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CASELOAD HIGHLIGHTS

EXAMINING THE WORK OF STATE COURTS

Risk Assessment: A New Approach to Sentencing Non-Violent Offenders

As states continue to wrestle with budgetary constraints and fiscal demands that result from high rates of incarceration, interest rises in finding more cost-effective ways to punish criminal offenders. Viable strategies are needed, that allow states to reserve scarce and expensive prison beds for the most dangerous offenders and use less costly punishment options for less serious offenders—all while maintaining public safety. Any mechanism that can safely divert a significant proportion of the non-violent offenders bound for prison to less costly community-based alternatives will interest many states struggling with large correctional budgets. This issue of *Caseload Highlights* presents the results of an evaluation of Virginia's Offender Risk Assessment program conducted by the National Center for State Courts (NCSC). The evaluation is important because Virginia is the first state to embrace

a policy of selective incapacitation and diversion through risk assessment. The goal of risk assessment is to identify, from eligible offenders who would otherwise be recommended for incarceration, offenders with the lowest probability of recidivism and divert them to some form of alternative punishment.

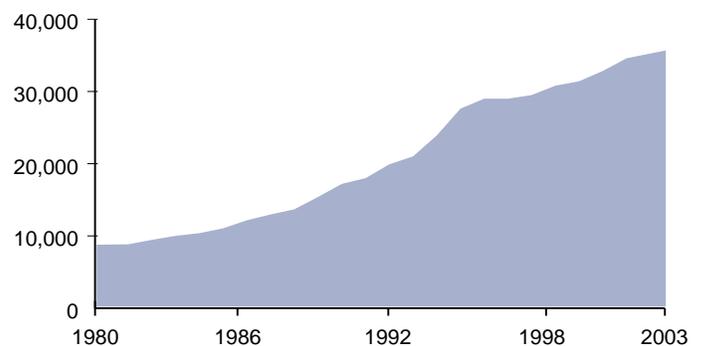
The NCSC evaluation represents a systematic and multi-method inquiry into a key question: *Is risk assessment at the sentencing stage a viable strategy for diverting nonviolent offenders from incarceration?* Implicit within this question is a need to assess the fundamental tension that originates from diversion—seeking cost-effective policies, while simultaneously ensuring public safety. The evaluation is structured around three distinct, yet interrelated analyses: (1) a focus on the development of the risk assessment instrument; (2) an empirical

study of diversion and recidivism; and (3) a benefit-cost analysis to identify the various benefits and costs of risk assessment and alternative sanctions in Virginia. The evaluation goal was to help the Virginia Criminal Sentencing Commission (VCSC) decide whether to make the risk assessment program a permanent part of Virginia's sentencing guidelines system and expand it statewide.

The NCSC found the Risk Assessment Instrument

effective for identifying, among nonviolent offenders, good candidates for diversion from incarceration—offenders with a lower likelihood of recidivism. In addition, risk assessment has produced positive net benefits for the state, and judges and probation officers have found the instrument a useful addition to state sentencing guidelines. After deliberating over the results of the evaluation, the VCSC decided to implement risk assessment statewide.

Virginia Prison Population



Source: Virginia Department of Corrections

Developing Risk Assessment

In 1994, the Virginia General Assembly abolished parole and introduced Truth-in-Sentencing (TIS) to substantially increase prison terms for violent offenders and those with a record of prior violent offenses. At the same time, the General Assembly required the newly formed VCSC to study offenders incarcerated for nonviolent crimes, and assess the feasibility of placing 25 percent of nonviolent offenders in alternative sanctions based on a risk assessment instrument that identifies offenders with the lowest risk to public safety.

While it was generally acknowledged that costs associated with housing *violent* offenders would rise under TIS, legislators asked if alternative sentencing strategies might be an effective, cost-efficient way to punish *nonviolent* felons. As a result, legislation was passed charging the VCSC with the following:

- Develop an offender risk assessment instrument for use in felony cases, based on a study of Virginia felons, which will predict the relative risk that a felon will become a threat to public safety.
- Prepare guidelines that sentencing courts can use to determine appropriate candidates for alternative sanctions.
- Apply the risk assessment instrument to nonviolent felony offenders, and, with due regard for public safety, examine the feasibility of placing 25 percent of such offenders into alternative sanction programs.

The VCSC interpreted the directive from the legislature to mean diverting 25 percent of nonviolent offenders who *would otherwise receive incarceration* to alternative punishments.

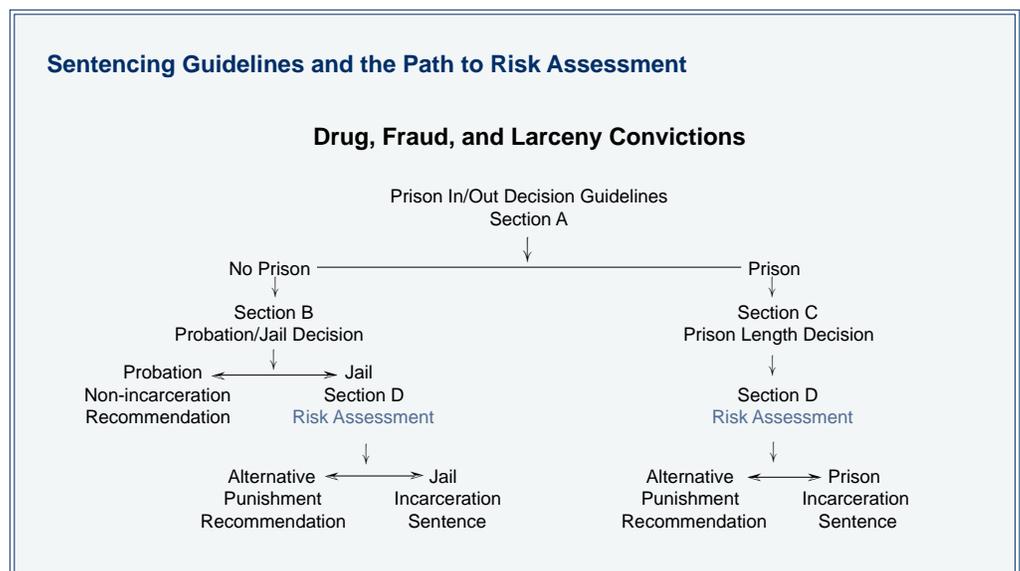
How does risk assessment work within a sentencing guidelines system?

Virginia's Truth-In-Sentencing (TIS) guidelines provide judges with a sentencing recommendation prior to each felony sentencing event covered by the guidelines. The risk assessment instrument is designed to be an integral part of the TIS guideline system, but is not intended to supplant the guidelines.

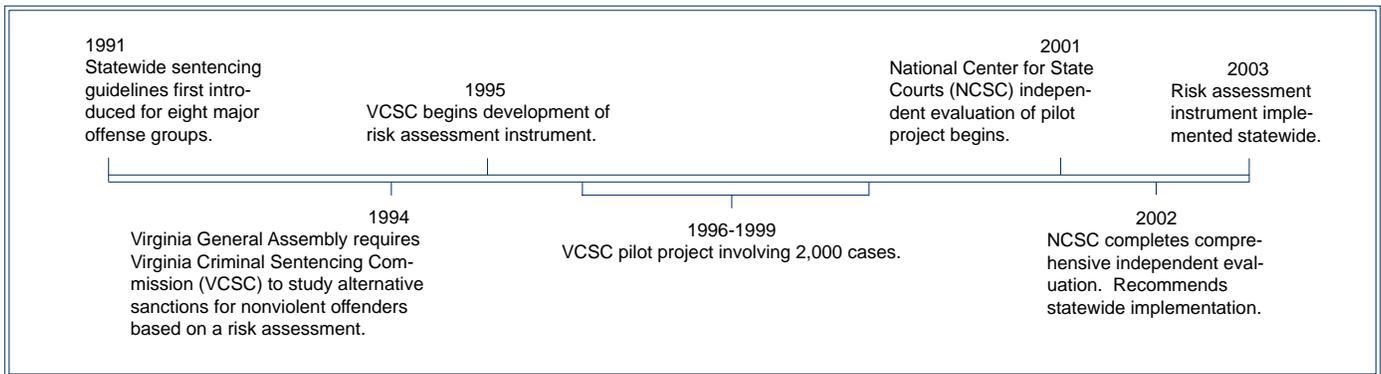
The risk assessment instrument is designed to identify offenders otherwise recommended for incarceration by the sentencing guidelines, with the lowest probability of being reconvicted of a felony crime. These offenders are then recommended for some form of diversion. Risk assessment is incorporated within the current sentencing guidelines system as an

additional worksheet, known as Section D. Probation officers and Commonwealth's Attorneys fill out the worksheet when the primary offense is a drug, fraud, or larceny charge, and the recommended sentence under the current guidelines includes incarceration. Offenders with any current or prior convictions for violent felonies, and offenders selling an ounce or more of cocaine, are excluded from risk assessment consideration.

The instrument does not recommend any specific type or form of alternative punishment. That decision is left to the discretion of the sentencing judge. In addition, judges have the option to follow the diversion recommendation, or sentence in accordance with the original guidelines recommendation.



Source: VCSC 1997 Annual Report



What sentences count as meeting the goal of diverting 25 percent of eligible offenders?

The legislature outlined a wide range of punishments as appropriate candidates for alternative sanction. These sanctions range from unsupervised probation to jail and include, but are not limited to:

- (i) probation supervision
- (ii) performance of community service
- (iii) fines and day fines
- (iv) intensive probation supervision
- (v) day or evening reporting
- (vi) home incarceration/ electronic monitoring
- (vii) boot camp
- (viii) diversion center incarceration
- (ix) detention center incarceration
- (x) local correctional facility incarceration

It is important to note that the VCSC includes in its definition of alternative punishments a broad range of local programs, including drug and alcohol treatment programs, halfway houses and residential facilities, and job training or release programs. In practice, anything short of an actual state prison sentence qualifies as diversion.

To be specific, an offender who is eligible for risk assessment is considered “diverted” if:

- Sentencing guidelines recommend *prison* and the offender is sentenced to jail, a state or local alternative punishment, and/or probation.
- Sentencing guidelines recommend *jail* and the offender is sentenced to a state or local alternative punishment, and/or probation.

What factors are included in the risk assessment instrument?

No other state currently uses an actuarial risk assessment tool to aid in the decision to divert offenders to alternative sanctions at the sentencing stage. With no blueprint to work from, the VCSC selected a sample of offenders matching the basic eligibility criteria and conducted a preliminary analysis.

The VCSC found four general types of factors significant in predicting risk: offender characteristics and demographics, current offense information, prior adult criminal record, and prior juvenile contact with legal authorities. Eleven specific factors were incorporated into the worksheet:

Offender Characteristics and Demographics

- 1. Offender gender
- 2. Offender age
- 3. Offender marital status
- 4. Offender employment status

Current Offense Information

- 5. Whether the offender acted alone when committing the crime
- 6. Whether there were additional offenses at conviction

Prior Adult Criminal Record

- 7. Whether the offender had been arrested or confined within the past 12 months
- 8. Offender’s prior criminal record
- 9. Whether the offender had prior drug felony convictions
- 10. Whether the offender had been incarcerated as an adult

Prior Juvenile Record

- 11. Whether the offender had been incarcerated as a juvenile

Each factor on the work-sheet receives a risk score commensurate with its contribution to the prediction of reconviction. For example, if the offender is male, one point is tallied on Worksheet D. Similarly, if the offender is unemployed an additional point is added. When all eleven items have been scored, a total risk score is calculated by adding the scores for each individual risk factor together. For eligible offenders, a total score of 9 or less translates into a recommendation to divert, while for a score over 9 the recommendation for incarceration remains unchanged. The Virginia Criminal Sentencing Commission believes this threshold meets the legislative mandate of diverting 25 percent of otherwise prison-bound offenders for alternative punishments, while ensuring public safety.

Sample Worksheet D

Fraud ◆ Section D

Offender Name: _____

◆ **Recommend for Probation or Ineligible**

A. Was the offender recommended for **No** incarceration on Section B? Yes ___ No ___

B. Are any prior record offenses violent (Category I/II listed in Table A of the Guidelines Manual)? Yes ___ No ___

C. Are any of the offenses at sentencing violent (Category I/II listed in Table A of the Guidelines Manual)? Yes ___ No ___

If answered YES to ANY, go to "Alternative Punishment Recommendations" on cover sheet and check Recommended for Probation or Ineligible. If answered NO to ALL, complete remainder of Section D worksheet.

◆ **Offender** Score factors A – D and enter the total score _____

| | | |
|----------------------------------------------------|---|--------------------------|
| A. Offender is a male | 1 | <input type="checkbox"/> |
| B. Offender's age at time of offense | | |
| Younger than 20 years | 6 | <input type="checkbox"/> |
| 20 - 27 years | 4 | |
| 28 - 33 years | 3 | |
| 34 years or older | 0 | |
| C. Offender never married at time of offense | 1 | <input type="checkbox"/> |
| D. Offender unemployed at time of offense | 1 | <input type="checkbox"/> |

Score

Enter A-D Total 0

◆ **Offender Alone (no accomplice) When Primary Offense (any counts) Committed** — If YES, add 2 → 0

◆ **Additional Offenses** Total the maximum penalties for additional offenses, including counts _____

| | | |
|--------------------------|---|--|
| Years: Less than 6 | 0 | |
| 6 - 27 | 1 | |
| 28 - 48 | 2 | |
| 49 or more | 3 | |

0

◆ **Prior Arrest or Confinement Within Past 12 Months** _____ If YES, add 2 → 0

◆ **Total Felony/Misdemeanor Convictions and Adjudications** _____
 Select the combination of prior felonies and criminal misdemeanors that characterize the offender's prior record

| | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|--|
| <p>0 Felonies</p> <p>1 - 2 Misdemeanors 1</p> <p>3 + Misdemeanors 2</p> | <p>2 - 3 Felonies</p> <p>0 - 2 Misdemeanors 3</p> <p>3 - 7 Misdemeanors 4</p> <p>8 + Misdemeanors 5</p> | |
| <p>1 Felony</p> <p>0 Misdemeanors 1</p> <p>1 - 2 Misdemeanors 2</p> <p>3 - 7 Misdemeanors 3</p> <p>8 + Misdemeanors 4</p> | <p>4+ Felonies</p> <p>0 Misdemeanors 3</p> <p>1 - 7 Misdemeanors 4</p> <p>8 + Misdemeanors 5</p> | |

0

◆ **Prior Felony Drug Convictions/Adjudications** _____

| | | |
|-----------------|---|--|
| Number: 1 | 1 | |
| 2 | 2 | |
| 3 | 3 | |
| 4 or more | 4 | |

0

◆ **Prior Adult Incarcerations** _____

| | | |
|---------------------|---|--|
| Number: 1 - 2 | 1 | |
| 3 - 4 | 2 | |
| 5 or more | 3 | |

0

◆ **Prior Juvenile Incarcerations/Commitments** _____ If YES, add 4 → 0

Total Score →

Go to **Cover Sheet** and fill out **Alternative Punishment Recommendations** section.
 If total is 9 or less, check Recommended for Alternative Punishment.
 If total is 10 or more, check Do NOT Recommended for Alternative Punishment.

Eff. 7-1-99

The NCSC Evaluation

A primary focus of the NCSC evaluation was a comprehensive analysis of the instrument's ability to accurately distinguish offenders with a high risk of recidivating from those with a low risk. In addition, a benefit-cost analysis was conducted to measure the scope of net benefits to the citizens of Virginia from the increased use of diversion.

This phase of the evaluation began by tracking the

success (as measured by recidivism) of a group of offenders drawn from among 5,158 felony drug, fraud, and larceny cases in six of Virginia's 31 judicial circuits between December 1997 and September 1999. Over one-third of the cases came from Circuit 19 (Fairfax), and an additional one-quarter were sentenced in Circuit 14 (Henrico). Drug cases accounted for 46 percent of the total, and

larceny and fraud cases accounted for 36 percent and 18 percent, respectively.

Not all of the 5,158 drug, fraud, and larceny offenders are eligible for diversion through risk assessment. In fact, only 2,043 offenders were eligible for diversion. Out of those who were eligible and received a diversionary sentence, 555 offenders were selected as the final sample for the recidivism

and benefit-cost components of the evaluation. The following table provides an overview of the data selection process. Of the 555 offenders included in the NCSC final sample, 47 percent were convicted of drug crimes, 28 percent were convicted of fraud, and 25 percent of larceny offenses. The large majority of the offenders, 66 percent, were male and 60 percent were under the age of 28. In addition, 56 percent of offenders were never married and 45 percent were unemployed at the time of the offense. Finally, 66 percent of offenders were alone when the primary offense was committed and 55 percent had a prior arrest or confinement within the past 12 months.

How the Follow-up Group Was Selected . . .

| Pilot Site | Number of Cases |
|--------------------|-----------------|
| Danville | 559 |
| Fairfax | 1,594 |
| Henrico | 1,262 |
| Newport News | 404 |
| Suffolk | 573 |
| Norfolk | 766 |

Total Number of Drug, Fraud, & Larceny Cases **5,158**
Sentenced Between 9/97 – 12/99

| Some Offenders are Ineligible for Diversion | Number of Cases |
|-------------------------------------------------------------------------------|-----------------|
| Offender Recommended for Probation | 1,920 |
| Problems on Worksheets (missing information, errors, question marks) | 478 |
| Violent Prior Record | 655 |
| Violent Current Offense (additional offense) | 62 |

Total Ineligible **3,115**

$$\begin{array}{r}
 5,158 \\
 - 3,115 \\
 \hline
 = 2,043 \text{ Total Eligible for Diversion}
 \end{array}$$

How often do judges agree with the risk assessment recommendation?

Judicial compliance with the risk assessment recommendation is voluntary. Judges have the option of following the diversion recommendation or sentencing in accordance with the original guidelines recommendation. In fact, when examining the pool of 2,043 eligible offenders it was found that just over half of the 485 offenders recommended for diversion—total risk scores of 9 points or less—were diverted. In addition, of 674 diverted offenders, 404 scored 10 or more on the instrument. Clearly judicial discretion and intuition remain guiding forces in sentencing non-violent offenders.

Judicial Agreement With Risk Assessment and Number of Offenders Diverted

| Risk Assessment Score | Diverted | Not Diverted | Total Offenders |
|-----------------------|-----------|--------------|-----------------|
| 9 or less | 270 | 215 | 485 |
| 10 or more | 404 | 1,154 | 1,558 |
| | 674 (33%) | 1,369 (67%) | 2,043 |

Note: Judicial agreement is in blue.

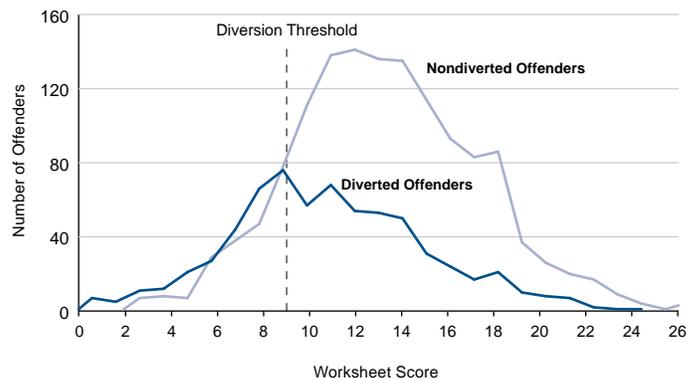
Of the 2,043 offenders screened with the risk assessment instrument, 270 were recommended for, and sentenced to, an alternative punishment. Another 215 offenders were sentenced to a traditional term of incarceration despite scoring 9 points or less on the risk instrument. The largest number of offenders sentenced to alternative punishment, 404 scored above the 9 point threshold. Over half the screened cases, (1,154) were not recommended for an alternative and were not diverted. In these cases the judges agreed with the recommendation, sentencing these offenders to traditional incarceration.

How do risk assessment scores of diverted offenders compare to scores for offenders not diverted?

As noted earlier, roughly 60 percent of the 674 diverted offenders were diverted even though Worksheet D did not recommend diversion—a risk total of 10 or more. A majority of these diverted offenders

with risk scores of 10 or more had scores only slightly greater than 9. Likewise, many offenders recommended for an alternative punishment, but not sentenced to one, scored just below the 9-point threshold. The following graphic shows total risk assessment scores for all 2,043 eligible offenders: the bottom line (in dark blue) shows the 674 diverted

Risk Assessment Scores for Eligible Diverted and Nondiverted Offenders



offenders, and the top line (in light blue) shows the 1,369 offenders not diverted. The diverted offenders have an average score of 10.9, and those not diverted have an average score of 13.3.

The type of offense also has an impact on judicial compliance with the risk assessment recommendation. Offenders committing fraud are most likely to be diverted when recommended by the risk instrument. By contrast, judges follow the recommendation to divert in larceny cases only 40 percent of the time. But when it comes to a risk assessment recommendation of traditional incarceration, judges agree with that assessment 80 percent of the time for larceny offenders, and only 57 percent of the time for fraud. The significant variation in diversion patterns suggests that judges do not apply the risk assessment criteria equally to the three types of offenses.

What types of alternative punishments were given diverted offenders?

Virginia law specifies a list of state and local alternative punishments that define a “continuum of sanctions” between probation and incarceration. In practice, the most common alternative punishments meted out were probation and jail.

The 555 diverted offenders received 2,053 state and local sanctions. This suggests diverted offenders typically receive a combination of state and/or local sanctions at the time of sentencing. The three most common sanctions were court costs (75 percent of offenders), supervised probation (70 percent), and jail (45 percent). Probation files revealed the three most common combinations of sanctions:

- 39 percent of offenders had jail, supervised probation and court costs.

- 17 percent had jail, supervised probation, additional behavioral restrictions (e.g., maintain a full time job), and court costs.
- 14 percent had supervised probation and court costs.

Many probation officers reported that diversion programs are increasingly conceived as surveillance strategies rather than treatment modalities. These probation officers reported that in recent years there has been greater emphasis on drug and urinalysis testing and unannounced home visits, and less on counseling and treatment. While not all probation officers agreed with the trend toward more active surveillance strategies, others indicated that the handling of diversion sanctions is now more correctly “balanced.”

Is the total risk score positively correlated with the likelihood of recidivism?

The NCSC employed various forms of recidivism analysis to confirm that the risk assessment instrument is a useful tool for predicting recidivism. Whether recidivism was measured by new arrest or new arrest resulting in conviction, the likelihood of recidivism increases as the total risk score rises.

Agreement With Risk Assessment Instrument by Offense

| Offense | Worksheet Score | Diverted | Not Diverted |
|---------|-----------------|-------------|--------------|
| Drug | 9 or less | 155 (59.6%) | 105 |
| | 10 or more | 159 | 534 (77.1) |
| Fraud | 9 or less | 65 (65.0) | 35 |
| | 10 or more | 129 | 172 (57.1) |
| Larceny | 9 or less | 50 (40.0) | 75 |
| | 10 or more | 116 | 448 (79.4) |

Note: Judicial agreement is in blue.

How effective in predicting recidivism are the individual factors found on Worksheet D?

Our findings indicated that only gender and factors related to prior record were useful for predicting recidivism. None of the other factors on the worksheet were significant predictors of risk. This included the other demographic factors (employment status, marital status, and age of offender) and contemporaneous factors (offender alone and additional offenses at time of offense). At the same time, the lack of consistency in the coding of prior juvenile adjudications made it impossible for the NCSC to assess the utility of this factor. In addition to the significant predictors on Worksheet D, the type of primary offense was another useful factor for understanding recidivism (as measured by arrest resulting in new conviction). More specifically, it was found that larceny offenders were more prone to recidivism than fraud and drug offenders.

Factors Related to Recidivism (recidivism = new conviction)

| | Total Number of Cases | Number Who Recidivate | Percent Recidivating |
|-------------------------------------------------------|-----------------------|-----------------------|----------------------|
| Female | 189 | 17 | 9.0% |
| Male | 366 | 59 | 16.1 |
| Age 28+ | 325 | 46 | 14.2 |
| Age <28 | 230 | 30 | 13.0 |
| Married | 243 | 34 | 14.0 |
| Never Married | 312 | 42 | 13.5 |
| Employed | 307 | 47 | 15.3 |
| Unemployed | 248 | 29 | 11.7 |
| Offender Not Alone When Offense Committed | 183 | 27 | 14.8 |
| Offender Alone When Offense Committed | 372 | 49 | 13.2 |
| Additional Offenses (<6) | 460 | 62 | 13.5 |
| Additional Offenses (≥ 6) | 95 | 14 | 14.7 |
| No Prior Arrest Past 12 Mos. | 247 | 23 | 9.3 |
| Prior Arrest Past 12 Mos. | 308 | 53 | 17.2 |
| Total Felony/Misdemeanor Convictions (Risk Score ≤ 1) | 168 | 16 | 9.5 |
| Total Felony/Misdemeanor Convictions (Risk Score > 1) | 387 | 60 | 15.5 |
| No Prior Felony Drug Convictions | 424 | 53 | 12.5 |
| Prior Felony Drug Convictions | 131 | 23 | 17.6 |
| No Prior Adult Incarcerations | 179 | 13 | 7.3 |
| Prior Adult Incarcerations (1-2) | 231 | 33 | 14.3 |
| Prior Adult Incarcerations (≥ 3) | 145 | 30 | 20.7 |
| No Prior Juvenile Incarcerations/Commitments | 519 | 70 | 13.5 |
| Prior Juvenile Incarcerations/Commitments | 36 | 6 | 16.7 |
| Drug | 259 | 35 | 13.5 |
| Fraud | 155 | 16 | 10.3 |
| Larceny | 141 | 25 | 17.7 |

Note: Shaded rows represent significant differences between factors.

It should also be noted that three of the factors found to be related to recidivism—total risk score, prior offense score, and type of primary offense—were also significant in the judicial decision to divert. Judges tended to divert offenders with lower total risk scores, less serious prior records, and offenders convicted of drug and fraud offenses (compared to larceny offenses). It appears that judges continue to rely on experience and intuition to focus on a reduced set of factors most closely related to recidivism during diversion decisions.

Is the 9-point threshold the most appropriate demarcation of risk?

A critical component of any risk assessment instrument is the threshold score, which differentiates high from low risk groups. Choosing a threshold score is informed by the results of statistical analysis, but is ultimately a policy decision based on the level of risk tolerable to policymakers. If no adjustments were made to the factors on the worksheet, raising the threshold from the current level of 9 would have an immediate impact on the number of offenders recommended for diversion. For example, at a threshold of 9, 218 offenders out of 555 were recommended for diversion. But the number of offenders recommended for diversion rises to 368 if the threshold is increased to 12. However, increasing the number of recommended offenders would also increase the number of offenders deemed low risk who actually recidivate. For example, at a threshold of 9, only 53 low-risk offenders were rearrested, while a threshold of 12 results in 99

Recidivism Rates by Risk Score (recidivism = new arrest)

| | Total Number of Cases | Number Who Recidivate | Percent Recidivating |
|-----------------|-----------------------|-----------------------|----------------------|
| Risk Total ≤ 7 | 100 | 18 | 18.0 % |
| Risk Total > 7 | 455 | 141 | 31.0 |
| Risk Total ≤ 8 | 151 | 33 | 21.9 |
| Risk Total > 8 | 404 | 126 | 31.2 |
| Risk Total ≤ 9 | 218 | 53 | 24.3 |
| Risk Total > 9 | 337 | 106 | 31.5 |
| Risk Total ≤ 10 | 269 | 66 | 24.5 |
| Risk Total > 10 | 286 | 93 | 32.5 |
| Risk Total ≤ 11 | 327 | 87 | 26.6 |
| Risk Total > 11 | 228 | 72 | 31.5 |
| Risk Total ≤ 12 | 368 | 99 | 26.9 |
| Risk Total > 12 | 187 | 60 | 32.1 |
| Risk Total ≤ 13 | 411 | 110 | 26.8 |
| Risk Total > 13 | 144 | 49 | 34.0 |
| Risk Total ≤ 14 | 456 | 121 | 26.5 |
| Risk Total > 14 | 99 | 38 | 38.4 |
| Risk Total ≤ 15 | 481 | 133 | 27.7 |
| Risk Total > 15 | 74 | 26 | 35.1 |

Note: Current worksheet diversion threshold is shaded.

offenders being rearrested. Nevertheless, it is interesting to note that the percentage of offenders recommended for diversion that recidivate remains relatively constant at a risk total threshold of 9 through 15. This suggests that if no other adjustments were made to scores of individual risk factors, the threshold could be raised with little increase in the share of diverted offenders who recidivate.

If the risk assessment instrument were streamlined (insignificant factors removed), or if any of the individual factors were re-weighted, the cut off score of 9 would have to be reevaluated as the nature of the instrument would be altered. Similarly, if factors found to be significant, but not currently on the risk instrument (e.g., primary offense type), were added, it would be necessary to reevaluate the threshold as offenders might receive additional points.

What are the benefits and costs of diversion?

A key measure of success is whether risk assessment provides positive net benefits to the citizens of Virginia. Knowing whether this initiative provides value for the dollar is an important component in the decision whether to extend risk assessment statewide. The NCSC employed benefit-cost analysis to examine the economic impact of diversion. This approach requires the enumeration of monetary estimates of benefits and costs attributable to diversion.

Quantifiable benefits of diversion through risk assessment include the value of reducing prison and jail sentences. These cost savings amounted to almost \$8.7 million. Reduced prison sentences alone accounted for just under \$8 million dollars in savings. This cost savings represents a conservative estimate, as potential

program benefits (e.g., enhanced quality of life for the offender who beats alcohol and drug addiction or obtains a higher level of education), which are difficult to measure, are not included. Quantifiable costs of diversion totaled approximately \$7.5 million. The costs associated with alternative sanctions accounted for 83 percent of the total. The costs to

victims of preventable recidivism, costs to the justice system, and re-incarceration costs, accounted for the other 17 percent of quantifiable costs. Thus, quantifiable benefits exceeded quantifiable costs by about \$1.2 million.

Costs to localities and crime victims offset much of the total net benefit. Localities incurred a substantial share

of the overall burden created by diversion through increased use of local alternative sanctions, especially for offenders diverted from prison to jail. The costs of these alternative sanctions, along with system costs and reincarceration costs (the latter discounted by state transfer payments), increased local burdens by over \$1.9 million.

Benefits and Costs for the Diversion of Nonviolent Offenders

| Benefits | | Costs | |
|--------------------------|--------------------|-----------------------|--------------------|
| Reduced Prison Sentences | \$7,959,000 | Alternative Sanctions | \$6,228,180 |
| Reduced Jail Sentences | 724,051 | Victim Costs | 266,138 |
| | | Reincarceration Costs | 727,751 |
| | | Justice System Costs | 274,480 |
| Total Benefits | \$8,683,051 | Total Costs | \$7,496,549 |

Benefits accruing to localities were much more modest, totaling only \$304,101. Thus, localities incurred a net cost of \$1.68 million,

while the Commonwealth of Virginia had a net benefit of \$3.1 million. Crime victims saw no quantifiable benefits, though they bore

\$266,000 in costs. Therefore, it is important to note that much of the benefit that accrued to the state was due to shifting costs to localities.

What would be the impact of adopting risk assessment statewide?

The validity of the results of the benefit-cost analysis and their usefulness in projecting the effects of a statewide diversion policy depends on the degree to which benefit and cost structures remain constant for large-scale implementation. The NCSC dealt with the possibility that the rate at which offenders would be eligible and diverted statewide may be variable, by providing lower- and upper-bound estimates.

The estimated net social benefit of expanding the risk assessment program statewide would have amounted to at least \$2.9 million in 2000, and perhaps as much as \$3.6 million. The positive net benefits of implementing diversion suggest that the program is worthwhile. Adopting and implementing the program statewide would be cost effective.

Benefits and Costs for the Diversion of Nonviolent Offenders by Entity

| Benefits* | State | Localities** |
|----------------------------------------|--------------------|---------------------|
| Reduced Prison Sentences | \$7,959,000 | ~ |
| Reduced Jail Sentences | 419,950 | 304,101 |
| Total Benefits | \$8,378,950 | \$304,101 |
| Costs* | State | Localities** |
| Alternative Sanctions (including jail) | \$4,524,910 | \$1,703,270 |
| Reincarceration Costs | 725,556 | 2,195 |
| System Costs | 0 | 274,480 |
| Total Costs | \$5,250,466 | \$1,979,945 |
| Net Benefit | \$3,128,484 | -\$1,675,843 |

* This does not include the unquantifiable benefits of the alternative programs discussed above. Victim costs are also not included in this table.

** Localities includes local service providers as well as local governments.

The table reflects reimbursement of local jail costs by the Commonwealth at a rate of 58 percent, the average for the eight pilot sites.

Conclusion

Following the NCSC evaluation, the VCSC expanded the risk assessment program statewide in 2003. The VCSC continues to perform re-validation analysis to

make certain the most predictive tool is employed and to test the number of offenders that can be safely diverted.

A more thorough discussion of the process used to create the instrument can be found in *Offender Risk Assessment In Virginia: A Three-Stage Evaluation at www.ncsconline.org/WC/Publications/Res_Senten_RiskAssessVAPub.pdf*

The Court Statistics Project (CSP)

In existence since 1975, the CSP is administered by the National Center for State Courts, with generous support by the Bureau of Justice Statistics. The CSP receives general policy direction from the Conference of State Court Administrators through its Court Statistics Project Advisory

Committee. Those wishing a more comprehensive review and analysis of the business of state trial and appellate courts are invited to read the CSP's latest publication, *Examining the Work of State Courts, 2003*. For more information go to www.ncsconline.org and click on Court Statistics Project.



CASELOAD HIGHLIGHTS

NCSC President
Mary Campbell
McQueen

NCSC Vice President
Research Division
Victor E. Flango

National Center for State Courts
300 Newport Avenue
Williamsburg, VA 23185-4147

Research Division
800/616-6109

Court Statistics Project Staff

Brian J. Ostrom, Director
Fred L. Cheesman, II, Senior Court Research Associate
Neal B. Kauder, Consultant, VisualResearch, Inc.
Robert C. LaFountain, Court Management Consultant
Shauna M. Strickland, Court Research Analyst
Brenda G. Otto, Program Specialist

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