



# MINNESOTA JUDICIAL BRANCH

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Hennepin County 2015

Adult Pretrial Scale Validation

***Marcy R. Podkopacz, Ph.D.,***

*Director, Research and Business Practices Divisions  
Fourth Judicial District of Minnesota-Hennepin County*

*And*

***Tracy Loynachan, M.S.,***

*Research Analyst II  
Fourth Judicial District of Minnesota-Hennepin County*

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***Fourth Judicial District of Minnesota-Hennepin County, Research Division:***

Marcy R. Podkopacz, Ph.D., Director  
Jackie Braun-Lewis, M.P.P., Research Analyst I  
Matthew A. Johnson, Ph.D., Research Analyst II  
Tracy Loynachan, M.S., Research Analyst II

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## **Introduction**

The Fourth Judicial District (Hennepin County) has a rich history of pretrial scale use. These statistical tools help ensure the pretrial release decision is based on objective information that actually predicts pretrial failure. 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 changes to the scale did not occur. 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/Fourth Judicial District 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 that 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 in June of 2008 (Podkopacz, 2010) to validate the newly constructed scale. This validation demonstrated that all scale items were predictive of pretrial failure and that the pretrial scale was predictive of pretrial crime and failure to appear.

Since populations and processes change, seven years is an appropriate amount of time to re-validate at our pretrial scale. This report reviews the steps taken to update the validation of the 2007 Hennepin Pretrial Scale with more recent data. It addresses the three main areas. Section 1 includes a literature review as well as a review of the sample populations and demographics. Section 2 addresses the scale elements and cut points as well as the statistical model, explained variance and ROC analysis. Finally, Section 3 addresses changes to the scale that compose the 2015 Hennepin Pretrial Scale and recommendations for the future.

## **Literature Review**

Every day, criminal justice systems are making decisions on release of arrested defendants based on a myriad of methods. In some 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 help improve their predictions of success or failure and to ensure that objective information is the basis of decisions, and, further, that 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 long standing. Nevertheless, there were prior tools containing non-empirically based elements or scales that went unvalidated for years. In contrast, over the last decade, this jurisdiction has relied on research-based validated pretrial tools. To have an empirically based tool means that research has shown that the elements on the scale help to predict pretrial failure with independent contributions and that the scale sorts defendants appropriately into risk categories according to defendant's pretrial behavior.

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 that accurately assessing a defendant's risk level has consequences beyond the pretrial stage. Lowenkamp, and his fellow authors (2013), found that 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 that giving low risk defendants pretrial conditions increased their pretrial failure during release. Conversely, other research has shown that 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, criminal history (both in terms of actual prior offenses and history of prior failure to appear), employment status, substance abuse/use and housing stability. However, there are a variety of additional elements included on pretrial tools as well.

## Use of Ascribed Characteristics in Pretrial Scales

Social scientists frequently analyze status, or the position one holds in society. Generally, we recognize two different types of status: ascribed status and achieved status. Ascribed status refers to characteristics that 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 that 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 that 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 that only certain elements – those that relate to achieved status – should be included in a risk assessment instrument. Adherents of this latter philosophy, feel that it is more equitable to consider only those items that relate to achieved status. This belief is that 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 both characteristics. For instance, auto insurance companies know that 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 would be too severe – detaining people at a disparate rate based on age, race or gender is simply unacceptable.

In the Fourth Judicial District, 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 vs. Universal Tool**

Prevailing academic wisdom suggests that risk assessment instruments need to be statistically validated and this validation needs to be based on the population under its auspices. Populations across jurisdictions differ, and to obtain the most reliable results, instruments should be normed to the population in question.

While risk assessment instruments are important tools in the pretrial decision-making process, the Pretrial Justice Institute reports that few jurisdictions use locally validated risk assessment instruments. In fact, at the start of the 21<sup>st</sup> century 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 resources necessary to perform this work. However, over the following 15 years, many more jurisdictions have remedied this issue by adopting pretrial tools normed to their jurisdiction.

To address the fact that many jurisdictions do not use a tool, and to ensure that pretrial release decisions are based upon objective information, the Laura and John Arnold Foundation created the Public Safety Assessment - Court (PSA - Court), a universal pretrial risk assessment tool. This tool, developed by national experts, is proprietary and uses court 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 researchers. Pretrial Justice Institute (Issue Brief, May 2015) indicates that the publication of the research behind the PSA - Court is forthcoming but as of this writing, the validation of this national experiment is not yet available.

The Fourth Judicial District bench and the Department of Community Corrections and Rehabilitation (DOCCR) believe the personal interview of the defendant by a pretrial officer and the collateral calls to family members and victim/witnesses provide much better information with which to decide release than could be gleaned from official records alone. Due to this belief and because the Fourth District has the internal capacity to create, monitor and validate its own instrument as needed, the possibility of using something like the PSA – Court has less relevance here.

## Validating the New Scale

### Sample Populations

The current paper addresses the predictive ability of the 2007 scale and scale elements using a more recent population. All defendants assessed by the pretrial unit of DOCCR in 2013 were included in the study (sample size 6,450 defendants). To assess pretrial failure, a valid pretrial window needs to be determined. The beginning of the pretrial window is the release from a correctional facility while in pretrial status (case not yet disposed) to the date the criminal case was resolved as the end of the window. Selection of the year of 2013 allows for a sufficient amount of case resolution time to allow the highest percentage pretrial cases included in the study.

One category of excluded cases includes those with no disposition. These cases fall into two groups: cases that are on warrant status (n=541 or 8.4%) and cases that are still open (n=432 or 6.7%). Some studies have included unresolved cases, particularly when the sample size is small, but the end of the window in that situation would be a combination of the case resolution date as well as the point of data collection. This, then, creates a pretrial window that is potentially different for some defendants than for most other defendants, sometimes in a substantial manner. Since our sample size is more than sufficient, we opted to keep the definition of the pretrial window consistent across all events.

In addition, 299 (4.6 %) pretrial events had incomplete data and the Pretrial Unit was unable to complete scoring the defendant on the Pretrial Scale. Finally, there are 47 (0.7%) that had bail evaluations completed after the case had already been disposed. This most likely is a data entry error of the case number or dates, or some combination of those two problems. This leaves a population sample of 5,135.

Table 1 shows that the reductions in the sample due to the removal of the cases for reasons mentioned above reduce the sample in a non-systematic manner. In other words, removing these cases should not affect the results of the study.

**Table 1. Full Sample versus Final Sample**

Demographics	Initial Sample		Final Sample	
	Frequencies	Percent	Frequencies	Percent
<b>Gender</b>				
Female	1,086	16.8	836	16.3
Male	5,364	83.2	4,299	83.7
<b>Race*</b>				
American Indian/Alaskan Native	288	4.5	234	4.6
Asian/Pacific Islander	154	2.4	121	2.4
Black/African American	3,519	54.6	2,833	55.3
White	2,488	38.6	1,947	37.9
Unknown	1	0.0	1	0.0
<b>TOTAL</b>	<b>6,450</b>	<b>100.0</b>	<b>5,135</b>	<b>100.0</b>

\*This race variable is from the jail system and ethnicity is not available in that system. For the final analysis sample, an additional category includes Hispanic from the court data. This addition slightly reduced two categories, Black/African American and White.

Hennepin County has three levels of risk: those that could be released on their own recognizance (No Bail Required, NBR hereafter); those who could be released with conditions attached during the pretrial period (Conditional Release, CR hereafter); and those with bail amounts attached to their case (called Bail Required). Defendants could be in the Bail Required category by the number of points that they accumulated on the Pretrial Scale, through the type of offense for which they were charged, or both. For defendants with offenses on the Judicial Review list, only a judge may set the bail. Some of these defendants obtained release by posting bail or securing a bond, while others stayed in jail through their pretrial period. For all defendants whose scale score did not reach the ‘Bail required’ criterion, other than those charged with a Judicial Review offense, the Pretrial Unit has release authority.

About 83% of the defendants arrested in the Fourth Judicial District end up out of jail prior to disposition. To validate this scale, only those released will be included in the subsequent analyses. The demographics for this reduced sample mirror the whole sample.

**Table 2. Percent of Sample that was released before Disposition**

When Released	Number of cases	Percent
Held through Disposition	877	17.1%
Released Pretrial	4,258	82.9%
Total	5,135	100.0%

**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 a bench warrant issued 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 a new conviction during the pretrial window. In Hennepin County, not all criminal charges start with an arrest. About half of the lowest level non-felony cases are never arrested (misdemeanor crimes). The misdemeanor offenses that typically result in arrest are the more serious offenses including domestic assault, simple assault, driving under the influence, etc. Therefore, the number of unique cases *charged* often exceeds the number of cases *arrested* in this jurisdiction. Operationalization of a new conviction is an offense date for a charged offense between the release date from jail and case resolution date, which ends in a conviction.

About 20% 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 only 18% of the defendants (see Table 3). About 31% of the validation sample failed during pretrial with either a failure to appear or a new conviction.

**Table 3. Dependent Variables in the Validation Analysis  
N=4,258**

<b>Indicator</b> (Level of Measurement)	<b>Distribution – Category</b>
<b>Pretrial Failure to Appear with a Bench Warrant Issued</b> (dichotomy)	19.8% - Yes 80.2% - No
<b>Pretrial Convictions</b> (dichotomy)	17.8% - Yes 82.2% - No
<b>Either Pretrial Convictions or FTA/BW</b> (dichotomy)	31.4% - Yes 68.6% - No

Failure to appear is only slightly higher than in 2008 (18%) but convictions are much different. In 2008, only 7% of the pretrial population failed with a new conviction. Together, the 2008 sample failed with either a new offense or a failure to appear at a rate of 21%, ten percent less than the current sample. The initial validation of the 2007 scale occurred in mid-2008. At that time, the new court information system had a limited view of an offender’s criminal history due to the conversion from a non-person-based information system to the statewide court-wide system. Training of clerks in this new system includes assessing whether a defendant, in a new case, has previously had a case in the system. If so, they are to attach the new case to the other cases of the defendant by using the same person-ID. This then, begins the process of accumulating a criminal history for the defendant. Now in 2015, eight years after the conversion, we have a much more robust person-based court information system. As a result, criminal history scores are larger. Since crime has decreased in Minnesota each of the intervening years, it is a logical conclusion that the increase in criminal history scores is a result of more complete criminal history per defendant.

**Scale Elements – Independent variables**

The next section will examine scale elements of the 2007 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 identify any non-valid elements and racially or gender biased elements. In addition, this section will review new elements that may enhance the predictive power of the model.

### **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 4 below shows that the upper limit of our pretrial scale has grown since the validation in 2008 with the top score of 147 now instead of 119, average score is now almost 24 points compared to 19 at the last validation, and median score is now at 18 points (13 points in the past). This indicates that we should take a careful look at the cut points that we have assigned to ensure that they still clearly identify different risk levels. This also corroborates the earlier speculation that the court information system, 8 years from inception, contains data that are more complete now.

**Table 4. Pretrial Distribution Statistics**

<b>Distribution Statistic</b>	<b>2008 Sample (N=2,779)</b>	<b>Current Sample (N=4,258)</b>
<b>Average Score</b>	<b>18.9</b>	<b>23.6</b>
<b>Median Score</b>	<b>13.0</b>	<b>18.0</b>
<b>Score by Quartile</b>		
<b>25%</b>	<b>8.0</b>	<b>10.0</b>
<b>50%</b>	<b>13.0</b>	<b>18.0</b>
<b>75%</b>	<b>23.0</b>	<b>31.0</b>
<b>Minimum Score</b>	<b>1</b>	<b>0</b>
<b>Maximum Score</b>	<b>119</b>	<b>147</b>

A pretrial scale should classify those more at risk to fail as being the riskier defendants. In other words, we would expect that 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' category, followed by defendants in the 'conditional release,' and those categorized as a straight release should fail least of all. Although the assignment of points to particular risk levels is somewhat arbitrary, the basis of these "cut points" is that they relate to actual failure rates.

As the reader will note in Table 5 below, there is no clear delineation between risk levels in the three cut points for the 2007 scale using the more current sample. Those in the medium risk category and the lowest risk category are both as likely to fail. The fact that the different cut points do not differentiate risk level means that the cut points likely require adjusting. In addition, the number of cases in each category varies quite significantly.

**Table 5. Failure Rate for levels of Risk on the Pretrial Scale, 2007**

Score on the 2007 Pretrial Scale Cut Points	Number of Cases and Percent of Sample	Percent of Sample with either Pretrial Conviction or Failure to Appear/BW	Percent of Sample with Pretrial Convictions	Percent of Sample with Pretrial Failure to Appear with Bench Warrant
Low Risk (0-7 points)	769 (18%)	23.0%	14.8%	6.4%
Medium Risk (8-17 points)	1,299 (31%)	23.6%	12.1%	12.6%
High Risk (18 thru highest points)	2,190 (51%)	38.9%	22.3%	21.6%

Changing the cut-points of the scale, as noted in Table 6, produces a clear distinction between risk levels. It also re-establishes a distribution of cases that looks more similar to our 2007 distribution between the three risks levels. In addition, there is more parity between the types of pretrial failure using these new cut points. In each case, of those with just new convictions, those with just failure to appear or either of these failure types, those in the lowest risk category fail least while those in the highest risk category fail most.

**Table 6. Failure Rate for new Cut Points of Risk on the Scale, 2015**

	Number of Cases and Percent of Sample	Percent of Sample with either Pretrial Conviction or Failure to Appear/BW	Percent of Sample with Pretrial Convictions	Percent of Sample with Pretrial Failure to Appear with Bench Warrant
Low Risk (0-11 points)	1,199 (28%)	23.6%	13.8%	9.3%
Medium Risk (12-25 points)	1,633 (38%)	28.5%	15.2%	15.7%
High Risk (26 thru highest points)	1,426 (35%)	41.1%	24.3%	22.2%

### ***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. multicollinear). 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.

**Table 7. Independent Variables: Scale Elements in Validation Analysis  
N=4,258**

<b>Indicator</b> (level of measurement)	<b>Distribution – Category</b>
<b>Current Offense</b> (categorical)	26.7% - Felony - Judicial Review 24.0% - Non Felony – Judicial Review 31.9% - Felony – No Judicial Review 14.9% - Gross Misdemeanor DUI/DWI 2.4% - Other Misdemeanors
<b>Unemployment/Income</b> (dichotomy)	<b>44.0% - Yes</b> 56.0% - No
<b>Housing Instability</b> (dichotomy)	<b>22.7% - Yes</b> 77.3% - No
<b>Problematic Chemical Use</b> (dichotomy)	<b>33.1% - Yes</b> 66.9% - No
<b>Prior Criminal History</b> (interval level)	11.4 – average prior criminal history score 4.0 – median prior criminal history score  25% - 1 point prior criminal history score 50% - 4 points prior criminal history score 75% - 16 points prior criminal history score  Range: 0-127 points
<b>Prior Failure to Appear Warrant</b>	59.9% - None 21.8% - One or Two FTA Warrants 18.4% - Two or more FTA Warrants

Felony charges requiring judicial review compose about 27% of the population that receive a bail evaluation and have a pretrial window (see Table 7). Non-felony offenses requiring Judicial Review compose 24% of the sample. Other felonies not included in Judicial Review are about 32% of the pretrial sample. Finally, 15% represent gross misdemeanor DUI charges (reduced from 18%) and another 2% of

the population has misdemeanor charges. For the logistic regression analysis, this variable will be a categorical indicator with five levels and felony level judicial review offenses are the reference category.

Other risk factors for this population included unemployment for about 44% of the population (up from 37% in 2008), housing instability for about 23% of the population (up from 17% in 2008) and problematic chemical use for another 33% of the population (significantly up from 17% in 2008). Only 5% of the population had all three of these risk factors (up from 3% in 2008).

The vast majority of the defendants had no prior failure to appear for hearings (60% which is a reduction from 2008, when 72% had no FTA), 22% had missed one or two hearings and 18% had missed three or more appearances within the last three years.

Prior criminal history, defined here as convictions only (not charges or arrests), averaged 11.4 points for this population but about half of the defendants had only 4 points. Indeed, 23% of the population had no prior convictions (down from 35% in 2008) while 10% had between 35-127 criminal history points.

### ***Bivariate Analysis***

Table 8 below shows the relationships between the scale elements and the outcome variables. Recall that 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 “Serious Offenses” (required Judicial Review prior to the decision to release) to “Other Felony Offenses” to finally “All other Offenses.” Prior Bench Warrants have 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 variable and the three ‘Other Risk Factors’ are dichotomized and both are interval level indicators. The outcome variables are both interval level indicators are also dichotomies where a one indicates pretrial failure and zero if not. The factors that are at an interval level of measurement and those factors dichotomized use a Pearson’s Correction Coefficient to assess association.

**Table 8. Significance of Relationships between Outcome Indicators and Scale Elements**

**N=4,258**

Indicators	Statistic	Either Pretrial Failure	Convictions during Pretrial	Failure to Appear Pretrial/BW
<b>Current Offense</b>	Chi-Square	***	***	***
<b>Not Employed</b>	Correlation	***	***	***
<b>Problematic Substance Abuse</b>	Correlation	*	--	**
<b>Housing Instability</b>	Correlation	***	*	***
<b>Prior Conviction Points</b>	Correlation	***	***	***
<b>Prior FTA Warrant</b>	Chi-Square	***	***	***

\*\*\* significant at .001 level, \*\* significant at .01 level, \* significant at .05 level

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 therefore there is no need to test for racial bias. Again, the definition in use for bias in a pretrial scale indicator is that the indicators relate to race but are unrelated to pretrial failure.

Table 9 shows the relationship between the outcome variables and the scale elements in a different format and one that some readers might find easier to understand, percentages and averages. For each outcome element, Table 9 gives the percentage of cases that did fail during pretrial at each level of the scale element or the average/median of each level of the category.

Overall, the base rate for pretrial convictions is about 18% (compared to 7% in 2008) and slightly higher for failure to appear during pretrial at 20% (compared to 17% in 2008). When looking at either type of failure (convictions or failure to appear combined), nearly a third of the pretrial events have failures prior to court disposition. With the exception of current offense, each risk factor shows clearly that 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, have problems with chemical use (although this difference is not as large as the other elements – only a 3% difference), have already failed to attend court appearances in the past and have more prior convictions than less.

For the current offense, the category with the highest failure rate is the ‘Other Felony’ category that includes property and drug felonies. These two crime categories have the highest failure rate across many different studies regardless of whether it is pretrial failure or post-disposition/post-

incarceration failure (recidivism). This is true whether the length of time to recidivate is 1 year, 2 years, or 3 years.<sup>1</sup> These defendants also fail to appear for court hearings at the highest rate as well (31%). One may think that the offenses on the Judicial Review list are there only because of risk of pretrial failure but in reality, the dangerousness of the offense *if a* defendant reoffended during the pretrial window drives this decision as well. Therefore, the 'risk' is the risk of that level of offense occurring again.

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<sup>1</sup> Some of the most recent Bureau of Justice Statistics can be reviewed at:  
<http://www.bjs.gov/content/reentry/recidivism.cfm>

**Table 9. Percent Pretrial Failure Across Different Outcome Variables**  
**N=4,258**

Scale Elements	Either Pretrial Convictions OR Failure to Appear	Pretrial Crime	Pretrial Failure To Appear/BW
		One or More Convictions	One or More Failure to Appear
<b>Current Offense</b>			
Felony Judicial Review	25.8%	17.2%	13.0%
Non Felony Judicial Review	27.7%	14.5%	17.9%
Other Felony	41.8%	21.8%	31.3%
Other Gross Misdemeanor (DWI)	25.3%	17.2%	10.3%
Other Misdemeanor	27.9%	10.6%	21.2%
<b>Unemployed</b>			
Yes	36.3%	20.5%	24.6%
No	27.5%	15.8%	16.0%
<b>Housing Instability</b>			
Yes	36.6%	20.2%	24.7%
No	29.8%	17.2%	18.4%
<b>Current Problematic Substance Use</b>			
Yes	33.6%	19.0%	22.4%
No	30.3%	17.3%	18.5%
<b>Prior Criminal History</b>			
Average Number of Priors	14.6	15.1	15.0
Median Number of Priors	08.0	10.6	09.0
<b>Prior Failure to Appear</b>			
None	23.3%	13.1%	13.7%
One to Two Prior FTA	37.3%	22.3%	23.6%
Three or More Prior FTA	50.6%	28.0%	34.0%
<b>Overall Failure Percentage</b>	<b>31.4%</b>	<b>17.8%</b>	<b>19.8%</b>

## ***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 that the defendant committed a new offense during the pretrial window for which there was a conviction, or it can mean that they failed to appear for one or more court hearing during the pretrial process, or both. Regression analyses control all other variables while looking for independent contribution of each element or independent variable to the outcome. In addition, it measures the goodness of fit of the entire set of independent variables or the model. This technique is appropriate for a validation study, as it uses elements on the pretrial tool to predict the presence or absence of pretrial failure.

Table 10 below shows two different models, one for pretrial failure with a new conviction and one for pretrial failure with a failure to appear for a scheduled court hearing with a resulting bench warrant. The two elements on the scale that measure prior history—prior convictions and prior failure to appear—are the most powerful pretrial failure predictors in both models. Total prior conviction history significantly and independently helps to predict both pretrial crime and failure to appear. This variable is an interval level scale that ranges from zero to 127. Twenty-three percent of the sample had no prior convictions. Prior conviction history helps to predict a new conviction during pretrial better than it helps to predict failure to appear during pretrial. Likewise, prior failure to appear is a stronger predictor of failing to appear during pretrial than of a new conviction during pretrial. However, in both models the complete prior history of a defendant provides the most powerful predictors of behavior during pretrial.

Prior failure to appear history is in the equation as a categorical variable. As a categorical variable, the first category—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. For example, defendants with any prior failures to appear show a significant positive coefficient, which means that they are significantly more likely to fail pretrial compared to those with no prior failures.

Additionally, both categories of prior failure to appear show significant difference (those with one or two prior failures to appear and those with three or more prior failures to appear) from those who do not have a history of non-appearance. The difference is one of magnitude between the two levels of prior failure to appear<sup>2</sup>. Having one or two prior failures to appear increases the likelihood of committing a pretrial offense by 78% compared to those with no failure to appear history. While those defendants with three or more prior failures to appear are 120% more likely to receive a pretrial conviction compared to those with no history of non-appearance. In addition, separating out the number of priors in this way was meaningful to court personnel. They felt that 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 no fail.

The current offense is also a categorical variable and in this case, the excluded or reference category is the most serious type of offense: those on the Judicial Review list for a Felony charge. The current offense, as a whole, significantly predicts both pretrial crime and failure to appear, although in slightly different ways. Those defendants charged with Other Felony offenses are significantly more likely to commit pretrial crime compared to those defendants charged with the excluded category of Judicial Review felonies, as well as those defendants charged with DUI. In contrast, those defendants charged with a non-felony offense were less likely to fail with pretrial crime compared to those who allegedly committed a felony on the Judicial Review list. The current offense is also important in determining those most at risk of failing by missing a court appearance. All offenders, other than those charged with a DUI, fail to appear significantly more than those charged with a Judicial Review offense.

Although there was a bivariate relationship between Current Problematic Substance Abuse and failure to appear during pretrial, the multivariate analysis shows that it is not predictive after controlling for the other elements in the model. Discussion of what this means and how to move forward is below in page 27.

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<sup>2</sup> In Table 10 below,  $Exp(B)$  is a statistic that shows the change in odds resulting from a unit change in the predictor. It is most useful for categorical predictors as it shows the odds of someone failing during pretrial as the probability of an event occurring divided by the probability of it not occurring. If  $Exp(B)$  is greater than 1, then it indicates that as the predictor increases, the odds of the outcome occurring increase (pretrial failure). Conversely, a value less than 1 indicates that as the predictor increases, the odds of the pretrial failure decreases.

The model as a whole is significant and meets the goodness of fit criteria. The amount of explained variance is somewhat low: 6% for pretrial crime and 13% for pretrial failure to appear, but similar to other pretrial models. Crime is a rare event and pretrial crime is even rarer, making prediction of this event difficult with statistical models. Some analysts believe that other statistical techniques such as Rare Events analysis (for example, analysis of wars or epidemiological infections) might reveal a higher percentage of explanation<sup>3</sup> and that logistic regression sharply underestimate the explained variance of rare events. However, most pretrial analyses continue to use logistic regression.

**Table 10. Models: Predicting Risk of Pretrial Failure: Two Models of Failure**

Scale Elements	Pretrial Convictions N=4,258			Failure to Appear N=4,258		
	Coef.	S.E.	Exp(B)	Coef.	S.E.	Exp(B)
<b>Current Offense</b>	<i>Reference category</i>			<i>Reference category</i>		
Felony Judicial Review						
Non Felony Judicial Review	-.138	.120	.871	.463****	.130	1.589
Other Felony	.240*	.105	1.271	.889****	.115	2.432
Other Gross Misdemeanor (DWI)	.277*	.137	1.319	-.282	.191	.754
Other Misdemeanor	-.356	.332	.700	.833***	.277	2.300
<b>Unemployed (dichotomy)</b>	.186*	.083	1.205	.361****	.088	1.435
<b>Housing Instability (dichotomy)</b>	.058	.096	1.060	.288***	.098	1.334
<b>Current Problematic Substance Use (dichotomy)</b>	.012**	.087	1.012	.067	.093	1.070
<b>Prior Criminal History (Summative scale)</b>	.009****	.002	1.009	.006*	.002	1.006
<b>Prior Failure to Appear</b>	<i>Reference category</i>			<i>Reference category</i>		
None						
1 or 2 prior FTA	.580****	.101	1.787	.613****	.108	1.847
3 or more prior FTA	.790****	.106	2.204	1.055****	.109	2.871
Constant	-2.146****	.106	.117	-2.851****	.125	.058
Nagelkerke R-squared	.054			.119		
Model Chi-Square	142.1****			309.0****		
Percent Correctly Classified	82.2%			83.8%		

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

<sup>3</sup> King and Jeng, 2001. "Logistic Regression with Rare Events Data" *Political Analysis*, 9:137-163

Table 11 shows the model if the dependent variable includes any type of pretrial failure (either pretrial convictions or failure to appear). Results look very similar to Table 10.

**Table 11. Models: Predicting Risk of Pretrial Failure for Any Type of Failure**

Scale Elements	Any Pretrial Failure Pretrial Crime O Pretrial Failure to Appear		
	Coef.	S.E.	Exp(B)
<b>Current Offense</b>			
Felony Judicial Review	<i>Reference category</i>		
Non Felony Judicial Review	.139	.102	1.149
Other Felony	.533****	.092	1.704
Other Gross Misdemeanor (DWI)	.177*	.124	1.194
Other Misdemeanor	.328	.239	1.388
<b>Unemployed (dichotomy)</b>	.208***	.072	1.231
<b>Housing Instability (dichotomy)</b>	.178*	.083	1.195
<b>Current Problematic Substance Use (dichotomy)</b>	.030	.076	1.031
<b>Prior Criminal History (Summative scale)</b>	.009****	.002	1.009
<b>Prior Failure to Appear</b>			
None	<i>Reference category</i>		
1 or 2 prior FTA	.593****	.087	1.809
3 or more prior FTA	1.036****	.092	2.819
Constant	-1.789****	.093	.167
Nagelkerke R-squared	.097		
Model Chi-Square	297.3****		
Percent Correctly Classified	72.5%		

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

### ROC Curve Analysis for Goodness of Fit

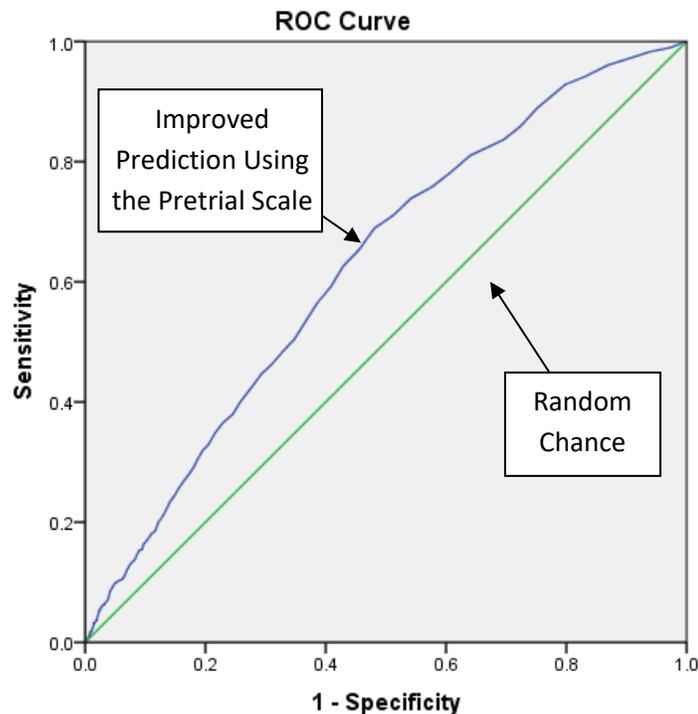
A ROC curve analysis (Receiver Operator Characteristic) helps determine the goodness of fit of the regression models. It uses predicted group classification (either failing pretrial or not) by plotting

points on a Y-axis that measures sensitivity and an X-axis that measures 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 that did not fail pretrial and the model predicted that 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 .59-.62. These values are significant, meaning that the 2007 Pretrial Scale elements predict failure at a rate significantly better than chance alone. This holds true for each of the three ways to view failure: pretrial crime, failure to appear and any pretrial failure.

**Table 12. Predictive Ability of the Pretrial Scale – ROC Curve**

Outcome Variable or Dependent Variable	Area Under the Curve	Significant
Failure to Appear	.626	.000
Pretrial Crime	.592	.000
Any Type of Failure	.612	.000



Diagonal segments are produced by ties.

## 2015 Pretrial Scale

The 2015 Pretrial Committee<sup>4</sup> met between April and July about every two weeks in order to examine the most current sample as well as review functional documents needed to process pretrial evaluations. Most meetings were about an hour and half in duration. Committee members had a lot of work to do between meetings also. About one week before each meeting, members received agendas and attachments (documents to examine and digest). Assignment of tasks or volunteering for tasks was critical to the success of producing a new Pretrial tool. All committee members fully contributed to the final 2015 scale. The findings of this committee were presented to Fourth Judicial District leadership (Chief Judge, Assistant Chief Judge, District Administrator and Deputy District Administrators), Criminal Court leadership (Presiding Criminal Judge, Assistant Presiding Criminal Judge, Senior Manager of the Criminal Division), Lead judge of the Equal Justice Committee and finally, to the criminal bench as a whole.

### **Review of Functional Documents**

#### ***Current Offense list***

The 2007 scale separates current offenses by felony vs non-felony level as well as those that require Judicial Review (held until first appearance in front of a judge) and those that the Pretrial Unit can release. In general, the most serious felony charges (12 points) were on the Judicial Review list. Also on the Judicial Review list are serious non-felony charges such as Domestic Assault/Abuse offenses. All other felony charges score six points and non-felony DUI offense score three points (see Appendix B for the 2007 Charged Offense Points). The committee decided to put together a more comprehensive list for the Pretrial Unit to utilize. This list kept the highest number of points as twelve for those offenses that are presumptive prison offenses under MN Sentencing Guidelines. The committee agreed to give nine points to presumptive probation offenses and maintain the scores for the all other felony and non-felony offenses (see Appendix D for the 2015 Charged Offense List). In addition to changing some of the scores to coincide with MN Sentencing Guidelines, the committee provided a more

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<sup>4</sup> 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 Unit Shelly Sherman, Court Research Tracy Loynachan and Marcy Podkopacz and Court Administration Sarah Lindahl-Pfiever.

comprehensive list of offenses including all subsections of MN Statutes. This should help the Pretrial Unit make succinct decisions in the future.

### ***Prior Criminal History - Out of County Person Offense List***

To score the prior offenses accurately, the Pretrial Unit needs a list of offenses that are ‘person-based’ offenses since these offenses score higher than non-person offenses on this scale. In the past, the Hennepin County Attorney’s Office has provided this list. It is useful to have these offenses listed by their description since other states have a different statute basis. The committee received an updated version from the Hennepin County Attorney’s Office for use with the 2015 Pretrial Scale. One addition to this list added by the committee was drive-by-shooting. This list is in Appendix H.

### ***Memorandum of Understanding on Conditional Release***

There is a Memorandum of Understanding (MOU) on Conditional Release between the Fourth Judicial District of Minnesota and the Department of Community Corrections and Rehabilitation of Hennepin County. Although this year’s version did not include substantive changes, the intent of the changes was to increase the clarity of supervisory expectations of defendants. This MOU helps to set the expectations for judges putting defendants on Conditional Release and documents for the Pretrial Unit the conditions for which they have agreed. This document is in Appendix I.

### ***Pretrial Bail Evaluation Process***

The purpose of this document is to train new and current Pretrial Unit officers on the process of completing the bail evaluation and scoring the Pretrial Scale. Explanations and directions for each section of the bail evaluation form and the Pretrial Scale is included in this process document. The bail evaluation form is in Appendix E. The Bail Evaluation Process training document is in Appendix J.

### **Scale Elements – Refinement and Additions**

#### ***Current Problematic Substance Abuse***

When the 2015 Pretrial Committee convened, one of the first conversations was on the indicator of current problematic substance abuse. The Pretrial Unit confessed a concern about the interrater reliability among their officers. The supervisors said that many, many conversations occur on this element of the scale. Clearly, this element required retooling to operationalize the definition to be more succinct.

Although current problematic substance abuse shows a bivariate significant relationship with pretrial failure to appear and to pretrial failure as a whole, it is not predictive of pretrial failure in the multivariate analysis when the other elements of the scale are in the equation. Given the comments from the Pretrial Unit supervisors about their lack of faith that their officers were using the same operational definition, this is not a surprise. Many Pretrial tools from across the country try to tap this indicator – particularly if the pretrial process includes a personal interview of the defendant. However, not much is written about the difficulties of coming up with a succinct definition of current problematic substance abuse that is nuanced enough to effectively link this indicator to pretrial failure.

In an attempt to find out if chemical issues could be predictive by tightening the definition used by Pretrial officers, we looked at Orders for Chemical Dependency Evaluation during the life of the sample criminal cases. This experiment was not to determine if these orders in and of themselves can predict failure, but only to use them as a proxy indicating a clear chemical issue. Using a retrospective sample, as we have, allows for these explorations. Even though only 8% of the Pretrial sample population had an Order for Chemical Dependency Evaluation during the course of their case, when it was part of the multivariate model, it was highly significant, which means it contributed individually beyond the other scale items and improved the predictive ability of the model. With this information in hand, the Pretrial unit attempted to tighten the definition for current problematic substance abuse. Appendix G shows the model with this proxy variable.

The Pretrial Unit supervisors members came back with some new thoughts and the committee spent multiple meetings discussing the pros and cons of different ideas. Listed below is the old definition in use in 2007. Below that, is how the definition has changed for the 2015 Pretrial Scale.

The old definition:

Two (2) points assigned if the defendant either admits to current substance abuse issues or is engaging in a pattern of problematic chemical use that represents an increased risk of pretrial failure.

The new definition:

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.  
*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.*

The reader will note that the committee dropped the number of points to one from two due to the possible uncertainty that tightening the definition would solve this issue.

### **Unemployment**

This indicator was working well and really just needed some tweaks to ensure that the right people were getting the assigned points, and, more importantly, the wrong people were not getting the points. Some of the adjustments to this definition came from attorneys/judges who had sent questions to us. One such question was about a 67-year-old retiree who, technically was “not employed” and yet, received the unemployment points. Other issues came to the committee from the Pretrial Unit supervisors who had a number of additional groups of people for whom they were uncomfortable with giving these points. Homemakers or those staying home to care for family members but for whom financial support is available is another group that would not receive these points. Finally, those individuals whose combination of work hours and school hours added to 20 hours or more would not receive these points.

Here is the new definition:

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.

### ***Age at first Delinquency Adjudication or Adult Criminal Conviction***

As discussed above in this report, using a defendant's age was not in keeping with this jurisdiction's values. However, noting the age that the defendant first received adjudication for a felony delinquency offense or any adult criminal conviction does not fit the same criteria of being an ascribed characteristic. This is, in fact, an achieved status. In this case, the element indicates someone who has participated in criminal activity from a younger age with the corresponding theory that those who start earlier are more likely to be deeper into the criminal element. The operationalization of this element is a felony delinquency adjudication from 14 years old or older or any criminal conviction 25 years old or younger, receive a point on the pretrial scale. Research on our population showed that those whose first conviction occurred at 26 or older had odds no different from those that had no previous convictions or adjudications at any age. The age limit of 14 for felony delinquency adjudications was to match the method used in the Minnesota Sentencing Guidelines Commission for prior history points for youth.

This new added element reads:

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

### ***Pending Charges***

The 2015 Pretrial Committee also reviewed current pending charges as a possible new indicator to our pretrial scale. Many other jurisdictions use the fact that some defendants, besides having the current offense, also face other pending charges. This indicator was not statistically significant and was not included in the 2015 Pretrial Scale. Table 13 below shows the additions of age at first adjudication/conviction and pending charges to the Pretrial Scale. Table 14 depicts the final 2015 Pretrial Scale for Hennepin County.

**Table 13. Pretrial Scale with additions of age at first conviction and Pending Charges**

	<b>Any Pretrial Failure</b>		
	<b>Pretrial Crime O Pretrial Failure to Appear</b>		
<b>Scale Elements</b>	<i>Coef.</i>	<i>S.E.</i>	<i>Exp(B)</i>
<b>Current Offense</b>			
Felony Judicial Review	<b>Reference category</b>		
Non Felony Judicial Review	.178	.103	1.194
Other Felony	.577****	.093	1.780
Other Gross Misdemeanor (DWI)	.232	.125	1.262
Other Misdemeanor	.373	.251	1.451
<b>Unemployed (dichotomy)</b>	.163*	.073	1.177
<b>Housing Instability (dichotomy)</b>	.197**	.0832	1.217
<b>Current Problematic Substance Use (dichotomy)</b>	.032	.076	1.032
<b>Prior Criminal History (Summative scale)</b>	.009****	.002	1.009
<b>Pending Charges</b>			
None	<b>Reference category</b>		
Non-felony Level	.146	.118	1.157
Felony Level	.232	.151	1.251
<b>Age at First Conviction/Adjudication</b>			
Youngest (14 years old) to 20 years old	.580****	.111	1.787
21 through 25 years old	.398****	.112	1.489
26 years old through oldest (67 years old)	.129	.114	1.138
No conviction History	<b>Reference category</b>		
<b>Prior Failure to Appear</b>			
None	<b>Reference category</b>		
1 or 2 prior FTA	.476****	.090	1.609
3 or more prior FTA	.844****	.098	2.325
Constant	-1.914****	.109	.148
Nagelkerke R-squared	0.11		
Model Chi-Square	339.0****		
Percent Correctly Classified	72.3%		

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

**Table 14. Final Model: Predictive Ability of 2015 Pretrial Scale**

<b>Any Pretrial Failure (Pretrial Crime Or Pretrial Failure to Appear with Bench Warrant or both)</b>			
<b>Scale Elements</b>	<i>Coef.</i>	<i>S.E.</i>	<i>Exp(B)</i>
<b>Current Offense</b>			
Felony Judicial Review	<b>Reference category</b>		
Non Felony Judicial Review	.121	.103	1.186
Other Felony	.596****	.092	1.766
Other Gross Misdemeanor (DWI)	.209	.124	1.233
Other Misdemeanor	.352	.240	1.422
<b>Unemployed (dichotomy)</b>	.178**	.072	1.194
<b>Housing Instability (dichotomy)</b>	.186*	.083	1.205
<b>Current Problematic Substance Use (dichotomy)</b>	.043	.076	1.044
<b>Prior Criminal History (Summative scale)</b>	.010****	.002	1.010
<b>Age at First Conviction/Adjudication (dichotomy)</b>	.351****	.074	1.420
<b>Prior Failure to Appear</b>			
None	<b>Reference category</b>		
1 or 2 prior FTA	.517****	.089	1.677
3 or more prior FTA	.920****	.095	2.510
Constant	-1.936****	.099	.144
Nagelkerke R-squared	0.11		
Model Chi-Square	319.6****		
Percent Correctly Classified	72.5%		

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

**Summary, Next Steps and Recommendations**

The Fourth Judicial District of Minnesota has a long history of utilizing an objective method of making pretrial release decisions. The 2015 Pretrial Scale will be the fourth validated tool actively used by the members of the bench in this district. This new 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 either one or both of the outcome variables, pretrial crime or pretrial FTA.

These changes will go to DOCCR's vendor for changes to their information system CSTS. All pretrial elements are within a 'pretrial module' of CSTS—a statewide probation system—and will need adjusting by that vendor, the new functionality tested, and training provided to the pretrial officers. Our hope is that the new scale will be in place by the beginning of 2016 or shortly thereafter.

Reassessment of this tool should occur within five years to determine if it continues to meet the needs of this district. Due to the changes in the current problematic substance use indicator, an earlier assessment should be encouraged.

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**Appendix A: 2007 Pretrial Scale**

<b>TYPE</b>	<b>NEW WEIGHT</b>	<b>ITEM</b>
<b>Charged Current Offense Information</b>	<b>+12</b>	All felony offenses on the Judicial Review list *
	<b>+6</b>	Felonies not on the Judicial Review list and gross misdemeanor or misdemeanor <i>person</i> offenses
	<b>+3</b>	Gross misdemeanor DWI
<b>Personal Information On Defendant</b>	<b>+3</b>	Employed less than 20 hours per week, not a full time student, not receiving public assistance/other (if yes)
	<b>+1</b>	Homeless or 3 or more addresses during the past 12 months or moved around between friends and shelters ** (if yes)
	<b>+2</b>	Current Problematic Chemical Use: The defendant either admits to current substance abuse issues or is engaging in a pattern of problematic chemical use that represents an increased risk of pretrial failure (if yes)
<b>Prior History  Prior Conviction Information and Prior Warrants for failure to appear or conditional release violations</b>	<b>+9 for each</b>	Prior felony level <i>person</i> convictions
	<b>+6 for each</b>	Prior non-felony level <i>person</i> convictions
	<b>+2 for each</b>	Prior other felony convictions
	<b>+1 for each</b>	Other non-felony level convictions (EXCLUDE traffic offenses that do not involve alcohol/drugs)
	<b>+6 if 1-2 Warrants</b>	Prior warrants for failure to appear or conditional release violations within last three years
	<b>+9 if 3 or more Warrants</b>	

\* Cases with these charge offenses must be reviewed by a judge and cannot be released by Pretrial regardless of total score on this scale.

\*\*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’.

## Appendix B: 2007 Charge Offense Points

### 12 POINTS (JUDICIAL REVIEW REQUIRED)

- 609.11 Use of Weapon
- 609.185 Murder in the 1<sup>st</sup> Degree
- 609.19 Murder in the 2<sup>nd</sup> Degree
- 609.195 Murder in the 3<sup>rd</sup> Degree
- 609.20 Manslaughter in the 1<sup>st</sup> Degree
- 609.205 Manslaughter in the 2<sup>nd</sup> Degree
- 609.21 Criminal Vehicular Homicide and Operation
- 609.2661 Murder of Unborn Child in the 1<sup>st</sup> Degree
- 609.2662 Murder of Unborn Child in the 2<sup>nd</sup> Degree
- 609.2663 Murder of Unborn Child in the 3<sup>rd</sup> Degree
- 609.2664 Manslaughter of an Unborn Child in the 1<sup>st</sup> Degree
- 609.2665 Manslaughter of an Unborn Child in the 2<sup>nd</sup> Degree
- 609.221 Assault in the 1<sup>st</sup> Degree
- 609.222 Assault in the 2<sup>nd</sup> Degree
- 609.223 Assault in the 3<sup>rd</sup> Degree
- 609.224S4 Assault in the 5<sup>th</sup> Degree IF Felony
- 609.2247 Strangulation
- 609.2242S4 Felony Domestic Assault
- 609.267 Assault of an Unborn Child in the 1<sup>st</sup> Degree
- 609.2671 Assault of an Unborn Child in the 2<sup>nd</sup> Degree
- 609.2672 Assault of an Unborn Child in the 3<sup>rd</sup> Degree
- 609.268 Injury or Death of Unborn of Child in commission of crime
- 609.713 Terroristic Threats
- 609.245 Aggravated Robbery
- 609.24 Simple Robbery
- 609.25 Kidnapping
- 609.342 Criminal Sexual Conduct in the 1<sup>st</sup> Degree
- 609.343 Criminal Sexual Conduct in the 2<sup>nd</sup> Degree
- 609.344 Criminal Sexual Conduct in the 3<sup>rd</sup> Degree
- 609.345 Criminal Sexual Conduct in the 4<sup>th</sup> Degree
- 609.352 Solicitation of Children to Engage In Sexual Conduct
- 609.322S1 Solicitation, Inducement & Promotion of Prostitution of minors only
- 609.561 Arson in the 1<sup>st</sup> Degree
- 609.582S1 Burglary in the 1<sup>st</sup> Degree
- 609.582S2 Burglary in the 2<sup>nd</sup> Degree
- 609.485 Escape from Justice, Fugitive from Justice
- 609.495 Aiding an Offender (for 12 pt offenses)
- 609.66 Dangerous Weapons (firearms or knives only)
- 609.67 Machine Guns and Short Barreled Shotguns
- 624.713 Prohibited Persons in Possession of Firearms
- 152.021 Controlled Substance 1<sup>st</sup> Degree
- 152.022 Controlled Substance 2<sup>nd</sup> Degree
- 617.247 Child Pornography
- 243.166 Failure to Register as a Sex Offender

## 6 POINTS (JUDICIAL REVIEW REQUIRED)

609.2242 Domestic Assault  
518B.01S22 Violation of No Contact Order  
518B.01S14 Violation of Orders for Protection  
609.749 Harassment/Stalking  
609.498 Tampering with a Witness  
609.78 Interfering Emergency 911 call

## 6 POINTS (NO JUDICIAL REVIEW REQUIRED)

609.2231 Assault in the 4<sup>th</sup> Degree  
609.225 Assault in the 5<sup>th</sup> Degree if NOT felony  
609.255 False Imprisonment  
609.377 Malicious Punishment of a Child  
609.232 Assault of a Vulnerable Adult  
609.233 Criminal Neglect  
609.2325 Criminal Abuse  
609.378 Child Abuse Neglect  
609.746 Interference with Privacy (peeping)  
617.23 Indecent Exposure  
609.3451 Criminal Sexual Conduct 5<sup>th</sup> Degree  
152.023 Controlled Substance 3<sup>rd</sup> Degree  
152.024 Controlled Substance 4<sup>th</sup> Degree  
152.025 Controlled Substance 5<sup>th</sup> Degree  
609.562 Arson 2<sup>nd</sup> Degree  
609.563 Arson 3<sup>rd</sup> Degree  
609.582S3 Burglary 3<sup>rd</sup> Degree  
609.52 Theft (including Motor Vehicle)  
609.52S3(i) Theft from Person  
169A.24 Felony DWI  
609.687 Food Adulteration  
609.495 Aiding an Offender (for 6 pt offenses)

## 6 POINTS FOR ALL OTHER FELONIES NOT LISTED

## 3 POINTS

609.21 Criminal Vehicular Operation (GM)  
169A.25 DWI 2<sup>nd</sup> Degree  
169A.26 DWI 3<sup>rd</sup> Degree

**Appendix C: Fourth Judicial District of Minnesota/Hennepin County  
2015 Pretrial Scale (red indicates changes)**

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

\* 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 D: 2015 Charged Offense Scores

### 12 Points – Judicial Review Required

Offense Name	Statute
Adulteration Resulting in Death	609.687S3(1)
Aggravated Robbery – 1 <sup>st</sup> Degree	609.245S1
Aiding an Offender (for 12 pt. offenses)	609.495
Arson - 1 <sup>st</sup> Degree	609.561
Assault - 1 <sup>st</sup> Degree	609.221
Assault - 2 <sup>nd</sup> Degree	609.222
Assault of Unborn Child - 1 <sup>st</sup> Degree	609.267
Burglary – 1 <sup>st</sup> Degree	609.582S1
Certain Persons Not to Possess Firearms	624.713
Controlled Substance - 1 <sup>st</sup> Degree	152.021
Controlled Substance - 2 <sup>nd</sup> 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 <sup>st</sup> Degree	609.342
Criminal Sexual Conduct - 2 <sup>nd</sup> Degree (force, weapon, injury, accomplice, victim impairment, sig. relationship + mult. acts)	609.343S1(c,d,e,f,h)
Criminal Sexual Conduct - 3 <sup>rd</sup> 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 Sex Offender	243.166
Fleeing Peace Officer (death)	609.487S4(a)
Kidnapping (great bodily harm, unsafe release, vic under 16)	609.25S2(2)
Malicious Punishment of Child (great bodily harm)	609.377S6
Manslaughter - 1 <sup>st</sup> Degree	609.20

Manslaughter - 2 <sup>nd</sup> Degree (culpable negligence, child neglect or endangerment)	609.205(1, 5)
Manslaughter of Unborn Child - 1 <sup>st</sup> Degree	609.2664
Manslaughter of Unborn Child - 2 <sup>nd</sup> Degree (culpable negligence)	609.2665(1)
Murder - 1 <sup>st</sup> Degree	609.185
Murder - 2 <sup>nd</sup> Degree	609.19
Murder - 3 <sup>rd</sup> Degree	609.195
Murder of Unborn Child - 1 <sup>st</sup> Degree	609.2661
Murder of Unborn Child - 2 <sup>nd</sup> Degree	609.2662
Murder of Unborn Child - 3 <sup>rd</sup> Degree	609.2663
Riot - 1 <sup>st</sup> Degree	609.7151
Solicitation, Inducement, and Promotion of Prostitution (or Profit from); Sex Trafficking	609.32251
Use of Weapon	609.11
Witness Tampering - 1 <sup>st</sup> Degree Aggravated	609.49851b

#### 9 Points – Judicial Review Required

Offense Name	Statute
Aggravated Robbery – 2 <sup>nd</sup> Degree	609.24552
Aiding an Offender (for 9 pt. offenses)	609.495
Assault - 3 <sup>rd</sup> Degree	609.223
Assault - 5 <sup>th</sup> Degree (felony)	609.22454
Assault of Unborn Child - 2 <sup>nd</sup> Degree	609.2671
Burglary - 2 <sup>nd</sup> Degree	609.58252
Crime Committed for Benefit of Gang (if crime committed is gross misdemeanor)	609.22953(c)
Criminal Abuse of Vulnerable Adult (substantial bodily harm)	609.232553(a)(3)
Criminal Neglect of Vulnerable Adult (deprivation resulting in substantial bodily harm)	609.23353(2)
Criminal Sexual Conduct - 2 <sup>nd</sup> Degree (under 13 & age diff.; 13-16 & age diff. + authority; under 16 & sig. relationship)	609.34351(a,b,g)
Criminal Sexual Conduct - 3 <sup>rd</sup> Degree (13-16 & age diff.; 16-18 & age diff.+ authority; 16-18 & sig. relationship)	609.34451(b,e,f)
Criminal Sexual Conduct - 4 <sup>th</sup> Degree	609.345
Criminal Sexual Conduct - 5 <sup>th</sup> Degree (enhance felony)	609.3451
Criminal Vehicular Operation	609.2113 or 609.2214
Dangerous Weapons (silencer, discharge, furnishing, possession school property)	609.6651a,b,c,d(a)

Domestic Assault by Strangulation	609.2247
Drive-By Shooting (toward unoccupied building/vehicle)	609.66S1e(a)
DWI - 1 <sup>st</sup> Degree	169A.24
DWI Refusal – 1 <sup>st</sup> 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 <sup>nd</sup> 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
Terroristic Threats	609.713
Violation DANCO (felony)	629.75
Violation of Order for Protection (felony)	518B.01S14
Witness Tampering - 1 <sup>st</sup> 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)
Interfering Emergency 911 call	609.78
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
Arson – 2 <sup>nd</sup> Degree	609.562
Arson – 3 <sup>rd</sup> Degree	609.563
Assault - 4 <sup>th</sup> Degree	609.2231
Assault - 5 <sup>th</sup> Degree (non-felony)	609.224
Assault of Unborn Child - 3 <sup>rd</sup> Degree	609.2672
Burglary – 3 <sup>rd</sup> Degree	609.582S3
Controlled Substance Crime - 3 <sup>rd</sup> Degree	152.023
Controlled Substance Crime - 4 <sup>th</sup> Degree	152.024
Controlled Substance Crime - 5 <sup>th</sup> Degree	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 <sup>th</sup> Degree (non-felony)	609.3451S2
Dangerous Weapons (non-felony)	609.66S1, 1d(b)(c)(d)
Domestic Assault (misdemeanor)	609.2242S1
False Imprisonment(restraint of child or demonstrable bodily harm)	609.255S2 or S3(a) and (b)
Fleeing Peace Officer (substantial bodily harm or no injury)	609.487S3 and S4(c)
Harassment; Restraining Order (misdemeanor)	609.748S6(b)
Indecent Exposure	617.23
Interference with Privacy (peeping)	609.746
Malicious Punishment of a Child (non-felony)	609.377S2
Neglect or Endangerment of a Child	609.378
Riot – 3 <sup>rd</sup> Degree (non-felony)	609.71S3
Theft	609.52
Theft - All Felony Offenses	

Theft from Person	609.52S3(i)
Violation DANCO (misdemeanor)	629.75S2(b)
Violation of Order for Protection (misdemeanor)	518B.01S14(b)
Witness Tampering (misdemeanor)	609.498S2a

**For all felonies not listed:**

- 12 points and judicial review required if the severity level in the Minnesota Sentencing Guidelines is 8 or above;
- 6 points and no judicial review required if the severity level in the Minnesota Sentencing Guidelines is 7 or less.

**3 Points No Judicial Review Required**

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

### Appendix E: 2015 Bail Evaluation Form

PD Eligible:  Yes  No

Interpreter Needed:  Yes  No

Language: \_\_\_\_\_

#### HENNEPIN COUNTY PRETRIAL EVALUATION

Screen Date:	Div.	SILS #	Case #	SID/FBI #			
Name (Last)		(First)	(Middle)	DOB	Age	Sex	Race
Street Address	Verified? <input type="checkbox"/> Yes <input type="checkbox"/> No	Apt #	City	State	ZIP	Duration	
Telephone #	Most Recent Prior Address					Duration	
Have you ever been in, or served in the armed services? <input type="checkbox"/> Yes <input type="checkbox"/> No		Aliases:	Birth Place:	Marital Status:	# Kids:	# Dep:	
Arrest Type:	Bail Amount:	Main Charge: Felony				Points Assigned  Choose a number	
		Other Charges:					
<b>Employment/Income Sources or School Status</b>					Amount: \$	Choose a number	
Current Problematic Chemical Use						Choose a number	
Homeless or 3 or More Address Changes in Past Year						Choose a number	
<b>Age at first Delinquency Adjudication/Conviction</b>						Choose a number	
Criminal History Points							
Bench Warrant Points						Choose a number	
Holds/Type:		<input type="checkbox"/> Complaint <input type="checkbox"/> Police Report:			Scale Score		
Collateral/Relationship: Address/Phone #		Collateral Comments:			PreTrial Score Lower = 0-11 points Moderate = 12-25 points Higher = 26 or more points		
Victim Name/Relationship: Address/Phone #:		Victim Comments:					
<b>Current Monitoring Status</b> <input type="checkbox"/> Conditional Release <input type="checkbox"/> Probation <input type="checkbox"/> Parole: Case Number: _____ Expiration: _____ Sentenced: _____ Convicted: _____ Case Description: _____  County: Hennepin P.O. Name/Phone #: _____							
Pending Cases:							
Probation Officer Comments/Observations (include mental health concerns and other relevant information used to assess the defendant):							
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.		

THE INFORMATION CONTAINED HEREIN IS BASED ON RESOURCES AVAILABLE AT THIS TIME AND MAY NOT IDENTIFY ALL CONVICTIONS OR BENCH WARRANTS.

CASE #

NAME: (LAST)	(FIRST)	(MIDDLE)
<input type="text"/>	<input type="text"/>	<input type="text"/>

**CONVICTION HISTORY**

**FELONY:**

<input type="text"/>

**GROSS MISDEMEANOR:**

<input type="text"/>

**MISDEMEANOR:**

<input type="text"/>

**FAILURE TO APPEAR BENCH WARRANTS AND CONDITIONAL RELEASE WARRANTS IN THE LAST THREE YEARS:**

Date Ordered	Type	County of Issuance	Date Ordered	Type	County of Issuance
<input type="text"/>					
<input type="text"/>					
<input type="text"/>					
<input type="text"/>					
<input type="text"/>					

**Appendix F. Matrix of Relationships between Independent Elements**

		Not Employed	Housing Instability	Problematic Chemical Use	Current Offense	Age at first adjudication Conviction	Prior Bench Warrants – FTA
		Pearson	Pearson	Pearson	Gamma	Pearson	Gamma
Housing Instability	Pearson Significance	.092 .000					
Problematic Chemical Use	Pearson Significance	.054 .000	.087 .002				
Current Offense	Gamma Significance	-.097 .000	-.104 .000	.164 .000			
Age at First Adjudication or Conviction	Pearson Significance	-.130 .000	-.016 .142	.019 .107	-.117 .000		
Prior Bench Warrants for FTA	Gamma Significance	.281 .000	.214 .000	.046 .000	-.092 .000	.486 .000	
Prior Conviction Points	Pearson Significance	.082 .000	.117 .000	.063 .000	-.110 .000	-.028 .033	.276 .000

Appendix G: Binary Logistic Regression using Proxy for Substance Abuse

Table 15. Testing the Model Effectiveness with Order for Chemical Dependency Evaluation

	Any Pretrial Failure Pretrial Crime O Pretrial Failure to Appear		
Scale Elements	Coef.	S.E.	Exp(B)
<b>Current Offense</b>			
Felony Judicial Review	<i>Reference category</i>		
Non Felony Judicial Review	.198*	.103	1.219
Other Felony	.504****	.092	1.656
Other Gross Misdemeanor (DWI)	.241*	.124	1.272
Other Misdemeanor	.376	.240	1.457
<b>Unemployed (dichotomy)</b>	.200**	.072	1.221
<b>Housing Instability (dichotomy)</b>	.171*	.083	1.187
<b>Order for Chemical Dependency Evaluation (dichotomy)</b>	.715****	.124	2.043
<b>Prior Criminal History (summative scale)</b>	.009****	.002	1.009
<b>Prior Failure to Appear</b>			
None	<i>Reference category</i>		
1 or 2 prior FTA	.567****	.088	1.763
3 or more prior FTA	.993****	.093	2.698
Constant	-1.831****	.092	.160
Nagelkerke R-squared	.11		
Model Chi-Square	329.7****		
Percent Correctly Classified	72.9%		

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

## Appendix H: Classification of Out of State PERSON offenses

### 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**

- [609.66 Subd 1e](#) DRIVE-BY SHOOTING

- [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 I: Memorandum of Understanding on Conditional Release

# 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.

 <p>HENNEPIN COUNTY</p>	<p><b>CHAPTER: Bail Evaluation Process</b></p> <p><b><u>Field Training Lesson</u> – Completing the Bail Evaluation Process</b></p> <p>Revised 9/23/15</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:**

**1. 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 booking 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.

If the present offense/main charge is a felony and you do not locate the specific statute and subdivision on the pre-trial points charged offense cheat sheet, you will need to determine the severity level of the offense assigned by the Minnesota Sentencing Guidelines (refer to the severity level cheat sheet on Sharepoint) to determine how many points to assign and whether the offense requires judicial review. If the severity level assigned for the offense is 8 or above, judicial review is required and 12 points should be assigned. If the severity level assigned for the offense is 7 or less, judicial review is not required and 6 points should be assigned.

**2. Present Offense/Main Charge Not Requiring Judicial Review**

Other 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 and is not on the Judicial Review List. As previously noted, 6 points will also be assigned if you are unable to locate the specific statute and subdivision on the pre-trial

points charged offense cheat sheet and the severity level is 7 or less. 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.

### 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 in custody in a correctional facility or 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).

- e) 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.*

- f) 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.*

- g) 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.*

- h) 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/Adjudication

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

#### 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). Note that EJJ cases are scored like any other adult felony conviction.

**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 or Conditional Release violation 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.

If the client was to appear in court on the same day for multiple cases and failed to appear, a bench warrant is counted for every case the client did not appear for.

### **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.]

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:**

1. Pre-Trial Agents do not have the authority to release clients who:
  - Have offenses requiring Judicial Review (see list)
  - Score 26 or above on the Pretrial Services Point Scale
  - Are currently on any level Hennepin County probation for a felony or gross misdemeanor offense
  - Are currently on Hennepin County probation for any level domestic assault
  - Are in custody on a bench warrant(s) for any non-appearance or Conditional Release violation
  - Are detained on Arrest & Detention Orders, Probable Cause, Immigration holds or who are federal, military, immigration or in-transit prisoners
  - Are currently on parole
  - Have unverified information (*primarily address*) on felony level offenses (not on the Judicial Review List)
2. Pre-Trial P.O.'s have been given designated release authority by the bench/court to release certain clients (see Release Process Lesson Plan for procedures) who meet release criteria. While there are scoring parameters, many factors need to be considered when making a release decision. For example, in the case of a client who scores within the NBR or CR range, a probation officer may determine that because of a presenting problem(s), a release should not occur or if released, conditions should be imposed. Presenting problems/risk factors or over-ride situations to be considered may include:
  - DANCO may be appropriate
  - Particular concern for victim safety

- Heightened threat to public safety
- Risk for non-appearance in court not otherwise taken into consideration
- Non-Minnesota Resident
- Substantial Drug/alcohol use
- Severe Mental health issues
- Probation/parole status
- Unverified info/discrepancies in obtained information
- Charges/pending cases or holds for other counties or states
- Interview completed right before court appearance
- Other

Should you deviate from what the scale score suggests based upon a presenting problem, note this in the comment section of the bail evaluation.

3. After considering the score and other presenting problems and/or risk 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.]*

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.

### **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.

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**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.