



Hennepin County 2015 Adult Pretrial Scale

Revalidation

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Introduction

The Fourth Judicial District (Hennepin County) has a rich history of pretrial scale use.¹ These statistical tools help ensure the release decision is based on objective information that predicts pretrial failure. The definition of pretrial failure is two-fold: 1) as a failure to appear for a hearing prior to case resolution or 2) a new offense occurs while the defendant is out of jail but before the case is disposed. This period, in the history of a criminal case, is the ‘pretrial window’ and it establishes the time to assess pretrial failure or success for each defendant.

The current report is a revalidation of the Hennepin County 2015 Adult Pretrial Scale using 2017 data. It addresses the three main areas. Section 1 includes the processes used in Hennepin County, Minnesota, to assess risk of defendants in pretrial jail. Section 2 provides a literature review as well as the sample populations and demographics. Section 3 addresses the scale elements for predictive ability, the goodness of fit of the statistical model and a ROC² analysis. This section also reviews the pretrial scale for race and gender bias.

Changes in the Hennepin County Pretrial scale in 2015 included adding a new element and redefining a current element. The new element added was the age at which a defendant first received a conviction or a felony-level juvenile delinquency adjudication, identifying those with early justice system engagement. A defendant receives one point if the first conviction or adjudication, occurs between the ages of 14-25. The current substance abuse element needed redefinition to make it easier for Pretrial Agents to determine whether to add a point to the scale or not. Appendix G provides the training manual that includes the new operationalization of the current substance abuse element.

An additional change to the pretrial process included which cases are on the Judicial Review³

¹ The first such tool used in this jurisdiction was a modified Vera scale in 1972 (designed by the Vera Institute). This 1972 tool was evaluated (Osterbaan, 1986; Bennett and Ford, 1988) and found to contain items that were not racially neutral, but no changes occurred. The Vera scale, designed to predict only part of pretrial failure - failure to appear - did not promote confidence in the scale’s ability to predict new offenses. Validation and analysis of the 1972 Vera scale, undertaken in the early 1990s by Goodman (1992), led to the creation of a new scale in 1992 in use by Hennepin County for the following fourteen years. A 2006 validation study (Podkopacz, 2006) evaluated the 1992 pretrial scale and found four of the elements to be non-predictive and three of these to be racially biased. Additionally, this study found the pretrial unit was asking for overrides in 47% of the cases, calling the usefulness of this pretrial scale into question. Based on these findings the scale was changed and a subsequent study conducted (Podkopacz, 2010) to validate the newly constructed 2007 Hennepin County pretrial scale. This validation demonstrated all scale items were predictive of pretrial failure and that the pretrial scale was predictive of pretrial crime and failure to appear. The 2007 scale went through an updated validation study (Podkopacz and Loynachan, 2015) and changes made because of this research produced a new 2015 Hennepin County Pretrial tool. All elements remained predictive and there was an addition of a new element.

² ROC stands for Receiver Operating Characteristic and determines the improvement over chance for a statistical model.

³ The Pretrial Agents do not have release authority for these current offenses; instead, they are set for first appearance in front of a judge.

list. The Hennepin County 2015 Pretrial Scale significantly reduced the number and type of cases that must go to judges. In particular, the Pretrial Agents have release authority for misdemeanor domestic cases and gross misdemeanor driving while intoxicated (second and third time DWI or first time DWI cases with aggravating issues such as a child in the car or an extreme blood alcohol level) cases. These are the most serious non-felony cases since they include violence, in the case of the domestics, and repeat offense behavior, in the case of the gross misdemeanor DWI cases. In addition, this version reduces the type of felony cases that must go to a judge for release. This report revalidates the Hennepin County 2015 Pretrial Scale for these changes, as well as for the entire scale.

Background

Most arrestees in Hennepin County end up in the Adult Detention Center (ADC) in downtown Minneapolis.⁴ The Hennepin County Sheriff's Office runs this facility and it is the main holding facility for serious offenses in the county. Hennepin County also has thirteen suburban jails authorized to arrest and book/fingerprint defendants. Three of these facilities can also house low-level defendants for short periods. Less than 5% of defendants that receive a bail evaluation are booked somewhere other than the ADC. Defendants arrested and booked at the ADC can follow two different paths.

The first path is for the most serious offenders: defendants charged with felonies or "targeted misdemeanors". Targeted misdemeanors include serious person offenses such as domestic assault, violations of restraining orders or orders for protection, and indecent exposure as well as driving while intoxicated at the gross misdemeanor and misdemeanor level. All these serious offenses funnel to the Department of Community Corrections and Rehabilitation (DOCCR) Pretrial Unit for a full risk assessment using the Hennepin County 2015 Pretrial Scale and a Bail Evaluation. Appendix C has a copy of the Hennepin County Bail Evaluation and the reader will notice the shaded area includes the elements on the Hennepin County 2015 Pretrial Scale.

Less serious non-felony offenses brought to the ADC follow a different path, but one that also assesses risk, using a tool developed by the DOCCR called a Service Provider Index-Revised (SPI-R).⁵ This tool, administered at the ADC, runs on all those arrested for new offenses. The recent validation of the SPI-R indicates it is a strong predictor of pretrial failure.⁶ This tool automatically runs within the ADC information

⁴ Although arrests go to the ADC, most charged cases in this district do not go to jail pretrial. The court had over 32,500 criminal cases requiring mandatory hearings (felony, gross misdemeanor and misdemeanor level offenses) and yet the ADC had slightly over 17,000 arrests for new offenses in the same year.

⁵ Starting in 2018.

⁶ Nonemaker, Debbie. (2017) *Validation of the HCSO-Service Priority Indicator – Revised: For Prediction of Pretrial Violation*.

system, based on data coming only from the jail's system. It occurs when a person is booked into the ADC and it facilitates release, without bail, of those defendants who score low-risk for pretrial failure. This occurs after the booking process is complete. The release decision on other defendants who score as high-risk of pretrial failure on the SPI-R occurs at first appearance or they can post a low-level bail directly from the jail.

This means the Hennepin County ADC uses a validated risk assessment on all defendants booked for a new offense regardless of the severity of the offense, making it one of the few pretrial jails in the country to use objective criteria for all releases. Those assessed as low-risk are eligible for release without bail. Those assessed as high-risk are assigned bail or conditions by a judge at the first hearing. The only arrested defendants that would not have a risk assessment in this county would be the less serious non-felony offenses booked into the suburban jails. Unfortunately, there is no valid way to determine how many offenders this may be, but the number is quite small. More serious non-felony offenses and felony level arrests booked in suburban jails all go through the full Hennepin County 2015 Pretrial Scale route.

The graphs below show the type of offenses that go through the full bail evaluation/pretrial scale risk assessment compared to the SPI-R risk assessment at the ADC when arrested for a new offense. Following that, the next graphs show the severity of new offenses handled by both types of risk assessment. Figure 1 shows about 44% of the new offenses booked into the Hennepin County ADC go through the full pretrial scale assessment. The remaining 56% go through the SPI-R risk assessment administered through the jail. For those non-targeted misdemeanors that score low-risk for pretrial failure, release occurs at the completion of the booking process by jail administration as delegated by the Fourth Judicial District (see Appendix L). The group of defendants listed as a PC release on Figure 3 below, are defendants not formally charged prior to the time expiring to hold them or released pending a complaint from law enforcement or prosecutors. These releases are known as PC releases. The reader will notice some felons are in this group as well. Some of these defendants had serious cases in other counties that required release to these authorities and others posted bail or bonded out of jail prior to the Pretrial Agents conducting the full pretrial assessment.

Figure 1. Arrests for New Offenses at the Hennepin County-Adult Detention Center

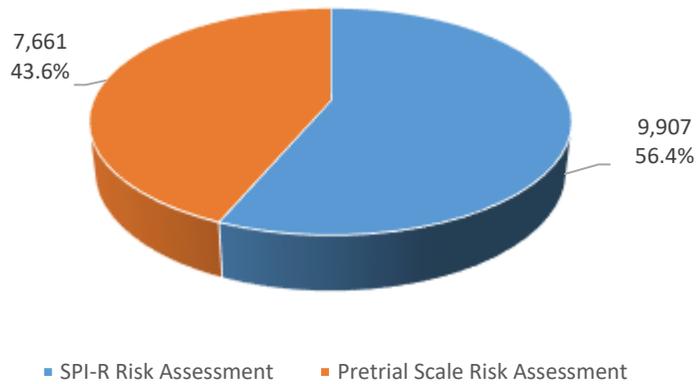


Figure 2. Risk Assessment: Pretrial Scale

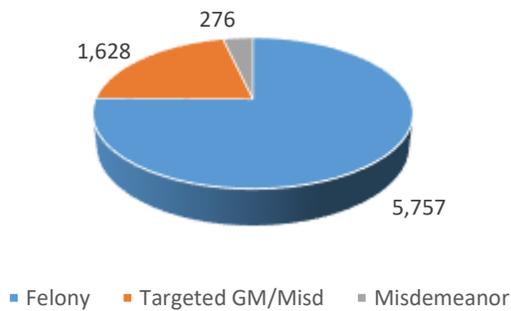
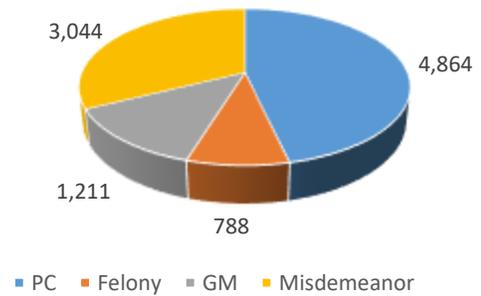


Figure 3. Risk Assessment: SPI-R



Literature Review

Every day, criminal justice systems are making decisions on release of arrested defendants based on a myriad of methods. In many jurisdictions, nothing more than professional intuition is used to make the decision to release defendants. In others, a group of criminal justice professionals have organized their intuition to come up with a consensus on the most salient elements to predict those most likely to succeed if released. Still other areas of the country use a money bond schedule that attempts to rank the charged offenses by severity and attach money bail accordingly. More recently, jurisdictions have attempted to use science to improve their predictions of success or failure and to ensure objective information is the basis of decisions, and, further, these decisions are gender and race neutral. Some jurisdictions use more than one method to decide pretrial release.

In Hennepin County, as mentioned above, the use of a pretrial scale has been a part of the pretrial process for many decades. Each of these past tools were scrutinized using sophisticated statistical analysis but these results did not always dictate the elements on the scale. Some of these tools, containing non-empirically based elements, went un-validated for years. In contrast, over the last 15 years, this jurisdiction has relied on research-based validated pretrial tools. To have an empirically based tool means research has shown the elements on the scale help to predict pretrial failure with independent contributions and the scale is able to sort defendants appropriately into risk categories according to a defendant's pretrial behavior. The purpose of risk assessment is to estimate the probability of a target behavior occurring combined with a consideration of the consequences of such occurrences.⁷

The risk levels are used for two main purposes, to decide whether to release, and if released, how to apply the appropriate pretrial conditions. Pretrial resources are limited and using an empirical method to determine use of these limited resources makes economic sense. Assigning pretrial supervision to all levels of pretrial would be cost prohibitive, so jurisdictions need a method to decide who is appropriate for supervision.

Additionally, research has shown accurately assessing a defendant's risk level has consequences beyond the pretrial stage. Lowenkamp, and his fellow authors (2013), found low-risk defendants kept in jail through pretrial were 27% more likely to recidivate within 12 months than released low-risk defendants. Additionally, VanNostrand (2009) found giving low-risk defendants pretrial conditions increased their pretrial failure during release. Conversely, other research has shown high-risk defendants released with pretrial conditions such as supervision, do better than those who go unsupervised (Lowenkamp and VanNostrand, 2013).

Many pretrial tools now have similar types of elements on their scales, although the exact wording or scoring often differs across jurisdictions. Most scales include elements that define the current offense in terms of seriousness, criminal history (both in terms of actual prior offenses and history of prior failure to appear), employment status, substance abuse/use and housing stability. Some scales assess criminal history by a dichotomous yes/no element while others use a summative scale to count and weight the type of prior criminal history. Some jurisdictions define prior criminal history by counting prior *arrests*, some jurisdictions count prior *charges*, while others (Hennepin County included) count only past *convictions*. However, there are varieties of additional elements included on pretrial tools across the country as well, such as, community ties, marital status, age, and number of children.

⁷ Towl, Graham J. & Crighton, James L. (1997) Risk assessment with offenders, *International Review of Psychiatry*, 9:2-3, 187-194

Use of Ascribed Characteristics in Pretrial Scales

Social scientists frequently analyze status or the position one holds in society. Generally, there are two different types of status: ascribed status and achieved status. Ascribed status refers to characteristics an individual cannot change. Sex, race and age are all examples of ascribed status. This stands in contrast to achieved status, which refers to characteristics an individual can change through skill, ability and effort. Educational status (i.e. college student), employment status/occupation (i.e. dentist) and criminality (i.e. convicted felon) are all examples of achieved status.

There are two schools of thought regarding actuarial risk assessment instruments and ascribed characteristics. Those who adhere to the first school of thought feel *any* element that predicts success or failure should be included in a risk assessment instrument. Under this framework, an individual may receive a point for being male or for being under 21 at the time of offense. Those who adhere to the second school of thought, however, feel only certain elements – those relating to achieved status – should be included in a risk assessment instrument that determine pretrial release. Adherents of this latter philosophy, feel that it is more equitable to consider only those items that relate to achieved status.

These adherents believe a pretrial risk assessment scale should not rate a man and woman who commit the same offense and who have the same criminal history differently. Nor should it rate two people of different ages or different races, who have the exact same score, differently.

Actuarial tools, like those used for insurance companies, use *all* predictive characteristics whether achieved or ascribed. For instance, auto insurance companies know young men are more likely to be in car accidents than are young women. As a result, men pay a higher premium, regardless of whether or not they have ever received a traffic violation or been in an accident. While some may consider this unjust, the stakes are relatively low – these young men can still obtain insurance, just at a higher cost. As these men age, the cost will eventually decrease. If we apply this same philosophy to the criminal justice system however, the consequences are severe – detaining people at a disparate rate based on age, race or gender is simply unacceptable.

In the Fourth Judicial District serving Hennepin County, only elements relating to achieved status appear on our pretrial scale. Importantly, this aligns our pretrial scale with our Court's vision and mission to promote equal justice.

Locally Validated Tool versus Universal Tool

Prevailing academic wisdom suggests jurisdictions use statistically validated risk assessment instruments based on the population under its auspices. Populations across jurisdictions differ, and to obtain the most reliable results, instruments should be normed and calibrated to the population in question. In addition, since populations and pretrial processes can change over time, these tools need validation, and possible adjustments, regularly.

While risk assessment instruments are important tools in the pretrial decision-making process, the Pretrial Justice Institute reports few jurisdictions use locally validated risk assessment instruments. In fact, in the year 2000, only about a dozen jurisdictions across the country were using research-based validated pretrial tools. This is likely due to the high costs associated with the development of such instruments, as few jurisdictions have the internal research resources necessary to perform this work. However, over the following 18 years, many more jurisdictions have remedied this issue by adopting pretrial tools normed to their jurisdiction.

To address the fact many jurisdictions do not use a tool, and to ensure pretrial release decisions are based upon objective information, the Laura and John Arnold Foundation (LJAF) created the Public Safety Assessment-Court (PSA-Court), a universal pretrial risk assessment tool. This tool, developed by national experts, is proprietary and uses administrative records alone; it requires no interviews or collateral contacts, and reportedly, is easy to administer. This makes the PSA-Court attractive to jurisdictions that do not have their own research units or the funds to hire independent research. Moreover, since the PSA-Court does not require an in-person interview of the defendant, jurisdictions without Pretrial Agents may find it attractive.

Pretrial Justice Institute (Issue Brief, May 2015) indicates the validation of the LJAF scale was forthcoming and in the summer of 2018, the first validation study shows up on the LJAF website.⁸ It uses Kentucky data and indicates the PSA-Court has predictive validity in line with most risk assessments, even though there is no breakdown of different geographic areas of Kentucky. The article does not mention how the PSA-Court works for those areas of Kentucky that might be more rural than urban or lower income compared to affluent. The sample size is quite large (N=164,597) although only 68.5% of defendants are released pretrial. Interestingly, one of the conclusions of this study is the PSA-Court is an improvement over other pretrial scales because it uses *convictions* instead of charges or arrests on the prior offenses and does

⁸ DeMichele, Matthew, et.al.: (2018) *The Public Safety Assessment: A Re-Validation and assessment of Predictive Utility and Differential Prediction by Race and Gender in Kentucky* (no date given but appears on the LJAF website summer 2018).

not use *most* of the ascribed characteristics (gender, race and class) although it does use age (page 55). Both of these attributes are in use in the Hennepin County 2015 Pretrial Scale and have been for over a decade.

As of the winter of 2018, over 38 states and local jurisdictions will be using the PSA-Court according to the authors of the validation, even though this is the first validation study available publicly. Further validations will be necessary for each of these geographic areas as well and differential analyses of subpopulations is preferred.

The Fourth Judicial District did not seriously entertain the idea of using the PSA-Court for a number of reasons but the main reason is it does not include information the bench believe to be important. Having a trained Pretrial Agent personally interview the defendant and make collateral calls to family members and victims/witnesses provides a level of detail and information administrative records cannot contain. In addition, the Fourth District has the internal capacity to create, monitor and validate its own instrument as needed, and as mentioned above, no validation study was available for the PSA-Court in 2015, making the possibility of using it even less relevant.

Revalidating the Hennepin County 2015 Pretrial Scale

Sample Populations

The current paper addresses the predictive ability of the Hennepin County 2015 Pretrial Scale and scale elements using a more recent population of defendants going through the pretrial process in 2017 for revalidation. The pretrial unit of DOCCR produced pretrial scale/bail evaluations on 8,426 defendants in 2017. Figure 4 below shows why and how cases end up in the final analysis dataset. The main reason cases do not end up in the analysis sample is they do not have a valid “pretrial window” during the time of the study.

To assess pretrial failure, a case needs to have a window of pretrial time in which failure might occur. The start of the pretrial window is the release from a pretrial jail while the case is not yet disposed. The end of the window is the date the criminal case is resolved. Selection of data from 2017 for an analysis in May of 2018 is a bit quick to allow for a sufficient amount of case resolution time, particularly since most of the cases that go through a pretrial assessment are the most complex and serious criminal cases in the system. The cases that came into the court toward the end of 2017 would only have 5 months to resolve, whereas state guidelines suggest 99% of these cases are resolved in 12 months. What this means for the analysis is there is slightly higher percentage of pretrial cases that have not yet reached disposition than if we took a sample from a year earlier.

The decision to use the year 2017 for the analysis was due in part to the date of implementation of the scale (late February 2016) and due to the practice of allowing some time for the changes to solidify with the agents. Waiting longer to analyze the 2017 data file, to allow for more cases to be resolved, would have been standard in the past, but the Minnesota State Court has dictated the timing of this new revalidation as a part of the new strategic initiative. Over the last few years, the Minnesota Judicial Branch has been making improvements to the pretrial process throughout the state. Some of the previous work by the State Court Administrator’s Office (SCAO) indicated many counties had no pretrial tool in use.⁹ Two statewide groups reviewed the release methods used in Minnesota counties and across the United States that included legal issues, most recent research on pretrial tools and pretrial services. In 2016, the Minnesota Judicial Council required each county use a validated pretrial risk scale with evidence-based elements. Since Hennepin County already has a validated tool, the Fourth Judicial District opted out of statewide investigation for a new tool, along with Sherburne, Wright, Anoka, and Cass counties. The second workgroup (2017) reviewed fourteen different pretrial tools from across the United States and selected one for a 2018 implementation in the 82 counties that did not opt-out. Interestingly, each of the counties that opted-out is using the Hennepin County 2015 Pretrial Scale and the state committee chose to use this tool as well. Therefore, the whole state of Minnesota will be using the same pretrial scale.

In 2017, the Pretrial Unit conducted 8,426 pretrial assessments. As mentioned earlier, to find the “pretrial window” cases need a number of characteristics. Cases have to have been released from jail (release date) and cases need a resolution to the case (disposition date). These two characteristics define the pretrial window. Additionally, the timing of these two characteristics are important. Release and disposition dates on the same day indicate no pretrial window and a disposition date prior to a release date indicates an earlier pretrial assessment might have occurred.

The first category of cases to exclude are those with no disposition at this time: 17.8% or 1,505 defendants. These cases fall into two groups: cases where defendants are still in jail (n=155) and cases with defendants released from jail but which are not yet resolved (n=1,350). Some validation studies include unresolved cases, particularly when the sample size is small. In those situations, the end of the window would be a combination of the case resolution date as well as a particular point of data collection. This, then, creates a pretrial window that is potentially different among defendants, sometimes in a substantial manner. Since our sample size is more than sufficient, we opted to keep the

⁹ Minnesota Judicial Branch. (2016) *Pretrial Release Initiative Report to the Minnesota Judicial Council*.

definition of the pretrial window consistent across all events. This leaves 6,921 cases that have both a release date and a disposition date. Of these 6,921, some cases also end up not having a pretrial window. The cases without a window fall into two different groupings:

1) Those whose cases are resolved on the *same day as their release from jail* (N=419, 6.1%),
and,

2) Those defendants whose case was resolved *prior their release from jail* (N=754, 10.9%).

These defendants go directly from the pretrial jail to a post-dispositional correctional facility. In both of these cases, the defendants are in jail from arrest to disposition and therefore, have no pretrial window.

This drops the population for the study to 5,748. Finally, 351 (6.1%) cases had incomplete pretrial data because the Pretrial Unit was unable to complete scoring the defendant on the pretrial scale. This is usually because the defendant was uncooperative or the electronic systems were not functioning correctly. Therefore, the final analysis sample is 5,397 cases. Figure 4 shows the final selection criteria for the analysis sample.

Figure 4. Total Pretrial Assessments in 2017 = 8,426

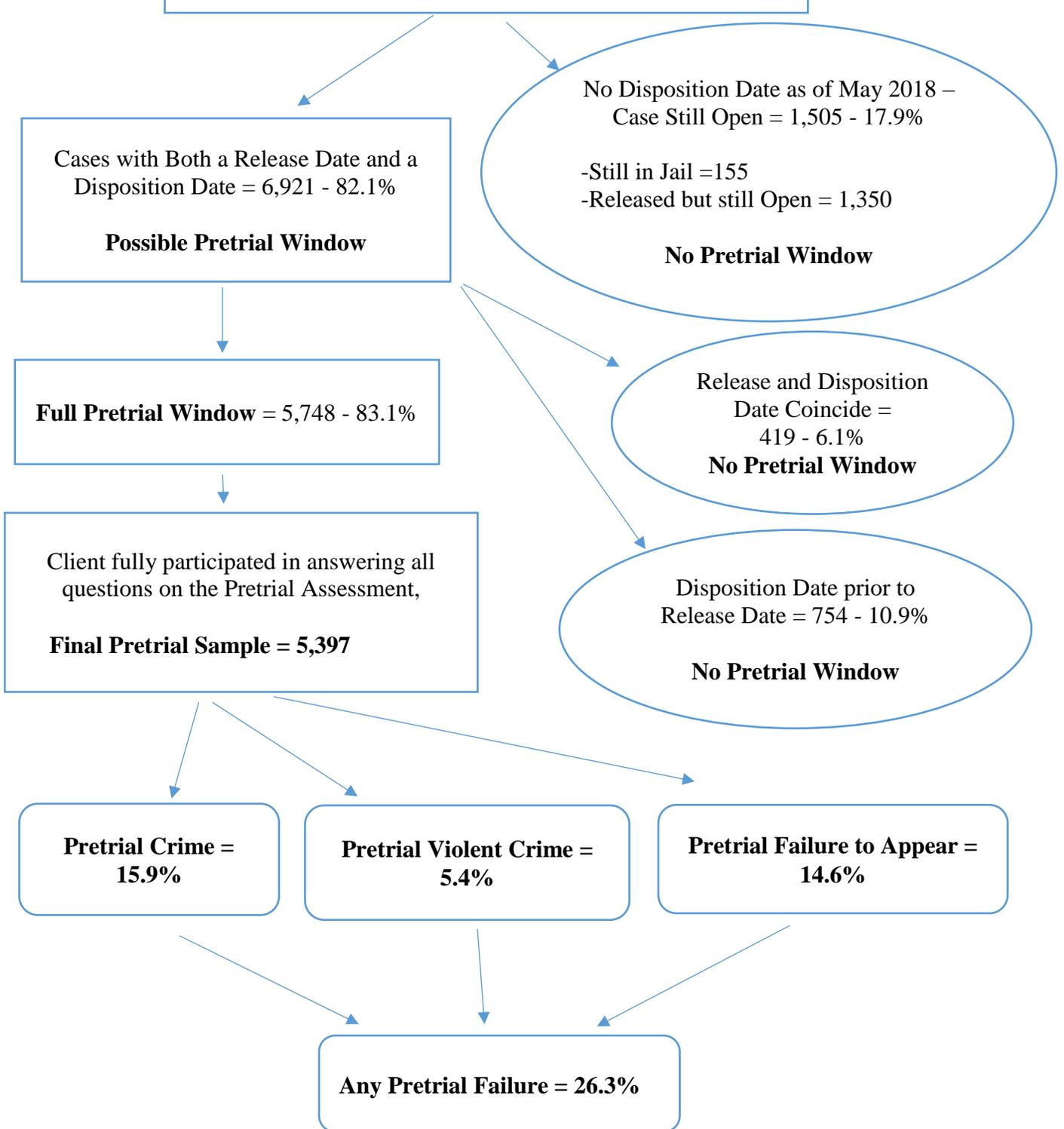


Table 1 shows the reduction in the sample due to the removal of the cases for the reasons listed above. The reduction produces a sample not significantly different from the original sample. The final sample, with both a release date and a case resolution date, is slightly more female (2.2%) and White (2.3%), and less male (2.2%) and Black/African American (2.4%) than all cases.

Table 1. Full Sample with Pretrial Window versus Final Sample

Demographics	Initial Sample		Final Sample	
	Frequencies	Percent	Frequencies	Percent
Gender				
Female	1,363	19.7	1,183	21.9
Male	5,558	80.3	4,214	78.1
Race				
American Indian/Alaskan Native	348	5.0	256	4.7
Asian/Pacific Islander	174	2.5	145	2.7
Black/African American	3,461	50.0	2,567	47.6
White	2,697	39.0	2,229	41.3
Hispanic	181	2.6	143	2.6
Unknown	60	0.9	57	1.1
TOTAL	6,921	100.0	5,397	100.0

Hennepin County uses three levels of risk: low-risk, moderate-risk and high-risk. Those who score low or moderate risk could receive a No Bail Required (NBR) release or a Conditional Release (CR), which the Pretrial Unit supervises upon release. High-risk defendants could receive bail by the number of points they accumulated on the pretrial scale, by the type of offense for which they were charged, or both. For defendants who score high-risk or who has a charged offense on the Judicial Review list (see Appendix B for the Charged Offense Points, which designates offenses on the Judicial Review) only a judge may set the bail. For all defendants with a scale score of low-risk or moderate-risk, and an offense not on the Judicial Review list of offenses, the Pretrial Unit has release authority according to the rules designated in the court orders shown in Appendices H, I, and J.

Outcome Indicators: Dependent Variables

Pretrial failure is defined as either a new offense during the pretrial period (pretrial crime) or failing to appear for a hearing (FTA pretrial). This study operationalizes FTA pretrial as a defendant for whom the court issued a bench warrant for failure to appear at a hearing on the case that brought them to the jail during the pretrial window. Pretrial crime, in this jurisdiction, is an offense during the pretrial window resulting in a new conviction. Although we only include convictions as pretrial crime, the conviction date does not have to occur during the pretrial window – only the offense date.

Convictions count only if they are at the misdemeanor level or higher and are not payable offenses or traffic offenses. A payable offense requires no court appearance as they are “charged” by citation and paid by sending the court the money listed on the ticket as the fine. An easy example of this is speeding while driving.

A second look at the pretrial crime zeroed in on a subset of pretrial crime: violent crime. This allows a test of whether the Hennepin County 2015 Pretrial Scale helps to predict who will commit serious crime while in pretrial status. The offenses included in this subset of pretrial convictions are murder, felony sex offenses, felony robbery, felony domestic assault, felony assault, non-felony domestic assault, and non-felony assault. Clearly, these violent offenses are more serious and troubling than offenses such as theft or shoplifting, so if the pretrial scale can help to predict these failures it has more validity and value to the court. Only about 5% of the sample committed a pretrial offense that fit the definition of Violent Convictions.

About 15% of the population missed at least one of their hearings during the course of the case for which they were on pretrial release, while convictions during the pretrial window defined 16% of the defendants (see Table 2). Overall, about 26% of the validation sample failed during pretrial with either

a failure to appear or a new conviction and only 4.2% had both pretrial crime and failure to appear during the pretrial window.

The percentage of failure for this validation study is lower than past studies. In the past validation study, pretrial FTA was at 20% and pretrial crime was at 18%. The Fourth Judicial District began a pilot project in 2016 of sending texts and/or emails to defendants to remind them to come to their court appearances. That project resulted in a significant reduction in missed appearances when the court is able to reach defendants through their cell phones or through email. Having a failure to appear rate drop from 20% to 15% in two years for the most serious pretrial population is a welcome result of this peripheral project. Additionally, our internal statistics show we are processing serious criminal cases more quickly and with less hearings, which may account for less pretrial crime in 2017 than we saw in 2015 (16% compared to 18% in 2015). Finally, the group of defendants who have either type of failure has reduced from 31% in 2015 to 26% in 2017.

Table 2. Dependent Variables in the Revalidation Analysis
N=5,397

Indicator	Distribution
Pretrial Failure to Appear with a Bench Warrant Issued	14.6% - Yes 85.4% - No
Pretrial Convictions (misdemeanor or higher degree)	15.9% - Yes 84.1% - No
Pretrial Violent Convictions	5.4% - Yes 94.6% - No
Either Pretrial Convictions or FTA with Bench Warrant	26.3% - Yes 73.7% - No

Scale Elements – Independent variables

The next section will examine scale elements of the Hennepin County 2015 Pretrial Scale using an updated sample to review the predictive nature of each element, the validity of the scale as a whole, as well as to identify any non-valid elements and racially or gender biased elements. First, this section shows the examination of the scale’s total distribution of points and cut points as well as the failure rate at each risk level for each outcome variable.

Total Score and Cut Points

The pretrial scale is a summative tool that produces a total number of points that fall into one of three risk levels. Table 3 below shows the upper limit of our pretrial scale has grown since the last validation with the top score of 171 now, compared to 147 earlier. However, both the average score and the median score have reduced since the last validation. The average score is now almost 22 points compared to 24 at the last validation, and median score is now at 16 points (18 points in the past). This indicates although there are some defendants with higher maximum scores, the bulk of the population has stayed about the same or is slightly lower. This means the cut points on the 2015 Pretrial Scale for each level of risk should be adequate and not require change.

Table 3. Pretrial Distribution Statistics

Distribution Statistic	2007 Pretrial Scale 2015 Sample (N=4,258)	2015 Pretrial Scale 2017 Sample (N=5,397)
Average Score	23.6	21.8
Median Score	18.0	16.0
Score by Quartile		
25%	10.0	8.0
50%	18.0	16.0
75%	31.0	29.0
Minimum Score	0	0
Maximum Score	147	171

A pretrial scale should classify those more at risk to fail as being in the higher risk category. In other words, we would expect released defendants with a higher number of points would fail during the pretrial process at a higher rate. Likewise, there should be a rank order in the level of failure among defendants categorized into each release category: those defendants failing at the highest rate should be those in the “bail required” or highest risk category, followed by defendants in the “conditional release” or moderate-risk category and those categorized as a straight release should fail least of all. Although the exact point between levels of the risk is somewhat arbitrary, the basis of these cut points is the relationship to actual failure rates.

Comparing the newest 2017 sample indicates lower failure rates than did previous validations, even though there is a higher percentage of cases eligible for release under the revised 2015 Pretrial Scale. That is the good news. However, with lower failure rates, particularly for pretrial crime,

differentiating risk can be more difficult. The reader will notice that although the 2017 data indicates a good differentiation between low, moderate and high-risk for failure to appear, for violent pretrial convictions and for overall failure, the risk levels do not differentiate well for all pretrial crime between low and moderate-risk in Table 4. Refer to the explanation of this finding on page 34 for reasons related to gross misdemeanor DWI defendants.

Table 4. Failure Rate for levels of Risk on the 2015 Pretrial for 2017 data

Risk levels	Number of Cases (Percent of Sample)	Percent Either Pretrial Conviction or Failure to Appear/BW	Percent Pretrial Convictions	Percent Pretrial Violent Conviction	Percent Pretrial Failure to Appear with Bench Warrant
Low-risk (0-11 points)	2,022 (37.5%)	19.7%	15.5%	1.6%	5.6%
Moderate-risk (12-25 points)	1,783 (33.0%)	26.5%	13.8%	4.7%	17.3%
High-risk (26 thru highest points)	1,592 (29.5%)	34.5%	18.8%	6.8%	22.9%

Individual Scale Elements

Components of validation include analyzing whether each element on the scale is associated with the outcome variables - pretrial crime and failing to appear for a hearing pretrial - through an appropriate analysis. This section will first review the frequencies of the scale elements and the associations between the scale elements and pretrial failure. Relationships between scale elements and the outcome variables should be significant while relationships between the elements themselves should not be overly associated with each other, i.e., multicollinearity. Examination of correlations will determine multicollinearity. Bivariate analyses will include correlations and percentages of failure rates across the scale elements. Logistic regression will determine scale strength and unique contributions for each element on the scale. Finally, a ROC analysis will determine the improvement to prediction of risk over chance.

The current offense is the offense charged by a prosecutor, which may not match the arrested offense that brings the defendant to jail. Current offense charges break into two categories: Judicial

Review and Non-Judicial Review. The bench has granted release discretion to the Pretrial Unit of the Department of Community Corrections and Rehabilitation on Non-Judicial Review charges. These are mainly felony offenses that are not crimes against persons, or misdemeanor level offenses. Non-Judicial review charges (releasable by the Pretrial Unit) include non-person felonies and misdemeanor person offenses (6 points), other gross misdemeanors (mainly 2nd or 3rd degree driving while intoxicated) are scored as 3 points, or misdemeanor level crimes not against persons which score at 0 points.

A notable change in the 2015 edition of the pretrial scale is the classification of the current offense.¹⁰ In the past, a knowledgeable group of criminal justice professionals including judges, court administrators and probation staff, reviewed offenses and separated the felonies into a most serious and less serious grouping. In the 2015 version of the pretrial scale, current offense attempts to replicate the categorization of offenses from the Minnesota Sentencing Guidelines Commission (MSGC) for Judicial Review charges. These charges break into three categories: 1) Presumptive Commit Felony charges (if convicted of this offense, an executed prison sentence would be recommended by the MSGC regardless of a person's criminal history score), 2) Certain Presumptive Stay of Execution charges – mainly crimes against persons – like simple robbery, and 3) gross misdemeanor¹¹ person crimes. More severe charges get a higher number of points assigned: 12 points for Presumptive Commit charges, 9 points for Presumptive Stay of Execution person offenses, and 6 points for all person offenses at the gross misdemeanor level. In the multivariate analysis, this variable is a categorical indicator with six levels. The reference category will be Judicial Review Presumptive Commit charges.

As the reader can see from Table 5, slightly more than 26% of all cases are Judicial Review based on the current offense charge and the remaining charges going through a pretrial evaluation are releasable by the Pretrial Unit, unless the defendant scores higher than 26 points on the overall scale. These are the two reasons a case goes to a first appearance in front of a judge for a release decision: based on the seriousness of the current offense charge or the overall seriousness of the defendant's risk level for pretrial failure.

¹⁰ Recall the current offense on the pretrial scale is the offense charged by a prosecutor not the offense at arrest as determined by law enforcement or at booking as determined by the jail.

¹¹ Gross Misdemeanor convictions are not eligible for prison in Minnesota but are eligible for incarceration at a county jail for up to one year. They are the most serious non-felony cases in Minnesota.

Table 5. Independent Variables: Scale Elements in Validation Analysis N=5,397

Indicator (level of measurement)	Distribution – Category
Current Charged Offense (categorical)	8.6% - Judicial Review – Presumptive Commit Felony 11.1% - Judicial Review – Presumptive Stay-Person Felony 6.6% - Judicial Review – Gross Misdemeanor Person 49.1% - No JR – Other Felony/non-Felony 22.1% - No JR – Gross Misdemeanor DWI and Other GM 2.6% - No JR – Other Misdemeanors
Unemployment/Lack of Income (dichotomy)	42.2% - Yes 56.0% - No
Housing Instability (dichotomy)	23.6% - Yes 77.3% - No
Substance Abuse History (dichotomy)	37.2% - Yes 66.9% - No
Convictions/Adjudication at Young Age (dichotomy)	56.5% - Yes 43.5 - No
Prior Criminal History (interval level)	10.8 – average prior criminal history score 3.0 – median prior criminal history score 25% quartile- 0 point prior criminal history score 50% quartile - 3 points prior criminal history score 75% quartile - 14 points prior criminal history score Range: 0-159 points
Prior Failure to Appear Warrant (categorical)	65.5% - None 18.3% - One or Two FTA Warrants 16.2% - Three or more FTA Warrants

Other risk factors for this population included a lack of employment or lack of enrollment in school/college/trade school for about 42% of the population, housing instability for about 24% of the population, and a history of substance abuse for another 37% of the population. An additional risk factor added to the 2015 version of the scale is the age at which the defendant experienced their first conviction or juvenile delinquency adjudication, if at the felony level.¹² This element indicated a higher risk if the felony delinquency adjudication or adult conviction occurred before the age of 26 years old. Only 5.6% of the population had all four of these risk factors.¹³

¹² Only felony-level delinquency adjudications on or after age 14 count in this element – again to keep the pretrial scale in line with how the Minnesota Sentencing Guidelines counts criminal history points.

¹³ See Appendix G for the training manual used by the Pretrial Unit for exact operationalization of these risk factors.

The vast majority of the defendants (65%) had no prior hearings where the judge issued a bench warrant for failure to appear in the last three years, 18% had missed one or two hearings in the past three years, and 16% had missed three or more appearances within the last three years.

Prior criminal history, defined here as convictions only, not charges or arrests, averaged 10.8 points for this population but about half of the defendants had 3 points or less. Indeed, one-quarter of the population had no prior convictions, while 10% had the most prior conviction points ranging between 32-159 criminal history points. This indicator counts more points for person convictions over non-person convictions. For example, each felony person convictions counts as 9 points, each non-felony person conviction counts as 6 points, each felony level non-person conviction counts as 2 points and all non-felony non-person convictions count as one point.

One other category of prior conviction counted that might not be obvious is an Extended Jurisdiction Juvenile designation (EJJ). This is Minnesota's version of a "blended sentence" and is reserved for the most serious juvenile delinquents and as the name suggests, jurisdiction extends until a youth's 21st birthday.¹⁴ Part of the EJJ delinquency adjudication is the child also has an adult stayed prison sentence attached to the juvenile disposition. If a person is booked and charged on an adult offense and goes through the pretrial scale while on EJJ probation, the juvenile EJJ case counts on the conviction history. If a revocation of the EJJ probation occurs, the same case becomes an adult criminal conviction and counts only once.¹⁵ Once the child successfully completes EJJ probation, no points add to the conviction history. This, then, identifies the riskier defendant as one who receives a new adult charge while under a stayed adult sentence for the EJJ offense.

All prior conviction offense points are added together to create a summative criminal history scored weighted more heavily for more serious offenses (crimes against persons) and convictions at a higher level (felony convictions count more than misdemeanors). Moreover, since each prior conviction counts, the criminal history element weights by both seriousness and number of past actions.

¹⁴ Refer to Marcy Rasmussen Podkopacz and Barry C. Feld, "The Back-Door to Prison: Waiver Reform, Blended Sentencing, and the Law of Unintended Consequences," 91 *Journal of Criminal Law and Criminology* 997 (summer, 2001) for more information on EJJ and the blended sentencing laws in Minnesota.

¹⁵ Minnesota's court information system relegates Juvenile Delinquency cases to a different court than adult criminal offenses. Thus, if there is a revocation of the EJJ case, the juvenile case closes and a new adult criminal case opens using the same offense date and conviction date but a new filing date for the adult case. By not counting an EJJ juvenile case when revoked, we ensure the behavioral episode counts once in the criminal history.

Bivariate Analysis

Table 6 below shows the relationships between the scale elements and the outcome variables. Recall all elements on the scale should have a relationship with one or both of the outcome variables in order to be legitimately on the scale. Categorical indicators (current offense and prior bench warrants) are analyzed using Chi-Square statistics since their measurement is at the ordinal level.

Current offense goes from the most serious to the least serious and prior bench warrants for failure to appear has three levels: no prior bench warrants, one-to-two prior bench warrants, and finally three or more prior bench warrants.

Prior conviction is an interval level summative scale, as discussed above. The four “Other Risk Factors” are dichotomies and therefore, interval level elements making correlation analysis appropriate for this level of measurement.

The outcome variables are also dichotomies where a one indicates pretrial failure and zero if not. The factors at an interval level of measurement and those factors dichotomized use a Pearson’s Correction Coefficient to assess association.

Table 6. Significance of Relationships between Outcome Indicators and Scale Elements

N = 5,397

Indicators	Statistic	Either Pretrial Failure	Pretrial Convictions	Pretrial Violent Convictions	Failure to Appear Pretrial with BW
Current Offense	Chi-Square	--	***	***	***
Not Employed/No stable income	Correlation	***	***	***	***
Housing Instability	Correlation	***	--	*	***
Substance Abuse	Correlation	***	--	--	***
Conviction/Adjudication at young age	Correlation	***	***	***	***
Prior Conviction Points	Correlation	***	**	***	***
Prior FTA Warrant	Chi-Square	***	***	***	***

* significant at .05 level, ** significant at .01 level, *** significant beyond .001 level, -- not statistically significant

All indicators on the scale relate to one or both of the pretrial failure elements. Since they all relate to the outcome variables, they are valid indicators of pretrial risk and belong on the scale. When an element does not relate to pretrial crime or failure to appear and is on a pretrial scale, then further testing for racial/gender bias is necessary. What is not acceptable is elements on the scale that do relate to race or gender but are unrelated to pretrial crime. Again, the definition in use for

bias for a pretrial scale indicator is the indicators relate to race but are unrelated to pretrial failure.

Table 7 shows the relationship between the outcome variables and the scale elements in percentages and averages some readers might find easier to understand. For each outcome element, this table gives the percentage of cases that fail during pretrial at each level of the scale element or the average/median of each level of the category.

Overall, the base rate, or failure rate during pretrial for pretrial convictions is 15.9% and slightly lower for failure to appear at 14.6%. When looking at either type of failure, convictions or failure to appear combined, slightly more than one-quarter of the pretrial events have failures prior to court disposition (26.3%).

With the exception of current offense, each risk factor clearly shows there is a higher percentage of failure in the expected direction. That is, more people fail pretrial when they are unemployed, live in unstable housing situations, are abusing substances, are younger when they received their first conviction or juvenile adjudication, have already failed to attend court appearances in the past and have more prior convictions rather than less.

For the current offense (see Appendix B for the current offense list of points), each category of offenses show a level of failure in the mid-teens for pretrial crime and pretrial failure to appear, with the exception of the 3-point Gross Misdemeanor category that shows a 4% failure to appear rate. The non-felony cases without required judicial review have the highest pretrial convictions (23.7%) compared to all other categories. However, when we look at only violent pretrial crime we see a different pattern. The Judicial Review offenses show higher violent pretrial crime than the non-Judicial Review current offenses. Recall Towl and Crighton's (1996) definition of risk assessment: it is to assess the probability of a failure occurring *in combination with the consequences of it occurring* (emphasis mine).

Which offenses require a judge review prior to release versus release by a Pretrial Agent is a policy decision. In Hennepin County, the 2015 Pretrial Committee¹⁶ along with the Criminal Presiding and Assistant Presiding Judges¹⁷ chose which current offense charges come before a judicial officer because of the severity of what a failure would mean, if it occurred. The judges felt they needed to "own" the release decisions for the defendants arrested and charged with the most serious offenses and did not feel relegating this to a

¹⁶ Committee members: Judge Mark Wernick, Judge Nicole Engisch, Judge Mary Vasaly, DOCCR Pretrial Supervisors Carrie Scardigli and Brian Hanson, DOCCR management Mike Gephart, Brian Kopperud and Renee Meerkins, Court Business Practices Specialist Shelly Sherman, Court Research Tracy Loynachan and Marcy Podkopacz and Court Administration Sarah Lindahl-Pfieffer.

¹⁷ Criminal Presiding Judge: Toddrick Barnette, Criminal Assistant Presiding Judge: Kerry Meyer

Pretrial Agent was appropriate. A reminder, the current offenses requiring a judge release decision include a charge that, if convicted, would presume a prison sentence under Minnesota Sentencing Guidelines Commission, even if the defendant had a criminal history score of zero. A second type of Judicial Review offense includes the most serious of the felony offenses that presume a stay of execution and a sentence of probation on the MSGC. These are mainly person offenses. The third category of Judicial Review includes the most serious non-felony person offenses. As the reader can see, the offenses on the Judicial Review list are there not only because of risk of pretrial failure but in reality, the dangerousness of the offense, if a defendant reoffended. Therefore, the “risk” is the risk of that level of offense occurring again.

When the definition of pretrial failure combines both pretrial crime and pretrial fail to appear, it is clear each of the risk factors, other than current offense, associate with failure in the direction we would anticipate (see Table 9). Those defendants with no stable income or job are more likely to fail (32.2% versus 22.1%), as are those without stable housing (33.0% versus 24.3%). Having a substance abuse problem also drives more failure (29.9% versus 24.2%) and starting in the criminal justice system with a conviction or delinquency adjudication before the age of 26 shows a higher likelihood of failing during the pretrial period (30.8 %versus 20.6%). Finally, those with higher criminal history convictions and more prior failure to appear for hearings both show higher likelihood of pretrial failure. The average number of prior convictions for those who failed was 13.1 compared to 6.0 for those who did not fail. Twenty percent of defendants did not have any failures to appear in the last three years during pretrial, compared to a 43.3% failure rate for those who had failed to appear three or more times in the last three years.

Table 7. Percent Pretrial Failure across Different Outcome Variables
N=5,397

Scale Elements	Either Pretrial Convictions OR Failure to Appear	Pretrial Crime	Violent Pretrial Crime	Pretrial Failure To Appear / BW
		One or More Convictions	One or More Convictions	One or More Failure to Appear
Current Offense				
Presumptive Commit Felony- Judicial Review	24.8%	14.5%	5.4%	14.7%
Presumptive Stay Person Felony – Judicial Review	24.3%	15.1%	9.7%	13.1%
Non-Felony Person – Judicial Review	26.9%	16.2%	8.7%	16.2%
Other Felony – No Judicial Review	26.4%	12.8%	3.9%	19.1%
Gross Misdemeanor DWI and Other GM – No Judicial	27.1%	23.7%	0.4%	4.1%
Other Misdemeanor – No Judicial Review	30.9%	15.8%	1.4%	21.6%
Unemployed/No Stable Income				
Yes	32.2%	17.7%	5.5%	21.3%
No	22.1%	14.7%	3.2%	9.7%
Housing Instability				
Yes	33.0%	16.3%	5.0%	22.5%
No	24.3%	15.8%	3.9%	12.2%
Substance Abuse				
Yes	29.9%	16.6%	3.9%	19.0%
No	24.2%	15.6%	4.3%	12.0%
Conviction/Adjudication at Young Age				
Yes	30.8%	18.1%	5.2%	18.1%
No	20.6%	13.1%	2.8%	10.0%
Prior Criminal History				
Those who Failed: Average Number of Priors	13.1	12.4	16.9	14.5
Those who Failed: Median Number of Priors	6.0	5.0	11.0	8.0
Those that did Not Fail: Average Number of Priors	9.9	10.4	10.5	10.1
Those that did Not Fail: Median Number of Priors	3.0	3.0	3.0	3.0
Prior Failure to Appear				
None	20.2%	14.4%	3.2%	7.8%
One to Two Prior FTA	33.2%	16.6%	7.0%	22.9%
Three or More Prior FTA	43.3%	21.2%	5.0%	32.8%
Overall Failure Percentage	26.3%	15.9%	4.2%	14.6%

Multivariate Analysis

The method used for this multivariate analysis is binary logistic regression. Logistic regression is a statistical technique that uses a set of variables to predict an outcome with only two options. In this case, the two options for the dependent or outcome variable is failure during the pretrial window or no failure. Failure can mean the defendant committed a new offense during the pretrial window for which there was a conviction, or it can mean they failed to appear for one or more court hearings during the pretrial process, or both. However, each model will test only one of these outcomes at a time. The set of independent variables used in the regression analysis are the elements on the pretrial scale. Regression analyses, much like other multivariate analyses, look for the independent contribution of each element in predicting pretrial failure, while controlling, or holding constant all other elements simultaneously. In addition, it measures the goodness of fit of the entire set of independent variables or what researchers call, the model.

In all the models shown below, some variables, such as prior failure to appear history, are in the equation as categorical variables. As a categorical variable, the first category— for example, having no prior failures to show up at a court hearing—is the excluded category, and as such, shows in the table as the reference category. In regression models with categorical variables, comparison is from the individual category of an element to the excluded category. So, defendants with any prior failures to appear show a significant positive coefficient, which means they are significantly more likely to fail pretrial compared to those with no prior failure to appear events.

In many of the equations below, both categories of prior failure to appear show a significant difference, those with one or two prior failures to appear and those with three or more prior failures to appear from those do not have a history of non-appearance. Since that is the case, having both might not be necessary. However, the difference is one of magnitude between the two levels. Separating the number of priors in this way was meaningful to court personnel and thus keeping two levels is a policy decision. The Court felt at three or more failures, the defendant was significantly different from someone who might have missed one or two appearances. Statistically, the scale probably did not need to differentiate the two levels of prior failures to appear since both are significantly different from those who do not fail, but doing so distinguishes these two different types of defendants. Another categorical variable in the equations is the current offense. In this case, the excluded or reference category is the most serious type of offense: those on the Judicial Review list for a presumptive commit felony. This type of current offense compares to all other types of current offenses in the models.

Other variables on the scale are yes/no indicators, such as unemployed with no stable income/

or not, or having a substance abuse issue or not. These indicators are dichotomous and thus are appropriate for a logistic equation as an interval level variable. Finally, criminal history is a summative interval level scale that ranges from zero to 159. Binary Logistic regression handles all of these types of variables.

The organization of the next section provides the reader with the results of each type of failure: pretrial convictions and pretrial failure to appear, as well as both combined. Risk assessment for pretrial failure is more complicated than other types of risk assessment since it is attempting to predict two types of failures simultaneously. Some scales have separated the failure types into unique scales but this approach leaves the judicial officer with a dilemma of choosing which scale to weigh more heavily. Most pretrial scales combine the failure types and address this issue by showing the models for each type of failure and for the combined failure. This report follows this latter method. Pretrial risk assessment is also more difficult because the population is heterogeneous, ranging from low-level misdemeanants to alleged murderers, and includes people who could ultimately face a conviction or a dismissal.

After presentation of the models for cases going through Hennepin County Pretrial Unit, we restrict the analysis to only cases that are required to undergo a pretrial evaluation under MN Statute 629.74 in an attempt to review how this scale will do statewide. Most counties across the state will only be applying the MNPAT to those cases that meet the standards set by statute, meaning they will be applying the scale to crimes of violence and drug felonies only. Finally, we separate cases by suburban versus urban origin of the case to again attempt to assess how the scale might do with populations outside of Hennepin. Minnesota, like many other states is a combination of urban, suburban with a significant population in rural areas. This dataset cannot assess a rural population since no part of Minneapolis and the surrounding 46 cities are rural, but reviewing the suburban application of the scale might be useful to the state implementation.

The first analysis shown in Table 8 is a model for those who missed a scheduled court hearing with a resulting bench warrant during pretrial. In this model, the current offense, as a whole, significantly predicts failure to appear. The model suggests those defendants charged with Non-Judicial Review Felonies and Non-felonies fail to appear pretrial at a higher rate than the reference category. Non-Judicial Review Gross Misdemeanor offenses, such as DWI and Criminal Vehicular Operation, miss court appearances at a significantly lower level than Presumptive Commit to prison cases. Each of the other non-Judicial Review current offense categories show significantly higher likelihood of failing to appear compared to the reference category.

Being unemployed or having no stable income significantly increases the odds of a defendant failing during the pretrial window by missing court. Not being employed increases the odds of pretrial failure by 59%. Housing instability also increases the likelihood of failure to appear by nearly 30%. Likewise, having a substance abuse issue also increases the likelihood of a defendant not appearing for a scheduled court appearance by about 36%. As opposed to the last two results, those defendants who enter into the criminal justice system early in their life do not have a higher likelihood of failing to appear pretrial nor does prior criminal history help predict those who will fail to appear for a scheduled appearance. Having one or two prior failures to appear increases the likelihood of committing pretrial failure to appear by nearly 2 times greater, compared to those with no failure to appear history. While those defendants with three or more prior failure to appear have nearly a three-time greater likelihood to fail with a pretrial failure to appear compared to those with no history of non-appearance.

Therefore, knowing the current offense, having no stable income or employment, and a history of prior missed court appearances all significantly predict pretrial failure to appear, as do housing instability and substance abuse.

This model is significant and meets the goodness of fit criteria. The amount of explained variance is 17% for pretrial failure to appear, which is somewhat higher than other pretrial models across the country. It correctly classified more than 85% of the defendants in the pretrial sample.

Table 8. Model for Predicting Risk of Failure to Appear Pretrial

Scale Elements	Failure to Appear N=5,397			
	Coef.	S.E.	Sig.	Exp(B)
Current Offense (categorical)			.000	
Presumptive Commit Felony – JR [^]	<i>Reference Category</i>			
Presumptive Stay Person Felony – JR	-.083	.186	.654	.920
Person Gross Misdemeanor – JR	.347	.203	.088	1.415
Other Felony/Non-Felony – Not JR	.374	.146	.010	1.454
Gross Misdemeanor DWI and Other GM– Not JR	-.778	.205	.000	.459
Other Misdemeanor – Not JR	.786	.259	.002	2.194
Unemployed/No Stable Income (dichotomy)	.463	.086	.000	1.590
Housing Instability (dichotomy)	.260	.089	.004	1.297
Substance Abuse (dichotomy)	.304	.084	.000	1.355
First Adjudication or Conviction at Young Age (dichotomy)	.118	.095	.211	1.126
Prior Criminal History (interval level)	.000	.002	.989	1.000
Prior Failure to Appear (categorical)			.000	
None	<i>Reference Category</i>			
1 or 2 prior FTA	.997	.103	.000	2.711
3 or more prior FTA	1.358	.105	.000	3.889
Constant	-2.970	.165	.000	.051
Nagelkerke R-Squared	.172			
Model Chi-Square	551.587		.000	
Percent Correctly Classified	85.3%			

[^]JR =Judicial Review indicating a judge release decision

Table 9 shows two models, one for all pretrial convictions and one for only violent convictions. Violent convictions include pretrial offenses such as murder, criminal sexual conduct, assault, robbery, domestic assault (all felony level) as well as non-felony assault and domestic assault. Both models are significantly predictive and correctly classify between 84% and 96% of

the cases. The model for violent pretrial convictions explains a higher percentage of the variance than is explained in the model for the general pretrial convictions.

Defendants charged with gross misdemeanor DWI are significantly more likely to commit pretrial offenses resulting in convictions than the reference category of those charged with a presumptive commit to prison offense. The defendants who prosecutors charged with person offenses requiring a judge to release them are significantly more likely to reoffend with a violent offense pretrial compared to the reference category of offenses whereas, gross misdemeanor DWI offenders were significantly less likely to commit a violent pretrial offense ending in a conviction.

Defendants with no stable income or job have higher odds of committing any pretrial crime and violent pretrial crime. Additionally, those who start their involvement with the criminal justice system early and those with higher criminal history points have significantly higher odds of failing during the pretrial window with violent convictions and any type conviction.

When defendants have three or more prior FTAs, they are 67% more likely to commit a pretrial offense ending in conviction and those with only one or two prior FTAs have 23% higher odds of failing than those with no prior FTAs. For violent pretrial crime, those with one to two prior FTAs have 68% higher odds of failing than those with no prior FTAs. The defendants with three or more prior FTAs did not significantly differ from those with no prior FTAs when the outcome was violent pretrial convictions.

Housing instability and problematic substance abuse do not add any individual contribution to predicting pretrial crime beyond the indicators listed above.

**Table 9. Two Models of Predicting Risk of Pretrial Crime:
All Pretrial Criminal Convictions and Violent Pretrial Convictions**

Scale Elements	Pretrial Convictions N=5,397				Violent Convictions N=5,397			
	Coef.	S.E.	Sig.	Exp(B)	Coef.	S.E.	Sig.	Exp(B)
Current Offense (categorical)			.000				.000	
Presumptive Commit Felony – JR [^]	Reference Category				Reference Category			
Presumptive Stay Person Felony – JR	.080	.177	.650	1.084	.664	.251	.008	1.943
Person Gross Misdemeanor – JR	.277	.198	.161	1.319	.663	.282	.019	1.940
Other Felony/Non-Felony – Not JR	-.089	.146	.541	.915	-.265	.230	.250	.767
Gross Misdemeanor DWI and Other GM– Not JR	.952	.156	.000	2.590	-2.289	.499	.000	.101
Other Misdemeanor – Not JR	.313	.271	.249	1.367	-1.168	.744	.116	.311
Unemployed/No Stable Income (dichotomy)	.264	.082	.001	1.303	.314	.145	.030	1.368
Housing Instability (dichotomy)	.037	.093	.693	1.037	-.054	.158	.734	.948
Substance Abuse (dichotomy)	-.056	.080	.483	.945	-.246	.149	.099	.782
First Adjudication or Conviction at Young Age (dichotomy)	.312	.086	.000	1.366	.317	.163	.052	1.374
Prior Criminal History (Interval)	.004	.002	.047	1.004	.008	.003	.026	1.008
Prior Failure to Appear (categorical)			.000				.004	
None	Reference Category				Reference Category			
1 or 2 prior FTA	.207	.104	.047	1.230	.518	.165	.002	1.679
3 or more prior FTA	.510	.107	.000	1.665	.044	.195	.821	1.045
Constant	-2.382	.155	.000	.092	-3.444	.254	.000	.032
Nagelkerke R-Squared	.049				.097			
Model Chi-Square	155.651			.000	155.701		.000	
Percent Correctly Classified	84.1%				95.3%			

[^]JR =Judicial Review indicating a judge release decision

Table 10 shows the model for any type of pretrial failure (either pretrial convictions or failure to appear). Results look very similar to the tables above, with current offense, lack of employment, housing instability, prior failure to appear, and entering the justice system at an early age as significantly predicting a combined type of pretrial failure in the directions expected. Being unemployed or not having a stable income, moving frequently, having a history of failing to appear for court, and entering the criminal justice system at an early age all help to predict someone who will fail during the pretrial window. Those with gross misdemeanor DWI and other misdemeanor offenses tend to fail more often compared to defendants with a more serious current offense. Substance abuse does not contribute to the prediction of any type of pretrial failure beyond the variables listed above. In addition, prior criminal history does not help with the prediction of the combined type of pretrial failure.

This last finding is an interesting result and one requiring more investigation, since all previous validations found prior criminal history as one of the most significant predictors of combined pretrial failure. Using a stepwise logistic regression, the results show prior criminal history is highly significant until the newest element of receiving a conviction or juvenile delinquency at a young age enters the equation and then prior criminal history does not add any independent predictive ability. These two elements are only correlated at $r=.33$, so there is no danger of multicollinearity.

Additional analysis by type of current offense shows there is one group of defendants causing this finding, Gross Misdemeanor DWI defendants. Recall from tables 9 and 10, the 3-point current offense of GM DWI category showed higher general pretrial crime. Indeed, Table 7 shows GM DWI defendant commit more pretrial crime but significantly less pretrial failure to appear. This group are mostly low risk (74%), whereas all other groups evenly split across the three risk levels. In addition, the GM DWIs are more often employed, less often homeless, less of them had early onset of criminality, most have not ever failed to appear for a court hearing before (87%) and the average criminal history score was 4.9 as opposed to about 12.5 points for the rest of the population. Therefore, they are functioning individuals with low scale scores and the scale identifies them as low risk, accordingly. However, they commit pretrial crime at a higher rate (23.4%) than do other categories of offenders (14%). Therefore, they score low on the scale but fail at a higher rate than those who score higher on the scale.

In Minnesota, these defendants have their license plates seized by law enforcement, upon arrest, and have to apply for new plates “specially coded and signify to law enforcement that the regular plates have been impounded for an impaired driving violation.”¹⁸ The implication is these defendants are under more scrutiny since their plates are easily identifiable to law enforcement. To test this implication, review of the type of pretrial offenses this group committed shows 92% of these defendants had an additional GM DWI convicted, corroborating the idea this group of defendants are closely watched by law enforcement and easily identifiable due to their ‘custom license plates’ during pretrial status. Removal of the GM DWI defendants from the analysis shows prior convictions indeed remains predictive of pretrial failure.

This example shows researchers must attend to outside issues beyond just the data from their scale validations to understand the results fully.

¹⁸ Information Brief, Research Department, MN House of Representatives: An Overview of MN’s DWI laws, page 6.

**Table 10. Model: Predicting Risk of Any Type Pretrial Failure:
Pretrial Conviction or Failure to Appear**

Scale Elements	Any Type of Failure: New Conviction or Failure to Appear N=5,397			
	Coef.	S.E.	Sig.	Exp(B)
Current Offense (categorical)			.000	
Presumptive Commit Felony – JR [^]	<i>Reference Category</i>			
Presumptive Stay Person Felony – JR	.020	.149	.895	1.020
Person Gross Misdemeanor – JR	.306	.167	.066	1.358
Other Felony/Non-Felony – Not JR	.138	.120	.252	1.147
Gross Misdemeanor DWI and Other GM– Not JR	.638	.135	.000	1.892
Other Misdemeanor – Not JR	.576	.222	.009	1.779
Unemployed/No Stable Income (dichotomy)	.346	.068	.000	1.413
Housing Instability (dichotomy)	.233	.075	.002	1.262
Substance Abuse (dichotomy)	.090	.067	.178	1.094
First Adjudication or Conviction at Young Age (dichotomy)	.250	.072	.000	1.284
Prior Criminal History (interval level)	.003	.002	.149	1.003
Prior Failure to Appear (categorical)			.000	
None	<i>Reference Category</i>			
1 or 2 prior FTA	.602	.084	.000	1.826
3 or more prior FTA	.973	.088	.000	2.645
Constant	-2.013	.130	.000	.134
Nagelkerke R-Squared	.081			
Model Chi-Square	307.888	.000		
Percent Correctly Classified	73.4%			

[^] JR =Judicial Review indicating a judge release decision

Reviewing the Hennepin 2015 Pretrial Scale for use across Minnesota

As mentioned previously, the State Court of Minnesota is implementing the Minnesota Pretrial Assessment Tool (MNPAT) in late 2018-early 2019, which is the Hennepin County 2015 Pretrial Scale, rebranded. The state court hopes to validate the scale by 2021, for the 82 counties of the state that will be using it. The next section will present these same three tables as above but only for those pretrial evaluations done on a different subset of offenders, those whose offenses meet MN Statute 629.74, which requires risk assessments on all crimes of violence and drug felonies. Prior to that, table 11 shows the pretrial failure rate using this limited sample. For each pretrial failure type, the scale clearly identifies those who are low, moderate and high-risk to reoffend during the pretrial period.

Table 11. Failure Rate by Risk Level for Limited sample

Risk levels	Number of Cases (Percent of Sample)	Percent Either Pretrial Conviction or Failure to Appear/BW	Percent Pretrial Convictions	Percent Pretrial Violent Convictions	Percent Pretrial Failure to Appear with Bench Warrant
Low-risk (0-11 points)	818 (26.6%)	12.6%	6.0%	3.5%	7.8%
Moderate-risk (12-25 points)	1,161 (37.7%)	22.9%	11.4%	5.8%	15.5%
High-risk (26 thru highest points)	1,098 (35.7%)	35.2%	19.8%	8.6%	23.0%

Table 12 show the pretrial failure to appear model on this restricted group of people. The elements significant on the whole sample are similarly significant for this sample as well, although the categories of current offense are restricted to the offenses matching the statute. This model explains slightly less variance than table 9 (14.1% compared to 17.1%) and correctly classifies a slightly lower percentage of cases (83.9% versus 85.3%) but still does a good job of predicting pretrial failure to appear for hearings.

**Table 12. Model for Predicting Risk of Failure to Appear Pretrial
Applied to MN Statute Required Offenses**

Scale Elements	Bench Warrant for FTA N=3,077			
	Coef.	S.E.	Sig.	Exp(B)
Current Offense (categorical)			.012	
Presumptive Commit Felony – JR [^]	<i>Reference Category</i>			
Presumptive Stay Person Felony – JR	.109	.206	.597	1.115
Person Gross Misdemeanor – JR	.444	.228	.051	1.558
Other Felony/Non-Felony – Not JR	.450	.169	.008	1.568
Unemployed/No Stable Income (dichotomy)	.487	.109	.000	1.627
Housing Instability (dichotomy)	.239	.111	.032	1.270
Substance Abuse (dichotomy)	.379	.106	.000	1.461
First Adjudication or Conviction at Young Age (dichotomy)	.121	.119	.310	1.129
Prior Criminal History (interval level)	-.002	.003	.481	.998
Prior Failure to Appear (categorical)			.000	
None	<i>Reference Category</i>			
1 or 2 prior FTA	.984	.130	.000	2.676
3 or more prior FTA	1.449	.130	.000	4.259
Constant	-3.136	.194	.000	.043
Nagelkerke R-Squared	.141			
Model Chi-Square	264.839	.000		
Percent Correctly Classified	83.9%			

Table 13 shows the pretrial crime models for both pretrial general convictions and violent convictions. The model for the general convictions during pretrial is similar to table 10 for the full Hennepin County sample but the model for the violent crime is slightly different. When the dependent variable is violent pretrial crime and applies to only offenses matching MN Statute 629.74, substance abuse becomes a

significant predictor and age at first adjudication or conviction is no longer significant. All other variables predict similarly across the models. In addition, this model loses some explanatory power (.051 compared to .097) but still correctly classifies nearly 94% of the sample. The general conviction model explains a higher proportion of the variance with this sample (.073 compared to .049 on the whole Hennepin County sample).

Table 13. Model for Predicting Risk of Pretrial Crime Applied to MN Statute Required Offenses

Scale Elements	Pretrial Convictions N=3,077				Violent Convictions N=3,077			
	Coef.	S.E.	Sig.	Exp(B)	Coef.	S.E.	Sig.	Exp(B)
Current Offense (categorical)			.012				.000	
Presumptive Commit Felony – JR^	<i>Reference Category</i>				<i>Reference Category</i>			
Presumptive Stay Person Felony – JR	.075	.191	.694	1.078	.641	.261	.014	1.898
Person Gross Misdemeanor – JR	.263	.218	.227	1.301	.666	.292	.023	1.946
Other Felony/Non-Felony – Not JR	-.239	.164	.145	.787	-.238	.245	.332	.788
Unemployed/No Stable Income (dichotomy)	.448	.116	.000	1.565	.307	.159	.053	1.359
Housing Instability (dichotomy)	.137	.121	.257	1.147	-.084	.176	.632	.919
Substance Abuse (dichotomy)	-.020	.115	.863	.980	-.346	.166	.037	.708
First Adjudication or Conviction at Young Age (dichotomy)	.437	.132	.001	1.548	.258	.176	.143	1.295
Prior Criminal History (interval level)	.009	.003	.000	1.009	.008	.004	.043	1.008
Prior Failure to Appear (categorical)			.000				.025	
None	<i>Reference Category</i>				<i>Reference Category</i>			
1 or 2 prior FTA	.442	.138	.001	1.556	.483	.182	.008	1.621
3 or more prior FTA	.625	.140	.000	1.867	.086	.215	.687	1.090
Constant	-2.752	.190	.000	.064	-3.243	.266	.000	.039
Nagelkerke R-Squared	.073				.051			
Model Chi-Square	123.796		.000		58.879		.000	
Percent Correctly Classified	87.0%				93.8%			

Table 14 displays the full model for either type of failure combined on the limited sample. Two differences exist between this sample and the entire Hennepin County sample. On this limited sample, substance abuse is a significant predictor of general pretrial failure. This finding indicates that for some elements it is easier to predict failure from a more homogenous sample than one that is more heterogeneous like the Hennepin County sample as a whole.

Table 14. Model for Predicting Risk of Any Type of Pretrial Failure Applied to MN Statute Required Offenses

Scale Elements	Any Pretrial Failure N=3,077			
	Coef.	S.E.	Sig.	Exp(B)
Current Offense (categorical)			.241	
Presumptive Commit Felony – JR [^]	<i>Reference Category</i>			
Presumptive Stay Person Felony – JR	.147	.164	.372	1.158
Person Gross Misdemeanor – JR	.378	.186	.042	1.459
Other Felony/Non-Felony – Not JR	.150	.137	.276	1.162
Unemployed/No Stable Income (dichotomy)	.442	.091	.000	1.555
Housing Instability (dichotomy)	.256	.097	.008	1.292
Substance Abuse (dichotomy)	.208	.091	.022	1.231
First Adjudication or Conviction at Young Age (dichotomy)	.290	.101	.004	1.336
Prior Criminal History (interval level)	.004	.002	.116	1.004
Prior Failure to Appear (categorical)			.000	
None	<i>Reference Category</i>			
1 or 2 prior FTA	.781	.109	.000	2.183
3 or more prior FTA	1.137	.113	.000	3.116
Constant	-2.326	.156	.000	.098
Nagelkerke R-Squared	.125			
Model Chi-Square	271.094		.000	
Percent Correctly Classified	75.3%			

The other difference is the current offense is not a significant predictor of failure when the types of failure combine both failure to appear and pretrial crime. The reason for this is different types of offenses fail differently depending on the type of pretrial failure. Defendants going through pretrial for less serious offenses tend to miss court more often than defendants coming into the pretrial process on offenses that are more serious. Conversely, those whose current offense is more serious tend to commit more pretrial crime than those whose originating offense is less serious. When combining the types of failure for this limited sample, current offense is no longer a unique predictor of pretrial failure.

Reviewing the difference between the Urban and Suburban Defendants

Minnesota's population outside the seven county metro area is highly rural. Obviously, given Hennepin's urban and suburban population, these data cannot address how the tool might work for a rural population. However, we can separate suburban and urban cases with the Hennepin data using the location of the offense. The analysis is again limited to those offenses that meet MN Statute 629.74 to attempt to address implementation in other jurisdictions.

Table 15 separates offense location between Minneapolis versus those occurring in suburban communities. The current offense is not a significant predictor for either location of offense. No stable employment/income and prior history of failing to appear for court hearings are significant predictors for both locations. Housing instability is only a significant predictor in Minneapolis and substance abuse and first adjudication or conviction at an early age are only significant in the suburban areas. Both models are statistically significant and classify about the same percentage of the defendants correctly (about 73% in both models). It is good news the scale holds in both types of localities, urban and suburban.

**Table 15. Model for Predicting Risk of Any Type of Pretrial Failure
Applied to MN Statute Required Offenses by Location**

Scale Elements	All Pretrial Failures for Minneapolis Offenses N=1,521				All Pretrial Failures for Suburban Offenses N=1,556			
	Coef.	S.E.	Sig.	Exp(B)	Coef.	S.E.	Sig.	Exp(B)
Current Offense (categorical)			.324				.355	
Presumptive Commit Felony – JR [^]	Reference Category				Reference Category			
Presumptive Stay Person Felony – JR	.294	.229	.198	1.342	-.007	.238	.978	.993
Person Gross Misdemeanor – JR	.528	.352	.134	1.695	.314	.239	.189	1.368
Other Felony/Non-Felony – Not JR	.108	.189	.567	1.114	.209	.201	.297	1.233
Unemployed/No Stable Income (dichotomy)	.402	.129	.002	1.494	.467	.130	.000	1.595
Housing Instability (dichotomy)	.268	.134	.044	1.308	.244	.142	.085	1.277
Substance Abuse (dichotomy)	.109	.130	.402	1.116	.279	.129	.031	1.321
First Adjudication or Conviction at Young Age (dichotomy)	.240	.143	.094	1.271	.327	.142	.022	1.387
Prior Criminal History (interval level)	.003	.003	.411	1.003	.007	.004	.077	1.007
Prior Failure to Appear (categorical)			.000				.000	
None	Reference Category				Reference Category			
1 or 2 prior FTA	.768	.154	.000	2.155	.813	.156	.000	2.255
3 or more prior FTA	1.204	.157	.000	3.334	1.075	.164	.000	2.931
Constant	-2.269	.217	.000	.103	-2.379	.224	.000	.093
Nagelkerke R-Squared	.121				.136			
Model Chi-Square	128.793		.000		148.774		.000	
Percent Correctly Classified	75.2%				75.4%			

[^] JR =Judicial Review indicating a judge release decision

ROC Curve Analysis for Goodness of Fit

A Receiver Operator Characteristic curve analysis (ROC) helps determine the goodness of fit of the regression models. It uses predicted group classification (either failing pretrial or not) by plotting points on a Y-axis measuring sensitivity and an X-axis measuring specificity. Sensitivity refers to the number of cases correctly predicted as failures, i.e., true positives or those defendants that failed and the model predicted failure. The specificity refers to the number of cases correctly predicted as successes, i.e., true negatives or those defendants did not fail pretrial and the model predicted they would not fail. The plots create a curve from which the “area under the curve” is calculated. The area ranges from .50 to 1.0; the larger the area under the curve, the better the model predicts failure.

Each of the regression models tested in this analysis has an area under the curve of around .52-.67. These values are significant, meaning the Hennepin County 2015 Pretrial Scale predicts failure at a rate significantly better than chance alone. This is particularly true for the failure to appear model, the model for pretrial violent crime and model that examines either type of failure.

Given the finding about the GM DWI defendants being low risk in all categories but committing slightly higher pretrial crime due to increased surveillance and scrutiny, presentation of the ROC AUC with those defendants removed is also below. The reader will see that although removing these defendants increases the ROC AUC for general pretrial crime by an entire point, it reduces each of the other individual outcomes of pretrial failure to appear and pretrial violent convictions. That is because these defendants have the lowest pretrial failure to appear of any of the current offense groups, corresponding to their low risk categorization. Since general convictions are a substantial part of any type of pretrial failure, removing this population increases the ROC AUC here as well.

Table 16. Predictive Ability of the Pretrial Scale – ROC Area Under the Curve

Outcome Variable	Full Hennepin Sample	Significance	Hennepin Sample with No GM DWI	Significance	Limited Sample MN Statute 629.74	Significance
Failure to Appear	.675	****	.624	****	.634	****
Pretrial Crime	.517	**	.617	****	.652	****
Pretrial Violent Crime	.672	****	.617	****	.612	****
Any Type of Failure	.589	****	.634	****	.650	****

*p<=0.05 criteria, **p<=.01, ***<=.001, ****p<=.0001

The scale significantly improves the prediction over chance for the limited sample as well. The ROC-AUC for the limited sample of offenders charged with MN Statute 629.74 offenses was .634 for the Minneapolis sample and .667 for the Suburban sample.

Summary of the Predictive Models

Table 17 presents the overall summary of the previous multivariate tables. An asterisk indicates the scale element is a unique predictor of pretrial failure whereas the hyphens indicate the element does not add any additional explanatory power to the equation. We know from the bivariate analysis all the elements relate to one or both of the pretrial failure outcomes so the elements can remain on the scale, but the multivariate analysis allow the reader more information about unique predictive power. In addition to the significance of the element, this table presents the amount of explained variance and the ROC AUC score for each model.

Table 17. Summary of the Multivariate Models

Scale Elements	Whole Hennepin Pretrial Sample N=5,397				Hennepin Pretrial Sample No GM DWI N=4,220			
	BW-FTA	Pretrial Crime	Violent Crime	Any Failure	BW-FTA	Pretrial Crime	Violent Crime	Any Failure
Current Offense	*	*	*	*	*	*	*	*
Unemployed or No Stable Income	*	*	*	*	*	*	--	*
Housing Instability	*	--	--	*	*	--	--	*
Substance Abuse	*	--	--	--	*	--	--	*
First Adjudication or Conviction –Young Age	--	*	*	*	--	*	*	*
Prior Convictions	--	*	*	--	--	*	*	*
Prior Failure to Appear	*	*	*	*	*	*	*	*
Nagelkerke R-Squared	.172	.049	.097	.081	.129	.057	.053	.117
ROC-AUC	.675	.517^	.672	.582	.624	.617	.617	.634

^ See explanation listed on page 34

Providing the same information for the limited sample most likely used by the rest of the state in the roll out of this tool to other counties is in table 18. Again, the scale does improve the prediction of failure over chance and helps to explain who will or will not fail during the pretrial window.

Table 18. Summary of the Multivariate Models using the Limited Sample

Scale Elements	Only Defendants Matching MN Statutes 629.74 N=3,077			
	BW-FTA	Pretrial Crime	Violent Crime	Any Failure
Current Offense	*	*	*	--
Unemployed/No Stable Income	*	*	*	*
Housing Instability	*	--	--	*
Substance Abuse	*	--	*	*
First Adjudication or Conviction – Young Age	--	*	--	*
Prior Convictions	--	*	*	--
Prior Failure to Appear	*	*	*	*
Nagelkerke R2	.141	.073	.051	.125
ROC-AUC	.634	.652	.612	.650

Race Analysis

In reviewing the application of the Hennepin County 2015 Pretrial Scale (using the full sample) to different racial groups, we see defendants of color are fairly equally found in each of the three risk levels (non-shaded columns in Table 19). The scale does a good job of separating risk level for these defendants. Those classified as low-risk fail at 18.6%, whereas those classified as moderate-risk fail at 27.5% and high-risk defendants fail during the pretrial window at 33.7%.

Nearly half of the White defendants fall into to the low-risk category (48.3%), with another nearly one-third of the sample are in the moderate-risk category and one-fifth fall into the high-risk category. White defendants fail at a higher rate within each risk category than do defendants of color. Those White defendants in the low-risk category commit pretrial failure at 21.3%, 34.1% and 37.5% in the low, moderate and high-risk categories, respectively.

Overall, the pretrial failure rate is very similar across both groups of defendants. People of color show a base rate of failure of 26.7% whereas White defendants have a 25.5% pretrial failure rate. The chi square shows for both racial groups the risk levels have a statistically significant difference. The ROC area under the curve indicates the Hennepin County 2015 Pretrial Scale improves the ability

to predict who will fail during the pretrial window over chance significantly. The AUC *diff* statistic indicates there is no significant difference between how the pretrial scale predicts failure for people of color compared to White defendants.

Table 19. Racial Differences in Risk Level on the Hennepin County 2015 Pretrial Scale

Risk Level	Score	People of Color				White			
		Total		Any Pretrial Failure		Total		Any Pretrial Failure	
		N	%	N	%	N	%	N	%
Low	0-11	1,186	32.4	221	18.6	836	48.3	178	21.3
Moderate	12-25	1,244	33.9	342	27.5	539	31.1	130	34.1
High	26+	1,235	33.7	416	33.7	357	20.6	134	37.5
Base Rate		26.7%				25.5%			
Chi Square		70.59, p=.000				35.53, p=.000			
AUC - ROC		.593, p=.000				.573, p=.000			
Pearson's r		.12, p=.000				.12, p=.000			

AUC *diff* = -.020, p=.151

Gender Analysis

Slightly over 17% of the women ranked in the sample are high-risk (17.4%). The biggest category of women are low-risk (49.8%) with the final grouping considered moderate-risk (32.8%) shown in Table 20 below. The failure rate for women indicates the pretrial scale does a good job of identifying those who will fail at the highest rate during the pretrial window. Low-risk females fail at 19.2%; women ranked as moderate-risk fail at 25.5% while 41.7% of the women who rank as high-risk commit a crime or fail to appear for a court appearance during pretrial. Interestingly, high-risk women fail pretrial at a higher rate than high-risk males.

Males split evenly among the three risk levels and the risk levels again are able to differentiate those defendants who will fail the least (low-risk fails at 20.0%), moderately (26.7%) and, at the highest level (33.5%).

The base rate of pretrial failure is similar between males (26.6%) and females (25.2%) and

the chi square statistic indicates the pretrial scale shows significant differences in risk levels for both males and females. For both women and men, the pretrial scale improves the prediction of risk significantly and the AUC *diff* shows there is no significant difference in how the scale predicts pretrial failure among those of different genders.

Table 20. Gender Differences in Risk Level on the Hennepin County 2015 Pretrial Scale

Risk Level	Score	Female				Male			
		Total		Any Pretrial Failure		Total		Any Pretrial Failure	
		N	%	N	%	N	%	N	%
Low	0-11	589	49.8	113	19.2	1,433	34.0	286	20.0
Moderate	12-25	388	32.8	99	25.5	1,395	33.1	373	26.7
High	26+	206	17.4	86	41.7	1,386	32.9	464	33.5
Base Rate		25.2%				26.6%			
Chi Square		41.26, p=.000				65.89, p=.000			
AUC - ROC		.606 p=.000				.583, p=.000			
Pearson's r		.16, p=.000				.11, p=.000			

AUC *diff* = .023, p = .147

Summary

The Fourth Judicial District of Minnesota has a long history of using an objective method of making pretrial release decisions. The newest pretrial scale will be the fifth validated tool actively used by the members of the bench in this district. This new Hennepin County 2015 Pretrial Scale, which builds upon the 2007 scale, improves the predictive ability of the decision to release a defendant pretrial significantly. All of the elements help to predict the outcome variables, pretrial failure to appear, pretrial conviction or pretrial violent convictions.

Countywide, Hennepin has significantly increased the jail release decisions based on a validated risk scale. Not only are the most serious offenses assessed for risk using the Hennepin County 2015 Pretrial Scale as they have been since 1980, but also assessment of low-level offenders released directly from the jail uses a different validated tool (SPI-R). This second tool, developed by DOCCR and validated for pretrial failure, allows low-risk defendants release outright, without bail. Those remaining defendants who are high-risk on the SPI-R but whose offense is not serious enough to go to the Pretrial Unit will face their release decision at their first

court appearance. The judge at this appearance may assign bail, or may release the defendant on non-monitored conditions or outright.

This revalidation of the Hennepin County 2015 Pretrial Scale indicates the changes made to the tool have improved the predictive ability over the 2007 tool. In addition, the tool predicts those defendants who will commit violent pretrial crime well, making it even more helpful to the judges and Pretrial Agents making the release decision. Finally, under the policies and use of the 2015 scale, all serious offenders funnel through the Pretrial Unit to afford systematic and reliable risk information prior to release.

An additional finding in this report is pretrial failure rates are lower in 2017 than reported in 2015. The reduction in failure to appear may be because of a districtwide project to remind defendants electronically of their court appearances through texts and emails. The eReminder project shows when defendants successfully receive a reminder, failure to appear has reduced by 30%. Additionally, the reduction in pretrial crime could be due to the district's reduction in the length of time between filing and disposition. Allowing for less time pre-disposition shortens the pretrial window, and thus, there is less opportunity for pretrial crime.

The 2015 tool is also race and gender neutral, showing similar rates of failure for each risk level across categories of race and gender. The AUC-diff statistic indicates the Hennepin County 2015 Pretrial Scale does a similar job of predicting risk regardless of race or gender. Moreover, since all the elements on the tool related to either pretrial failure to appear or pretrial convictions, there was no need to do additional testing for race bias¹⁹.

Reviewing how the Hennepin County 2015 Pretrial Scale does for a limited type of defendants matching MN Statute 629.74 shows the scale works well for the types of offenses most likely used by the statewide implementation of the MNPAT. In addition, reviewing the data on urban areas versus suburban areas indicates the models hold up well for both types of communities. The State Court will have to validate the tool for the various demographic areas of the state, many of which Hennepin County data cannot test.

Finally, the work of the Pretrial Unit increased under the policies and changes to the pretrial scale in 2015. More cases, specifically misdemeanor domestic assault and gross misdemeanor DWI defendants, now go through the Hennepin County 2015 Pretrial Scale. This allows the county to have full risk knowledge of these cases prior to a release decision. Internal consistency training of agents should continue on a regular quarterly schedule or more often if new hires join the Pretrial Unit.

A new validation of this scale should occur within the next five to seven years (2023-2025) after extensive review of current literature.

¹⁹ If an element on the scale is unrelated to pretrial failure (either new crime or failure to appear), then additional testing is necessary to determine if the element is related to gender or race. Elements unrelated to pretrial failure probably do not belong on the scale, but may stay on the scale for convenience sake, if and only if, they do not adversely affect one group over another group.

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Appendix A: Hennepin County 2015 Pretrial Scale

TYPE	WEIGHT	ITEM
Charged Current Offense Information (Select One)	+12	Presumptive Commit Felony Offenses on the Judicial Review list *
	+9	Presumptive Probation Felony Offenses on Judicial Review list *
	+6	Gross Misdemeanor person-related offenses on Judicial Review *
	+6	Felonies and misdemeanor person-related not on the Judicial Review list
	+3	Gross misdemeanor DWI
Personal Risk Factors Of Defendant (Answer Each)	+3	Employed less than 20 hours per week, not a full time student, not receiving public assistance/other, not a pensioner or not a financially supported homemaker (if yes) **
	+1	Homeless or 3 or more addresses during the past 12 months or moved around between friends and shelters (if yes) ***
	+1	Current Problematic Chemical Use (if yes)****
	+1	Age at first Felony delinquency adjudication or any adult Conviction (at or after 14 years old and before the age of 26)
Prior History Prior Conviction Information (Answer Each) -- And -- Prior Bench Warrants for failure to appear (Select one)	+9 for each	Prior felony level <i>person</i> convictions
	+6 for each	Prior non-felony level <i>person</i> convictions
	+2 for each	Prior other felony convictions
	+1 for each	Other non-felony level convictions (EXCLUDE traffic offenses that do not involve alcohol/drugs)
	+6 if 1-2 Warrants	Prior warrants for failure to appear or conditional release violations within last three years (if at least one FTA, select)
	+9 if 3 or more Warrants	

* Cases with these charge offenses need review by a judge and Pretrial cannot release regardless of total score on this scale.

**A pensioner is a person who is retired and receiving Social Security or a pension – it includes disability pensioners. A supported homemaker includes an individual who chooses to remain home to care for family members or attend to all things domestic with another income in the home for support. A defendant with a combination of 20 hours or more of work and/or school would not receive these points.

***The Hennepin Risk and Needs Triage tools defines this indicator as ‘Count as homeless if the individual tended not to have a steady address or moved around between friends, family and/or shelters – do not include address changes due to incarceration, residential placement, hospitalization, job relocation or military service’.

**** As indicated by one or more of the following in the last 12 months: official records of prior convictions for substance use, self-report or collateral reporting of past Chemical Dependency treatments, self-report or collateral reporting of marital or family problems, self-report or collateral reporting of school or work disruptions.

Appendix B: Current Offense Point Distribution on Charged Offense

12 Points – Judicial Review Required

Offense Name	Statute
Adulteration Resulting in Death	609.687S3(1)
Aggravated Robbery – 1 st Degree	609.245S1
Aiding an Offender (for 12 pt. offenses)	609.495
Arson - 1 st Degree	609.561
Assault - 1 st Degree	609.221
Assault - 2 nd Degree	609.222
Assault of Unborn Child - 1 st Degree	609.267
Burglary – 1 st Degree	609.582S1
Certain Persons Not to Possess Firearms	624.713
Controlled Substance - 1 st Degree	152.021
Controlled Substance - 2 nd Degree	152.022
Crime Committed for Benefit of Gang (if crime committed is felony)	609.229S3
Criminal Abuse of Vulnerable Adult (death or great bodily harm)	609.2325S3(a)(1 & 2)
Criminal Neglect of Vulnerable Adult (deprivation resulting in great bodily harm)	609.233S3(1)
Criminal Sexual Conduct - 1 st Degree	609.342
Criminal Sexual Conduct - 2 nd Degree (force, weapon, injury, accomplice, victim impairment, sig. relationship + mult. acts)	609.343S1(c,d,e,f,h)
Criminal Sexual Conduct - 3 rd Degree (force, victim impairment, professional relationship with victim, sig. relationship + injury/mult. acts)	609.344S1(c,d,g-o)
Criminal Vehicular Homicide	609.2112
Criminal Vehicular Operation (death of unborn child)	609.2214S1
Death of Unborn Child in Committing Crime	609.268S1
Drive-By Shooting (toward person, occupied building/vehicle)	609.66S1e(b)
Engage/Hire a Minor in Prostitution (under 13)	609.324S1(a)
Escape from Felony Custody (use of violence)	609.485S4(b)
Failure to Register as a Predatory Offender	243.166
Fleeing Peace Officer (death)	609.487S4(a)
Identity Theft	609.527S3(5)

Kidnapping (great bodily harm, unsafe release, victim under 16)	609.25S2(2)
Malicious Punishment of Child (great bodily harm)	609.377S6
Manslaughter - 1 st Degree	609.20
Manslaughter - 2 nd Degree (culpable negligence, child neglect or endangerment)	609.205(1, 5)
Manslaughter of Unborn Child - 1 st Degree	609.2664
Manslaughter of Unborn Child - 2 nd Degree (culpable negligence)	609.2665(1)
Murder - 1 st Degree	609.185
Murder - 2 nd Degree	609.19
Murder - 3 rd Degree	609.195
Murder of Unborn Child - 1 st Degree	609.2661
Murder of Unborn Child - 2 nd Degree	609.2662
Murder of Unborn Child - 3 rd Degree	609.2663
Riot - 1 st Degree	609.71S1
Solicitation, Inducement, and Promotion of Prostitution (or Profit from); Sex Trafficking	609.322S1
Use of Weapon	609.11
Witness Tampering - 1 st Degree Aggravated	609.498S1b

9 Points – Judicial Review Required

Offense Name	Statute
Aggravated Robbery – 2 nd Degree	609.245S2
Aiding an Offender (for 9 pt. offenses)	609.495
Assault - 3 rd Degree	609.223
Assault - 5 th Degree (felony)	609.224S4
Assault of Unborn Child - 2 nd Degree	609.2671
Burglary - 2 nd Degree	609.582S2
Crime Committed for Benefit of Gang (if crime committed is gross misdemeanor)	609.229S3(c)
Criminal Abuse of Vulnerable Adult (substantial bodily harm)	609.2325S3(a)(3)
Criminal Neglect of Vulnerable Adult (deprivation resulting in substantial bodily harm)	609.233S3(2)
Criminal Sexual Conduct - 2 nd Degree (under 13 & age diff.; 13-16 & age diff. + authority; under 16 & sig. relationship)	609.343S1(a,b,g)
Criminal Sexual Conduct - 3 rd Degree (13-16 & age diff.; 16-18 & age diff.+ authority; 16-18 & sig. relationship)	609.344S1(b,e,f)
Criminal Sexual Conduct - 4 th Degree	609.345

Criminal Sexual Conduct - 5 th Degree (enhance felony)	609.3451
Criminal Vehicular Operation	609.2113 or 609.2214
Dangerous Weapons (silencer, discharge, furnishing, possession school property)	609.66S1a,b,c,d(a)
Domestic Assault by Strangulation	609.2247
Drive-By Shooting (toward unoccupied building/vehicle)	609.66S1e(a)
DWI - 1 st Degree	169A.24
DWI Refusal – 1 st Degree	169A.20S2
Engage/Hire a Minor in Prostitution (13-18)	609.324S1(b, c)
Escape from Custody	609.485S4(a)
False Imprisonment (substantial bodily harm)	609.255S3(c)
Felony Domestic Assault	609.2242
Fleeing Peace Officer (great bodily harm)	609.487S4(b)
Harassment; Restraining Order (felony)	609.748
Injury of Unborn Child in Committing Crime	609.268S2
Kidnapping-(safe release/no harm)	609.25S2(1)
Machine Guns and Short-Barreled Shotguns	609.67
Malicious Punishment of Child (felony, not great bodily harm)	609.377S(3,4,5)
Possession/Dissemination of Child Pornography	617.247
Riot - 2 nd Degree	609.71S2
Simple Robbery	609.24
Solicitation of Children to Engage in Sexual Conduct; Communication of Sexually Explicit Materials to Children	609.352
Stalking (felony)	609.749
Suicide-Assisting	609.215.1
Terroristic Threats	609.713
Violation DANCO (felony)	629.75
Violation of Order for Protection (felony)	518B.01S14
Witness Tampering - 1 st Degree	609.498S1a

6 Points – Judicial Review Required

Offense Name	Statute
Domestic Assault (gross misdemeanor)	609.2242S2

Harassment; Restraining Order (gross misdemeanor)	609.748S6(c)
Possess Ammo/Any Firearm – Subject to an Order for Protection (gross misdemeanor)	624.713.1(13)
Stalking (non-felony)	609.749
Violation DANCO (gross misdemeanor)	629.75S2(c)
Violation of Order for Protection (gross misdemeanor)	518B.01S14(c)
Witness Tampering (gross misdemeanor)	609.498S2

6 Points – No Judicial Review Required

Offense Name	Statute
Adulteration (not resulting in death)	609.687S3(2,3)
Aiding an offender (for 6 pt. offenses)	609.495
Animal Fighting	343.31
Arson – 2 nd Degree	609.562
Arson – 3 rd Degree	609.563
Assault - 4 th Degree	609.2231
Assault - 5 th Degree (non-felony)	609.224
Assault of Unborn Child - 3 rd Degree	609.2672
Burglary – 3 rd Degree	609.582S3
Carry Pistol Without a Permit	624.714
Carry BB Gun/Rifle/Shotgun in Public	624.7181S2
Check Forgery; Offering a Forged Check	609.631
Contraband Forbidden; Introduce contraband or weapon into facility	641.165
Controlled Substance Crime - 3 rd Degree	152.023
Controlled Substance Crime - 4 th Degree	152.024
Controlled Substance Crime - 5 th Degree (felony)	152.025
Criminal Abuse of Vulnerable Adult (non-felony)	609.2325S3(a)(4) or S3(b)
Criminal Neglect of Vulnerable Adult (non-felony)	609.233S1
Criminal Sexual Conduct - 5 th Degree (non-felony)	609.3451S2
Damage to Property	609.595
Dangerous Weapons (non-felony)	609.66S1, 1d(b)(c)(d)
Depriving Another of Custodial or Parental Rights	609.26S6(a)

Disarming a Peace Officer	609.504
Domestic Assault (misdemeanor)	609.2242S1
False Imprisonment(restraint of child or demonstrable bodily harm)	609.255S2 or S3(a) and (b)
Financial Transaction Card Fraud	609.821
Firearms; Removal or Alteration of Serial Number	609.667
Fleeing Peace Officer (substantial bodily harm or no injury)	609.487S3 and S4(c)
Harassment; Restraining Order (misdemeanor)	609.748S6(b)
Identity Theft	609.527S3(3), 3(4) and S5a,b
Indecent Exposure	617.23
Interference with Emergency 911 Call	609.78
Interference with Privacy (peeping)	609.746
Malicious Punishment of a Child (non-felony)	609.377S2
Neglect or Endangerment of a Child	609.378
Nonconsensual Dissemination of Private Sexual Images	617.261
Possession of Burglary or Theft Tools	609.59
Possession or Sale of Stolen or Counterfeit Check	609.528
Receiving Stolen Property	609.53
Riot – 3 rd Degree (non-felony)	609.71S3
Theft (felony only)	609.52
Theft from Person	609.52S3(i)
Torture or Cruelty to Pet or Companion Animal	343.21
Violation DANCO (misdemeanor)	629.75S2(b)
Violation of Order for Protection (misdemeanor)	518B.01S14(b)
Witness Tampering (misdemeanor)	609.498S2a

3 Points – No Judicial Review Required

Offense Name	Statute
Criminal Vehicular Operation (gross misdemeanor)	609.2113 or 609.2114
DWI - 2 nd Degree	169A.25
DWI - 3 rd Degree	169A.26
DWI Refusal – 2 nd or 3 rd Degree	169A.20S2

For all felonies not listed:

- Review all charges on the case for which you are completing the bail evaluation. Determine the charge with the highest severity level assigned by the Minnesota Sentencing Guidelines and score using the below criteria:
 - 12 points and judicial review required if the severity level is 8 or above or an A, B or C;
 - 6 points and no judicial review required if the severity level is 7 or less or a D through G.
- Should count one, or any other counts be unranked, score the case based on the count with the highest severity level. If there is only one count charged for the case and that it is an unranked offense, assign it 6 points non-judicial review.

For all misdemeanor and gross misdemeanors not listed:

- Review all charges on the case for which you are completing the bail evaluation. Should all charges be at the misdemeanor and/or gross misdemeanor level and not listed above assign zero point with required judicial review.

Appendix C: Bail Evaluation Form with Pretrial Scale (shaded)*

Hennepin County 3311 (12/17) PD Eligible: Yes No Declined Interpreter Needed: Yes No Language: _____

HENNEPIN COUNTY PRETRIAL EVALUATION

Screen Date: «Short_Date»	Div.	SILS # «C_SILSID»	Case # «CC_MNCIS_Num»	SID/FBI # «SID_Num» / «FBI_Num»				
Name (Last) «C_Lname»		(First) «C_Fname»		(Middle) «C_Mname»		DOB «C_DOB»	Age «C_Age»	
Street Address «MailAdd_Line1»		Verified? <input type="checkbox"/> Yes <input type="checkbox"/> No	Apt # «MailAdd_Line2»	City «MailAdd_City»	State «MailAdd_S T»	ZIP «MailAdd_Zi p»	Duration	
Telephone # «C_Phone»		email «Email»	Most Recent Prior Address				Duration	
Military Service: <input type="checkbox"/> Yes <input type="checkbox"/> No		Aliases:				Marital Status:	# Kids:	# Dep:
Arrest Type:	Bail:	Main Charge: «Case_Offense_Code_Statute_Ordinance» «OffenseLvl» «CC_Descr»					Points Assigned	
		Other Charges:						
Employment/Income Sources/School Status						Amount: \$	Choose an item.	
Current Problematic Chemical Use							Choose an item.	
Homeless or 3 or More Addresses in the Past Year							Choose an item.	
Age at First Adult Conviction/Felony Delinquency Adjudication							Choose an item.	
Criminal History Points								
Bench Warrant Points							Choose an item.	
Holds/Type:	<input type="checkbox"/> Complaint <input type="checkbox"/> Police Report:					Scale Score ➡		
Collateral/Relationship:		Collateral Comments:				Pretrial Score Lower = 0-11 points Moderate = 12-25 points Higher = 26 or more points		
Address/Phone #								
Victim Name/Relationship:		Victim Comments:						
Address/Phone #								
Current Monitoring Status <input type="checkbox"/> Conditional Release <input type="checkbox"/> Probation <input type="checkbox"/> Parole:								
Case/County: «Sup_Cnty» Start Date: Expiration Date: P.O. Name/Phone #: «Agt_Fname» «Agt_Lname» «Agt_Phone»								
Pending Cases:								
Probation Officer Comments/Observations (include mental health concerns and other relevant information used to assess the defendant):								
PO Action: Choose an item.			Judicial Review/Probation Override: Choose an item.					
Systems Checked <input type="checkbox"/> CSTS <input type="checkbox"/> CIS <input type="checkbox"/> MNCIS/MGA <input type="checkbox"/> BCA <input type="checkbox"/> DL <input type="checkbox"/> S3 <input type="checkbox"/> GLWS <input type="checkbox"/> JMS						P.O.		

Appendix D. Matrix of Relationships between Independent Elements and Outcome Variables

Correlations with Dependent Variables and Between Independent Variables

		Minimal Employment Hours	Homeless or Multiple Addresses	Substance Abuse	Offenses Young Age	Total Prior CH Score
Homeless Multiple Addresses	Pearson R Sig. (1-tailed)	.188** .000	1			
Substance Abuse	Pearson R Sig. (1-tailed)	.141** .000	.145** .000	1		
Offenses Young Age	Pearson R Sig. (1-tailed)	.181** .000	.123** .000	.107** .000	1	
Total Prior CH Score	Pearson R Sig. (1-tailed)	.109** .000	.134** .000	.142** .000	.333** .000	1
Pretrial Failure FTA with BW	Pearson R Sig. (1-tailed)	.161** .000	.124** .000	.096** .000	.113** .000	.089** .000
Either Pretrial Failure	Pearson R Sig. (1-tailed)	.114** .000	.085** .000	.063** .000	.115** .000	.079** .000
Pretrial Failure – Conviction(s)	Pearson R Sig. (1-tailed)	.038** .003	.005 .348	.013 .168	.068** .000	.040** .002

** . Correlation is significant at the 0.01 level (1-tailed).

**Memorandum of Understanding Between the Fourth Judicial District and the Department of
Community Corrections and Rehabilitation
Regarding the Ordering and Management of Conditional Release
8/3/15**

Purpose of the Memorandum of Understanding

The purpose of this document is to provide information to all conditional release (CR) partners regarding mutually agreeable principles and practices of CR supervision.

Background

This renewed examination of the CR function was prompted by the issues below:

First, there is a need to clarify the diverse perspectives regarding the CR function among the various partners, and this document will serve to unify those into an agreed upon set of principles and practices that best meet the needs of all involved. This should serve to enhance the working partnerships between all groups devoted to effective management of these cases.

Second, CR staff are in need of clear guidance to aid them in their work. This document is intended to establish criteria for placing clients onto CR and to provide probation officers with information they need to manage these cases in accordance with expectations of all partners.

Finally, probation resources devoted to conditional release are limited. Reserving CR for clients who 1) need this level of supervision; and, 2) are reasonably likely to be compliant, will help maintain optimal caseload sizes. A manageable caseload will increase the effectiveness of CR supervision.

Goals of Conditional Release

The goals of CR supervision are twofold: to increase the likelihood of a defendant's appearance in court and to reduce the likelihood of pretrial crime.

Not all defendants are good candidates for CR supervision. Defendants having no significant criminal history charged with a less serious offense may not need CR supervision to reasonably ensure appearance or to reduce the risk of pretrial crime. These defendants should be released without conditions. On the other end of the spectrum, chronic offenders or defendants with a significant history of probation or parole failures charged with a serious offense are unlikely to comply with the conditions of CR supervision. In such cases, bail should be set without nonmonetary conditions or without nonmonetary conditions requiring CR supervision (see page 2).

Defendants referred for CR supervision are presumed innocent. Their cases may end without convictions. Accordingly, extensive programming as a condition of CR supervision is generally unwarranted. Such programming should be reserved for post-adjudication probation. It must also be understood that because CR supervision is typically limited to reporting violations to the court, CR supervision will not be as effective as active probation in reducing the risk of future criminal behavior.

Roles

The judges' role is to order the type of conditions and to reinforce the conditions of release at every appearance. In addition to ordering any specific conditions of supervision, judges should specify that the defendant comply with the level of supervision established by the supervising conditional release probation officer.

Probation officers are expected to assess client risk, monitor and adjust conditions of release, and report to the court as needed. In general, agents will not complete a comprehensive background investigation on defendants referred to them for this form of pretrial supervision. The focus will be on that information necessary to understand the defendant's risk for failure to appear and/or to commit further offenses during this supervision episode, and will be narrow in scope. It is anticipated that more extensive assessment will be completed when further reports are ordered by the court, such as presentence or pre-plea investigations.

Probation Practices

When a judge orders a defendant to *maintain contact with probation*, the supervising officer will determine the specific supervision level based on a limited assessment of risk. Typically, the probation officer will use the bail evaluation information and score, along with a review of the nature of the offense and other information as appropriate, to determine the level of supervision for a given defendant.

When a judge orders *no use of alcohol or non-prescribed mood altering substances*, the probation officer will conduct a limited assessment of the defendant's chemical health, based primarily on a review of the bail evaluation and a clinical discussion with the client. Based on this assessment, the probation officer may direct the client to:

- submit to random urinalysis or breathalyzer tests pursuant to Conditional Release protocol;
- submit to electronic alcohol monitoring (court approval required);
- complete a chemical health assessment and follow all recommendations (court approval required).

If, in the supervising officer's opinion, the client does not appear to have a significant chemical health issue as determined by their limited assessment or through receipt of negative test results for drugs or alcohol, the officer may reduce or eliminate testing at their sole discretion.

Conditional Release to the Court

The Court, within its discretion, may choose to place a client on CR supervision to the Court by ordering certain conditions that do not require monitoring by a probation officer.

Probation is not expected to supervise defendants who are placed on conditional release to the Court. If a probation officer becomes aware of a violation on such a case, the probation officer will contact the prosecutor to report the information; the probation officer may also choose to issue a 36-hour hold as permitted by law.

Probation officers are not expected to issue violation reports or otherwise become formally involved in management of these cases.

The Court should limit CR supervision to conditions that require supervision in order to enforce. The following conditions, by themselves, **do not** require active supervision:

- no contact with a victim or location
- remain law abiding

- comply with an established curfew
- geographic restrictions
- no possession or use of weapons

The above conditions will only be actively monitored by a probation officer if conditions requiring CR supervision are also imposed. Otherwise, the client is considered to be on CR to the Court.

Managing Violations

Probation officers will take appropriate actions when violations occur on those cases they are actively supervising. In the event of a violation, agents will use the least restrictive method to gain the clients compliance and/or return the case to Court for further action. Probation officers will use a summons to bring clients back to court, unless one or more of the following is true:

- the client's whereabouts are unknown;
- a letter sent to the client's last known address was returned as undeliverable, in which case the client would be unlikely to respond to a summons;
- the client poses an imminent threat to victim or public safety.

Probation officers have the discretion to informally manage violations that, in the officer's informed opinion, do not pose an imminent risk to victim or public safety. Probation officers may also contact the judge directly and inform her or him of the violation and possible resolutions. Judges may direct that a client be taken into custody or a warrant otherwise issued, or may simply note the information for further consideration at the client's next court appearance.

It is further agreed that if the Court orders that a defendant be placed back onto CR following a violation hearing, a new CR order must be completed, signed by the judge, and forwarded to the appropriate probation office. Otherwise, no further supervision will occur.

Limits of Use

Given that this type of supervision is intended for pre-adjudicated defendants, CR should not be ordered for clients who have already been sentenced or who are participating in processes that take them outside direct participation in the criminal prosecution process, such as an ongoing Rule 20 evaluation or participation in Civil Mental Health Court. In addition, clients placed on CR should not be required to complete Sentence to Service hours or other interventions, such as Cognitive Behavioral Programming, that are typically reserved for adjudicated clients and are inappropriate for pretrial clients.

Appendix F: Classification of Out of State PERSON Convictions

PERSON RELATED CONVICTIONS

Disclaimer: This list has been revised at the request of the Hennepin County District Court for use in evaluating whether out-of-state convictions should be considered “person offenses.” Other crimes significantly impacting public safety have been omitted because they are not “person” offenses and it is assumed that they are addressed elsewhere in the criteria (e.g. First and Second Degree Controlled Substance Crimes, Felon in Possession, and other offenses related to dangerous weapons).

ORDERS FOR PROTECTION

518B.01 VIOLATE ORDER FOR PROTECTION (Subd. 14)

HOMICIDE AND SUICIDE

609.185 MURDER IN THE FIRST DEGREE.
609.19 MURDER IN THE SECOND DEGREE.
609.195 MURDER IN THE THIRD DEGREE.
609.20 MANSLAUGHTER IN THE FIRST DEGREE.
609.205 MANSLAUGHTER IN THE SECOND DEGREE
609.2112 CRIMINAL VEHICULAR HOMICIDE.
609.2113 CRIMINAL VEHICULAR OPERATION; BODILY HARM.
609.2114 CRIMINAL VEHICULAR OPERATION; UNBORN CHILD.
609.215 SUICIDE.

CRIMES AGAINST THE PERSON

609.221 ASSAULT IN THE FIRST DEGREE.
609.222 ASSAULT IN THE SECOND DEGREE.
609.223 ASSAULT IN THE THIRD DEGREE.
609.2231 ASSAULT IN THE FOURTH DEGREE.
609.224 ASSAULT IN THE FIFTH DEGREE.
609.2241 KNOWING TRANSFER OF COMMUNICABLE DISEASE
609.2242 DOMESTIC ASSAULT.
609.2245 FEMALE GENITAL MUTILATION
609.2247 DOMESTIC ASSAULT BY STRANGULATION.
609.226 HARM CAUSED BY DOG.
609.228 GREAT BODILY HARM CAUSED BY DISTRIBUTION OF DRUGS
609.23 MISTREATMENT OF PERSONS CONFINED.
609.231 MISTREATMENT OF RESIDENTS OR PATIENTS.

609.2325 CRIMINAL ABUSE.
609.233 CRIMINAL NEGLECT.
609.235 USE OF DRUGS TO INJURE OR FACILITATE CRIME.
609.24 SIMPLE ROBBERY.
609.245 AGGRAVATED ROBBERY.
609.25 KIDNAPPING.
609.255 FALSE IMPRISONMENT.
609.26 DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS

CRIMES AGAINST UNBORN CHILDREN

609.2661 MURDER OF UNBORN CHILD IN THE FIRST DEGREE.
609.2662 MURDER OF UNBORN CHILD IN THE SECOND DEGREE.
609.2663 MURDER OF UNBORN CHILD IN THE THIRD DEGREE.
609.2664 MANSLAUGHTER OF UNBORN CHILD IN THE FIRST DEGREE.
609.2665 MANSLAUGHTER OF UNBORN CHILD IN THE SECOND DEGREE.
609.267 ASSAULT OF UNBORN CHILD IN THE FIRST DEGREE.
609.2671 ASSAULT OF UNBORN CHILD IN THE SECOND DEGREE.
609.2672 ASSAULT OF UNBORN CHILD IN THE THIRD DEGREE.
609.268 INJURY OR DEATH OF UNBORN CHILD IN COMMISSION OF CRIME.

CRIMES OF COMPULSION

609.27 COERCION.

LABOR TRAFFICKING

609.282 LABOR TRAFFICKING.

SEX CRIMES

609.322 SOLICITATION, INDUCEMENT, AND PROMOTION OF PROSTITUTION; SEX TRAFFICKING.
609.342 CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.
609.343 CRIMINAL SEXUAL CONDUCT IN THE SECOND DEGREE.
609.344 CRIMINAL SEXUAL CONDUCT IN THE THIRD DEGREE.
609.345 CRIMINAL SEXUAL CONDUCT IN THE FOURTH DEGREE.
609.3451 CRIMINAL SEXUAL CONDUCT IN THE FIFTH DEGREE
609.3453 CRIMINAL SEXUAL PREDATORY CONDUCT.
609.352 SOLICITATION OF CHILDREN TO ENGAGE IN SEXUAL CONDUCT;
COMMUNICATION OF SEXUALLY EXPLICIT MATERIALS TO CHILDREN.

CRIMES AGAINST THE FAMILY

609.377 MALICIOUS PUNISHMENT OF CHILD.
609.378 NEGLECT OR ENDANGERMENT OF CHILD.

CRIMES AGAINST THE ADMINISTRATION OF JUSTICE

- 609.485 ESCAPE FROM CUSTODY (If Subd. 4(b)).
- 609.487 FLEEING PEACE OFFICER; MOTOR VEHICLE (Death or injury Subd. 4)
- 609.498 TAMPERING WITH WITNESS.
- 609.50 OBSTRUCTING LEGAL PROCESS, ARREST, OR FIREFIGHTING.
- 609.504 DISARMING PEACE OFFICER.

THEFT

- 609.52 THEFT (From Person under Subd. 3(d)(i)).

DAMAGE TO PROPERTY

- 609.561 ARSON IN THE FIRST DEGREE.
- 609.582 BURGLARY (First Degree under Subd. 1).

PUBLIC MISCONDUCT

- 609.687 ADULTERATION.
- 609.71 RIOT.
- 609.713 TERRORISTIC THREATS.
- 609.714 CRIMES COMMITTED IN FURTHERANCE OF TERRORISM.
- 609.746 INTERFERENCE WITH PRIVACY.
- 609.748 HARASSMENT; RESTRAINING ORDER.
- 609.749 STALKING

COMMUNICATIONS

- 609.776 INTERFERENCE WITH EMERGENCY COMMUNICATIONS.
- 609.79 OBSCENE OR HARASSING TELEPHONE CALLS.

TRANSIT

- 609.855 TRANSIT CRIMES; SHOOTING AT TRANSIT VEHICLE (Subds 2 &5)
- 609.857 DISCHARGING A LASER AT AN AIRCRAFT.

RACKETEERING

- 609.903 RACKETEERING.

INDECENT EXPOSURE

- 617.23 INDECENT EXPOSURE.

Appendix G: Bail Evaluation Process

 <p>HENNEPIN COUNTY AFS - Pretrial Unit</p>	<h3>CHAPTER: Bail Evaluation Process</h3> <h4><u>Field Training Lesson</u> – Completing the Bail Evaluation Process</h4> <p>Revised 10/1/17</p>
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LESSON DESCRIPTION:

This lesson plan addresses the completion and scoring of the Bail Evaluation, making recommendations and release decisions.

Scoring:

- Present Offense/Main Charge Requiring Judicial Review

All felony offenses on Judicial Review List	+9 or +12
GM person offenses on Judicial Review List	+6

If the present offense/main charge or any of the other present charged offenses appear on the Judicial Review List, 6, 9 or 12 points will be assigned depending on the specific statute and subdivision and the matter must be reviewed by the Court. This variable is not cumulatively weighed. Even though more than one of the present booking offenses may appear on the Judicial Review List, not more than 12 points will be assigned. Pre-Trial does not have release authority on any Judicial Review offenses. However, if appropriate, release may be recommended from court.

- Present Offense/Main Charge Not Requiring Judicial Review

Other felony offenses not on Judicial Review List	+6
Gross misdemeanor/DWI	+3

In scoring this variable, 6 points will be assigned if the present offense/main charge is felony level, is not on the Judicial Review List and the severity level is 7 or less, or a D through H (**see below for how to determine the severity level for an offense). If the severity level for any of the charges is unranked, score based on the charge with the highest severity level. Should you determine there's only one count charged for the case and that it's an unranked offense, judicial review is not required and 6 points should be assigned. If the present offense/main charge is a gross misdemeanor or DWI not appearing on the Judicial Review List, 3 points will be assigned. Pre-Trial does have release authority on these offenses.

**Please note that if the present offense/main charge is a felony and you do not locate the specific statute and subdivision on the Judicial Review List, you will need to determine the

severity level of the offense assigned by the Minnesota Sentencing Guidelines to determine how many points to assign and whether the offense requires judicial review. In order to do this, locate the exact statute and subdivision for each charge on the severity level cheat sheet located on Sharepoint. If the severity level assigned for the offense is 8 or above, or an A, B or C, judicial review is required and 12 points should be assigned. If the severity level assigned for the offense is 7 or less or a D through H, judicial review is not required and 6 points should be assigned. Should count one, or any other counts be unranked, score based on the count with the highest severity level. Should you determine there's only one count charged for the case and that it's an unranked offense, judicial review is not required and 6 points should be assigned.

When assigning points and determining whether judicial review is required for the main charge, pay special attention to situations where the client has been charged with multiple counts to ensure you're basing your decisions on the most severe offense. You cannot assume count one will be the most severe charge. Unless count one is on the 12 point Judicial Review List, review all counts to ensure you're assigning points and determining whether judicial review is required for the most severe offense.

3. Living Situation

Homeless, 3 or more addresses or moved around between friends and shelters during the past 12 months. +1

Other factors to consider: A point is assigned if the client has been living in a temporary situation such as a homeless shelter, detox center or crisis unit. If the client lives in a longer term residential setting such as a CD treatment facility, residential treatment center or group home, then the setting is to be considered the client's current, permanent address.

**The Hennepin Risk And Needs Triage(RANT) tools defines this indicator as 'count as homeless if the individual tended not to have a steady address or moved around between friends, family and/or shelters – do not include address changes due to incarceration, residential placement, hospitalization, job relocation or military service'.

4. Employment/Income

Three (3) points are assigned under the following circumstances:

- Employed less than 20 hours per week
- Unemployed or attending school less than 20 hours per week
- Part-time employment hours in addition to part-time schooling hours total less than 20 per week
- Not receiving public assistance/other entitlements
(*Food Stamps / Medical Assistance should not be counted as income*)

Zero (0) points are assigned under the following circumstances:

- *Employed 20 hours or more per week*
 - *Note the length of time employed plus hourly/ monthly compensation*
- *Attending school 20 hours or more per week*
 - *Note the length of time the client has attended school, the amount of credits they're currently taking and the amount of hours attending*
- *Part-time employment hours in addition to part-time schooling hours totals more than 20 hours per week.*

- *Follow the criteria above for noting the details of both their employment and schooling*
- Receiving public assistance/other entitlements
(*Food Stamps / Medical Assistance should not be counted as income*)
- Pensioners (individuals who are retired and receiving social security or a pension should not be scored points. Pensioners also include those on a disability pension, such as physical, intellectual or psychiatric).
- Homemakers (a homemaker is an individual, male or female, who chooses to remain in the home to care for children, a relative or an elderly parent and/or attend to all things domestic. Only give credit for those “stay at home moms, dads and homemakers” that legitimately fulfill these requirements). Homemakers must be financially supported by another income source within the home.

In scoring this variable, three (3) points will be assigned if the client works less than 20 hours per week, is unemployed and attending school less than 20 hours a week, their employment and schooling combine to total less than 20 hours a week, the client does not receive any form of public assistance or other entitlements and is not a pensioner or homemaker. Conversely, zero (0) points are assigned if the client is working or in school 20 hours or more, or if their employment and schooling combine to total more than 20 hours, or if the client is the recipient of public assistance or other entitlements or is a pensioner or homemaker.

If the client has been receiving public assistance, assign zero (0) points even if he/she has been charged with Wrongfully Obtaining Public Assistance, as people often continue to receive assistance even after a conviction for fraud.

If the client has been a full-time student and is on quarter break or summer vacation and will be returning to school, he/she will be assigned zero (0) points.

Zero (0) points will be assigned if the client is self-employed as long as he/she is working at least 20 hours per week.

If the client is working less than 20 hours per week but attends school on a part-time basis, zero (0) points will be assigned as long as the hours from both employment and schooling total 20 or more.

5. Problematic Substance Use Criteria

One (1) point will be assigned if the client is identified as having a pattern of problematic substance use. Problematic is defined as a pattern of substance use leading to clinically significant impairment or distress within the past 12 months, such as seriously interfering with maintaining a prosocial lifestyle. When scoring this section, consider the client’s self-report, collateral information and available probation records.

When interviewing the client, first ask what chemicals they are currently using along with the frequency. If current use is denied, ask the chemicals and frequency of use within the past 12 months and document on the bail evaluation. If there has been no use and there is no evidence of the client meeting one of the four categories below within the past 12 months,

assign zero (0) points.

In order to assign one (1) point in this section, the client's substance use must have met at least one of the below categories within the past 12 months. Note which category/categories the client's use falls under on the bail evaluation, with relevant specifics for each category as appropriate (i.e. the client was terminated from employment six months ago due to use and left Park Avenue Treatment Center against staff advice five months ago).

- a) Law Violations - The substance use (or the possession, trafficking, importation) has resulted in a conviction specifically related to chemicals within the past 12 months (i.e., DWI, possession of drug paraphernalia, controlled substance offenses, etc.). Base this on the client's conviction history. Do not count offenses charged or sentenced as a petty misdemeanor.

This category will be determined after completing the criminal record check. For this category only, questioning of the client during the interview should not be required.

- b) Chemical Dependency Treatment – The substance use resulted in the client voluntarily entering treatment, resulted in a Rule 25 recommending treatment, or resulted in the client being court ordered to complete treatment within the past 12 months.

When interviewing the client or when speaking with the collateral contact, ask whether the client has voluntarily entered treatment or has been directed to enter treatment by a chemical health assessor or Judge within the past 12 months.

- c) Marital/Family – The substance use contributed to problems with marital or family situation, or if significant others have had complaints about the client's drinking or drug use within the past 12 months.

Please note: Should the client deny this category, but a collateral source (a friend, co-worker, family member or significant other) indicates their use has created problems with their marital or family situation within the past 12 months; this would qualify for scoring this category.

When interviewing the client or when speaking with the collateral contact, ask whether the client's significant other or any of their family members have expressed concerns about their chemical use within the past 12 months.

- d) School/Work – The substance use contributed to problems with school or employment within the past 12 months. Examples include having a hangover that prevented the client from going to school or work, being asked to leave school because of drug use, or losing employment because of intoxication. This can also include failing to secure employment due to a failed pre-employment drug screen or failing to seek employment because the client knows they won't pass pre-employment drug testing.

When interviewing the client or when speaking with the collateral contact, ask how their chemical use has impacted their schooling or employment situation within the past 12 months.

6. Age at First Conviction/Felony Adjudication

One (1) point will be assigned if the client has been adjudicated delinquent of a felony offense after their 14th birthday or convicted in adult court of a misdemeanor, gross misdemeanor or a felony offense before their 26th birthday.

When scoring this variable, gross misdemeanor, misdemeanor and petty misdemeanor juvenile adjudications should not be counted, only felonies. For adult convictions, any level offense, except petty misdemeanors, should be counted. Driving offenses should not be counted.

7. Prior Criminal Record

Felony/person convictions (see list of person-related convictions)	9 points each
Non-felony person convictions	6 points each
Other felony	2 points each
Other non-felony, excluding traffic offenses that do not involve alcohol or drugs	1 point each

FELONIES: If a client has one or more non-person felony convictions, he/she will receive 2 points for each conviction. For felony person convictions (see list of person related convictions), a client will receive 9 points for each conviction. If the client is convicted of multiple counts on one case, points will be assigned accordingly for each count they are convicted of (9 points for a crime against a person and 2 points for non-person crimes). Active EJJ cases should be counted while they are still on EJJ Probation in the same way that any other adult conviction is counted since these cases are considered a conviction (Adult stayed sentence along with a delinquency adjudication). If a juvenile ends up being revoked on an EJJ case, the adult criminal case will be counted in the adult conviction, but they should not both be counted. EJJ cases are counted only while they are under Court jurisdiction (on Probation) or in dormant status (on the run/warrant status). If they are revoked, they will be counted as an adult case.

GROSS MISDEMEANORS: Gross misdemeanor person convictions will receive 6 points for each conviction (see list of person related convictions), and each non-person gross misdemeanor conviction will receive 1 point. If the client is convicted of multiple counts on one case, points will be assigned accordingly for each count they are convicted of (6 points for a crime against a person and 1 point for non-person crimes).

MISDEMEANORS: If a client has one or more non-person related misdemeanor convictions, he/she will be assigned one 1 point each. Misdemeanor person convictions will receive a score of 6 points per offense (see list of person related convictions). If the client is convicted of multiple counts on one case, points will be assigned accordingly for each count they are convicted of (6 points for a crime against a person and 1 point for non-person crimes).

ALTERNATIVE DISPOSITIONS: Regardless of the offense level, cases which have received a Stay of Adjudication (SOA) are not assigned points. Points are only assigned once the SOA is revoked and a sentence is pronounced. Regardless of the offense level, DeNovo cases are not assigned points.

When a client pleads guilty to a felony or gross misdemeanor level offense and receives a Stay of Imposition (SOI) which is ultimately reduced to a misdemeanor offense upon successful completion of probation, this will be scored in the misdemeanor section. In parenthesis next to the offense, indicate “felony SOI” or “GM SOI” so the parties are aware that the conviction was reduced as a result of a stay of imposition.

OUT-OF-STATE CONVICTIONS: If an offender has convictions from outside Minnesota and that state’s offense classifications are different, the offenses should be classified by the sentence. For example, 90 days or less would be scored as a misdemeanor, 365 days or less would be a gross misdemeanor. Any offense with a sentence of one year and a day or more should be scored as a felony. If specific sentence information is unavailable, assign the conviction as a misdemeanor and score it as such.

Utilize the list of person related offenses to aid in your determination of whether the out of state conviction is comparable to one of Minnesota’s offenses considered to be person related. If so, score as such.

6.	<u>Failure to Appear in Court (including present offense)</u>	
	3 or more bench warrants	+9
	Failure to appear	
	within last three years (documented by 1-2 bench warrants)	+6
	No fail to appear history in the past three years	0

In scoring this variable, 6 points will be assigned if there are 1-2 bench warrants and 9 points will be assigned if there are 3 or more bench warrants within the last 3 years from the date of screening.

Bench warrants issued as a result of a summons are not to be counted. Bench warrants issued for failure to appear at the Adult Correctional Facility (workhouse) are not to be counted. Bench warrants that were quashed are not counted. Juvenile bench warrants are not counted. Bench warrants listed as “Recalled Inactive” must be looked up in MNCIS to determine whether or not to count them.

The following types of warrants are commonly listed in the Warrant History of the CISR report and should be scored as follows:

- Probation Warrant/A&Ds – Do not count these.
- Arrest, Complaint, Order for Detention – Do not count these.
- Bench Warrant- Fail to appear at a hearing
 - If the status is listed as “Warrant Cleared by Arrest,” count these
 - If the status is listed as “Served,” count these.
 - If the status is listed as “Quashed,” do not count these.
 - If the status is listed as “Return to HC” do not count these.
 - If the status is listed as “Recalled Inactive,” look the case up in MNCIS and follow the above noted protocol to determine eligibility.
 - If there’s a comment stating “Fail to abide by conditions of release,” do NOT count these (this indicates it’s a CR Revoke).

If the client was to appear in court on the same day for multiple cases and failed to appear, only 1 bench warrant should be counted. However, please indicate the date and the number of

cases the client did not appear for court. For example if a client was scheduled for 2 court appearance the same day you would count 1 bench warrant, indicate the date followed by (x2).

Totaling the points:

1. Add the points for conviction history and transfer from the back page of the Bail Evaluation to the score box on the front page.
2. Transfer the assigned BW point value from the back page to the appropriate box on the front page of the Bail Evaluation.
3. Total all points from the front page to obtain the total scale score.
4. The total score is meant to be used as a guide when making release decisions.

[Note: When clients score within the NBR or CR scale score range and meet release criteria, Agents can use discretion based upon their assessment to increase or decrease the level of release or supervision from what the scale score suggests. This rule, however, does not apply to Domestic Violence offenses which must be placed on Conditional Release (to include a condition of no contact) regardless of the scale score.]

Scale Score for Pre-Trial Risk:

NBR (0-11), Low-risk

CR (12-25), Moderate-risk

Review required (26 or above, appear on Judicial Review List), High-risk

Making release decisions:

All release decisions should align with the DOCCR Pre-Appearance Release Standing Order on SharePoint. The below information summarizes the contents of the standing order and is meant to serve as a training aid. Should there be any discrepancies between the below information and the standing order, the directives contained in the standing order should always be followed.

1. Pre-Trial Agents do not have the authority to release clients who:
 - Have offenses requiring Judicial Review (see the “Pretrial Points – Judicial Review Offenses” list in SharePoint)
 - Have been ordered Held Without Bail on the signed criminal complaint
 - Score 26 or above on the Pretrial Services Point Scale

(Note: The above situations should be documented as Judicial Review Required in the PO Action screen of the Pretrial Scale in CSTS)

2. Pre-Trial Agents also do not have the authority to release clients who:
 - Have additional pending matters, including:
 - holds from other jurisdictions;
 - Arrest and Detention orders;

- bench warrants for a non-appearance other than a failure to appear in response to a Summons or Conditional Release violation;
- probable cause holds;
- immigration holds; or,
- the defendant is a prisoner of the federal government, the military, Immigration, or in-transit.
- Are currently on supervised release (Note: A 72 hour DOC hold should be issued if the new charge is a felony, or a person, drug or alcohol related offense. Refer to the “Parole Hold” policy in Chapter 6 of the AFS policy manual for more direction).
- Are interviewed right before their court appearance and would not be released from custody before their scheduled appearance.
- Require conditional release (CR) supervision, but choose to remain in custody rather than being placed on CR.
- Do not meet all release criteria specifically related to a domestic violence case as outlined below in number 4. (Letters C and D) and in the DOCCR Pre-Appearance Standing Order.

(Note: The above situations should be documented as Judicial Review Required Limited Authority in the PO Action screen of the Pretrial Scale in CSTS):

3. Pre-Trial P.O.’s have been given designated release authority by District Court to release certain clients who meet release criteria (see the DOCCR Pre-Appearance Release Standing Order in SharePoint). As previously discussed in this document, there are parameters that give direction as to whether the defendant can be released, however, there may be other substantial and compelling reasons that may warrant continued incarceration despite the defendant meeting all other release criteria. These probation officer override reasons include:

- Particular concern for victim safety in a non-domestic related case
- Heightened threat to public safety
- Non-Minnesota Resident / Risk for non-appearance in court
- Substantial Drug/alcohol use
- Severe Mental health issues
- Discrepancies in obtained information
- On probation for a felony, gross misdemeanor or misdemeanor offense
- A pending felony, gross misdemeanor or targeted misdemeanor case exists
 - Targeted misdemeanors are DWI (169A.20); Order for Protection Violation (518B.01); Fifth Degree Assault (609.224); Domestic Assault (609.2242); Interference with Privacy (609.746); Harassment or Restraining Order Violation (609.748); Indecent Exposure (617.23) and Domestic Abuse No Contact Order (629.75)
- Other (this reason requires entering specific rationale to support your override reason in the Judicial Review / Probation Override Other Comments section of the pre-trial scale score screen of CSTS.

(Note: The above situations should be documented as Probation Overrides in the PO Action screen of the Pretrial Scale in CSTS):

To ensure the proper and consistent practice of overriding the pretrial scale score, please review the “Pre-Trial Scale Definitions” in SharePoint and refer to the “Probation Override” section of the document to ensure your situation coincides with the override definition.

Should you deviate from what the scale score suggests and impose a probation override, note this in the comment section of the bail evaluation. Should you select “other” as the override reason, you will need to provide specifics to support your override in the Judicial Review / Probation Override Other Comments section of the pre-trial scale score screen in CSTS.

4. Pre-Trial P.O.’s have also been given limited release authority for certain DWI and Domestic Violence Offenses, as listed below, which are not on the bail schedule and are held without bail. Should any of the client’s charges include the applicable DWI or Domestic Violence Offenses listed below, certain criteria must be imposed before Pre-Trial can authorize release.
 - A. Applicable DWI offenses include:
 - Second-degree DWI (M.S. 169A.25)
 - Third-degree DWI with one of the following aggravating factors (MS 169A.25)
 - Defendant is younger than 19
 - Defendant’s BAC was .16 or higher
 - Child under age 16 was in the vehicle
 - License cancelled as inimical to public safety
 - Driving After Cancellation – Inimical to Public Safety if the charges include any degree of DWI (MS 171.24)
 - B. In order to release the applicable DWI offenses listed in A, clients must be placed on Electronic Alcohol Monitoring.
 - C. Applicable Domestic Violence Offenses include:
 - Misdemeanor Domestic Assault (Minn. Stat. 609.2242);
 - Non-Felony Interference with Emergency 911 Calls (609.78);
 - Misdemeanor Violation of Order for Protection (518B.01);
 - Misdemeanor Violation of Domestic Abuse No Contact Order (629.75);
 - Misdemeanor Violation of Harassment Restraining Order (609.748);
 - D. In order to release a defendant charged with the applicable Domestic Violence crimes listed in C, all of the following conditions must be met:
 - defendant has not been convicted for possession of a firearm;
 - the victim does not express concern for his/her safety;
 - the victim does not express concern about the defendant being released;
 - the victim does not express concern that the defendant has access to a firearm;
 - defendant has a verifiable place to reside other than with the victim;

- DOCCR determines that a Domestic Abuse No Contact Order (DANCO) is not needed.
- there is no credible information that the defendant has ever attempted suicide, expressed suicidal ideation, or attempted self-harm.

Note that any release of a client charged with a domestic violence offense listed in C (who also met all the requirements listed in D), must be placed on a conditional release and include a condition that the client not have contact with the victim.

When you do not release a client charged with an applicable Domestic Violence offense listed in C (who scored 25 or below) because it did not meet all of the criteria listed in D, document the reason in the comment section of the bail evaluation. In the pretrial scale score screen in CSTS, select “Judicial review required limited authority” as the PO action and select “Limited Authority – DV case not meeting release criteria” as the Judicial Review / Probation Override reason. Then, specify which criteria the client did not meet in the Judicial Review / Probation Override Other Comments section of the pre-trial scale score screen in CSTS.

4. After considering the score and any override factors, probation officers’ options for release are:

No Bail Required (NBR) – Individuals scoring between 0-11(low-risk), but appear to have no presenting problems and the offense is not on the Judicial Review List, may be released on their own recognizance.

Conditional Release (CR) – Individuals who score between 12-25(moderate-risk) and/or have presenting problems which could benefit from being supervised by probation and whose offense(s) is not on the Judicial Review List, may be conditionally released from custody, as outlined in the S.O.P. entitled Conditional Release Referrals.

[Note: When clients score within the NBR or CR scale score range and meet release criteria, Agents can use discretion based upon their assessment to increase or decrease the level of release or supervision from what the scale score suggests. This rule, however, does not apply to Domestic Violence offenses which must be placed on Conditional Release (to include a condition of no contact) regardless of the scale score.]

Not Released (High-risk) – Individuals who score 26 or above and Individuals who pose a risk for non-appearance in court, are potentially a threat to a victim and/or pose a threat to public or community safety will be denied release without posting recommended or set bail, until they meet with a judge.

Data Entry into CSTS:

1. Upon completing all steps as noted above, highlight the appropriate client from the WIP list within the Pretrial Module of CSTS. Click on the background tab and update the client information list bars with the information obtained during the bail evaluation process. This includes:
 - Addresses
 - Alerts

- Aliases
 - Education
 - Employment/income
 - Other IDs (such as another State ID number obtained during a record check)
 - Phone Numbers
 - POR status
 - Relationships
 - Sup. Lvl/Assmt (Add the “HC Bail Evaluation” with the score to the risk assessment history section)
 - Victims
2. After updating the client information list bars, complete the Pre-Trial Scale in its entirety.
 3. After completing the Pre-Trial Scale, click on “close case” to remove the defendant from the WIP list and to finalize involvement with the case.

Additional Data Fields:

The following fields are contained on the bail evaluation and should be completed in its entirety.

Page One:

PD Eligibility: Check Yes or No once determination has been made.

Interpreter Needed: Check Yes or No once determination has been made and then indicate language on the next line.

Screen Date: Note the date the Evaluation is completed.

Division: Enter a number (i.e.:1, 2, 3, 4). No Roman Numerals.

Case #: Case number auto populates when available in CSTS. If it is unavailable, the Agent should be periodically checking during their shift to see if the number is available and when possible go back and enter it. After the case number has been added to the bail evaluation, it should be loaded into CSTS under that case number. If the case is not currently in CSTS, make request to Support Staff to have it added.

SID/FBI #: Numbers typically pull over from CSTS. Add to Bail Evaluation if they are not there and update in CSTS. Should the client have other State ID numbers, note on bail evaluation and enter in CSTS under the “other IDs” list bar.

Name: Pulls over from CSTS.

D.O.B.: Pulls over from CSTS.

Age: Pulls over from CSTS.

Sex: Pulls over from CSTS.

Race: Pulls over from CSTS (CSTS Choices for Race: American Indian / Alaskan Native, Asian Pacific Islander, Black, Unknown, White – CSTS Choices for Ethnic Origin [not a required field]: Non-Hispanic, Hispanic, Unknown)

Street Address: This information is pulled from CSTS.

Duration: Enter the amount of time the client has lived at the current address.

Verified: Check the yes or no box once collateral has been contacted and the Clients address is verified.

Telephone #: The phone number is pulled from CSTS.

Most Recent Prior Address: If the Client has lived at the current address for seven or more years, it is acceptable to enter general answers like, “Minneapolis” or “Iowa” when specifics are unknown or don’t seem relevant.

Duration: Enter what Client reports. This field is optional should the client report that he/she has been at their current address for 7 or more years.

Have you ever been in or served in the armed forces: Check yes or no.

Aliases: These names are pulled from CSTS. Delete and summarize when appropriate.

Birth Place: Enter City-State or Country that Client reports.

Marital Status: Enter Married or Not Married (only options in CSTS)

Kids: Enter the number of children the client reports

Dependents: Enter the number of qualifying children and qualifying adult dependents which are claimed on their taxes.

Arrest Type: Enter Tab, Bench Warrant, Failure to Appear on a Summons, or Warrant. It is fine to abbreviate. This information is located on the Candidate list, the Crystal Report, Jail Roster or MGA.

Bail Amount: Only enter the bail amount for the main charge. If there are other cases with bail set, record that information under “other charges”. Obtain this information from the Candidate List, Booking Detail Screen, Jail Roster, Criminal Complaint or MGA.

Other Charges: Enter all other booked charges that the client is currently being held in custody on, indicating case number, offense and bail amount for each case and PC if appropriate. Obtain this information from the Jail Roster, Candidate List or MGA.

Points Assigned: Enter points as indicated on the *Pre-Trial Points for Charged Offenses List*

Document.

Income Sources/School Status: Indicate FT or PT school or employment (listing exact credits or hours worked when possible), length of time employed or enrolled in school and monthly or hourly compensation. (Assistance can be included except for Food Stamps or Medical Assistance should not be counted as income). Refer to #4 of the “Scoring” section of this document for further direction.

Current Problematic Chemical Use: Refer to #5 in the “Scoring” section of this document for further direction.

Homeless or 3 or More Address Changes in Past Year: If the client is currently homeless or has lived at three or more different addresses in the past year.

Criminal History Points: Recorded from the back page.

Bench Warrant Points: Recorded from the back page.

Holds/Type: List DOC, INS, Out of County or State and 36 hour probation holds.

Complaint or Police Report Check Boxes: Check which was reviewed the Complaint or Police Report. Offer a brief synopsis. Drug Cases should include the type of drug, the amount and any weapon involved. Alcohol related cases should include BAC and significant arrest information when appropriate.

Scale Score: Enter the total of all assigned points.

Collateral / Relationship: List the name of collateral and their relationship to client (could be the victim in some cases).

Collateral /Phone #: List the phone number used to contact.

Collateral Comments: Verify address, employment or school, drug use, opinion on likelihood of the Client making their next court appearance. Refer to the making collateral contact training document for further direction.

Victim Name/Relationship: List the name of the Victim and their relationship to client when it is obvious that the Client knows this information. If the victim is unknown to the client, list the victim’s initials.

Victim Address / Phone #: Enter address and phone number information if it’s obvious the client knows this information and the information is available in police reports or the criminal complaint. Professional discretion can be used to omit when there are concerns.

Victim Comments: Indicate if the victim describes the current event as an isolated incident, an on-going problem, if there’s a history of violence and if they are fearful. Has there been Police contact in the past? Report if children were present, were there known injuries and to what extent including if medical attention was needed. Does the victim want contact? Ask for their

opinion on whether the Client will honor or violate a no contact order. Note whether the Client owns or has access to firearms. Refer to the making victim calls for further direction.

Current Monitoring Status Conditional Release, Probation or Parole: (Auto-populates Hennepin Probation Cases: Case Number, Charge, Convicted Date, expiration Date – P.O’s name and phone number). Delete anything that isn’t pertinent or accurate. CSTS defaults to Pre-Trial; Delete Pre-Trial listed. Add additional comments regarding your contact with that agent and what their intentions are in regards to the new case. Probation status can be found in CSTS, MGA or the Statewide Supervision System.

Pending Cases: Enter case numbers, offenses, levels, next court date and time and the county if not Hennepin. Don’t list traffic cases. If there isn’t a future court date listed, check MGA to see if it’s a dormant case; recording would then not be necessary (this is usually for outstanding fines/fees).

Probation Officer Comments/Observations (include mental health concerns and other relevant information used to assess the client): Key information worth noting tends to be: Arrest history, Out of State Arrest history that have no dispositions, drug/alcohol issues, victim concerns, victim safety and juvenile adjudication history if under the age of 25. Predatory Offender Registration status and their risk level (if any) should be listed here. “Highlights” of what this person is presenting. Collateral input might go here as well.

Record if NBR’d or CR’d here as well. Also, document your rationale for not releasing the client when it was possible to do so.

Don’t leave this area blank. This should serve as a quick snap shot of the Client.

Systems Checked checkboxes (CSTS, CIS, MNCIS/MGA, BCA, DL, S3, GLWS, JMS): Expectation is that you are checking every system.

CSTS: Look for the Client’s Probation Status, if any. Review chronos when appropriate. Determine if the Agent is aware and whether the situation warrants the issuance of a probation hold. Look to see if the client is flagged as a predatory offender. Note that Statewide and CSTS don’t always match up.

CIS: Obtain Minnesota conviction history, bench warrant history and any pending case.

MNCIS/MGA: Utilize for clarification/verification purposes and to view court documents.

BCA: Run a QDP, QH, QR to obtain criminal history, using purpose code Q. Run a FQ and IQ, using purpose code C, to obtain/confirm out of state criminal history.

DL: Via the QDP

S3: Probation status

GLWS: View via Statewide. Note: Only offenses applicable to the Minnesota Sentencing Guidelines are listed on the GLWS. Offenses such as disorderly conduct or misdemeanor theft

would not appear on a GLWS.

JMS: Utilize for victim information and the client's housing location.

P.O.: Last name – no initials (records person first, interview person is listed second). Everyone that has worked on the bail evaluation should put their name on it.

Page Two

Case #: Case number auto populates when available in CSTS. If it is unavailable, the Agent should be periodically checking during their shift to see if the number is available and when possible go back and enter it. After the case number has been added to the bail evaluation, it should be loaded into CSTS under that case number. If the case is not currently in CSTS, make request to Support Staff to have it added.

Name (Last, First, Middle): Auto-populates from CSTS

Conviction History:

Felony: List offense and conviction date (state or county in parenthesis if outside of Hennepin)

Gross Misdemeanor: List offense and conviction date (state or county in parenthesis if outside of Hennepin)

Misdemeanor: List offense and conviction date (state or county in parenthesis if outside of Hennepin)

No Known Convictions: List when there are no known convictions for the particular offense level.

Failure to Appear Bench Warrants and Conditional Release Warrants in the Last Three Years: From CIS, list all Bench Warrants and CR Warrants within the last three years. They do not need to be listed in order.

Appendix H: Pre-Appearance Release by DOCCR

STATE OF MINNESOTA

FILED

COUNTY OF HENNEPIN

DISTRICT COURT

2016 NOV 21 PM 12:59

FOURTH JUDICIAL DISTRICT

Standing Order re Pre-Appearance Release by Department of Community Corrections and Rehabilitation

Pursuant to the Standing Order issued by the Chief Judge Peter Cahill, dated February 16, 2016, Assistant Chief Judge Toddrick Barnette hereby makes the following order setting standards for pre-appearance release by the Department of Community Corrections and Rehabilitation (DOCCR). These standards are in addition to any conditions or restrictions for pre-appearance release listed in the Chief Judge Cahill's Standing Order.

I. General Release Authority

- a. DOCCR is authorized to release defendants without bail – with or without conditions – if:
 - i. The charged offense does not require judicial review, as identified by the Fourth Judicial District Current Offense Charge Points document; and,
 - ii. The defendant scores 25 or less on the pretrial risk assessment scale.
- b. DOCCR is without authority to release defendants without bail if:
 - i. The charged offense requires judicial review; *or*,
 - ii. The defendant scores 26 or more on the pretrial risk assessment scale.

II. Special Conditions Required for Statutory Detention DWI and Domestic Violence Offenses

- a. Statutory Detention DWI Offenses
 - i. The following are Statutory Detention DWI offenses:
 1. 2nd Degree DWI;
 2. 3rd Degree DWI if:
 - a. a) the defendant is less than 19 years old;
 - b. b) the defendant's AC .16 or more;
 - c. c) a child under age 16 was in the vehicle; *or*,
 - d. d) the defendant's license was cancelled as inimical to public safety;
 3. 4th Degree DWI if the defendant's license was cancelled as inimical to public safety.

- ii. When a defendant charged with a Statutory Detention DWI offense is to be released under this Order, DOCCR must require electronic alcohol monitoring as a condition of release or \$12,000 bail without conditions.
- b. Domestic Violence Offenses
 - i. This section applies to the following Domestic Violence offenses:
 1. Misdemeanor domestic assault (Minn. Stat. § 609.2242);
 2. Interference with an emergency call (Minn. Stat. § 609.78);
 3. Misdemeanor violation of an order for protection (Minn. Stat. § 518B.01);
 4. Misdemeanor violation of a domestic abuse no contact order (Minn. Stat. § 629.75; and,
 5. Misdemeanor violation of a harassment restraining order (Minn. Stat. § 609.748.
 - ii. When a defendant charged with a Domestic Violence offense is to be released under this Order, DOCCR must require no contact with the alleged victim as a condition of release.

III. Presumptions

- a. It is presumed that DOCCR will release defendants who are eligible for release pursuant to Paragraph I.a. of this Order.
- b. Notwithstanding a defendant's eligibility for release pursuant to Paragraph I.a. of this Order, it is presumed that DOCCR will not release such defendant if:
 - i. The defendant is charged with a Domestic Violence offense; and,
 1. The defendant has previously been convicted of a firearm offense;
 2. The victim expresses concern about the defendant's access to a firearm;
 3. The victim expresses concern for his/her safety;
 4. The victim expresses concern about the defendant's release;
 5. The defendant does not have a verifiable place to reside other than with the victim;
 6. The defendant has previously attempted suicide or expressed suicidal ideation; or,
 7. DOCCR determines that a DANCO is necessary;
 - ii. The defendant is on supervised release;
 - iii. The defendant is subject to a felony hold, probable cause hold, immigration hold; A & D hold, bench warrant for non-appearance in court (other than failure to appear in response to a summons or CR violation);

or, the defendant is a prisoner of the federal government, military, ICE, or in transit;

- iv. The defendant cannot be interviewed in a timely manner; or,
- v. The defendant prefers to remain in custody rather than comply with a conditional release.

IV. Overrides

- a. An override occurs when DOCCR fails to release a defendant who qualifies for presumptive release pursuant to Paragraph III.a.
- b. DOCCR need not release a defendant who qualifies for presumptive release (*i.e.*, DOCCR may override) if the pretrial release score does not adequately reflect the risk of danger to the victim, the public, the defendant, or flight. Examples include:
 - i. In non-domestic cases (domestics addressed in Paragraph III.b.i.), there is a heightened concern for victim safety;
 - ii. There is a heightened threat to public safety because the defendant's criminal conduct is likely to continue or the defendant is unlikely to comply with conditions of release;
 - iii. There is a heightened risk of non-appearance because of the defendant's statements or residency in another state;
 - iv. There is a heightened risk of harm to the defendant or pretrial failure because of the defendant's current mental health problems or current drug or alcohol abuse;
 - v. The defendant has another felony, gross misdemeanor or targeted misdemeanor charge pending;
 - vi. The defendant is on probation for a felony, gross misdemeanor, targeted misdemeanor conviction; or,
 - vii. The defendant provided false or conflicting information.
- c. DOCCR may release a defendant who qualifies for presumptive detention if the grounds for detention overstate the risk of danger to the victim, the public, the defendant, or flight.

BY THE COURT:

Dated: 11/21/2016


Toddrick Barnette
Assistant Chief Judge
Fourth Judicial District

Appendix I: Standing Order re Pre-Appearance Release Procedures and Bail

STATE OF MINNESOTA DISTRICT COURT

COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

Standing Order re Pre-Appearance Release Procedures and Bail

a) **MISDEMEANORS**

• **Arrest without Warrant**

- **Violation of Domestic Abuse No Contact Order** – When a person is arrested without a warrant for a misdemeanor violation of a domestic abuse no contact order and is going to be charged by the arresting officer, a tab charge shall be issued and the person shall be held without bail (HWB), and brought to the next available session of court, unless the person is ordered released earlier by a judge or the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.
- **Other Domestic Abuse Offenses¹** - For other domestic-abuse misdemeanor offenses, when a person is arrested without a warrant and is going to be charged by the arresting officer, a citation or tab charge shall be issued and the accused released unless continued detention is necessary as provided in Minn. R. Crim. P. 6.01. A person detained pursuant to Minn. R. Crim. P. 6.01 shall be held without bail (HWB), and brought to the next available session of court, unless the person is ordered released earlier by a judge or the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.
- **Other Misdemeanor Offenses** – This section applies to non-domestic misdemeanor arrests without warrant.
- **Non-Payable Misdemeanor Offenses – No Bail Required.** Subject to Paragraph I.A.3.b., when a person is arrested without a warrant and is going to be charged by the arresting officer with a misdemeanor that is not on the Statewide Payables List² or the Hennepin County Ordinances Payables List³, a citation or tab charge shall be issued and the accused released without bail. Nothing in this order shall limit an arresting officer’s discretion to release an arrested person without bail pending a formal complaint instead of a tab charge or citation.

¹ “Misdemeanor domestic abuse offense” means the following misdemeanor offenses: domestic assault, harassment, stalking, violation of an order for protection, or violation of a harassment restraining order.

² Statewide Payable Lists can be found at <http://www.Minnesotacourts.gov/JusticePartners/Statewide-Payables-Lists.aspx>

³ http://www.Minnesotacourts.gov/Minnesotacourtsgov/media/fourth_district/documents/Criminal/Fine%20Tables/Ordinances.pdf has the list of all Hennepin County Ordinances and specifies a fine amount if payable and “COURT” if not payable.

- **Non-Payable Misdemeanor Offense – Bail Required.** If the arresting officer states in writing that continued detention is necessary as provided in Minn. R. Crim. P. 6.01 a person must be held for court with a bail setting of \$300.00 or \$78.00 cash, unless a specific bail amount (which may be no bail required – “NBR”) is set by a judge or the person is released by the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.
- c. **Payable Misdemeanor offenses and Petty Misdemeanors** – If a person is going to be charged by the arresting officer, a citation must be issued for petty misdemeanors and misdemeanors on the Statewide Payables List⁴ or the Hennepin County Ordinances Payable List⁵. If a custodial arrest has been made, a citation must be issued in lieu of continued detention. Nothing in this order shall limit an arresting officer’s discretion to release an arrested person without bail pending a formal complaint instead of a citation.

b) **Arrest on a Warrant or Order for Detention**

- When a judge has set bail on a specific case or warrant, that bail setting shall be used, unless the person is released without bail by the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.
- When a judge has ordered that a person be held without bail (HWB), that person shall be brought to the next available session of court.

• **TAB-CHARGED DESIGNATED GROSS MISDEMEANORS**

- **Applicability** – “Designated Gross Misdemeanors” as defined in Minn. R. Crim. P. 1.04(b)⁶ may be tab charged.
- **Mandatory Hold Without Bail** – Defendants tab-charged with any of the following Designated Gross Misdemeanors shall be held without bail (HWB) and brought to the next available session of court, unless the person is ordered released earlier by a judge or the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.
 - Second-Degree Driving While Impaired
 - Third-Degree Driving While Impaired if any of the following circumstances exist:
 - Defendant is less than 19 years old;
 - Defendant had an alcohol concentration of .16 or more;
 - A child under 16 years old was in the motor vehicle at the time of the offense;
 - Defendant’s driving privileges are currently cancelled as inimical to public safety.
 - Driving After Cancellation – Inimical to Public Safety if charged with any degree of driving while impaired.

⁴ <http://www.Minnesotacourts.gov/JusticePartners/Statewide-Payables-Lists.aspx>

⁵ http://www.Minnesotacourts.gov/Minnesotacourtsgov/media/fourth_district/documents/Criminal/Fine%20Tables/Ordinances.pdf ⁶ Gross Misdemeanor violations of Minn. Stat. §§ 169A.20 (DWI), 169A.25 (second-degree driving while impaired), 169A.26 (third-degree driving while impaired), 171.24 (Driving After Cancellation – Inimical to Public Safety)

- **Bail for Other Tab-Charged Designated Gross Misdemeanors** – Defendants who are tab- charged with Designated Gross Misdemeanors, but not including an offense listed in Paragraph II.B., shall have bail set at \$3000.00 or \$500.00 cash, unless the person is ordered released earlier by a judge or the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.

FELONIES AND NON-TAB-CHARGED GROSS MISDEMEANORS

- a) **Detention on “Probable Cause”** – When a person is being held on probable cause that they have committed a felony or gross misdemeanor offense, the person shall be held without bail (HWB), unless a judge has set bail or ordered the person’s release, or the person’s release has been ordered by either the prosecuting attorney or the arresting agency, or the person’s release is required because the applicable time periods that allow a person to be held without charges have expired.
- b) **Formal Complaint Filed** – If a person is charged by formal complaint, it must be filed before the person’s first court appearance. Defendants must be released upon posting the bail designated on the complaint, unless released without bail by the Department of Community Corrections and Rehabilitation (DOCCR) pursuant to the standards set by the Criminal Presiding Judge in a standing order.

III. EXCEPTION FOR RELEASE FOR MEDICAL NECESSITY

In all cases, a law enforcement agency that has a person in custody may release that person without bail to a medical facility if the agency believes that it is medically necessary and consistent with public safety to do so. Such release may occur without further order of the court. The accused should be given notice of any scheduled court appearance date.

BY THE COURT:

Dated: February 16, 2016



Peter A. Cahill
Chief Judge of District Court

