



**Justice Center**

THE COUNCIL OF STATE GOVERNMENTS

# Assessing Fairly:

Introduction to the National Guidelines for  
Post-Conviction Risk and Needs  
Assessments

March 28, 2024

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# **The National Guidelines for Post-Conviction Risk and Needs Assessment project is funded by the Bureau of Justice Assistance (BJA).**

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# Presentation Outline

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I. The Need for Guidelines

II. An Overview of the Guidelines

III. Practical Application of the Guidelines

IV. Resources and Next Steps

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

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- Instruments are developed and **used differently** across the country.
- States want to ensure that the use of assessment instruments does not **increase disparities** within the system.
- **Perceptions of unfairness** and concerns over a lack of transparency exist.



**Justice  
Reinvestment  
Initiative**

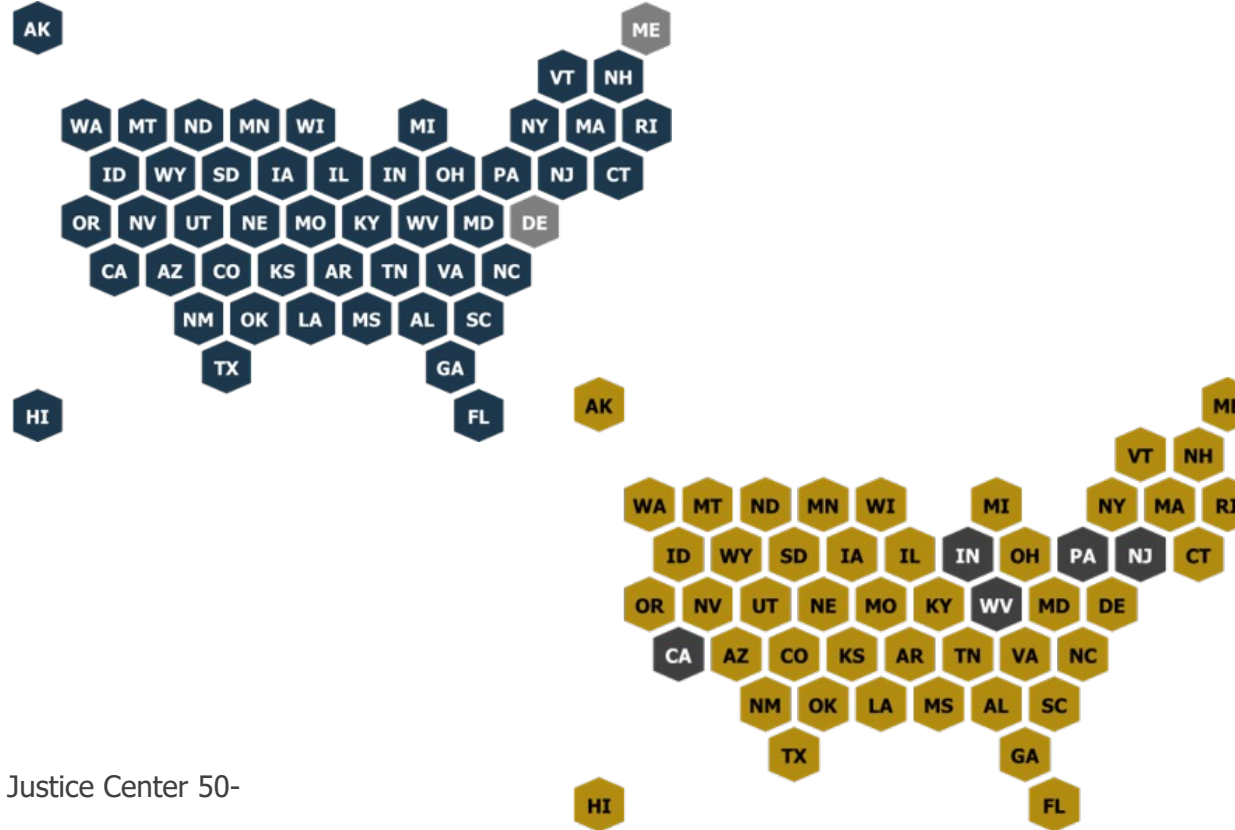
# In 2017...

## 48 states

reported using risk assessment instruments for people on parole

## 2 states

**did not have** post-custody supervision populations and therefore did not use risk assessments



## 45 states

reported using risk assessment instruments for people on probation

## 5 states

**did not respond**, reported **not using** risk assessment instruments, or **did not know** if they use risk assessment instruments

Source: The Council of State Governments Justice Center 50-State structured interviews, August 2017.

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



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. 07.01.2019 By BETH SCHWARTZAPFEL

## Can Racist Algorithms Be Fixed?

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



## 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.

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“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; and 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.**

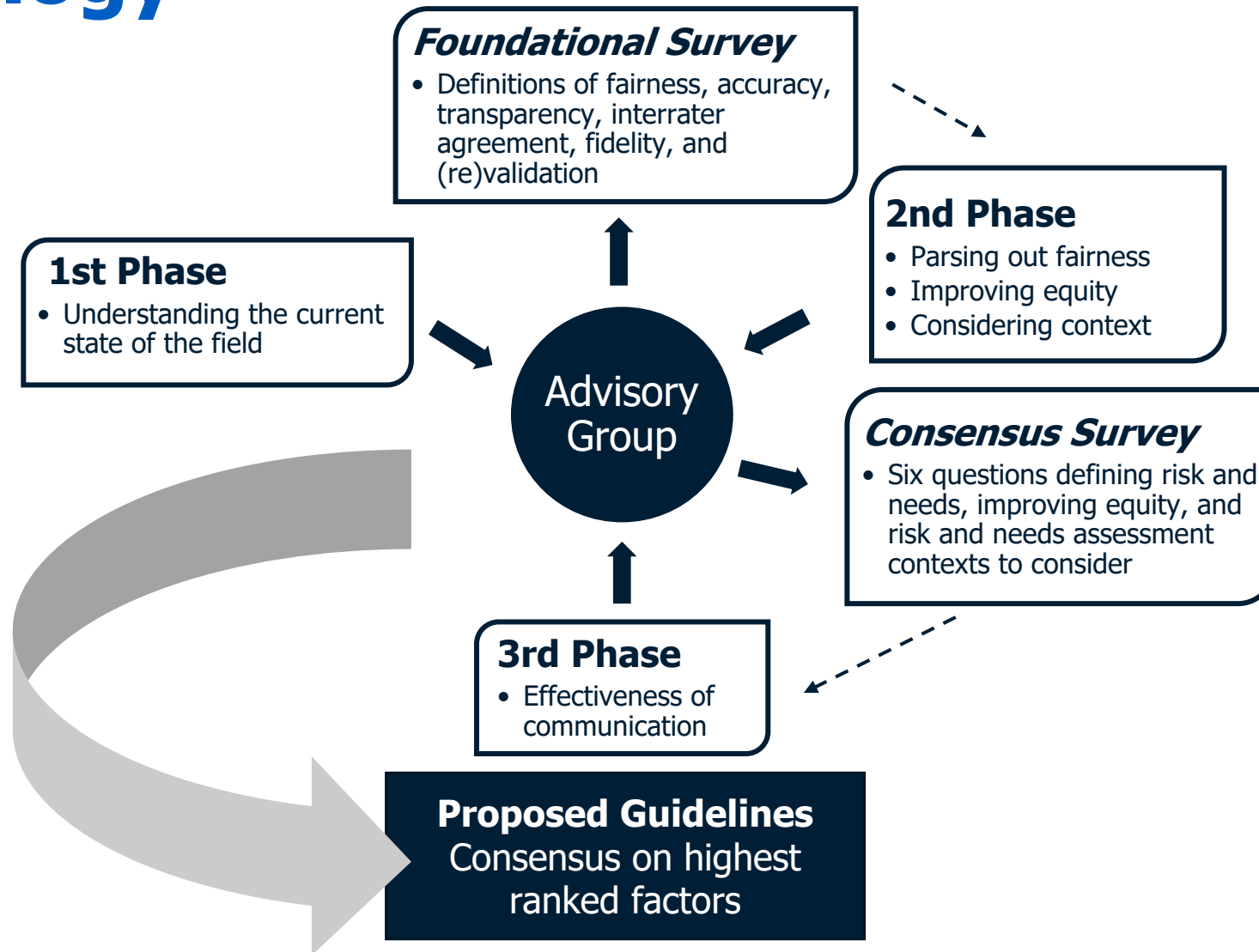


# The guidelines pose three questions to help policymakers and practitioners.

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- 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



# 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



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Christopher Slobogin



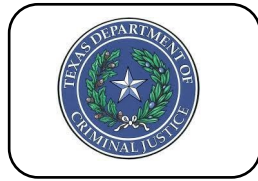
Dr. Gina Vincent



Kristofer "Bret" Bucklen



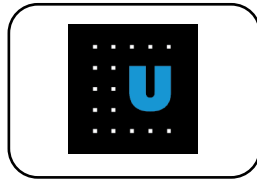
Dr. Faye Taxman



Carey Green



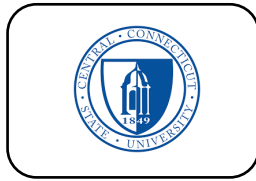
Dr. Joel Dvoskin



Dr. KiDeuk Kim



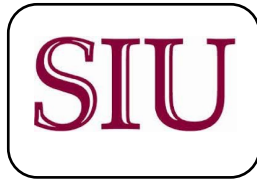
Dr. Osonde Osoba



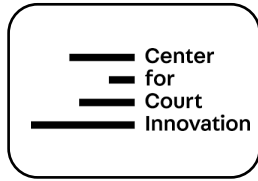
Dr. Raymond "Chip" Tafrate



Dr. Christina Campbell

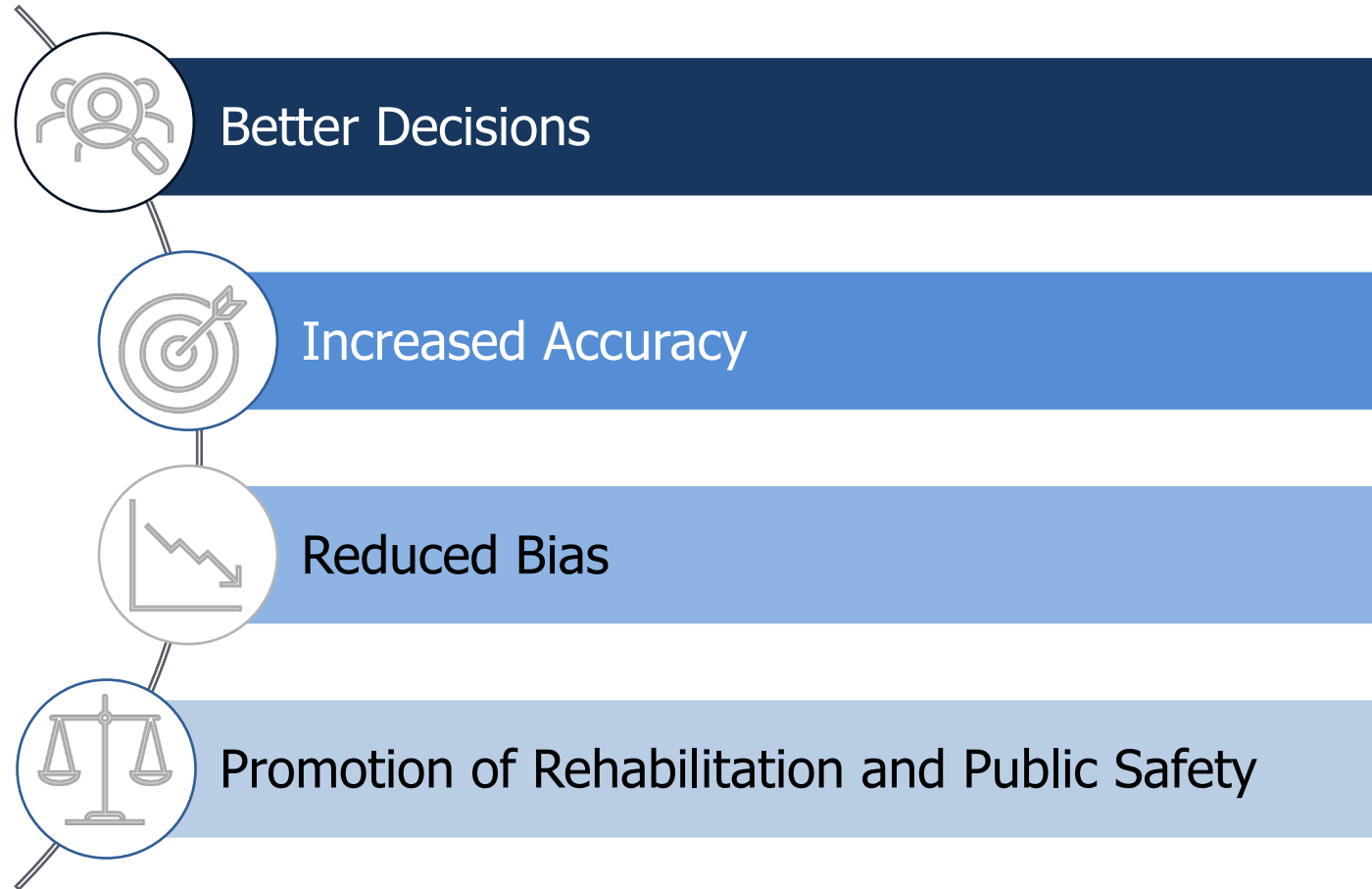


Dr. Daryl Kroner



Dr. Sarah Picard

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



## 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.

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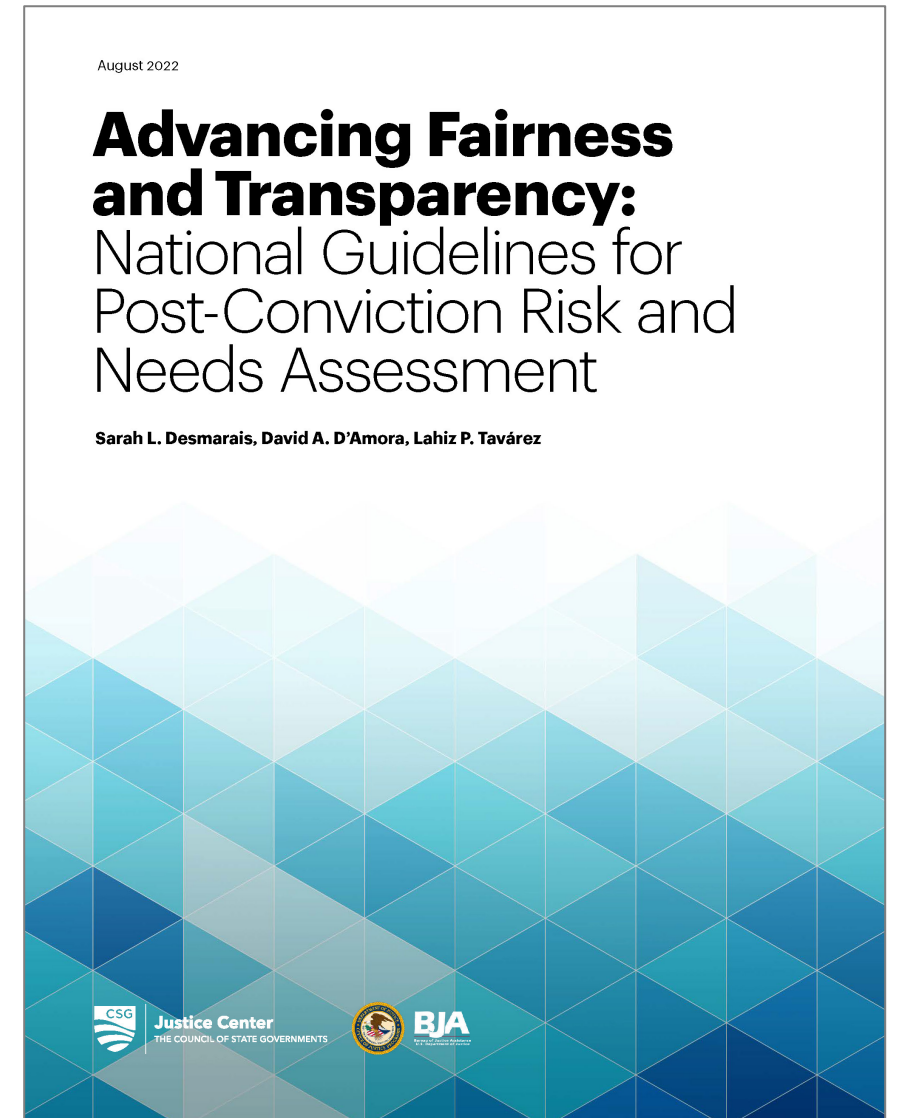
III. Practical Application of the Guidelines

IV. Resources and Next Steps

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

[www.bja.gov](http://www.bja.gov)

[www.csjusticecenter.org](http://www.csjusticecenter.org)





# The guidelines include four sections.

IV. Communication and Use

I. Accuracy



III. Transparency

II. Fairness



Accuracy refers to the degree to which assessment results predict the recidivism outcomes they were designed to predict.



# 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 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 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

Communication and use refers to the fact that the manner in which individual assessment results are communicated and used can greatly affect their impact on decision-making and, consequently, their effectiveness.





# 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.

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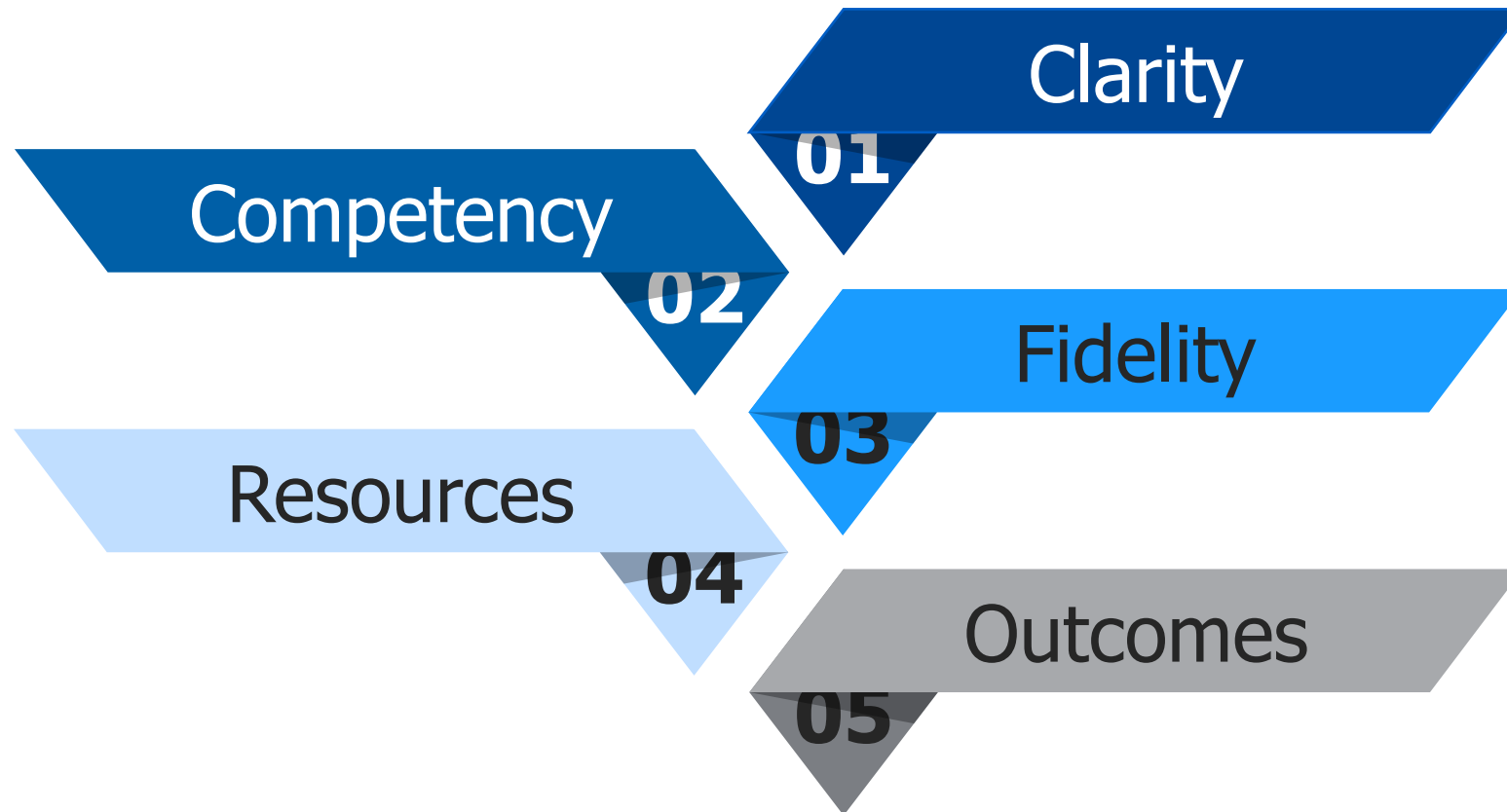
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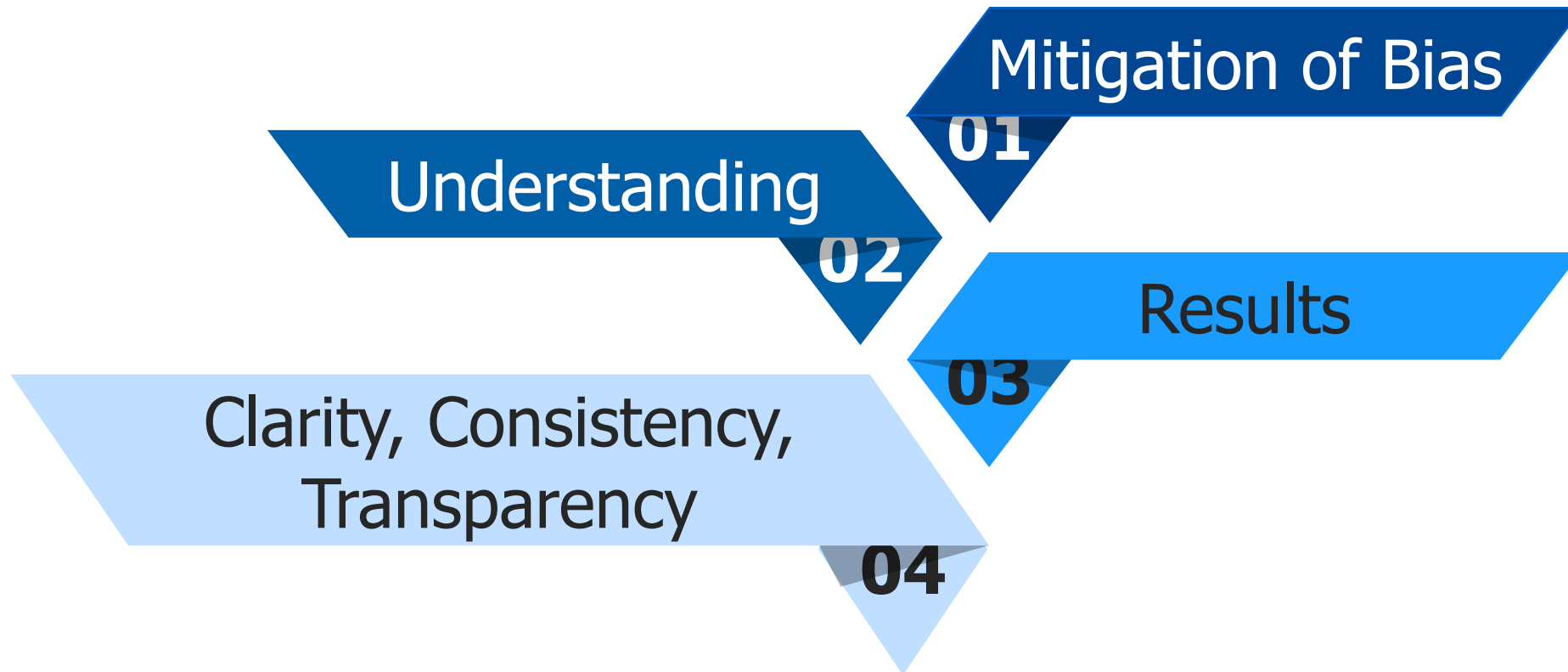
# Organizational Benefits

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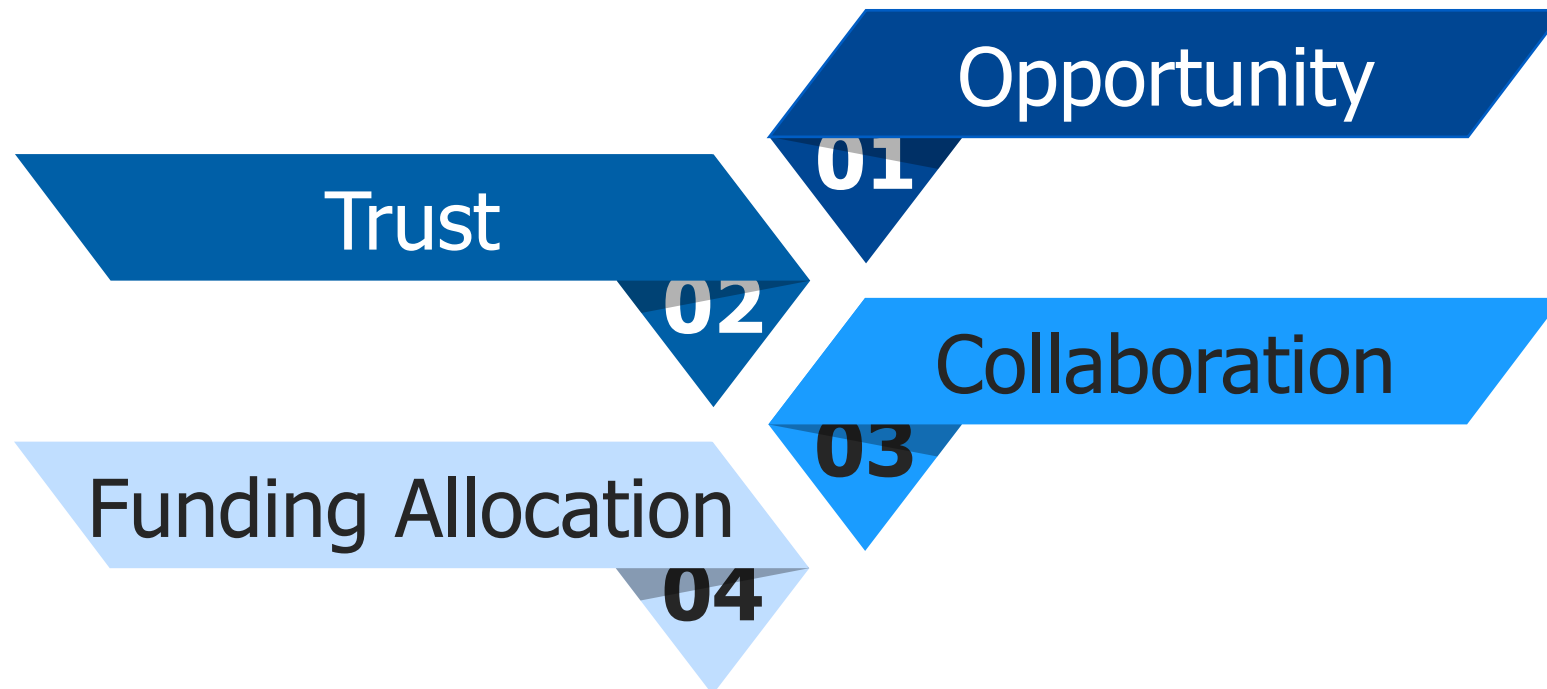
# Benefits for People in the Criminal Justice System

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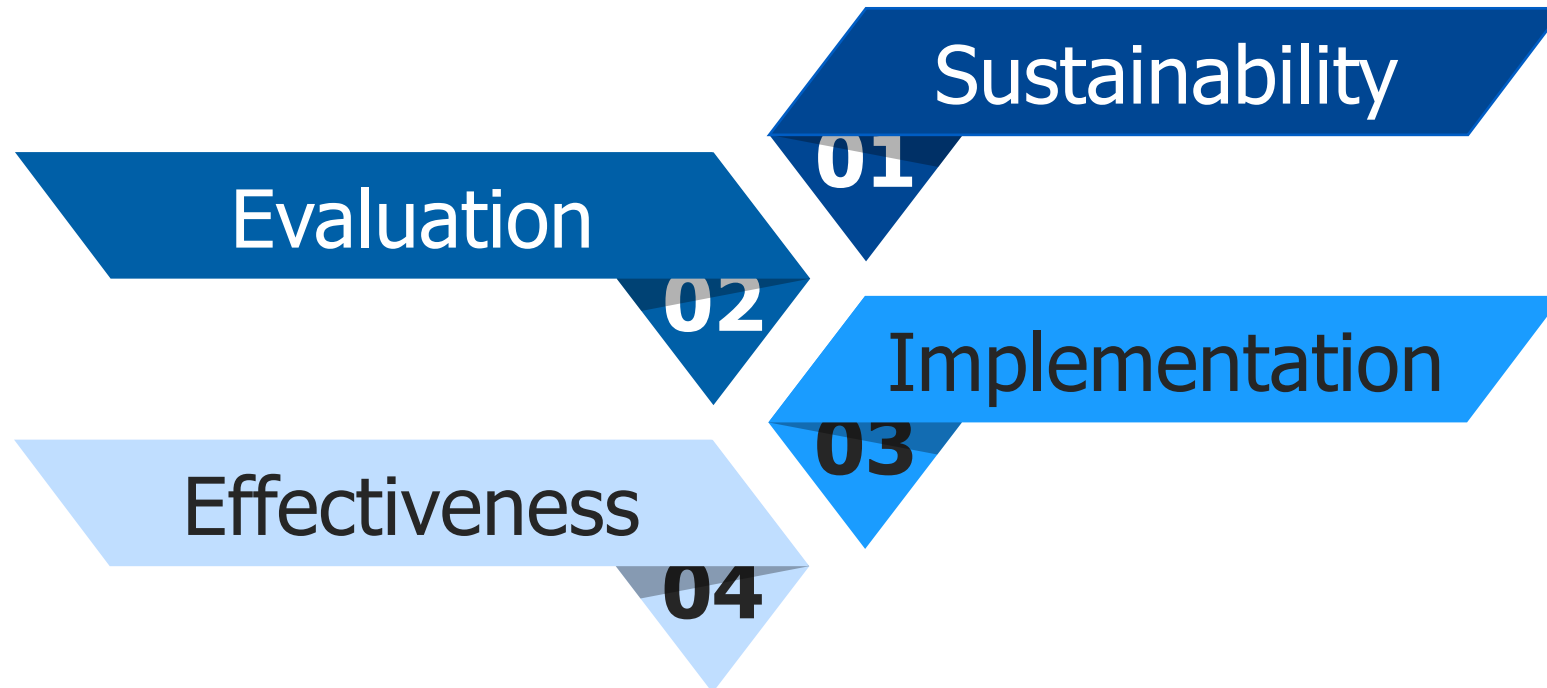
# Stakeholder and Community Benefits

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# Research and Practitioner Benefits

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# There are six 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
6. Technical assistance

\*Recorded introductory webinar available

## 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

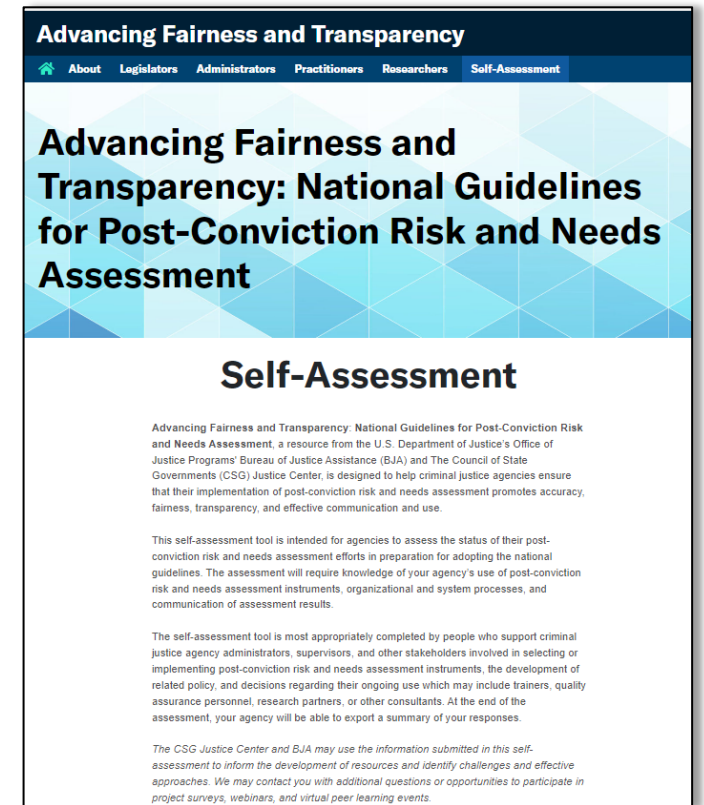


Researchers



# 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:** <https://riskselfassessment.org>



# Request technical assistance (TA).

## How to request TA:

Visit our [Take Action](#) page!

TA is available to elevate your practices, enhance fairness, and lead in implementing cutting-edge strategies that benefit criminal justice agencies, individuals in the system, and your broader communities.

- ✓ Complete the **TA request form**.



# How can my state or local jurisdiction get involved if not requesting TA?

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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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