



## An Overview of the Sentence Risk Assessment Instrument

The Pennsylvania Commission on Sentencing is required by statute to adopt a sentence risk assessment instrument for the court to use to help to determine the appropriate sentence within the limits established by law. The instrument may be incorporated into the sentencing guidelines.

The sentence risk assessment instrument may be used as follows:

- To evaluate the relative risk that an offender will reoffend and be a threat to public safety;
- To determine whether a more thorough assessment is necessary;
- To identify cases that would benefit from a presentence investigation report;
- To determine appropriate candidates for alternative sentencing, including recidivism risk reduction incentive (RRRI), state intermediate punishment (SIP), county intermediate punishment (CIP) and state motivational boot camp (BC) programs.

(42 Pa.C.S.A. §2154.7)

### Risk Assessment Mandate

The Commission has a legislative mandate to adopt a risk assessment instrument to serve as an aide in the sentencing process. To fulfill this mandate, the Commission developed an actuarial risk assessment which will be automatically generated by SGS Web, the Commission's JNET-based sentencing application. During the initial phase of implementation, the risk assessment will be prepared for non-DUI offenders being sentenced following an open plea or trial. For those offenders who are identified as high or low risk by the sentence risk assessment, the Commission recommends, but does not require, that the court seek additional information in the form of a pre-sentence investigation (PSI) report or a fuller risk-needs assessment. Thus, the risk assessment does not make any recommendation regarding the sentence to be imposed. Instead, the assessment is incorporated as an informational tool that targets individuals with risk profiles that are higher or lower than average. Since these individuals are not typical offenders with respect to their risk of reoffending, the court will likely benefit from seeking additional information prior to imposing the sentence. During subsequent phases, the risk assessment will be prepared for those offenders sentenced following negotiated pleas as well as for DUI offenders.

### What is Risk Assessment?

A Sentence Risk Assessment Instrument is defined in the legislation as an empirically based worksheet which uses factors that are relevant in predicting recidivism. A risk assessment instrument is often identified with a specific 'generation' of development. First generation assessments were based on training and experience, generally referred to as professional judgement. Subsequent generations were based on actuarial data, focusing on the analysis of factors associated with an increased risk of reoffending. Second generation assessments (risk assessments) rely on static criminal justice and demographic factors, while third generation (risk-needs assessments) include dynamic factors and changing circumstances, such as relationships, employment, and substance abuse. Fourth generation assessments (risk-needs-responsivity assessments or RNR) integrate case management. Based on the legislative mandate and the need for a statewide instrument that could provide reliable and accurate sentence risk information to the court, the Commission developed a second generation instrument, with a Sentence Risk Assessment Summary automatically generated through SGS Web when preparing the sentencing guidelines.

### What Information is Considered in the Sentence Risk Assessment Instrument?

The Sentence Risk Assessment Instrument includes 18 different risk scales, each taking into account the seriousness of the current conviction as well as the type of potential re-offense. Nine OGS categories, linked to



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the sentencing guidelines' offense gravity scores (OGS), are used to weigh the seriousness of the current conviction, so that each risk scale assesses comparable offenders. Two outcome measures are then considered: risk of a re-offense for any type of crime and risk of a re-offense for a crime against a person. In all cases, the Sentence Risk Assessment Instrument measures the risk of re-offense within three years of release from incarceration or imposition of community supervision. In order to provide information on the relative risk that an offender will reoffend, the risk scores of all offenders in each offense category are compared, and only those scores outside the middle 68% (typical risk) are identified as high or low risk.

The Sentence Risk Assessment Instrument considers eight static or demographic factors, although not every factor is included in each of the 18 risk scales. Risk factors and scales are based on the most serious offense of a judicial proceeding. Only those factors determined to be statistically significant in relation to risk of re-offense for a specific offense category are included in the corresponding risk scale. The following factors are considered:

- Offender (age)
- Offender (gender)
- Prior Arrests (number of OTNs bound over for trial or resulting in conviction by a minor court)
- Prior Arrests (offense types)
- Current Conviction (offense type)
- Current Conviction (multiple offenses in judicial proceeding)
- Current Sentencing Guidelines (prior record score)
- Current Sentencing Guidelines (prior juvenile adjudications)

The information used to generate these scales is obtained from the Administrative Office of Pennsylvania Courts and through the Commission's SGS Web application.

The risk scales and recidivism rates included with the Sentence Risk Assessment Instrument use Pennsylvania arrests obtained from the Administrative Office of Pennsylvania Courts. The Commission is re-analyzing these data to remove any arrests dismissed by a minor court. Upon completion, the Commission will publish revised risk scales and recidivism rates and hold a public hearing to receive comment before final adoption of the Sentence Risk Assessment Instrument.

### How is the Sentence Risk Assessment Instrument Used?

Threat to public safety is an important consideration in the sentencing guidelines and is demonstrated through the linking of sentence recommendations to the seriousness of the conviction as well as an offender's criminal history and criminal behavior. The sentence risk assessment score or category is not intended to be used by the court as an aggravating or mitigating factor per se. Rather, consistent with the legislation, the Commission recommends the Sentence Risk Assessment Instrument be used to determine when the court should order a PSI report and/or a RNA or RNR assessment. Additional information may assist the court in determining an appropriate and individualized sentence, including the suitability of various sentencing alternatives and programs and the duration and intensity of supervision.

The recommendation for additional information should apply to offenders determined to be in one of the following risk categories: high risk of re-offense for any crime or for a crime against a person; or low risk of re-offense for any crime or for a crime against a person. This targeting of cases for additional information is consistent with the core principles of offender risk management: match the level of service to the offender's risk to re-offend; assess criminogenic needs and target them in treatment; and structure the sentence to address the learning style, motivation, abilities and strengths of the offender.



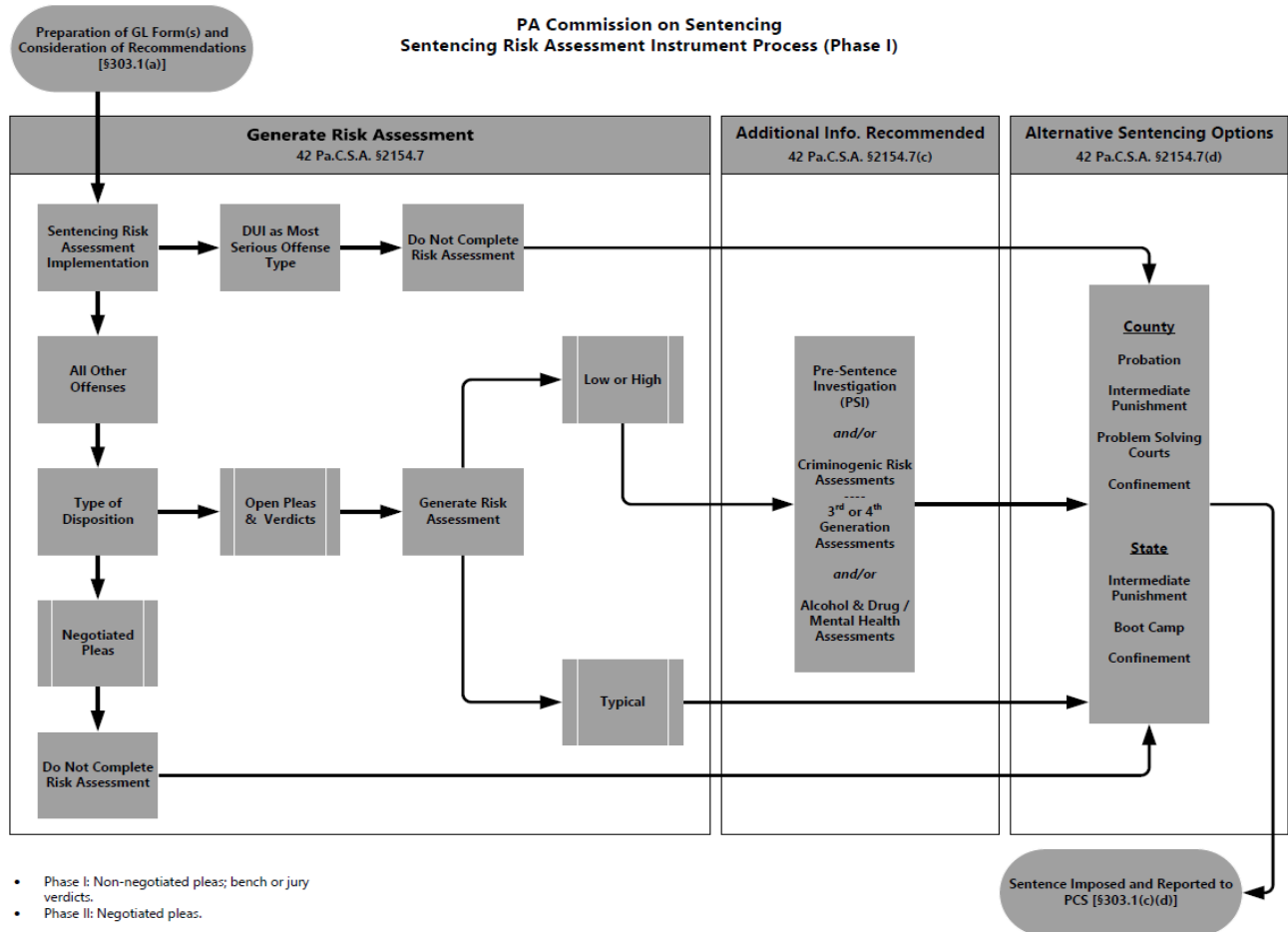
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It is also consistent with the Rules of Criminal Procedure: “the pre-sentence investigation report shall include information regarding the circumstances of the offense and the character of the defendant sufficient to assist the judge in determining sentence” (Pa.R.Crim.P. Rule702(A)(3)).

## A Phased Implementation Plan

A proposed Sentence Risk Assessment Instrument was adopted by the Commission on March 16, 2017 published in the *Pennsylvania Bulletin* (Vol 47, No. 14, April 8, 2017), with five hearings scheduled during May to receive public comments. Considering the difficulties of adding a new procedure to an existing process, and the resources that may be required to prepare additional information prior to sentencing, the Commission has proposed a multi-phase approach to implementation:

- Phase I (2018)
  - Limited to non-DUI offenders with convictions obtained: 1) through an open plea or 2) following a bench or jury trial.
  - Requires review of SGS Web-generated Sentence Risk Assessment Summary.
  - Recommends preparation of additional information (PSI report and/or 3<sup>rd</sup> or 4<sup>th</sup> generation risk assessment) for those offenders determined to be high risk or low risk.
- Phase II (to be determined)
  - Expands Phase I process to include all other convictions.



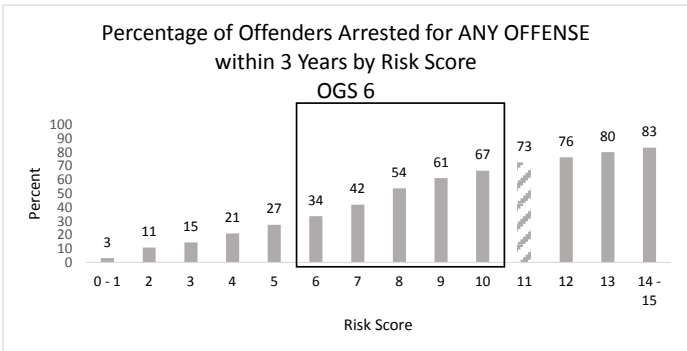
### Risk Assessment Summary

<b>OFFENDER</b>		
Name: Risk TEST	DOB Or Age: 1/1/1990	State ID: 123-45-67-8
<b>JUDICIAL PROCEEDING</b>		
Docket #: TEST_02-04-2014-1	Commission ID: TEST_2014_02_04	Status: Pending Completion
Judge: Common Pleas Court Judge	County: Allegheny	
<b>RISK SCORE INFORMATION</b>		
Current Offense: 18 § 3502 Burglary (Not of a Home/Person Present)		
OGS: 6	Offense Date: 10/01/2015	

**RISK FACTORS FOR ANY OFFENSE**

	Possible Points	Offender's Point Total
<b>Number of prior OTNs (after judicial review)</b>		
	0	0
	1	1
<input type="text" value="3"/>	2-3	2
	4-5	3
	Greater than 5	4
<b>Prior public admin. offense</b>		
	No	0
<input type="text" value="Yes"/>	Yes	1
<b>Prior danger to person/sexual offense</b>		
	No	0
<input type="text" value="No"/>	Yes	1
<b>Current offense type</b>		
	Personal/Sex	0
<input type="text" value="Burglary"/>	All Other	1
<b>Gender</b>		
	Female	0
<input type="text" value="Male"/>	Male	1
<b>Age</b>		
	Greater than 49	0
	40-49	1
	30-39	2
	26-29	3
<input type="text" value="25"/>	21-25	4
	Less than 21	5
<b>Multiple current convictions in JP</b>		
	No	0
<input type="text" value="Yes"/>	Yes	1
<b>Prior juvenile adjudication</b>		
	No	0
<input type="text" value="Y"/>	Yes	1
<b>TOTAL RISK SCORE</b>		<b>11</b>
<b>RECIDIVISM RATE (ANY OFFENSE) WITH A RISK SCORE OF 11</b>		<b>73%</b>

The graph below depicts the likelihood of offenders at OGS 6 being arrested for ANY OFFENSE within three years of release from incarceration or imposition of probation/county IP based on their risk score.



The box represents where the majority of offenders lie [one standard deviation above and one standard deviation below the average risk score of 7.9].

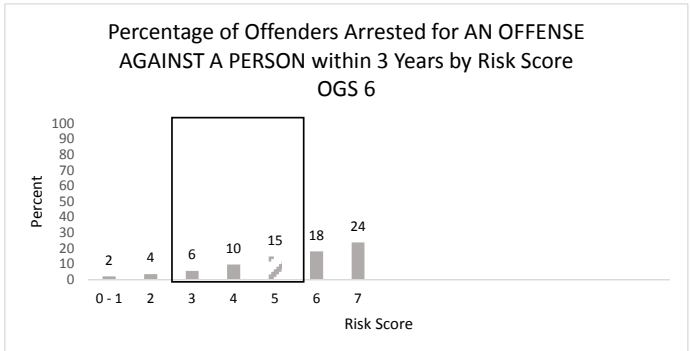
The striped bar represents the recidivism rate for ANY OFFENSE for offenders with a risk score of 11.

**HIGH RISK (any offense) - Recommend additional information**

**RISK FACTORS FOR AN OFFENSE AGAINST A PERSON**

	Possible Points	Offender's Point Total
<b>Number of prior OTNs (after judicial review)</b>		
	No	0
<input type="text" value="Yes"/>	Yes	1
<b>Prior public admin. offense</b>		
	No	0
<input type="text" value="Yes"/>	Yes	1
<b>Prior danger to person/sexual offense</b>		
	No	0
<input type="text" value="No"/>	Yes	1
<b>Gender</b>		
	Female	0
<input type="text" value="Male"/>	Male	1
<b>Age</b>		
	Greater than 49	0
	30-49	1
<input type="text" value="25"/>	21-29	2
	Less than 21	3
<b>TOTAL RISK SCORE</b>		<b>5</b>
<b>RECIDIVISM RATE (OFFENSE AGAINST A PERSON) WITH A RISK SCORE OF 5</b>		<b>15%</b>

The graph below depicts the likelihood of offenders at OGS 6 being arrested for AN OFFENSE AGAINST A PERSON within three years of release from incarceration or imposition of probation/county IP based on their risk score. Overall, the likelihood of being arrested for a PERSONAL offense is low.



The box represents where the majority of offenders lie [one standard deviation above and one standard deviation below the average risk score of 3.9].

The striped bar represents the recidivism rate for AN OFFENSE AGAINST A PERSON for offenders with a risk score of 5.

**TYPICAL RISK (offense against a person) - No recommendation**