

# Use of Risk and Needs Assessment Information at Sentencing: Douglas County, Nebraska

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**Center for Sentencing Initiatives**

*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](http://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.”<sup>1</sup> 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

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<sup>1</sup> 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>).

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## ACKNOWLEDGMENTS

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

We also extend our appreciation to The Pew Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit [www.pewtrusts.org/publicsafety](http://www.pewtrusts.org/publicsafety).

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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

Douglas County probation officers provide offender RNA information for all cases in which a presentence investigation (PSI) report is ordered. According to statute, a PSI is ordered for all felony offenders unless a judge deems it “impractical” in a particular

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<sup>2</sup>A Douglas County judge, probation officer, county attorney, and public defender agreed to NCSC requests for an interview.

case.<sup>3</sup> Examples offered by interviewees of when a PSI might be considered impractical are when a PSI already exists that contains an RNA report for an offender or when an offender has committed a very low or very high level offense, and the judge considers the sentence clear-cut. In addition, offenders may waive their right to a PSI, and thus RNA information would not be available for these offenders.

RNA information is only available pre-plea in a specialized young adult (ages 16-22) court. Interviewees expressed concerns over logistics and the potential negative implications for high scoring offenders if RNA results are made available at the plea negotiation phase for all cases.

## III. Assessment Process

Douglas County utilizes the Level of Service/Case Management Inventory (LS/CMI) assessment instrument to evaluate offenders. The LS/CMI was developed in 2004 by Don Andrews, James Bonta, and Stephen Wormith to function both as a case management tool and as an assessment of offender risk, needs, and responsivity factors.<sup>4</sup> The LS/CMI consists of 43 items across 8 categories. The Nebraska Supreme

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<sup>3</sup> Neb. Rev. Stat. §29-2261 available at <http://nebraskalegislature.gov/laws/statutes.php?statute=29-2261>.

<sup>4</sup> As of this report, the LS/CMI is the latest version of the commercially available Level of Service Inventory (LSI) system. The last version, the Level of Service Inventory-Revised (LSI-R), was made available to the public in 1995 and is still widely used as a stand-alone RNA tool. For more information about the LS/CMI, refer to the Multi-Health Systems, Inc. website at: <http://www.mhs.com/product.aspx?gr=saf&prod=ls-cmi&id=overview>.

Court's Administrative Office of Probation and the University of Nebraska are collaborating on a statewide validation of the LS/CMI.

Douglas County officers utilized the Wisconsin Risk and Needs assessment prior to adoption of the LS/CMI to inform their PSI report preparation but did not include the actual results of the assessments in the reports.<sup>5</sup> Probation officials chose to transition to the LS/CMI because of the instrument's available supporting research and because they thought the tool was more inclusive in terms of outlining risk, needs, and responsibility issues. They also noted that several states geographically and demographically similar to Nebraska use the LS/CMI.

Although rarely done, probation officers may override assessment results. If an override occurs, officers adjust recommendations rather than scoring levels. Overrides most often occur when a probation officer feels the RNA instrument does not accurately take certain factors into consideration. Supervising probation officers conduct reassessments when a major life change or probation violation occurs.

The Douglas County Probation Department uses several assessment instruments in addition to the LS/CMI. Specialized assessment tools for sex offenders include the Vermont Assessment for Sex Offender Risk (VASOR), the Static-99, and Stable-2007.<sup>6</sup> Probation officers screen domestic

violence offenders with the Domestic Violence Offender Matrix.<sup>7</sup> The Simple Screening Instrument (SSI) screens chemical dependency levels.<sup>8</sup> Investigation officers use the Driver Risk Inventory developed by Behavior Data Systems in drunk driving cases.<sup>9</sup> Officers also use a supplemental substance abuse questionnaire (SAQ-Adult

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item re-offense scale and a six item violence scale. Additional information on the VASOR can be found at <http://www.csom.org/pubs/vasor.pdf>. The Static-99 is a 10-item actuarial risk assessment instrument developed by Karl Hanson and David Thornton in 1999 for use with adult male sex offenders. See [http://www.assessments.com/catalog/STATIC\\_99.htm](http://www.assessments.com/catalog/STATIC_99.htm) for more information. The Stable-2007 is a sex offender risk assessment instrument designed to capture 13 areas of dynamic risk. Karl Hanson, Andrew Harris, Terri-Lynne Scott, and Leslie Helmus developed the tool in 2007. For more information, see [http://soraf.cyzap.net/zap\\_site/docs/zaps-mr-tab1-85.htm?Stable-2007%26copy%3B-Assessment](http://soraf.cyzap.net/zap_site/docs/zaps-mr-tab1-85.htm?Stable-2007%26copy%3B-Assessment).

<sup>7</sup> The Domestic Violence Offender Matrix is adapted from a tool developed in Delaware that is based on the Duluth Model. Information about the Duluth model is available at <http://www.theduluthmodel.org/about/index.html>

<sup>8</sup> 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. Additional information on how Douglas County utilizes the SSI can be found at <http://supremecourt.ne.gov/supreme-court-rules/2418/appendix-standardized-model-delivery-substance-abuse-services>.

<sup>9</sup> The Driver Risk Inventory was developed by Behavior Data Systems. Additional information on the DRI can be found at [http://www.bdsLtd.com/TestsA\\_DRI-II.asp](http://www.bdsLtd.com/TestsA_DRI-II.asp).

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<sup>5</sup> A description of the Wisconsin tool is available in Baird, C. (1981). Probation and parole classification: The Wisconsin model. *Corrections Today*, 43(3), 36-41.

<sup>6</sup> The VASOR assesses risk in males 18 years or older and is composed of two scales, a thirteen

Probation III) developed by Behavior Data Systems.<sup>10</sup>

## IV. Assessment Report

In 2007, Douglas County implemented the statewide redesign of the PSI report format to reflect the LS/CMI domains (see Appendix). For each LS/CMI section, officers include the reported risk level and a narrative describing the results for that domain. In addition, the LS/CMI profile sheet with each section's specific score is included at the end of the PSI report.

Probation officers include recommendations in the PSI regarding whether the offender can be supervised effectively in the community and, if so, the suggested length of probation and probation conditions. Although probation officers may identify specific program providers in certain cases, programming recommendations are often generalized to account for the large number of treatment providers in the area. If offenders do not participate in the PSI process, recommendations are omitted from the PSI report.

On average, Douglas County probation officers complete approximately 130 PSI reports each month.

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<sup>10</sup> The SAQ Adult Probation III is a 149-item assessment that provides information on seven scales (truthfulness, violence, antisocial, alcohol, drug, aggressiveness, and stress coping abilities). For more information, see <http://www.saq-adult-probationiii.com/index.html>.

## V. Use of Assessment Information

*General reception.* Nebraska's Administrative Office of Probation led the effort to formally incorporate RNA information into PSI reports statewide. The Supreme Court established an Evidence-Based Practices Committee of judges and probation officers to assist the Office of Probation with implementing an evidence-based approach to sentencing and corrections. The Committee provided a vehicle for obtaining judicial and probation officer input regarding revisions to the PSI report format. Over the years, the Committee has included members from Douglas County which, in addition to various judicial and probation officer training sessions, may have helped increase acceptance of using RNA information by the local bench and probation officers. Overall, the education and buy-in process for the bench took two to three years.

Prosecutors and defense counsel have not had the benefit of formal training on RNA information. Over time, the senior professionals in each office have learned how to interpret RNA results and serve as informal mentors to the junior professionals in their respective offices.

Although stakeholders recognize the validity of the RNA instrument, some reported concerns regarding administrator bias. These types of concerns are addressed through the statewide Evidence-Based Practices Committee and a local criminal justice system management council. Administrator consistency, for example, is being addressed, in part, through training.

*Practical use of RNA information among stakeholders.* The 16 judges in Douglas County generally follow the sentencing

recommendations made by probation officers in the PSI, although the practice varies by judge. Prosecutors and defense counsel express interest in having the RNA information; however, they are less enthusiastic about probation offering specific sentencing recommendations based on the information.

Probation officers may or may not be aware of a plea agreement when generating a PSI report. Reportedly, knowledge of a plea agreement does not affect probation officers' recommendations. If there is a discrepancy (i.e. plea agreement calls for probation while probation recommends

incarceration), it is submitted to the court. Judges retain full discretion on whether or not to accept a plea agreement, including the conditions of the agreement. RNA evaluation outcomes expressed in PSI reports generally do not affect judicial acceptance of plea agreements.

## **VI. Outcomes Tracked**

The Administrative Office of Probation is collecting data to track outcomes. However, the office has been transitioning to a new information system and thus reports are not readily available at this time.

Appendix A

NEBRASKA PROBATION SYSTEM

SENTENCE DATE: Presentence Investigation
Probation District 3A

STATE OF NEBRASKA ) District Court Lancaster County
)
) Case
)
vs. ) Judge
)
XXXX ) Probation Officer
)
) State's Attorney
)
) Defense Attorney

Original Charge: Count I: Possession of a Controlled Substance (IV Felony);
Count II: Attempt Assault on an Officer-3rd Degree (I M); Count III: False Reporting (I M)

Plea Agreement: Agreement Dismiss Count III and no Habitual charge.

Convicted Charge: Count I: Possession of a Controlled Substance
Count II: Attempt Assault on an Officer-3rd Degree

Section: Ct. I: 28-416(3) Ct. II: 28-201; 28-931 Class: Ct. I: IV F; Ct. II: I M

Penalty: Count I: Maximum: 5 years imprisonment, \$10,000 fine, or both.
Minimum: None
Count II: Maximum: 0-1 year jail and/or \$1,000 fine
Minimum: None.
DNA Sample Required

Date Filed in District Court: 03-08-13

Plea or Verdict: No Contest Date: 05-20-13

Co-Defendants/Disposition:

Arrested by: Lincoln Police Department Date: 11-09-12

Bond: \$10,000 (%) Days in Jail: 11-14-12 to 01-24-13,
01-28-13 to 03-28-13,
03-31-13 to 07-22-13 = 246 Days

Disposition: (As per Lancaster County Jail Records)

## IDENTIFYING INFORMATION

True Name:

Alias/Nicknames: N/A

Lives With: N/A

Prior Address: Omaha, NE; New Orleans, LA;  
Lincoln, NE

Present Address: Lancaster County Jail

Home Phone: N/A

Email: N/A

Cell Phone: 402-601-7921

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Age: 29

DOB:

Birthplace: New Orleans, LA

Race:

Sex: Male

Height: 6'1"

Weight: 200

Color Eyes: Brown

Hair: Black

U.S. Citizen: Yes

Scars/Tattoos, etc.:

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Marital Status: Single

Dependents: None

Education Completed: Eleventh Grade

Employment: Unemployed/Incarcerated

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Soc. Sec. #:

FBI #:

NSP:

License #:

(Suspended)

SO #: N/A

PD #: N/A

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Other Information:

### PRESENTENCE INFORMATION:

Date Ordered: 05-20-13

Date Interviewed: 06-25-13

Date Submitted:

Sentencing Date: 07-23-13

**I. CRIMINAL HISTORY:**

<b>DATE:</b>	<b>PLACE:</b>	<b>OFFENSE:</b>	<b>DISPOSITION:</b>
<u>Juvenile:</u>			
1998	Omaha, NE	Willful Reckless Driving	Juvenile Probation 09-24-88: Probation Revoked – YRTC-Kearney
<u>Adult:</u>			
06-10-02	Bellevue, NE	1) Theft by Shoplifting 2) Failure to Appear	1) 5 Days Jail, \$75 Fine 2) \$50 Fine
12-25-02	Omaha, NE	1) Carrying Concealed Weapon 2) Possess Concealed Firearm 3) Possess Unregistered Firearm 4) Carry Loaded Gun 5) DUS 6) No Tail Light <b>Amended to:</b> 1) Robbery 2) Use of a Firearm to Commit a Felony 3) Possession of a Controlled Substance	1) 16 Days Jail 2) Dismissed 3) Dismissed 4) Dismissed 5) Dismissed 6) Dismissed  1) 3 to 5 Years Prison 2) 3 to 5 Years Prison 3) Dismissed
08-10-06	Lincoln, NE	Escape – Detailed on Felony/Convicted <b>Amended to:</b> Attempted Escape	12-17-07: 1 Year Jail
04-26-09	Sarpy Co., NE	1) DUI  2) DUS	1) 30 Days Jail, 1 Year License Revocation, \$450 Fine 2) \$100 Fine



**I. CRIMINAL HISTORY:**

<b>DATE:</b>	<b>PLACE:</b>	<b>OFFENSE:</b>	<b>DISPOSITION:</b>
<u>Adult:</u>			
04-27-09	Sarpy Co., NE	1) False Report 2) DUI 3) Drive on Shoulder 4) Fail to Use Turn Signal 5) Possess Drug Paraphernalia 6) DUS 7) Open Container 8) Possession of Marijuana 9) Failure to Appear	1) Dismissed 2) 30 Days Jail 3) Dismissed 4) Dismissed 5) Dismissed 6) Dismissed 7) Dismissed 8) Dismissed 9) 30 Days Jail
05-08-09	Lincoln, NE	1) DUI/.08-1st Offense <b>Amended to:</b> Reckless Driving 2) DUS – Eligible 3) Negligent Driving 4) Failure to Appear 5) Failure to Appear	1) 08-20-09: \$100 Fine 2) 08-20-09: \$100 Fine 3) 08-20-09: Dismissed 4) 08-20-09: Dismissed 5) 08-20-09: Dismissed
05-21-09	Lincoln, NE	Possession of Marijuana, 1 Ounce or Less – 1st Offense	06-25-09: \$300 Fine
07-09-09	Lincoln, NE	1) DUS – Not Eligible 2) Violate Speed Limit 11-15 Over 3) Failure to Appear 4) Failure to Appear 5) Failure to Appear	1) 04-05-10: 5Days Jail, 1 Year License Suspension 2) 04-05-10: Dismissed 3) 08-20-09: Dismissed 4) 04-05-10: Dismissed 5) 04-05-10: Dismissed
08-09-09	Lincoln, NE	Steal Money or Goods, Less Than \$300	10-08-09: \$50 Fine
09-17-09	Lincoln, NE	Have Open Alcohol Container	10-13-09: \$50 Fine
03-29-10	Lincoln, NE	Make False Statement to Police Officer	04-29-10: \$150 Fine

**I. CRIMINAL HISTORY:**

<b>DATE:</b>	<b>PLACE:</b>	<b>OFFENSE:</b>	<b>DISPOSITION:</b>
<u>Adult:</u>			
03-17-10	Lincoln, NE	Steal Money or Goods, Less Than \$300	04-29-10: \$250 Fine
10-26-10	Lincoln, NE	1) DUS – Not Eligible, Subsequent Offense 2) Occupant Protection System 3) Failure to Appear  4) Failure to Appear	1) 09-14-11: Dismissed By CA With Costs 2) 09-14-11: Dismissed By CA With Costs 3) 09-14-11: Dismissed By CA With Costs 4) 09-14-11: Dismissed By CA With Costs
10-30-10	Lincoln, NE	1) DUS – Not Eligible, Subsequent Offense 2) Negligent Driving 3) Possession of Marijuana, 1 Ounce or Less – 1st Offense 4) Failure to Appear 5) Failure to Appear 6) Failure to Appear 7) Failure to Appear	1) 03-29-13: \$250 Fine  2) 09-14-11: Dismissed 3) 09-14-11: Dismissed  4) 09-14-11; Dismissed 5) 09-14-11: Dismissed 6) 09-14-11: Dismissed 7) 09-14-11: Dismissed
11-04-10	Lincoln, NE	1) DUS – Not Eligible, Subsequent Offense 2) Negligent Driving 3) Failure to Appear 4) Failure to Appear 5) Failure to Appear	1) 03-29-13: \$250 Fine  2) 09-14-11: Dismissed 3) 09-14-11: Dismissed 4) 09-14-11: Dismissed 5) 09-14-11: Dismissed
06-01-11	Johnson Co., IA	Possession of Controlled Substance	License Revoked, Substance Abuse Evaluation Ordered, \$315 Fine, 14 Days Jail
11-05-11	Lincoln, NE	DUS – Eligible	12-06-11: \$50 Fine

## I. CRIMINAL HISTORY:

<b>DATE:</b>	<b>PLACE:</b>	<b>OFFENSE:</b>	<b>DISPOSITION:</b>
<u>Adult:</u>			
04-16-12	Lincoln, NE	1) Parks: Closed Enter After Hours 2) Parks: Possess or Consume Alcohol	1) 05-17-12: \$50 Fine 2) 05-17-12: \$25 Fine
06-02-12	Lincoln, NE	1) DUS – Eligible 2) Disobey Traffic Control Sign or Device 3) Failure to Appear	1) 12-10-12: \$250 Fine 2) 12-07-12: Dismissed 3) 12-07-12: \$25 Fine
06-20-12	Lincoln, NE	1) DUS – Eligible 2) Violate Stop Sign	1) 12-10-12: \$100 Fine 2) 12-10-12: \$50 Fine
11-09-12 (CR13-245)	Lincoln, NE	1) Possession of a Controlled Substance (IV F) 2) Attempt Assault on an Officer – 3rd Degree (I M) 3) False Reporting (I M)	1) <b>PRESENT CASE – PENDING</b> 2) <b>PRESENT CASE - PENDING</b> 3) Dismissed in plea

## II. CIRCUMSTANCES OF OFFENSE:

On November 9, 2012, a traffic stop was initiated on a vehicle driven by XXXX. Mr. XXXX and Ms. XXXX were determined to be passengers in the vehicle. Upon contact with the passengers, Ms. XXXX advised Mr. XXX, “doesn’t speak.” He was then given a notepad and asked to write his name. He wrote the name of XXXX and added that he had the right to remain silent. The officer did observe him to have an open bottle of Bud Lite Platinum in between his legs. He was asked to pass the bottle to the police officer and he placed it on the ground. He was then arrested for having an open container in a vehicle and was told to step out of the car. He was handcuffed and officers located an identification card indicating he was really XXXX. He was determined to have multiple warrants and was searched and found to have a meth pipe in his front jeans pocket. He then told the police officer, “I kill cops.” He eventually became resistant and began to struggle with police. He threatened officers that he’d, “be back out on the streets.” Mr. XXXX was described as being very belligerent. While in the police car, he began making noises that he was preparing to spit in the backseat. He was later told not to spit on anyone and said, “I’m saving it up. You have to let me out some time.” He then told the police officer that he had done six years in prison. He was cited and lodged.

### **III. DEFENDANT'S STATEMENT:**

See written statement in the body of this report.

### **IV. VICTIM'S STATEMENT/RESTITUTION:**

None.

### **V. LS/CMI DOMAINS:**

The probation office conducted a face to face interview with the defendant utilizing the Level of Service/Case Management Inventory (LS/CMI). This instrument is a validated "risk/need" assessment tool that is designed specifically to determine the degree of risk that the offender presents to the community and risk to recidivate. The LS/CMI targets eight domains that represent the top criminogenic risk factors for recidivism. The tool also helps to identify other specific responsibility needs to assist in case management, treatment planning and service delivery.

### **CRIMINAL HISTORY:** (high risk)

Mr. XXXX's prior record reveals prior law enforcement contacts for offenses including theft by shoplifting, weapons charges, robbery, and use of a weapon to commit a felony. He has also been cited for steal money or goods, failure to appear in court, make false statement to police and various traffic offenses. It appears Mr. XXXX also has a history of impaired driving, alcohol related offenses and traffic offenses. His license is presently suspended.

Nebraska Department of Corrections reflects Mr. XXXX was convicted of a robbery and weapons offense in 2003. He was sentenced to 3 to 5 years on each count in this matter. In 2006, the defendant was arrested for escape and sentenced to one year in jail.

Mr. XXXX appears to have a general disregard for police, courts, and the laws of his community. This is evidenced by his behavior at the time of his arrest and his citations for offenses including failure to appear, making false statements to police, and escape. He appears to lack respect for authority figures and law enforcement, in general. This poses some difficulties related to considering Mr. XXXX for a term of community based supervision, going forward.

**CRIMINAL HISTORY:** - Continued

Mr. XXXX self reported he was placed at the Youth Rehabilitation and Treatment Center in Kearney, Nebraska, on four occasions. He said he was also placed at the Cooper Village Facility for six months. He said he was raised, for the most part, by his great grandmother. He said he was removed from his home at the age of nine due to abuse. He said he was eventually returned to his mother's custody after he began to run away from his out of home placements. He said his first arrest as a juvenile occurred at 15 or 16 years of age. He admitted he has been affiliated with the Crips Street Gang, historically.

**EDUCATION/EMPLOYMENT:** (high risk)

The defendant said he attended *High School* in Nebraska until the ninth grade. He said he left High School when he was committed to the Youth Rehabilitation and Treatment Center in Kearney, Nebraska. He said he earned his GED at this facility.

For the last few months, Mr. XXXX has been employed as a disc jockey with XXXr. He said he earns about \$350 per week and typically DJ's at parties he promotes. He said these parties might occur on Thursdays, Fridays, or Saturdays.

In the past, the defendant has been employed with *McDonald's*, *BMS*, and *Lenco*. He said his longest period of employment has been for a period of a few months. He denied his alcohol or drug use has ever negatively affected his employment performance.

**FAMILY/MARITAL:** (very high risk)

**Father:**

Mr. XXXX denied having any information regarding his biological father.

**Mother:**

XXXX, age 49, resides in New Orleans, Louisiana. She is reportedly employed in sales and is a recovering addict. The defendant said she does have a criminal arrest record and described her as a neglectful mother when he was growing up. He said the two are close now.

**Siblings:**

XXXX, age 24, resides in New Orleans, Louisiana.

XXXX, age 34, is presently incarcerated in the State of Louisiana for a Manslaughter charge.

**FAMILY/MARITAL:** - Continued

**Current Relationship Partner:**

During the presentence investigation interview appointment, the defendant indicated he is currently involved in a relationship with XXXX. He said he has also been involved in an off and on relationship with XXXX. He reported he and Ms. XXXX have been together for ten years, off and on, while he and Ms. XXX were together for about two years before he became incarcerated. The defendant denied having any information regarding the whereabouts about Ms. XXXX, but claims Ms. XXXX lives at XXX Street in Lincoln, Nebraska. A letter was sent to this address, but was returned indicating Ms. XXX did not live at this address.

**Children:**

The defendant's oldest child is XXXX, age 13. She resides with her mother, , according to the defendant.

XXXX, age 6, was removed from the defendant's custody in 2010 and placed up for adoption. When asked about the situation, the defendant said his children, XXXX, Jr. and XXXX, were removed from the custody of the defendant and their biological mother, XXXX, because, "the Court system used my past against me." During the entirety of the interview, Mr. XXXX appeared to struggle to take responsibility for his choices, his criminal record, and his addiction. He reluctantly admitted he and Ms. XXXX failed to meet the guidelines of the Child Protective Services plan.

XXXX, Jr., age 3, was recently adopted by the same family that adopted his older sibling, XXXX. The defendant said XXXX's mother is also XXXX

XXXX age 8 months, is believed to reside with her biological mother, XXXX. The defendant said things between him and Ms. XXXX have been strained recently because she recently informed him she was pregnant with someone else's baby.

XXXX, age 3, resides in Lincoln, Nebraska, with her mother, XXXX. The defendant stated Ivyanna's twin sister, Iyana, passed away a day after her birth.

XXXX, age 6 months, resides with her mother, XXXX, in Lincoln, Nebraska.

XXXX self reported he is ordered to pay child support for some of his children. He said he owes about \$2,600 in back child support.

**LEISURE/RECREATION:** (high risk)

When asked what he likes to do in his free time, the defendant said he enjoys making music, promoting parties, and being a spokesperson for youth who are at-risk.

*The defendant scored in the high risk range in this category due to his lack of recent involvement in organized recreational or leisure activities and this officer's perception that the defendant could be making better use of free time (based on police reports or other collateral information).*

**COMPANIONS:** (very high risk)

The defendant listed his friends and associates as XXXX, three biological mothers to his children. As was previously noted, Mr. XXXX self reported he has been affiliated with the Crips Street Gang, historically. He said he moved away from Omaha in 2007 to escape from the gang life. He said since that time, he has been focused on changing his life and being a dad. His criminal record appears to reflect otherwise, based on the number of criminal arrests he has accrued since moving to the Lincoln area.

*The defendant scored in the very high or high risk range in this category as he was not able to provide information about positive persons that he might associate with. Alternatively, the defendant may have scored in the very high or high risk range in this category if he identified only pro-social companions, but admitted to engaging in criminal activities using behaviors, or other anti-social behaviors with others (who are likely pro-criminal companions).*

**ALCOHOL/DRUG PROBLEM:** (very high risk)

**Alcohol:**

The defendant said he first used alcohol at 13 years of age. He said he last used this substance on November 9, 2012. He noted he typically uses alcohol every other day or so, consuming six beers per occasion. The defendant said he does not believe he has a problem with alcohol and said when he drinks, he tends to think more than usual and stress about his past while under the influence of alcohol.

## ALCOHOL/DRUG PROBLEM: - Continued

### Marijuana:

At the age of 13, Mr. XXXX began experimenting with marijuana. He said he last used this substance on November 9, 2012. He noted he typically used this substance on a daily basis, smoking a half of an ounce per day. Mr. XXXX self reported that using marijuana makes him think everything he is doing is acceptable or, "cool." He self reported he was actively using this substance until he became incarcerated on the present charges. He rationalized drugs have always been a part of his life.

### Methamphetamine:

In August of 2012, the defendant said he began using methamphetamine. He said he last used this substance in November of 2012 and typically used this substance on three occasions per day. He rationalized he began using this substance to escape the loss he experienced after his children were removed from his care.

### Ecstasy:

Mr. XXXX self reported for a one month period, during 2012, he was using Ecstasy on a weekly basis. He said he also experimented with acid on one occasion during October of 2012.

### Treatment:

When asked how he feels about participating in a substance abuse treatment program, the defendant said while he has never been to treatment, he believes a treatment program could be beneficial. He said he isn't getting any younger and his kids need him in their life. However, when asked about his arrest in the present offense, the defendant said he was just in the wrong place at the wrong time with the, "wrong shit in my pocket." He said he was really unaware that having a pipe was a felony and only had a couple of warrants. He said he is angry about his arrest and appears to take little responsibility for the consequences of his addiction. He was determined to be in the pre-contemplative stage of change, given his own assertion that he was actively using chemical substances until the day of his present incarceration.

### Sale and Delivery:

Mr. XXXX self reported he began his involvement in the sale and delivery of chemical substances at 13 years of age. He said he sold substances until he was 18 and became incarcerated. He said he was earning about \$1,500 per week through his involvement in this activity, but has not sold drugs since being released from prison.



**PROCRIMINAL ATTITUDE/ORIENTATION:** (very high risk)

As was previously noted, Mr. XXXX has been involved in a wide array of criminal offenses. He has demonstrated a poor or indifferent attitude toward the police, courts, and the laws of his community. His ongoing involvement in criminal activities reflects a general disregard for laws and an attitude that is supportive of crime. Criminal thinking patterns identified include rationalizing, blaming, and making excuses. He appears to believe he is a victim of the system, to a large degree.

Mr. XXXX was determined to be unfavorable toward convention. He appears to have few ties to conventional settings and likely spends the majority of his free time alone or with deviant others. He appears to have a very limited community support network.

When asked about his feelings about his arrest, the defendant appeared to take little responsibility for his own choices and addiction. He did not appear apologetic or remorseful and seemed mostly unaffected.

While Mr. XXXX indicated he would be willing to participate in a substance abuse treatment program, going forward, the reason for his willingness to participate in treatment appears to be mostly external. He appears to be more focused on avoiding further incarceration than actually addressing his addiction. This is evidenced by his own admission that he did not attempt to address his addiction in any way prior to his current incarceration. He was determined to be in the pre-contemplative stage of change. Barriers to participating in a treatment program going forward include his level of motivation and unwillingness or inability to obtain and maintain sobriety, long term.

Mr. XXXX did not seem particularly committed to making any lasting changes, going forward.

*The Procriminal Attitude/Orientation section takes into account whether the defendant's overall attitude is: a) supportive of crime; b) unfavorable toward convention; c) poor, toward sentence/offense; d) poor toward supervision/treatment. Occasionally, clients will claim that they feel one way about a particular area, but supporting information (past performance on probation, criminal history, attitude toward society, attitude toward arresting officers, etc) will be located elsewhere. Thus, this section is scored using both collateral information and the interview question responses provided by the interviewee.*

*Note: Unfavorable toward convention is identified as having a general disregard for (or indifference about) convention/non-crime alternatives. An offender who is unfavorable toward convention might be hostile, and/or rejects the values underlying convention. He or she may show weak ties to conventional settings such as home and family, and school/work. He or she may reject non-criminal activities and their reward or have a tolerance for deviance. He or she may also be negative or hostile toward authority.*

**ANTISOCIAL PATTERN:** (high risk)

Mr. XXXX denied ever participating in a specialized assessment for antisocial pattern. He does appear to meet the LS/CMI defining criteria for having engaged in early and diverse antisocial behavior. He self reported experiencing severe problems of adjustment in childhood and has an official record of assaultive and violent offenses. He has also been charged with escape.

Though Mr. XXXX has been arrested and incarcerated for similar offenses, it appears he has continued to engage into similar behavior patterns despite the consequences.

Mr. XXXX detailed a pattern of generalized trouble during the course of the interview. This is evidenced by his own admission that he is experiencing some financial problems related to his unpaid back child support, the fact he has never been employed for a full year, his own admission he has a poor relationship with his mother, the fact he could make better use of his free time, and the likelihood that he has seemingly few anti criminal friends.

*The Antisocial Pattern section is scored by assessing whether the client has: a) participated in a specialized assessment for antisocial pattern; b) engaged in early and diverse antisocial behavior (childhood adjustment problems, out of home placements as a child, juvenile record, history of assault or violence, escape history, probation or parole violations); c) has an overall criminal attitude and; d) has engaged in a pattern of generalized trouble (financial problems, frequent address changes, lack of long term, stable employment, less than grade 10 or equivalent, suspended or expelled one or more times, has a generally non-rewarding relationship with parents, could make better use of time, and associates with few anti-criminal associates). Again, the investigating officer uses both collateral information and responses from the interview to score this section.*

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*The following sections of the LSCMI do not contribute to the total score, rather provide detailed information for investigating and supervising officers, as well as Courts and corrections personnel regarding any barriers, special considerations, or other areas to consider when working with this particular client.*

## **SPECIFIC RISK/NEED FACTORS:**

*This section details any personal problems with criminogenic potential, history of perpetration, engagement in violence or assaultive acts, and other forms of antisocial behavior (impaired driving, shoplifting, white collar crime, gang participation, organized crime, hate crime, or terroristic activities).*

Probation records reflect Mr. XXXX was revoked from the one probation supervision opportunity he has been afforded. He denied ever being diagnosed as psychopathic or with a personality disorder. He denied having any concerns about his personal safety.

Problem solving skill deficits identified for Mr. XXXX include taking care of his responsibilities, making appropriate decisions, and dealing with his emotions. He also appears to struggle with effectively solving problems, using good judgment, and setting boundaries. Finally, he appears to struggle to take responsibility for himself and his dependents, has trouble with authority, and a history of violence and weapon use.

While Mr. XXXX denied having any concerns about managing his anger, based on his conduct at the time of his arrest, it would appear he struggles in this area. He might also be characterized as intimidating or controlling. He denied ever engaging in inappropriate sexual activities.

Possible social skill deficits for Mr. XXXX include getting along with others, being respectful, and controlling his own impulses. Mr. XXXX denied having friends or acquaintances outside of his own age range. He denied ever engaging in racist or sexist behaviors.

Mr. XXXX does appear to be underachieving in the areas of employment, financial management, problem solving, parenting, and taking responsibility for himself and his dependents.

Patterns identified in Mr. XXXX's criminal record include a history of alcohol and drug offenses, theft related charges, weapon offenses, as well as assaultive and violent offenses.

## **OTHER CLIENT ISSUES:**

*This section allows officers to denote any social or health-related considerations to be considered when working with this client.*

Mr. XXXX self reported he owes about \$2,000 in back child support. He said his only source of income prior to his arrest was the money he earned through his DJ job at XXXX. He denied any recent periods of homelessness or transience. Accommodation problems identified for Mr. XXXX include his lack of stable, full time employment, his lack of self direction and independent decision making abilities. In addition, he appears to struggle with taking responsibility for himself and his dependents. He admitted he and his former girlfriend relinquished their parental rights after failing to follow through with a Child Protective Services reunification plan requirement. He has also demonstrated an inability to steer clear of criminal activities, other users, and using behaviors. He lacks a valid driver's license and insight into the seriousness of his addiction and how his addiction may have affected other areas of his life.

The defendant denied having any immigration related concerns. While he doesn't appear to believe he has any parenting concerns at this time, his lifestyle likely provides little to no stability for children in his care.

Mr. XXXX denied having any physical health problems at this time. He said he was shot in 2008 in a drive-by shooting. He said he has not been diagnosed with any serious illnesses and is not taking any medications for physical health reasons. When asked about his mental health, the defendant said he has been diagnosed with depression. He said he has been struggling recently because a few of his cellmates have attempted suicide. He said he struggled with depression as a kid, but has not been recently taking medications or addressed this condition in any way. He denied ever attempting suicide and denied ever being hospitalized for mental health reasons. It would appear he would benefit from participating in a mental health evaluation.

Mr. XXXX does not appear to be struggling with low self esteem or to be shy or withdrawn. He denied ever being the victim of physical or sexual abuse, but admitted his mother was neglectful during the majority of his childhood.

One thing that stood out when talking with Mr. XXXX is the fact he takes little responsibility for his children having been removed from his care. He tends to blame others and rationalized or justified his poor choices.

## **SPECIAL RESPONSIVITY:**

*This section specifically addresses any differences in learning styles or personal interests of the client. This section also discusses the client's level of motivation and any areas of concern related to denial or minimization.*

As was previously noted, Mr. XXXX was determined to be in the pre-contemplative stage of change. While he claims he would like to make some changes, going forward, he seemed to believe he could obtain and maintain sobriety by moving into a sober living environment, without completing a treatment program. When he was told he would need to complete a treatment program prior to entering a halfway or three quarter way house, he seemed discouraged. His motivation to participate in treatment programming appears to be mostly external and based on the fact he would like to avoid future incarceration. He tends to engage in denial and minimization and makes every attempt to justify his actions or blame others for his problems.

Barriers to completing a community based supervision or treatment program include Mr. XXXX's documented problems with authority, his lack of transportation, his unstable employment, and his apparent lack of responsibility and accountability.

## **SUMMARY:**

Appearing before the Lancaster County District Court on the Class IV Felony charge of Possession of a Controlled Substance and the Class I Misdemeanor charge of Attempted Assault on a Police Officer is Mr. XXXX. Mr. XXXX has had prior law enforcement contacts for a wide array of criminal offenses. He self reported he is the father of seven children, one of who is deceased. He said two of his children were removed from his care and his parental rights were terminated after he failed to meet the guidelines of a Child Protective Services plan. In addition, Mr. XXXX said he owes more than \$2,000 in back child support. He appears to lack financial responsibility for himself and his children.

Mr. XXXX said he has not been employed on a full-time, permanent basis in some time. He said he has never been employed for more than a few months. Mr. XXXX was determined to be in the pre-contemplative stage of change at the time of the interview. While he indicated he would be willing to participate in a substance abuse treatment program, his motivation appears to be mostly external. He acknowledged he made no effort to stop using alcohol or drugs prior to his arrest in this matter. He alluded to the fact he has never been able to obtain or maintain sobriety outside of a correctional facility or a structured environment.

**SUMMARY:** - Continued

Barriers to supervising Mr. XXXX in a probation or community based programming setting include his problems with authority, his propensity to engage in violence, and his history of weapon use. Whether Mr. XXXX is sentenced to a straight court sentence or a term of probation, it would appear he would benefit from following all recommendations made in a substance abuse evaluation and obtaining a mental health evaluation. Mr. XXXX would also likely benefit from participating in some individual and family counseling to help him accurately assess how his addiction has affected other areas of his life, including his minor children. In addition, a cognitive behavioral therapy program might help him to become more accountable for his own actions.

Respectfully Submitted,

X  
Adult State Probation Officer