Examining The Implementation of

RISK ASESSMENT

in

CRIMINAL JUSTICE

F.A.Q. Sheet

What is an Actuarial Risk Assessment?

Risk assessments are becoming increasingly common in all aspects of our modern lives, and they are now also being used in the field of criminal justice. If you have ever applied for car insurance or been to the doctor's office, chances are you have taken a risk assessment. Most likely you answered questions about yourself and events that happened in the past. How many accidents have you been in? How many tickets have you acquired? Have you ever had a major illness before? How tall are you?

What you may not have seen was what happened next. Typically, your answers are plugged into complex calculations that then turn into various scores. These scores then indicate to your insurance or medical professionals how likely it is that you are going to get into a future car accident, or suffer from a particular illness. These are actuarial risk assessments, and they are statistical tools which measure how likely an event is going to happen in the future based upon risk factors that exist in the past or present.

What does a risk assessment measure?

In the criminal justice field, risk assessments typically try to estimate the likelihood that an individual will either fail to appear in court for their scheduled court date, or go on to commit another crime in the future.

Some risk assessments, like the Level of Service/Case Management Inventory (LS/CMI) used in Multnomah County, also measure various kinds of needs that an individual may be experiencing. These needs can include shelter, separating from crime-involved peers, and treatment for alcohol and drug dependency. Including these types of factors both indicate the risk of future recidivism, and can aid case management. Knowing an individual's needs can help criminal justice professionals direct justice-involved persons to levels of supervision and treatments that are appropriate to their risk level and need.

Why do we need risk assessments?

Risk assessments allow us to estimate risk, whether that risk is for recidivating, relapsing, or failing to appear in court, along a common set of known factors. This reduces the need for criminal justice professionals to rely solely on their own personal judgment when deciding levels of supervision and referrals to treatments.

Risk assessments help us focus on those factors that actually impact the likelihood of further criminality rather than traits that do not – like hairstyle, accent, fashion choices, or personal charm.

How are risk assessment tools made?

Risk assessments are built by looking at very large numbers of past events. In the criminal justice world, this means past crimes and failures to appear in court (FTAs).

Researchers and statisticians will gather the records of many previous offenders and gather as much information about them as they can. Then they track these individuals' over time to see who commits more crime and who does not. Finally, they look to see what about these individuals' lives appear to predict further future crime.

These traits and past events are called "risk factors." Just like how your past car accident is a "risk factor" for you getting in another car accident in the future. All these risk factors are then combined and weighed against each other and usually a single risk "score" is produced. This is the score that places an individual relative to all other individuals in their likelihood – or risk – of committing another crime in the future.

Once a tool is created, it is then tested against other groups of offenders. If the assessment continues to predict the same rate of recidivism in these new groups, it is considered "validated." It is important that the tools we use in the community justice system have been fully validated, and that it continues to be validated as time passes. Society changes all the time and what might have predicted an individual's likelihood to commit another crime in 1989 may not be the same as what will predict their likelihood to commit a crime today. Similarly, we cannot assume that what predicts crime today will predict it as accurately 30 years from now.

What are Risk Levels and how are they used?

Most risk assessments classify individuals in low, medium, and high risk categories.

When an individual is low risk, this means that he or she is unlikely to commit an offense (or engage in a delinquent behavior) in the near future because they share characteristics with criminal justice involved individuals who typically have not reoffended.

High risk refers to individuals for whom there is a greater likelihood of committing an offense in the near future because they share characteristics with criminal justice involved individuals who have committed further offenses at higher rates than those of low or medium risk categories.

These risk categories are relative, and different risk assessments will categorize "low," "medium," and "high" at different probabilities of recidivating.

What goes into determining someone's Risk Level?

Elements of an individual's life, behavior, and personal history that contribute to their relative risk level are called factors. There are different types of factors; risk factors and promotive/protective factors.
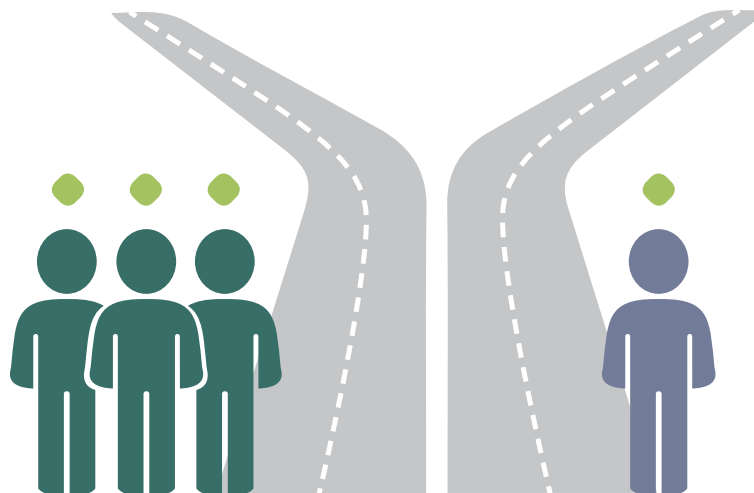
A risk level is built from the behavior of an historic group of justice-involved people. When an individual is assigned a risk-level, it means that they share key characteristics with this historic group, and we can guess that they will have a similar chance of re-offending in the future. However, it is important to know that an individual may well take a different path than others who share their risk level. Even in the original sample group, many individuals did not go on to re-offend.

Risk Factors

Risk factors are variables that increase the probability of illegal and criminal behavior. There are four key types of risk factors included in risk assessment tools (Monahan and Skeem 2016).

Type of Risk Factor (New Labels)	Type of Risk Factor (Old Labels)	Definition	Example
Fixed Marker	Static	Unchangeable	Gender Prior Felony Arrest
Variable Marker	Static	Unchangeable by intervention	Age
Variable Risk Factor	Dynamic	Changeable by intervention	Employment Status Neighborhood
Causal Risk Factor	Dynamic	Changeable by intervention by intervention; when changed, reduces recidivism	Substance Abuse Antisocial Attitude Antisocial Peers

*Categorization proposed by Monahan & Skeem (2016)

All four types of risk factors are relevant to assessing the relative risk of recidivating, however only causal risk factors have been shown definitively to reduce violence and recidivism.

Many variable risk factors, those factors which can be changed with intervention but have not yet been directly tied to further criminal activity, are suspected to be causal (ie: moving from unemployment to employment is suspected to be stabilizing, thus reducing recidivism), and are thus categorized as a "need" or a "dynamic risk factor." These "need" factors are often used to match criminal justice involved individuals with appropriate treatment services that address these needs. Many of these variable risk factors have not met the evidence threshold for a causal risk factor due to the difficulty of isolating and testing these factors in the field. In time, they may move into causal risk factor category. However, until such time as a causal link has been established, variable risk factors are most appropriately used to match individuals to treatments only.

How are risk assessments typically used?

IN COMMUNITY JUSTICE

Risk assessment tools can identify those with higher risks of recidivating. This then tells us that they may benefit from more intensive supervision. Some tools also indicate the current status of certain risk factors – like employment status or homelessness – which may increase their risk of recidivating if those factors are not addressed. This prompts their supervision officer to match these individuals to those services which address these needs.

TO INFORM DECISIONS ABOUT CHANGING SUPERVISORY OR PRISONER STATUS

Risk assessments sometimes are used to inform decisions about changing the status of supervision or imprisonment. A risk assessment score can inform questions around public safety by indicating the likelihood of recidivism, and sometimes the likelihood of violent recidivism. This is an additional piece of information officials can weigh when considering reducing or prolonging sentences of incarceration or supervision.

TO INFORM SENTENCING DECISIONS

Risk assessment is also sometimes used as additional piece of information officials can weigh when considering incarceration or length of incarceration. This is the most controversial use of risk assessments. This is because risk scores and their corresponding risk levels are partially informed by factors which are outside of the control of the individual and which are not illegal.

Can a risk assessment score be wrong?

If the information gathered during a risk assessment is incorrect then it is likely that the risk score can also be considered incorrect.

However, if the information collected during the risk assessment process is correct the answer to this question becomes more complex. No risk score or risk level can guarantee that an individual will or will not go on to commit another crime or offense. Risk assessment scores are reflective of that individual's similarity to other criminal justice involved individuals who did or did not go on to commit other offenses. Similarly, no group which makes up a risk category exhibited either a 100% recidivism rate or a 0% recidivism rate.

A risk assessment score should not be understood as a prediction of that same individual's future behavior. Their risk score indicates their similarity to a group which collectively produced a certain rate of recidivism or re-offenses.

Do risk assessments make disparities in the criminal justice system worse?

Because risk assessments are built off of existing offenders and their past behavior, it is possible that the biases which are known or suspected to exist in the criminal justice system will – in a sense – become part of the risk assessment algorithm.

Risk assessment scores and risk levels can predict with some accuracy the recidivism rates of those who are placed into these categories. However, two concerns remain. The first concern is that risk scores may be creating a self-fulfilling cycle. If being within the criminal justice system actually creates or exacerbating risk, then the score could be the cause of a person's future crime as much as a prediction of it. For example, if longer sentences in prison may make someone more likely to recidivate, and those with higher risk scores are sentenced to longer terms in prison, it becomes difficult to tell whether the risk score is predicting or creating the negative outcome.

The second concern comes with the fact that these risk assessments cannot account for disparities at the time of arrest, particularly of first arrest. Sometimes, rates of arrest are more of a reflection on levels of police surveillance than of levels of crime, and this can impact how the risk assessment tool associates personal traits and likelihood of crime in a way that is potentially erroneous.

If a certain group is more likely to get noticed by the police than other groups who commit the same type of crime at the same rate, over time the risk assessment will associate the traits of this group with crime. Similarly, if a group is more likely to get caught at earlier ages for a crime, while others are not caught until they are older, *even if both were committing crime from the same age*, the risk assessment will score those with earlier *known crimes* higher than those with earlier *unknown* crimes.

We know that communities of color often experience higher rates of police surveillance and are more likely to be charged with an offense if caught. Because of this, people of color are likely overrepresented in the samples used to build risk assessments. It is also possible that white people are under-represented in the sample. It's unclear what impact this has on the ability of risk assessments to predict crime accurately for all groups, and it is unclear what kind of impact – if any – this has on exacerbating the disparate treatment of people of color in the criminal justice system. Thus, while risk assessments can be a useful tool, they should be used with professional caution.