Pretrial Risk Assessment in Virginia

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OVERVIEW

Pretrial Risk Assessment in Virginia

Review background of Virginia pretrial services agencies

Discuss pretrial risk assessment

- Purpose
- Pretrial justice
- Legal and Evidence-Based Practices (LEBP)
- National research

Review original VPRAI development and implementation

Examine the results of the VPRAI validation study

BACKGROUND

Pretrial Services in Virginia

29 pretrial services agencies serving 80 of Virginia’s 134 cities and counties

All Virginia pretrial services agencies operate under the authority of the Pretrial Services Act (PSA) and are funded in part or whole by the Department of Criminal Justice Services (DCJS)

DCJS administers general appropriation funds designated for the purpose of supporting the PSA as discretionary grants to local units of government
Pretrial Services Act - § 19.2-152.2 et seq.

The Act states “such agencies are intended to provide better information and services for use by judicial officers in determining the risk to public safety and the assurance of appearance of persons... who are pending trial or hearing.”

Required DCJS to develop risk assessment and other instruments to be used by pretrial services agencies in assisting judicial officers with determining bail for pretrial defendants.

Duties & Responsibilities - § 19.2-152.4:3

- Investigate and Interview
- Pretrial Investigation Report
- Supervise compliance with terms & conditions of bail

Purpose

Identify Likelihood of Failure to Appear and Danger to the Community Posed by a Defendant Pending Trial

Serves as the Foundation for Bail Recommendation

Identify Least Restrictive Terms and Conditions of Bail to Reasonably Assure Court Appearance & Community Safety

PRETRIAL RISK ASSESSMENT
PRETRIAL RISK ASSESSMENT

Pretrial Justice
The honoring of the presumption of innocence, the right to bail that is not excessive, and all other legal and constitutional rights afforded to accused persons awaiting trial while balancing these individual rights with the need to protect the community, maintain the integrity of the judicial process, and assure court appearance.

PRETRIAL RISK ASSESSMENT

Legal and Evidence Based Practices
Interventions and practices that are consistent with the legal and constitutional rights afforded to accused persons awaiting trial and methods research have proven to be effective in reducing unnecessary detention while assuring court appearance and the safety of the community during the pretrial stage.

PRETRIAL RISK ASSESSMENT

Legal and Evidence Based Practices
Equitably classify defendants regardless of their race, ethnicity, gender, or financial status.
Instrument factors consistent with applicable state statutes.
Proven through research to predict risk of FTA and danger to the community.
Legal & Evidence Based Practices.
Research has demonstrated that evidence-based interventions directed towards offenders with a moderate to high risk of committing new crimes will result in better outcomes for both offenders and the community.

Conversely, treatment resources targeted to low-risk offenders produce little, if any, positive effect.

Despite the appealing logic of involving low-risk individuals in intensive programming to prevent them from graduating to more serious behavior, numerous studies show that certain programs may actually worsen their outcomes.

By limiting supervision and services for low-risk offenders and focusing on those who present greater risk, probation and parole agencies can devote limited treatment and supervision resources where they will provide the most benefit to public safety.

"Pretrial Risk Assessment in the Federal Court" (Department of Justice, Office of Federal Detention Trustee, 2009)

Moderate and higher risk defendants who were required to participate in alternatives to detention* pending trial were more likely to succeed pending trial.

Lower risk defendants who were required to participate in alternatives to detention* pending trial were more likely to fail pending trial.

* ATD refer to conditions of bail such as drug testing, drug treatment, electronic monitoring, residential placement, & mental health treatment.
PRETRIAL RISK ASSESSMENT

Common Pretrial Risk Factors
- Current Charge(s)
- Pending Charges at Time of Arrest
- History of Criminal Arrests and Convictions
- Active Community Supervision at Time of Arrest (e.g., Pretrial, Probation, Parole)
- History of Failure to Appear
- History of Violence
- Residence Stability
- Employment Stability
- Community Ties
- Substance Abuse

ORIGINAL VPRAI

Research Driven
- Collected data from 7 Virginia localities between July 1, 1998 and June 30, 1999
- Investigated and tracked 2,348 pretrial defendants and dataset was finalized in 2001
  - 84% of defendants were released pending trial (1,971)
  - 15% of defendants were detained pending trial (355)
  - 1% of defendants omitted from analysis (22)

ORIGINAL VPRAI

Research Driven
- Analyzed data from a sample of 1,971 cases
  - Examined 50 potential risk factors
  - Identified 9 factors as best predictors of pretrial outcome (success or failure pending trial)
  - Failure defined as
    - Failure to appear
    - Arrest for a new offense
Risk Factors:
- Charged with felony
- Criminal history
- Length at residence < 1 year
- Pending charges
- 2 or more FTA convictions
- Not employed/primary child caregiver
- Outstanding warrants
- 2 or more violent convictions
- History of drug abuse

Risk Scores (0-10):
- Charged with felony (1)
- Criminal history (1)
- Length at residence (1)
- Pending charges (1)
- 2 or more FTA convictions (2)
- Not employed/primary caregiver (1)
- Outstanding warrants (1)
- 2 or more violent convictions (1)
- History of drug abuse (1)

Risk Levels & Pretrial Outcome:

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Risk Score</th>
<th>N</th>
<th>% Population</th>
<th>Failure to Appear</th>
<th>New Arrest</th>
<th>Total Failure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>0, 1</td>
<td>471</td>
<td>24%</td>
<td>4%</td>
<td>6%</td>
<td>10%</td>
</tr>
<tr>
<td>Below Average</td>
<td>2</td>
<td>461</td>
<td>23%</td>
<td>8%</td>
<td>11%</td>
<td>19%</td>
</tr>
<tr>
<td>Average</td>
<td>3</td>
<td>412</td>
<td>21%</td>
<td>11%</td>
<td>16%</td>
<td>27%</td>
</tr>
<tr>
<td>Above Average</td>
<td>4</td>
<td>332</td>
<td>17%</td>
<td>13%</td>
<td>27%</td>
<td>40%</td>
</tr>
<tr>
<td>High</td>
<td>5 – 10</td>
<td>295</td>
<td>15%</td>
<td>16%</td>
<td>37%</td>
<td>53%</td>
</tr>
</tbody>
</table>
- Pilot testing
- Onsite training to all agency staff and local CCJBs
- Post-implementation technical assistance and support

Instruction manual, investigation guide and training & resource manual.

Partnership:

- Research Concepts:
  - Validity: Does the instrument measure what it purports to measure and accomplish its goals? (predictive accuracy)
  - Reliability: Do similar cases receive similar recommendations for bail or supervision? (inter-rater and intra-reliability)
  - Equity: Is the instrument fair to various groups? (age, race/ethnicity, gender, financial status)
  - Utility: Is the instrument useful to practitioners and is it simple to implement?
VPRAI VALIDATION STUDY

Purpose of Validation:

Validation - primary purpose is to confirm predictive validity (accuracy) – ability to predict future failure to appear for court and danger to the community pending trial for defendants in Virginia.

Ensure that circumstances that can change over time (e.g., crime patterns, law enforcement practices, drug usage, population demographics) have not impacted the accuracy of the instrument.

The focus of this study was predictive validity.

VPRAI VALIDATION STUDY

VPRAI Validation Advisory Committee:

The committee include representatives from DCJS and 10 pretrial services agencies.

- In 2007 the committee worked to conduct the VPRAI validation study:
  - Identified a random sample of cases, researched and identified outcomes, entered data into PTCC.
  - Reviewed research results.
- In December 2008 the committee reconvened to finalize the instrument and revised PTCC.

VPRAI VALIDATION STUDY

Dataset:

Primary Dataset:

10 pretrial services agencies – random sample of 4,272 cases investigated pending trial (65% released n = 2,778).

Secondary Dataset:

All 29 programs statewide – every defendant released to pretrial supervision in 2005 with known outcomes (7,174).
### VPRAI VALIDATION RESULTS

**Original VPRAI Pretrial Outcome by Risk Level**
10 Agency Random Sample

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Success</th>
<th>Failure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>86.1%</td>
<td>13.9%</td>
</tr>
<tr>
<td>Below Average</td>
<td>82.1%</td>
<td>17.9%</td>
</tr>
<tr>
<td>Average</td>
<td>72.6%</td>
<td>27.4%</td>
</tr>
<tr>
<td>Above Average</td>
<td>66.8%</td>
<td>33.2%</td>
</tr>
<tr>
<td>High</td>
<td>63.0%</td>
<td>37.0%</td>
</tr>
<tr>
<td><strong>Total Success/Failure Rates</strong></td>
<td>72.5%</td>
<td>27.5%</td>
</tr>
</tbody>
</table>

**Overall Total Rates**

- **Success**: 72.5%
- **Failure**: 27.5%

### VPRAI VALIDATION RESULTS

**Original VPRAI Pretrial Outcome by Risk Level**
All Defendants Released with Pretrial Supervision

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Success</th>
<th>Failure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>92.8%</td>
<td>7.2%</td>
</tr>
<tr>
<td>Below Average</td>
<td>87.4%</td>
<td>12.6%</td>
</tr>
<tr>
<td>Average</td>
<td>82.0%</td>
<td>18.0%</td>
</tr>
<tr>
<td>Above Average</td>
<td>75.7%</td>
<td>24.3%</td>
</tr>
<tr>
<td>High</td>
<td>67.7%</td>
<td>32.3%</td>
</tr>
<tr>
<td><strong>Total Success/Failure Rates</strong></td>
<td>82.0%</td>
<td>18.0%</td>
</tr>
</tbody>
</table>

**Overall Total Rates**

- **Success**: 82.0%
- **Failure**: 18.0%

### VPRAI VALIDATION RESULTS

**Revised and Validated VPRAI**

- Charged with felony (1)
- Pending charges (1)
- Criminal history (1)
- 2 or more failures to appear* (2)
- 2 or more violent convictions (1)
- Length at residence (1)
- Not employed/primary caregiver* (1)
- History of drug abuse (1)

*Definitions modified
### VPRAI VALIDATION RESULTS

#### Revised VPRAI Risk Levels

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Risk Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>0, 1</td>
</tr>
<tr>
<td>Below Average</td>
<td>2</td>
</tr>
<tr>
<td>Average</td>
<td>3</td>
</tr>
<tr>
<td>Above Average</td>
<td>4</td>
</tr>
<tr>
<td>High</td>
<td>5 – 9</td>
</tr>
</tbody>
</table>

#### Revised VPRAI Pretrial Outcome Type by Risk Level

10 Agency Random Sample

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Success</th>
<th>FTA</th>
<th>New Arrest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>86.7%</td>
<td>1.6%</td>
<td>11.7%</td>
</tr>
<tr>
<td>Below Average</td>
<td>81.9%</td>
<td>4.1%</td>
<td>14.0%</td>
</tr>
<tr>
<td>Average</td>
<td>72.5%</td>
<td>5.8%</td>
<td>21.7%</td>
</tr>
<tr>
<td>Above Average</td>
<td>67.2%</td>
<td>6.6%</td>
<td>26.2%</td>
</tr>
<tr>
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<td>63.5%</td>
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<td>21.5%</td>
</tr>
</tbody>
</table>

#### Revised VPRAI Pretrial Outcome Type by Risk Level

All Defendants Released with Pretrial Supervision

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Success</th>
<th>FTA</th>
<th>New Arrest</th>
<th>Technical Violation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>92.9%</td>
<td>3.7%</td>
<td>1.2%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Below Average</td>
<td>87.5%</td>
<td>5.6%</td>
<td>1.6%</td>
<td>5.3%</td>
</tr>
<tr>
<td>Average</td>
<td>82.2%</td>
<td>6.7%</td>
<td>2.7%</td>
<td>8.4%</td>
</tr>
<tr>
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<td>7.0%</td>
<td>4.2%</td>
<td>12.5%</td>
</tr>
<tr>
<td>High</td>
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<td>7.8%</td>
<td>6.2%</td>
<td>18.0%</td>
</tr>
<tr>
<td>Total Success/Failure Rates</td>
<td>82.0%</td>
<td>6.2%</td>
<td>2.9%</td>
<td>8.9%</td>
</tr>
</tbody>
</table>
VPRAI VALIDATION RESULTS

Revised VPRAI Risk Level Breakdown
10 Agency Random Sample

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>346</td>
<td>8.1</td>
</tr>
<tr>
<td>Below Average</td>
<td>692</td>
<td>16.2</td>
</tr>
<tr>
<td>Average</td>
<td>589</td>
<td>33.2</td>
</tr>
<tr>
<td>Above Average</td>
<td>1045</td>
<td>24.5</td>
</tr>
<tr>
<td>High</td>
<td>1200</td>
<td>28.1</td>
</tr>
<tr>
<td>Total</td>
<td>4272</td>
<td>100.0</td>
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</tbody>
</table>

VPRAI VALIDATION RESULTS

Revised VPRAI Pretrial Status
10 Agency Random Sample

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Detained</th>
<th>Released</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low</td>
<td>10.7%</td>
<td>89.3%</td>
</tr>
<tr>
<td>Below Average</td>
<td>22.7%</td>
<td>77.3%</td>
</tr>
<tr>
<td>Average</td>
<td>29.4%</td>
<td>70.6%</td>
</tr>
<tr>
<td>Above Average</td>
<td>38.9%</td>
<td>61.1%</td>
</tr>
<tr>
<td>High</td>
<td>50.2%</td>
<td>49.8%</td>
</tr>
<tr>
<td>Total</td>
<td>35.0%</td>
<td>65.0%</td>
</tr>
</tbody>
</table>

NEXT STEPS

Pretrial Risk Assessment in Virginia

Review VPRAI in PTCC with completion instructions
Revised PTCC rolled out within 1 week of training
PTCC related technical assistance requests
PTCC help desk: PTCHelp@dcjs.virginia.gov
VPRAI support for 60 days post-implementation
Non-PTCC related: askvprai@luminosity-solutions.com
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