

In every discussion about Bail Reform there is always some mention of risk assessments.

Proponents of bail reform tout them as the panacea to the ills in the criminal justice system. There are several different types of risk assessments, but the one making the most headlines is the PSA created by the John and Laura Arnold Foundation. The theory behind risk assessments is that they can predict whether a defendant will show up for court and/or commit another crime if released. While this seems like a great concept, the reality of these risk assessment tools is that they have not produced the results promised. In fact, in a recent article, random consumers deciding whether a defendant would show up for court or commit a crime was found just as accurate as the so-called scientific algorithm.

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A professor of law at the George Mason University School of Law recently conducted the most definitive study of risk assessments in practice. The study released in December 2017, concluded as follows:

“In sum, there is a sore lack of research on the impacts of risk assessment in practice. There is **next to no evidence** that the adoption of risk assessment has led to dramatic improvements in either incarceration rates or crime without adversely affecting the other margin.”

This conclusion was reached as a result of reviewing the data and studies from as many as eight jurisdictions. This is similar to the argument made by Nevada Governor, Brian Sandoval, who vetoed legislation that would have created risk assessments in Nevada because they are a “new and unproven method” and that “no conclusive evidence” has been presented that such pretrial risk tools work.

The Kentucky model, which proponents of bail reform point to as a success, was clearly debunked as part of Professor Stevenson’s research. Using six years’ worth of data, she made a variety of important conclusions. Regarding the use of the risk assessment in Kentucky, the Arnold Foundation Pretrial Safety Assessment, she found it increased failures to appear for Court:

There was a sharp jump in the failure-to-appear rate (defined as the fraction of all defendants who fail to appear for at least one court date) from before the legislation was introduced to after the new law was implemented. The introduction of the PSA did not lead to a decline in failures-to-appear. If anything, the FTA rate was slightly higher after the PSA was adopted than before.

Regarding the re-arrest rates for new crimes, which proponents say would be reduced, the opposite was true:

“It is clear that the increased use of risk assessments as a result of the 2011 law did not result in a decline in the pretrial rearrest rate.”

Despite all of the promises that expanding risk assessments would deliver fantastic results, in fact “the large gains that many had assumed would accompany the adoption of the risk assessment tool were not realized in Kentucky.” Concerning what other jurisdictions can learn from Kentucky, the Professor explained that, “Kentucky’s experience with risk assessment should temper hopes that the adoption of risk assessment will lead to a dramatic decrease in incarceration with no concomitant costs in terms of crime or failures to appear.”

The Arnold Foundation continues to tout its successes, even though it has removed reports from its website touting the success of the PSA because of data quality concerns.

