EXPANDED VALIDATION OF A DECISION AID FOR PRETRIAL CONDITIONAL RELEASE

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EXECUTIVE SUMMARY

The intent of pretrial decision making is to determine if an individual who has been arrested can be released back into the community prior to his or her court date without posing a risk of failing to appear for court, of committing a new offense or harming someone. The role of pretrial personnel[1] is to provide an independent assessment of the client's risk and to recommend to the court whether the client should be considered for a financial bond or a non-financial form of release. In Connecticut, a risk assessment point scale provides pretrial personnel with guidance in determining the level of risk posed by a client and thus what type of recommendation (financial bond or non-financial release) should be made. When a client poses minimal to slight risk, he or she may be released on a small bond or a promise to appear. The court may apply a condition to the client's release in order to further ensure his or her appearance in court.

A *Decision Aid for Pretrial Conditional Release* was developed in 2004 to guide pretrial personnel in determining if a condition is needed and in matching the client's needs with conditions. The *Decision Aid* classifies clients' needs into three primary areas: personal needs (e.g., substance abuse, unemployment), compliance needs (e.g., prior FTA, living alone), and safety risks (e.g., violent offender). The menu of available conditions (e.g., drug treatment, call-ins, electronic monitoring) is similarly organized according to these areas of needs. The *Decision Aid* helps the interviewer to narrow down the set of conditions that might best address a client's needs.

The new *Decision Aid* was piloted in two courts (Waterbury and New Britain) with a total of 103 cases and compared to samples of cases collected prior to and after implementation.[2] The *Decision Aid* was found to have positive effects on pretrial release recommendations and outcomes. For example, the likelihood of recommending a condition was significantly higher in the *Decision Aid* group than the pretest group. There also were significantly more matches between the bail recommended condition and the court ordered condition in the *Decision Aid* group. We further found that the *Decision Aid* group experienced a lower failure to appear rate than the pretest group although this finding was not statistically significant, and was countered by a higher rate of new arrests. We did find that clients in the *Decision Aid* group were "riskier," on average, than those in the pretest group, suggesting that the groups may not have been as comparable as intended.

Although the findings from the pilot study were promising, they were based on a small sample and represented only two courts. Thus, we conducted an expanded validation involving four courts (New Britain, Waterbury, Hartford, New Haven) and a larger sample. The *Decision Aid* was used on a total of 357 cases and compared to a matched sample of 550 cases collected prior to implementation (pretest). Again, we looked at how the use of the Decision Aid affected pretrial recommendations and outcomes.

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[1] Pretrial personnel is used herein to refer to any staff, primarily Bail Commissioners and Intake, Assessment and Referral Specialists, who are responsible for making pretrial recommendations to the court.

[2] Hedlund, J., Cox, S.M., Hines, M, Carollo, J., & Dwyer, L. (2005). Development and validation of an assessment for pretrial conditional release. Report submitted to Court Support Services Division, Judicial Branch, State of Connecticut.

We found that the likelihood of recommending a non-financial form of release was more than double in the *Decision Aid* group compared to the pretest group. There also were three times more cases receiving a conditional release recommendation in the *Decision Aid* group compared to the pretest groups. Additionally, in the *Decision Aid* group, we found a 16% increase in the number of cases where the bail recommended condition matched the court ordered condition, which suggests that judges were more likely to follow the bail recommendation when the *Decision Aid* was used.

In regard to outcomes, we found that 18% fewer clients were held in pretrial detention when the *Decision Aid* was used. For those clients out on release, we found that fewer clients failed to appear when the *Decision Aid* was used (12%) than when it was not (17%). When we limited the analyses to only those cases where the bail recommended condition matched the court ordered condition, the FTA rearrest rate was 50% lower (8% vs. 19%), suggesting that the *Decision Aid* facilitated more effective conditional release recommendations. Additionally, the likelihood of being convicted of a FTA was 66% lower in the *Decision Aid* than the pretest group (3% vs. 9%).

Lastly, we looked at conviction data to determine if the *Decision Aid* had an effect on the likelihood of being convicted or the sentence received. We found that clients who were held in pretrial detention were more likely to be convicted and received longer sentences than clients in the pretest group. Since more clients were released in the *Decision Aid* group, these findings suggest an indirect relationship between the use of the *Decision Aid* and sentencing outcomes. Although these results do not control for charge severity, they are an indication of the potential negative effects of pretrial detention.

Overall, these findings have several potential implications for pretrial decision making. First, since the *Decision Aid* encourages the use of conditional release, it can reduce the reliance on financial bonds as a means for ensuring appearance. Second, the *Decision Aid* facilitates more consistent and thoughtful recommendations regarding conditional release, which can reduce potential disparities in recommendations across pretrial personnel and courts. Third, by improving conditional release recommendations, more clients may show up for court. In fact, we found that when the bail recommended condition matched the court ordered condition, the use of the *Decision Aid* was associated with a 50% reduction in the FTA rate. Finally, the use of the *Decision Aid* can reduce the pretrial prison population by encouraging the release of more clients on conditions who might otherwise be held on a financial bond.

Based on the positive results of the current study, combined with those of the earlier pilot study, we present several recommendations for making more effective and widespread use of the *Decision Aid*. First, all pretrial personnel should be trained on the use of the *Decision Aid*. This not only will improve the appropriateness of recommendations, but also the potential influence that pretrial personnel have on judicial decisions. Second, the *Decision Aid* should be incorporated into the regular pretrial interview process to facilitate more efficient and effective use of the tool. Third, additional resources should be allocated to account for the time required to make the most effective and extensive use of the *Decision Aid*. Finally, new technologies should be considered to facilitate the collection and management of *Decision Aid* data so that information can be generated and recorded in a more timely and accurate manner.

ACKNOWLEDGEMENTS

TABLE OF CONTENTS

BACKGROUND

After an individual is arrested, a decision needs to be made as to whether the person should be held in custody until his or her court date or whether she or he can be released back into the community. This decision ultimately is made by a judge with input from prosecution and defense attorneys as well as bail commissioners, whose purpose is to provide an independent recommendation based on several client factors. These factors, as defined by Section 54-63c of the Connecticut General Statutes, include (1) nature and circumstances of the offense; (2) prior convictions; (3) prior failure to appear in court; (4) family ties; (5) employment record; (6) financial resources, character, and mental condition; and (7) community ties. Bail commissioners are required to seek the least restrictive conditions of release that will ensure the client will appear in court and avoid committing a new offense, while also protecting the safety of the community. Options range from a written promise to appear (i.e., release on recognizance) to a high cash bond. Connecticut uses a risk assessment point scale, which was revised in 2003,[3] to help make an initial determination as to whether a client should be considered for a financial bond or a non-financial form of release (e.g., promise to appear). Points are awarded for family ties, employment and education, verifiable references, and no prior record. Points are taken away for charge seriousness, substance abuse or mental health problems, criminal history, and prior failure to appear.

Bail commissioners also can recommend a variety of pretrial conditions, which may be in lieu of or in addition to financial bonds. These pretrial conditions may include, for example, urine testing, alcohol and drug treatment, report to supervision, curfew and electronic monitoring. These conditions are intended to accomplish three main goals: (a) to prevent recidivism, (b) to ensure appearance in court, and (c) to address mitigating factors that may have led to the offense (e.g., drug addiction, mental health problem). Although the risk assessment point scale can guide bail commissioners' recommendations to release or set bond for a client, there previously was no existing tool to assist them in determining the most appropriate form of conditional release for a client. This can lead to inconsistencies in the use of conditions across courts and personnel, and to conditions that fail to adequately address clients' needs. Thus, the goal was to develop a tool to improve the process of making conditional release recommendations, and ultimately, to reduce the likelihood that clients will fail to show up for court or commit new offenses.

Decision Aid for Pretrial Conditional Release

In 2004, we developed a *Decision Aid* to guide conditional release recommendations. The *Decision Aid for Pretrial Conditional Release* (see Appendix A) was developed based on an analysis of best practices among pretrial personnel, a review of existing measures of criminogenic needs, and an examination of the use of conditions during pretrial release. The *Decision Aid* is structured around three primary areas of needs that conditions are intended to address: personal needs, compliance needs and safety risks.

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[3] Hedlund, J., Cox, S.M., & Wichrowski, S. (2003). Validation of Connecticut's risk assessment for pretrial decision making. Wethersfield, CT: Court Support Services Division, Judicial Branch, State of Connecticut.

Personal needs include substance use and mental health issues as well as lack of employment or education. These are factors that may have contributed to the client's current charges and might put them at risk of failing to appear for court or reoffending. However, if these needs are addressed through the use of conditions, the client may be successfully released until his/her court appearance. Conditions that address personal needs include, for example, employment counseling, substance abuse treatment, and mental health evaluation.

Compliance needs focus specifically on factors that may hinder the client's ability to appear for his/her court date. These were divided into two main areas: social support & structure and prior compliance history. *Social support & structure* includes age, living arrangement, marital status and means of support. *Prior compliance* includes probation violations and prior FTAs. Conditions that are intended to address compliance issues include, for example, random urines, call-ins, and alternative to incarceration centers (AICs).

Finally, *safety risk* pertains to the potential threat posed by the individual to others if she/he is released. Assessing safety risk involves determining if the current charge is violent and if the client has any prior misdemeanors or felonies. It is important to note that this assessment is only relevant for violent offenders who are being considered for release. The conditions that might be used to address safety risks include protective orders, requirements to stay away from the victim, and electronic monitoring, for example. If other needs are identified along with a safety risk (e.g., substance abuse) then residential placements might be considered as opposed to non-residential treatment.

The intent of the *Decision Aid* is to assist pretrial personnel in making conditional release recommendations by narrowing down the available options to a smaller subset of conditions that are most appropriate for addressing clients' needs. It is not intended to pinpoint the exact condition for each particular need since there are so many variables that could influence conditional release recommendations (e.g., availability of programs, client's demeanor during the interview). The goal is to help pretrial personnel make more informed decisions, while maintaining much of the discretion they have to use their own best judgments. The process of narrowing down options involves prompting pretrial personnel to ask follow-up questions as certain needs are identified. For example, if a client was arrested on drug possession charges, the interviewer should ask follow-up questions to determine if the client has a substance abuse problem, and, if so, what is the extent of that problem. A client who indicates drug use, but has never had treatment, might be recommended for a substance abuse evaluation.

The three areas of need are organized such that conditions to address personal needs may subsume other client needs. For example, if a client has a severe substance abuse issue and is recommended for a residential treatment program, then compliance needs and safety risks have already been addressed. After collecting the additional information, pretrial personnel are asked to generate a recommendation that attempts to match the list of available conditions with the client's needs. This recommendation may or may not involve a condition. For example, after probing further into the clients' substance abuse history, pretrial personnel may decide that a bond may be more appropriate. The overall intent of the *Decision Aid* is to produce a more well-informed recommendation, not necessarily a conditional release recommendation.

Decision Aid Pilot Study

The *Decision Aid* was pilot tested in two courts, New Britain and Waterbury, using a pretest-posttest design. The *Decision Aid* was used with a total of 103 cases. It was compared to a group of cases processed during a one-month period prior to implementing the *Decision Aid* (n = 182), as well as a group processed during a one to two-month period after the implementation during which the *Decision Aid* was not used (n = 181).

Several measures were examined to assess the impact on the *Decision Aid* on pretrial recommendations and outcomes. These included the likelihood of making a financial vs. non-financial recommendation, the likelihood of recommending a condition, the number of conditions recommended, and the extent of agreement between the bail recommended condition and the court ordered condition. Finally, pretrial outcomes were classified as successful (appeared in court, completed conditions), failed to appear, or arrested on new charges.

We found that the likelihood of making a non-financial recommendation was not greater when the *Decision Aid* was used; in fact, it was slightly lower. However, this finding varied across the two courts, which may have been attributable to differences in personnel experience. The intent of the *Decision Aid* is to allow more clients to be released with conditions instead of held on financial bond, but it does not preclude personnel from making a bond recommendation.

Although there was no increase in the number of non-financial release recommendations, the use of the *Decision Aid* resulted in a significantly greater number of cases receiving a conditional release recommendation (76% vs. 55% for the pretest group). However, the use of the *Decision Aid* did not result in a higher number of conditions recommended per client; the average number of conditions recommended per client was comparable across groups.

We also looked at the extent to which the recommended condition matched the court ordered condition as an indication that the recommendation of the pretrial personnel was followed by the judge. The percentage of conditional recommendations that matched the court ordered recommendations was significantly higher in the *Decision Aid* group than the pretest comparison group (63% vs. 47%).

Finally, we examined the impact of the *Decision Aid* on pretrial outcomes by looking at the percentage of successful cases versus those cases that resulted in a rearrest (i.e., failure to appear) or a new arrest (i.e., new offense or outstanding warrant). We only included cases that involved a match between the bail recommended and court ordered conditions because they represented cases for which the outcome could be attributable, at least in part, to the influence of the pretrial recommendation. The findings regarding pretrial outcomes were mixed. The *Decision Aid* group experienced a lower failure to appear rate compared to the pretest group (9% vs. 15%). This lower rate was in spite of the *Decision Aid* group representing a more risky group of clients (as indicated by their average risk assessment points) than the pretest group. However, there were a greater number of new arrests in the *Decision Aid* group compared the pretest groups. We discuss several limitations below that may have affected these results.

First, the results are based on a small sample drawn from two courts. The sample size was further reduced in the outcome analysis since we only used cases for which the recommended condition matched the court-ordered condition. Second, we discovered that the groups did not

represent comparable levels of risk. The *Decision Aid* group was 3 points lower (i.e., more risky), on average, than the pretest comparison group. This could explain the higher rate of new arrests in the *Decision Aid* group as well as the higher number of financial recommendations. Lastly, we were unable to determine from the available data whether the new arrests in fact represented new offenses or rather outstanding warrants on offenses committed prior to the most recent arrest. We attempted to address these limitations by conducting a follow-up study, which is described below.

EXPANDED VALIDATION

Method

The purpose of the expanded validation was to address some of the limitations of the pilot study and to obtain further support for the use of the *Decision Aid*. We sought to improve on the previous study by: (1) implementing the *Decision Aid* in two new courts, (2) obtaining a larger sample of cases for which the *Decision Aid* was used, (3) selecting a comparison sample that more closely matched the *Decision Aid* group based on risk score, and (4) collecting more detailed and reliable data on pretrial outcomes (e.g., court appearance, pretrial detention, verdict).

As in the pilot study, pretrial personnel were trained on the use of the *Decision Aid* and asked to implement it for a period of time. They were instructed to use it on any cases for which the client might be released on a promise to appear or by posting bond. Pretrial recommendations and outcomes based on the *Decision Aid* were compared to similar cases collected prior to its implementation.

Sample

The study was conducted in 4 courts: Hartford, New Britain, New Haven, and Waterbury, CT. The sample sizes are shown in Table 1 below. A total of 357 *Decision Aid*s were implemented between June and October of 2006. Matched samples were created for each court using cases from a two month period (April to May 2006) prior to implementation (Pretest 2006) and for a comparable period (June to August 2005) the previous year (Pretest 2005). We did not collect 2005 data from Waterbury or New Britain due to their previous participation in the Pilot Study.

Table 1. Number of Cases by Study Group and Court

	Pretest 2005	**Pretest 2006**	*Decision Aid*	**Total**
Waterbury	0	105	100	205
Hartford	67	50	43	160
New Britain	0	118	112	230
New Haven	103	107	102	312
Total	**170**	**380**	**357**	**907**

The matched samples were created for each court separately. This was done by drawing random samples of cases from the total pool of cases processed in each participating court during the respective time period (e.g., April to May). Random samples were repeatedly drawn until a sample was obtained that matched the *Decision Aid* group in regard to several factors: risk assessment points, age, prior record, prior FTA, marital status, living companion, means of support, job status, education, and mental health/substance abuse. The primary factor used to match the samples was risk score since this represents a composite of all items that are relevant to determining a client's risk of failing to appear. We looked at the distribution of risk score (i.e., range and mean score) in both the *Decision Aid* sample and prospective match to determine a good fit. A post-hoc analysis of the risk scores across the selected samples is shown in Table 2 and demonstrates the comparability of the study groups. Specifically, there are no significant differences between the groups in regard to risk scores. The 2005 pretest group exhibits a slightly higher average risk than the 2006 pretest group, but this may be attributable to the fact that the 2005 group was drawn from only two courts, but is being compared to the average risk for all four courts. Overall, these analyses increase our confidence that any differences in pretrial recommendations and outcomes across groups can be attributed to the implementation of the *Decision Aid* rather than preexisting differences between the groups.

Table 2. Comparison of Groups Based on Risk Assessment Points

	Pretest 2005	**Pretest 2006**	*Decision Aid*	**Total**
Average Point	-2.26	-1.61	-1.42	-1.64
Range	-13 to 8	-14 to 12	-15 to 12	-15 to 12
25th Percentile	-5	-5	-6	-5
50th Percentile	-3	-2	-1	-2
75th Percentile	2	3	3	2

Measures

Several measures were created to assess the impact on the *Decision Aid* on pretrial recommendations. First, we classified the initial bail recommendations into two groups: financial (e.g., surety, 10% bond, etc) or non-financial (e.g., WPTA). Next, we created a variable that indicated whether any condition was recommended and another variable that represented the total number of conditions recommended per case. We also created an indicator of the agreement between the bail recommended condition and the court ordered condition. If the judge's order was consistent with the primary condition recommended by the pretrial personnel, the case was considered a match, even if the judge added other conditions.

We then looked at pretrial outcomes. First, we collected information as to whether the client was held in pretrial detention pending the next court appearance. Second, for those clients out on release, we looked to see if they were rearrested for a failure to appear between their

arrest date and verdict date, as well as if they were convicted of a failure to appear. We included any other new arrest on the same case as a failure to appear. Finally, we collected data on whether the client was convicted and, if so, what sentence she or he received.

Procedures

All pretrial personnel from participating courts were trained on the use of the *Decision Aid* in June 2006. They subsequently implemented the *Decision Aid* in their respective courts and continued to administer it until the target number of cases (100) were collected or the implementation period ended. Feedback obtained from the personnel during follow-up visits led to slight modifications of the formatting of the *Decision Aid* to make it more user friendly.

The comparison samples were drawn from all records collected in the Case Management Information System (CMIS) for the respective courts. The outcome data were obtained from Judicial Information Systems (JIS) and linked by case and client numbers to the CMIS data. This included data on all arrests and charges related to a case, and the verdicts for all charges. A failure to appear was determined by manually checking the arrest and charge data to determine if the client was rearrested on or convicted of a failure to appear any time between the arrest date and verdict date.

Results

The purpose of the study was to assess the impact of the *Decision Aid* on conditional release recommendations made by pretrial personnel and the relation of these recommendations to pretrial outcomes. The analyses were conducted by comparing three groups of cases: (1) cases collected during a similar period the year prior to *Decision Aid* implementation (Pretest 2005); (2) cases collected during a two-month period immediately prior to implementation (Pretest 2006), and (3) cases on which the *Decision Aid* was used. As indicated above, the Pretest 2005 sample was only collected for Hartford and New Haven. Therefore, the results for the remaining courts (New Britain and Waterbury) are presented for only two groups. Since the results based on the separate pretest groups were comparable, we combined the two groups for the overall analyses.

Non-Financial Release

As shown in Figure 1, there was a significantly higher percentage of non-financial release recommendations in the *Decision Aid* group compared to the pretest groups. For most courts, this difference represented more than a twofold increase in the number of clients being recommended for release without a financial bond. This finding suggests that with the use of the *Decision Aid*, pretrial personnel are less likely rely on financial bonds as a means of ensuring a client's appearance in court. A similar result is observed when looking at the judge's likelihood of ordering a non-financial form of release in the pretest versus *Decision Aid* groups (22% vs. 54%).

Figure 1. Percent of Cases Involving a Non-Financial Recommendation
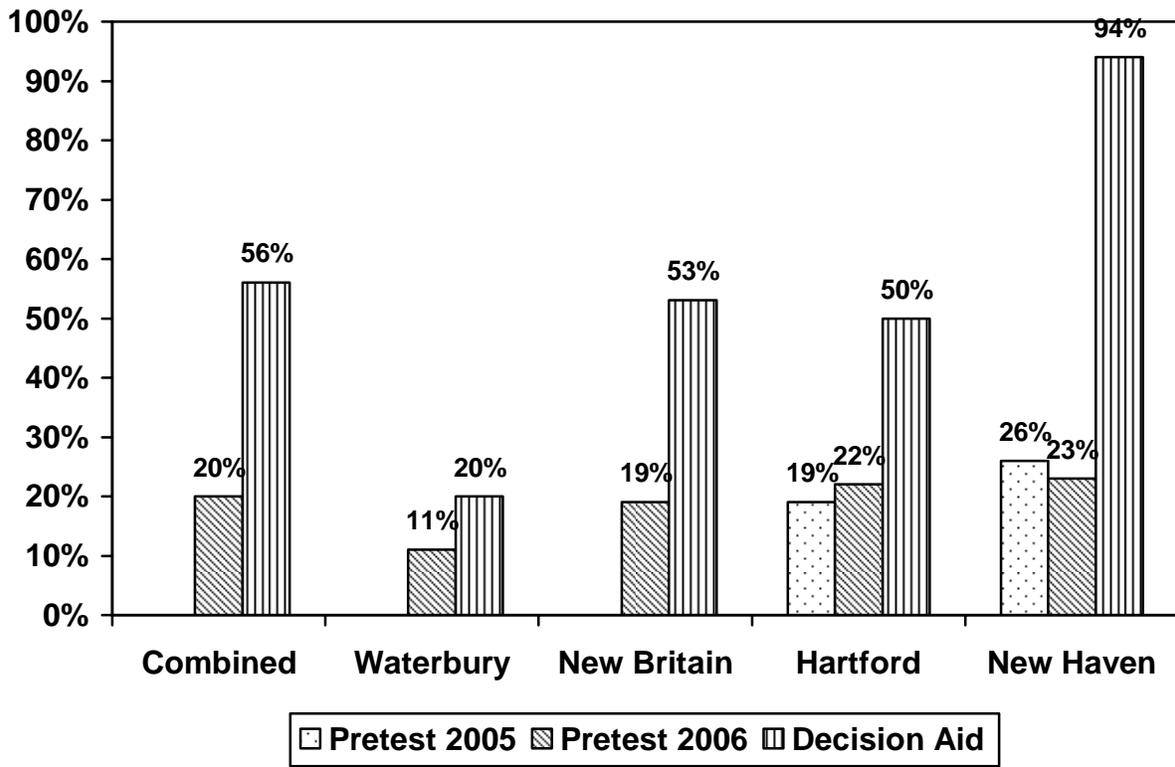
Conditional Release Recommendations

The next two figures focus specifically on the use of conditions in release recommendations. Figure 2 displays the percentage of cases for which a conditional release recommendation was made. There was a significantly greater likelihood of recommending a condition in the *Decision Aid* group compared to the pretest groups. These findings indicate that pretrial personnel applied conditions to more cases as a result of using the *Decision Aid*. A similar pattern was observed when looking at the likelihood of judges ordering conditions. In the pretest groups, judges ordered conditions in 35% of the cases compared to 72% of the cases in the *Decision Aid* group.

Figure 3 shows that the average number of conditions recommended per client also was greater in the *Decision Aid* group than the pretest groups. This difference indicates that pretrial personnel were recommending far less than one condition per client, on average, in the pretest groups compared to an average of one condition per client in the *Decision Aid* group. A similar difference was found for the average number of court ordered conditions, with an average of .51 in the pretest groups to an average of 1.09 in the *Decision Aid* group. Taken together, these findings suggest that both pretrial personnel and judges relied more on the use of conditions and less on financial bonds when releasing pretrial defendants.

Figure 2. Percent of Cases Involving a Conditional Release Recommendation
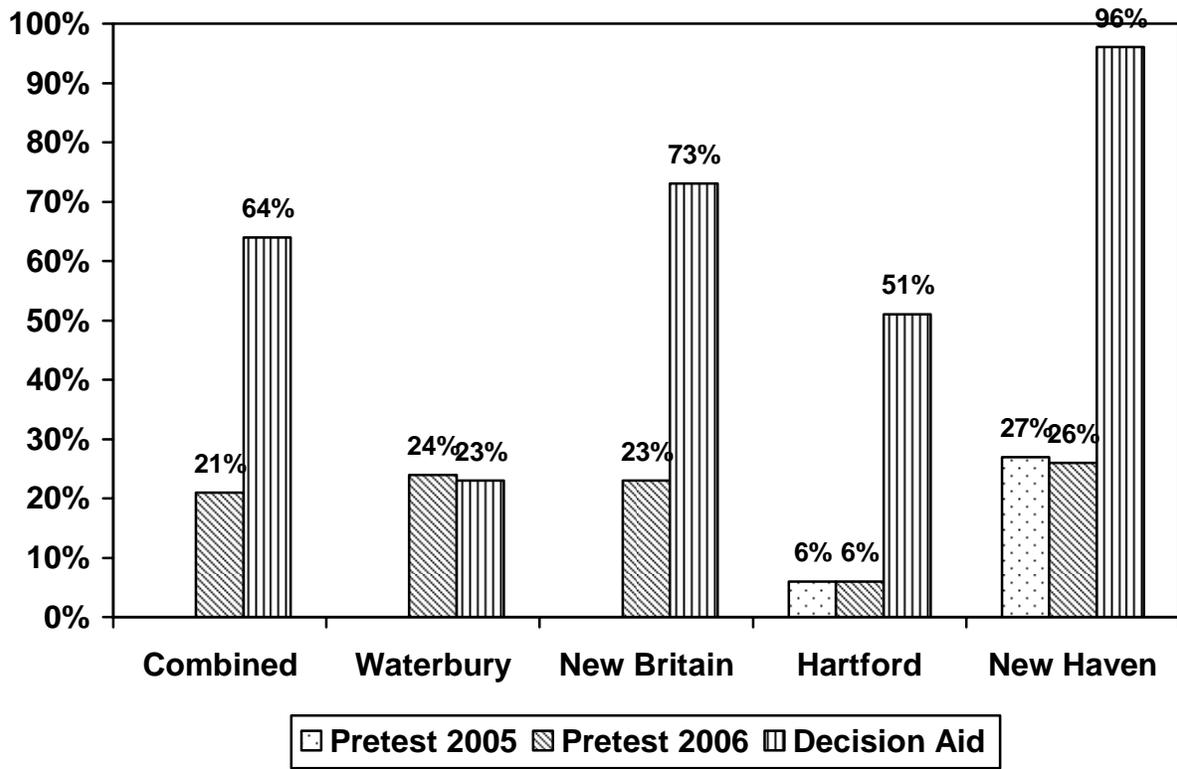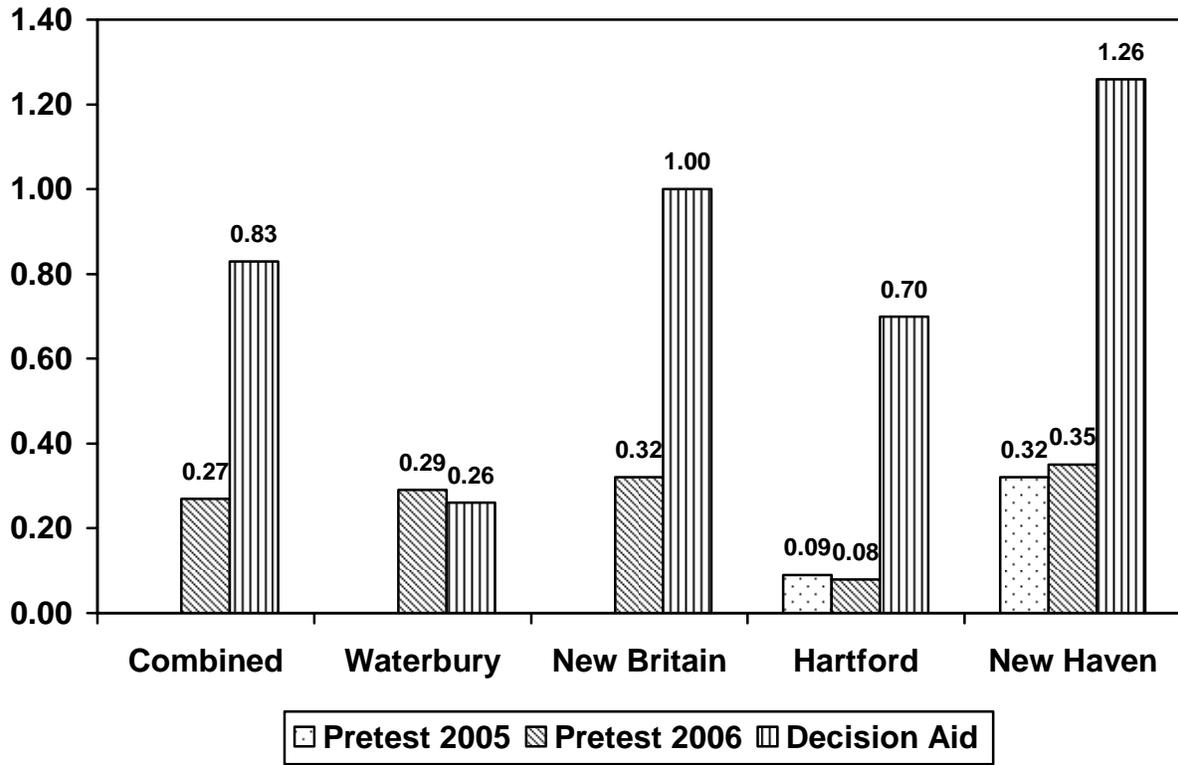
Figure 3. Average Number of Conditions Recommended by Study Group and Sample

Next, we looked at the extent to which the bail recommended condition matched the court ordered conditions. A match is interpreted to indicate that the bail recommendation was incorporated, to some extent, into the judge's order. In other words, a higher percentage of matches suggests that pretrial personnel had more influence on the judge. As shown in Figure 4, the percentage of matches was significantly higher in the *Decision Aid* group compared to the pretest groups. This finding did vary across courts, which may be attributable to differences in individual judge's responsiveness to input from the pretrial personnel, or to the experience of personnel in the different courts. In other words, judges may be more inclined to receive input from more experienced bail commissioners. One of the goals of the *Decision Aid* is to provide more and less experienced personnel with stronger justifications for their recommendations. Thus, we expect that the amount of influence on judge's decisions should increase with greater use of the *Decision Aid* over time.

Figure 4. Percent of Cases Involving a Match between Bail Recommendation and Court Order
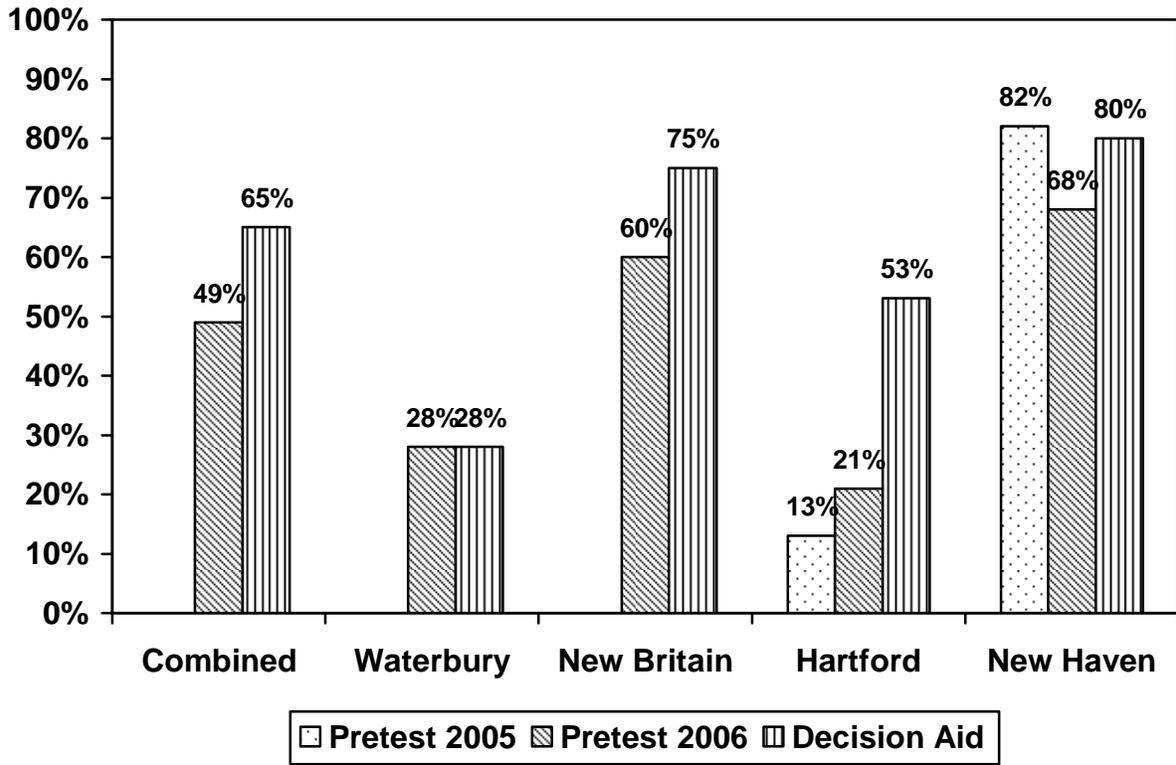
Pretrial Outcomes

We examined the impact of the *Decision Aid* on various pretrial outcomes. These include the likelihood of being held in pretrial detention, the likelihood of failing to appear, the likelihood of being convicted, and the length of sentence received.

Figure 5 shows the percentage of clients held in pretrial detention pending their next court appearance. There were significantly fewer cases held in pretrial detention in the *Decision Aid* group compared to the pretest groups. This difference was consistent across courts. This finding is consistent with the results presented above regarding release recommendations, and suggests that the use of the *Decision Aid* results in substantially more defendants being out on release pending their next court date. This finding has implications for both individuals who might suffer personal losses as a result of pretrial detention, and for the system that has to house those defendants who are held in pretrial detention.

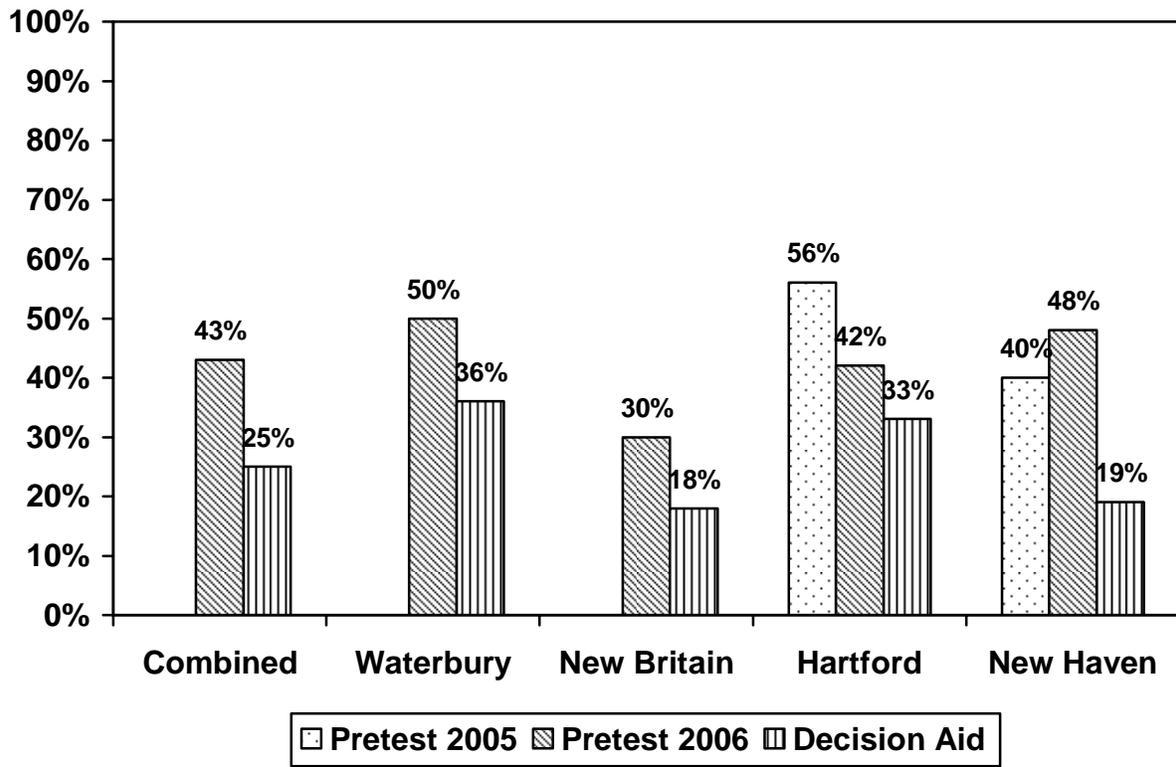Figure 5. Percent of Cases Held in Pretrial Detention

Figure 6a shows the percentage of clients who were rearrested on a failure to appear in each group. The findings overall indicate a lower rate of FTA arrests in the *Decision Aid* group (11%) compared to the pretest groups (17%). When the sample was limited to those cases where the bail recommended condition matched the court ordered condition, the findings were similar in that the percentage of FTAs was lower in the *Decision Aid* group (8%) than in the pretest groups (19%), and this difference was statistically significant. Figure 6b shows the percentage of clients convicted of a failure to appear across groups. As expected, these numbers are lower than those for rearrest rates, but the overall patterns are consistent in that clients in the Decision Aid group were less likely to be convicted of a FTA (3%) than clients in the pretest groups (9%). It is important to note that 90 (10%) of the cases in our sample are still pending an outcome, but we do not expect those cases to have a substantial influence on the results.

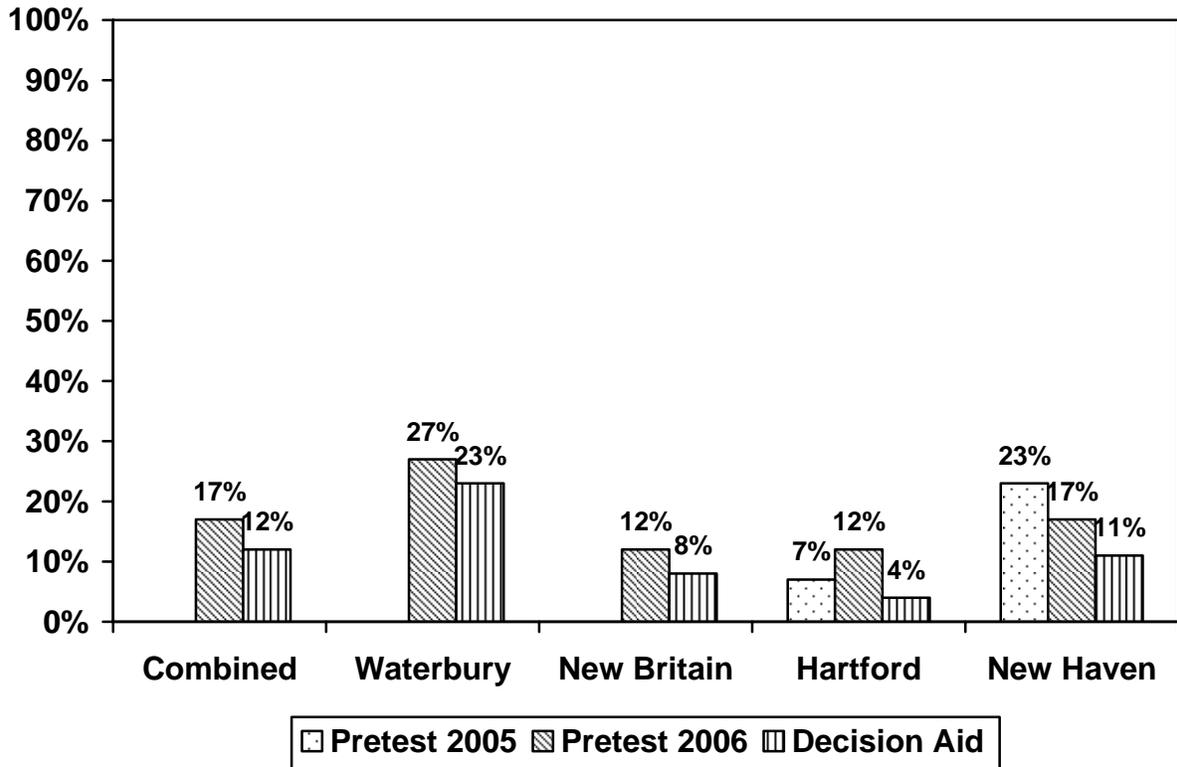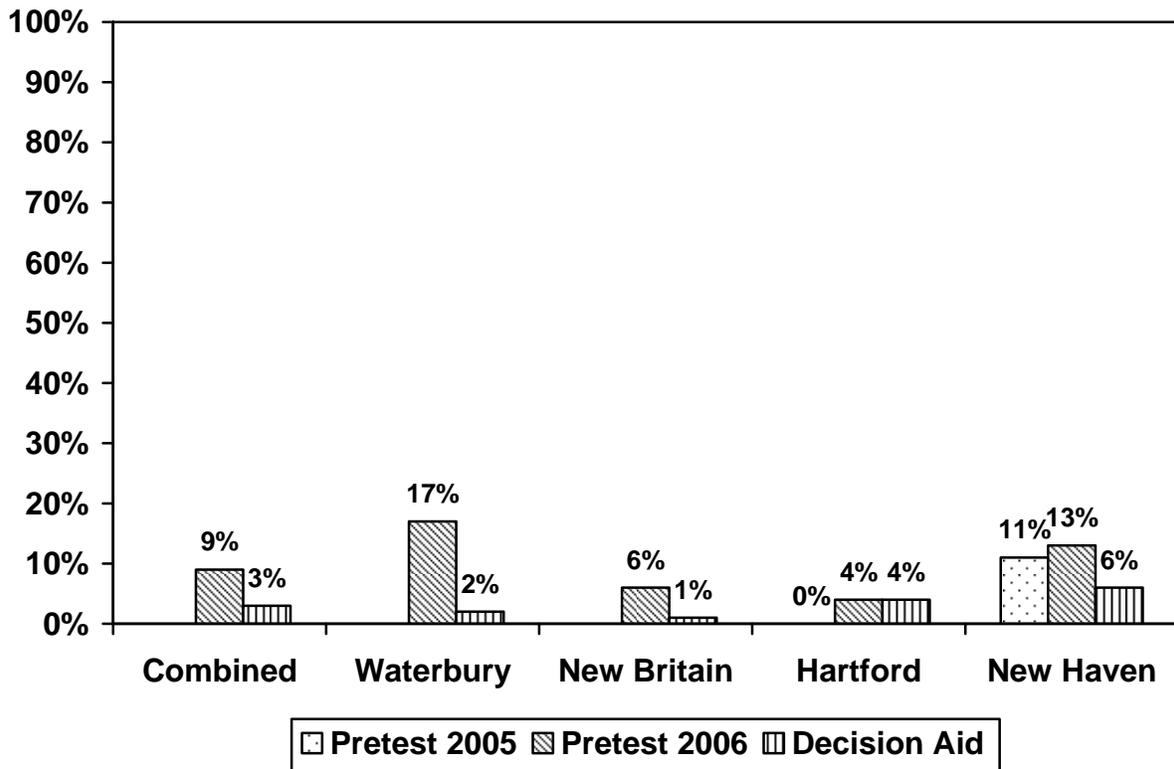Figure 6a. Percent of Clients Rearrested for a Failure to Appear

Figure 6b. Percent of Clients Convicted for a Failure to Appear

Previous research suggests that clients held in pretrial detention are more likely to be convicted and are likely to receive harsher sentences than clients released in pretrial. We looked at whether differences occurred in these two outcomes as a function of the use of the *Decision Aid*. Figures 7 and 8 show differences between the groups in terms of the likelihood of being convicted and the length of sentence received. Overall, there was minimal difference between the *Decision Aid* and pretest groups in the likelihood of being found guilty. However, these differences varied across courts, with some courts exhibiting a lower conviction rate in the *Decision Aid* group and some courts exhibiting a higher conviction rate. Thus, there is no consistent pattern of relationship between the use of the *Decision Aid* and likelihood of being convicted. However, we found that being held in pretrial detention (which did vary as a function of the *Decision Aid*), led to a significantly greater likelihood of being convicted (86% versus 64%). So there does appear to be an indirect relationship between the use of the *Decision Aid* and convictions.

In regard to sentence length, there was a significant difference between groups. Clients in the *Decision Aid* group were sentenced to four times longer in prison, on average, than clients in the pretest groups. This finding was consistent across courts. When looking at the relationship between pretrial detention and sentence length, we found that clients who were detained were sentenced to more than six times longer in prison than those who were released (352 versus 50 days respectively). It is important to note that these findings do not control for charge severity or other factors that might influence the likelihood of being convicted or the length of sentence.

However, given the comparability of the samples in terms of risk, the results do support prior findings regarding the negative effects of pretrial detention.

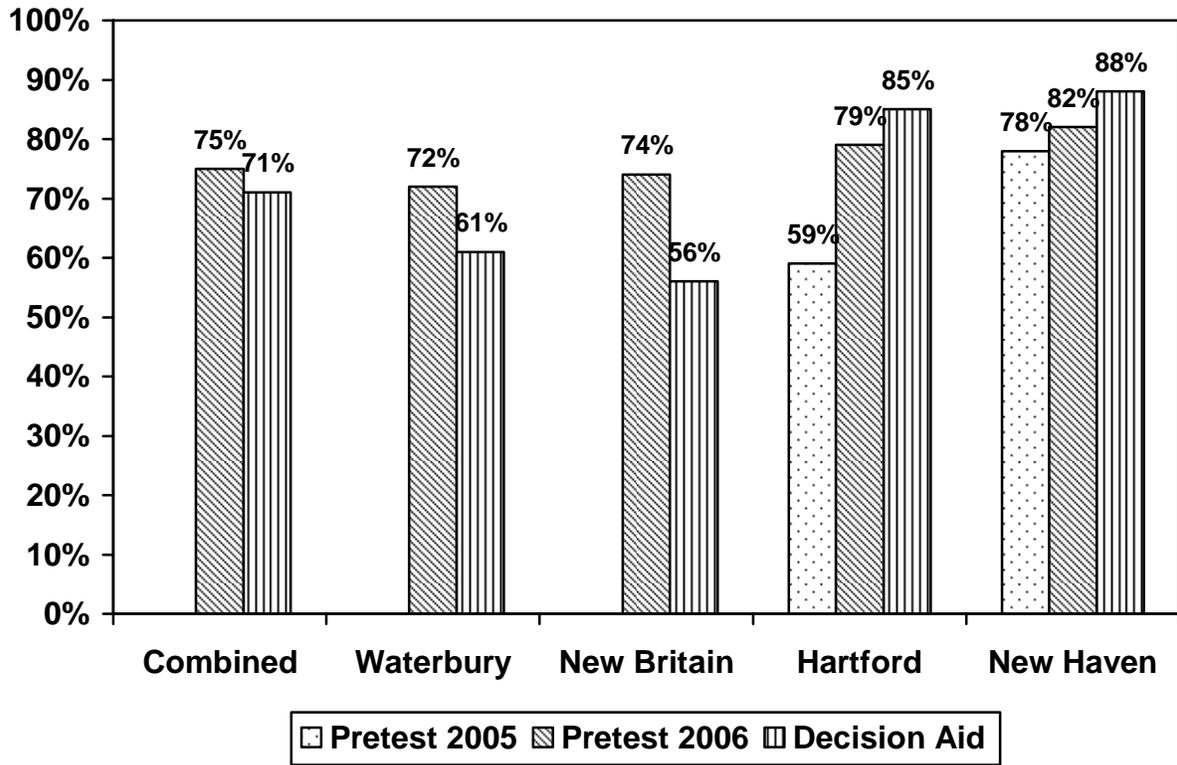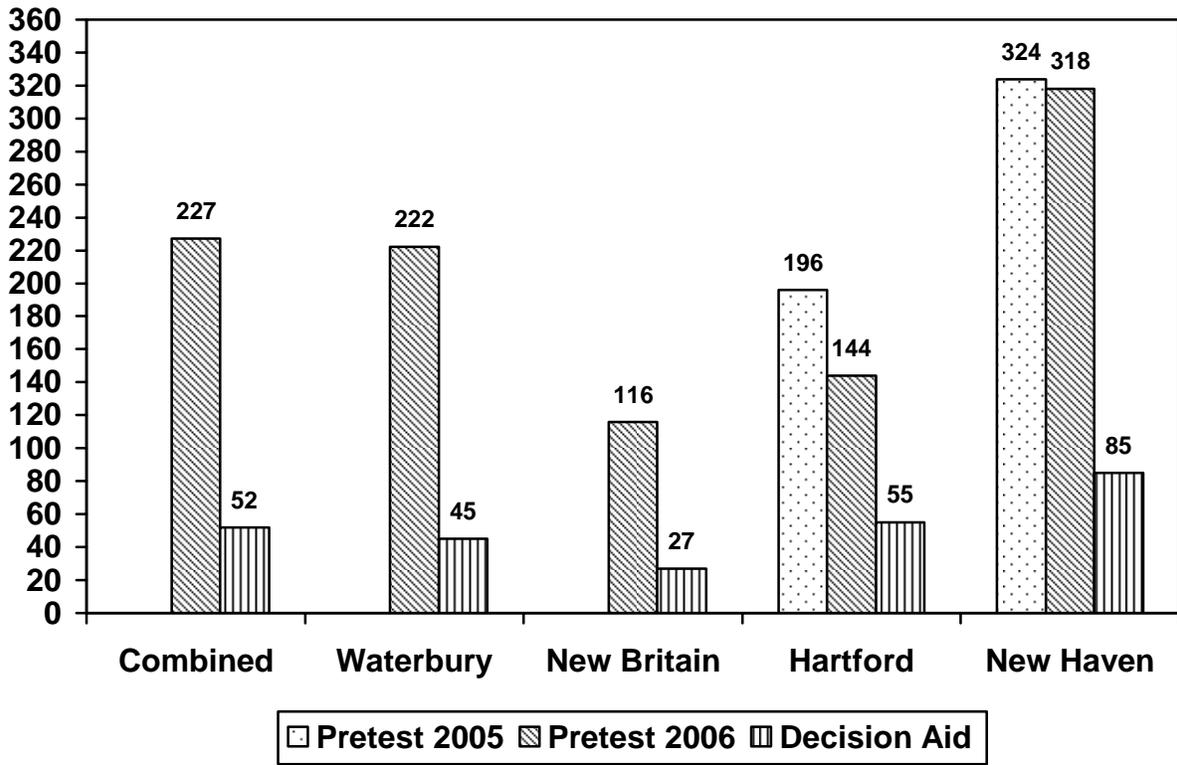Figure 7. Percent of Cases Resulting in a Guilty Verdict

Figure 8. Average Length of Sentence (in days) for Clients Found Guilty

Combined · Waterbury · New Britain · Hartford · New Haven

□ Pretest 2005 ☒ Pretest 2006 ⊞ Decision Aid

CONCLUSIONS & RECOMMENDATIONS

The purpose of the expanded validation study was to add support to the promising results obtained from our initial pilot study about the benefits of using the *Decision Aid* for pretrial conditional release recommendations. We improved upon the pilot study by expanding the study to include four instead of two courts and increasing the sample on which the *Decision Aid* was used from 103 to 357 cases. We also used a more rigorous approach in selecting our pretest sample, which resulted in groups that were highly comparable in terms of their level of risk. The results of the current study were similar and, in some cases stronger, than the results of the pilot study, and are summarized below.

Overall Summary

We found a significantly greater likelihood of recommending a non-financial form of release in the *Decision Aid* group (56%) compared to the pretest group (20%). A similar difference was found when looking at the judges' orders. There also were significantly more cases receiving a conditional release recommendation in the *Decision Aid* group (64%) compared to the pretest groups (21%). The average number of conditions per clients was also significantly higher in the *Decision Aid* group (.83) compared to the pretest group (.27) indicating that without the *Decision Aid*, pretrial staff recommended far less than one condition per client on average, while with the *Decision Aid*, they recommended closer to one condition, on average, per client. Finally, we found significantly more cases where the bail recommended condition matched the court ordered condition in the *Decision Aid* group (65%) compared to the pretest group (49%). This finding indicates that judges were more likely to follow the bail recommendation when the *Decision Aid* was used.

In regard to outcomes, we found that significantly fewer clients were held in pretrial detention when the *Decision Aid* was used (25%) than when it was not (43%). For those clients out on release, we next examined their likelihood of failing to appear. Overall, we found that fewer clients failed to appear when the *Decision Aid* was used (12%) than when it was not (17%). When limiting the analyses to only those cases where the bail recommended condition matched the court ordered condition, the FTA rearrest rate was 19% for the pretest group and 8% for the *Decision Aid* group, suggesting that the *Decision Aid* results in more effective conditional release recommendations. Additionally, we examined the rate at which clients were convicted of a FTA across groups and found that clients in the *Decision Aid* group were significantly less likely to be convicted of a FTA (3%) than clients in the pretest groups (9%).

Lastly, we looked at conviction data to determine if the *Decision Aid* had an effect on the likelihood of being convicted or the sentence received. We found that although there were no differences in the likelihood of being convicted across groups, clients who were held in pretrial detention were more likely to be convicted (86%) than clients who were released (64%). Since more clients were released in the *Decision Aid* group, this finding does suggest an indirect relationship between the use of the *Decision Aid* and likelihood of conviction. There also were significant differences in sentence length across groups, with clients in the *Decision Aid* group receiving an average of 50 days in prison compared to an average 227 days for the pretest group. This difference was even greater when looking at those clients held in pretrial detention (352 days on average) compared to those out on release (50 days on average). Although these results

16

do not control for charge severity, they are suggestive of the potential negative effects of pretrial detention.

Overall, the findings indicate that the *Decision Aid* is a valuable tool in making conditional release recommendations. Pretrial personnel are more likely to recommend conditional release than financial bonds when using the *Decision Aid*, and their conditional recommendations appear to be having a greater influence on the judge's decision. The *Decision Aid* also is associated with positive pretrial outcomes. Pretrial clients in the *Decision Aid* group were less likely to be held in pretrial detention, less likely to be rearrested and be convicted of a failure to appear, and if convicted, received shorter sentences than those in the pretest group.

Practical Implications

These findings have several potential implications for pretrial decision making. First, the *Decision Aid* encourages the use of conditional release as an alternative to a financial bond. Releasing more clients pending their next court appearance can decrease the potential negative impacts of pretrial detention (e.g., job loss). For example, a condition such as reporting to an AIC can be used to monitor a client who might lack other means of social support, while allowing that person to continue to work or pursue educational opportunities. Second, the *Decision Aid* facilitates more consistent and thoughtful recommendations regarding conditional release. This reduces potential disparities across pretrial personnel and courts in the use of conditional release. It also improves the appropriateness of the conditional recommendation, which ultimately should better address clients' needs and reduce their likelihood of reoffending or failing to appear for court. In fact, we found that when the bail recommended condition matched the court ordered condition, the use of the *Decision Aid* was associated with a 50% reduction in the FTA rate. Finally, the use of the *Decision Aid* can encourage the release of more clients who might otherwise be held on a financial bond, which can decrease the pretrial prison population. The percentage of clients who received a non-financial release recommendation more than doubled when the *Decision Aid* was used, even though the *Decision Aid* and pretest samples had comparable levels of risk. Additionally, the percentage of clients held in pretrial detention was substantially lower in the *Decision Aid* group compared to the pretest group.

Study Limitations

There are some limitations with the design and implementation of the study that may have affected the results. First, we used a pretest-posttest design rather than a true experimental design due to the challenges in finding comparable courts to serve as treatment and control groups. For example, courts differ in staff experience, client demographics, and judicial practices, to name a few, which limit the ability to compare finding across courts. Instead we chose to compare samples of cases from within the same courts that implemented the *Decision Aid*. We obtained these samples from time periods immediately before and one year prior to the implementation. This allowed us to obtain samples that closely matched those on which the *Decision Aid* was used. Although we cannot rule out the possibility that outside factors influenced the results (e.g., personnel changes), it is unlikely that any outside factor would affect all courts, thus the use of four different courts in our study strengthens our ability to attribute any group differences to the intervention (e.g., the *Decision Aid*).

A second limitation pertains to the implementation of the *Decision Aid*. The *Decision Aid* is intended to be used after the initial risk assessment is completed and requires additional time to administer (4 to 8 minutes). These factors present challenges to effectively using the tool. Pretrial personnel often have limited time period during which to interview clients. Often there is only 1 to 2 hours from the time the clients arrive at the courthouse until they appear in front of the judge. If there are 20 clients, then pretrial personnel have fewer than 6 minutes to interview each client. This leaves very little time to complete the *Decision Aid* in a comprehensive manner, if at all. The interviews also typically are conducted in lock-up or a small room with the forms filled out using a clipboard. This makes it difficult to calculate risk assessment points (a necessary first step before implementing the *Decision Aid*), and to record the additional information required by the *Decision Aid*. These conditions not only reduce the ability of pretrial personnel to effectively use the tool, they also increase the likelihood for errors in both implementation and information recording. Although the tool was created with these resource limitations in mind, we continue to find that pretrial personnel are only able to implement it on a portion of the cases for which it could beneficially applied. Thus, these constraints limit the potential of the tool to have a more extensive impact.

Recommendations

Overall, these limitations did not hamper our ability to demonstrate the potential benefits of the *Decision Aid* for pretrial conditional release recommendations. The *Decision Aid* not only allows more clients to be released on a non-financial recommendation, it also appears to reduce the likelihood that clients will fail to appear for their court dates. Based on the positive results of the current study combined with those of the earlier pilot study, we developed a set of recommendations for making more effective and widespread use of the *Decision Aid*.

- *All pretrial personnel should be trained on the use of the Decision Aid*. This training should include an introduction to the *Decision Aid* as well as ongoing support to address questions and to encourage continued use of the tool. Because the *Decision Aid* represents a framework for recommending appropriate conditions to meet clients' needs, familiarizing staff with its approach can have a positive impact on their recommendations. Encouraging them to use the tool on a consistent basis can also increase their potential influence on judicial decisions.

- *The Decision Aid should be incorporated into the regular pretrial interview process*. Pretrial personnel who participated in the studies felt that the *Decision Aid* is a valuable tool but needs to be better incorporated into the interview process. Several personnel further recommended consolidating all components of the pretrial interview into one form and removing any redundant or unnecessary items. This modification would reduce the amount of paperwork and facilitate more effective use of both the risk assessment point scale and the *Decision Aid*.

- *Additional resources should be allocated to make the most effective use of pretrial decision making tools*. The *Decision Aid* requires additional time beyond the basic client interview, which is not insignificant given the time constraints pretrial personnel often are faced with when making their recommendations. More resources are clearly needed in order for personnel to use the tool on a widespread and consistent basis. These resources may involve adding personnel or creating an interview process that is more user friendly and efficient.

- *New technologies should be considered to facilitate data collection and management during the pretrial interview process*. We recommend the use of tablet PCs (or similar technology) to replace clipboards and paper interview forms. Such technology would allow interviewers to collect all necessary information from clients more quickly, including the additional data required with the *Decision Aid*, and to make more fully informed recommendations. Interview data could be entered in a more timely and accurate manner, and risk assessment points could be computed automatically, which would enable pretrial personnel to better determine whether the client should be further evaluated using the *Decision Aid*.

APPENDIX A

Decision Aid for Pretrial Conditional Release

PRETRIAL CONDITIONAL RELEASE RECORD
To be completed on all pretrial cases EXCEPT when:
(a) client is likely be released on a straight WPTA OR
(b) client is likely to be held on a substantial bond.

Case #_____   **Client Name**_____   **Interview date:**_____

Personal Needs
For each area checked, ask decision aid questions.

☐ **Substance Use**

Were you under the influence of drugs or alcohol at the time of your current arrest? What substance were you using?
Are you currently using drugs or alcohol? How often do you use them?
How old were you when you first used drugs or alcohol?
Have you ever successfully completed drug or alcohol treatment or counseling? If no, why not? If yes, why are you using drugs/alcohol again?
Notes:

☐ **Mental Health**

Have you ever received treatment or counseling for a mental health problem?
Have you ever been told by a doctor or mental health specialist that you have a mental health problem? Please explain (who, what, when).
Have you ever been prescribed any medication(s) for a mental health problem?
What medication(s)? How often did you take them? Are you currently taking them?
Notes:

☐ **< 12 yrs Ed**

When and where did you last attend school?
Why did you stop attending?
Have you tried to return to school to finish high school or equivalent? If so, what happened?
How important is it to you to get your high school degree?
Notes:

☐ **Unemployed**

How long has it been since you last worked? Why haven't you worked since then?
How many jobs have you had in the last two years? Why have you changed jobs?
How important is it to you to support yourself and your family?
Notes:

Recommendation

Compliance Needs
Complete unless client has already been recommended for inpatient/residential program.

Support & Structure: If 2 or more checked, ask decision aid questions.

☐ Age<26 ☐ Unmarried ☐ Lives w/non-immediate family ☐ No means of support

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Do you have anyone you can rely on when you need help? If so, who?
How do you spend a typical day? What do you do in your free time?
How will you make sure you show up for court?
<u>Notes:</u>

Prior Compliance: If either checked, ask decision aid questions.

☐ Probation violation   ☐ Prior, pending or current FTA

If you missed a court appearance in the past, why?
If you violated probation, why?
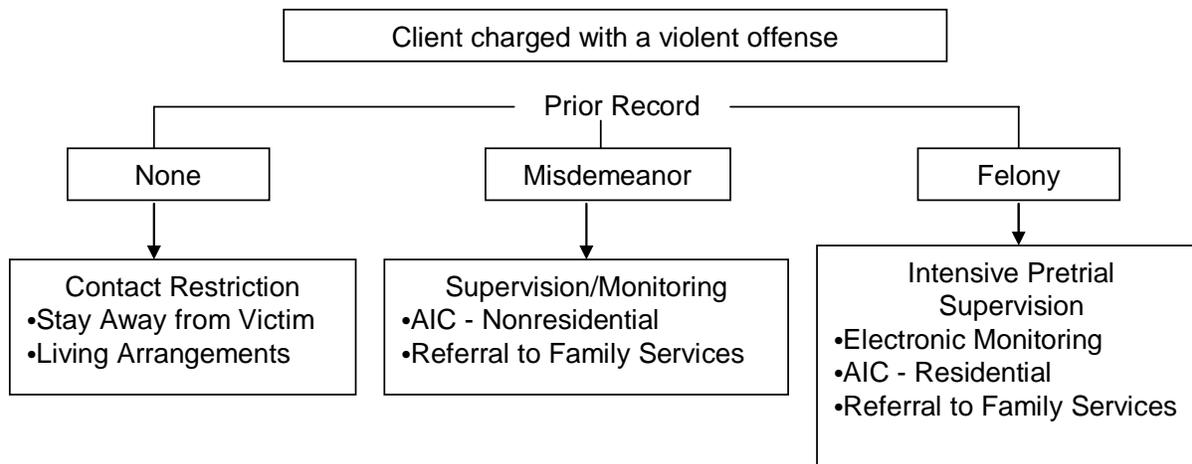Why should you be released this time?
<u>Notes:</u>

Recommendation

Safety Risk
This section should be completed only if the current charge involves a violent offense.

Prior Record: ☐ None ☐ Misd ☐ Felony (see decision tree below)

Client charged with a violent offense

Prior Record

None	Misdemeanor	Felony

Contact Restriction •Stay Away from Victim •Living Arrangements	Supervision/Monitoring •AIC - Nonresidential •Referral to Family Services	Intensive Pretrial Supervision •Electronic Monitoring •AIC - Residential •Referral to Family Services

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Recommendation