

Project Remand Pretrial Evaluation and Custody Study

Executive Summary 2002

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A study was done to answer the question: Is race a factor in judicial decisions to hold offenders in custody vs. releasing offenders into the community pending further court hearings? Given similar scores on the Project Remand Pretrial Evaluation, do judges hold offenders in custody based on race?

This study examined two assumptions:

- The pretrial evaluation tool is valid in that it does discriminate among offenders according to their score on the tool but the tool does not discriminate according to the offender's race;
- Judicial decisions to hold offenders in custody are primarily based on their score on the evaluation tool. Race is not a factor in judicial decisions to hold offenders in custody vs. releasing offenders into the community.

Data Analysis

Statistical analysis was used to test the two assumptions outlined above. Questions one through three examine the validity of the evaluation tool itself. Once validity was established, question four examined judicial decisions in relation to race, in relation to prior history, and in relation to total score on the evaluation tool.

Definition: Higher scores refer to positive numbers; lower scores refer to negative numbers. Someone scoring "high" might get a +3 while someone scoring "low" might get a -32. Someone scoring "high" would be a better risk in the community than someone scoring "low".

Question 1: Is the evaluation tool valid? Yes.

- 47% of the "total scores" on the pretrial evaluation tool fall between -32 and -3, a wide range of scores. Overall, the scores are normally distributed.
- If all or most of the scores tended to cluster around just a few numbers, the evaluation tool would not be doing what it is supposed to do, which is to discriminate among offenders so that a decision can be made about offenders based on their score.

Question 2: Do the three categories (OR-Released on Own Recognizance, CR-Conditional Release, Bail) appear to discriminate among offenders?

Yes.

- Judicial decisions regarding OR, CR, and Bail are distributed fairly evenly into the three categories. This validates the categories and shows that the categories do distinguish among offenders in some way.
- 69% of the OR decisions made by judges fell in the evaluation tool OR range of 0 to +6. Thirty one percent (31%) of the decisions made by judges fall outside the

- range. When judges' deviated, they tended to give lower scoring offenders OR meaning within the OR disposition group, judges tend to give offenders the benefit of the doubt.
- 70% of the CR decisions made by judges fell within the evaluation tool CR categorical range of -1 to -10. When their decision deviated from the evaluation, judges tended to be more conservative, giving higher scoring offenders CR.
 - Only 31% of the scores (decisions made by judges) fell into the bail range (-11 or lower) while the majority of scores fall outside the range. The judges tended to be more conservative in their decision to give bail than the evaluation tool would have them be. In other words, higher scoring offenders received the bail decision.
 - When judges made a bail decision, whites had higher scores than African Americans and other minorities. On average, the judges tended to be harder on whites in this category than African Americans or other minorities.

Question 3: Do the scores differ significantly in how they fall into the three categories when race/ethnicity are considered? No. Is the evaluation tool valid for whites and for minorities? Yes

- There was no significant difference between the average score of whites, African Americans and all other minorities on the pretrial evaluation tool.
- The evaluation is a valid tool for whites and for minorities.

Question 4: Do the judges assign offenders into the three categories according to their score on the evaluation? Yes. Is race/ethnicity a factor in judicial decision-making? No.

- There is no correlation (relationship) between race and decision-making.
- Race is not a predictor in judicial decision-making.
- There is a fairly strong correlation between prior record and judicial decision-making.
- Prior record is a significant predictor in judicial decision-making.
- There is a strong correlation between total score and judicial disposition.
- Total score is a strong predictor of judicial disposition.

Summary:

This analysis was done in two parts. The first part of the analysis examined whether the pretrial evaluation tool was discriminating among offenders in the manner intended by the design of the tool. In fact, the tool does discriminate among offenders in the manner intended. The evaluation tool places offenders in one of three categories based on the offenders score on the tool. The tool appears to be valid for all races.

The second part of the analysis examined the decision making of judges in relationship to the total score on the evaluation tool and in relationship to race. Race is not a factor in judges' decision to hold offenders in custody vs. releasing offenders into the community pending further court hearings.

Project Remand Pretrial Evaluation and Custody Study

A study was done to attempt to answer the question: Is race a factor in judicial decisions to hold offenders in custody vs. releasing offenders into the community pending further court hearings? Given similar scores on the Project Remand Pretrial Evaluation, is the judges' decision to hold offenders in custody based on race?

The Study Design

- The Pretrial Evaluation is designed to separate offenders into three categories as determined by a series of weighted questions. The three categories are OR, CR, and bail. For the purposes of this study, offenders given OR and CR are considered to be “released” while offenders given “bail” are considered to be “held in custody.”
- This study examines two assumptions:
 - The pretrial evaluation tool is valid in that it does discriminate among offenders according to their score on the tool but the tool does not discriminate according to the offender’s race;
 - Judicial decisions to hold offenders in custody are primarily based on their score on the evaluation tool. Race is not a factor in judicial decisions to hold offenders in custody vs. releasing offenders into the community.
- This study compares ‘total scores’ on the evaluation tool to decisions made by judges regarding OR, CR, and bail. Per the tool’s design guidelines, all those scoring between 0 and +6 would get OR, all those scoring between -1 and -10 would get CR, and all those scoring -11 or lower would get bail.
- Definition of Terms: Higher scores refer to positive numbers; lower scores refer to negative numbers. Someone scoring “high” on the evaluation might get a +3 whereas someone scoring “low” might get a -32. Someone scoring “high” would be a better risk in the community than someone scoring “low.”

Recommended Disposition Based on Total Score on Pretrial Evaluation Tool		
OR	Release on Own Recognizance	0 through +6
CR	Conditional Release	-1 through -10
Bail	Hold Pending Bail	-11 or lower

- Background: One year ago, Judge Marrinan assembled a Custody Study Group with representatives from Ramsey County Courts, Corrections, Sheriff’s Office, Public Defender’s Office, and Project Remand to discuss statistics that reflected a disproportionate percentage of minorities being held in the ADC prior to first appearance. Discussion focused on determining the basis for the detention. The group decided to study the sub-group of defendants that are in custody at the time of First Appearance and have a pretrial evaluation completed by Project Remand. There are two reasons for this: First Appearance is the initial point of contact

- these defendants have with the judiciary and the pretrial evaluation tool contains a wealth of information about the defendant and his or her prior criminal history.
- Time frame: All pretrial evaluation forms completed by Project Remand for First Appearances between August 6 through 17, 2001.
 - Sample Size: 235 pretrial evaluation forms were reviewed out of a total of 386 forms collected. All 235 forms in the sample had a total score, race information and a disposition of OR(64), CR(91), or bail(80). Eliminated forms were missing total score information (6), race information (11) or had a disposition of Plead Guilty/Sentenced (119) or Charges Dismissed (14) or Other (1).
 - Variables Reviewed: The following variables were recorded from each of the 386 forms reviewed for this study:
 - Defendant's race (this was self-reported by defendants);
 - Prior Record Score (associated with defendant's prior criminal history);
 - Total Score recorded on the Pretrial Evaluation form;
 - Was the victim contacted?;
 - Disposition at time of First Appearance (OR, CR, Bail, Plead Guilty/Sentenced; Charges Dismissed, Other);
 - Current Charge Offense Level – Felony, Gross Misdemeanor, Misdemeanor;
 - Current Charge;
 - Was information verified by someone that knows Defendant?;
 - What was Remand's recommendation?
 - Noted for Future Study: When analyzing the above variables, the group that analyzed these findings uncovered two additional pieces of information that are of interest, but beyond the scope of this study and would require a larger sample size to verify their significance. These areas of potential future study are:
 - Charges Dismissed: Only 14 cases fell into the Disposition at time of First Appearance Category of "Charges Dismissed." Of those 14 cases, 4 had white defendants and 10 had minority defendants. The numbers are too small to come to any conclusions as to why 71% of cases where the charges were dismissed were for minority defendants.
 - Current Charge: The attached table (see Appendix A) shows a cross tabulation of race with current charge. Of note is that the most frequent charges for whites are theft/property, assault and DWI while the most frequent charges for blacks are assault, theft/property, and driving.

Data Analysis

This portion of the study used statistical analysis to test the two assumptions outlined above. Statistical analysis examines a sample of a larger population and determines the likelihood that findings from the sample can be inferred to the larger population. In this case, the sample consists of 235 offenders who were scored on the Remand Pretrial Evaluation and then were seen in court by a judge who decided to either hold the offender in custody pending bail or to release the offender into the community. The larger population would be all offenders given the evaluation and seen by a judge.

Questions one through four examined the validity of the evaluation tool itself. Once validity was established, question five examined judicial decisions in relation to “total score” on the evaluation tool and in relation to the race/ethnicity of the offender.

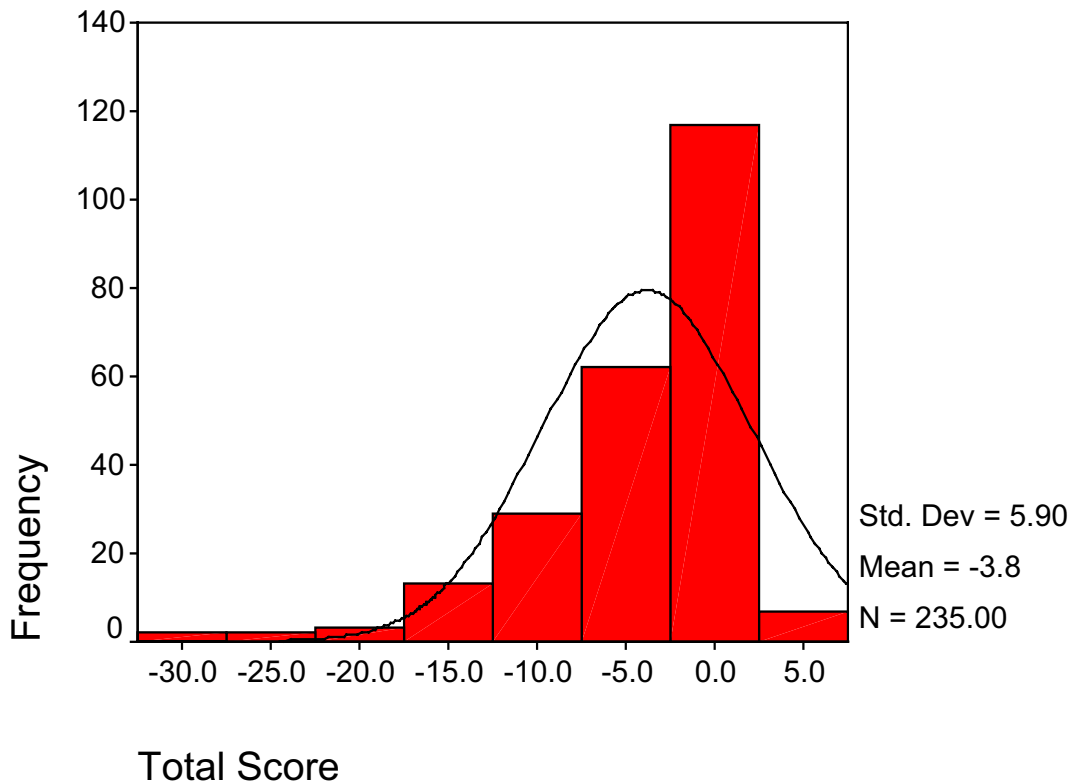
Question 1: Is the evaluation tool valid? Yes.

Method: Examination of the frequency distribution for the variable “total score.”

Analysis: The 235 scores are spread out with 47% of the scores falling between -32 and -3, a wide range of scores. The mean score is -3.8 while the median score is -2. The distribution is skewed to the right meaning that the extreme scores tend to fall in the lower range. If all or most of the scores tended to cluster around just a few numbers, the evaluation tool would not be doing what it is supposed to do, which is to discriminate among offenders so that a decision can be made about offenders based on their score.

Distribution of Total Scores

PreTrial Evaluation



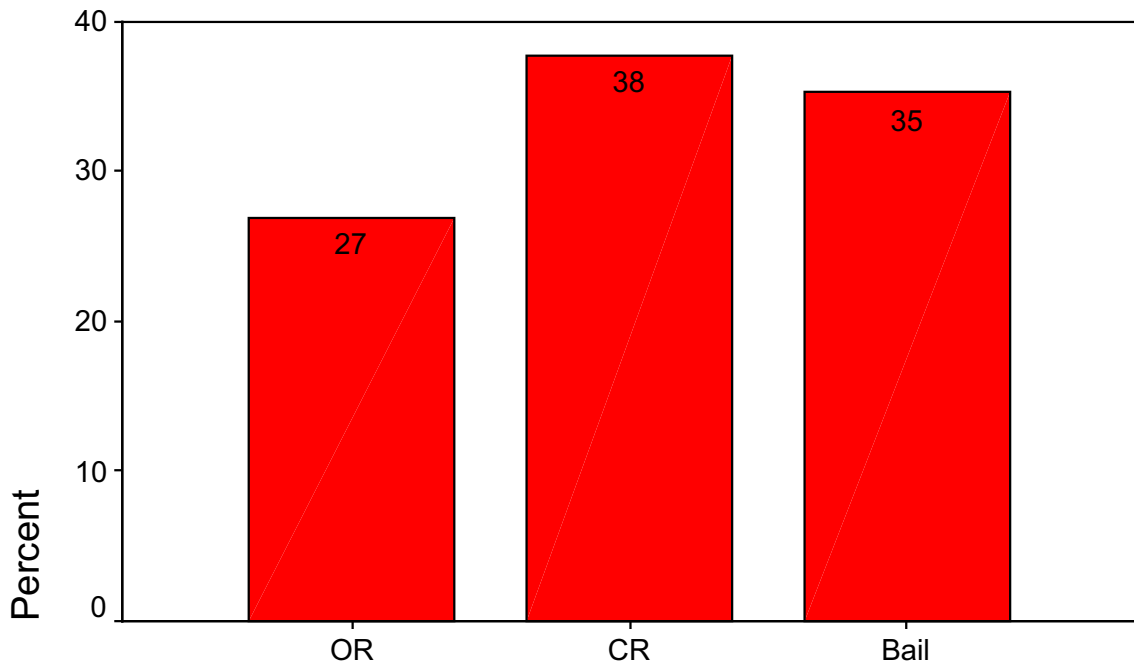
Question 2: Do the three categories (OR, CR, Bail) appear to discriminate among offenders? Yes.

Method: Examination of the frequency distribution for “Disposition of Current Charge.”

Analysis: Judicial decisions regarding OR, CR, and bail are distributed fairly evenly into the three categories. Approximately 27% of the offenders got OR, 38% got CR, and 35% got Bail. This validates the categories and shows that the categories do distinguish among offenders in some way.

Distribution of Total Scores

by OR, CR, and Bail



Disposition of Current Charge

The mean for the OR category is -1 while the median is 1. Sixty nine percent (69%) of the OR decisions made by judges fall in the evaluation tool OR range of 0 to +6. Thirty-one percent (31%) of the decisions made by judges fall outside the range. Of that 31%, more offenders scored lower on the evaluation but were given OR. Within this grouping, judges tend to give offenders the benefit of the doubt.

The mean and the median for the CR category is -2 . Seventy percent (70%) of the CR decisions made by judges fall within the evaluation tool CR categorical range of -1 to -10. Thirty percent (30%) of the decisions made by judges fall outside the range. Of that

30%, most offenders scored in the OR range but were given CR. Here the judges tended to be more conservative when their decision deviated from the evaluation tool.

The mean for the “bail” category is -8 and the median is -7 , both of which are outside the range recommended by the evaluation tool (-11 and lower). Only 31% of the scores (decisions made by judges) fell into the range, while the majority of scores fell outside the range. In other words, over 65% of offenders who were placed into this category actually scored in the OR or CR range but were given bail by the judges. Again, the judges tended to be more conservative in their decision to give bail than the evaluation tool would have them be.

In looking only at the bail category, means for each of the three race groupings were compared and analyzed using ANOVA. The three race groupings are white, African American, and all other minorities. Whites that received “bail” by the judges had a mean score of -5.53 . African Americans that received “bail” by the judges had a mean score of -9.61 . All other minorities that received “bail” from the judges had a mean score of -8.92 . Whites had the highest score of the three groups that ended up with bail while African Americans had the lowest score and the score closest to the range suggested by the evaluation. In other words when judges made a bail decision, whites had higher scores than African Americans and other minorities. On average, the judges tended to be harder on whites in this category than African Americans or other minorities. The ANOVA test confirms that this difference in means between the three groups is statistically significant at the .05 level.

Question 3: Are the means significantly different so that the evaluation tool appears to discriminate appropriately among offenders who qualify for OR, for CR and those who need to be held pending bail? Yes

Method: T test of Independent Samples; ANOVA

Analysis: These statistical tests determine whether the differences among the means (the average total score in the OR category, the CR category and Bail category) are significant. The T test examines differences between two groups; in this case, those offenders given OR and those offenders given bail – the two extremes. ANOVA examines means among three or more groups (OR, CR, Bail) and examines the differences within groups as well as between groups. Both tests show that the average score (mean score) in each group is significantly different and that the differences in means do not occur by chance. In other words, on average, the scores are clustering significantly into the three categories as intended by the design of the pretrial evaluation tool. The evaluation tool appears to be valid.

Question 4: Do the scores differ significantly in how they fall into the three categories when race/ethnicity are considered? No. Is the evaluation tool valid for whites and for minorities? Yes

Method: Examination of the frequency distribution for race by “total score;” T Test; ANOVA; Scheffe Test

Analysis: When examining the variable “Total Score,” the mean is -4 and the median is -2. Scores are widely distributed, however, most cluster between -2 and +2. The mean score for African Americans is -4 while the median is -3. Scores are widely distributed with most clustering between -4 and +2. A T Test was used to determine if the mean scores between whites and African Americans was significantly different vs. occurring randomly by chance. There are no significant differences between the means of these two groups. Therefore, any difference in scores occurred by chance. When grouped into three groupings by race i.e., White, African Americans and all others, ANOVA was used to determine if the difference in means among the three groups was significant. Any differences were not statistically significant. In other words, on average, whites, African Americans and all other minorities had similar scores on the evaluation. The evaluation is a valid tool for whites and for minorities.

Question 5: Do the judges assign offenders into the three categories according to their score on the evaluation? Yes. Is race/ethnicity a factor in judicial decision making? No.

Method: Simple and Multiple Regression

Analysis: Regression is a statistical test that examines means and deviation or variance from the mean. The statistical test not only measures the strength of the relationship between/among factors (variables) but it also measures whether the relationship is predictive. In this case, the regression analysis examined the strength of the relationship or correlation between total score and judicial decisions, between prior criminal history and judicial decisions, between race and judicial decisions, and finally between both race and total score and judicial decisions. Is there a relationship? If so, how strong? Is the relationship predictive? Can we predict judicial decisions by knowing the total score on the evaluation? Can we predict judicial decisions by knowing the race of the offender? If we consider both total score and race, which factor contributes to judicial decisions?

Is there a correlation between race and judicial decision-making? No.

A perfect correlation is -1 or +1. A strong correlation is generally considered to be .50 or greater. When looking only at race as a three category variable: white, African American and all others, the analysis shows that the relationship or correlation between race and judicial decisions is almost non-existent ($R=.03$). Less than 1% of variance in judicial decision making can be explained by race ($R\text{ Square}=.003$).

Is race a predictor in judicial decision-making? No.

When looking at the regression analysis, race is not a significant factor in judicial decisions (.564). A significant predictive relationship would yield a significance of less than .05. In other words there is a high likelihood that any relationship between race and judicial decisions in this sample is strictly random.

Is there a correlation between prior record and judicial decision-making? Yes.

Is prior record a predictor in judicial decision-making? Yes.

There is a fairly strong relationship between prior record score and judicial decision-making ($R=.367$). Prior record score accounts for 13% of the variation in judicial

decision-making (R Square=.135). The relationship between prior record and judicial disposition is predictive (Sig.=.000) meaning that the offender's prior record would be a good predictor of the judicial disposition.

Is there a correlation between total score and judicial disposition? Yes.

Is total score a predictor in judicial disposition? Yes.

The strongest correlation is between total score and judicial disposition (.508). Total score accounts for 26% of the variation in judges' decisions (.258).

When two variables (total score and race) are examined together, the regression analysis sorts out which of the two variables are related and/or predictive and which are not related and/or predictive of judicial dispositions. Total score is the most predictive. The correlation is strong (.508) and explains 26% of the variance in judges' decisions. Race is not related to judicial decision-making, does not contribute in any significant way toward judges' decisions, and is not a predictor in judicial decision-making.

Summary:

This analysis was done in two parts. The first part of the analysis attempted to examine whether the pretrial evaluation tool was discriminating among offenders in the manner intended when the tool was designed. In fact, the tool does discriminate among offenders in the manner intended. The evaluation tool places offenders in one of three categories based on the offenders score on the tool. The tool appears to be valid for all races.

The second part of the analysis examined the decision making of judges in relationship to the total score on the evaluation tool and in relationship to race. Race is not a factor in judges' decision to hold offenders in custody vs. releasing offenders into the community pending further court hearings.

Appendix A

Race and Current Charge Cross Tabulation												
Race	Driving	Sex & Sex Related	Weapons	Crimes Against Justice*	DWI	Assault	Theft/Property	VOOP	DOC	Prostitution	Drugs	Total
White	4 17%	4 80%	-	2 10.5%	20 62.5%	22 38%	23 45%	8 53%	1 20%	2 40%	8 35%	94 39%
Black	15 65%	1 20%	3 60%	13 68%	7 22%	29 50%	21 41%	6 40%	2 40%	3 60%	12 52%	112 46.5%
Other	4 17%	-	2 40%	4 21%	5 16%	7 12%	7 14%	1 7%	2 40%	-	3 13%	35 14%

Total = 241 (6 cases were eliminated from the final analysis because total score was not recorded)

*These are the charges that were included in the Crimes Against Justice category: False Information to Police/False Name to Police, Obstructing Legal Process with Force, Loitering, Flee Police in Motor Vehicle, Fugitive from Justice, Underage Consumption, Violating Court Order, Contempt of Court, and Unlicensed Dog—With Dangerous Animal Notify (sp).