

Use of Risk and Needs Assessment Information at Sentencing: Mesa County, Colorado

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This report was produced by the National Center for State Courts' Center for Sentencing Initiatives (CSI). CSI conducts research, provides information and tools, offers education and technical assistance, facilitates cross-state learning and collaboration, and works closely with the Conference of Chief Justices and the Conference of State Court Administrators to implement their resolution In Support of Sentencing Practices that Promote Public Safety and Reduce Recidivism. To learn more about CSI, visit www.ncsc.org/csi

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/RNA%20Guide%20Final.ashx>).

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.

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the Mesa 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.

II. Offenders Assessed

The Mesa County Probation Department provides full offender RNA information to the court as part of the presentence investigation (PSI) report. Judges order PSI reports in approximately half of all felony cases in which the defendant has pled or been found guilty. Judges may deem a PSI

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

report unnecessary for low-level offenses or for cases in which the defendant is a first-time offender or is from out-of state. Misdemeanor charges that are tied to felonies or that are part of global resolution³ are also addressed in the PSI report. Supervising probation officers approve all PSI reports prior to their submission to the court.

The court does not currently receive full RNA information at the plea stage. Results from the state pre-trial risk assessment instrument (the Colorado Pre-Trial Assessment Tool or [CPAT](#))⁴ are used to inform bond decisions and may be used informally in plea negotiations. Stakeholders have discussed the possibility of making full RNA information available to the court at this stage, but have wrestled with concerns about how to structure such a practice to best protect the defendant's right against self-incrimination.

III. Assessment Process

As of 2011, the RNA instrument used by the Mesa County Probation Department in PSI reports is the Level of Service Inventory-Revised (LSI-R).⁵ Developed by Don Andrews and James Bonta in 1995, the LSI-

³ Global resolution refers to the resolution of felony charges and accompanying misdemeanor charges as part of a plea agreement.

⁴ To access the 2012 report on the development of the CPAT, see: <http://www.pretrial.org/download/risk-assessment/CO%20Pretrial%20Assessment%20Tool%20Report%20Rev%20-%20PJI%202012.pdf>

⁵ For more information about the LSI-R, refer to the Multi-Health Systems, Inc. website at: <http://www.mhs.com/product.aspx?gr=saf&prod=lsi-r&id=overview>

R is a commercially available tool comprised of 54 items across 10 subscales. The LSI-R was validated for use with the statewide Colorado adult probation population in the early 1990s.

In most cases, two dedicated Mesa County probation officers prepare the PSI reports. Mesa County PSI writers do not override the LSI-R score or risk level from the initial assessment; rather, they report the original LSI-R results to the court. Supervising probation officers approve all PSI reports before the reports are submitted to the court.

Supervising probation officers generally update the offender's RNA information every six months. A reassessment may occur prior to this time if the offender violates the conditions of probation. In addition, supervising probation officers may elect to override the RNA results of certain offenders if noncompliance issues warrant more frequent or more intensive supervision.

The Mesa County Probation Department uses several assessment instruments in addition to the LSI-R. All offenders undergoing a presentence investigation also receive the Simple Screening Instrument (SSI) and the Adult Substance Use Survey (ASUS) assessments to identify potential alcohol and drug abuse issues.⁶ Results from

⁶ The Simple Screening Inventory, also called the Simple Screening Instrument for Substance Abuse (SSI-SA) or Simple Screening Instrument for Alcohol and Other Drugs (SSI-AOD), is a non-proprietary instrument developed in 1994 by a consensus panel for SAMSA's Treatment Improvement Protocol 11 to screen for substance abuse problems. The Adult Substance Use Survey, a 96-item self-report screening tool originally developed by Dr. Kenneth Wanberg in 1997, is used to identify the presence and severity of alcohol and drug abuse problems as well as the client's willingness to disclose

the ASUS are included in the PSI report to prescribe education and treatment levels. Although there are no secondary assessment tools for mental health issues, this information is incorporated into the PSI report as part of the LSI-R information. In addition, the Static-99, a 10-item actuarial risk assessment instrument developed by Karl Hanson and David Thornton in 1999 for use with adult male sex offenders, is used in sex offense cases.

IV. Assessment Report

Colorado law requires that PSI reports include offender RNA information, although the presentation format may vary from county to county.⁷ In 2013, Mesa County developed a new PSI reporting format to include and prominently display LSI-R results (see Appendix).⁸ Prior to this redesign, probation officers informally incorporated LSI-R information into the narrative of the PSI report.

The revised report presents 11 bar graphs

information about these activities. Additional information on the use of these evaluation instruments in Colorado can be found in the *Colorado Alcohol and Drug Abuse Division (ADAD) Approved Evaluation Instrumentation for Substance Using Adolescents and Adults* (2007) at

<http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheadname1=Content-Disposition&blobheadname2=Content-Type&blobheadvalue1=inline%3B+filename%3D%22Approved+Evaluation+Instrumentation.pdf%22&blobheadvalue2=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251694214898&ssbinary=true>.

⁷ Colo. Rev. Stat. § 16-11-102 (2013).

⁸ An example of the LSI-R report on which the PSI is based is available from Multi-Health Systems, Inc. website at <http://downloads.mhs.com/lisir/lisr-5-profile.pdf>.

containing information about the offender’s general risk level and score on each of 8 criminogenic risk factors and 3 stability factors. Results from the ASUS “Social” scale are included in the “anti-social personality pattern” risk factor report. The remaining ten factors relay results from the LSI-R assessment. Scores for each factor are tabulated on a percentage scale from 0-100%; factors scoring above 50% represent issues to be addressed in the offender’s case plan. The PSI report also contains separate narrative descriptions about the offender for each of the eleven factors.

The concluding paragraph of the PSI report identifies the local programming options available to treat the offender’s specific criminogenic needs. PSI writers may recommend certain types of programming (e.g., substance abuse, anger management) but do not include specific suggestions on which service providers should be used.

As a response to feedback from judges about the content of the PSI report, probation officers no longer specifically recommend whether or not an offender is a candidate for successful supervision in the community. The PSI report contains no recommendations as to the term of probation or the sentence a defendant should serve; this is left to the discretion of the judge.

V. Use of Assessment Information

General reception. The use of RNA information at sentencing in Mesa County was generally well received. Stakeholder involvement at early stages of development helped to secure a positive overall reception. Mesa County’s Chief Judge helped lead the initiative and other stakeholders in key positions (e.g., leadership from the Public

Defender’s Office and District Attorney’s Office) also supported the effort. In addition, the Mesa County Probation Department conducted trainings on the use of RNA information for all criminal justice stakeholders and increased transparency to stakeholder groups regarding the Department’s internal quality assurance efforts. These steps helped alleviate initial attorney concerns regarding the proper and consistent administration of the LSI-R assessment. Because of the changes in the PSI reporting format, more recent trainings for attorneys and judges have focused on how to read RNA information using the new PSI report rather than the LSI-R assessment itself. New probation department staff also receive statewide orientation training on the administration of standard assessment instruments.

Practical use of RNA information among stakeholders. Criminal justice stakeholders periodically hold informal meetings to discuss and resolve any issues regarding the use of the LSI-R-informed PSI report as they arise. Although Mesa County judges order PSI reports at different rates according to their preferences, they seem to find the inclusion of RNA information in the PSI report helpful and typically follow risk assessment-based probation recommendations when a PSI report is ordered.⁹ Attorneys also reported finding RNA information helpful, particularly when formulating arguments at sentencing. If there is a particularly high-profile case, defense counsel may request to be present during the probation interview to protect the defendant from making self-incriminating statements. Some stakeholders reported a perception that RNA information is more

⁹ As of June 2013, five judges receive PSI reports.

useful with certain types of cases, such as drug crimes. Drug offenders may present behaviors and characteristics (e.g., addiction) that are more amenable to successful treatment using local service options. Some stakeholders acknowledged a need to expand the capacity of locally available treatment services.

In cases where there is a plea agreement, probation officers generally make recommendations that fall within the boundaries of the plea agreement. Any tensions between the PSI report and plea agreement are negotiated between the parties and require approval by the judge in the sentencing hearing. When the agreed-upon disposition is mandated by state sentencing guidelines but seems to conflict with LSI-R results, judges generally accept the plea agreement in lieu of sending the case to trial.

VI. Outcomes Tracked

Mesa County tracks some data as a [pilot site](#) for the National Institute of Corrections (NIC) Evidence-Based Decision Making (EBDM) initiative.¹⁰ To oversee these data collection efforts, Mesa County established an EBDM Executive Committee comprised of representatives from all stakeholder

¹⁰ NIC partnered with the Office of Justice Programs to select seven sites, including Mesa County, to implement *A Framework for Evidence-Based Decision Making in Local Court Systems*. This framework lays out strategies for applying evidence-based decision making principles and techniques with the goal of risk and harm reduction. Additional information on the project can be found at <http://nicic.gov/EBDM>. Additional information about Mesa County's involvement may also be found at <http://ebdmoneless.org/ebdm-jurisdictions-mesa-county-colorado>.

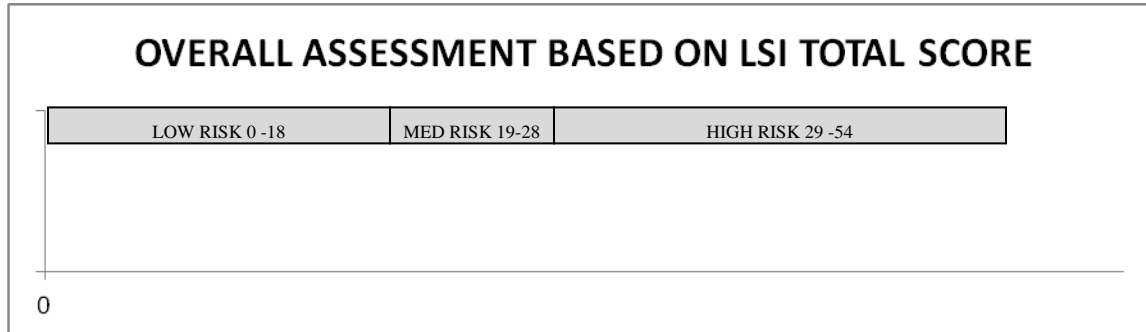
groups, including but not limited to judges, attorneys, probation officers, law enforcement, judicial administration and a data analyst. To date, the majority of reports generated by the Executive Committee have focused on the use of pretrial risk assessment information and corresponding outcomes (e.g., days out on bond, number of defendants granted pretrial supervision). Mesa County currently collects recidivism data as part of the EBDM pilot project, but this effort is young and an analysis of outcomes will not be feasible for another year or more. Mesa County stakeholders report a commitment to continuing data collection and reporting efforts on the impact of using RNA information at sentencing beyond their involvement with the NIC pilot initiative.

The Colorado Division of Probation Services also collects recidivism data statewide and calculates the rates at which offenders successfully complete their probation sentences. Reports parse data by supervision level and placement type. Tracked outcomes also include recidivism rates among those for whom probation was terminated for technical violations or a new crime, and among those who successfully completed their probation sentence but had a new filing post-release.¹¹ Mesa County Probation Department representatives report that this information is available internally by county.

¹¹ To access the Probation Services archive of available statewide reports, visit <http://www.courts.state.co.us/Administration/Division.cfm?Division=Prob>

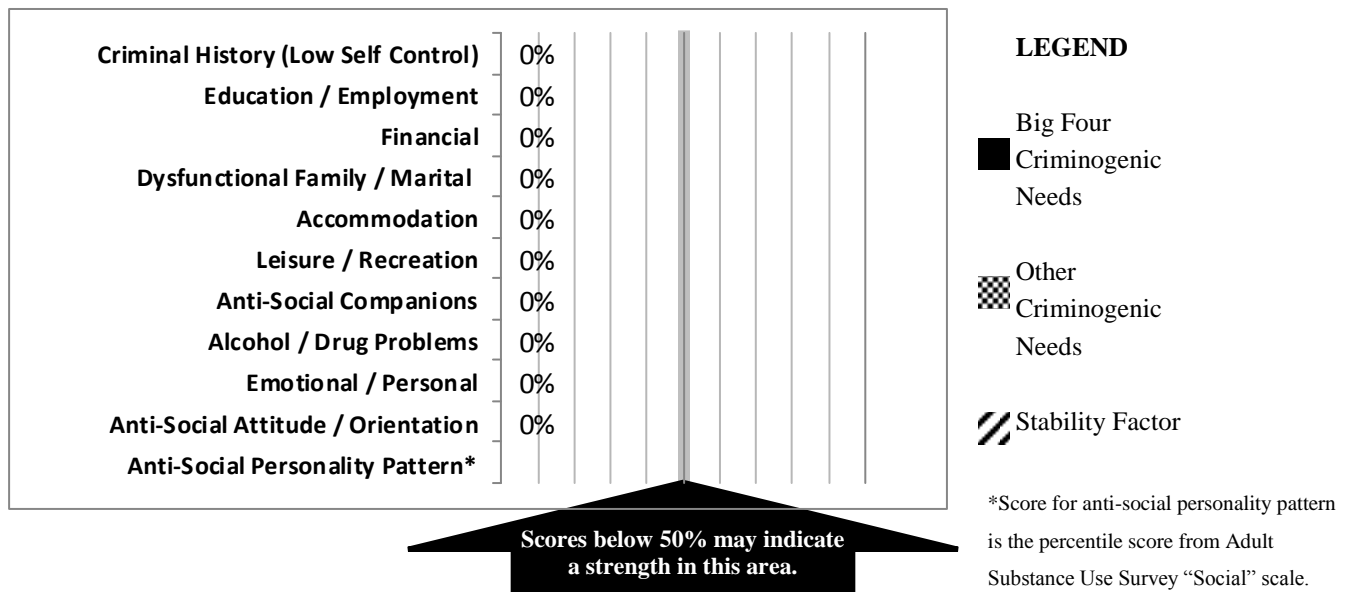
Appendix

The below graph indicates the defendant's overall risk to re-offend or recidivate based on the cumulative scores of areas of need and protective factor scores.



Summary of Criminogenic Needs:

The Level of Service Inventory (LSI) is a broad-based assessment instrument covering a multidimensional set of static (historical/immutable) and dynamic/criminogenic (changeable and correlated to criminal behavior) risk factors. The LSI yields an overall total risk score (0-54), a profile of criminogenic needs and protective factors. These scores may be predictive of the risk of re-offense and recidivism. The LSI is a quantitative survey of offender attributes and their situations relevant to level of supervision and treatment decisions. The instrument is not a comprehensive survey of mitigating and aggravating factors relevant to criminal sanctioning and was never designed to assist in establishing the just penalty. The results of the LSI may, however, be used for supervision planning and providing direction for focusing the intervention or change process. The below graph displays specific criminogenic needs and whether they are low, medium, or high risk/needs area subject to monitoring, supervision, and/or intervention to lower his/her risk of re-offense and recidivism.



Presentence Investigation Report

Name:

Case(s):

AKA:

Details of the Case:

On _____, the defendant pled guilty to

According to the Plea Agreement,

The Affidavit in Support of Warrantless Arrest located in the District Attorney's file is attached.

Defendant's Statements or Comments:

Attached is a written statement completed by the defendant and submitted for the Court's review.

Disposition of Co-Defendant(s):

Co-defendant name (case number)

Circumstances of Victim:

A Victim Impact Statement **was/was not** located in the District Attorney's file.

The District Attorney may have additional victim impact information to share with the Court at sentencing.

Prior Criminal Record:

All cases occurred in Mesa County unless otherwise noted. Sources include NCIC/CCIC, local and statewide Judicial Integrated Colorado Online Network records.

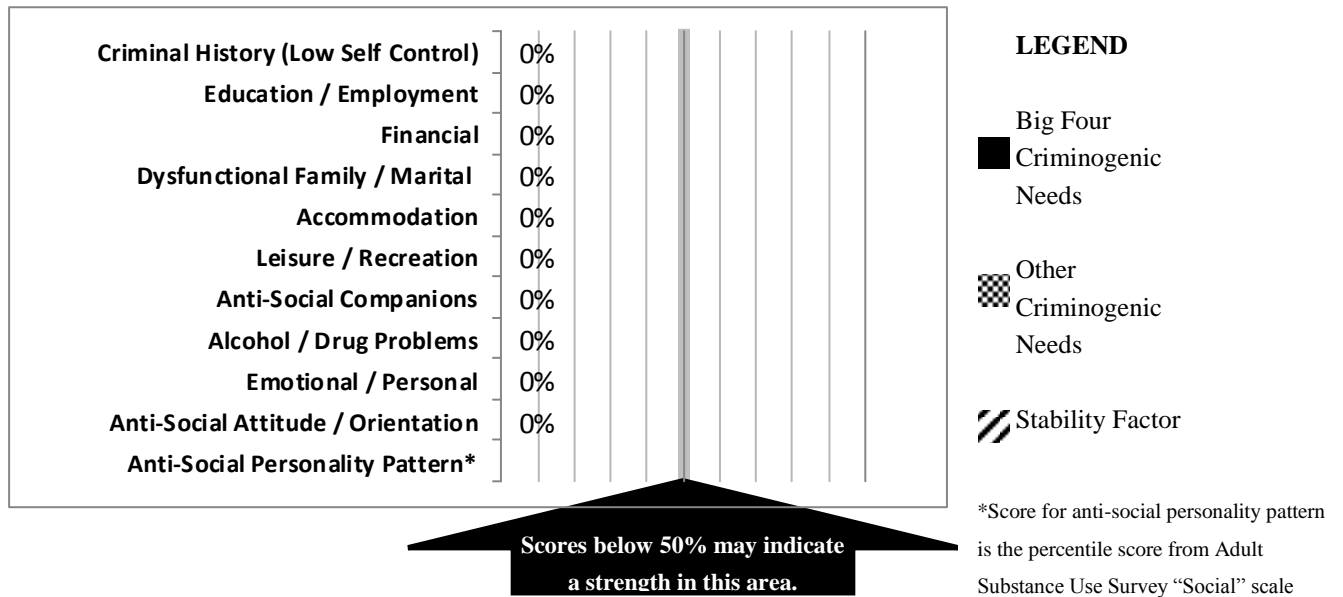
Juvenile:

None Known

Adult:

Summary of Criminogenic Needs:

The LSI is a broad-based assessment instrument covering a multidimensional set of static (historical/immutable) and dynamic/criminogenic (changeable and correlated to criminal behavior) risk factors. The LSI yields an overall total risk score of (0-54), a profile of criminogenic needs and protective factors. These scores may be predictive of the risk of re-offense and recidivism. The LSI is a quantitative survey of offender attributes and their situations relevant to level of supervision and treatment decisions. The instrument is not a comprehensive survey of mitigating and aggravating factors relevant to criminal sanctioning and was never designed to assist in establishing the just penalty. The results of the LSI may, however, be used for supervision planning and providing direction for focusing the intervention or change process. The below graph displays specific criminogenic needs and whether they are low, medium, or high risk/needs areas subject to monitoring, supervision, and or intervention to lower his/her risk of re-offense and recidivism.



Criminal History: (Anti-Social Behavior/Low Self Control)

(subtotal = %)

Education/Employment:

(subtotal = %)

Financial:

(*subtotal = %*)

Family/Marital:

(*subtotal = %*)

Accommodation:

(*subtotal = %*)

Leisure/Recreation:

(*subtotal = %*)

Companions: (*or Anti-Social Companions/Peers*)

(*subtotal = %*)

Alcohol/Drug Problem:

(*subtotal = %*)

Emotional/Personal:

(*subtotal = %*)

Attitude/Orientation: (Anti-Social Cognition/Attitudes/Beliefs)

(subtotal = %)

Anti-Social Personality Pattern or Temperament: (Social score from the ASUS)

(subtotal = %)

Additional Assessment Information/Significant Medical Information

According to standard substance use assessments completed by this department, the defendant

UA results

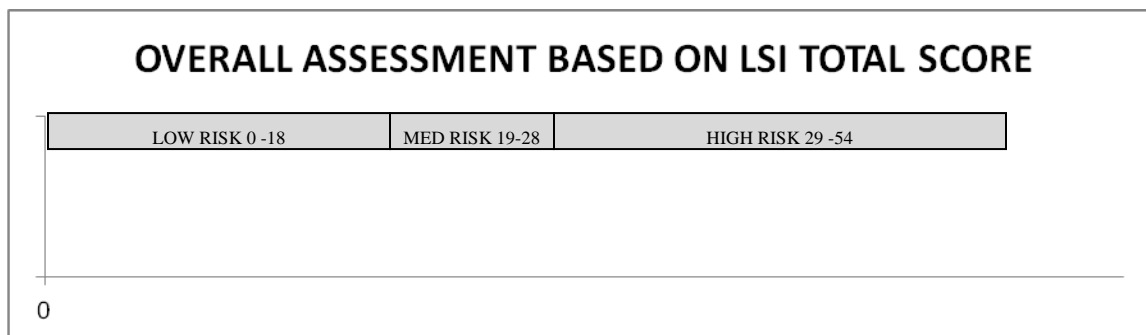
MH screen

Prior supervision

No reference letters were provided at the time of the presentence investigation interview, however, if the defendant submits letters prior to sentencing, they will be forwarded to the Court.

Summary:

The below graph indicates the defendant's overall risk to re-offend or recidivate based on the cumulative scores of areas of need and protective factor scores. The LSI is a quantitative survey of offender attributes and their situations relevant to level of supervision and treatment decisions. The instrument is not a comprehensive survey of mitigating and aggravating factors relevant to criminal sanctioning and was never designed to assist in establishing just penalty. The results of the LSI may, however, be used for supervision planning and providing direction for focusing the intervention or change process.



According to the Level of Services Inventory, the defendant scored as _____ risk to recidivate if he does not address his criminogenic needs. The defendant has a number of barriers to overcome to reduce his likelihood of reoffending. Those include: (we will list these). Of note, (list #) of the defendant's criminogenic needs lie in the top four areas related to recidivism, however, he has a number of protective factors or strengths in his life at the present time. (We will list these at this time).

Recommendation:

It is the probation department's opinion that the criminogenic needs of the defendant can/cannot be addressed through community supervision.

Services/resources

The defendant was screened for Intensive Supervised Probation (ISP). The screening team determined

As ordered by the Court, a Community Corrections Referral Screen was submitted to the Mesa County Community Corrections Adult Review Committee on _____; the results will be forwarded directly to the Court by the Community Corrections Board.

The defendant is eligible for _____ days of presentence confinement.

Fees:

\$75 Substance Abuse Assessments

Respectfully submitted:

_____	_____	_____	_____
Probation Officer	Date	Supervisor	Date

Confidential

Restitution:

Purpose of code with respect to sentencing:

18-1-102.5. Purposes of code with respect to sentencing. (1) The purposes of this code with respect to sentencing are:

- (a) To punish a convicted offender by assuring the imposition of a sentence he deserves in relation to seriousness of his offense;
- (b) To assure the fair and consistent treatment of all convicted offenders by eliminating unjustified disparity in sentences, providing fair warning of the nature of the sentence to be imposed, and establishing fair procedures for the imposition of sentences;
- (c) To prevent crime and promote respect for the law by providing an effective deterrent to others likely to commit similar offenses;
- (d) To promote rehabilitation by encouraging correctional programs that elicit the voluntary cooperation and participation of convicted offenders;
- (e) To select a sentence, a sentence length, and a level of supervision that addresses the offender’s individual characteristics and reduces the potential that the offender will engage in criminal conduct after completing his or her sentence; and
- (f) To promote acceptance of responsibility and accountability by offenders and to provide restoration and healing for victims and the community while attempting to reduce recidivism and the costs to society by the use of restorative justice practices.

Projected Costs: Sentencing Options

The cost of corrections is directly related to the level of confinement of each sentencing option. The following numbers are from FY2012 and will be updated annually in January. The Division of Probation Services confirms these numbers with each of the respective agencies.

Annual Cost of Sentencing Options Per Offender (FY2012)	
Probation	\$1,578
Community Corrections	\$7,822
Parole	\$4,566
Department of Corrections (DOC)	\$32,334

Source: DOC: Office of Planning & Analysis, DCJ: Office of Community Corrections, Division of Probation Services

Big 4	Indicators	Intervention
Criminal History (Low Self Control)	Being arrested at a young age, having a large number of prior offenses, and having rule violations while on conditional release.	Develop skills to avoid high risk situations; build up new non-criminal behaviors in high-risk situations; build self-efficacy beliefs supporting reform. E.g., cognitive behavioral treatment, curfew, electronic monitoring.
Antisocial Attitude/Orientation	Identification with criminals, negative attitudes toward the law and justice system, a belief that crime will yield rewards, and rationalizations that specify a broad range of conditions under which crime is justified.	Reduction of anti-social thinking and feeling; building and practicing less risky thoughts and feelings. e.g., cognitive behavioral treatment.
Anti-Social Companions	Association with anti-social others and relative isolation from pro-social others.	Reduce association with anti-social others and enhance association with pro-social others. e.g., recreation, life skills programs, support group involvement.
Anti-Social Personality Pattern (ASUS Social Scale)	Impulsive, adventurous, pleasure-seeking, generalized trouble in multiple settings, restlessly aggressive, callous disregard for others, lack of empathy, anger problems.	Build skills in self-control, anger management, and problem-solving. e.g., cognitive behavioral treatment, life skills programs, mental health referral (if applicable, to assess for anti-social personality disorder/psychopathy).
Other/Next 4	Indicators	Intervention
Dysfunctional Family/Marital	Poor communications, significant conflict (parent-child or spouse-spouse), criminal involvement and lack of appropriate behavioral expectations and rules regarding anti-social behavior.	Reduce conflict, build positive relationships, enhance monitoring and supervision. e.g., family counseling, parenting classes, DV treatment.
Education/Employment	Low levels of performance and involvement and low levels of rewards and satisfactions.	Enhance performance, involvement, and rewards and satisfaction. e.g., vocational counseling, work force center, GED.
Leisure/ Recreation	Low levels of involvement and satisfactions in pro-social leisure pursuits.	Enhance involvement in pro-social activities and rewards and satisfaction. e.g., recreation center, community center activities.
Alcohol/Drug Problems	Continued use despite significant life disruptions, increased tolerance to drugs/alcohol, increased use over time, inability to stop use.	Reduce substance abuse, reduce the personal and interpersonal supports for substance-oriented behavior, enhance alternatives to substance abuse. e.g., substance abuse treatment, addiction support groups, substance monitoring.
Stability	Indicators	Intervention
Financial	Inability to meet financial obligations with legal income. May rely on social assistance. Income sources may be from anti-social or criminal means.	Although not directly related to recidivism, stability factors can interfere with a person's ability to be successful in the community. Probation officers should assess offenders' stability factors prior to release from custody and while in the community and include action steps in the case plan that address any concerns that may be an impediment to offenders' ability to lead stable lives in the community.
Accommodations	Lack of stable, comfortable residence, frequent address changes, living in high crime neighborhood.	
Emotional/Personal	Mental health issues that interfere with a person's ability to respond to stressors-may be moderate (e.g., mild anxiety or mild depression) too severe (e.g., hallucinations, delusional thinking, suicidal ideation).	

Andrews, D.A. Bonta, James (2010). Psychology of Criminal Conduct, 5th Ed., 58-59. The Carey Group, "Criminogenic Need Preferred Response Guidelines." Carey, Mark (2010). "Coaching Packet: Effective Case Management."