

Use of Risk and Needs Assessment Information at Sentencing: La Crosse County, Wisconsin

**CENTER FOR SENTENCING INITIATIVES
RESEARCH DIVISION
NATIONAL CENTER FOR STATE
COURTS**

PROJECT DIRECTOR

Pamela M. Casey, Ph.D.

PROJECT MANAGER

Jennifer K. Elek, Ph.D.

PROJECT STAFF

Kathryn A. Holt

Tracey D. Johnson

Shelley Spacek Miller

Hon. Roger K. Warren (Ret.)

January 2014



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

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>).

ACKNOWLEDGMENTS

The staff of the Center for Sentencing Initiatives at the National Center for State Courts gratefully acknowledges the La Crosse 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 Charitable Trusts for its support of this effort. For information about Pew's public safety performance project, please visit www.pewtrusts.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

Most felony offenders are assessed for risk and needs prior to sentencing. Of these, some are assessed initially at the pretrial stage, some at the plea negotiation stage, and others at the presentence stage.

²A La Crosse County judge, prosecutor, defense attorney, corrections officer, and Justice Support Services professional agreed to NCSC requests for an interview.

At the pretrial stage, judges use the Proxy screening score as one basis for making referrals for a RNA.³ Judges refer pretrial assessments to Justice Support Services, a county agency.⁴ The assessment offers an opportunity to review whether the defendant can be released prior to adjudication and, if so, what needs should be addressed to ensure the public's safety and the defendant's presence at court hearings. In addition, Justice Support Services also conducts assessments for individuals who were given a cash bond of \$1,000 or less but remain in jail.⁵ Justice Support Services forwards the RNA information on these defendants to the court for further review.

The RNA conducted on these defendants also is available to all parties at the plea negotiation stage. Occasionally, defense counsel also requests that Justice Support Services assess a client who did not receive a RNA at the pretrial stage to have the assessment available at the plea negotiation stage. Thus RNA information is available to inform the plea negotiation process for a significant number of cases.

³The Proxy Risk Triage Screener tool is a 3-item screen for risk. For more information, see Justice System Assessment & Training, Proxy Risk Triage Screener website page at <http://www.jsatresources.com/Toolkit/Adult/0d79bac6-6818-4ac3-bec9-5e51890358a6>.

⁴Justice Support Services (formerly, Justice Sanctions and also Chemical Health and Justice Sanctions) also conducts assessments for some diversion programs and treatment courts. For information on the full range of services provided by Justice Support Services, see the La Crosse County Human Services Chemical Health and Justice Sanctions website at <http://www.co.la-crosse.wi.us/humanservices/js/index.htm>.

⁵Justice Support Services reports that the goal is to conduct a RNA on all defendants to better inform the court's pretrial release decisions.

The Department of Corrections (DOC), a state agency, prepares all presentence investigation reports. All presentence investigation reports include RNA information. Occasionally, (e.g., when there is a stipulated sentence) the court may request only the RNA report rather than the full presentence investigation report. The prosecutor and/or defense counsel can request a presentence investigation report, but only the court can order it.⁶

III. Assessment Process

Justice Support Services began using RNA information informally in the late 1990s and early 2000s for offenders in treatment courts and for pretrial release decisions. In 2006, La Crosse became a Wisconsin AIM (Assess, Inform, Measure) pilot site which formalized and expanded the practice of using RNA to inform court decisions.⁷

Initially Justice Support Services staff administered the Level of Service Inventory-Revised (LSI-R) to determine a defendant's risk and needs but transitioned to the Correctional Offender Management Profile for Alternative Sanctions (COMPAS) in 2012 when the state DOC began using that

tool.⁸ COMPAS provides an assessment of risk probability for pretrial release misconduct, general recidivism, and violent recidivism.⁹ A statewide COMPAS validation is currently underway.

Justice Support Services and DOC officers use the identical COMPAS instrument, and all offender assessment information is maintained in a centralized database.¹⁰ If Justice Support Services has done an assessment on an offender prior to sentencing, DOC will review the COMPAS and update it as necessary based on DOC records (e.g., previous probation revocations). Because both agencies have access to the offender information, they are able to access and update the most recent COMPAS results when needed and develop case plans informed by the offender's supervision and treatment services history.¹¹

⁶ Occasionally, defense counsel will obtain an independent presentence report prepared by a private consultant. This most often occurs in cases where prison is a likely sentence (e.g., in certain sex offense cases).

⁷ For more information on the Wisconsin AIM project, see the Wisconsin Court System, Court programs, Effective justice strategies, Assess, inform and measure (AIM) pilot project web site page at <http://www.wicourts.gov/courts/programs/altaim.htm>.

⁸ Developed by Don Andrews and James Bonta in 1995, the LSI-R is a commercially available risk and needs assessment tool comprised of 54 items across 10 subscales. 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>. COMPAS, also a commercially available instrument, was developed by Northpointe Institute for Public Management in 1998. For more information, see http://www.northpointeinc.com/files/downloads/FAQ_Document.pdf.

⁹ See Northpointe Institute for Public Management (2012). *Practitioner's guide to COMPAS*. Traverse City, MI: Author (available http://www.northpointeinc.com/files/technical_documents/FieldGuide2_012813.pdf). COMPAS has 41 scales that can be customized to address different decision points and offender populations of interest to a jurisdiction.

¹⁰ Neither agency has designated assessment staff at this time; all staff conducts assessments.

¹¹ Currently, Justice Support Services administers both the primary COMPAS, consisting of 74 items, and the core COMPAS,

Neither Justice Support Services nor DOC officers override COMPAS risk scores or levels. DOC will override the supervision level in some cases (e.g. sex offenders will not be supervised at less than medium risk even if they score at low risk) according to state policy.

Justice Support Services staff administers several specialized assessment instruments in addition to the COMPAS. The University of Rhode Island Change Assessment (URICA), a motivational assessment that captures a defendant's readiness to change, is incorporated into the full COMPAS.¹² Additionally, staff also administers the Spousal Abuse Risk Assessment (SARA) in relevant cases.¹³

DOC agents also use the COMPAS with the URICA built into it. At this time, they do not use other assessment tools. DOC officers reassess offenders every twelve months. Offenders may also receive a reassessment when a probation violation occurs, although this is not automatic.

consisting of 137 items for pretrial defendants. A work group is considering first using the Proxy or other instrument to screen for risk, administering the COMPAS pretrial RNA for those who score high on the Proxy, and then administering the full COMPAS based on the results of the COMPAS pretrial assessment.

¹² The URICA contains 32 self-report measures. For additional information on the URICA, see http://pubs.niaaa.nih.gov/publications/Assessing_Alcohol/InstrumentPDFs/75_URICA.pdf.

¹³ The SARA is a 20-item tool that screens for risk factors to determine the threat level of domestic violence to spouses and family members. For additional information, see <http://www.mhs.com/product.aspx?gr=saf&prod=sara&id=overview>.

IV. Assessment Report

COMPAS automatically generates a report based on an offender's information. The report includes a summary of the offender's probability of risk, client strengths, current charge and criminal history information, institutional history, and criminogenic needs. Justice Support Services staff customizes the report with additional information about the offender's needs and potential strategies available to address the needs; however, staff does not offer recommendations regarding ultimate release or sentencing decisions.

Currently, the DOC prepares a more traditional narrative presentence investigation report (see Appendix A) and attaches the COMPAS report at the end. The state DOC is in the process of revising its current presentence investigation report to incorporate the results of the COMPAS more directly. The current presentence report includes officers' recommendations regarding prison, length of sentence, and suspended time, in addition to the COMPAS results. If community supervision is appropriate, the DOC officer will suggest the level of supervision needed, the length of the proposed supervision, and potential programmatic responses to address the offender's needs.

In 2013, 871 COMPAS reports were provided to the court. In addition, DOC estimates that officers provided approximately five presentence investigation reports to the court each month.

V. Use of Assessment Information

General reception. The use of RNA information at sentencing initially met with

varying degrees of acceptance by stakeholders. For some stakeholders, the use of RNA information was a welcome and natural evolution of evidence-based criminal justice reforms implemented in La Crosse across a decade or more. Others stakeholders are skeptical about the extent to which reported risk assessment levels significantly influence the plea bargaining process in comparison to other factors such as the seriousness of the current offense, victim's statement, strength of the prosecution's case, and prior sentences. Concerns were also expressed regarding the accuracy of information the offender provides for the COMPAS assessment. Still others were uncomfortable with the changes to standard operating practices that were required to fully implement an evidence-based approach using RNA information.

Over time, some of these concerns have been alleviated through training and experience. Seminars and stakeholder meetings have provided opportunities to discuss the meaning of and appropriate use of RNA information.¹⁴ In addition, La Crosse has a robust Criminal Justice Management Council which has provided a forum for all stakeholders in the decision making process to discuss issues and concerns related to the use of RNA information and evidence-based reforms more generally.

¹⁴ Two years ago, Justice Support Services organized a training for all judges, defense attorneys, prosecutors, juvenile justice workers, social workers, and DOC agents. State court leaders organized subsequent stakeholder trainings including a recent *Smarter Sentencing Training*. Probation officers undergo regular trainings on the administration of the COMPAS, and other stakeholders also provide trainings for new staff in their respective offices.

Practical use of RNA information among stakeholders. The degree to which counsel consider RNA information during plea negotiations varies. For some, it is the starting point for any negotiation. For others, it is seen as most useful for offenders whose offenses are of medium seriousness and where the likely sentence is not readily clear. Plea agreements typically do not include recommendations regarding treatment and services. However, in Wisconsin, the sentencing provisions of plea agreements are not binding on judges. Even in cases where recommendations are provided in the plea agreement, judges have full discretion to accept or reject the recommendations. To date, no concerns have been raised regarding self-incrimination as information about the current offense is not obtained at the pre-plea stage.

If RNA information is not available at the plea negotiation stage, the court and counsel will usually receive the information at sentencing. Judges rarely reject a plea based on RNA results.

Although use of RNA information varies among individual stakeholders, stakeholders generally report that the use of RNA information has increased objectivity in sentencing. Stakeholders also report general agreement with sentencing, supervision and treatment recommendations provided in the presentence reports. Some disagreement occurs at times with respect to incarceration recommendations. Generally, stakeholders report that RNA information has resulted in sentencing orders containing probation conditions that focus more specifically on a couple of the most critical criminogenic needs rather than a long list of conditions that could merely set offenders up for failure.

VI. Outcomes Tracked

COMPAS results are stored in a statewide database from which local statistical reports can be generated. Reports can break offenders down by risk level and also track recidivism rates. However, the database is relatively new, and stakeholders are mostly using it for workload reports at this point.

The state also is working on expanding the database to include case management information. Eventually, a local jurisdiction will be able to see what presentence recommendations were made, what sentences were ordered, whether the provisions of the sentence were followed, and the success of sentencing outcomes.

Appendix A

La Crosse Presentence Investigation Report

PRESENT OFFENSEError! Bookmark not defined.

DESCRIPTION OF OFFENSE:

On 03/15/10, at about 10:00pm, Badger City Police were called to the K & D Tap located at 223 W. Main Street, Badger City, in reference to a fight there. Upon arrival, victim Sandra Williams advised the police officers that she had been hit in the head with an umbrella by Joe A. Slugger. Ms. Williams further advised that she was the girlfriend of Mr. Slugger and that he “beats me all the time.” Ms. Williams told police that she was at the bar having some drinks when Mr. Slugger came in and accused her of “sleeping around.” He then called her a “bitch” and a “slut.” Ms. Williams attempted to leave, but Mr. Slugger told her she wasn’t going anywhere. He then picked up her umbrella and hit her in the head with it. The officer observed that the back of Ms. Williams’ head was bleeding and that a white napkin that Ms. Williams was holding over her wound was saturated in blood. Ms. Williams was transported to the Badger City Hospital by ambulance, where she received 6 stitches to her head to close her wound.

Police Officers also talked to witness Wayne Tio. Mr. Tio stated that he was at the K & D Tap where he observed a woman sitting at the bar “minding her own business” when a white man wearing a bandana came in, walked up to the woman, and hit her in the head with an umbrella. The man then left the bar. However, the man returned after police arrived and Mr. Tio identified him as the person who had hit the woman in the head with the umbrella.

Mr. Slugger returned to the bar after police arrived. He told the officers that he wanted to get Ms. Williams’ attention so that he could get the keys to their apartment. He stated that he was going to tap her on the shoulder with the umbrella, but accidentally hit her in the back of the head. Ms. Williams gave him the keys and he left, but returned a short time later. Mr. Slugger admitted that he had been drinking alcohol and was given a breathalyzer test by the officer, resulting in a reading of .18 BAC. Mr. Slugger was arrested for Battery and transported to Badger County Jail.

OFFENDER'S VERSION:

Mr. Slugger was interviewed on 4/15/10. Mr. Slugger stated that he had been drinking beer on the date of the current offense. He drank because he and Sandra Williams had been arguing all day and he was frustrated and angry. He estimated that he had about 3-4 beers between the hours of 5:00pm to 10:00pm. Mr. Slugger believed that Ms. Williams had been cheating on him and that was why they were arguing. Mr. Slugger left the apartment before “things got out of control.” He walked to a friend’s home, but the friend was not there, so he came back to the apartment. However, the apartment was locked and he did not have his keys. He went to find Ms. Williams to get the keys to the apartment. Mr. Slugger saw Ms. Williams sitting at the bar at the K & D Tap. He meant to tap Ms. Williams to get her attention, but accidentally hit her in the head. Mr. Slugger did not intend to injure Ms. Williams. He denied that he called her any names or refused to allow her to leave. He stated that Ms. Williams gave him the keys and he left. However, Mr. Slugger decided to return to the bar as he had seen Ms. Williams bleeding and figured that the police would be looking for him.

Mr. Slugger stated that he should not have been convicted of a felony offense in this case because it was an accident. He believes that alcohol played a part in this offense and would like to stop drinking and getting into “situations.” However, he has already completed an inpatient treatment program and does not wish to return to inpatient treatment. He believes that he can remain sober with a community support program, such as Alcoholics Anonymous. Mr. Slugger would like the judge to consider a minimal sentence because the whole incident was an accident.

VICTIM'S STATEMENT:

Ms. Sandra Williams was interviewed on 4/14/10. Ms. Williams stated that the current offense has caused her a lot of stress and anxiety. Ms. Williams was residing with Mr. Slugger up until this offense occurred, but they had a lot of problems with their relationship. This was not the first time Mr. Slugger had physically assaulted her, but it was the first time that she required medical treatment because of his physical abuse. She received 6 stitches to her head due to Mr. Slugger hitting her with the umbrella. It also caused her dizziness and pain. She missed work the next day because of the pain. Ms. Williams does have medical insurance, but had to pay 20% of her hospital bill out of pocket, which was \$225.00. Ms. Williams was given a written warning at work due to calling in sick the day after she was struck.

Ms. Williams stated that since the offense occurred, Mr. Slugger has been in custody and has not been able to provide any financial assistance with rent or the household bills, which was usually split equally between the two of them. Ms. Williams is currently struggling financially just to keep a roof over her head.

Ms. Williams stated that she was “torn” about what Mr. Slugger should be sentenced to. She still loves and cares for Mr. Slugger a great deal. She does not want him to serve any more time in jail. However, she does want Mr. Slugger to stop drinking and hurting her. She would like to help Mr. Slugger, but is also afraid for herself. She wants Mr. Slugger to complete alcohol and drug treatment as well as an anger management program before they live together again. She does want to have contact with Mr. Slugger though, and wants the court to lift the “no contact” order.

PRIOR RECORD

JUVENILE RECORD:

DATE	LOCATION	OFFENSE	DISPOSITION
08/30/99	Badger City	Burglary, Obstructing	9/17/99 adjudicated delinquent 1 year supervision.
10/14/00	Badger City	Entry to Locked Vehicle Read-In: Theft, Criminal Damage to Property	12/06/00 adjudicated delinquent. 1 year commitment to Ethan Allen School. 11/30/01- extended 6 months.

ADULT RECORD:

<u>DATE</u>	<u>LOCATION</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
12/30/02	Badger City	Disorderly Conduct	3/7/03 Sentenced to 30 days county jail
01/19/04	Badger City	Operating While Intoxicated	1/29/04 Sentenced to 10 days county jail
05/14/04	Badger City	Retail Theft (plead down from theft)	6/16/04 – Convicted. With-held sentence. Placed on 18 months probation supervision. Revoked on 1/1/05 – Sentenced to 9 months county jail.
11/16/05	Badger County	Theft	1/31/06 – Convicted Sentenced to three (3) years WSP: One (1) year Incarceration and two (2) years Extended Supervision 1/29/07 released 1/28/09 discharged from Extended Supervision.
11/20/07	Badger City	Disorderly Conduct (plead down from Soliciting a Prostitute)	11/21/07 – Convicted Sentenced to 60 days jail time
02/09/09	Badger City	Substantial Battery With a Dangerous Weapon Court Case #09CF158	04/11/09- Convicted. With-held Sentence Place on 5 years probation supervision. Given 30 days conditional jail time as a condition of his supervision. Revoked on 5/10/10. Sentenced to 3 years Initial Confinement to the Wisconsin State Prison System, and 3 years Extended Supervision

CORRECTIONAL EXPERIENCE:

Records from Badger County Human Services indicated that Mr. Slugger had been on juvenile supervision on two occasions. He did complete both periods of juvenile supervision, including completing court ordered community service and payment of restitution. However, while he was placed at Ethan Allen School, his placement was extended an additional six months. It appears from the records that this extension was due to a number of reasons including completion of programming, behavioral reports, and finding an appropriate placement upon return to the community.

According to the Department of Corrections file information, Mr. Slugger had been placed on adult supervision on three occasions. During his first period of probation commencing on 6/16/04, Mr. Slugger failed to report to his agent as directed, failed to be involved in AODA programming as recommended and directed by his agent, and failed to pay his court-ordered financial obligations. Furthermore, Mr. Slugger committed a new offense of Theft. As a result of his non-compliance and new criminal offense, Mr. Slugger's probation supervision was revoked on 10/31/04 and he was sentenced to 9-months in the county jail.

With respect to the Theft offense committed on 09/16/04 Mr. Slugger was convicted on 11/10/04. He was sentenced to Three (3) years in the WSP; two (2) years incarceration and one (1) year extended supervision. While incarcerated, Mr. Slugger did not complete any programming due to the lengthy waiting lists. After his release on 11/8/06, Mr. Slugger reported to his agent as directed, paid his court-ordered financial obligations, and completed AODA programming in the community. Mr. Slugger's extended supervision successfully discharged on 11/7/07.

Mr. Slugger did commit a new crime on 11/20/07 of Disorderly Conduct (plead down from Soliciting a Prostitute). As a result, on 11/21/07, Mr. Slugger was sentenced to 90 days jail.

On 4/11/09, Mr. Slugger was convicted of Substantial Battery with a Dangerous Weapon. His sentence was withheld and once again he was placed on probation supervision; this time for a period of five (5) years. Mr. Slugger had several violations prior to the current offense. These violations include: failing to attend anger management programming and outpatient AODA treatment, failing to report to his agent as directed, and consuming alcohol and THC.

Due to Mr. Slugger's continuous use of alcohol and his failure to comply with AODA programming in the community, he was offered an Alternative to Revocation to the Residential Drug Treatment Program, which he successfully completed. However, upon his release from this treatment facility, he was referred to AODA aftercare at Badger Mental Health. Mr. Slugger was ultimately terminated for unexcused absences.

Due to all of the violations in combination with the need to protect the public, and the seriousness of his violent behavior towards Ms. Williams, probation was subsequently revoked on 5/10/10 and he was sentenced to three (3) years initial confinement and three (3) years extended supervision.

PENDING CHARGES:

There are no known pending charges at this time.

OFFENDER'S EXPLANATION OF RECORD:

Mr. Slugger stated that his criminal record as presented in this report is accurate. He attributed his criminal behavior to his alcohol and drug use. He first began committing criminal acts around the age of 14, when he stole from his employers. He would steal to pay for alcohol and illegal drugs. He did not do well on supervision when he was younger because he continued to use alcohol and drugs and "did not take it seriously." However, Mr. Slugger felt that despite his current offense and revocation of probation, he really did try to be successful on supervision this time. He did

complete an inpatient treatment program while on supervision and did remain sober for a longer period of time than he ever has before.

FAMILY BACKGROUND

IDENTIFYING INFORMATION:

FATHER: The identity of Mr. Slugger's biological father is unknown.

MOTHER: Madeline Ziareck Slugger, DOB 10/20/60, resides at 3810 South 38th Street, Omaha, Nebraska. She is a high school graduate and is currently employed as a waitress. She is married to Clyde Slugger, but they have been separated for three years. She has no known criminal record.

STEPFATHER: Clyde Slugger, DOB 10/11/58, married Madeline Ziareck on 12-24-87, when the defendant was three years old. Mr. and Mrs. Slugger are still legally married, but have been separated for three years. Clyde Slugger's residence and employment are unknown to the defendant. Clyde Slugger does have a prior criminal record for Robbery and Aggravated Battery.

SIBLINGS:

SISTER: Janet Slugger, DOB 6/14/80, resides with her mother and is currently attending the University of Nebraska-Omaha. She has no known criminal record.

SISTER: Joyce Slugger, DOB 2/8/82, is single, has no children, and resides in Florida. She is employed as a computer programmer. She is a high school graduate and has taken some courses at a technical college. She has no known criminal record.

BROTHER: Danny Slugger, DOB 11/25/86, resides in Omaha, Nebraska with his girlfriend. He is currently laid off from construction work. He has a no known prior criminal record.

SISTER: Maggie Slugger, DOB 9/1/88, resides with her mother in Omaha, Nebraska. She is a high school graduate and is employed as a bank teller. She has no known prior record.

STABILITY AND VALUES:

Mr. Slugger stated that he was never told who his biological father was, and is unsure if his mother knows who it is or not. His mother married Clyde Slugger when the defendant was age three. However, his mother and Clyde had been together since before he was born. His birth certificate indicates his last name as "Slugger," although he was never legally adopted by Clyde. Mr. Slugger described his childhood as very unhappy. He stated that Clyde was a "Dr. Jekyll/Mr. Hyde" personality. He was nice when he was sober, but was physically abusive when he was drinking alcohol. Mr. Slugger described his stepfather as an alcoholic, who would fly into rages when provoked. Clyde was physically abusive to Madeline as well as the defendant. Mr. Slugger's younger siblings were not physically abused like he was, although physical punishment was used on them as well. Mr. Slugger believed that he was abused more than his siblings because he "wasn't really" Clyde's child.

Mr. Slugger stated that he has not had contact with his stepfather for several years now. Clyde would take him to the bars with him and let him drink alcohol at a young age. Mr. Slugger loves his mother, but has not remained close with her since she moved away from Badger City. He has some animosity towards her because she failed to protect him from Clyde's physical abuse. Mr. Slugger has not remained in contact with his siblings either, other than seeing his youngest sister Maggie on a regular basis. However, he was protective of them while growing up. Because he was the oldest, he would sometimes step in between his stepfather and his siblings when they were arguing. He tried to protect his mother from his stepfather as well. Although his mother was usually home with the children, she would wait for Clyde to come home to do the disciplining. Mr. Slugger reported a close relationship with his maternal grandmother, Kay Ziareck. He would often stay with her to get away from his stepfather.

Mr. Slugger described his family's financial situation as "poor" while growing up. His stepfather would work hard in the construction field, but would often get laid off or fired due to his drinking. He would then spend his paycheck on alcohol and marijuana, rather than family expenses. They moved often and did receive financial assistance from state agencies, such as food stamps, rent and utility assistance, and Badger Care medical assistance. Mr. Slugger's mother did not work outside of the home while he was growing up. School was never really emphasized by his parents when he was growing up. They would often all sleep in and he and his siblings would be late for school. Due to their many moves, Mr. Slugger was often absent from school as well.

FAMILY ATTITUDES:

Madeline Slugger was interviewed on 4/20/10. She confirmed the information that the defendant provided regarding his childhood. She stated that she loved her children dearly and now that she has been separated from Clyde for some time, she sees that she failed to protect her oldest son. She regrets some of the mistakes she made as a mother and wishes that she had left Clyde a long time ago, before he became so abusive to her and her children. However, Ms. Slugger tried to instill good values in her children and believes strongly in family ties. The defendant is the only one of her children to not complete school or to have a criminal record. Her youngest son was arrested, but only paid a fine and "learned his lesson." She is close with all of her children and hopes that the defendant "comes around" and establishes a relationship with her and his siblings again. She would welcome him back at any time.

Kay Ziareck, the defendant's grandmother, was also interviewed. She stated that although she did what she could, her grandson began to go with the wrong crowd and started drinking and using drugs at a young age. She described her grandson as having a good heart, but has trouble controlling his temper when he has been drinking. She believes that he needs better treatment than he has been provided in the past, as well as a lot of support. She stated, "If he could just stop using alcohol, he would be a different man." She does not believe that the criminal justice system has helped him to overcome any of his issues at this time and she does not want to see him "get sent away with no treatment again." Ms. Ziareck has loaned her grandson money over the years and he has always made attempts to pay her back, if only minimally, and has helped her out over the years. Ms. Ziareck again stated, "He is a good man with an alcohol problem. He learned it from his stepfather and it is hard for him to overcome. He needs treatment, not punishment."

The defendant again stated that he loves his mother, but just is not close with her anymore, due to some hard feelings from his childhood. He would like to eventually forgive her and move on, but is "not in a place to do that yet." He does not wish to have any contact with his stepfather ever

again. He recently has contacted his siblings and is hoping they become closer now. He appreciates the love and support of his grandmother and would do anything for her as “she is the only reason I survived.” At this time, Mr. Slugger stated that he has a desire to change his behavior and he does not want to continue to be incarcerated. He stated, “I really have goals now. I’m not faking it like I would in the past just to get by and get away with things. I am too old for this. I don’t want to waste any more of my life.”

PERSONAL HISTORY

ACADEMIC/VOCATIONAL SKILLS:

Mr. Slugger dropped out of high school after completing the 11th grade. He stated that he was getting into too much trouble outside of school with drinking and also got suspended from school for fighting. He was placed at Ethan Allen School as a juvenile, where he did well in school, earning several credits and passing all of his classes.

Records from high school indicated that Mr. Slugger mostly earned grades of “C,” with an occasional grade of “A” in his technical education classes. His cumulative GPA was 2.3. Mr. Slugger had many unexcused absences throughout his high school years. During his 11th grade year, he missed 76 out of 180 days of school.

Other than the suspension for fighting, there were no other disciplinary reports regarding Mr. Slugger. Mr. Slugger was not involved in any type of special education programming.

EMPLOYMENT:

Mr. Slugger was most recently employed at the Open Hearth Restaurant where he was the second head chef. He was employed there from November 2005 until his incarceration on the current offense. Mr. Slugger earned minimum wage, averaging about 30-40 hours per week.

Mr. Smith, owner of the Open Hearth Restaurant, stated that the defendant was an excellent employee when he was first hired. However, at one point in time, he did come to work under the influence of alcohol and was sent home. Mr. Slugger also began to call in sick on a more regular basis as time went on. Mr. Smith worked with Mr. Slugger when he entered into inpatient treatment the last time. However, Mr. Smith is disappointed that Mr. Slugger is back in jail. Mr. Smith stated that if Mr. Slugger could get his act together, he would hire him back as long he did use alcohol or drugs.

Prior to the this employment, Mr. Slugger stated that he held numerous short term jobs as a dishwasher, bus boy, waiter, salad prep, and cook. He would usually get fired for poor attendance or he would not show up to work any longer.

Mr. Slugger would like to own his own restaurant some day.

FINANCIAL MANAGEMENT:

Mr. Slugger stated that he has always had financial management issues due to his alcohol and drug use. He is not earning any income at this time, as he is incarcerated. He owes about \$3000 in credit card debt and has not made any payments towards this debt. Therefore, it has been turned

over to a collection agency and he has a poor credit history. He is considering filing for bankruptcy. He also owes his grandmother several thousand dollars and it is a priority of his to pay her back as soon as he is able. He does give her money when he can. Mr. Slugger's wages have never been garnished.

MARITAL/ALTERNATE FAMILY RELATIONSHIPS:

Mr. Slugger stated that he has never been married, nor does he have any children. Mr. Slugger has been in a significant long-term relationship with the victim in the current offense, Sandra Williams. Mr. Slugger and Ms. Williams had been in a relationship for approximately three years when he committed the current offense. They had been living together for the past two years. Mr. Slugger stated that although their relationship was sometimes "rocky," he loves Ms. Williams and would like to re-establish their relationship when he is able to. Currently, Mr. Slugger is not allowed to have contact with Ms. Williams per court order. Mr. Slugger described Ms. Williams as a very caring woman, who has stood by him "even when I didn't deserve it." Although Ms. Williams does consume alcohol, she is not an alcoholic and drinks only socially. She does not use illegal drugs. Ms. Williams is employed full time and will continue to maintain their apartment on her own. She has no known mental or physical health issues or concerns.

Ms. Williams stated that Mr. Slugger is a great guy until he has had too much to drink. He then can sometimes become unreasonably angry and "fly off the handle." He has been physically abusive to her in the past, but only when he was intoxicated. Ms. Williams is apprehensive about Mr. Slugger at this point in time, but would consider resuming their relationship if he were to get treatment. Ms. Williams does wish to have contact with him and would like the court to lift the "no contact" order, so that they could work on their relationship. She stated, "I don't want him to move back in just yet, but I do want to talk with him and see where he is at."

Mr. Slugger did not report any other significant, long term relationships. He stated that he usually always had a girlfriend, but the relationship typically would not last more than a few months.

COMPANIONS:

Mr. Slugger reported few close friends. Most of his "acquaintances" also use alcohol and illegal drugs and they would hang out at bars or "party" together. His only close friend at this time, besides Sandra Williams, is Gerry Garcia. They worked together at the Open Hearth Restaurant. Mr. Garcia does not have any alcohol or illegal drug issues. Mr. Garcia visits Mr. Slugger regularly in jail.

EMOTIONAL HEALTH:

Mr. Slugger stated that he has never been diagnosed with any type of mental illness or disorder, nor has he ever been prescribed any type of medication for mental health purposes. However, he does feel that he may suffer from depression and knows that he needs to get help with controlling his temper. Mr. Slugger will sometimes sleep a lot, not feel good about himself, and not want to leave the house for long periods of time. Mr. Slugger would like to meet with a counselor at some point in time, but is unsure if he could "open up" to someone to receive help.

PHYSICAL HEALTH:

Mr. Slugger reported being in good physical health, with no known health concerns or disabilities. He is not currently taking any type of medication. Mr. Slugger has not seen a doctor in a few years, but was told some time ago that he should quit drinking or at least cut down on his drinking by the last physician that he saw. He is worried that he will have health concerns in the future if he continues to drink. Mr. Slugger does not exercise regularly, but stated that he is in “decent” shape.

MENTAL ABILITY:

Based on Mr. Slugger’s academic records, it appears that he is of average intelligence. He was able to complete a written questionnaire thoroughly for purposes of this investigation. It appears that he has adequate written and verbal skills and is able to function independently in society.

CHEMICAL USAGE:

Mr. Slugger states that he started drinking alcohol at a young age because his stepfather would take him to the bars and let him drink. Mr. Slugger began drinking alcohol on his own at about the age of 14. He started out drinking beer, but then began drinking hard liquor around the age of 17. His alcohol use has caused many problems in his life. He has been arrested for OWI on three occasions. He was intoxicated during his previous Aggravated Battery case, as well as the current offense. In the past, his girlfriend has asked him to cut back on his drinking.

Mr. Slugger stated that he began using marijuana around the age of 16. He used marijuana mostly on the weekends, but did not like the effect it had on him. He quit smoking marijuana entirely around the age of 18. He first tried cocaine at the age of 20 and began injecting it around the age of 22. His cocaine use increased to about \$150 per day around that period of time in his life. He used credit, criminal behavior, and borrowed from his grandmother to support his drug use.

Mr. Slugger stated that he did maintain periods of sobriety, and has cut back greatly on his cocaine use. However, he still “slips up” sometimes. Mr. Slugger recently completed an inpatient alcohol and drug treatment program as an alternative to revocation. Records received from Badger Services indicated that Mr. Slugger attended all sessions and was an active participant in all groups. His prognosis upon completion was “guarded” and it was recommended that he continue with support groups and an aftercare program in the community. Mr. Slugger initially attended aftercare, but failed to continue to attend support groups. He stated, “I know what I need to do, I just slip up sometimes.” Mr. Slugger feels that he has made great progress because he no longer uses any type of illegal drugs and has cut back a great deal on his use of alcohol. He has not consumed any alcohol whatsoever since he committed the current offense, and plans to maintain absolute sobriety upon his release from jail. He is now interested in support groups to help him maintain sobriety.

SEXUAL BEHAVIOR:

Mr. Slugger denied ever being the perpetrator of any type of sexual assault or misconduct. He was sexually abused by an uncle when he was a young child. Mr. Slugger did not want to discuss this and did not go into detail regarding the sexual abuse. However, when Mr. Slugger was initially placed on probation, he reported to his agent at his intake meeting that he was angry with his uncle

and had wanted to “kill the son of a bitch” when the abuse occurred. The abuse was never reported to police and his uncle was never charged with any type of criminal offense.

Mr. Slugger stated that he is a heterosexual and became sexually active around the age of 15. He reported no problems with his sexual functioning. Mr. Slugger was arrested for Soliciting a Prostitute on 11/20/07, a charge that was reduced to Disorderly Conduct. Mr. Slugger admitted that what he did was wrong, but he wasn't out “shopping” for a prostitute. He was at a party and was “really high.” He offered a girl some cocaine to have sex with him and she agreed. Mr. Slugger was in a monogamous relationship with Sandra Williams for the past three years and would like to continue that relationship upon his release.

MILITARY:

Mr. Slugger has no military experience.

LEISURE ACTIVITIES:

Mr. Slugger stated that he used to just “hang out and party.” However, as he got older, he began to engage in activities like fishing, playing sports, attending sporting events, and cooking out with friends. Prior to his current incarceration, Mr. Slugger worked a lot of hours, attended treatment in the community, and spent free time with his co-worker, Jerry Garcia, and girlfriend, Sandra Williams.

RESIDENTIAL HISTORY:

Mr. Slugger stated that he was born and raised in Badger City. His last residence was an apartment he shared with Sandra Williams. Prior to that, he lived with his grandmother. Mr. Slugger has had a pretty unstable residential history which he attributes to his alcohol and drug usage and lack of stable employment. He has never had a lease solely in his name, nor has he ever owned any property. He would move frequently to stay with various friends and when no one would take him in, he would return to his grandmother's residence.

SUMMARY AND CONCLUSIONS

AGENT'S ASSESSMENTS AND IMPRESSIONS:

Mr. Slugger was generally compliant with this investigation process. He completed all the relevant questionnaires and appeared open with respect to his background information. With respect to this index offense and his domestic relationship, however, Mr. Slugger became defensive and evasive when answering questions.

The defendant has two juvenile adjudications for property offenses. He was subject to juvenile supervision as well as one year confinement in Ethan Allen School.

As an adult, the defendant committed a variety of offenses including OWI, Theft, Disorderly Conduct and Substantial Battery (Dangerous Weapon). He has been subject to a variety of sentencing options, including fines, community service, probation, jail, prison and extended supervision. Mr. Slugger was revoked from both of his periods of adult probation supervision for rules violations and re-offending (including this current offense).

Growing up, Mr. Slugger described his family life as 'very unhappy'. His stepfather was a violent alcoholic who abused both him and his mother. Mr. Slugger noted that he has a close relationship with his grandmother as she let him stay there to get away from his stepfather. He stated that he does not spend much time with his mother or his siblings.

In interviewing Mr. Slugger's mother and grandmother, it appeared that his mother felt remorse for staying in the abusive marriage. She expressed much love for all of her children. Mr. Slugger's grandmother appeared to enable Mr. Slugger. She indicated that the criminal justice system has failed in helping him with any of his issues. She stated, "He needs treatment, not punishment."

The defendant has had stable employment since 2005. He has worked as a chef at Open Hearth. Mr. Slugger's boss, Mr. Smith, commented that Mr. Slugger is an 'excellent employee'; however, his attendance became sporadic due to his alcohol misuse. Mr. Smith would take Mr. Slugger back if the defendant ceased using drugs/alcohol.

Prior to his relationship with Sandra Williams, Mr. Slugger had many short term relationships. He stated that his relationship with Ms. Williams was 'rocky' at times but they do love each other. Mr. Williams did state that Ms. Williams is a caring woman who has stood by him "even when I didn't deserve it". He denied that Ms. Williams has any issues with alcohol or other substances.

The defendant denied any mental or physical health concerns. However, he did state that he was sexually abused by an uncle when he was a young child. This abuse was never reported to the police, and Mr. Slugger did not want to discuss the abuse any further with this interviewer.

Mr. Slugger has struggled with alcohol misuse and drug misuse since he was approximately 14 years old. Mr. Slugger did ingest marijuana from 16-18 years old. He first used cocaine at the age of 20 and started injecting it at the age of 22. He has had periods of sobriety but he still "slips up" sometimes. Mr. Slugger did complete an inpatient AODA program in January 2010; however, he

failed to complete his AODA aftercare. As already indicated, Mr. Slugger was under the influence at the time of this current offense.

When discussing this offense, Mr. Slugger refused to take any responsibility for his violent behavior. He said that he meant to “tap her but accidentally hit her in the head”. He stated that Ms. Williams was the cause of his drinking and arguing, because Mr. Slugger believed Ms. Williams was cheating on him.

The victim, Ms. Williams, was taken to the hospital for the injuries she sustained as a result of Mr. Slugger hitting her over the head with the umbrella. Ms. Williams’ injury was severe enough to require multiple sutures. Mr. Slugger’s inability to accept responsibility for the serious harm he caused to Ms. Williams is of great concern. Since he is unable to admit culpability and continues to blame the victim, Mr. Slugger poses a very high risk of re-offending. Furthermore, according to the victim, Ms. Williams, this is not the first time Mr. Slugger has assaulted her; therefore, the defendant’s behavior also appears to be escalating in severity.

RESTITUTION INFORMATION:

Any restitution should be determined by the District Attorney’s Office.

CHALLENGE INCARCERATION PROGRAM:

Mr. Slugger is not eligible for the Challenge Incarceration Program based on his conviction of Substantial Battery with use of a dangerous weapon, statute #940.19(3), 939.63.

EARNED RELEASE PROGRAM:

Mr. Slugger is not eligible for the Earned Release Program based on his conviction of Substantial Battery with use of a dangerous weapon, statute #940.19(3), 939.63.

RECOMMENDATION:

Mr. Slugger is being sentenced on one count of Battery (Class D). This offense has a maximum period of incarceration of 25 years and a fine of \$100,000. Therefore, the Department of Corrections respectfully recommends that Mr. Slugger be sentenced to two years initial confinement and five years extended supervision.

ANTICIPATED SUPERVISION PLAN

The Department of Corrections respectfully requests that the following conditions be imposed as a condition of extended supervision:

- No contact, direct or indirect, with the victim Sandra Williams.
- Enrollment and completion of Domestic Violence programming.
- Enrollment and successful completion of AODA programming as deemed necessary
- Provide a DNA sample
- Pay all court ordered court obligations, restitution, supervision fees and any other fees
- Obtain/maintain full-time employment and/or education and/or combination thereof.
- Release of Pre-Sentence Investigation for purposes of treatment.

Respectfully submitted,

Ann Agent, Probation & Parole Agent #39999

Approved by:

Marcus Twain, Corrections Field Supervisor

SOURCES OF INFORMATION:

- Joe Slugger, Defendant

- Sandra Williams, Victim

- Madeline Slugger, Defendant's mother

- Kay Ziareck, Defendant's grandmother

- Badger City High School, records and transcripts

- Bill Smith, Defendant's employer

- Badger Services, AODA records

- District Attorney's file

- Badger County Human Services

- CIB/NCIC/CCAP records

The COMPAS assessment report also is appended.