

Use of Risk and Needs Assessment Information at Sentencing: Coconino County, Arizona

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I. About this Report

In August 2011, the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution recommending that “offender risk and needs assessment information be available to inform judicial decisions regarding effective management and reduction of the risk of offender recidivism.”¹ The resolution noted that supervision and treatment decisions informed by valid and reliable offender risk and needs assessment (RNA) information is a critical component of effective strategies to reduce recidivism.

This report is one in a series describing the experiences of individual jurisdictions using RNA information to inform sentencing decisions. These profile reports are not intended to be a comprehensive study of all stakeholder views in a jurisdiction regarding the use of the assessment information. Rather, they offer a current picture of how some stakeholders are incorporating the

¹ Conference of Chief Justices and Conference of State Court Administrators. (2011). *Resolution 7 In Support of the Guiding Principles on Using Risk and Needs Assessment Information in the Sentencing Process*. Williamsburg, VA: National Center for State Courts (available <http://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/08032011-Support-Guiding-Principles-Using-Risk-Needs-Assessment-Information-Sentencing-Process.ashx>). CCJ and COSCA include the highest ranking judicial officer and court administrator from every state and U. S. Territory. The resolution endorsed a set of guiding principles developed by a National Working Group. For a description of the guiding principles, see Casey, P., Warren, R. K., & Elek, J. (2011). *Using Offender Risk Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. Williamsburg, VA: National Center for State Courts (available <http://www.ncsc.org/sitecore/content/microsites/csi/home/Topics/~media/Microsites/Files/CSI/NA%20Guide%20Final.ashx>).

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the Coconino County criminal justice stakeholders who took time to participate in our interviews and share their experiences for this report.²

We also extend our appreciation to the Pew Public Safety Performance Project for its support of this effort. For more information on the Pew project, please visit www.pewstates.org/publicsafety.

information into their sentencing practices. The reports identify the population of offenders for which RNA information is obtained and the assessment instruments used in the jurisdiction, describe the assessment report provided to the court, discuss how the assessment information is used, and report on any outcomes typically tracked by the jurisdiction. When available, the report also provides an example of the assessment information provided to the court. In addition to these individual jurisdictional profiles, a forthcoming report will identify common practices and lessons learned across jurisdictions using RNA information at sentencing.

II. Offenders Assessed

In Coconino County, full offender RNA information is obtained using the Offender Screening Tool (OST) and provided to the court in all felony cases as part of the standard presentence investigation (PSI) reporting process. Offenders bound for

prison, however, may waive their right to a PSI report.

In addition, the [Coconino County Adult Probation](#) department is currently piloting a process in which OST information is provided to both parties and the court prior to the defendant entering any plea of guilty or no-contest to help inform plea negotiations in these cases. To trigger the provision of OST information pre-plea, the defense attorney must request the assessment from the probation department. Judges may also request this information when determining whether to accept a plea agreement between parties. In more serious cases in which mandatory sentencing guidelines restrict the range of plea agreements available for consideration, a pre-plea panel in the Coconino County Attorney's Office must be convened to consider a deviation from the guidelines. Pre-plea OST information may be used in arguments to deviate from mandatory guidelines.

COCONINO COUNTY'S PRE-PLEA PILOT PROGRAM

A local pilot program launched in 2012 to provide offender OST information to the court to inform plea-related decisions. The pre-plea report contains OST RNA information but does not contain any information about the current offense. The defendant is not asked to provide a statement. The Coconino County Attorney's Office has informally agreed that any information provided in the pre-plea report will not be used against the defendant if the case later goes to trial. As of October 2013, OST information had been provided pre-plea in 11 cases, all at the request of the defense attorney. At this stage of the pilot program, local stakeholders have mixed opinions about whether or not pre-plea OST information significantly influences plea decisions.

² A Coconino County judge, prosecutor, defense attorney, and two probation officers agreed to NCSC requests for an interview.

III. Assessment Process

The OST is a non-proprietary RNA instrument developed in 1998 by Dr. David Simourd for use by the Maricopa County Adult Probation department. The full OST is a 42-item instrument, with items grouped into ten risk and needs domains.³ It was validated for statewide use with the Arizona probation population in 2003. Arizona Supreme Court Administrative Order 2005-12 called for its statewide implementation in January 2005, and Coconino County Adult Probation implemented the OST in 2005.⁴

Independent researchers from the University of Cincinnati subsequently conducted a statewide revalidation of the OST, releasing their report in 2008. The state of Arizona concluded from the evaluation study that the OST (including the reassessment component of the system, known as the Field Reassessment Offender Screening Tool or FROST) is valid for use with Arizona probation populations. Although not described in the 2008 statewide report, local representatives from Coconino County indicated that University of Cincinnati

researchers also provided state officials with OST validation results separately by county.

A dedicated Presentence Investigation Unit of the Coconino County Adult Probation department writes offenders' PSI reports and conducts the initial OST assessment as part of that process. OST assessment results may be overridden with approval from a supervisor. Supervisor overrides occur very infrequently in Coconino County but tend to be policy based, conforming to sentencing guidelines for particular types of offenses (e.g., sex offense or DUI cases). Any FROST reassessments are completed by the offender's supervising probation officer.

In addition to the OST, the Coconino County Presentence Investigation Unit conducts specialized supplementary assessments as needed on probation-eligible offenders. Substance-abusing offenders will complete the Adult Substance Use Survey (ASUS), a 64-item self-report survey, is completed by substance-abusing offenders to assess their perceived substance use. The Arizona Sex Offender Assessment Screening Profile is administered in sex offense cases. Offenders also complete a reading test to determine literacy level. At this time, Coconino County relies on the clinical judgment of treatment service providers to identify offenders with a "serious mental illness;" no formal mental health assessment instrument is currently used.

IV. Assessment Report

In Arizona, a PSI report is provided to the court that includes the offender's OST risk level and a list of needs domains that do not, may, and significantly do contribute to the offender's overall risk to reoffend. Three standardized PSI report formats are

³ A shortened screening version of the OST, called the Modified Offender Assessment Tool (MOST), was developed for use in expedited or early disposition cases statewide. Offenders processed through an expedited or early disposition court are screened with the MOST and high scoring offenders are administered the full OST risk and needs assessment.

⁴ See Arizona Supreme Court. (2005). *Administrative order no. 2005-12: Adopting the standardized assessment and reassessment tool and conducting a pilot program for reassessment timeframes for adult intensive probationers*. Phoenix, AZ: Author. Retrieved from <http://www.azcourts.gov/portals/22/admorder/orders05/2005-12.pdf>.

available for use at the discretion of the local jurisdiction. The simplest version of the PSI report provides the defendant's risk level (e.g., high risk) and a summary of his or her identified criminogenic needs; a second version provides the raw risk score (e.g., 21/42) in addition to the risk level and summary of needs; and a third version provides the defendant's actual scores for each needs domain in addition to the risk level and score and summary of needs. Coconino County opted to use the first version of the PSI report noted here (see Appendix for an example).

PSI reports may also vary between counties in other respects: Some probation departments provide only the above RNA information for the court to consider in formulating a sentencing decision, whereas others also provide the court with recommendations about the specific conditions of probation to be imposed. In Coconino County, the probation department typically provides such recommendations in its PSI reports. PSI report writers frame recommendations that focus on the appropriate conditions of probation for the particular offender if the court decides that probation is appropriate, and typically avoid recommendations regarding whether to sentence the offender to prison or to community supervision.

In the month of May 2013, Coconino County Adult Probation provided 56 PSI reports with RNA information to the court.

V. Use of Assessment Information

General reception. Although stakeholders expressed some initial concern about the prospect of change, the new risk-based PSI reports are embraced as a significant

improvement over the traditional narrative PSI reporting format. Stakeholders seem to appreciate the uniformity of the new approach and have expressed that the risk-based PSI report also seems fairer to defendants than the old narrative approach, containing more objective and more helpful information about offenders. The knowledge that the information they receive about the offender is generated from a scientifically validated assessment instrument appears to instill confidence that the best possible information is efficiently provided to the judge and to both parties on a consistent basis. Data collection and analysis efforts, which demonstrate a trend toward improved offender outcomes, have also helped to build stakeholder support for this evidence-based sentencing approach. Stakeholders now see a need to expand the menu and capacity of available treatment resources.

Practical use of RNA information among stakeholders. Coconino County stakeholders have engaged in efforts to avoid misuse of the information. In addition to efforts of PSI writers to focus recommendations on the conditions of probation if the court decides probation is appropriate, rules of evidence bar prosecutors from using information disclosed in the OST assessment against defendants in prosecuting them for current or any other offenses.

The Coconino County Attorney's Office reports agreement with PSI report recommendations in the majority of cases.⁵

⁵ When a plea agreement is struck before the presentence investigation has been conducted and RNA information is not available, the post-plea RNA information is also believed to be typically consistent with the disposition reached through the plea-bargaining process. In some cases, however, the post-plea RNA information conflicts with the plea agreement. This

There are, however, some instances of disagreement. In general, attorneys from both sides appear to agree that instances of disagreement with PSI recommendations typically involve instances in which criminal history, aggravating or mitigating circumstances, or impact on the victim were not in their view appropriately accounted for by the assessment. In these cases when OST-based recommendations are perceived to be deficient, attorneys from either side may contest the related recommendations, often by providing supplemental evidence or additional information to the court.

In sentencing offenders to probation, local judges also typically rule in accordance with recommended probation conditions. As of May 2013 in Coconino County, five superior court judges hear criminal cases and therefore receive OST-based PSI reports. Coconino County judges meet with the probation department on a monthly basis to discuss in a timely fashion any emerging issues related to the generation or interpretation of OST-based PSI reports and associated probation recommendations. This ongoing dialogue helps to ensure a common understanding about the nature of the information shared.

VI. Outcomes Tracked

Passed by the Arizona Legislature in 2008, the Safe Communities Act (SB 1476) called for a reduction in the number of probationers revoked to prison.⁶ A 2009

disagreement is reported to usually emerge when there are significant legal or factual deficiencies with the evidence in the case resulting in significant charge reduction.

⁶ The Safe Communities Act, Arizona Senate Bill 1476, Forty-Eighth Legislature, Second Regular Session, 2008. Available at <http://www.azleg.gov/legtext/48leg/2r/bills/sb14>

Arizona Supreme Court Administrative Order (2009-01) committed to developing a plan to reduce revocations to prison by five percent.⁷ The Arizona Adult Probation Services Division (APSD) collects and reports data on the number of individuals on probation in each county who successfully exit probation, are revoked, or have a new felony conviction.⁸ These measures are part of APSD's set of 15 performance measures to track the overall effectiveness of the department but do not focus specifically on judicial use of the offender assessment information in the PSR.

The Coconino County Adult Probation department provides this performance measure data for its jurisdiction. Comparing FY2013 data to the baseline FY2008 data which predated the use of RNA information at sentencing, the Coconino County Adult Probation department reports a 69% reduction in probation revocations to prison and a 57% reduction in new crimes committed by probationers. In FY2013, 81% of offenders successfully exited probation, compared with 67% successful exits in FY2008. However, at this time, it is unclear

[76h.pdf](#). The Safe Communities Act originally provided financial incentives to county probation departments that successfully reduced revocations to prison, but this portion of the Act was repealed in a subsequent legislative session. Although no financial incentives were ever given to county probation departments, there continued to be a reduction of revocations and new felonies committed by probationers.

⁷ Arizona Supreme Court. (2009). *Administrative order no. 2009-01: Budget reductions in the judicial branch of Arizona*. Phoenix, AZ: Author. Retrieved from <http://www.supremecourt.az.gov/eCourts/MainMeetings/090116/2009-01.pdf>.

⁸ The Arizona Adult Probation Services Division website is: <http://www.superiorcourt.maricopa.gov/AdultProbation/index.asp>.

whether the observed changes may be directly or wholly attributed to the use of RNA information at sentencing and in offender case planning, or to other factors (e.g., deferred incarceration, efforts of a dedicated probation revocation court). In

addition to the state performance measures, the Coconino County Attorney's Office is in the process of participating in a study to examine the effectiveness of using RNA information in various local problem-solving courts.

Appendix
 Coconino County Adult Probation Department
 Presentence Report - Offender Screening Tool Results
 State of Arizona v. SAMPLE, JOHN LEE – 10000001

RISK/NEED ASSESSMENT:

Based on the Offender Screening Tool (OST), the following is an assessment of the defendant's risk to reoffend and criminogenic needs. There are 10 categories, or domains, assessed in the OST. Domains that do not contribute to the defendant's overall risk to reoffend, or represent a criminogenic need area for the defendant do not require intervention. Domains that contribute to the defendant's overall risk to reoffend and criminogenic needs may require intervention. Domains that significantly contribute to the defendant's overall risk to reoffend and criminogenic needs must be addressed when developing community supervision strategies. The OST is a standardized, statewide, validated tool approved by the Administrative Office of the Courts (AOC).

Risk Level: High Risk

Domains that Do Not Contribute to Overall Risk to Reoffend or Criminogenic Needs Level

Domain		Summary
The Physical/Medical Health category has been identified as a responsivity factor and is not shown to impact risk level		
I. Physical/Medical Health*		<ul style="list-style-type: none"> • The defendant reports that his ruptured disc in his back prevents him from working • Client indicates that he requires constant pain meds to control pain
V. Residence		<ul style="list-style-type: none"> • The defendant is in a positive, supportive living arrangement.
VI. Alcohol		<ul style="list-style-type: none"> • The defendant has no alcohol history, no reported problems

Domains that May Contribute to Overall Risk to Reoffend or Criminogenic Needs Level

Domain		Summary
II. Vocational/Financial		<ul style="list-style-type: none"> • The defendant reports that his ruptured disc in his back prevents him from working.
IV. Family and Social Relationships		<ul style="list-style-type: none"> • The defendant has no family relationships. • The defendant spends his time with individuals with felony records.
VIII. Mental Health		<ul style="list-style-type: none"> • The defendant reports that he attempted suicide 5 years ago, but has been treated and is stable at present.

Domains that Significantly Contribute to Overall Risk to Reoffend or Criminogenic Needs Level

Domain		Summary
VII. Drug Abuse		<ul style="list-style-type: none"> • The defendant reports using meth and cocaine two or three times per week for the past two years.
IX. Attitude		<ul style="list-style-type: none"> • The defendant feels that the judge was unfair

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			with his 3 year sentence. <ul style="list-style-type: none"> • The defendant feels that the probation department should have no say over his actions.
X. Criminal Behavior			<ul style="list-style-type: none"> • Age 14 at first arrest. • Felonies.
III. Education			<ul style="list-style-type: none"> • The defendant was suspended from school three times

Risk Level: High Risk