

BUREAU OF JUSTICE ASSISTANCE

ADVANCING FAIRNESS AND TRANSPARENCY: NATIONAL GUIDELINES FOR POST- CONVICTION RISK AND NEEDS ASSESSMENT

March 7, 2023



BJA
Bureau of Justice Assistance
U.S. Department of Justice

Presenters

- David A. D'Amora, *CSG Justice Center*
- Dr. Sarah L. Desmarais, *Policy Research Associates*
- Charles R. Robinson, *Administrative Office of the U.S. Courts*
- Dr. Heather Tubman-Carbone, *Bureau of Justice Assistance*
- Darlene Webb, *American Probation and Parole Association*
- Stevyn Fogg, *Correctional Leaders Association*
- Anne Precythe, *Missouri Department of Corrections*
- Brian Mirasolo, *Massachusetts Probation Service*
- Lahiz P. Tavárez, *CSG Justice Center*

Presentation Outline

1. Welcome and Overview
2. Describe the Need for Guidelines
3. Offer a Brief Overview of the Guidelines
4. Share the Practical Application of the Guidelines
5. Technical Assistance Opportunity
6. Describe Next Steps

What is the Office of Justice Programs?

- The Office of Justice Programs (OJP) provides grant funding, training, research, and statistics to the criminal justice community.
- OJP is one of three grant-making components of the Department of Justice along with the Office on Violence Against Women (OVW) and the Office of Community Oriented Policing Services (COPS).

Office of Justice Programs

BJA - Bureau of Justice Assistance

BJS - Bureau of Justice Statistics

NIJ - National Institute of Justice

OVC - Office for Victims of Crime

OJJDP - Office of Juvenile Justice and Delinquency Prevention

SMART - Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

U.S. Department of Justice Bureau of Justice Assistance

Mission: BJA's mission is to provide leadership and services in grant administration and criminal justice policy development to support state, local, and Tribal justice strategies to achieve safer communities. BJA works with communities, governments, and nonprofit organizations to reduce crime, recidivism, and unnecessary confinement, and promote a safe and fair criminal justice system.

BJA

Bureau of Justice Assistance
U.S. Department of Justice

www.bja.gov





**BJA Director
Karhlton F. Moore**

Appointed by President Biden in February 2022, Director Moore leads BJA's programmatic and policy efforts on providing a wide range of resources, including training and technical assistance, to law enforcement, courts, corrections, treatment, reentry, justice information sharing, and community-based partners to address chronic and emerging criminal justice challenges nationwide.

Policy Office

Provides national leadership to criminal justice organizations that partner with BJA to identify effective program models for replication and infuse data-driven, evidence-based strategies into operational models, practices, and programs.

Programs Office

Administers state, local, Tribal, and territorial grant programs. It acts as BJA's direct line of communication to states, local jurisdictions, territories, and Tribal governments by providing customer-focused grants management support and careful stewardship over federal funds.

Operations Office

Coordinates all communication, formulates and executes the budget, manages contracts, measures grantees' performance, and provides administrative support to BJA.

Public Safety Officer Benefits Office

Provides death and education benefits to survivors of fallen law enforcement officers, firefighters, and other public safety officers, and disability benefits to officers catastrophically injured in the line of duty.

Five Major Strategic Focus Areas

1. Improving public safety through measures that build trust with the community and ensure an effective criminal justice system
2. Reduction in recidivism and prevention of unnecessary confinement and interactions with the criminal justice system
3. Integration of evidence-based, research-driven strategies into the day-to-day operations of BJA and the programs BJA administers and supports
4. Increasing program effectiveness with a renewed emphasis on data analysis, information sharing, and performance management
5. Ensuring organizational excellence through outstanding administration and oversight of all of BJA's strategic investments

Fund – Invest diverse funding streams to accomplish goals.

Educate – Research, develop, and deliver what works.

Equip – Create tools and products to build capacity and improve outcomes.

Partner – Consult, connect, and convene.



Justice Reinvestment Initiative

A data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism.



The Council of State Governments (CSG) Justice Center

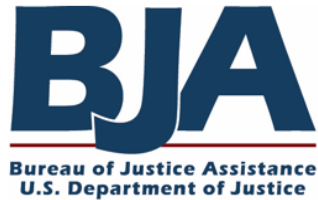
We are a national nonprofit, nonpartisan organization that combines the power of a membership association, representing state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.



Justice Center

THE COUNCIL OF STATE GOVERNMENTS

The National Guidelines for Post-Conviction Risk and Needs Assessment project is a result of work in partnership between:



Justice Center
THE COUNCIL OF STATE GOVERNMENTS

Technical Assistance Opportunity Announcement



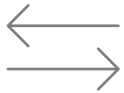
Agencies can apply for technical assistance (TA) to improve their use of post-conviction risk and needs assessment.

THE NEED FOR GUIDELINES



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There is a need for a standardized approach to risk and needs assessment instruments across the nation.



Instruments are **used differently**.



This can **increase disparities** within the system.



Perceptions of unfairness and concerns over a lack of transparency exist.



**Justice
Reinvestment
Initiative**

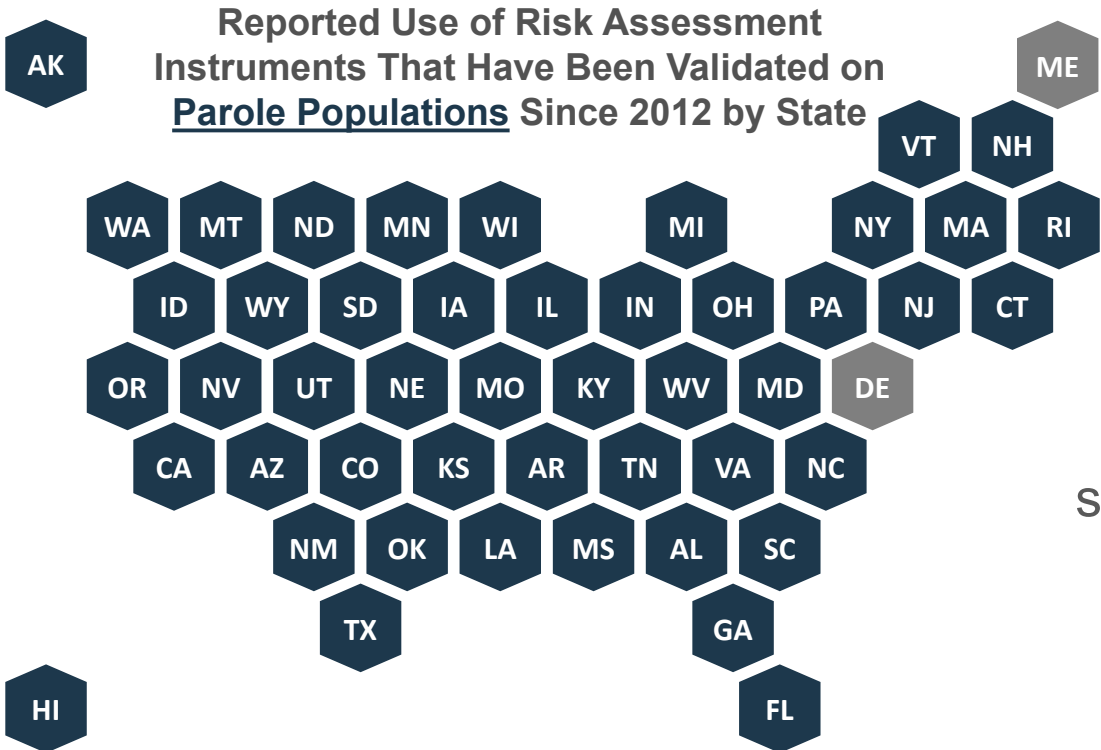
Most States Use Risk Assessments



45 states
report using risk
assessment instruments

5 states
did not respond, report not
using risk assessment
instruments, or **do not know**
if they use risk assessment
instruments

Most States Use Risk Assessments



48 states
report using risk
assessment instruments

2 states
don't have post-custody
supervision populations and
therefore don't use risk
assessments

National coverage on risk assessment tools fueled concerns about disparate outcomes for people of color.



A LexisNexis Company

Perspectives

Risk Assessment Tools Are Not A Failed 'Minority Report'

By Sarah Desmarais, Brandon Garrett and Cynthia Rudin | July 19, 2019, 5:50 PM EDT



'No Evidence' of Race Bias in Risk Assessment: Psychologist

By Ted Gest | September 17, 2019



NEWS FILED 6:00 a.m. by BETH SCHWARTZAPFEL 07.03.2019

Can Racist Algorithms Be Fixed?

A new study adds to the debate over racial bias in risk assessment tools widely used in courts.



Pennsylvania's proposed risk-assessment tool is racist, critics say. It's up for a vote this week anyway.

by Samantha Melamed, Updated: September 4, 2019

11/22/2019



OPINION | JENS LUDWIG AND CASS R. SUNSTEIN

Discrimination in the age of algorithms

By Jens Ludwig and Cass R. Sunstein Updated September 24, 2019, 5:00 a.m.



This coverage raised important questions about bias.

“Algorithmic decision-making tools are only as smart as the inputs to the system... **Biases in data sets will not only be replicated in the results, they may actually be exacerbated.**”

“Research shows that risk assessments often do not accurately predict risk and **can produce results that are biased against people of color – particularly African Americans.**”

**THE USE OF PRETRIAL
"RISK ASSESSMENT" INSTRUMENTS:**

**A SHARED STATEMENT OF
CIVIL RIGHTS CONCERNS**

July 2018

Then Senators Cory Booker, Richard Durbin, and Kamala Harris;
Representatives Sheila Jackson Lee
and John Lewis

It is true that many instrument validations do not include a statistical test for accuracy across race, ethnicity, and gender, though the field is shifting in this area.



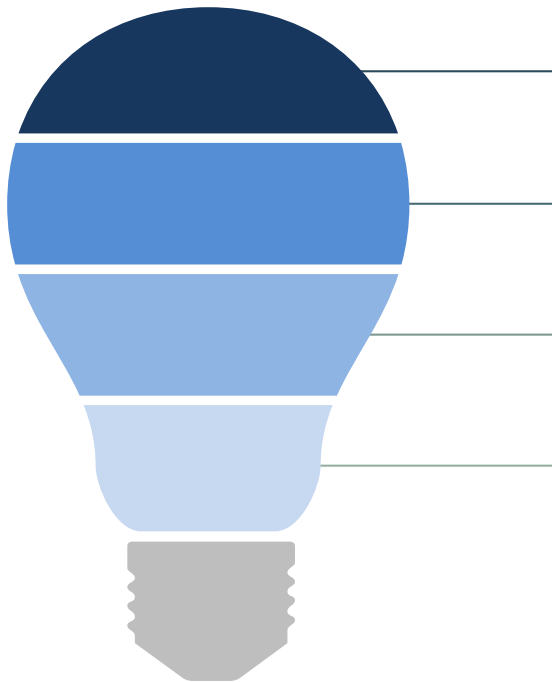
There is also often a lack of transparency in explaining the instrument's use, fairness, and accuracy to people who undergo the assessments, criminal justice stakeholders, and the broader public.



The Guidelines Pose 3 Questions to Help Policymakers and Practitioners

1. What degree of accuracy should the post-conviction risk and needs assessment instrument meet?
2. How can users best determine the fairness of these instruments across race, ethnicity, and gender—especially given the history of bias and disparities in the criminal justice system?
3. In what ways should information about the use of these instruments and their underlying algorithms be transparent and communicated publicly?

Methodology



Research

Existing Guidance

Advisory Board

Diverse Voices

26-Member Advisory Group



Dr. Ashlee Barnes



Bree Derrick



Dr. Stephen Hart



Dr. Edward Latessa



Charles Robinson



Mark Bergstrom



Dr. Kevin Douglas



Dr. Kirk Heilbrun



Dr. Brian Lovins



Dr. Ralph Serin



Dr. Guy Bourgon



Dr. Grant Duwe



Dr. Natalie Jennifer Jones



Dr. Eytayo Onifade



Christopher Slobogin



Dr. Gina Vincent



Kristofer "Bret" Bucklen



Dr. Faye Taxman



Carey Green



Dr. Joel Dvoskin



Dr. KiDeuk Kim



Dr. Osonde Osoba



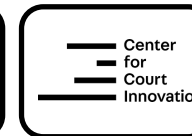
Dr. Raymond "Chip" Tafrate



Dr. Christina Campbell



Dr. Daryl Kroner



Dr. Sarah Picard

The Guidelines address gaps in how tools are administered and provide additional benefits.

Better Decisions

Increased Accuracy

Reduced Bias

**Promotion of
Rehabilitation and
Public Safety**

Post-Conviction

These guidelines pertain to the use of post-conviction risk and needs assessment instruments to inform decisions and case planning that occur after court disposition; specifically, after conviction and sentencing.

Decision-Making

They may also be used in the application of assessment results to inform decision-making and case planning in the context of alternative forms of criminal justice processing, such as after a decision has been made to offer a diversion program.

THE GUIDELINES



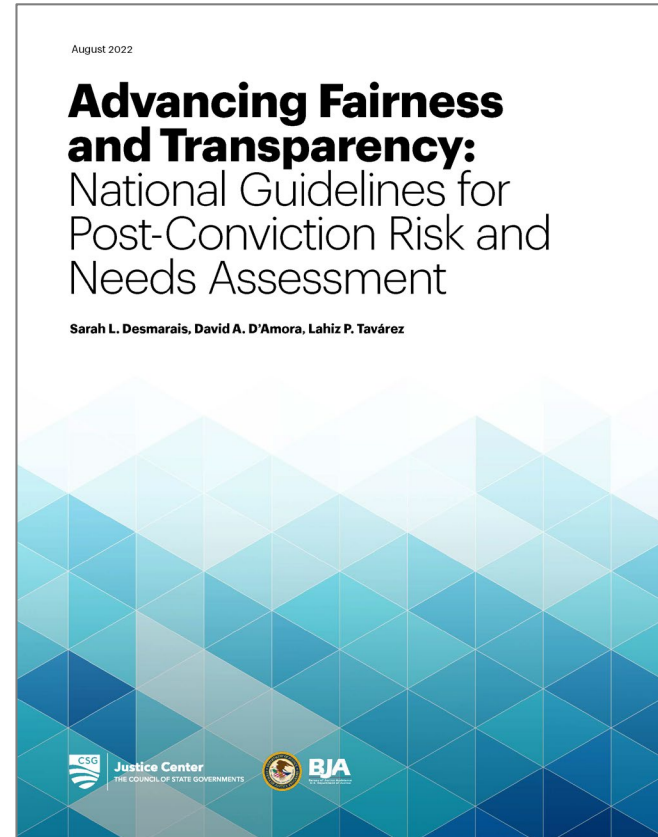
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The Guidelines launched
August 30, 2022, on
BJA's Public Safety Risk
Assessment Clearinghouse
website and the CSG
Justice Center website.

www.bja.gov

<https://csgjusticecenter.org>

!



The Guidelines are divided into four sections.

IV. Communication
and Use

I. Accuracy



III. Transparency

II. Fairness



Accuracy

Accuracy refers to the degree to which assessment results predict the recidivism outcomes they were designed to predict as indicated by the observed rate and severity of criminal behavior, as well as the identification of individuals at greater and lesser risk of recidivism.

Determining accuracy also involves considering whether the post-conviction risk and needs assessment instruments are completed and used as intended to inform case decisions and planning within facilities and in the community.



Accuracy Guidelines

1. Conduct a local evaluation of the post-conviction risk and needs assessment instrument to ensure that the instrument is suitable for the agency's population;
2. Meet minimum performance thresholds of post-conviction risk and needs assessments completed in the field according to statistical standards;
3. Use a continuous quality improvement (CQI) process to ensure successful implementation of the post-conviction risk and needs assessment instrument;
and
4. Use a multi-step approach to assess risk and needs over time.



Fairness

Fairness is the degree to which assessment results have the same meanings and applications across groups defined by race, ethnicity, gender, or other characteristics such as mental illness. Fairness should be considered in the development, validation, and implementation of post-conviction risk and needs assessment instruments.



Fairness Guidelines

5. Examine the results of the post-conviction risk and needs assessment instrument for predictive bias and disparate impact across groups;
6. Apply the post-conviction risk and needs assessment instrument results to individual cases in keeping with the Risk-Need-Responsivity (RNR) principles; and
7. Adopt agencywide strategies to minimize the potential that local implementation of the post-conviction risk and needs assessment instrument promotes disparities.



Transparency

Transparency refers to how information about the content, structure, and application of these instruments is disseminated to stakeholders.

Transparency is relevant in both the development and implementation of risk and needs assessment instruments and requires a proactive communication strategy.



Transparency Guidelines

8. Provide system stakeholders with relevant information on the development, intended use, and validation of the post-conviction risk and needs assessment instrument;
9. Develop a written policy that guides the local use of the post-conviction risk and needs assessment instrument; and
10. Communicate the strengths and the limitations of post-conviction risk and needs assessment instruments to the general public.



Communication and Use

The manner in which individual assessment results are communicated and used can greatly affect their impact on decision-making and, consequently, their effectiveness.

Improper communication of individual assessment results can undermine efforts to promote accuracy, fairness, and transparency in the use of post-conviction risk and needs assessment instruments and should be a key consideration in their implementation.



Communication and Use Guidelines

11. Anchor communication of assessment results in the RNR principles;
12. Contextualize the results of the post-conviction risk and needs assessment instruments; and
13. Develop a template for communicating individual results of post-conviction risk and needs assessment instruments to all relevant stakeholders, including the person being assessed.

PRACTICAL APPLICATION OF THE GUIDELINES



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What are the potential benefits of using the Guidelines for an organization?



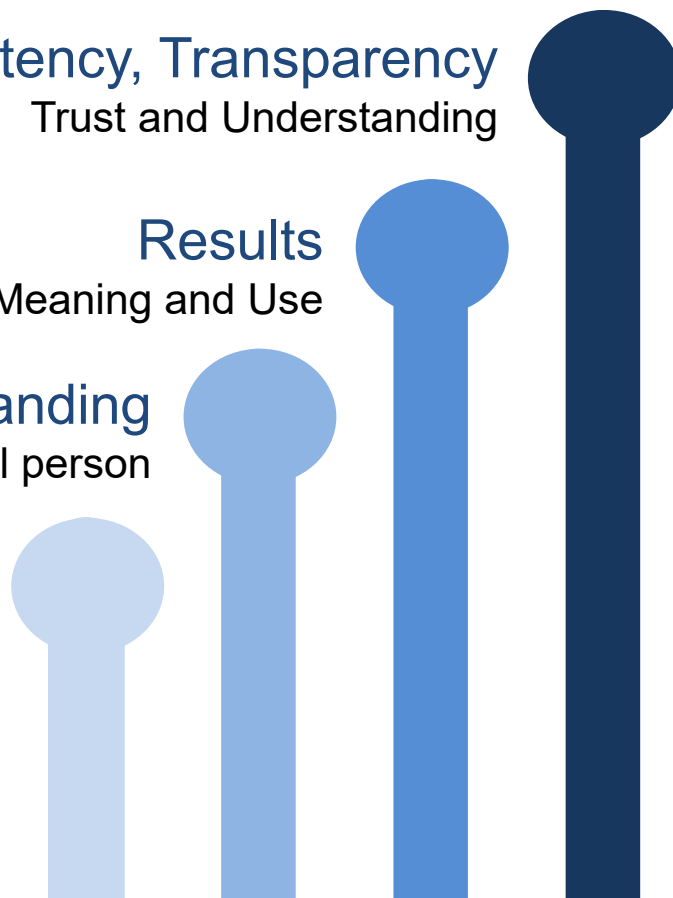
What are the potential benefits of using the Guidelines **for the people in the criminal justice system?**

Clarity, Consistency, Transparency
Trust and Understanding

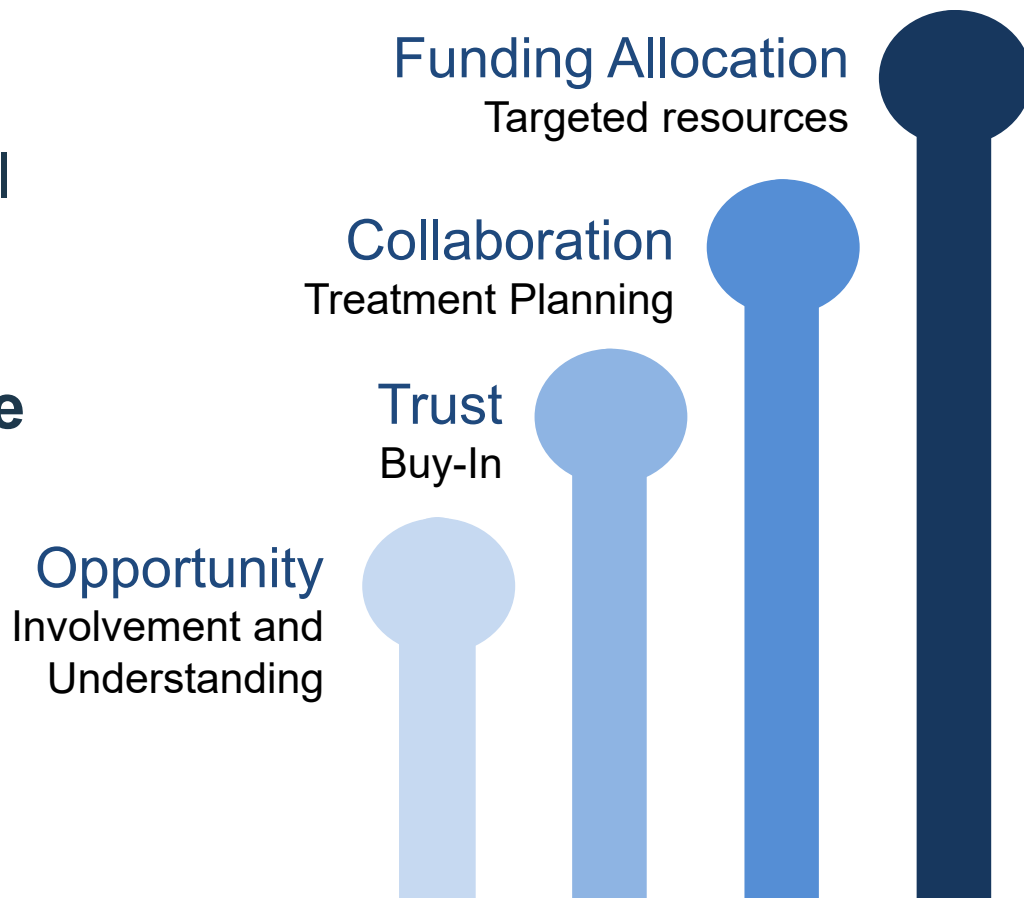
Results
Meaning and Use

Understanding
The full person

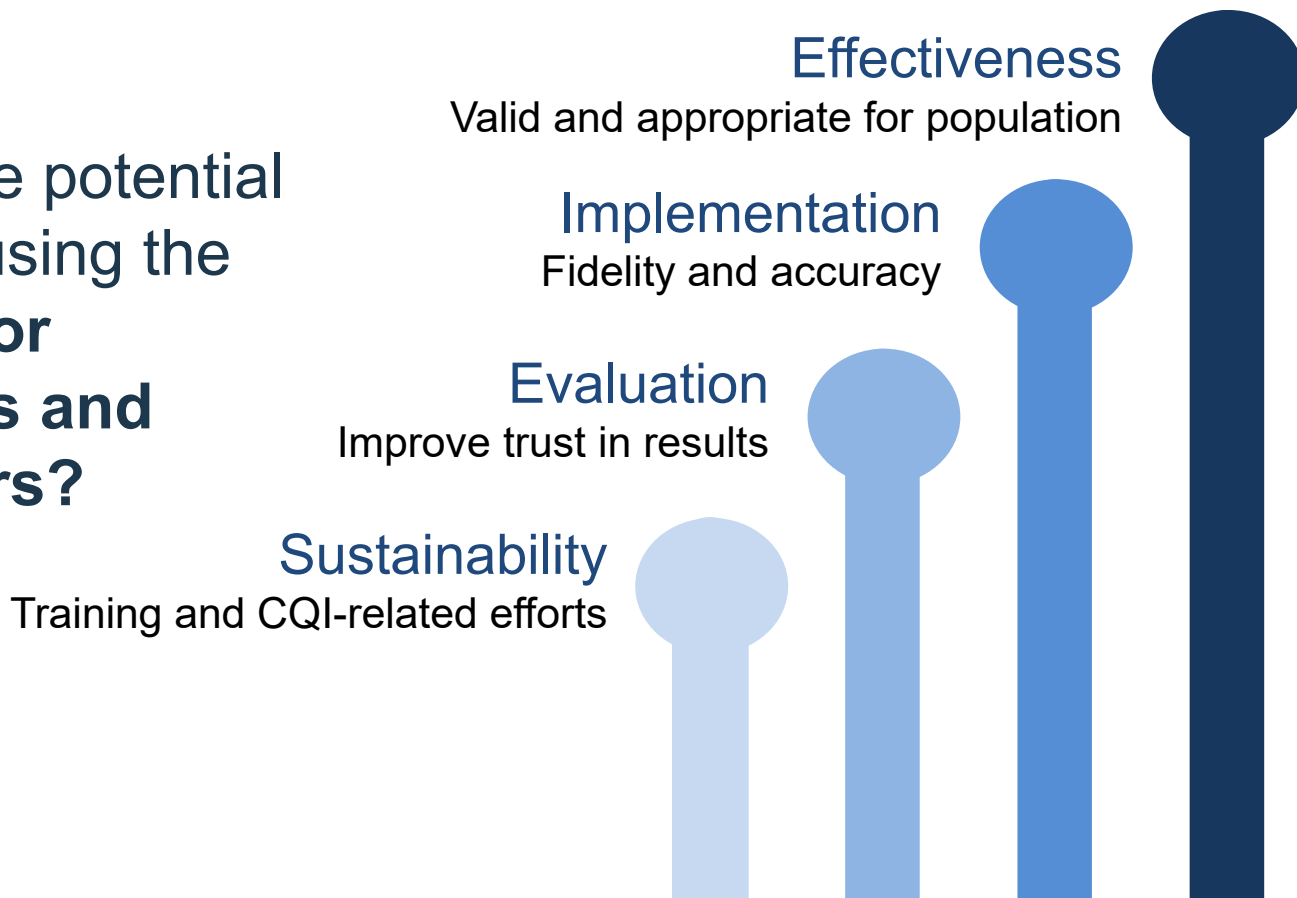
Mitigation of Bias
Equity



What are the potential benefits of using the Guidelines **for stakeholders and the community?**



What are the potential benefits of using the guidelines for researchers and practitioners?



NEXT STEPS



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Partnerships



AMERICAN PROBATION AND
PAROLE ASSOCIATION

- Participating at 2023 Winter Regional Training Institutes
- Engaging with probation and parole leaders
- Collaborating on technical assistance to meet state needs

Partnerships

- Participating at 2023 Winter Conference
- Engaging with correctional leaders
- Collaborating on technical assistance to meet state needs





Director Annie Precythe on the Importance of National Guidelines for Post-Conviction Risk and Needs Assessment



Massachusetts Deputy Commissioner Brian Mirasolo on the Importance of National Guidelines for Post-Conviction Risk and Needs Assessment

There are five resources:

1. FAQ for legislators
2. FAQ for agency administrators
3. Executive summary for practitioners
4. 50-page “deep-dive” publication for researchers and others charged with implementing the Guidelines
5. Self-assessment tool

Advancing Fairness and Transparency: National Guidelines for Post-Conviction Risk and Needs Assessment

The Issue

There are valid and growing concerns about accuracy, fairness, transparency, and communication in the use of risk and needs assessment. Risk and needs assessment results are not used enough to inform case decisions and management. Criminal justice agencies have not been given the guidance they need to communicate the strengths and limitations of risk and needs assessment. Furthermore, people who are being assessed rarely receive information about these assessments, how they work, and what they will be used to determine.

The Solution

Advancing Fairness and Transparency: National Guidelines for Post-Conviction Risk and Needs Assessment, a new resource from the U.S. Department of Justice's Office of Justice Programs' Bureau of Justice Assistance (BJA) and The Council of State Governments Justice Center, addresses these gaps with clear, concrete direction. Funded by BJA as a project of the [Public Safety Risk Assessment Clearinghouse](#), the guidelines were developed under the advisement of a national group of researchers, risk and needs assessment instrument developers, practitioners, and leaders in the field. They prioritize accuracy, fairness, and transparency in the communication and use of risk and needs assessment.

Intended Audience

These guidelines and their associated resources were developed with a variety of audiences in mind, including legislators, administrators, practitioners, and researchers.



Legislators



Administrators



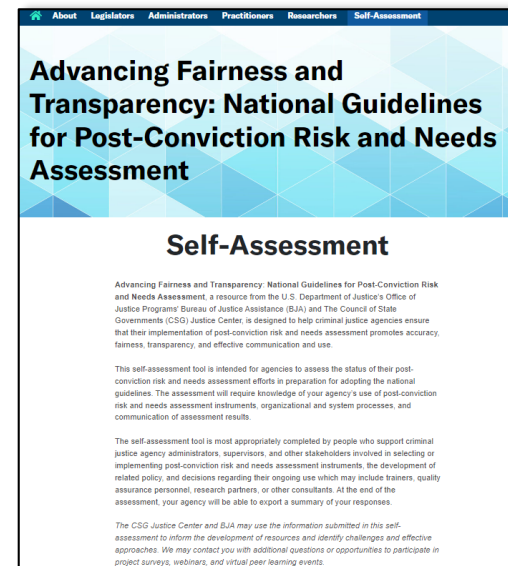
Practitioners



Researchers

Complete the Self-Assessment Tool

- **Why:** Assesses the status of your efforts in preparation for adopting the Guidelines.
- **Who:** People responsible for selecting or implementing post-conviction risk and needs assessment instruments, developing related policy, and making decisions regarding their use.
- **Where:** riskselfassessment.org



The screenshot shows a web page with a navigation bar at the top containing links for About, Legislators, Administrators, Practitioners, Researchers, and Self-Assessment. The main heading is "Advancing Fairness and Transparency: National Guidelines for Post-Conviction Risk and Needs Assessment". Below this is a sub-heading "Self-Assessment". The page contains several paragraphs of text describing the tool's purpose and how to use it.

Advancing Fairness and Transparency: National Guidelines for Post-Conviction Risk and Needs Assessment

Self-Assessment

Advancing Fairness and Transparency: National Guidelines for Post-Conviction Risk and Needs Assessment, a resource from the U.S. Department of Justice's Office of Justice Programs' Bureau of Justice Assistance (BJA) and The Council of State Governments (CSG) Justice Center, is designed to help criminal justice agencies ensure that their implementation of post-conviction risk and needs assessment promotes accuracy, fairness, transparency, and effective communication and use.

This self-assessment tool is intended for agencies to assess the status of their post-conviction risk and needs assessment efforts in preparation for adopting the national guidelines. The assessment will require knowledge of your agency's use of post-conviction risk and needs assessment instruments, organizational and system processes, and communication of assessment results.

The self-assessment tool is most appropriately completed by people who support criminal justice agency administrators, supervisors, and other stakeholders involved in selecting or implementing post-conviction risk and needs assessment instruments, the development of related policy, and decisions regarding their ongoing use which may include trainers, quality assurance personnel, research partners, or other consultants. At the end of the assessment, your agency will be able to export a summary of your responses.

The CSG Justice Center and BJA may use the information submitted in this self-assessment to inform the development of resources and identify challenges and effective approaches. We may contact you with additional questions or opportunities to participate in project surveys, webinars, and virtual peer learning events.

Technical Assistance (TA) Opportunity



Number of Sites

Up to 16 sites selected across a two-year period applications in 2023 and 2024
+additional sites upon request



Timeframe

Up to one year for moderate and high-intensity sites



Individual TA

Receive tailored services based on identified needs and goals



Peer Connections

Engagement opportunities with other selected sites



Three Levels of TA are Available

03

Up to 2 sites, per year
High Level TA, up to 1 year
On-site visits by TA provider

02

Up to 6 sites, per year
Moderate Level TA, up to 1 year

01

Unlimited sites
One-time requests

Level 1: Low-Intensity TA

TA Design

Number of Sites: Unlimited

Length of TA: Less than 3 months

Site Visits: None

TA Services

- ❖ One-time requests
- ❖ Resources
- ❖ Peer connections
- ❖ Consultations

Agency Commitment

- ✓ Completes self-assessment tool
- ✓ Commits to implementing guidelines
- ✓ Signs up for ongoing TA resources and opportunities

Level 2: Moderate-Intensity TA

TA Design

Number of Sites: Up to 6 sites per round of applications

Length of TA: Up to 1 year

Site Visits: None

TA Services

- ❖ Level 1 services
- ❖ Virtual kick-off event
- ❖ Monthly TA calls
- ❖ Strategy development
- ❖ Policy and procedure review
- ❖ Implementation progress tracking
- ❖ External stakeholder messaging and meetings
- ❖ Peer learning community of practice

Agency Commitment

- ✓ Level 1 commitments
- ✓ Completes self-assessment tool at 6-, 12-, and 18-month intervals
- ✓ Joins monthly TA calls
- ✓ Shares policy and procedure
- ✓ Examines racial equity
- ✓ Participates in peer learning community of practice

Level 3: High-Intensity TA

TA Design

Number of Sites: Up to 2 sites per round of applications

Length of TA: Up to 1 year

Site Visits: Up to 3 on-site visits

TA Services

- ❖ Level 1 and 2 services
- ❖ On-site assessment of quality and fidelity practices
- ❖ On-site and/or virtual focus groups, trainings, and/or meetings
- ❖ Review of agency data
- ❖ Implementation assistance
- ❖ Meeting co-facilitation

Agency Commitment

- ✓ Level 1 and 2 commitments
- ✓ Shares aggregate data
- ✓ Supports on-site activities

Corrections and community supervision agency administrators can maximize TA through:



Commitment to improving the use of post-conviction risk and needs assessments;



Transparency about processes;



Willingness to engage, share challenges, and learn with other selected sites; and



Collaborative engagement through TA and surveys.

Applications for Level 1 TA

Who should apply?

- Corrections or community supervision agencies implementing the guidelines on their own who have one-time requests for assistance

What you will need to submit:

- ✓ Completed Level 1 TA request form
- ✓ Completed self-assessment tool

Timeframe: Ongoing

Applications for Level 2 and Level 3 TA

Who should apply?

- The primary applicant must be a state, local, or Tribal jurisdiction responsible for the administration of post-conviction risk and needs assessment of adults in their community.
- State, local, and Tribal jurisdictions are encouraged to apply.
- Priority consideration will be given to jurisdictions that wish to examine their risk and needs assessment instruments that may be specifically related to assessing women in the criminal justice system or Tribal members who are supervised by state, local, or Tribal Nation supervision agencies.

Timeframe: opportunities will be made available in March 2023

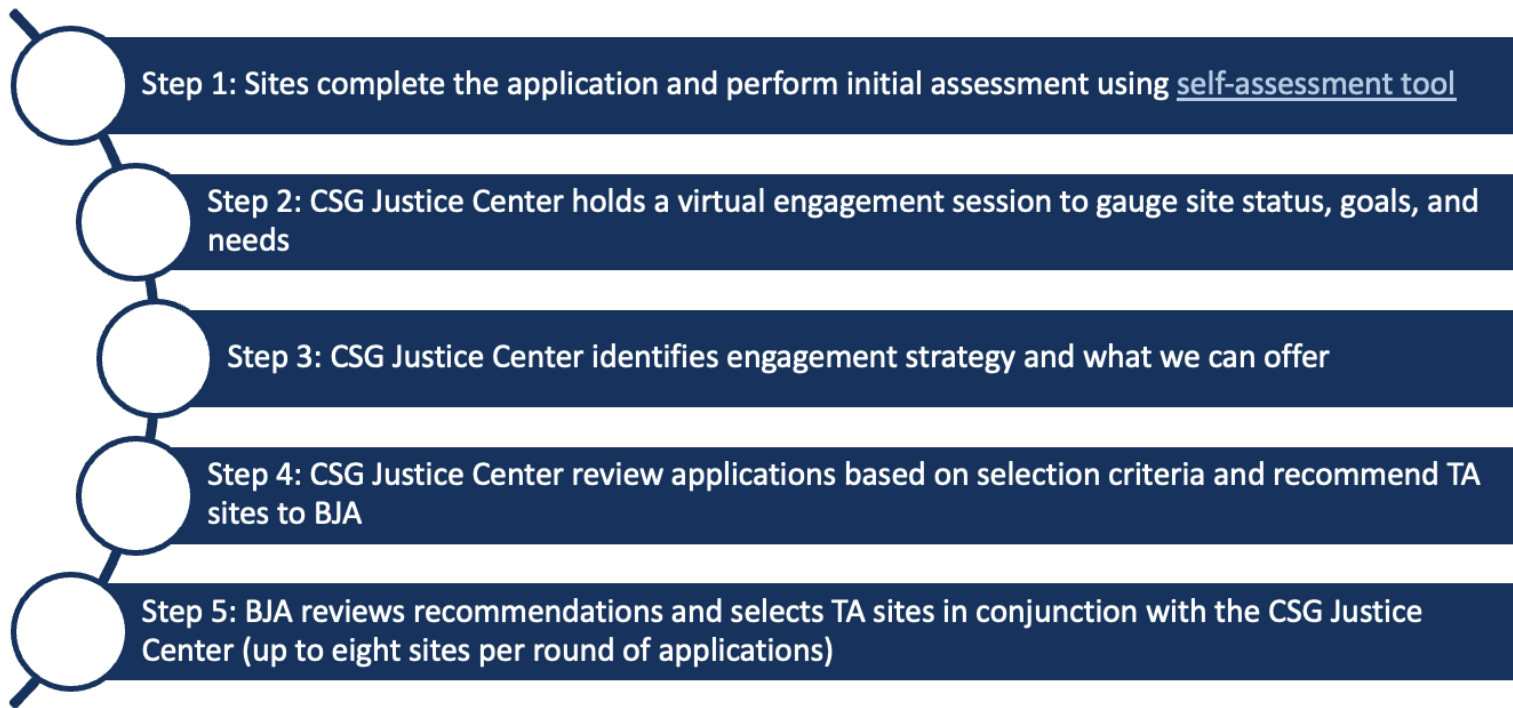
Applications for Level 2 and Level 3 TA

cont'd

What you will need to submit:

- ✓ Completion of the online application form
- ✓ Letter(s) of support from agency oversight body and chief executive of any partner agencies (including applicant)
- ✓ Narrative demonstrating how the agency meets the selection criteria, agency need for TA, and commitment to national guidelines and TA requirements (e.g., agency size, instrument used, needs, ability to meet TA requirements, commitment to racial equity, diverse working group)
- ✓ Completed self-assessment tool

Site Selection Process



What will my state, local, or Tribal jurisdiction gain by participating?

- Status as a national leader promoting the implementation of national guidelines
- Peer connections
- Tailored technical assistance
- Input into additional resources for the field

How can my state or local jurisdiction get involved if not applying for technical assistance?

1. Review the [suite of resources](#) available for a variety of audiences, including legislators, administrators, practitioners, and researchers.
2. Take the [self-assessment](#) to evaluate the status of your agency's risk and needs assessment efforts in preparation for adopting the national guidelines.
3. Sign up for our [newsletter](#) to stay up to date on new opportunities, resources, and webinars for this project.
4. If you have any questions, submit a request for assistance.





Thank You!

Join our distribution list to receive updates and announcements:

<https://csgjusticecenter.org/resources/newsletters/>

For more information, please contact:

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