programs in these six counties can confidently provide their courts with the probabilities of success on pretrial release of all defendants who are assessed, and can tailor supervision strategies to correspond to the levels of risk. Those with the highest probabilities of success might be good candidates for a recommendation for release on recognizance. For those with lower probabilities of success, the pretrial services programs might need to recommend supervision levels appropriate to the identified risk levels.

Moreover, as the pretrial risk assessment research conducted in Virginia suggests, other Florida counties can use the instrument as well, with a reasonable expectation that it would be valid for their populations. While follow-up research would be needed ultimately to confirm the instrument's validity outside the six counties studied here, that research can be simplified by focusing only on the 11 factors comprising this risk assessment instrument.

Currently, 28 Florida counties have a pretrial services program that gathers information about defendants before the initial pretrial release hearing and makes a recommendation to the court regarding release. Those programs can incorporate this risk assessment instrument into their procedures for making recommendations. While the remaining 39 counties in the state do not currently have a pretrial services program, each of these counties has a process for pretrial release decision making. This risk assessment instrument can also be used to assist in that process in those counties.

Finally, this instrument can now also be used as a tool to help manage the pretrial populations in the county jails to assure that expensive detention space is being used for those with the lowest probabilities of success on pretrial release. If large numbers of detained defendants fall into categories of very high probabilities of success on pretrial release, efforts can be made to facilitate the release of these individuals, where appropriate. This, in turn, may provide an opportunity for significant cost savings to counties. For example, a recent study done by Florida State University found that in one county – Broward – the cost of supervising a

defendant in the community on pretrial release was \$1.48 per defendant per day, compared to a daily cost of \$107.71 for housing a defendant in the Broward County Jail.⁹

⁹ Alex Piquero, *Cost-Benefit Analysis for Jail and Alternatives to Jail*, Tallahassee, Florida, Florida State University, 2010.

Appendix Data Items Collected

County
Defendant's Mutually Exclusive ID Number
Date of Birth
Gender
Race
Ethnicity
Jail Admission Date
Jail Release Date
Type of Bond/Release
Pretrial Supervision
Primary Current Charge #1 Description at Release
Primary Current Charge #1 Level at Release
Primary Current Charge #1 Bail Amount at Release
Primary Current Charge #2 Description at Release
Primary Current Charge #2 Level at Release
Primary Current Charge #2 Bail Amount at Release
Primary Current Charge #3 Description at Release
Primary Current Charge #3 Level at Release
Primary Current Charge #3 Bail Amount at Release
Total Number of Charges at Release
Number of Prior FTAs in the Past 7 Years
Number of Adult Felony Convictions in the Past 7 Years
Number of Adult Misdemeanor, Criminal Traffic, & Municipal Ordinance Convictions in the Past 7 Years
Length of Time in Months at Primary/Current Residence at Time of Jail Admission
Employment Status at Time of Jail Admission
History of Substance Abuse History of Mental Health Issues
Marital Status at Time of Jail Admission
Have a Telephone/Cell Phone at Time of Jail Admission?
Is Current Charge 907.041?
Did defendant post bond before seeing a judicial officer?