

TRIBAL RISK-NEED RESPONSIVITY TOOLS

UNDERSTANDING RISK TOOLS



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Overview

Background: RNR Theory and Rise of Risk Assessment

Defining Risk in Criminal Legal Settings

Risk Need Responsivity Theory

Using RNR Tools in Case management

Use of RNR Tools with Tribal Populations

Effectively Using RNR Tools

A History of Risk

Risk is the likelihood of a negative occurrence

Risk assessment is a process to identify potential hazards and analyze what could happen if a hazard occurs

Humans have used risk prediction for hundreds of years; 1600s probability theory in gambling, identifying risk of hazards and losses

Modern use of Risk Assessment:

- Risk of heart disease
- Risk of hurricane impact
- Risk of nuclear accidents
- Risk of collision for insurance purposes
- Risk of wildfires
- Risk of COVID exposure

Rise of Risk Assessment in Criminal Justice

First risk assessments in criminal justice were in the 1900s. Correctional staff used to assign risk of reoffending and were *entirely* judgement based.

The first actuarial parole prediction instruments date back to 1930s in Illinois but became more commonplace in the 1970s and 80s.

Third wave of risk assessment developed in 1980s and 90s that focused on rehabilitating individuals and reducing recidivism through identifying their needs and being responsive in addressing them.

Substantial increases in the use of tools.



DEFINING RISK

IN CRIMINAL JUSTICE SETTINGS

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Failure to Appear
Court Appearance



Intimate Partner Harm
Lethality Risk Factors



Violent Offenses
Violent Crime Arrest



Recidivism
Arrest

Risk =

Probability of

Types of Risk Tools

**PRETRIAL RISK
TOOLS**

**IPV RISK
ASSESSMENTS**

**RISK NEED
RESPONSIVITY
TOOL**

Pre-Trial Risk Tools

Measure:

- Risk of reoffending
- Risk of committing new violent offense
- Risk of failure to appear

Use can affect:

- Pretrial release
- Intensity of pretrial supervision
- Bail setting

IPV ASSESSMENTS

IPV Risk of Recidivism

- Uses arrest history
- Includes history of violent offenses
- Tracks other factors associated with IPV assault
- Predicts the likelihood of rearrest for IPV harm

Lethality Assessment

Lethality Assessment



PARTNER VIOLENCE

Prevent intimate partner related homicides or injury



VICTIM FOCUS

Tool is administered to identified victims



DANGER

Look to identify the level of danger an abused person may be experiencing



SAFETY

Are used for case planning to reduce to reduce threats to safety



RISK

Uses risk to identify threats to safety

Risk Need Responsivity Tools



RISK PRINCIPLE: WHO TO TARGET

Target intervention intensity according to someone's risk level



NEED PRINCIPLE: WHAT TO TARGET

Assess and respond to criminogenic needs to reduce recidivism



RESPONSIVITY: HOW TO TARGET

Tailor interventions to the specific characteristics, culture, language, and learning style of the individual

Risk-Need-Responsivity Theory: The Three Core Principles

Risk Principle: Who to target.

- Intervention is most effective with higher-risk individuals (risk of re-offending).

Need Principle: What to target.

- Assess and target “criminogenic” needs (i.e., needs that fuel criminal behavior).

Responsivity Principle: How to intervene.

- Tailor intervention to the characteristics and learning styles of the individual.



**RISK NEED RESPONSIVITY
THEORY
USING RISK IN INTERVENTION AND TREATMENT**

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more than 400
studies!

The risk principle

Vary the intensity of intervention (treatment & supervision) by risk level.

High risk:

- Provide more Intensive Interventions

Lower Risk:

- Interventions can be harmful: *why?*
 - Interferes with work or school
 - Interferes with family obligations
 - Interferes with pro-social engagements

Examples

Negative Effects of Short-term Incarceration

NYC

- Net of other background factors, sentencing to jail **increases two-year re-arrest rate by 7 percentage-points.**

Kentucky:

Effects are strongest in the low-risk population

- When detained for 2-3 days, defendants were **40% more likely to commit a new offense pretrial.**

Kansas:

- Defendants who spent 15-30 days in jail pretrial had an **83% higher likelihood of a post-disposition offense.**

Negative Effects of Intensive Interventions

Drug Treatment Program:

- Review of 400 drug court participants in NYC
- *Placement of low-risk drug court participants in long-term residential treatment doubled their likelihood of re-arrest over a two-year follow up period.*

Pretrial Alternatives to Detention:

- Review of federal criminal offenses from 2001-2007
- *Lower risk defendants were MORE likely to result in pretrial failure than high-risk defendants. Defendants were over supervised.*

Legal Need

High Needs

Low Needs

Risk of Re-Offense

High

High Risk & High Needs

- Menu of mid-length interventions:
 - Cognitive-behavioral therapy (CBT) models, e.g., T4C, MRT;
 - Social services (e.g., employment, GED, etc.);
 - Trauma-focused models (e.g., Seeking Safety); and/or
 - Intensive supervision (e.g., HOPE)
- Treatment court programs, e.g., healing to wellness court, mental health court, hybrid models
- Voluntary social & clinical services

High Risk & Low Needs

- Brief interventions (e.g., Restorative Justice, a 3- or 5-session intervention based on procedural justice principles, CBT, and trauma-informed practices)
- Menu of rolling interventions, 6 Sessions+
 - Exact # of mandated sessions responsive to “going rates”/legal proportionality;
 - Approximates the mid-length intervention models available for high risk & high leverage (e.g., MRT)
- Voluntary social & clinical services

Low

Low Risk & High Needs

- Evidence-informed community-supervision model (e.g., the NYC supervised release model):
 - Individual sessions (to avoid peer contagion effects);
 - Incorporates a range of practices (e.g., procedural justice principles, Motivational Interviewing)
- Voluntary social & clinical services

Low Risk & Low Needs

- Meaningful community service, with sites selected in collaboration with community-based organizations
- Brief educational groups (1- or 2-session models)
- Voluntary social & clinical services

Risk-Need Based Interventions

High Risk/High Need

- Intensive intervention or incarceration

Low Risk/Low Need

- *Off-ramp* ASAP (e.g. pretrial release, fine/short community service, conditional discharge)

Low Risk/High Need

- BRIEF intervention with voluntary referral to services

High Risk/Low Need

- Address criminogenic thinking and behavior

USING RNR TOOLS

STRENGTHENING CASE MANAGEMENT AND
IMPROVING TREATMENT OUTCOMES

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What Determines Risk?

The “Central Eight” Risk/Need Factors

1. Criminal History (arrest, conviction, noncompliance)—STATIC
2. Antisocial attitudes
3. Antisocial peers/associates
4. Criminal thinking
5. Family or marital factors
6. Education/employment history
7. Pro-social leisure/recreational activities
8. Illegal Substance use and misuse

Risk Factors

Static risk factors

- ▶ Criminal history
 - ▶ # of arrests
 - ▶ # of convictions
 - ▶ type of offenses
- ▶ Current charges
- ▶ Age at first arrest
- ▶ Current age
- ▶ Gender

Dynamic risk factors/needs

- ▶ Antisocial attitudes
- ▶ Antisocial friends & peers
- ▶ Criminal Thinking
- ▶ Family/marital factors
- ▶ Education/employment history
- ▶ Pro-social leisure activities
- ▶ Substance use and misuse

Needs!



Responsivity Factors:

Necessary but not sufficient

Non-criminogenic needs, but recidivism-related

Mental Health

Gender

Trauma

Cultural background

Parenting skills

Medical needs

Primary language

Literacy level

Homeless or eviction pending

Learning disability

RISK TOOLS WITH TRIBAL POPULATIONS

EFFECTIVENESS OF RISK WITH NATIVE DEFENDANTS

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Supreme Court rules on controversial risk assessment tests accused of bias against Indigenous offenders



Tests used to determine inmates' security and parole accused of 'cultural bias' against Indigenous offenders

CBC Radio · June 13



Racial & Ethnic Disparities

Risk assessment has the potential to reduce or exacerbate disparities



Why is that?

Decrease Bias:

- ⑩ Limits bias and problematic discretion in judges and prosecutors
- ⑩ When done properly – it can guide outcomes towards higher release rates for Black and Brown defendants
- ⑩ When paired with a needs assessment can be used to provide supportive interventions

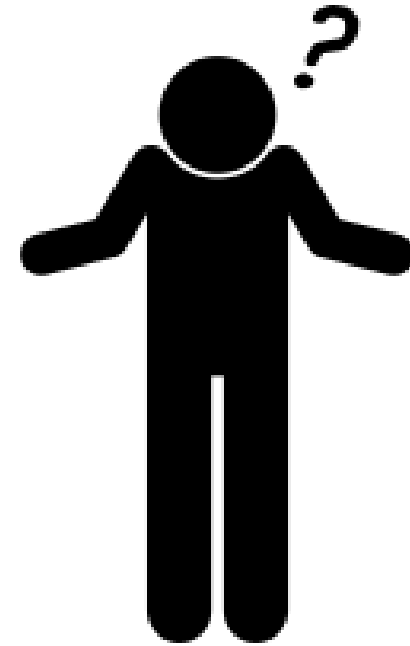
Why is that?

Increase Bias:

- Bakes system bias into the risk scores
- Can be less accurate for Black and Brown individuals
- Can result in higher punitive sanctions or collateral consequences if there is misclassification of risk

What does this mean for Tribal Courts?

1. Tools work best when adapted to their locality
2. Not many tools have used data about AI/AN Populations
3. Even LESS tools have been built specifically for AI/AN Populations
4. Some studies have been done with specifically American Indian or Alaskan Native populations



Literature Review

Reviewed 50+
publications

Including
publications
from Canada
and Australia

Literature Review

50+

Publications and
articles reviewed

**International
review of
articles**

Including
publications from
Canada and
Australia



Findings Among Current Tools

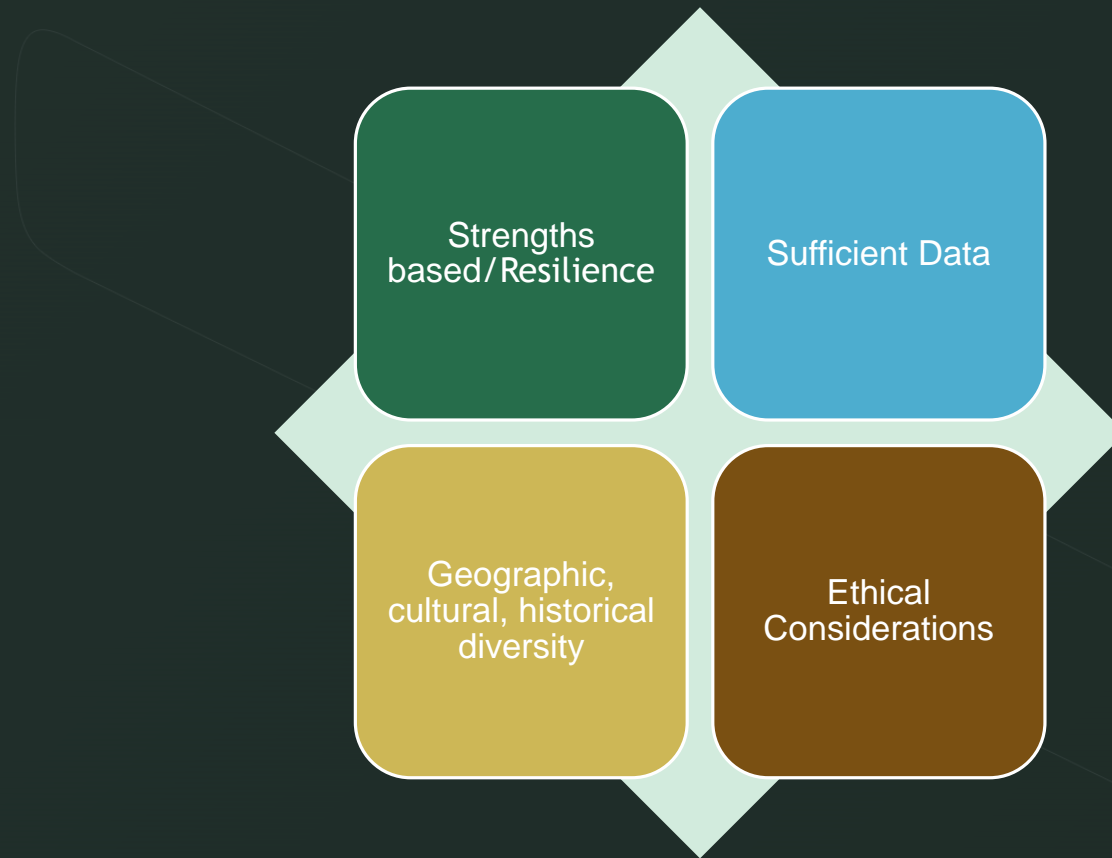
- Existing tools not designed for indigenous defendants
- Lower predictive validity
- Concerns of over-classification of risk
- Protective factors are not considered
- Phrasing is unsuitable

TRIBAL RNR TOOL

BUILDING A TRIBAL RNR TOOL

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Tool Considerations and Challenges



Ethical Considerations

RNR tool racial bias

Reducing incarceration

Do we assign risk to trauma?

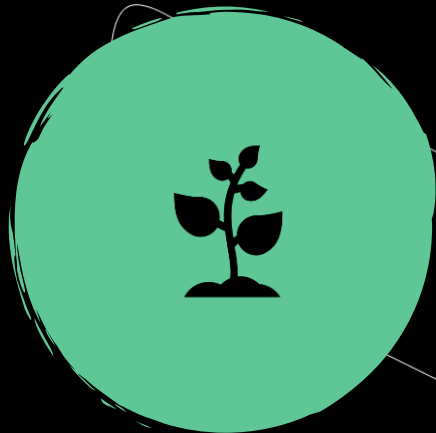
Risk vs. resilience

How to avoid harm



Endurance

The ability to survive and endure difficult circumstances



Growth

The power to overcome or grow through difficult experiences



Flexibility

The ability to rebound or expand without breaking

What is Resilience?

Process of Drafting the Tool



Team Values



Initial draft



Team reviewed question by question



Advisory Board review section by section



Culture and community review

Overview of Tool



Tool contains 170 Questions



Administering at Pre-trial



Completion Time 1 - 1.5 hours

Risk Factors

Static risk factors

- ▶ Criminal history
 - ▶ # of arrests
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Dynamic risk factors/needs

- ▶ Antisocial attitudes
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- ▶ Education/employment history
- ▶ Pro-social leisure activities
- ▶ Substance use and misuse

Tribal RNR Domains

Domains

- ▶ Demographics
- ▶ Family Structure
- ▶ Childhood
- ▶ Education
- ▶ Employment & Income
- ▶ Housing
- ▶ Past justice involvement
- ▶ Substance Use

Domains cont.

- ▶ Resilience against colonialism and oppression
- ▶ Discrimination
- ▶ Post-traumatic growth
- ▶ Relationships and community ties
- ▶ Time Structure
- ▶ Culture and community

Overview of Tool



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EFFECTIVE USE OF RNR TOOLS

WORKING EFFECTIVELY WITH THE TOOLS YOU
HAVE

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Summary

1. RNR Tools Can Support Diversion, Treatment, and Case Management
2. Most Mainstream Risk Tools have NOT Been Developed or Validated for Tribal Populations
3. More Research is Needed on the Use of Risk Tools with Native Populations
4. More Tools Need to be Developed and Validated for Tribal Populations
5. Thoughtful and Intentional Use of RNR Tools can Support Diversion, Treatment, and Case Management in Tribal Courts

QUESTIONS?!



Upcoming Events

**Tribal RNR
Tools Webinar
Series**

**Tribal Youth
Leadership**

**Community
Responses to
Violence**



TRIBAL RNR TOOLS

WEBINAR SERIES:

1. Intro to Risk Tools
2. Using Risk Tools for IPV
3. Implementation Guidelines
4. Tribal RNR Tool

TRIBAL YOUTH LEADERSHIP

Program Overview:

1. Youth ages 14-18
2. Remote and In-person
3. Trained in Indigenous Research
4. Create Youth Policy Suggestions



**Applications are Open
Now!!**

The background features a vibrant green gradient with a blue circular shape in the upper left and a yellow-orange section on the left. A series of concentric black circles is visible in the top-left corner. In the bottom-right, there are white line-art patterns resembling stylized chevrons or arrows.

Community-Based Responses to Violence

Roundtable Discussion on Traditional and Innovative Approaches

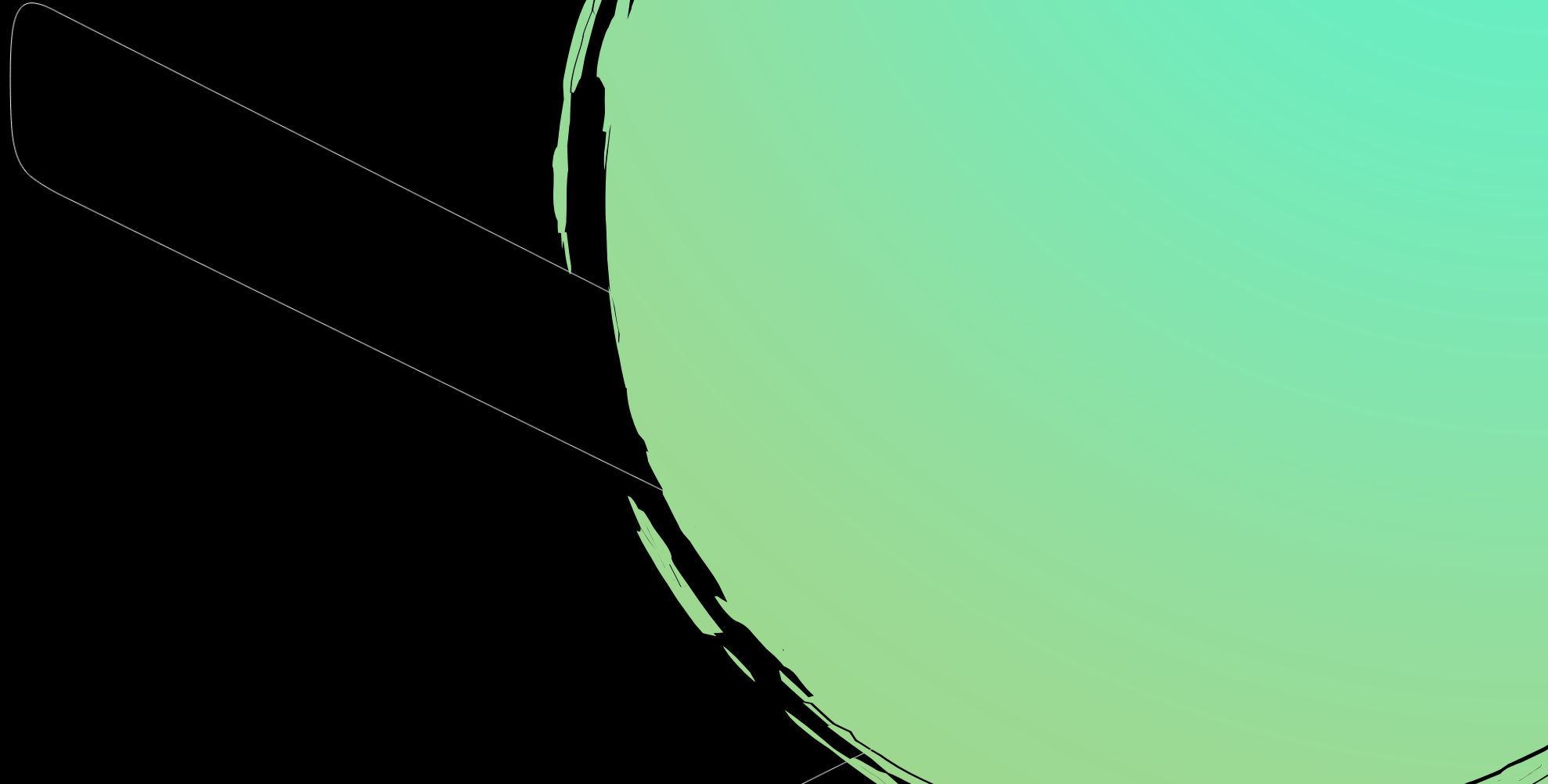
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