

Missing the Full Picture: Pitfalls of Charge-Based Exclusions

June 2021

Charge-based risk assessment exclusions are administrative policies that prevent individuals from receiving a pretrial risk assessment because they have been charged with certain types of offenses, such as violent crimes, DUI, contempt of court, probation violations, and sex offenses. Exclusions are separate from statutory requirements for detention and release and are commonly implemented to protect public safety. However, they can have unintended negative public safety consequences.

Pretrial risk assessments have become an important tool in the pretrial process. When used properly, they provide objective information for judicial officers making pretrial release and supervision decisions. Pretrial best practices indicate that assessing all individuals is more equitable than only assessing certain individuals.

Charge-based exclusions can undercut the value and purpose of risk assessments. Preventing individuals from receiving a risk assessment limits access to important information, which can lead to inefficient use of resources and make the assessments less reliable overall.

Evidence suggests that charge-based risk assessment exclusions can also:

- Compound existing biases in the arrest and booking process
- Create an incomplete picture of the pretrial population
- Lead to incorrect assumptions about the relationship between charge severity and pretrial outcomes
- Limit data that could improve policies, practices, resource allocation, and risk assessment validation



Unintended Negative Impacts of Charge-Based Risk Assessment Exclusions

Compounded biases in the arrest and booking process

Risk assessments are often completed before an individual's initial court appearance. This means a decision to exclude an individual from receiving an assessment can be based solely on booking charges, which prosecutors may reduce or drop later. Providing risk assessment information on all individuals prevents compounding potentially biased booking charges.

Incomplete picture of the pretrial population

Assessing only people booked on nonviolent or less serious charges means information will only be available for lower risk individuals. That could decrease the effectiveness of release policies developed for the entire population: low-risk individuals could be over-supervised and higher-risk individuals may not benefit from interventions designed to improve pretrial outcomes.

Incorrect assumptions about the relationship between charge severity and pretrial outcomes

The seriousness of a charge is not a reliable indicator of whether or not an individual will pose a public safety threat (e.g. individuals charged with felonies are more likely to succeed pretrial). This is why most pretrial risk assessments do not weight current charges more than other factors, like previous convictions.

Limited data to improve policies, practices, resource allocation, and risk assessment validation

Charge-based exclusions limit data because assessment information is not available for the excluded individuals. Availability of data on the whole pretrial population allows for better-informed decisions and more accurate risk assessment validations.

More Information and Research

- National Association of Pretrial Services Agencies (2020). Standards on Pretrial Release: Revised 2020. <https://drive.google.com/file/d/1edS2bltwfNROieGeu1A6gKluTfzqop92/view>
- Lum, K., Boudin, C., & Price, M. (2020). The impact of overbooking on pre-trial risk assessment tool. Proceedings of the 2020 Conference on Fairness, Accountability, and Transparency, 482–491. <https://doi.org/10.1145/3351095.3372846>
- Merrick J. Bobb, Matthew Barge, Yael Mazar, Camelia Naguib, & Tim Shugrue. (2010). The Los Angeles County Sheriff's Department 29th Semiannual Report. Police Assessment Resource Center.