

# RISK ASSESSMENT TOOLS

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## Value

JustLeadershipUSA was founded on the belief that those closest to the problem are closest to the solution. We work to ensure directly impacted leaders have the resources and tools that enable them to drive policy reforms that will cut the United States correctional population in #halfby2030. Risk Assessment Instruments, or RAIs, are being heralded as a way to decarcerate the nation. Despite their scientific veneer, they serve to exacerbate structural racism and economic inequalities. The inputs used by RAIs reflect rather than disrupt the very inequalities that systems of mass criminalization are built upon.

**JustLeadershipUSA strongly opposes** any utilization of RAIs in the criminal legal system..

## Problem

1. **RAIs rely on, rather than disrupt, the structural inequalities embedded in our criminal punishment system** RAIs claim to utilize neutral inputs to “predict” the statistical potential that an individual might do something wrong in the future. Fundamentally, decisions about an individual’s freedom should not be made on the basis of a profile, particularly when the data points entrench inequality. Data inputs commonly used can include age, age at first arrest, past “failures to appear,” employment status, and even zip code. These are not “neutral” inputs. Rather, the data points used reflect inequalities embedded in mass criminalization, including the over-policing and over-charging of Black and Latinx communities, as well as racist sentencing disparities. When the data inputs are biased, the outputs will reflect that very same bias.
2. **Data inputs obscure context.** As mentioned above, the data inputs utilized by RAIs reflect structural inequalities built into the system. Research tells us that as a result of over-policing of Black and brown neighborhoods, Black and brown people are more likely to be arrested at a young age. If “age of first arrest” is flagged by the tool as a risk factor, the output will obscure systemic over-policing not risk. One of the most commonly used data inputs is “past failure to appear.” Yet, people miss court dates for many reasons. Failure to appear can be a result of housing instability, lack of childcare, precarious employment, or mental and physical health crises. This is particularly true of working people who are more likely to be without paid leave, affordable childcare, and access to health resources. .
3. **They shift discretion to others and shield judges and prosecutors from accountability.** Risk assessments offer cover to judges and prosecutors in their decisions to hold or release a person while leaving judicial discretion intact. In fact, research has shown that judges tend to use discretion to override recommendations of release, but uphold recommendations to detain. Risk assessment tools - with their assumed “scientific neutrality” - offer a mechanism whereby judges and prosecutors can shield their decisions and avoid accountability when it is to their advantage. . Judges and prosecutors are in many cases incentivized to detain in order to expedite plea bargains - nationally, 95 percent of cases are decided through plea deals. And RAIs mask how these choices have been made.

## Solution

Every single time a person comes into contact with the criminal legal system should be an opportunity for that person to be pointed in a direction that ensures that they will not ever return to the system. We know that pretrial detention causes racialized harm and increases the likelihood that an individual will plead out, be convicted, and serve time. Pretrial release helps ensure fairer outcomes by keeping people united with loved ones and with children, by not disrupting people’s work opportunities or destabilizing living conditions. **Presumptive release at pretrial** should be the default, making a pretrial RAI wholly unnecessary. At post-incarceration release, tools should be developed that, instead of measuring a

person's risk of 'failure,' actually **evaluate the community-based needs that a person must be able to access in order to succeed.**

**Action**

To learn more about risk assessment tools please contact JLUSA's policy department at [policy@jlusa.org](mailto:policy@jlusa.org). We also encourage you to contact us to learn more about how you can participate in ongoing grassroots efforts to oppose RAIs.