



PolicyPerspective

The Role of Risk Assessment in Enhancing Public Safety and Efficiency in Texas Corrections

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Recommendations

- Incorporate risk assessment in probation revocation cases involving a violation or misdemeanor.
- Improve the Texas version of the Wisconsin instrument used by probation departments or adopt a new instrument.
- Explore the viability of risk assessments to predict the severity of re-offense.
- Use risk assessments to identify offenders who are appropriate for early discharge.
- Revise the risk factors used in the Parole Guidelines to eliminate or adjust factors not correlated with recidivism for some or all inmates.
- Reexamine the risk assessments used by the Parole Division in setting supervision levels.
- Ensure risk assessments are validated for female offenders.
- Explore feasibility of electronically sharing risk assessment tools used from entry to reentry.

Introduction

With limited corrections resources, how can Texas best protect public safety and reform offenders with every dollar spent? One answer lies in the more effective use of risk assessment for the more than half a million adults on probation or parole in Texas. Research indicates that harnessing the power of risk assessment tools and matching supervision and treatment strategies to the offender's risk and needs produces the best correctional outcomes. Offenders who need the most supervision and treatment to succeed will be more likely to receive it while resources are not inefficiently spent on the lowest-risk offenders who are unlikely to commit another offense regardless of the supervision strategy.

Risk assessment should include many dynamic factors, as the risk an offender poses changes over time. For example, a 2009 actuarial study commissioned by the U.S. Department of Justice found that, after 3.8 years of not re-offending, a first-time burglar at the age of 18 is no more likely to be re-arrested than a 22 year-old in the general population.¹ Indeed, their re-offense rate dips below the general population after that time, eventually falling to less than half of the baseline.²

What Is a Risk Assessment Instrument?

Risk assessment instruments are inventories containing questions about a defendant or offender that are designed to be predictive of whether the individual will recidivate. Risk factors may include age, criminal record, em-

ployment status, substance use, and age of first offense. Points are assigned to each factor, resulting in a total score. Instruments are designed to inform decisions regarding custody, supervision, and referral for services. Risk assessment instruments should be verified, meaning that they should be retrospectively tested to demonstrate that each factor and the total risk score are highly correlated with recidivism.

What Are Examples of Risk Assessment Instruments?

Two of the most commonly used assessments are the Wisconsin risk assessment instrument and the Level of Service Inventory (LSI-R). A version of the Wisconsin instrument is used by all but three Texas adult probation departments and the Parole Division of the Texas Department of Criminal Justice (TDCJ)—three of the larger probation departments use the LSI-R.

The Wisconsin instrument measures 11 risk factors. It was verified most recently in Wisconsin in an August 2009 study by the Council of State Governments Justice Center (CSG), which also made recommendations for improvement.³ In addition to the Wisconsin instrument, which is in the public domain, there are many competing proprietary risk assessment instruments, such as the LSI-R developed by Canadian researchers. It includes 54 risk and need factors. The domains measured by the LSI-R are criminal history, education/employment, financial situation, family/marital relationships, accommodation, leisure and recreation, companions, alcohol or drug use, emotional/mental health, and attitudes and orientations.

However, more factors is not necessarily better, as one review of the research found a version of the LSI-R confined to eight factors and other shorter instruments outperformed longer instruments in predicting the probability of a new offense.⁴ Also, if an instrument is overly long, the time involved in administering it can result in probation and parole officers spending too much time on assessments that they could be allocating to supervision. Another challenge is consistency of scoring across multiple users. Although the use of subjective factors such as an offender's attitude may well warrant inclusion, the challenge in consistent scoring and the need to train officers is likely to grow in proportion to the number of subjective factors included.

When Is It Used?

In Texas and many other jurisdictions, a risk assessment instrument is administered when an offender begins probation or parole, primarily to determine the level of supervision. As some of the elements in the assessment are dynamic, state standards require that probationers be reassessed at least every 12 months and parolees at least every six months.⁵ A few states are incorporating risk assessment into sentencing, revocation of probationers to prison, and reentry.

Why Use Risk Assessment?

Individuals who commit the same offense may have very different risk profiles. Evidence shows that limited supervision resources can be most efficiently allocated to prevent recidivism among probationers and parolees by matching the offender's risk level with the level of supervision—usually low, medium, or high.⁶ A higher supervision level generally means more contacts with the probation officer are required and there may be additional conditions of probation such as electronic monitoring. Prior to the development and implementation of risk assessment instruments, all probationers and parolees often received the same level of supervision or, if distinctions were made, they were based on a purely subjective evaluation by one person, which was frequently inaccurate. Not only can more intensive supervision of high-risk offenders reduce recidivism, but conversely high levels of supervision for low-risk offenders have actually been found to increase recidivism.⁷ It is not surprising, for example, that requiring a low-risk probationer who is employed to report twice a week to the probation office during the work day may jeopardize the offender's employment status and, ultimately, increase risk.

Accordingly, some states focus their resources on high-risk offenders and place the lowest-risk probationers in an administrative category, or "case banking," such as Delaware, Iowa, Oregon Vermont, and Washington where conditions may be limited to submitting monthly pay stubs and proof of residency.⁸ In fiscal year 2008, 1.3 percent of Texas probationers reported by mail.⁹ Additionally, based on the results of a risk assessment, probation caseload sizes can be varied according to the risk level composition of each officer's caseload and the corresponding supervision level. Increasing state funding for probation has reduced the average caseload from 121.3 to 107.9 from the 2004-05 to 2008-09 biennium.¹⁰ Probation and parole departments may also find that some officers' skills are better suited to supervising numerous low-risk offenders while others excel at supervising a smaller number of high-risk offenders.

While some risk assessments incorporate needs, such as addiction and mental health treatment, a separate needs instrument can also be used. Identified needs can be addressed through adjustments to the offender's supervision plan and referral to community resources such as treatment and job placement and training. Though it is appropriate to use one instrument containing risk and needs factors in determining supervision strategies, to the extent an assessment is used in sentencing and revocation decisions, an assessment based primarily or entirely on risk factors, not needs factors, may be more appropriate.

How is Risk Assessment Used in Texas?

Probation

The Legislature has not created a policy regarding risk assessment of probationers, but standards promulgated by the Texas Department of Criminal Justice Community Justice Assistance Division (CJAD) require that, unless they receive a waiver, each adult probation department must use an instrument promulgated by the state that includes the same factors as the Wisconsin instrument. The only difference is the factor of whether an offender committed an assault in the last five years which is weighted more heavily in the original Wisconsin instrument.¹¹ CJAD has validated the instrument on a sample of the Texas probation population in 1987, 1990, and 2005. The 2005 study found:

- 10 percent of minimum risk offenders were incarcerated within two years of assessment as compared to 18 of medium risk offenders and 30 percent of maximum risk offenders.¹²

- 24 percent of minimum risk offenders were arrested within two years of assessment as compared to 32 percent of medium risk offenders and 40 percent of maximum risk offenders.¹³

As shown above, all of the factors except an alcohol problem related to the offender’s criminal activity are correlated with re-incarceration. This instrument is available at no charge to departments. While they must pay a \$5 per use fee for the proprietary LSI-R, CJAD has granted waivers to Dallas,

Harris, and Potter (Amarillo) counties to use the LSI-R. The LSI-R has been validated in at least six studies, including a 2007 study on Iowa probationers and parolees.¹⁴ Both CJAD and Travis County are looking into possibly utilizing a version of the Ohio Risk Assessment System (ORAS) Community Supervision Tool, a public domain instrument with 35 questions created by University of Cincinnati Professor Ed Latessa, the nation’s leading authority on offender risk assessment.

Results of Texas Probation Departments’ Use of Wisconsin Risk Assessment Instrument

Risk Assessment Factors		Distribution	Percent Arrested	Percent Incarcerated
Address Changes:	None	56%	32%	17%
	One	28%	31%	22%
	Two or more	16%	38%	27%
Employed:	60% or more	61%	29%	16%
	40%-59%	19%	34%	22%
	Under 40%	20%	41%	31%
Alcohol:	Unrelated	53%	32%	19%
	Probable relationship	23%	36%	24%
	Definite relationship	24%	30%	18%
Drugs:	Unrelated	48%	28%	14%
	Probable relationship	19%	36%	23%
	Definite relationship	34%	38%	27%
Attitude:	Motivated to change	53%	31%	16%
	Somewhat motivated	37%	35%	23%
	Not motivated to change	10%	32%	29%
Age:	24 or older	39%	23%	12%
	20-23	21%	34%	20%
	19 or younger	40%	41%	28%
Prior Supervision:	None	50%	29%	17%
	One or more	50%	36%	24%
Prior Revocations:	None	85%	32%	18%
	One or more	15%	39%	33%
Prior Guilt Adjudications:	None	79%	31%	18%
	One	15%	38%	28%
	Two or More	7%	40%	30%
Adjudications for:	None	60%	30%	18%
	Burglary, theft, auto theft, robbery	27%	36%	25%
	Worthless checks or forgery	13%	44%	28%
Assaultive:	No	79%	32%	19%
	Yes	21%	34%	23%

Source: TDCJ-CJAD

Note: 2005 sample of 3,994 felony probationers with a two year follow-up. Approximately half of incarcerations are for rule violations, not new convictions.

*The age factor refers to age of first conviction, not current age.

Although risk assessment is not incorporated into sentencing decisions in most Texas jurisdictions, a partnership between CSG and the Travis County Community Supervision and Corrections Department called the Travis Community Impact Supervision Initiative has strengthened the use of risk assessment, including incorporation of the results of a risk assessment into the pre-sentencing investigative report filed by the probation department with the court.¹⁵ This provides guidance to the court as to the appropriate supervision strategy for the offender if placed on probation. Prior to the recent change, the report simply contained the offender’s biography and descriptions of the crime by law enforcement and the offender. Also, Travis County ensured that the results of the risk and needs assessment of its probationers were used in crafting supervision strategies and case management, not simply placed in a file. Combined with other strategies such as enhanced risk and needs assessment while a probationer is on supervision and assignments of probationers to neighborhood officers that have been implemented beginning in 2006, Travis County has saved the state \$4.88 million in fewer prison and state jail commitments while reducing its probationer re-arrest rate by 17 percent.¹⁶

Risk assessment is used in Texas parole decisions, but all of the factors utilized may not be correlated with recidivism. Prior to consideration for release to parole, inmates are assessed by institutional parole officers using the Parole Guidelines. The Guidelines assist the Board of Pardons and Paroles (BPP) in making discretionary parole release decisions. The Guidelines consist of two major components—risk assessment and offense severity—that interact to provide a single score indicating an inmate’s probability for success if released to parole. The 10 risk factors used are:

- age at first admission to a juvenile or adult correctional facility,
- history of supervisory release revocations for felony offenses,
- previous incarceration(s),
- employment history,
- commitment offense,
- inmates’ current age,
- gang membership,
- educational or vocational training completion while in prison,
- prison disciplinary record, and
- current prison custody level.

A 2009 study by a Sam Houston State University professor and doctoral candidate that examined a sample of 12,894 Texas inmates approved for parole between September 2001 and August 2003 found that not all of these variables were predictive of the three-year re-incarceration rate.¹⁷ For example, gang membership and custody level were not statistically significant predictors for parolees of any age level. Additionally, they found that a different combination of the factors listed above were predictive of recidivism for each age group of inmates approved for parole. Accordingly, the authors recommend that the BPP vary their use of these risk factors by age group.

Parole

Risk assessment is also part of parole supervision. Parole officers use a risk and needs assessment tool in the Offender Information Management System to evaluate offenders and the evaluation is reviewed and approved by the officer’s super-

Parole Supervision Risk and Needs Assessment

Risk Factors Initial Assessment	Risk Factors Six Month Reassessment	Needs Factors
Prior felony convictions	Employment status	Academic level
Prior incarcerations	Financial status	Vocational skill level
Age at first commitment	Alcohol usage	Employment status
Commitment offense	Drug usage	Alcohol use
Supervisory release revoked	Interpersonal relationship problems	Drug use
Substance abuse history	Living arrangements	Mental illness
Employment history	Address changes	Mental ability
Education level	Officer assessment	Sexual behavior
Release plan		Officer impression

Source: TDCJ Parole Division

visor. Upon reassessing the parolee at the six month interval, officers may decide to change the supervision level. Risk and needs factors are included in the table on the previous page.

According to the Parole Division, this assessment was validated on the state's parole population, but this last occurred many years ago and the study is not readily available.¹⁸ While the Parole Division has long used graduated sanctions to respond to rule violations, they have enhanced this approach in recent years. Funding for drug treatment was restored starting in late 2005. Also, a new type of drug test implemented in 2007 created instant results instead of the previous testing that required a few weeks of processing. Funding for parole chaplains was restored in the 2007 budget and job placement and training were expanded starting in late 2007 through local workforce centers.

Employment is highly correlated with probationer and parolee success and Texas' unemployment rate, though it has increased during the recession, is substantially below California's rate. At least 65 percent of Texas parolees are employed, compared with an 80 percent parolee unemployment rate in California.^{19*} Allegations of new crimes committed by Texas parolees have fallen 7.6 percent from the 2006 to 2008 fiscal years, and preliminary data shows a continued decline in parole revocations in 2009.²⁰

Living arrangements, which is listed as a risk factor, could also be listed as a needs factor. Most prisoners believe that finding a stable place to live upon release is necessary to successful reintegration.²¹ While Texas parolees must have a valid home plan prior to release, which may involve living with family or a halfway house, some parolees may later become transient or homeless. California has a notorious parole revolving door where more than twice the percentage of parolees return to prison as in Texas.²² The many dysfunctions in California's parole system have been well documented, though the state's leaders enacted landmark parole reforms in 2009, including case banking for the lowest-risk parolees so more supervision can be focused on higher-risk parolees.²³

One often overlooked fact, however, is that up to 50 percent of parolees in Los Angeles and San Francisco are estimated to be homeless, which likely leads to more property and drug

offenses.²⁴ Apartment rental rates in these two metro areas are more than a third higher than those in Houston and Dallas; and the cost of living in California, which also includes items such as groceries and transportation but does not include taxes, is 32.7 percent more than in Texas.²⁵

House Bill 3226 enacted in 2009 authorizes TDCJ to provide selected parolees with temporary housing vouchers.²⁶ The bill had no fiscal note. As of December 2009, about 300 inmates had been approved for parole but had not been released due to lack of a valid home plan. However, a new halfway house in Austin that will have 300 beds is expected to clear out the remaining backlog. Parole-subsidized halfway houses cost the state 40.2 percent less than a state-operated prison, including correctional health care costs.²⁷

What Are Some Recent Developments and Innovations in Other States?

In 2009, Illinois enacted Senate Bill 1298 that will create a shared electronic risk assessment capability from sentencing to parole, although each tool will differ somewhat since the most predictive factors tend to vary at each stage in the process.²⁸

The Policy Framework to Strengthen Community Corrections published by the Pew Center on the States Public Safety Performance Project documents several other examples of risk assessment provisions.²⁹ For example, the pre-sentencing risk assessment statute³⁰ adopted in Virginia in 1994 directed the Virginia Criminal Sentencing Commission to:

- “Develop an offender risk assessment instrument for use in all felony cases, based on a study of Virginia felons that will be predictive of the relative risk that a felon will become a threat to public safety.”
- Apply the risk assessment instrument to offenders convicted of any felony that is not among a list of the most serious violent, sex, and drug dealing offenses that are specified in another statute.³¹ The exclusion of more serious offenses may be due to the strong likelihood that such defendants will be sentenced to prison regardless of the risk assessment.

*The actual rate is higher, as this figure includes parolees who can't work, such as those in nursing homes.

- “Determine, on the basis of such assessment and with due regard for public safety needs, the feasibility of achieving the goal of placing 25 percent of such offenders in one of the alternative sanctions including but not limited to: (i) fines and day fines, (ii) boot camp incarceration, (iii) local correctional facility incarceration, (iv) diversion center incarceration, (v) detention center incarceration, (vi) home incarceration/electronic monitoring, (vii) day or evening reporting, (viii) probation supervision, (ix) intensive probation supervision, and (x) performance of community service.”

This statute for nonviolent offender risk assessment is more easily replicated in the 16 states with sentencing commissions and guidelines, which do not include Texas. The questions on the Virginia risk assessment, which was validated in 2001 and implemented statewide in 2002 for all felony larceny, fraud, and drug cases, include age, prior offense record, offense type, employment status, prior adult incarceration, prior arrest, additional offenses, and whether or not the offender married by the age of 26.³² Since the goal of the Virginia nonviolent risk assessment instrument is to divert low-risk offenders who under the state’s sentencing guidelines are recommended from prison or jail, it is not administered to offenders who the guidelines recommend for probation. This feature, which depends on the existence of sentencing guidelines, is designed to avoid widening the net of incarceration. It also addresses any potential constitutional issue that may arise from imposing a harsher sentence based on risk level rather than would otherwise be imposed given the seriousness of the offense, prior offenses, intent, and other more traditional factors. Also, the instrument is not applied to offenders convicted of distributing one ounce or more of cocaine, those who have a current or prior violent felony conviction, or those subject to a mandatory minimum term of incarceration.

In 2008, the Virginia pre-sentencing risk assessment instrument was applied to 7,060 drug and property offenders, resulting in a recommended alternative to incarceration in 50.4 percent of cases.³³ In these cases, judges imposed an alternative to incarceration nearly 41 percent of the time and used a short jail sentence (less than 12 months) instead of a longer prison term recommended by the guidelines in 49.5 percent of cases.³⁴ The other most frequently used alternatives were probation in 84.9 percent of cases and restitution in 27.7 percent of cases.³⁵ The original threshold score for recommended diversion from incarceration

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was 35, which was associated with a 12.4 percent three year re-incarceration rate.³⁶ In July 2004, the threshold score was raised to 38, resulting in another 511 offenders being recommended for an alternative sanction and a 13.6 percent total three year re-incarceration rate.³⁷ Since larceny offenders have been found to re-offend at a higher rate than drug offenders, they are diverted from incarceration in a relatively fewer number of cases.³⁸

Not only has Virginia’s use of risk assessment in sentencing helped prioritize prison utilization, but there is no evidence that it has diminished public safety. In fact, the violent crime rate in Virginia declined 12.7 percent from 2002 when the sentencing risk assessment procedure was implemented statewide to 2008 with the total crime rate falling 11.7 percent.³⁹ Moreover, while incarcerating a low-risk, non-violent offender incapacitates that individual for the brief period of time that such offenders typically spend in prison, those benefits may be offset by higher long term recidivism as incarceration disrupts employment, family, and religious ties and may co-mingle such offenders with more hardened inmates. Also, many offenders serving the shortest prison sentence may not have time to complete a rehabilitation program in prison. Indeed, research has found that short prison sentences do not result in fewer re-convictions and may actually increase re-convictions as compared with community sanctions.⁴⁰

Additionally, pursuant to a legislative directive in 2004, the Virginia Criminal Sentencing Commission developed a risk assessment tool for technical probation violators who are recommended by the violation guidelines for incarceration. It was recently recommended for statewide implementation by Virginia’s Task Force on Alternatives for Nonviolent Offenders.⁴¹ Technical violators are offenders who fail to comply with one or more terms of their probation. Violations may range from missing appointments to a positive drug test. Unlike the goal of placing 25 percent

of sentenced offenders in alternative sanctions, there is no target set for technical violators. The most predictive factors of recidivism for technical violators were found to be, in order of importance, mental illness, offender age at revocation, offender absconded or moved, substance abuse, ever convicted of a violent crime, new arrests for violent crimes, previous revocation requests, and number of co-defendants in the original offense.⁴²

The potential value of a standardized risk assessment is illustrated by the Commission's finding that the single most important factor in whether a technical violator was revoked to prison was the judicial circuit or region of the state—indeed it is more than twice as influential as any offender-specific factor such as seriousness of the underlying offense and technical violation.⁴³ While this data is not available for Texas, there is wide regional variance in the percent of probationers revoked for technical violations. For example, in fiscal year 2008, 8.3 percent of Harris County probationers were revoked for technical violations, compared to 3.4 percent of Travis County probationers, even though Travis County's caseload consists of more higher risk offenders.^{44*}

The validation results of the Virginia technical violator risk assessment tool are impressive. The Commission adopted a threshold of 52 points, with offenders at or above this score recommended for diversion from incarceration. The 18-month re-arrest rate for offenders at or below this threshold was 21.5 percent compared with 52 percent for violators above the threshold.⁴⁵ Unlike the implementation of the sentencing risk assessment in Virginia, the targeted method of administering the risk assessment tool is readily applicable to states, such as Texas, without sentencing guidelines or commissions, since there are motions to revoke probation in many of these states that could be accompanied by the results of a risk assessment.

In 2008, Vermont adopted House Bill 859 through which the Department of Corrections sets levels of supervision for each offender based on risk assessment with caseload limits varying according to different levels of supervision.⁴⁶

Finally, the Ohio Risk Assessment System (ORAS) commissioned by the Ohio Department of Corrections has been partially implemented. The ORAS was created through

in-depth interviews with over 1,800 offenders at pretrial, community supervision, prison intake, and community re-entry as reported in a July 2009 study.⁴⁷ After interviews were conducted, offenders were tracked for one year to gather follow-up information on recidivism. Five assessment instruments were created using factors that were related to recidivism: The Pretrial Assessment Tool, The Community Supervision Tool, The Community Supervision Screening Tool, The Prison Intake Tool, and the Re-entry Tool. The tools themselves are included in the study, which is available online.⁴⁸ In the Community Supervision Tool, for example, each offender is assigned a quantitative score based on information relating to criminal history; education, employment and financial situation, family and social support; neighborhood problems; substance use; peer associations; and criminal attitudes and behavior patterns. The ORAS was validated in the study, which found 66 percent of high-risk probationers were re-arrested, followed by 48.7 percent of medium-risk offenders, and 19.5 percent of low-risk offenders.⁴⁹

The Pretrial Tool and Community Supervision Tool have been implemented and training on the other instruments is underway. Prior to adopting the ORAS, other risk assessment tools were used, many of which were locally developed and not validated. Professor Latessa is now working with corrections officials in Alabama to implement a version of the ORAS there.

Future Directions for Texas

Policy options supported by research include:

Enhance the use of risk assessment in probation revocation cases involving a violation or misdemeanor

This approach could provide a more cost-effective strategy for handling low-risk probationers. In fiscal years 2008 and 2009, there were 25,633 probationers revoked to prison for technical violations.⁵⁰ This refers to cases in which the motion to revoke did not include an allegation of a new offense. Based on an average length of stay of 2.5 years and the 2008 prison cost per day of \$47.50 including \$8.60 in health care costs, these revocations result in \$444 million in incarceration costs.⁵¹ Research has found that swift, cer-

*These figures include a small number of revocations from county jails, as the state data system cannot segregate these revocations on a county level from revocations to state prisons and jails.

tain, and proportionate community sanctions can be used in lieu of incarceration for many technical violators who do not pose a high risk with no detrimental impact on public safety.⁵²

Probation departments and prosecutors could be required to submit an alternative plan with the motion to revoke for technical violators and misdemeanants who are classified as low-risk at the time of the motion to revoke. The alternative plan would specify available options such as more intensive supervision, drug or mental health treatment, placement in a community corrections facility, a brief period in county jail which could be weekend jail if the probationer is employed, or placement in an Intermediate Sanctions Facility (ISF). Offenders typically stay at an ISF for 90 days, far less than if revoked to prison. Each ISF varies in programming, but the ISF in downtown Houston offers substance abuse treatment provided by the Gateway Foundation, an adult basic education and literacy program, GED preparation, computer skills training, and job placement.

As part of the prison diversion package enacted by the 2007 Legislature to address the projected need for 17,000 new prison beds by 2012, lawmakers funded 1,400 additional ISF beds for probation and parole. While the Parole Division has used some of their new beds, they have found that they do not need all of the 700 proposed beds, which may be due to increased parolee compliance. Accordingly, there are 650 additional ISF beds allocated for probation that will come online in Jones County, outside of Abilene, in September 2010. To the extent these beds are used for technical and misdemeanor probation violators who would otherwise be revoked to prison, instead of for probationers who are currently kept in the community, they will reduce the prison population and, therefore, costs to taxpayers. This could contribute either to eliminating any need for new prisons or even help facilitate the closing of one or more prisons or state jails.

Improve the Texas version of the Wisconsin instrument used by probation departments or adopt a new instrument

CJAD Director Carey Welebob has expressed support for reshaping the current version of the Wisconsin instrument, and CJAD has begun consultations with local probation department directors on this. She notes that, while the Texas probation risk instrument is fairly effective at sorting of-

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fenders by the odds of re-incarceration, it provides much less information on the offender's needs than the LSI-R and ORAS.⁵³ Such information is useful in guiding probation officers' decisions regarding the assignment of offenders to programs and referral to services. Welebob suggests that options include revising the current instrument, adopting an entirely new statewide instrument, or continuing to use the current instrument as an initial screen and subsequently administering a more comprehensive instrument similar to the LSI-R or ORAS, which is more time consuming, only to probationers who are determined to be medium or high-risk on the current instrument. A new instrument adopted by CJAD should be a public domain tool like the ORAS so departments do not incur a cost to administer it. CJAD has a training division that would be available to provide technical assistance to departments in proper implementation of a new instrument.

Also, there are a few factors in the Texas instrument that may not be as correlative as other factors that are not included. The relationship of alcohol to criminal activity is still used in the Texas instrument even though CJAD's 2005 validation study found it is not correlated with re-arrest or re-incarceration. To the extent departments are scoring the alcohol factor based on the role of alcohol in criminal activity several years ago, that may be one of the reasons that alcohol use is not correlative. Probation terms are a maximum of 5 to 10 years depending on the offense, and offenders are typically on probation for close to the maximum. Accordingly, the fact that an offender was an alcoholic several years ago and that contributed to the offense may be largely irrelevant at the current time if the offender has been successfully treated.

The August 2009 CSG validation in Wisconsin found that the three least effective factors in predicting a new offense were assaultive conduct, alcohol use, and address changes,

in that order.⁵⁴ For example, the study found that age at the time of probation placement, which is not in the current instrument, has as a correlation with a new offense of .117 compared to .029 for the assaultive risk factor.⁵⁵ The report also recommended more research on whether the five year timeframe for the assaultive factor that is also used in Texas is the most correlative timeframe.⁵⁶ Additionally, the 2005 Texas validation study found address changes are correlated with re-incarceration but not re-arrest. Similarly, while the study found motivation to change is correlated with re-incarceration, it was not correlated with re-arrest. This may be because the factor is particularly subjective for the officer to measure and, according to Bell and Lampasas County Adult Probation Department Director Todd Jermstad, many offenders may express a desire to change, but don't see how they can do so.⁵⁷ A somewhat more precise question on the ORAS asks whether the offender believes it is possible to overcome the past.

The degree to which a factor differentiates offenders may also be useful in determining the weight to assign the factor. The CSG study suggests that, though a factor may be highly correlative of recidivism, it should be assigned a limited weight in the instrument if nearly all offenders score one way or another.⁵⁸ In the Texas probation validation study, at least 79 percent of probationers have no prior revocations, assault within the last five years, or prior guilt adjudications.

There may be other factors that could be added to make the Texas probation instrument even more predictive of re-offending. The LSI-R and ORAS both include many elements that are unaddressed by the Texas instrument. Some of the areas covered in the ORAS that are not in the Texas instrument include peer associations, neighborhood problems, family and social support, and questions relating to criminal attitudes and behavior patterns, such as pride in criminal behavior, level of concern for others, including whether the offender believes in “Do Unto Others Before They Do Unto You,” and risk-taking behavior. The recent Department of Justice study on recidivism among first-time burglars also suggests that the amount of time that has passed since the person's last offense may be worth studying as an additional risk factor.

Virginia Criminal Sentencing Commission Director Rick Kern believes the Wisconsin instrument is no longer the most effective and fully inclusive approach and recommends that states develop their own instruments validated on their

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offender populations, as variables such as demographics and the distribution of offender types that can affect validation differ by state.⁵⁹ The Texas Probation Association, which represents the state's probation leaders, supports the ongoing collaborative effort between CJAD and some local departments to jointly develop an advanced risk and needs assessment tool based on the most recent research on best practices.

Explore the viability of risk assessments to predict the severity of re-offense

While all new offenses by probationers or parolees must be sanctioned, public safety is most impacted when a probationer or parolee commits a violent, sex, or serious property offense, as opposed to a misdemeanor such as possession of a small amount of marijuana. Predicting a violent offense is particularly difficult as such offenses are much less common than non-violent offenses. Non-violent offenses account for the vast majority of new offenses committed by probationers and parolees. However, a three-factor Violence Risk Screening Instrument has been developed by researchers and validated on probationers in Multnomah County, Oregon (Portland).⁶⁰ Texas authorities should explore the use of this or other similar instruments for evaluating the seriousness of risk that an offender poses.

Use risk assessments to identify offenders who are appropriate for early discharge

Early discharge from felony probation, which must be approved by the sentencing court, has historically been a rare event. Probation departments may be less likely to recommend an early discharge because they rely on offender fees (approximately \$60 per month for a felony probationer) for nearly half of their revenue. Moreover, the other share of funding that comes from the state is largely based on the

number of probationers, so this funding also disappears when an offender is early discharged. Indeed, a 2006 State Auditor's report found that some probation departments have inflated the number of probationers they report to the state by as much as 13 percent, perhaps to collect more funding.⁶¹ CJAD performs audits of selected departments, but does not have the resources to audit all 121 departments. In short, a low-risk, regularly-paying probationer who requires little supervision is in many ways the ideal client. However, every hour an officer spends on supervising such offender is one less hour that can be spent supervising a medium or high-risk offender.

Legislation enacted in 2007 prohibits technical revocations solely based on failure to pay fees, but this is usually alleged in a motion for technical revocation along with other factors, such as a failed drug test or missing appointments. One solution is using risk assessment to identify more probationers who are good candidates for early discharge. Based on the above-referenced research indicating that burglars who do not re-offend for 3.8 years pose no greater risk than any other person their age, keeping such offenders on probation may do more to detract from public safety as fewer supervision resources are available for other higher-risk offenders. Also, any reduction in the probation population results in lower costs to the state. Early discharges from felony probation have increased from 5,625 in fiscal years 2004-05 to 8,556 in 2008-09, but this number of early discharges over two years is still a small percentage of the 173,698 felony probationers under direct supervision.^{62*}

Lawmakers should consider a revised version of House Bill 3200 in 2007 that would have instructed CJAD to develop a probation funding formula that reduces the fiscal incentive to keep fee-paying probationers under supervision for as long as 10 years even when they have met all of their obligations and demonstrated exemplary compliance. While fees paid by probationers only cover about half of the average cost of supervision cost with the state picking up the remainder, departments' marginal costs do not necessarily decline in proportion to each additional probationer who is early discharged. For example, although a model probationer who has been under supervision for many years may report every few months or even by mail, departments obtain their full share of state funds for that type of proba-

tioner but incur little actual supervision expenses. Interestingly, this problem does not exist in the juvenile probation system since fees are nominal and state funding is based on referrals and the county's population, not the number of youths under supervision.

Parole Policy 3.2.30 effective June 2009 authorizes early discharge if certain conditions are met and also permits quarterly or annual reporting in limited circumstances. Early discharges are rare, but in general fewer cases involving parolees are likely to warrant early discharge as compared with probationers. On average, parolees have a more serious criminal record than probationers and they face the unique challenges associated with adjusting from prison life to the free world, including identifying work, housing, and positive family and peer supports.⁶³

Revise the risk factors used in the Parole Guidelines to eliminate or adjust factors that are not correlated with recidivism for some or all inmates

The Sam Houston State study suggests different factors may be warranted for inmates based on age level and other groupings.⁶⁴ The BPP should review their Guidelines in light of this study's findings.

Reexamine risk assessments used by the Parole Division in setting supervision levels

While many of the items are identical or similar to items on assessments validated in other jurisdictions, the Parole Division has not validated its instruments on the state's parole population in recent years to determine if the items used are the most predictive of recidivism. Dr. Latessa suggests that, though education level has been used on other instruments, given the limited number of instruments on the initial parole supervision assessment, it is likely not among the most correlative factors that could be used.⁶⁵ The average education level of all prison releases is 8th grade, so it is not particularly useful in distinguishing among parolees, since relatively few are highly educated.⁶⁶ Based on research, he believes that financial status, which is part of the re-assessment, is also not among the most predictive factors that could be used given the limited number on the assessment.⁶⁷ While parole fees at \$18 a month are less than a

*Direct supervision refers to probationers who are currently reporting to a probation department and does not include those in other categories. These categories include those who have absconded and those who are moving from one county to another.

third of probation fees, some parolees can't or won't pay and this may be used in some instances as part of the financial status factor to increase their level of supervision. However, risk of re-offense should drive supervision levels since it relates directly to public safety.

Ensure risk assessments are validated for female offenders

Because women represent a relatively small share of correctional populations, most validation studies primarily consist of male offenders. A recent analysis of the parole risk assessment instrument used in Georgia found that 46 percent of females were classified as high-risk compared to 36 percent of males. However, 44 percent of males were re-arrested compared with 28 percent of females.⁶⁸ Somewhat different factors predict recidivism for males and females, as women have been shown to follow different pathways to crime. In response to the study showing this disparity, Georgia tested and implemented a separate parole risk assessment instrument for females.⁶⁹

The BPP uses the same guidelines and risk factors for all parole candidates and does not report parole decisions by gender. Similarly, Texas adult probation and parole departments use the same risk assessment without regard to gender, but when the Texas Juvenile Probation Commission promulgated a risk assessment for the disposition of youths in February 2010, there was a separate instrument for females.⁷⁰ A separate instrument is not necessary, however, if the primary instrument accurately predicts risk for women. The House Corrections Committee is conducting an interim study relating to the more than 100,000 women in the state corrections system, including the approximately 12,000 female inmates.⁷¹ This presents an opportunity to examine this issue.

Explore feasibility of electronically sharing risk assessment tools used from entry to reentry

The most predictive factors in assessing risk vary at different points in the justice system and needs factors continually evolve. Nonetheless, electronic sharing of assessment results among different agencies, from entry to reentry, may promote the development of more effective supervision and treatment strategies that are based on the longitudinal progression of an offender.

Conclusion

In sum, there are many opportunities for improved use of risk assessment in the Texas corrections system that may result in a more cost-effective allocation of limited resources to better protect public safety and reform offenders. The value in improved assessments is likely to be most fully realized through utilizing the results, along with needs evaluations, to develop and implement individualized evidence-based supervision and treatment strategies. In this regard, there is also a need for more precise data that demonstrates the effectiveness of various available non-residential and residential programs for offenders with the same or similar offense type and risk and needs level. ★

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