



## Risk Assessment Instruments Frequently Asked Questions

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### *What is a Risk Assessment Instrument?*

A risk assessment instrument (RAI) is a tool used by judges in court proceedings. As of January 2019, the Pennsylvania Commission on Sentencing is devising an RAI for judges to use at sentencing that would consider a number of different factors and purportedly give the judge a measurement of risk as to whether the individual before them will commit a crime in the future.

### *Why is the recent Risk Assessment Instrument proposal being considered by the Pennsylvania Commission on Sentencing problematic?*

Pennsylvania is a world leader when it comes to mass incarceration, and this tool would make this terrible problem worse. Here's how the Pennsylvania Commission on Sentencing's proposed risk assessment tool will lead to MORE —not less— incarceration:

- **The tool's "high risk" label is little better than a coin flip.** A "high risk" label for general recidivism has only 52% accuracy - in other words, that person labeled "high risk" shares traits with 48% of others who committed NO future crime. A "high risk" label is essentially no better than a coin toss, hardly reliable data for a judge to rely upon when depriving someone of their liberty.
- **The tool doesn't make individualized predictions.** This tool does not and cannot make accurate predictions about an individual human being. Nobody should be sentenced simply because they share some traits with other individuals.

- **These “risk” labels are based almost entirely on criminal justice data, which is rife with racial disparities.** Of the seven factors the tool considers, five deal with conviction (number and type convictions). The other two factors are age and gender. People and communities of color are overpoliced across the state, and Pennsylvania’s racial disparities are such that black men are nine times more likely to be imprisoned than white men. Relying upon a tool that weights this criminal justice data so heavily will only perpetuate this racism.
- **The tool relies heavily on age without disclosing this to the sentencing judge.** At sentencing, judges will often consider young people capable of reform and worthy of leniency. The sentencing commission’s RAI places a heavy weight on age, but this fact is not clearly disclosed to the sentencing judge. A sentencing judge will only see the label “high risk” and may not understand that the 19-year-old before them is “high risk” simply because that person is 19.

### ***What is the solution?***

The legislature originally asked the sentencing commission to create a tool that would help divert people to alternative sentencing options. The commission should have used this mandate to create a tool that ameliorates, not exacerbates, this problem.

We will continue to work to ensure that judges are not bound by the inaccurate and unfair results of skewed data and should instead have the discretion to make individual judgments at sentencing. We will also continue to urge the legislature to work towards solutions that lessen, not deepen, the incarceration crisis in Pennsylvania.