

Public Safety Outcomes of Virginia's Detention Assessment Instrument

Scott Reiner, Jared Miller, and Tripti Gangal¹
Virginia Department of Juvenile Justice

Introduction

Pre-dispositional juvenile detention is placement in a secure facility of a youth alleged to have committed a delinquent act or who meets other criteria specified under state statutes. Detention may be employed by the juvenile court as a sanction or punishment upon a finding of guilt. Pre-dispositional detention refers to being detained prior to disposition, while the process of adjudication as to guilt or determining the final case disposition is pending. As such placement involves loss of liberty, its use is ideally limited to youth who pose a significant risk to public safety or who are at risk for failure to appear for court appearances.

The placement of juveniles in secure detention has been the subject of considerable recent attention. Among the concerns identified are overcrowding and its impact on conditions of confinement, detention when there is little threat to public safety, and lack of alternatives to secure detention where availability of such alternatives would allow the safe management of a juvenile in the community. As recently as 2001, Virginia ranked second among the states in the rate of juveniles held in secure detention settings as reported in the biennial *Census of Juveniles in Residential Placement (CJRP)* conducted by the National Center for Juvenile Justice for the United States Office of Juvenile Justice and Delinquency Prevention (OJJDP). This is in the context of a juvenile crime rate below the national average. In the 2003 CJRP data, Virginia ranked 10th among the states with a rate of 110 juveniles detained per 100,000 (down from 150 per 100,000 in 2001). The national average in 2003 was 83 per 100,000.²

For the past several years, Virginia has been engaged in efforts to improve detention practices at both the state and local levels. These efforts have included expansion of and physical improvements to detention facilities, increasing the availability and use of detention alternatives, and legislative and policy changes to maximize the likelihood that juveniles are detained only when necessary for public safety reasons and then only for the period of time required to achieve those public safety goals. One important policy and practice change is the implementation of a standardized, structured decision-making instrument to guide detention decisions by intake officers of the Department of Juvenile Justice (DJJ). Under state statutes (§16.1-248.1 and §16.1-250, COV), intake officers make the majority of initial decisions to detain, subject to judicial review.

This report will present a brief background on the Virginia Department of Juvenile Justice's Detention Assessment Instrument (DAI); an analysis of the performance of the DAI on key public safety outcomes; and an overview of Virginia's participation in the Juvenile Detention Alternatives Initiative, a national project focused on juvenile detention reform.

¹ Mr. Reiner is with the DJJ Division of Community Programs. Mr. Miller and Ms. Gangal are with the DJJ Research and Evaluation Unit.

² National Center for Juvenile Justice, *Census of Juveniles in Residential Placement Databook*. Retrieved October 1, 2006, Web site: <http://ojjdp.ncjrs.org/ojstatbb/cjrp>

The Detention Assessment Instrument (DAI)

The Virginia General Assembly directed that “The Department of Juvenile Justice shall establish a uniform risk assessment instrument for use when making a detention decision pursuant to §16.1-248.1 and when making recommendations to the court at a detention hearing pursuant to §16.1-250. The uniform risk assessment instrument and related procedure shall be implemented by each court service unit and distributed to each juvenile court judge no later than October 1, 2002. (Chapter 978, Acts of Assembly, 2000). In response, the DAI was developed by DJJ with the assistance of the National Council on Crime and Delinquency (NCCD) and a group of key stakeholders from across the state.

The DAI is a structured measure that incorporates a limited set of objective, public safety-related criteria. These criteria are used to guide detention admission decisions made by court service unit (CSU) intake officers. There are seven items on the DAI which generate a total score (see Appendix A for the DAI). The total score is then classified into one of three categories, referred to as the “Indicated Decision”:

- 0 – 9 points – Release (to a parent, guardian or other responsible adult)
- 10 – 14 points – Detention Alternative (placement in a community supervision program that might include electronic monitoring, home detention, outreach detention, less secure shelter)
- 15 + points – Secure Detention (pending judicial review)

In addition to the score-driven Indicated Decision, the DAI provides for Mandatory Overrides (circumstances that warrant secure detention regardless of the DAI score) and both Aggravating and Mitigating Overrides, in which the Intake Officer may arrive at an “Actual Decision” different from the Indicated Decision by assessing the particulars of the case and citing specific reasons for varying from the Indicated Decision. Mitigating Overrides result in a decision with a less restrictive outcome than the DAI Indicated Decision while Aggravating Overrides result in a decision with a more restrictive outcome than the DAI Indicated Decision. Examples of common aggravating and mitigating factors can be found on the reverse of the DAI form (see Appendix A).

The DAI design study indicated that consistent with DJJ policy, implementation of the DAI was expected to:

- Decrease pre-dispositional detentions of juveniles with less chronic and/or less serious current and prior offenses, who were not seen as a threat for additional pre-trial offending or for failure to appear for scheduled court appearances;
- Increase the rates of detention for juveniles seen as greater threats to public safety (e.g., those alleged to have committed more serious felonies) or failure to appear (FTA) in court; and
- Increase consistency in detention decision outcomes, both within each court service unit and across different CSUs.
- Have a neutral or positive impact on the public safety outcomes of re-arrest in the pre-trial period and failure to appear for court appearances related to the current offense.

The DAI was implemented on December 1, 2002 in all DJJ and locally operated Court Service Units. It was placed on the DJJ automated Juvenile Tracking System (JTS), to be completed by CSU staff when pre-dispositional detention was being considered by Intake Officers. Minor revisions for clarification purposes have been made since the initial implementation.

DAI Public Safety Validation

Validation refers to “the process of measuring the success of the DAI in relation to the specific risks it is designed to address.” More specifically, it “refers to the discrete, post-implementation task of measuring success/failure rates for screened and released children” (*A Practical Guide to Juvenile Detention Risk Assessment*, Annie E. Casey Foundation, 2006, p. 58). This validation process is sometimes referred to as a “public safety” test of the particular instrument as it focuses on two specific outcomes:

- Did the juvenile re-offend while on release status during the period of risk?
- Did the juvenile fail to appear in court while on release status during the period of risk?

The present study tracks these outcomes for a selected sample of juveniles.

Methodology

Defining the Sample

A list of all detention eligible juveniles (as defined by *Code of Virginia*, §16.1-248.1) who were processed at intake in one of Virginia’s six Juvenile Detention Alternatives Initiative (JDAI) sites³ between July and September 2005 was generated from the DJJ automated Juvenile Tracking System. Specifically, the JDAI sites were chosen because these jurisdictions complete a DAI for all detention-eligible intakes. From this list, all juveniles whose DAI Indicated Decision was either Release or Detention Alternative and who were not placed in secure detention as a result of a Mandatory or Aggravating Override (as indicated by the DAI Actual Decision) were included in the sample. Juveniles whose intake detention decisions were made in an “on-call” situation outside of routine business hours were then excluded as such decisions are often made prior to the DAI being completed.

The sample was divided into four sub-groups based upon the Indicated Decision of the DAI and the Actual Decision made. The groups are shown in the following matrix:

Indicated Decision	Actual Decision
Release	Release
Release	Detention Alternative
Detention Alternative	Release
Detention Alternative	Detention Alternative

³ Richmond (City), Hampton, Newport News, Hopewell/Prince George County, Petersburg/Dinwiddie County, Lynchburg/Bedford County.

Detained juveniles (whether as a result of a score above the secure detention threshold on the DAI or a Mandatory or Aggravating Override) were not tracked as they are in secure custody and have no ability to evidence either positive or negative outcomes.

Defining the Time at Risk

The *Code of Virginia* (§16.1-277.1.A) specifies that a juvenile shall be released from confinement if an adjudicatory hearing is not conducted within 21 days from the date he was first confined. This provision reflects the statutory “limit” of the pre-trial or pre-adjudicatory detention period. Therefore, for the purposes of this study, the 30-day period following the juvenile’s being detained by an Intake Officer pursuant to completion of a DAI was selected for the time at risk. Although nine days longer than the statutory provision, the 30-day period allows for “good cause” extensions and other brief delays for some cases.

Defining the Outcomes, Data Collection and Analysis

As previously described, the current study is a “public safety” test of Virginia’s Detention Assessment Instrument as it focuses on two specific outcomes:

- Did the juvenile commit a new offense while on release status during the period of risk?
- Did the juvenile fail to appear (FTA) in court while on release status during the period of risk?

The first of these outcomes (new offense) was defined as the juvenile having a new intake for a delinquent (felony or misdemeanor offense) within the 30 days following the “reference” intake which resulted in a detention decision being made following completion of the DAI.

The second of these outcomes (FTA) was defined as the juveniles being charged with a failure to appear offense within the 30 days following the “reference” intake which resulted in a detention decision being made following completion of the DAI.

To gather data on these outcomes, the list of sample cases was sent to the appropriate Court Service Unit to acquire data concerning the two outcomes of interest. Data on new offenses included the date of the new offense and the specific offense alleged. Data on FTA occurrences included the date charged. Data was returned to the DJJ Research and Evaluation Unit where new offense and FTA rates were tabulated. New offenses were then separated into felony or misdemeanor categories with associated rates.

Results

Table 1. New Offense and Failure to Appear (FTA) Rates

Indicated Decision	Actual Decision	# of Cases	New Offenses	Failure Rate (New Offense)	FTA	Failure Rate (FTA)
Release	Release	629	39	6.2%	8	1.3%
Release	Det. Alt.	41	2	4.9%	0	0.0%
Det. Alt.	Release	117	13	11.1%	5	4.3%
Det. Alt.	Det. Alt.	60	6	10.0%	1	1.6%
TOTALS		847	60	7.1%	14	1.7%

New Offense Rates

- The overall new offense rate for the sample was 7.1%
 - When the indicated decision matched the actual decision the new offense rate was 6.5% (45/689 cases).
 - When the indicated decision did not the match actual decision the new offense rate was 9.5% (15/158 cases).
 - When there was a mitigating override, the new offense rate was 11.1% (13/117 cases).
 - When there was an aggravating override, the new offense rate was 4.9% (2/41 cases).

Failure to Appear Rates

- The overall failure to appear rate for the sample was 1.7%
 - When the indicated decision matched the actual decision the failure to appear rate was 1.3% (9/689 cases).
 - When the indicated decision did not the match actual decision the failure to appear rate was 3.2% (5/158 cases).
 - When there was a mitigating override, the failure to appear rate was 4.3% (5/117 cases).
 - When there was an aggravating override, the failure to appear rate was 0.0% (0/41 cases).

Table 2. Felony and Misdemeanor New Offense Rates

Indicated Decision	Actual Decision	# of Cases	Felony	Misd.	Total Offenses	Felony (%)	Misd. (%)	Total Offense (%)
Release	Release	629	12	27	39	1.9%	4.3%	6.2%
Release	Det. Alt.	41	0	2	2	0.0%	4.9%	4.9%
Det. Alt.	Release	117	8	5	13	6.8%	4.3%	11.1%
Det. Alt.	Det. Alt.	60	0	6	6	0.0%	10.0%	10.0%
TOTALS		847	20	40	60	2.4%	4.7%	7.1%

As seen in Table 2. new offenses were divided by offense type (felony or misdemeanor), providing the following results:

New Offense Rates (Felony)

- The overall new felony offense rate for the sample was 2.4%
 - When the indicated decision matched the actual decision the new felony offense rate was 1.7% (12/689 cases).
 - When the indicated decision did not the match actual decision the new felony offense rate was 5.1% (8/158 cases).
 - When there was a mitigating override, the new felony offense rate was 6.8% (8/117 cases).
 - When there was an aggravating override, the new felony offense rate was 0.0% (0/41 cases).

New Offense Rates (Misdemeanor)

- The overall new misdemeanor offense rate for the sample was 4.7%
 - When the indicated decision matched the actual decision the new misdemeanor offense rate was 4.8% (33/689 cases).
 - When the indicated decision did not the match actual decision the new misdemeanor offense rate was 4.4% (7/158 cases).
 - When there was a mitigating override, the new misdemeanor offense rate was 4.3% (5/117 cases).
 - When there was an aggravating override, the new misdemeanor offense rate was 4.9% (2/41 cases).

Discussion

According to the Annie E. Casey Foundation (*A Practical Guide to Juvenile Detention Risk Assessment*, 2006)⁴, “when a juvenile detention validation study yields a failure rate for either re-offense or FTA that is less than 10 percent of the release cohort, the RAI should be given a passing grade for meeting public safety and court appearance objectives. Re-offense and FTA rates under 5 percent can be considered good performance” (p.58).

Using these guidelines to measure the performance of Virginia’s DAI indicates that:

On the new offense outcome, the overall performance of the DAI was solidly in the passing grade level (7.1%) and this held true for all but one sub-group.

- When the actual decision matched the DAI indicated decision, the DAI performed somewhat better (6.5% vs. 9.5%), although both outcomes are within the range considered to be passing performance and the DAI conforming decisions approach the “good” performance level.
 - When looking at mitigating overrides alone (the sub-group of cases where an indicated decision for a detention alternative was overridden to a release),

⁴ Steinhart, D. (2006). *A practical guide to juvenile detention risk assessment*. Baltimore, MD: The Annie E. Casey Foundation.

performance was marginally outside the passing grade (11.1%) on the new offense outcome.

- When new offenses were further subdivided into severity levels (felony vs. misdemeanor) the results indicated that misdemeanors accounted for two-thirds (40/60) of the new offenses alleged to have been committed by juveniles released or placed in detention alternatives.

These findings indicate that on the overall public safety outcome of new offenses, the DAI can be used with confidence. Particular caution is indicated when mitigating decisions to a lower level of supervision, when the actual decision is to release to parents or guardians without the added support of some detention alternative program when that is the indicated DAI decision.

On the failure to appear outcome, the overall performance of the DAI was solidly in the good performance level (1.7%) and this held true for all sub-groups.

- When the actual decision matched the DAI indicated decision, the DAI performed slightly better (1.3% vs. 3.2%), with both outcomes well within the range considered to be good performance.
- The sub-group with the poorest performance on the failure to appear outcome was similar to that with the poorest performance on the new offense outcome – where an indicated decision for a detention alternative was overridden to a release, and that performance (4.3% failure to appear) was still with the “good” range.

These findings would indicate that on the overall public safety outcome of failure to appear, the DAI can be used with confidence in all cases. As with the new offense criteria, the DAI performs best on the failure to appear outcome when the actual decision is in conformance to the DAI indicated decision.

Table 3. summarizes the results on both public safety outcomes in light of the framework provided by the Annie E. Casey Foundation.

Table 3. Overall DAI Performance Outcomes

New Offense Rates	
Indicated Decision = Actual Decision	Passing
Indicated Decision Different from Actual Decision	Passing
<i>Mitigating</i>	Marginal
<i>Aggravating</i>	Passing
Failure to Appear Rates	
Indicated Decision = Actual Decision	Good
Indicated Decision Different from Actual Decision	Good
<i>Mitigating</i>	Good
<i>Aggravating</i>	Good

Limitations

The current study is seen as a sound validation of the public safety outcomes of the DAI. There are however, several limitations worth noting. The selected sites which contributed data to the

study may not generalize to all jurisdictions. As JDAI sites, these jurisdictions are actively engaged in a variety of innovative practices which may result in better outcomes than other jurisdictions. While not a direct influence on DAI outcomes, practices with regard to detention alternatives certainly may impact the outcomes of interest. Secondly, longer follow-up periods are likely to result in higher rates of negative outcomes. If non-detained cases are allowed to “linger” prior to adjudicatory hearings, the “pre-trial” time at risk is extended. As the 21-day statutory limit for an adjudicatory hearing for a detained juvenile is not applicable for those not detained (the limit for non-detained juveniles is 120 days), case processing may result in longer “pre-trial” periods. Third, the definition of a negative outcome for a new offense in the study was a new intake case being filed. It is possible that some number of such new offenses would eventually result in a finding of not guilty, nol prosee, or some outcome other than a finding of guilt. Such outcomes would reduce the rate of negative outcomes. Finally, the relatively small sample sizes in the “detention alternative – detention alternative” and “release – detention alternative” sub-groups (60 and 41 cases respectively) may limit generalizability of the findings for those sub-groups.

Virginia’s Juvenile Detention Alternatives Initiative

Detention reform has been supported in several states (including Virginia) by the Juvenile Detention Alternatives Initiative (JDAI) of the Annie E. Casey Foundation (AECF). Results from other states and localities have shown that it is possible to reduce the use of secure detention without sacrificing public safety or juvenile accountability. However, it should be noted there is currently no universally accepted standard for acceptable detention risk.

The collaboration between DJJ and AECF officially began on October 1, 2003. Originally, JDAI was implemented in seven different jurisdictions, with an eighth site added in October 2005.

According to AECF, JDAI has four main objectives:

- Eliminate the overuse of secure detention;
- Minimize failures to appear and new delinquent behavior;
- Redirect public finances from building new facilities to establishing responsible alternative strategies; and
- Improve conditions in secure detention facilities.

AECF has identified and outlined eight key strategies to meet these objectives. These strategies are as follows:

- Collaboration
- Data-driven policy and program decisions
- Objective admissions screening
- Expedited case processing
- Alternatives to secure detention
- Special detention cases
- Reduce racial disparities
- Supervision of facility conditions and programs

Virginia's Detention Assessment Instrument corresponds to the third of these eight strategies and was initiated and implemented prior to DJJ's formal involvement with JDAI. Results from participating jurisdictions indicate significant progress in achieving the JDAI objectives. The use of the DAI is one important contributor to those successes.

Conclusion

The results of this study of Virginia's Detention Assessment Instrument suggest that the use of objective, structured approaches to detention decision making can be accomplished in accordance with important public safety outcomes. While no comparable pre-DAI data exists to assess the relative effectiveness of using such an approach to a relatively more subjective one, the study clearly supports the continued use of the DAI. Additionally, the results point to certain decision making patterns where the DAI might be more effective than intake officer determined overrides in achieving desired public safety outcomes. Additional research concerning detention decision making processes, the need for and the availability and/or access to additional or different alternative placements or programs, and other related issues will continue to shed light on these important juvenile justice and public policy practices.

VIRGINIA DEPARTMENT OF JUVENILE JUSTICE
DETENTION ASSESSMENT INSTRUMENT

Juvenile Name: _____ DOB: ____/____/____ Juvenile #: _____ ICN#: _____
 Intake Date: ____/____/____ Time: ____:____ AM PM Worker Name: _____ CSU #: _____
 Completed as Part of Detention Decision: Completed as Follow-Up (On-Call Intake):

	Score
1. Most Serious Alleged Offense (see reverse for examples of offenses in each category)	
Category A: Felonies against persons.	15
Category B: Felony weapons or felony narcotics distribution.	12
Category C: Other felonies.	7
Category D: Class 1 misdemeanors against persons.	5
Category E: Other Class 1 misdemeanors.	3
Category F: Violations of probation/parole	2
2. Additional Charges in this Referral	
Two or more additional current felony offenses.....	3
One additional current felony offense	2
One or more additional misdemeanor OR violation of probation/parole offenses.....	1
One or more status offenses OR No additional current offenses	0
3. Prior Adjudications of Guilt (includes continued adjudications with “evidence sufficient to finding of guilt”)	
Two or more prior adjudications of guilt for felony offenses.....	6
One prior adjudication of guilt for a felony offense.....	4
Two or more prior adjudications of guilt for misdemeanor offenses	3
Two or more prior adjudications of guilt for probation/parole violations	2
One prior adjudication of guilt for any misdemeanor or status offense	1
No prior adjudications of guilt	0
4. Petitions Pending Adjudication or Disposition (exclude deferred adjudications)	
One or more pending petitions/dispositions for a felony offense.....	8
Two or more pending petitions/dispositions for other offenses	5
One pending petition/disposition for an other offense	2
No pending petitions/dispositions	0
5. Supervision Status	
Parole	4
Probation based on a Felony or Class 1 misdemeanor	3
Probation based on other offenses OR CHINSup OR Deferred disposition with conditions	2
Informal Supervision OR Intake Diversion	1
None	0
6. History of Failure to Appear (within past 12 months)	
Two or more petitions/warrants/detention orders for FTA in past 12 months.....	3
One petition/warrant/detention order for FTA in past 12 months	1
No petition/warrant/detention order for FTA in past 12 months	0
7. History of Escape/ Runaways (within past 12 months)	
One or more escapes from secure confinement or custody	4
One or more instances of absconding from non-secure, court-ordered placements	3
One or more runaways from home.....	1
No escapes or runaways w/in past 12 months	0
8. TOTAL SCORE	_____

Indicated Decision: _____ **0 - 9 Release** _____ **10 - 14 Detention Alternative** _____ **15+ Secure Detention**

Mandatory Overrides: 1. Use of firearm in current offense
 (must be detained) 2. Escapee from a secure placement
 3. Local court policy (indicate applicable policy) _____

Discretionary Override: 1. Aggravating factors (override to more restrictive placement than indicated by guidelines)
 2. Mitigating factors (override to less restrictive placement than indicated by guidelines)
 3. Approved local graduated sanction for probation/parole violation

Actual Decision / Recommendation: _____ **Release** _____ **Alternative** _____ **Secure Detention**

Offense Categories and Included Offenses

Category A: Felonies Against Persons

Abduction
 Aggravated assault
 Aggravated sexual battery
 Arson of an occupied dwelling
 Assault, law enforcement officer
 Carjacking
 Escape from secure juvenile detention
 by force/violence
 Extortion
 Forcible sodomy
 Larceny > \$5 from a person
 Malicious wounding
 Murder
 Manslaughter
 Inanimate object sexual penetration
 Rape
 Reckless driving/disregard police with
 bodily injury
 Robbery
 Take indecent liberties with a child

Category B: Felony Weapons & Felony Narcotics Distribution

Distribute Schedule I or II
 Distribute Schedule I, II, III, IV or
 marijuana on school property
 Possess Schedule I or II with intent to sell
 Sell Schedule I or II or > 1 oz. Marijuana
 to a minor 3 years junior
 Brandish/point a firearm on school property or
 within 1000 ft.
 Discharge firearm from motor vehicle
 Discharge firearm in/at an occupied building

Category C: Other Felonies

Arson of an unoccupied dwelling
 Auto theft
 Burglary/Breaking and entering/
 Possess burglary tools
 Escape from a correctional facility
 (not detention)
 Failure to appear in court for a felony
 Fraud/bad checks/credit card > \$200
 Grand larceny/Larceny > \$200
 Larceny of a firearm /Receive a stolen firearm
 Possess Schedule I or II drugs
 Receive stolen goods > \$200
 Shoplift > \$200
 Unauthorized use of an automobile
 Vandalism > \$1000 damage

Category D: Misdemeanors Against Persons

Assault, simple
 Sexual battery

Category E: Other Misdemeanors

Brandish/point a firearm
 Carry concealed weapon
 Disorderly conduct
 Escape from secure juvenile detention
 without force/violence
 Fraud/bad checks/credit card < \$200
 Failure to appear for a misdemeanor
 Larceny < \$200
 Receive stolen goods < \$200
 Possess a sawed-off shotgun

**Common Aggravating / Mitigating Factors
(Known at the time of Intake)**

Aggravating

History of 2+ violent/assaultive offenses
Parent unwilling to provide appropriate supervision
Parent unable to provide appropriate supervision
Juvenile has significant mental health problem/
mental retardation
Juvenile has significant substance abuse problem
problem
Juvenile does not regularly attend school/work
Juvenile has violated conditions of a detention alternative

Mitigating

Juvenile marginally involved in the offense
Parent able/willing to provide appropriate
supervision
Juvenile has significant mental health problem/
mental retardation
Juvenile has significant substance abuse

Juvenile regularly attends school/work
Offense less serious than indicated by charge