

APPLICATION AND IMPLEMENTATION OF RISK ASSESSMENT IN JUVENILE JUSTICE FOR THE COURTS

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Abstract

Use of risk assessments to determine the likelihood of a youth reoffending or posing a risk to public safety is becoming a common practice in juvenile justice, particularly in probation. Adoption of routine risk assessment procedures can lead to a reduction in the use of costly services, out-of-home placements, and intensive supervision while still protecting public safety by accurately identifying and targeting youth at only the highest risk of reoffending. However, this requires use of a valid or evidence-based risk assessment tool and sound implementation efforts that includes training in risk-need-responsivity practices for case management. This article describes how to select a valid risk assessment tool, how to use it to guide case management, the research evidence on what works and what does not, and pointers for judges in the interest of maintaining checks and balances on the process.

Introduction

The adoption of risk assessment instruments to aid in structured decision-making is a popular practice in juvenile justice. Years ago, Congress strongly recommended this practice in the Juvenile Justice Delinquency Prevention Act (JJDP). More recently, the National Academy of Sciences (2013) advocated for the use of risk assessment in their report on the need for juvenile justice reform stating, "Assessing the risk of re-arrest and the intervention needs of each youth is the necessary first step in achieving the overall goal of a more rational and developmentally appropriate array of preventive interventions in the juvenile justice system" (pg. 5). Today, according to a recent survey conducted by the National Center for Juvenile Justice (Wachter 2014), most every state uses a risk assessment tool in juvenile probation in at least a few counties, if not state-wide. Juvenile Probation Officers (JPOs) or similarly trained individuals routinely conduct these risk assessments instead of clinicians.

The reasons for completing a risk assessment can vary depending on the stage at which it occurs. For example, a risk assessment conducted at the intake or pretrial stage may assist with deciding whether to place a youth in detention. A risk assessment conducted after adjudication should be helpful for informing the disposition decision (deciding whether to allow a youth to reside in the community), and for identifying the best type of interventions or services expected to reduce the youth's risk of reoffending. If it is implemented well, a risk assessment instrument can improve allocation of resources in juvenile justice systems and lead to fewer youths removed from the home or incarcerated without any increased risk to public safety. However, this routine use of a risk assessment instrument in a justice system presents challenges that do not typically arise when these instruments are only used by clinicians for referred cases.

Research suggests few jurisdictions may be using these instruments appropriately in their decision-making (Shook & Saari, 2007; Young, Moline, Farrell, & Bierie, 2006). As noted by the NAS (2013), there is a challenge in incorporating risk assessments effectively into standard court and probation practices. Often risk assessments may be conducted routinely in a particular setting, but the assessments sit and collect dust in the youths' files without using the information for case planning (Haas & DeTardo-Bora, 2009; Shook & Saari, 2007). Surprisingly, there is very little research regarding the actual changes that occur in case management decisions once a tool is put in place (NAS 2013).

Implementation refers to the process of putting a procedure into operation, or the use of strategies to introduce or change interventions within specific settings (Fixen et al., 2005). This article will briefly describe how to select an appropriate risk assessment instrument, the paucity of research on implementation of a risk assessment instrument in a juvenile justice system, effective strategies of implementation, and considerations for the courts. For more information about any of the topics in this article, readers are encouraged to download the Risk Assessment in Juvenile Justice: A Guidebook for Implementation Guide (Vincent, Guy, & Grisso, 2012; <http://www.nysap.us/Products.html#RiskAssessment>).

Selecting an Evidence-Based Risk/Needs Assessment

Any instrument designed to estimate the likelihood that delinquent behaviors (or violence) will continue for a youth if nothing is done to intervene would be considered a risk assessment instrument. Many risk assessment instruments used in different settings within the juvenile justice system will do only that; categorize individuals according to risk levels, such as relatively low, moderate, or high risk for re-offending. Some

may think of these as “screening” tools or brief risk assessment instruments (Vincent, Guy, et al., 2012). More comprehensive risk assessment instruments, which are generally referred to as risk/needs assessment instruments, will also try to assess what characteristics might be most relevant or responsible for a youth’s continued offending. Risk/needs assessments do this by containing changeable (dynamic risk factors, also known as criminogenic needs) items in addition to unchangeable (static) ones. Risk assessment instruments that comprise only static risk factors are essentially useless for developing risk reduction and case plans. Several comprehensive risk assessment instruments designed for youth can be completed by JPOs and would be more appropriate for case planning purposes. Only a few instruments have achieved the level of research support to put them in the evidence-based category (see Vincent, Guy, et al., 2012). Specifically, the Youth Level of Service/Case Management Inventory (YLS/CMI; Hoge & Andrews, 2006), and the Structured Assessment of Violence Risk in Youth (SAVRY; Borum, Bartel, & Forth, 2006), which predicts violence and general delinquent offending (Olver, Stockdale, & Wormith, 2009). Some others have a growing research base; namely, the Washington State Juvenile Court Assessment (Barnoski, 2004; also known as the PACT); a derivative of this tool known as the Youth Assessment and Screening Instrument by Orbis Partners; and the Ohio Youth Assessment System (OYAS, Lovins & Latessa, 2013).

Regardless of whether juvenile justice agencies select an existing risk/needs assessment instrument “off the shelf” or create one of their own, they should ensure that the tool is evidence-based (Vincent, Guy, et al., 2012). First, it should incorporate the risk factors identified from a substantial body of research conducted on delinquent behavior during the past three decades, as well as include dynamic risk factors so the instrument can be used for case planning

and reassessment. The difference between a dynamic risk factor (e.g., deviant peer group, callous-unemotional traits, substance abuse) and a criminogenic need is that, in the latter case, it has been determined the dynamic risk factor is particularly relevant to this youth’s offending behavior, and should be targeted in interventions. Second, an evidence-based risk assessment instrument should have a detailed manual with item rating instructions and an on-going quality assurance protocol to ensure uniform administration of the instrument. Third, the instrument should have research documenting that it has adequate inter-rater reliability. In this context, reliability means that when independent, trained professionals (such as JPOs) rate the instrument using the same information, they should generate similar scores. Typically, instruments are demonstrated to be reliable during the testing phase of the instrument, before they are introduced to the market. It is important that, in addition to the instrument’s evidence, the agency that adopts the tool establish procedures to ensure that their staff members are also completing it reliably.

Fourth, research should have demonstrated that the instrument is valid, meaning there is a good degree of correspondence between scores on the instrument and subsequent delinquent activity or violence. In research terms, this is referred to as the instrument’s predictive validity. In an instrument with good predictive validity, most of the youth in a sample with high scores on the instrument and received no intervention (or poor interventions) reoffended in a relatively short period of time (usually one year). In an instrument with good predictive validity, more of the youth with high scores on an instrument who received no intervention (or poor interventions) will have reoffended in a relatively short period of time than youth with moderate or low risk scores on the instrument. Another important aspect about predictive validity is the setting and type of youths with which the instrument’s predictive validity has been tested. An

instrument validated for use with youths post-adjudication may not have the same level of predictive accuracy if used with youth pre-adjudication, for example. This is due to the fact that the rate of reoffending among samples of youths arrested but not yet adjudicated is likely to be lower than the rate of reoffending among youths already adjudicated, and the characteristics of these youth can vary. For an instrument to be evidence-based, reliability and validity should be demonstrated in multiple studies with some conducted by researchers who do not have a vested interest in the tool.

How Can a Risk Assessment Reduce Risk for Future Delinquent Activity?

A comprehensive risk assessment lays the foundation needed to develop an effective plan to reduce and manage a youth's risk for future delinquent activity. Research has shown that rehabilitative strategies that address the specific criminogenic needs of youth are less expensive and more effective in preventing reoffending, compared with punitive sanctions such as incarceration (Drake, Aos, & Miller, 2009; Lipsey, 2009; Vieira et al., 2009). Other research indicates that without incorporating effective case management concepts into policy, and training staff how to use the risk assessment information in their decisions, there will be no benefit to case processing (Bonta et al., 2011).

One of the most effective approaches to case management is the Risk-Need-Responsivity (RNR) approach (Andrews & Bonta, 2010; Hoge & Andrews, 2010). Put simply, this means that the highest risk offenders should receive the most intensive monitoring and services to reduce their risk of reoffending, whereas low-risk youth should receive minimal attention (risk principle). The need principle suggests that only those factors associated with reductions in reoffending (i.e. criminogenic needs) should be targeted for services. Merely piling on services as usual for each youth is

unlikely to have an effect on reoffending (Vieira et al., 2009) and may make youths worse, especially low-risk youth. The responsivity principle suggests services should be selected after considering the youths' specific characteristics that may affect their response to treatment, such as significant mental health issues, an untreated trauma history, language difficulties, and learning disabilities. The last principle indicates there should be room for professional discretion that can deviate from recommendations in certain circumstances.

In some jurisdictions, a primary barrier to effective implementation of the RNR approach, and consequently effective risk reduction, is lack of judge or court buy-in (Shook & Saari, 2007; Vincent, Paiva, Cook, Guy, & Perrault, 2012). If the judge or court determines the disposition and sets all the youth's service requirements in the probation conditions before a risk assessment instrument has been conducted, then the youths' needs and risk level are not incorporated into the case management plan. Methods used by jurisdictions to ensure the risk assessment instrument is considered for the disposition and case management include conducting the risk assessment (a) as part of a pre-disposition investigation, (b) pre-adjudication at probation intake (if the information is protected and not used as part of the adjudication decision), or (c) post-disposition where the JPO is permitted to plan the services.

Implementing Risk Assessment in a Juvenile Justice System

The importance of thoughtful and structured implementation of a risk assessment instrument cannot be emphasized enough. If risk assessments are conducted on every youth but not used in case management or disposition decisions in a manner like the RNR approach, then the benefits are highly unlikely to occur. Research with adult offenders indicates that probation officers with intensive training in the RNR case manage-

ment approach had significantly smaller rates of recidivism for their caseload than probation officers doing business as usual (Bonta et al., 2011).

These effects cannot be realized without the consent of most players in the system. Recently, the Risk Assessment in Juvenile Justice: A Guidebook for Effective Implementation (Vincent, Guy, et al., 2012) outlined eight steps of implementation for a risk/needs assessment process in juvenile probation, based on research and the experiences of many practitioners in the field. The steps with the most relevance to the readership include:

- Step 1: Getting Ready. Agencies should get the right team of people together from various stakeholder groups (e.g., judges, defense attorneys, prosecutors, service agencies) and create an optimal environment to allow the instrument to operate effectively.
- Step 2: Establishing Stakeholder and Staff Buy-In. Stakeholders and staff members should be provided short orientation trainings about the value and expected outcomes and have as much input into the process as possible.
- Step 4: Preparing Policies and Essential Documents. Adopting a risk assessment in probation involves implementing an “assessment system” (Bonta, Bogue, Crowley, & Mottuk, 2001; Ferguson, 2002), which includes a structured process regarding how the instrument will be used in various decisions. Agencies should develop the appropriate policies and essential documents (e.g, a case plan that aligns with the criminogenic needs) to integrate risk assessment routinely into decisions.
- Step 5: On-going Tasks for Sustainability. Some strategies to ensure sustainability include booster trainings for probation staff, master trainers to train new staff, on-going data monitoring shared with all stakeholders and used for quality assurance, and routine checks of the inter-rater reliability of JPOs.

Although a few studies have examined the

use of risk assessment tools in probation officer decision-making (e.g., Holsinger, 2013; Loung & Wormith, 2011), to date only two pre-post studies have been published that examined whether implementing risk assessment in juvenile probation actually led to any changes in how youth were handled. In Maryland, Young, Moline, Farrell, and Bieri (2006) reported the only changes after implementation were that JPOs put increased weight on dynamic risk factors in their service and placement recommendations. The policy for use of risk assessment was only used in 55% of cases.

In a more rigorous pre-post, quasi-experimental study that followed a standardized method of implementation of evidence-based risk assessment and training in RNR, researchers found use of the instruments (i.e., the SAVRY or YLS/CMI) over time was associated with a significant reduction in the number of youths that JPOs perceived as likely to re-offend, and a significant increase in use of risk factors in their decisions (Vincent, Pava-Salisbury, et al., 2012). There was a significant shift towards less restrictive dispositions and significantly less youths were put in placements after the risk assessment was in place in most sites, all else being equal (Vincent, Guy, Gershenson, & McCabe, 2012). However, as others have noted (Latessa & Lovins, 2010), the impact of the risk assessment somewhat depended on the practices of the probation offices prior to implementation.

In probation sites that were historically placing few youths, there was a statistically significant increase in placement rates; however, they were still placing small numbers of youth overall. After implementation, all placement decisions were significantly related to risk and most high-risk youths were kept on probation rather than incarcerated.

In addition, higher risk youth began to receive more services and higher levels of supervision than low-risk youth, resulting in a reduction in service use and number of probation contacts overall. These savings and shifts in use of juvenile

justice resources were not accompanied by an increase in recidivism over a period of one to one and a half years. In other words, more youth were left in the community and supervised less in most jurisdictions without any increased risk to public safety. However, recidivism only decreased significantly in one of the study sites after putting risk assessment in place.

This was not the case in every site. In one probation office, JPOs had been thoroughly trained on a risk/needs assessment and policies for its use in case planning were implemented (e.g., a structured case plan, and standardized method for matching services to needs). Yet JPOs were not permitted to use the risk assessment in their disposition recommendations or their assignment of services or supervision levels due to a lack of receptivity from their judges. In this site, there was absolutely no change in how youth were handled after implementation of a risk assessment.

Tying it All Together: Implications and Questions for the Court

Evidence suggests the use of risk/needs assessment in probation will lead to better intervention practices and conserve resources if a valid risk assessment instrument is used and sound implementation practices are followed. There is great potential for cost-savings without an increased risk to public safety. However, the specific changes in outcomes to youth within a jurisdiction (e.g., an increase versus decrease in placement rates) are somewhat dependent on the operations within that system prior to adoption of a risk assessment instrument.

Although basing decisions on youths' risk levels and criminogenic needs, at least in part, should improve juvenile justice practices (National Academy of Sciences, 2013; Vincent, Guy, et al., 2012), risk/needs assessment is not intended to take the place of judicial discretion. Instead it is

one valuable piece of information to consider in disposition decisions. No instrument will be accurate for 100 percent of cases 100 percent of the time. Even though a risk assessment instrument may be valid, it does not mean it was administered and used in a valid manner. Moreover, there are other interests in the justice system that factor into decision-making; most importantly, the welfare or safety of the youth and the severity of the crime committed. It is important to note that the severity of a youth's original offense does not predict their later offending patterns (Schubert, 2012), risk for reoffending does. Therefore, the policy of basing dispositional decisions on crime severity as opposed to a youth's risk level is unlikely to contribute as much to the protection of public safety.

There are a number of checks and balances in a risk assessment system for judges, or questions judges may want answered by those completing the instrument (Mulvey & Iselin, 2008; Vincent, Guy, et al., 2012). Documented evidence for a risk assessment instrument's reliability and validity is necessary for general acceptance among experts in the field, as stated in the Daubert criteria. This is particularly important with respect to homegrown tools created by a state agency but not yet validated to ensure scores relate to reoffending. The instrument used must have been designed specifically for assessing risk for reoffending as opposed to assessing mental health, well-being needs, or some other issue.

Additionally, the instrument should have been validated for use with individuals who are like the defendant in terms of legal status or setting. If the defendant is female, the risk assessment should have research evidence that it predicts reoffending in females. Similarly, if the defendant is a youth of color, there should be research evidence that the instrument is valid for use in the minority population. Judges or attorneys may also want to ensure that the individual who completed the assessment did so in a valid manner: Did the JPO complete proper training on the instrument? Did

they gather all the essential information for rating the instrument? Risk assessments require the rater obtain information about the youth from multiple sources, including an interview with the youth and parent and a review of any relevant records.

Judges or attorneys educated in RNR concepts can also examine the degree to which the findings of the assessment are consistent with the disposition recommendation and proposed case plan and service referrals made by the JPO. This means the overall level of risk and critical criminogenic need areas should be provided in pre-disposition reports. Judges may determine if the recommended disposition is commensurate with the youth's level of risk. As such, the most effective implementation efforts will involve education of the judiciary, prosecutors, and indigent defense for quality control purposes.

There are many positive reasons for a juvenile justice agency to adopt and integrate a system for using risk assessment to promote public safety and positive outcomes for the youth. This article has outlined some important steps in the implementation process that should maximize a jurisdiction's success. It is crucial to include stakeholders, including judges, in the implementation process, as well as provide them with training about the evidence supporting the instrument and the RNR approach. The responsiveness of stakeholders is crucial for success, in combination with detailed policies about the use of risk assessment.

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