Risk Aversion in the Bail Setting: An Examination of the Predictive Validity of an Ontario Bail Supervision Program's Risk Assessment Tool

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ABSTRACT

In Canada, bail supervision programs were developed, in partnership with community-based organizations, to promote bail compliance and provide supervision to accused persons who would otherwise have been detained in remand custody. While many of these programs use traditional risk assessment tools to guide supervision, limited research has been conducted on their effectiveness in the bail supervision context. Adopting a quantitative as well as qualitative methodology, this study uses a representative sample of 100 supervision clients from one Ontario bail program to examine the validity of its risk tool – Service Planning Instrument™ (SPIn) Pre-Screen – as well as demographic and criminal justice factors, in predicting bail supervision outcomes. Analyses suggest that SPIn lacks predictive validity in the bail supervision setting. These findings are discussed within the broader context of net widening, as well as the greater bail/remand crisis and the culture of risk aversion that pervades the Canadian criminal justice system.

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1 – INTRODUCTION

For the last ten years, the majority of prisoners being held in Canadian provincial and territorial detention centres has consistently been legally innocent individuals rather than sentenced offenders (Statistics Canada, 2015). In Canada, pretrial detention, also referred to as remand, occurs when an individual charged with a criminal offence(s) is detained in provincial/territorial custody either while awaiting a bail decision or, having been denied bail (often following a formal hearing), while awaiting the resolution of his/her court case. Individuals who are denied bail, or judicial interim release, are frequently detained in custody for weeks, months and sometimes even years, while they wait for their legal matters to be resolved by the courts. Rates of remand custody are high in Canada, as well as abroad (Deltenre & Maes, 2004; Walmsley, 2008). It was estimated in 2008 that roughly 2.5 million individuals were being detained in pretrial custody around the world at any given time (Walmsley, 2008).

The number of Canadian adults in pretrial detention has been increasing significantly since the mid-1980s (Porter & Calverley, 2011; Statistics Canada, 2015). In fact, remand rates have tripled over the past 30 years, with 2004-2005 marking the first time that Canada's provincial/territorial jails imprisoned more legally innocent remand prisoners than sentenced offenders (Statistics Canada, 2015). Likely the result of earned remission (i.e. credit for good behaviour while in sentenced custody), an increase in the remand population has occurred at the same time as a gradual decrease in the sentenced offender population. While the number of adults in remand increased 84% between 2000/2001 and 2009/2010, the number of sentenced prisoners in custody declined 9% (Porter & Calverley, 2011). It follows that, in 2012/2013, 54.5% of adult detainees in provincial/territorial institutions were on remand, compared to only

39.5% in 2000/2001 (Statistics Canada, 2015)[1]. This means that on an average day in 2012/2013, roughly 13,750 of the 25,185 individuals in provincial and territorial jails were remand prisoners yet to be convicted of the crimes for which they were charged (Statistics Canada, 2015).

In terms of admissions, remand admissions have also increased steadily, both in terms of raw numbers (in all jurisdictions except the Northwest Territories) and as a proportion of total admissions to custody (across all provinces and territories) (Porter & Calverley, 2011). Equally disconcerting, the majority of remand admissions (68%) in 2008/2009 were for individuals charged with non-violent offences (Porter & Calverley, 2011). Remand prisoners are also facing longer terms of pretrial detention in virtually all jurisdictions[2] (Porter & Calverley, 2011). In 2007, individuals eventually released on bail in Ontario spent, on average, just under a week in custody[3] (Webster, Doob & Myers, 2009). However, for those detained before trial, many remand prisoners will serve months – and sometimes years – in custody awaiting trial and sentencing. Although data on case processing solely for those officially detained is not readily available, examining overall trends in case length can help shed light on the duration for which these individuals may be detained. For instance, the median case processing time for all criminal cases across Canada in 2010-2011 was 118 days, or just under four months (Dauvergne, 2012). These figures become more pronounced when examining the *average* case length. In Ontario in 2011, it took an average of 192 days to be sentenced following arrest (Ontario Ministry of the Attorney General [MAG], 2012). While these statistics include both those denied bail, as well as individuals who were formally released into the community – and even assuming that the former

[1] Of note, the adult remand rate in Ontario is considerably higher than the national average. Two thirds (67%) of the custodial population in provincial institutions in Ontario are remand prisoners (Porter & Calverley, 2011).
[2] Ontario is the only jurisdiction to have maintained a fairly stable median length of pretrial custody over the last 10 years.
[3] Note that Canada-wide, the median length of time to bail determination ranges from four to 24 days (Canadian Civil Liberties Association and Education Trust [CCLET], 2014).

group will be prioritized for more expedited case processing – these data do not bode well for these legally innocent individuals who have been denied bail in Ontario and are being held in custody, deprived of their freedom.

Indeed, while pretrial detainees have not yet been found guilty of the offence(s) for which they have been charged, they are nevertheless arguably subjected to significant deprivations of liberty while on remand. Although pretrial detention is intended to manage 'risky' individuals and not to punish legally innocent persons, Chief Justice McLachlin of the Supreme Court of Canada acknowledged in *R. v. Hall* (2000) that "pre-trial detention has concrete and profound deleterious effects on the accused" (para. 118). Similarly, Justice Rosenberg of the Ontario Court of Appeal noted in *R. v. McDonald* (1998) that "[t]o pretend that pre-sentence imprisonment does not occasion a severe deprivation and that it is not punitive would result in a triumph of form over substance" (para 47).

Most notably, those denied bail experience serious repercussions in their personal lives. First, pretrial detention may lead to stigmatization of the accused individual as well as his/her family, despite his/her legal innocence (National Council of Welfare, 2000). Second, remand interrupts the normal daily routines of individuals who may be unable to attend their regular employment and consequently may lose their job and their ability to pay rent or mortgage and/or support family members. Similarly, those living in a shelter may lose their bed to those in the community with a more pressing need. Third, single parents may be forced to give up their children to the care of family members or the Children's Aid Society while they are detained. Indeed, remand has a particularly negative impact on the poor and other vulnerable populations, who may find themselves in crisis as a result of even a short period in jail (John Howard Society of Ontario, 2013c; The National Council of Welfare, 2000). Finally, the limiting of visitation to ‘non-contact’ telephone visits in often crowded and noisy visitation areas can place significant stress on relationships. The deterioration of individuals’ personal lives while in custody may persist even after release and, in turn, cause individuals to become at an increased risk of offending behaviour in the future.

Remand also presents several administrative concerns which may influence the quality of life of both detainees and correctional staff. The detention of accused persons is particularly problematic in light of the poor conditions and overcrowding within many Canadian provincial/territorial facilities. Although Canada signed the United Nations’ *Standard Minimum Rules for the Treatment of Prisoners* (1955) in 1975, Canada appears to have failed to uphold many of the standards set out in this declaration. For instance, Canadian remand prisoners are typically held in maximum security facilities regardless of the nature of the alleged offence(s) or their criminal history (Beattie, 2006; John Howard Society of Ontario, 2007; Johnson, 2003). Further, provincial/territorial centres across the country are typically overcrowded and two or even three detainees are often housed in a cell meant for one (John Howard Society of Ontario, 2007; Nova Scotia Department of Justice & Deloitte & Touche LLP, 2008)[4]. As a result of close prisoner proximity and overburdened correctional staff, overcrowding in provincial and territorial facilities can lead to unsanitary and sometimes even dangerous conditions for both prisoners and staff.

Another administrative concern is that, while on remand, accused persons typically also have very limited access to any sort of structured activity, partially due to the indeterminate nature of their detention (Beattie, 2006; John Howard Society of Ontario, 2007; Johnson, 2003). Specifically, pretrial prisoners generally do not have access to recreational activities,

[4] This contravenes section 84 of the UN’s declaration which states that standard that “untried prisoners shall sleep singly in separate rooms”.

programming or opportunities for work (John Howard Society of Ontario, 2007)[5]. While some remand prisoners do have limited access to educational opportunities, in many cases they must pay for these courses with their own money (John Howard Society of Ontario, 2007). Precisely because pretrial detention typically prevents detainees from being able to participate in any sort of meaningful activity, it is often referred to as 'dead time' (Johnson, 2003). This can be challenging not only for remand prisoners, but also for overburdened correctional officers and officials who must supervise and manage these often restless individuals (Beattie, 2006). Yet, despite the lack of remand programming, pretrial detention is typically quite costly for taxpayers (Beattie, 2006; Johnson, 2003; Porter & Calverley, 2011). This is due to the high-security and intensive supervision required for remand prisoners, as well as the need to provide transportation for prisoners to and from court on a regular basis (Johnson, 2003; Porter & Calverley, 2011).

Beyond these administrative deprivations, the growing remand population is also concerning in light of the negative legal consequences many pretrial prisoners encounter as they proceed through the criminal justice system. In his landmark study of Toronto bail courts, Friedland (1965) found that those denied bail had a greater chance of being convicted of their charges than those granted bail. Further, Koza and Doob (1975) showed that those detained in pretrial custody were more than twice as likely to receive custodial sentences, and of those sentenced to custody, those denied bail received significantly longer sentences than those who had awaited trial in the community. While these findings may be partially explained by a number of legal factors (for example, the Crown detains those for whom there is a great deal of evidence to convict), Koza and Doob (1975) attribute this trend primarily to the 'halo' effect. This effect suggests that outsiders infer positive or negative characteristics about individuals based on

[5] This contravenes Section 89 of the UN declaration which states that an "untried prisoner shall always be offered opportunity to work, but shall not be required to work".

favourable or unfavourable information provided to them (Koza & Doob, 1975). Individuals detained in custody are typically brought into the court room handcuffed and conspicuously placed in the 'prisoner box' for all members of the courtroom to see. This presents detainees in an unfavourable light and, as a result, these remanded prisoners may be judged as being more dangerous or culpable than those awaiting their trial while remaining in the community (Koza & Doob, 1975).

Another legal argument examines how pretrial detention may act as a structural barrier to a fair trial. Kellough and Wortley (2002) observed in their study of Toronto bail courts that the Crown was significantly less likely to drop all charges for those detained in custody, compared to those released on bail. Further, while those on judicial interim release often had weak or redundant charges (e.g., theft under $5000 and possession of stolen property under $5000) dropped early on, these charges were typically only dropped for detained individuals when they were willing to accept a plea bargain (Kellough & Wortley, 2002). Perhaps not surprisingly, accused who were denied bail were two and a half times more likely to plead guilty than those released into the community, controlling for other legal factors (Kellough & Wortley, 2002). It has been argued that innocent detainees will plead guilty to charges in the case that: 1) they believe that their sentence would not involve custody and that they would consequently be released; 2) they believe that they would be released on 'time served'; or 3) it would move them from an overcrowded pretrial facility to a correctional centre with better conditions and programming (John Howard Society of Ontario, 2007; Kellough & Wortley, 2002). Thus, detention may act as a form of structural coercion compelling individuals to plead guilty to offences that they may not have committed and to which they would otherwise not plead guilty. Similarly, Doob and Webster (2012) explain how detention makes it more difficult for an accused person to retain a lawyer, gather evidence and locate witnesses for his/her case as well as to engage in 'pro-social' activities like employment or volunteer work as a means of demonstrating a desire to turn one's life around.

In light of the surge in the recourse to pretrial detention as well as the serious and multiple concerns which it raises, this issue has recently received renewed attention from not only academics (Webster, 2009; Webster et al. 2009; Weinrath, 2009) and community agencies (John Howard Society of Ontario, 2007; Canadian Civil Liberties Education Trust [CCLET], 2014), but also the media (Canadian Broadcasting Corporation News, 2010; Enright, 2014). In particular, there has been widespread recognition of the need to identify – and implement – solutions to this pressing criminal justice issue. Recent discussions have explored a variety of strategies aiming to reduce the remand population (CCLET, 2014; Department of Justice Canada, 2012; John Howard Society of Ontario, 2013c; MAG, 2013; Webster, 2009). This thesis proposes to examine one of the strategies offered to reduce the remand problem – bail supervision programs, referred to, in Ontario, as Bail Verification and Supervision Programs (BVSPs).

Bail supervision programs are operated in partnership with community-based agencies and allow for the release and supervision of accused persons who would have otherwise been detained in pretrial custody for being considered either a flight risk (referred to as the primary ground for detention) or a danger to the public (referred to as the secondary ground for detention) (section 515(10) of the *Criminal Code of Canada* (*CCC*)). In Ontario, Crown counsel, defence counsel and duty counsel can all refer an accused person to a BVSP for verification of personal information, as well as for supervision if the accused is believed to be facing probable detention. If the BVSP agrees to supervision, the individual may be released to bail supervision either on the Crown's consent, or following a formal bail hearing in which the Crown is unable to show just cause why detention is necessary.

For many bail supervision programs, the type and intensity of community supervision is influenced by traditional risk assessment tools. Clients who are classified as high-risk will generally be subjected to a more rigorous reporting schedule and may be required to participate in more programming than clients who are deemed to be low-risk by the same risk instrument. While these community-based bail supervision programs appear promising, their use of traditional risk assessment tools to guide supervision decisions (and ultimately attempt to ensure successful control in the community) has received very limited scholarly attention. In particular, little is known of the effectiveness – that is, the predictive validity – of these risk instruments in the pretrial setting. This study will explore the extent to which risk assessment tools and, by extension, other demographic and criminal justice factors, are related to bail supervision outcomes.

To this end, this thesis will begin – in Chapter 2 – by contextualizing the current problem of pretrial detention within the wider socio-political setting. In particular, it is argued that the current Canadian criminal justice system in general, and the bail process in particular, have been shaped by the broader neoliberal political climate and the ensuing notion of the risk society. While characteristic of many Western democratic nations, several academics (CCLET, 2014; Myers, 2009; Webster et al., 2009) have argued that these frameworks have contributed to this serious problem in the Canadian bail system. Chapter 3 lays out the methodology of this research. Specifically, it describes the study setting – one BVSP located in a large urban city in Ontario – as well as the sample of clients examined. Particular attention is given to the various ways in which the data will be analyzed in order to assess the degree to which the BVSP's risk assessment tool - Service Planning Instrument™ (SPIn) – produces risk classifications that are related to clients' outcomes on the bail program. Chapter 4 presents these analyses. Descriptive analyses present a portrait of the research sample in terms of demographics, criminal justice characteristics and risk classifications. Inferential analyses explore the predictive validity of the SPIn risk assessment tool, as well as other socio-demographic and criminological factors. This thesis follows – in Chapter 5 – with a discussion of the research findings in light of qualitative analyses and the wider context of the bail and remand problem. Finally, this thesis concludes with various broader reflections. Specifically, it discusses limitations of this study and areas for future investigation, as well as both policy recommendations and the theoretical implications of this research.

2 – LITERATURE REVIEW

2.1 – SETTING THE SCENE: NEOLIBERALISM & THE NEW PENOLOGY

2.1.1 - Neoliberalism

Neoliberalism is the political and economic ideology that has generally replaced the welfare state politics of the 1960s[6]. It is characterized by the shift away from state-centred governance, which was considered economically inefficient, to private organizations and community agencies beginning in the 1980s (O'Malley, 1996a, 1996b; Reiner, 2006; Rose, 1996) This ideology advocates for a business enterprise model to replace the welfare model, with a focus on cost-effective service delivery as well as quasi-contractual relationships between state and non-state agencies (O'Malley, 2009; Reiner, 2006; Rose, 1996).

One characteristic of neoliberalism is the 'responsibilization' of the community. Proponents of neoliberalism criticize the past welfare state for undermining personal responsibility and creating a culture of dependency (O'Malley, 2008). They argue that communities must take more responsibility for their own governance and well-being (O'Malley, 1996a, 2008). Osbourne and Gaebler (1993) assert that by involving or giving up control of social service delivery to communities, a higher quality of care can be offered to citizens. This transfer of responsibility is based on the belief that communities can better understand the problems facing their members, are more committed to their clients, are more flexible in terms of service delivery and are better able to provide cost-efficient services (Osbourne & Gaebler, 1993).

[6] While it is generally accepted that with the rise of neoliberalism there has been a decline in the welfare model of governance, several academics (see, for example, O'Malley, 2000, 2004; Gervais, 2010) note that this transition has not been as straightforward as it is often portrayed. O'Malley (2004) contends that in many areas of criminal justice practice, certain aspects of the welfare state persist, but have simply been redeveloped or relabelled to better fit the current political climate.

Garland (2006), however, is suspect of this turn to the community. He contends that while day-to-day crime control has increasingly become the responsibility of non-governmental organizations, the government has maintained its role as punisher of crime. The message being transmitted is that the State cannot manage crime on its own and that it requires the cooperation of public and private organizations in order to effectively target and reduce criminal activity (Garland, 1996). This recognition translates into the outsourcing, via competitive tendering, of the services provided within the criminal justice system to private and/or community agencies (O'Malley, 2009). Indeed, the management of marginalized populations has largely been taken over by a "plethora of quasi-autonomous agencies working within the 'savage spaces', in the 'anti-communities' on the margins" (Rose, 1996, p.347). Not only does this neoliberal practice partially relieve the State of the responsibility to care for offenders, but it also ensures economic efficiency in terms of service delivery.

Despite the State's apparent offloading of crime management, Garland (1996) proposes that the government is actually seeking to control crime from a distance through the responsibilization of the community. While the State maintains all of its original functions, it takes on the additional responsibility of coordinating other agencies that will then cooperate with any State requests as well as exchange information (Garland, 1996). Thus, by partnering with community agencies and increasing community involvement in social service delivery, the State is ultimately extending its power and control beyond its original reaches.

2.1.2 - Risk Society

Simultaneous to this partial transfer of responsibility, many Western democratic nations have also witnessed the rise of the risk society as another major development that has resulted from the proliferation of the neoliberal state. According to Beck (1992), society has become preoccupied with concerns about risks, or potential dangers, which cause unease and fear among citizens. Ericson and Haggerty (1997) explain that in the risk society the goal of governance is to minimize specific dangers in order to provide security. Beck (1992) explains that preventive governance based on actuarial logic is the primary strategy for managing security risks.

2.1.3 - The New Penology

Feeley and Simon's (1992) influential work on the New Penology can be understood as a criminological extension of Beck's (1992) risk society thesis and neoliberalism more generally. The New Penology is characterized by three elements: 1) a new language of risk and probability; 2) a new objective of risk management and control; and 3) new techniques of targeting offenders through the use of actuarial tools based on aggregate data (Feeley & Simon, 1992; O'Malley, 1996b).

Under the New Penology framework, crime is understood to be a normal and inevitable part of modern life (Feeley & Simon, 1992; Garland, 1996). Thus, the criminal justice system regards crime not as an individual or social pathology, but as a collection of risks to be controlled (Garland, 1996; O'Malley, 1996a, 1996b). Garland (1996) notes that "the threat of crime has become a routine part of modern consciousness, an everyday risk to be assessed and managed" (p.446). Under the New Penology, rather than assigning blame to actors for their criminal behaviour, criminal justice professionals are instead concerned with predicting the future danger posed by an offender and ways of limiting such risk (Feeley & Simon, 1992). Consequently, focus has shifted from individual-level rehabilitative efforts or punishment to the management of risk through assessment and carefully targeted interventions, or 'actuarial justice': "[The New Penology's] goal is not to eliminate crime but to make it tolerable through systemic coordination" (Feeley & Simon, 1992, p.455). Service providers now use actuarial techniques, like risk assessment tools, to identify, classify and regulate unruly groups according to supposed dangerousness (Feeley & Simon, 1992).

2.1.4 - Risk Assessment

Risk assessment is based on the belief that criminal behaviour is predictable and that propensity for criminality can by classified through the use of aggregate group data (Hannah-Moffat, Maurutto & Turnbull, 2009). Aggregate classification systems are used to determine the level of surveillance and control required for particular groups of individuals (Feeley & Simon, 1992). The goal of these classifications is to create risk profiles to help sort offenders along the 'custodial continuum' (Feeley & Simon, 1992). Offenders with a high-risk profile are to be subjected to longer and more intense periods of control compared to their lower risk counterparts (Feeley & Simon, 1992).

Actuarial tools based on aggregate determinations of risk were developed in the 1970s to replace subjective expert opinion (Hannah-Moffat, 2005). However, these early models focused solely on static risk factors (i.e. factors that do not change over time) such as criminal history, sex and age. These models led to offenders being conceptualized as 'fixed-risk subjects' incapable of rehabilitation and thus condemned to carry the same risk classification throughout their entire lives. In contrast, risk assessment instruments developed in the 1990s began taking into consideration criminogenic needs (sometimes referred to as dynamic risks): "areas in the offender's life or lifestyle, which, if changed, can reduce the risk of reoffending", thus producing a 'transformative risk subject' (Hannah-Moffat, 2005, p.35). The hierarchical classifications of risk/need areas generated by these tools are intended to guide future decisions regarding the supervision of and programming for the offender (Hannah-Moffat, 2005). Hannah-Moffat (2005) contends that risk/need assessments go beyond merely containing and managing offenders and are actually capable of reducing the level of risk posed by offenders, and therefore their likelihood of recidivating.

While risk/need assessments can be valuable in reducing recidivism, Hannah-Moffat (2005) cautions that these assessments only consider what she terms ‘intervenable needs’. Intervenable needs are not individuals’ self-perceived needs, but needs that individuals share with an aggregate population, that are linked to recidivism and that can be easily targeted on an individual level (Hannah-Moffat, 2005). Hannah-Moffat (2005) also acknowledges that the needs outlined in these risk assessments are often based on highly gendered and racialized middle class norms, and thus still need to be refined.

Currently, the leading type of risk assessment tool used in the criminal justice field is referred to as the Risks-Needs-Responsivity (RNR) model (Hannah-Moffat, 2005; Hannah-Moffat et al., 2009*).* The risk principle posits that an individual’s level of intervention should match his/her risk level (Andrews, Bonta & Wormith, 2011). This congruence is particularly important given that subjecting low risk offenders to intensive interventions can actually increase recidivism rates (Erwin, 1986; Lowenkamp & Latessa, 2004). A review of meta-analyses found that when subjected to the same intensive interventions, recidivism rates of low-risk offenders actually increased 4% while those of high-risk offenders decreased by 19% (Lowenkamp & Latessa, 2004)[7]. The need principle underscores the importance of targeting criminogenic needs in order to reduce the likelihood of recidivism (Andrews et al., 2011). Finally, the responsivity principle affirms that interventions must be tailored to offenders’ learning style, strengths and motivation in order to maximize efficiency (Andrews et al., 2011; Hannah-Moffat, 2005*).*

[7] Latessa and Lovins (2010) provide three explanations for this trend: 1) placing lower risk offenders in intensive correctional settings exposes them to higher risk offenders and facilitates the transmission of anti-social knowledges; 2) placing lower risk offenders in intensive programs often removes them from the pro-social networks that they have already established (e.g., family, work colleagues); 3) intellectual factors may cause some lower risk offenders to be particularly impressionable and easily manipulated by higher risk, predatory offenders.

2.2 – RISK MENTALITY IN THE CRIMINAL JUSTICE CONTEXT

As part of the wider society, it is not surprising that the Canadian bail system has also been influenced by the current neoliberal state and the reigning New Penology framework. This framework heralds community-based interventions and incapacitation as the best ways to manage risk (Feeley & Simon, 1992; Kazemian, McCoy & Sacks, 2012). The bail decision is a clear reflection of this position - a choice between releasing an accused person into the community or detaining (i.e. incapacitating) him/her in custody while awaiting future court dates. Yet simple incapacitation does not rehabilitate or otherwise address any societal causes of crime. Rather, prisons and jails are being increasingly used simply to warehouse individuals deemed too risky to be in greater society (Feeley & Simon, 1992). This trend of warehousing risky individuals may be understood as a product of the risk aversion mentality which has arguably come to dominate the criminal justice system.

Indeed, Canadians have generally come to expect perfect security from our government. Myers (2009) suggests that when this security is not achieved, a 'blame system' comes into play. This 'blame system' is based on the belief that every misfortune can be traced back to an individual's actions, and thus someone is always blameworthy when things go wrong (Myers, 2009). Myers (2009) asserts that:

> [w]hen precautionary measures and security systems fail the public looks to assign culpability rather than assessing whether the decision was a reasonable one to make. In times of crisis, cues indicative of danger are easily identified in retrospect, but at the time of the decision their significance may not have been immediately evident. (p. 129)

Rose (1996) notes that in lieu of the State, 'experts' are being increasingly burdened with the responsibility for any negative outcomes that result from their risk management decisions.

This scholar (1996) explains how experts now have the "obligation to take (legal, moral, professional, financial) responsibility for the calculations that they make, the advice that they give and the success of the strategies that they put into place to monitor and manage that risk" (p.349). Power (2004) suggests that this responsibilization leads to 'secondary risk management' whereby professionals become preoccupied with managing risks to their own reputation. One strategy that professionals use to avoid blame is to err on the side of caution when making decisions, resulting in unnecessarily intrusive interventions made in the name of safety (Myers, 2009).

2.3 – RISK AVERSION IN THE BAIL SYSTEM

2.3.1 – Delayed Decision-Making as a Cultural Barrier to Accessing Bail

It has recently been argued that the Canadian criminal justice system, and the bail process in particular, are currently plagued by a culture of risk aversion (CCLET, 2014a; Myers, 2009; Webster et al., 2009). Criminal justice professionals are generally reluctant to release accused persons into the community out of concern for their professional reputations. The risk aversion mentality begins with the Police and extends to the Crown and ultimately to the Justice[8].

Despite the apparent decline in crime rates over the past twenty years, the Police are sending a larger proportion of accused for bail hearings (Webster et al., 2009). While the proportion of bail cases being detained actually remained fairly stable from 2001 to 2007, the greater number of individuals starting their cases in bail court means that more individuals are ultimately being denied bail. Although arresting officers have limited powers of release, at the police station officers in charge are permitted to release individuals in a number of

[8] In Ontario, most bail courts are presided by a Justice of the Peace, rather than provincial court judges. However, presiders in bail court vary by jurisdiction.

circumstances[9] and on a variety of release options[10] (Trotter, 2010). When an officer in charge decides not to release an accused person, section 503(1) of the *CCC* stipulates that the accused must be brought before a Justice, if one is available, within 24 hours of the arrest, without unreasonable delay, or if unavailable in this time frame, as soon as possible. In Ontario, the percentage of criminal court cases that began their processing in bail court has increased substantially, from 39.2% in 2001 to 50.2% in 2007 (Webster, 2009). While the Ministry of the Attorney General (2013) reported a slight decrease by 2012, the overall trend remains. This substantial rise suggests that police officers are choosing to absolve themselves of the responsibility of releasing a potentially 'risky' individual by passing important decision making on to the Crown and the Justices who oversee bail court (Webster et al., 2009).

This model of risk aversion is even more prevalent among Crown prosecutors. In the Ontario *Crown Policy Manual*'s two-page brief on bail hearings, Crown counsel are cautioned:

> The May/Iles, Hadley and Yeo Inquests arose out of situations where accused persons were released on bail and subsequently committed murder/suicide. In the course of these inquests, issues surrounding bail hearings, including the conduct of Crown counsel and the exercise of Crown discretion, came under careful scrutiny. (p.1)

This Manual appears to suggest that Crown prosecutors should adopt a 'better safe than sorry' position on bail. Specifically, Crowns are seemingly advised that the best way to avoid risk is to detain accused persons. Further, it arguably instructs that individuals should only be released on bail if the prosecutor feels absolutely confident that any risks can be safely managed through the imposition of conditions. Not surprisingly, it is not uncommon that the Crown refuses to consent

[9]Circumstances include when the maximum sentence for the charge(s) is five years imprisonment or less.

[10] Options for release include signing a promise to appear, entering into a recognizance (with a financial penalty for non-compliance), and releasing on an undertaking which may include a number of specifically outlined conditions (for example, notify a peace officer of any change of address, abstain from communicating with witnesses) (Trotter, 2010).

to an individual's release, moving the decision up the ladder to the Justice. As such, the Crown is relieved of responsibility should such a release go poorly (Myers, 2009).

At the top of the bail decision-making ladder is the Justice, who must decide whether to grant bail or detain an individual in custody until his/her criminal matter is resolved. Clearly, the effect of this model of deferred decision-making is that cases are taking longer to reach bail determination, with the result that individuals are being held longer in pretrial custody prior to being granted formal release. However, even once the determination of bail has been made, the form of release will often further contribute to the growing remand population.

Specifically, detaining an accused person can only be justified on one of three grounds as outlined in section 515(10) of the *CCC*. Specifically, detention can only be justified if: a) it is necessary to ensure an accused's attendance in court; b) the accused is considered likely to commit a criminal offence if released into the public; or c) it is necessary in order to maintain confidence in the administration of justice[11]. At a bail hearing, Justices are to follow a 'ladder approach' whereby individuals are released in the least onerous manner possible. Section 515(1) of the *CCC* stipulates that Justices are to release accused persons on an undertaking without conditions "unless the prosecutor … shows cause … why an order under any other provision of this section should be made". Other more restrictive options for release include an undertaking with conditions or a recognizance with or without sureties and/or a deposit (Trotter, 2010). In the case that the Justice does, in fact, decide at the bail hearing that the release of the accused represents an acceptable risk, he/she will nonetheless frequently select one of these more restrictive release options as a means of further limiting his/her reputational risk (Myers, 2009).

[11] The *CCC* outlines, under section 515(10)(c), that detention on the tertiary ground should be based on the apparent strength of the prosecutor's case, the seriousness of the offence, the circumstances surrounding its commission and the potential for lengthy incarceration.

In fact, the growing trend of requiring sureties for bail release appears to be yet another reflection of the culture of risk avoidance (CCLET, 2014; Myers, 2009). A surety is a person close to the accused who agrees to take on the responsibility of ensuring the accused's attendance at future court dates as well his/her compliance with any conditions outlined in the release order. He/she must be judged by the court to be of strong moral character and to have a respectful relationship with the accused. Furthermore, in signing a recognizance, a surety agrees to pay a specified amount of money to the court if the accused fails to comply with the conditions set out, and in some cases may be asked to leave a deposit. Myers (2009) argues that "rather than being an exceptional requirement, having a surety in order to secure release has become common practice in some Ontario courts" (p.132). In her study of eight Ontario bail courts, seven of these courts required a surety for 60% - 89.7% of all releases consented to by the Crown. Prevalence was even greater among show-cause releases, where all eight courts required a surety for 62.5% - 100% of cases. Myers (2009) explains that Crown counsel and Justices may feel that by placing the responsibility of 'policing' the accused on the surety, they are absolving themselves of any responsibility should the accused commit any criminal activity while released on bail. Ironically, the offloading of responsibility ultimately is transferred back to the community, in the form of sureties, in those cases in which release is permitted. However, this new standard of surety release appears to disadvantage accused persons with weak pro-social ties and contribute to the growing remand population. Individuals unable to produce a court-approved surety may be denied bail and detained in pretrial custody while awaiting case resolution. Even for those who are able to secure a surety, the process of finding one and having the surety vetted by the court typically takes additional time during which the accused remains in custody.

2.3.2 – Codified Risk Aversion as a Structural Barrier to Accessing Bail

The risk aversion mindset which has infiltrated bail culture has also arguably been formalized into new sections of the *Criminal Code of Canada.* The number of reverse onus provisions legislated at bail hearings has increased substantially over the past 20 years[12]. These provisions force accused persons to prove why their release is justified under section 515(1) of the *CCC,* as opposed to the Crown having to show cause why detention is justified. In particular, a reverse onus is placed on individuals who, while on bail, are charged with failing to comply with a condition of a court order, or an indictable offence when their pending charges are also for an indictable offence (Trotter, 2010). Webster et al. (2009) contend that the growing prevalence of reverse onus provisions reflects an embracing of the culture of risk aversion at the formal, parliamentary level. The effect of these laws is that it has become increasingly difficult for Canadians to be released on bail, despite section 11(e) of the *Canadian Charter of Rights and Freedoms*, which guarantees Canadians the right not to be denied reasonable bail without just cause. By effectively restricting access to bail, reverse onus provisions are yet another likely source of the current levels of detention which are contributing to the remand problem.

The right to bail has been further restricted by the Supreme Court of Canada in *R. v. Hall* (2002). In its decision, section 515(10)(c) of the *CCC,* which allows bail to be denied if "the detention is necessary to maintain confidence in the administration of justice", was ruled to be constitutional by the five to four majority. Nevertheless, the minority expressed concern that this ground would lead to individuals being detained as a result of penal populism - the public's fear of crime and their unfounded demands to 'get tough': "The problem with s. 515(10)(c) is that, stripped of its essence, its very purpose is to allow these subjective fears to form the sole basis by

[12] For example, reverse onus provisions apply to non-Canadians charged with an indictable offence(s), those charged with drug trafficking, importing and exporting, as well as offences related to gang activity, terrorism, and virtually all offences in which a weapon or firearm was present (Trotter, 2010).

which bail is denied" (para 107). Essentially, section 515(10)(c) seems to be a codified reflection of the risk aversion mentality which appears to permit individuals to be detained for a number of reasons, as long as their release might otherwise risk bringing the administration of justice into disrepute by looking soft. Moreover, the Supreme Court of Canada recently ruled in *R. v. St-Cloud* (2015) that the tertiary ground does not need to be interpreted narrowly or used sparingly. By extension, the tertiary ground arguably represents an expansion of acceptable justifications for pretrial detention and may be a further contributing factor to the expanding remand population in Canada.

2.3.3 – Bail Conditions as a Reflection of Risk Aversion and Pathway to Criminalization

The imposition of numerous or otherwise onerous conditions of bail can also be understood as a reflection of risk aversion. If bail is granted, Trotter (2000) stresses that: "conditions of release ought to be approached with restraint and should only be imposed to the extent that they are necessary to give effect to the criteria of release" (p.241). Sprott and Myers (2011) argue that although not legally intended as punishment, numerous bail conditions unrelated to the alleged offence can nevertheless be considered punitive. Section 515(4) of the *CCC* outlines a number of specific conditions that a Justice may choose to impose, as well as the condition (f) to "comply with such other reasonable conditions specified in the order as the justice considers desirable". Although quite broad, this last provision is most often used in relation to the secondary grounds of preventing criminal offending, and provides Justices with considerable discretion when imposing conditions (Trotter, 2010). Nevertheless, while this power is meant to allow Justices to address risk factors specific to an individual's offending, studies suggest that bail conditions are often imposed for reasons unrelated to the purposes of bail (for example, to frighten the accused or, most notably, to avoid reputational risk by giving the public the appearance of being tough on crime) (Trotter, 2010).

Despite the guiding notion of restraint, Varma (2002) noted in her study of youth released on bail in the Toronto area that all were given conditions of release, with the majority receiving more than one. Myers (2009) observed in her Ontario study of youth bail that conditions were required in 91%-100% of Crown consent releases and 98%-100% of show cause releases. Sprott and Myers (2011) found that an average of six bail conditions were imposed on youth granted bail in Toronto (with a range of 0-12 conditions) and Sprott and Doob (2010) noted that a surety was required in 72.8% of these releases. Myers and Dhillon (2013) found these numbers to be even higher, with an average of 9.4 conditions (and a range of 0-23 conditions) imposed on youth bail releases.

Of particular concern are bail conditions that do not appear to be related to the grounds for detention or the alleged offence, but are instead seemingly imposed as a means of controlling 'undesirable' behaviour. Such conditions may include the requirement to attend work regularly or to abstain from any drugs/alcohol use, even when these activities appear to be unrelated to the allegations before the court. For example, Sprott and Doob (2010) found that 86.7% of youth released on bail had a condition to obey the rules of the home, 58.8% were given a curfew and 41.9% of youth releases were given a condition to attend school regularly. Similarly, Myers and Dhillon (2013) found in their Toronto area court observation study that 84% of youth bail releases required youth to obey the rules of the home. Myers and Dhillon (2013) also observed that Crown prosecutors were never required to justify the need for such conditions. Unsurprisingly then, they found that 40.7% of the conditions imposed had no obvious connection to the alleged offence(s) or the grounds for detention, and another 21.5% had only an ambiguous connection. These conditions often cannot be justified under sections 515(10)(a) or (b) of the *CCC.* However, risk-averse Crown prosecutors and Justices may still feel justified in imposing such conditions on the tertiary ground, in order to protect themselves from any future public critique and/or scandal (Webster et al., 2009). Nevertheless, the John Howard Society of Ontario (2013c)[13], the Bail Experts Table organized by the Ontario Ministry of the Attorney General (2013)[14] and the Canadian Civil Liberties Education Trust (2014)[15] all advocate that restraint must be used when imposing bail conditions and that such conditions must be reasonable, necessary and explicitly related to the purposes of bail.

The way in which these bail conditions are enforced – through the threat of criminal charges – appears to be directly contributing to the growing remand population. Ironically, although Justices may require accused persons to follow rigorous conditions in an effort to minimize their chance of committing future criminal behaviour, these conditions may actually set accused individuals up for further criminalization (CCLET, 2014; John Howard Society of Ontario, 2013c; Sprott & Doob, 2010; Sprott & Myers, 2011; Webster et al., 2009). As Webster et al. (2009) explain, "[with the] strong belief that a greater number of conditions will lead to less crime, the criminal justice system 'creates' the likely possibility of additional crime (that might not have existed before) in the form of a failure to comply with these conditions" (p.100). Individuals who do not follow the conditions outlined on their release are most often charged with failure to comply with a court order, under section 145(3) or section 145(5.1) of the *CCC*. Any person who fails to comply with a condition set out in an undertaking or recognizance,

[13] Recommendation 2.1 in *Reasonable Bail? (*John Howard Society of Ontario, 2013c).
[14] Recommendation 28 in *Bail Experts Table Recommendations (*MAG, 2013).
[15] Recommendations 6.3 to 6.13 in *Set Up to Fail* (CCLET, 2014). The CCLET outlines a number of additional recommendations relating to bail conditions, including that bail courts be more aware of the ways in which bail conditions can disregard constitutional rights (6.4) and that Justices should reject joint bail submissions containing unreasonable and arbitrary bail conditions (6.5).

without lawful excuse, is guilty of either an indictable offence and liable to imprisonment for a term not to exceed two years, or a summary conviction offence.

Criminal charges for failure to comply with a condition of a bail order are categorized as offences against the administration of justice. These offences are primarily located in Part IV of the *CCC* and include failing to appear in court, breaching a probation order and being unlawfully at large, as well as offences related to corruption, disobedience and misleading justice. These charges are taken very seriously by the criminal justice system, as they are deemed to demonstrate disrespect for the system. Administrative charges have become increasingly pervasive in the Canadian criminal justice system, further clogging the court system and leading to increased court inefficiency. The proportion of Canadian cases before adult criminal courts that include at least one offence against the administration of justice rose from 22% in 1994/1995 to 31% by 2003/2004 (Taillon, 2006), and in Ontario specifically, to 40% by 2007 (Webster et al., 2009). This increase can be attributed specifically to the rise in failure to comply with court order charges, which were included in 11% of all adult criminal cases in 2004 (Taillon, 2006). In 2010/2011, administrative charges were the *most serious* charge in 21% of adult court cases, with roughly half of these being for failure to comply with a court order (Public Safety Canada, 2012). The pervasiveness of administrative charges is even more pronounced among bail cases specifically. In a study of bail court in one large urban city in Ontario, 76.6% of all adult cases before the court included at least one charge against the administration of justice (Webster, 2007). This trend is quite disturbing given that, in 2003/2004, the most common sentence for adult single-charge administration of justice cases was incarceration[16], which was handed down in nearly half (49%) of these cases (Taillon, 2006).

[16] Of the individuals sentenced to incarceration, 84% were sentenced to one month or less.

Sprott and Myers (2011) found a significant relationship between case duration, number of bail conditions and new failure to comply charges among Canadian youth. Youth who had one or more new failure to comply charges had a significantly longer average case duration than those who had no new failure to comply charges (263 days vs. 199 days). Moreover, those who had one or more new failure to comply charges also had, on average, more bail conditions than those with no new failure to comply charges (6.8 conditions vs. 6.0 conditions). Even more troubling, Sprott and Myers (2011) found that although roughly 50% of youth subjected to six or more conditions for a period of nine months or more were charged with failing to comply, 40% of these same youth ultimately had their initial charges withdrawn. Thus, "although the charges related to the bail hearing might have been resolved, the youths then had to deal with the new [failure to comply] charges, likely extending their case and possibly leading to a conviction" (Sprott & Myers, 2011, p.417). This means that youth, and also adults, may be criminally convicted, sentenced and receive a criminal record for behaviour that, if not for a bail order, would otherwise not be considered criminal. Thus, the criminal justice process itself, and long case processing times in particular, may be contributing to an increase in charges for failure to comply with conditions of release. The longer an accused person must abide by onerous conditions, the more opportunities exist for him/her to contravene them. Consequently, subjecting individuals to numerous, unrelated or sometimes far-reaching bail conditions over a considerable length of time may actually be exacerbating the remand problem by leading to additional criminal charges.

More disconcerting, as a result of the reverse onus provision under section 515(6)(c) of the *CCC*, those released on bail who are charged with 'failure to comply' are arguably more likely to be denied bail. Having these individuals detained in custody until both their initial charge(s) and their breach charge(s) are resolved further burdens the already often overcrowded provincial/territorial jail systems. Indeed, Canadian remand prisoners are more likely to have charges against the administration of justice than any other type of charge (Porter & Calverley, 2011). In Ontario specifically, such offences were the most serious charge in 18.5% of remand admissions in 2011/2012 (MAG, 2013). Through the interaction of long case-processing times and structural foundations of bail which restrict access to bail, onerous bail conditions arguably lead not only to further criminalization, but also appear to contribute to the growing remand problem.

2.4 - STRATEGIES FOR REDUCING REMAND

In light of the growing remand population in Canada and the negative legal and human impacts of remand, governments and academics have begun advocating for a number of strategies to address the remand crisis (Beattie, 2006; Department of Justice, 2012; MAG, 2013). For example, the Ontario Ministry of the Attorney General launched the Justice on Target (JoT) initiative in June 2008 as an approach which targeted primarily court inefficiencies and the long delays in the decision-making process, as well as the over-reliance on risk aversion mechanisms like sureties. While the initial four-year period had very limited success, reducing the average number of court appearances by only 8.1% (to 8.5 appearances) and reducing the average length of a court case by a mere 6.6% (to 192 days), the initiative was renewed in 2012 (MAG, 2014). One of the primary foci of JoT is now bail and how to improve and streamline the bail process. A Bail Experts Table was established by MAG in 2012 and in 2013 they released their recommendations (see MAG, 2013), the implementation of which will be a major focus of JoT in the upcoming years.

2.4.1 - Bail Verification and Supervision Programs (BVSPs)

Bail supervisions programs are another approach to the remand problem that targets individuals who would have previously been detained in pretrial custody by offering them community supervision. A Department of Justice Canada (2012) report describes these programs as:

> community-based services that assist individuals who, because of their financial circumstances or lack of social ties, are at risk of being denied bail on the primary ground - risk of non-appearance. In exchange for the accused's pretrial release, bail program staff undertakes to supervise the accused and to promote his or her compliance with bail conditions and attendance at subsequent court dates. (sec. C, rec. 6)

In this way, pretrial supervision programs reflect the neoliberal trend of offloading responsibility for public safety onto the community itself, as well as the high regard for cost-effective service delivery. Furthermore, BVSPs also reflect the culture of risk aversion, given that these programs take on a parallel supervisory or 'policing' role similar to those of sureties, thereby releasing the administration of justice from reputational risk (Myers, 2009).

The first BVSP in Canada was established in 1979 in Toronto, at a time when, much like today, more than half of all provincial/territorial admissions were for remand detainees (Morris, 1981). In order to avoid building more jails, the Ontario Ministry of Corrections decided to develop new community alternatives to pretrial detention (Morris, 1981). The Ministry outlined a need for verification, based on the belief that individuals could be released on bail earlier (and with fewer appearances) if detailed and accurate information regarding their life circumstances and proposed surety was promptly available to bail courts (Morris, 1981). The Ministry also identified a need for community supervision, since many individuals were being detained in custody simply because they could not identify a surety with the means to satisfy bail (Morris, 1981). These persons were essentially being detained as a result of weak social ties or poverty, not because they were considered a flight risk or posed a threat to the public (Morris, 1981). The Ministry determined that professional staff should be permitted to carry out the duties of a surety so that these individuals would no longer be detained unreasonably (Morris, 1981). Presently, the Ministry of the Attorney General (2009) outlines the program functions as threefold: 1) identifying available sureties; 2) providing verified information about an accused person to the court in order to determine suitability for bail supervision; and 3) providing supervision, counselling and referrals for service to those released on bail supervision.

A report by the Department of Justice Canada Steering Committee on Justice Efficiencies and Access to the Justice System (2012) recently advocated for the expansion of BVSPs across the country as an effective method of managing individuals on bail. The Steering Committee (2012) pointed out that in 2003/2004, 81% of clients in these programs attended all court appearances, thereby avoiding additional charges for failing to appear. The John Howard Society of Ontario (2013c) has demonstrated that clients on a BVSP who are unsuccessful on bail (that is, who incur new criminal charges) are typically not being charged with new substantive offences, but are instead being charged overwhelmingly for failing to comply with their bail conditions. This finding suggests that these individuals are not typically posing any significant risk to society while on bail. Additionally, the Steering Committee pointed out that 37% of program clients are never found guilty of the offences for which they were initially charged, indicating that these programs have helped to protect legally innocent citizens from unnecessary detention. Finally, the Department of Justice Canada Steering Committee (2012) report argued that BVSPs are also quite cost-effective. Bail supervision programs cost roughly three to five dollars a day per client to operate, compared to detention which costs, on average, 162 dollars per day per prisoner (John Howard Society of Ontario, 2013c).

Presently, there are bail supervision programs across the country (Porter & Calverley, 2011). In Ontario alone, as of 2013, there were BVSPs in 16 locations[17] across the province (MAG, 2013). A review of BVSPs carried out by the John Howard Society of Ontario (2013a, 2013b) outlined that each program is unique and customized to the trends and needs of the community that it serves. Some programs have residency options and offer treatment directly, while other BVSPs offer referrals to programs run by community partners (John Howard Society of Ontario, 2013a, 2013b).

The final report by the John Howard Society of Ontario (2013b) lists a number of recommendations for bail program functionality and efficiency. Specifically, Recommendation 12 advises that bail programs should only be used for moderate and moderate-high risk clients and that lower risk individuals should be considered for release on their own recognizance so as to avoid widening the net of individuals requiring pretrial supervision[18]. The authors caution that accepting low-risk clients into such intensive programs can actually be harmful to public safety and will increase government costs while taking away resources from higher risk individuals in need.

2.4.2 - Bail Verification and Supervision Program Regulations

In Ontario, Bail Verification and Supervision Programs exist through service agreements with the Ontario Ministry of the Attorney General. The Ministry provides funding to various

[17] As of 2013, there are actually 13 separate Bail Verification and Supervision Programs in Ontario, with three of these programs (Toronto, Brampton and Ottawa) operating a satellite office in a second, neighbouring location.
[18] The authors comment that, in reviewing client files, they noticed many clients whom they felt should not have been candidates for bail supervision – let alone surety release – because they were living with family and/or were in school or employed at the time, making them apparently low risk (John Howard Society of Ontario, 2013b).

service providers who, in turn, send monthly statistical reports and comply with the expectations outlined by MAG in the *Bail Verification and Supervision Program: Standards and Procedures Manual* (2009). This manual stipulates that accused persons can only be released to the supervision program when an appropriate surety is not available and after consideration of a candidate's previous response to supervision, ability to understand and willingness to comply with the program requirements. The manual also outlines standards for client contact and reporting and specifies that clients should report on at least a weekly basis, except where this has been documented as unreasonable or unnecessary. It further outlines expectations for file management, supervision meeting agendas, the use of case notes and the collection, storage and disclosure of information. Regarding enforcement, the manual allows bail workers some discretion in deciding whether to pursue failure to comply charges. In making these decisions, bail supervisors are advised to consider the gravity of the alleged breach, any extenuating circumstances and the quality of evidence. Lastly, the Ontario Association of Bail Verification and Supervision Services is responsible for reviewing and evaluating all BVSPs every three years to ensure compliance with all standards outlined in the above MAG manual.

2.4.3 – Risk Assessment Creep: From Post-Sentencing to Pretrial

Actuarial risk tools have existed in the justice system since the 1920s, but became common only in the late 1970s with the rise of the neoliberal state (Maurutto & Hannah-Moffat, 2006). By the 1980s, risk prediction tools were being used extensively in the correctional setting (Maurutto & Hannah-Moffat, 2006). The Correctional Service of Canada formally introduced the Offender Intake Assessment in 1994 for all newly admitted federal prisoners (Hannah-Moffat, 2005). This was done in an effort to provide a standardized, seemingly objective method of evaluating a prisoner's risks and needs in order to recommend appropriate interventions upon admission and throughout an offender's incarceration (Hannah-Moffat, 2005). Risk and needs assessments have since been fully integrated throughout the Correctional Service of Canada as well as the National Parole Board of Canada and other correctional settings (Hannah-Moffat, 2005).

Globally, risk prediction tools have been modified for use in a wide variety of criminal justice situations, including: custodial security classifications; programming needs; probation; parole; police arrest; and diversion and sentencing decisions (Maurutto & Hannah-Moffat, 2006). With risk assessment tools seeming to pervade all areas of the correctional system, it is unsurprising that they have also begun to creep into the pretrial setting as well. The John Howard Society of Ontario (2013a, 2013b) recently recommended that all Bail Verification and Supervision Programs adopt the use of a 'short-screener' assessment tool to be completed for all supervised clients. They suggested that such an assessment tool could also be used to guide the allocation of resources and to track clients' progress through the duration of their supervision.

2.4.4 – Service Planning Instrument™ (SPIn)

The Service Planning Instrument™ (SPIn) is a RNR model assessment tool produced by Orbis Partners Incorporated which has been adopted by a number of BVSPs in Ontario as a required component of their intake process. This risk assessment tool offers the option of completing either a 90-item Full Assessment or a 35-item Pre-Screen Assessment, which is the focus of the current study. In a promotional brochure produced by Orbis Partners Inc. (n.d.), the company acknowledges some overlap with existing risk assessment tools, but boasts that SPIn has a more user-friendly case planning application and is more up-to-date with the research on risk.

Both the SPIn Full Assessment and Pre-Screen Assessment measure static risks, dynamic needs and client strengths, referred to as protective factors. Static scales include: criminal history, response to supervision and aggression/violence, while dynamic scales include: substance use, social influences, family, employment, stability, attitudes and social/cognitive skills[19]. In addition to the 10 risk scales listed above, SPIn also records data on mental health, but marks this domain with 'service attention flags'. Completing the Pre-Screen Assessment produces an overall classification of low, moderate or high risk to reoffend, as well as separate classifications for static risk, dynamic risk and protective circumstances and a diagram of areas of concern on which to focus case planning.

Orbis Partners Inc. (n.d) claims that the Service Planning Instrument is a flexible risk tool that can be used in a variety of settings: "the content of the SPIn will function in probation, parole, half-way houses, day-reporting centres, custodial facilities, and other contexts where there is a need to predict recidivism and identify relevant needs" (p.5). What is potentially problematic about the above, for the purposes of this study, is that pretrial supervision is not listed as one of the settings in which SPIn can theoretically be used. Notably, the pretrial context is unique and different from a post-sentencing context because bail workers are typically concerned with clients attending court dates and following bail conditions at least as much, if not more, than they are with the traditional concern of recidivism[20]. While the SPIn brochure boasts that the tool can be customized for varying settings and jurisdictions, this customization seems to go only so far as to alter assessment wording to better reflect local preferences.

[19] In the Full-Screen Assessment, aggression/violence is also considered a dynamic risk, in that this domain explores not only an individual's past violent episodes, but also his/her propensity for future violence.

[20] Recidivism, by definition the repeated commission of a criminal offence, does not technically apply in the pretrial phase given that the accused individuals have not yet been found guilty of the current charges and may not have any prior criminal convictions.

2.5 - CONCERNS REGARDING BVSPs AND PRETRIAL RISK ASSESSMENT

Given that the proliferation of Bail Verification and Supervision Programs is fairly recent, there is much that is still unknown about the functioning and effectiveness of these programs. In particular, concerns regarding the appropriate use of risk assessment tools in the pretrial context must be addressed in order to ensure the predictive validity of these tools and, by extension, the success of bail supervision programs nationwide.

When selecting a risk assessment instrument, it is of utmost importance that the tool has been validated for the specific population for which it will be used (Hannah-Moffat et al., 2009; Koetzle Shaffer, Kelly & Lieberman, 2011; Latessa & Lovins, 2010; Mamalian, 2009; Shaw & Hannah-Moffat, 2000; Webster & Doob, 2004). Predictive validity is concerned with whether an instrument captures what it sets out to, and the extent to which these measures can be used to predict outcome variables. Predictive validity is measured by the correlation between risk scores and outcome measures, typically recidivism or new charge rates (Latessa & Lovins, 2010). While no risk assessment tool is predictive 100% of the time, the stronger the correlation, the more valid a tool will be, with leading instruments tending to be accurate in roughly 70% of cases (Latessa & Lovins, 2010).

2.5.1 –Demographic Validation

In terms of demographics, a common critique of risk assessment tools is that they may not be sensitive to differences between genders and race (Koetzle Shaffer et al., 2011; Hannah-Moffat et al., 2009; Webster & Doob, 2004; Shaw & Hannah-Moffat, 2000). Latessa and Lovins (2010) advise that even when using a risk instrument that had been previously validated for numerous subgroups, service providers should still analyze assessment results to ensure validity for their specific population. Hannah-Moffat et al. (2009) remarked that probation officers interviewed in their study often noted a tendency for members of racial or cultural minority groups to score higher in risk classifications. Some of these probation officers also noticed a tendency to over-classify female offenders and/or commented that these tools do not adequately address the gender-specific needs of women (e.g., history of abuse, parental responsibilities). Along these same lines, Webster and Doob (2004) suggested in their examination of the use of the Custody Rating Scale by the Correctional Service of Canada that this overall scale, as well as one of its two sub-scales and a variety of individual risk items, had weak or no predictive validity for Aboriginal and/or non-Aboriginal female offenders.

Similarly, risk assessment instruments must also be validated for the particular offender population and setting. Koetzle Shaffer et al. (2001) have suggested that it is unlikely that one tool will be equally predictive for probationers, prisoners and parolees. Certain types of offenders may also require the use of a specialized assessment tool, such as sex offenders or violent offenders (Latessa & Lovins, 2010).

2.5.2 – Justice Setting Validation

Additionally, actuarial tools for the pretrial setting will likely be different than those used for sentenced offenders (Latessa & Lovins, 2010). Although Mamalian (2009) of the Pretrial Justice Institute has observed that many jurisdictions across the United States are using post-sentencing risk assessment instruments in the pretrial setting, she insists that using such tools in this context is inappropriate. Mamalian (2009) explains that many of the factors considered relevant for convicted offenders, such as those related to risk of recidivism and criminogenic needs, are simply unrelated to predicting pretrial risk. Instead, pretrial assessments must consider a client's likelihood of attending court and following bail conditions. Mamalian (2011) further notes that particular challenges exist when developing a risk instrument for bail decisions, such as the need to balance community safety with the accused's presumption of innocence and the right to the least restrictive form of release.

Despite the clear need for pretrial-specific risk tools, Mamalian (2009) noted that from 2001 to 2009, nearly one quarter (24%) of pretrial programs in the United States had never validated their risk assessment tools[21] and less than half (41%) of all jurisdictions were using tools that had been validated in the last five years. Mamalian (2009) also noted that one third of all American pretrial programs are using risk assessments that were not developed specifically for their jurisdictions. She argues that because most assessment tools are developed and validated on urban offender populations, this is particularly problematic for programs in rural areas whose clients have a unique set of needs that should be considered.

Similar to the United States, risk assessment tools are also used extensively in the Canadian criminal justice system, including more recently in the pretrial setting (Maurutto & Hannah-Moffat, 2006). The use of risk assessment tools for bail supervision programs has been hailed a best practice and recommended for use in all BVSPs (John Howard Society of Ontario 2013a, 2013b). The results of these assessments are typically consulted when making subsequent decisions regarding supervision. As such, the risk classifications produced by these instruments often play an influential role in determining the extent to which clients are subjected to intrusive supervision measures. Within this light, it seems important that risk assessment tools are validated for the specific demographic population and pretrial justice setting so that classifications produced by these instruments are indeed predictive of bail supervision outcomes. Unpredictive risk scores can have potentially serious consequences, as they may inspire unnecessarily intrusive or lenient supervision, both of which can actually lead to increased criminal activity.

[21] Results based on the Pretrial Justice Institute's 2009 *Survey of Pretrial Services Programs.*

Given the limited research on the appropriateness and effectiveness of using traditional risk assessment tools in the pretrial supervision context, this thesis will examine the extent to which the SPIn Pre-Screen assessment tool successfully predicts bail supervision outcomes. Specifically, this study will explore whether a relationship exists between bail supervision success and the overall risk score produced by SPIn, as well as its three sub-scales. Furthermore, this thesis will evaluate the predictive validity of the 11 areas of inquiry which constitute the SPIn assessment, as well as many of the individual items which comprise these domains. Finally, a number of traditional risk factors related to population demographics and the criminal justice process will also be examined in order to develop a fuller understanding of those factors which do, in fact, predict bail supervision success.

3 – METHODOLOGY

This research uses a mixed method approach to examine the relationship between a variety of demographic, criminal justice and risk assessment variables and the supervision outcomes of accused persons being supervised by the Bail Verification and Supervision Program in a large urban centre in Ontario, Canada.

3.1 – STUDY POPULATION

The study population represents all individuals over the age of 18 at the time of their judicial interim release, who have been charged with a criminal offence and granted bail under the supervision of a particular BVSP while they wait for their charges to be dealt with by the courts. It is important to note that the study population is a distinct and non-representative sub-set of the greater bail population in Canada. Typically, those admitted to the bail program have limited resources or pro-social supports and are not deemed suitable for release on their own recognizance or are otherwise unable to produce a willing and suitable surety for the courts. Additionally, the BVSP will not accept clients who have had three or more failure to comply (FTC) convictions in the last five years[22]. Furthermore, the intake supervisor at the city courthouse also has the right to refuse admittance to any individual whom the supervisor feels that the Program could not adequately supervise or manage[23] – although, in practice, this situation does not happen often. Lastly, bail supervision clients in the city of study may vary from those in other programs across Ontario and Canada in terms of demographic make-up, access to resources and local justice practices[24] [25].

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[22] A history of FTC convictions is purported to demonstrate a lack of respect for criminal justice authorities.

[23] For example, some sex offenders have been refused, as well as individuals who openly display a disregard for the rules of the program.

[24] See John Howard Society of Ontario's (2013a) *Bail Verification and Supervision Program: Pilot Site Report* for a discussion of population demographics in Bail Supervision Programs in Ottawa, Thunder Bay and Sudbury.

3.2 – PRE-COLLECTION PHASE

Prior to the formal data collection process, a considerable amount of time was spent becoming familiar with the operating organization, the ways in which its Bail Verification and Supervision Program functioned, and what the staff hoped to gain from our collaboration. I first met with the Executive Director of the organization in October 2012 to discuss the program's research interests as well as the possibility of being granted access to the BVSP files. From January to March 2013, I met with, and later shadowed, the program's courthouse bail supervisor to learn more about how the BVSP operates on a daily basis within the bail court setting. As my research question developed, I met again with the Executive Director and the organization's Clinical Director in May 2013 to discuss research plans and access to the program's databases. The Clinical Director granted institutional approval for my ethics application and provided me with one-on-one training in the use of the organization's databases. Furthermore, I continued to consult with the BVSP staff throughout the research process to ensure their ongoing support of my study and to incorporate any insights that they may have to enrich my research and render it more useful for the organization.

3.3 - SAMPLING TECHNIQUE

The sampling frame for this research began as a list of all client files, provided by the staff of the BVSP, which had been closed between January 1, 2014 and June 30, 2014. I selected this time frame for optimal data quality and relevance. The organization operating the bail program had been gradually transitioning from an older database system to CaseWorks™ software (of which the Service Planning Instrument is a component) for all aspects of case management (including case notes). By January 2014, this transition was completed – meaning

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[25] See Appendix A for a detailed account of how accused individuals come to be released under BVSP supervision.

that all case management activities from this date onward were being recorded in this database. Although I still consulted the older BVSP database for case notes pre-dating the implementation of CaseWorks, data recorded in CaseWorks were generally more detailed and better organized, which allowed for more in-depth and accurate data collection, particularly of case closure information and supervision outcomes which were key to this study. The sampling frame initially contained 189 names, and after eliminating verification-only cases (i.e. individuals who were in contact with the BVSP but were never released under the program's supervision), as well as two cases clearly marked as "courtesy supervision"[26], I was left with a final list of 158 cases.

From the above sampling frame, I selected a random sample of 100 cases using an online random number generator (random.org). Random sampling is used to generate a sample that is representative of, and can therefore be generalized to, the greater study population (Healey & Prus, 2010; Neuman, 2009). When the number generator repeated a particular number (i.e. a case that was already in my sample), I disregarded this number and continued generating numbers until I had a sample of 100 different cases. Twice I disregarded a case when I determined that the client was under the age of 18. Indeed, my sampling frame was restricted to adult clients due to the sensitive nature of youth files. I disregarded another two cases while sampling because they were discovered to constitute additional (albeit unmarked) clients on courtesy supervision. Lastly, I disregarded one case in which there were two SPIn entries erroneously entered for the same client and set of charges.

[26] Courtesy supervision clients are clients who, due to moving/relocation, were under the supervision of a different BVSP at the beginning or end of their release and for whom, consequently, I would not have access to all necessary data.

3.4 – DATA COLLECTION TECHNIQUE

My research consisted of an administrative file review and subsequent quantitative as well as qualitative content analyses. I accessed information from three different sources maintained by BVSP staff to complete my data collection. From the old BVSP database, I examined demographic data and case notes. From the CaseWorks database, I collected demographic data, SPIn risk assessments, court attendance data, case notes[27], case closure forms and any other information deemed relevant. Finally, from the client files, I reviewed charge information, criminal record data and recognizances.

The first step in my data collection process was to develop a standardized data collection instrument, or coding guide. I developed an initial coding guide that listed a variety of theoretically informed variables for which I planned to collect data. These factors have been recognized in criminological research (Barnes et al. 2010; Clarke, Freeman & Koch, 1976; Fennessy & Huss, 2013; Schulenberg, 2007; Sprott & Doob, 2010; Sprott & Myers 2011) to constitute central variables when investigating both bail, as well as recidivism-based processes such as probation and parole. This coding guide also included coding categories within each variable and a clear outline of how these data were to be recorded. Once I completed this initial guide, I met with the operating organization's Clinical Director and Senior Bail Supervisor to discuss these variables, whether there were additional factors that they felt were missing or would be of interest to the organization[28] and where/how to best access these data.

[27] Case notes from the two databases would have been recorded by a supervisor after each client meeting or other form of contact (e.g., telephone communication with client, conversation with a client's lawyer). These notes summarize each contact and the matters discussed therein. This information is recorded in order to document a client's progress throughout his/her supervision as well as any ongoing concerns regarding his/her risks and circumstances.

[28] Following this meeting, I added two additional variables: previous BVSP supervision and involvement in other programs offered by the operating organization.

3.4.1 - Dependent and Independent Variables

Given my research question, the dependent variable for this study was the client's bail supervision outcome. To maintain depth of understanding, I chose to record supervision outcome data with not only a fairly exhaustive and in-depth list of quantitative values (to be potentially collapsed at a later phase), but also extensive qualitative remarks. In terms of predictor variables, I distinguished between three broad categories of independent variables: demographic characteristics, criminal justice process variables and risk assessment measures.

Risk assessment literature, including bail studies[29], has long explored demographic variables as potentially relevant predictors. Although the relevance of these variables is well-established in traditional risk assessment literature, bail supervision programs represent a unique setting and client population, and as such warrant continued exploration in this study. Demographic data were typically collected from the CaseWorks database. These variables included age, gender, race and citizenship, whether clients had a disability, were francophone, or had previously been a client of this same BVSP. I also included in this category a number of charge-related variables which defined the accused at the moment of arrest.

More recently, bail and probation parole studies (Barnes et al. 2010; Schulenberg, 2007; Sprott & Doob, 2010; Sprott & Myers 2011) have examined criminal justice process variables in an effort to understand whether aspects of the justice system may influence subsequent FTC charges or other forms of misconduct. Criminal justice data were collected from all three data sources. Variables in this category included those related to the type of bail release, bail conditions, the level and length of supervision, BVSP attendance, court appearances, and involvement with other agencies. Lastly, risk assessment variables were created from the Service Planning Instrument data on the CaseWorks database and included whether and when

[29] See, for example: Clarke, Freeman & Koch(1976), Siddiqi (2002) and Fennessy & Huss (2013).

assessments were completed, overall SPIn risk classifications and sub-classifications, variables for each SPIn domain overall, and specific items from each domain.

Across these three categories of inquiry, I have included both quantitative and qualitative data. The quantitative variables were coded numerically at either the nominal, ordinal and interval level of measurement, according to the specific rules that I set out in my coding guide. Qualitative variables were developed in order to supplement the quantitative component of my study and to provide additional context, depth and richness to my findings. Each major area of inquiry within my three categories included qualitative data which recorded relevant information from case notes, closure files, etc. Data in these qualitative categories were recorded as verbatim quotations, followed by the date that the text was produced and, when data did not come from case notes, the source of the quotation (e.g., comment on SPIn assessment). I chose to record text under as many thematic categories as I deemed relevant, so as to gather as much detail as possible within each individual variable.

3.4.2 – Pilot Study

Once my coding guide was established, I completed a pilot study of five randomly sampled cases. Although I decided to include these cases in my overall sample of 100 cases, the pilot study provided the opportunity to test the feasibility and reliability of my coding guide. While coding for this pilot study, I developed several additional variables for my coding guide, including current charges against the administration of justice and time until first breach report to police.[30] I also made several amendments to my coding guide in terms of how I defined or

[30] I added "current charges against the administration of justice" because my "current charge" variable recorded only the most serious charge and thus I stood to lose important information pertaining to administrative charges. I added "time until first breach report to police" when I realized that my existing variable of "time until first breach" failed to account for sometimes days or even weeks from the time a bail supervisor reports a breach to the date on

measured certain variables. For example, I decided to code for the presence of mental health concerns when case notes documented regular involvement with the Canadian Mental Health Association, even if a SPIn assessment did not indicate such concerns. Similarly, I chose to code for the presence of accommodation concerns when case notes documented extended periods of staying in homeless shelters or otherwise 'couch surfing', even when this information was not indicated in a risk assessment[31].

Another issue that I encountered during the pilot phase was what to do in cases in which there was no SPIn Pre-Screen risk assessment completed for a client, given that risk assessment was a principal independent variable of interest. In these cases[32], I first checked for any assessments from previous supervision periods to use, in part, for risk assessment coding (while obviously being cognizant that risk factors change over time)[33]. In conjunction with the SPIn Administration Guide, I also used information recorded in case notes and elsewhere to code risk variables as much as possible in a way that would be consistent with the rest of my SPIn data[34]. Finally, cases in my pilot study took roughly three hours each to code. At this point I decided that, regarding qualitative data, I would not code every single piece of relevant text in cases where such text was seemingly redundant or insignificant. For example, after the pilot study I

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which police actually charge a client, if they charge at all. Furthermore, clients are sometimes charged for failing to comply without a bail supervisor ever making a report to police.

[31] In such cases, it is possible that the situation changed since the time when a risk assessment was completed, particularly when we consider that bail supervision often lasts several months. While these situations did not arise often, I felt that such 'assessment override' coding decisions were important to providing the most accurate picture of bail supervision possible.

[32] Overall, 39 cases did not include a current SPIn Pre-Screen assessment.

[33] Specifically, I consulted previous assessments only when the previous supervision period was recent (i.e. no more than two years before the current supervision) and when there were no obvious indications in case notes that the risk information would have changed. This process occurred for five cases.

[34] There is little reason to believe that, had a Pre-Screen assessment been completed by a Bail Supervisor, the additional information that I coded from multiple sources would have been significantly different. In particular, following the detailed directions within the SPIn Administration Guide, little room is left for subjectivity. Moreover, the data coded in this way were limited only to variables at the domain and sub-item levels. In no cases did I use my own discretion to directly determine a client's risk classifications.

only occasionally recorded text such as "[Client] reported for appointment as directed" or "[Client] continues to reside at [address]" because I felt that repetitive statements of this nature would not contribute to a more in-depth understanding of the research question.

3.4.3 – Data Collection in Practice

After completing my pilot study, I began to collect data for the rest of my sample. I did this in two phases. First, I coded data contained in the old BVSP and CaseWorks databases, in which the majority of the information relevant to my study was located. Simultaneously, I kept a methods journal in which I recorded and justified any coding or other methodological decisions that I made, including cases in which I coded risk variables based on case notes only. Coding this phase took me approximately two hours per case, depending on the length of a client's supervision, whether he/she experienced any difficulties while on supervision and the general level of detail included in client records. For the second phase of my data collection, I recorded data from BVSP case files, which included client recognizances as well as other information such as criminal record reports. These data sources were consulted both at the BVSP organization's main office and the courthouse office where I manually examined the case file of each client in my sample. At the end of data collection, I had coded a total of 142 quantitative and qualitative variables for each of my 100 cases (see Appendix B for coding guide).

3.5 - METHOD OF ANALYSIS

I analyzed my quantitative data using a variety of descriptive and inferential tests available in the Statistical Package for the Social Sciences (SPSS). First, I produced a picture of my sample using a number of descriptive statistical measures. I ran a frequency distribution for all quantitative data to see the general distribution of cases within each variable. Frequency distributions also allowed me to easily identify any outliers, missing data or unusual values that might suggest an issue with data input. Once I cleaned my data, I then re-ran these tests, as well as several measures of central tendency and dispersion in order to produce a detailed description of my sample population.

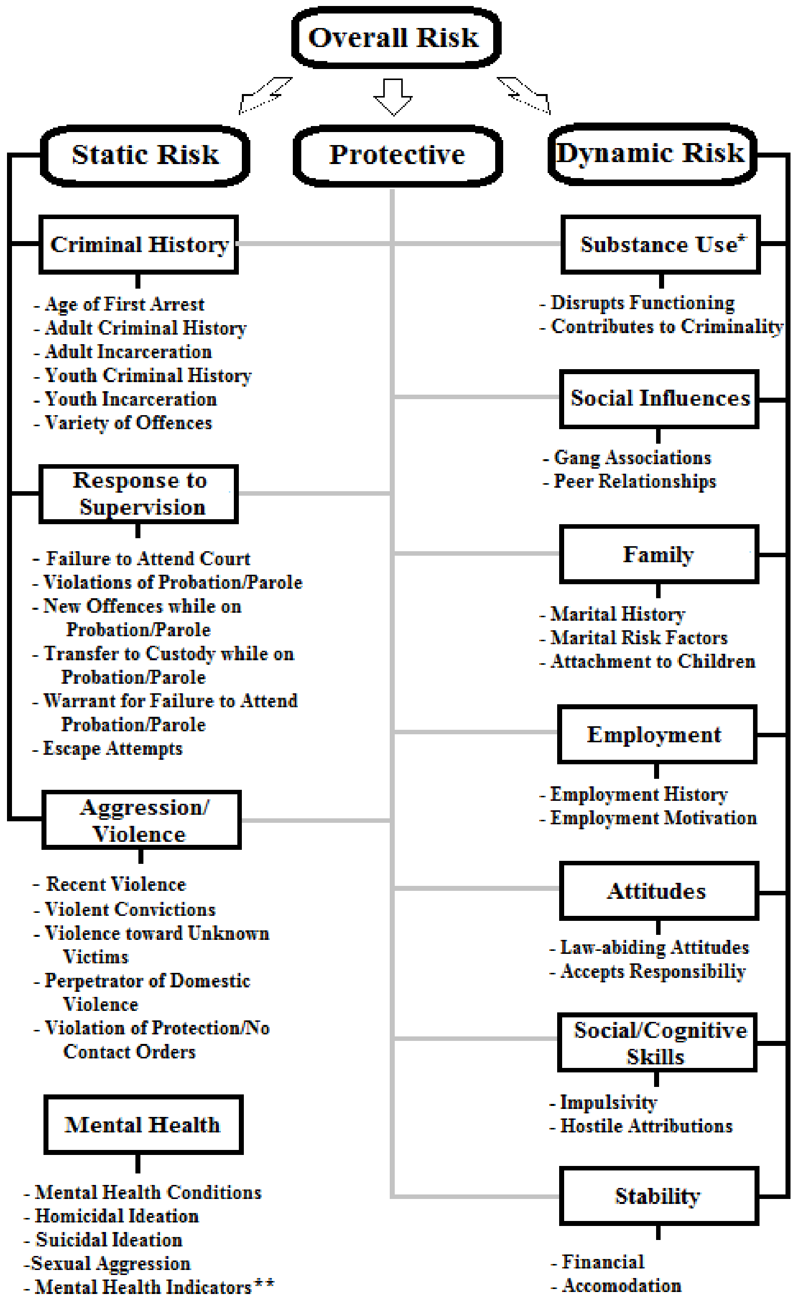
Next, I conducted a variety of inferential statistical tests. For the bivariate analyses, I relied primarily on chi square tests for independence which examined relationships between my independent variables and supervision outcome as my principal dependent measure. The chi square test[35] is a measure of association that demonstrates whether the dependent variable can be predicted in cases in which the independent variable is known (Neuman, 2009). By comparing the calculated chi square statistic to a table of critical chi square values, I determined at which level each relationship was significant, using the 0.05 alpha level as my benchmark for statistical significance[36]. Statistical significance is concerned with the likelihood that type I errors or 'false positives' can be produced as a result of chance factors. A relationship that is significant at the 0.05 alpha level means that only five times out of 100 will a relationship be erroneously found where one does not actually exist. To complement the chi square findings, I also conducted cross tabulations of variables to create contingency tables. These descriptive tables help to provide a more detailed understanding of relationships between two variables, including relationship direction and strength.

As discussed in the previous chapter, the SPIn Pre-Screen risk assessment tool produces an overall risk classification as well values for each of the three sub-scales (static risk, dynamic risk, protective factors) which make up the overall measure. Further, the static risk and dynamic risk sub-scales are composed of several separate domains which, together, make up the sub-scales, while the protective sub-scale is comprised of client strengths which are indicated in all

[35] Or Fisher's Exact Test, which was used in cases with only one degree of freedom.
[36] Although I used standard alpha levels of 0.05, 0.01 and 0.001, I also considered relationships approaching the 0.10 level as marginally significant and, as such, justifying further examination.

10 risk domains. Finally, each domain contains a number of individual items which come together to determine whether a domain constitutes an area of concern (Figure 1).

Figure 1 – The SPIn Pre-Screen Risk Assessment Tool



* The Substance Use domain officially only has one Pre-Screen item – Alcohol and Drug Use. However, this item collects information on whether substance use disrupts functioning and/or contributes to criminality, which were coded for this research.
** Although the Pre-Screen does not officially include Mental Health Indicators as one of their 35 items, data for this item were nevertheless gathering during the Pre-Screen assessment and coded for this research.

Specific to the overall objectives of this study, I began by producing a contingency table and conducting chi square tests to examine the potential relationship between BVSP supervision outcomes and both the overall risk classification produced by the Service Planning Instrument Pre-Screen, as well as its sub-scales. Next, I analyzed the potential relationship between BVSP supervision outcomes and each of the 10 SPIn domains, as well as the mental health indicator. For any domain in which there was a significant or marginal ($p = \sim 0.10$) relationship[37], I also conducted these tests on each individual item that comprises the greater domain, in order to better understand what specific factors within the domain predict bail supervision success. These tests acted as a form of validation study to determine whether the risk factors outlined in the SPIn assessment tool are actually predictive of bail supervision outcomes.

Beyond these variables measuring a client's overall risk classification, I also analyzed the relationship between supervision outcomes and many criminal justice and demographic variables. To complete the analyses, I conducted multivariate analyses on those variables which constituted statistically significant predictors of BVSP supervision outcomes. Specifically, I used logistic regression analysis, given that I had collapsed my dependent variable – supervision outcomes – into a dichotomous variable of success or failure. Logistic regression determined to what extent each statistically significant independent variable individually and simultaneously predicted supervision outcomes while controlling for the effect of the other variables, thus ensuring that their predictive powers did not overlap.

Finally, upon completing my quantitative analysis, I analyzed my qualitative data in order to provide additional context and richness to my findings. For each area of interest uncovered during the quantitative phase, I then reviewed the corresponding qualitative variables to identify

[37] Indeed, I purposely interpreted all inferential statistics conservatively, in an effort to give the risk assessment tool every opportunity to demonstrate predictive validity.

examples of certain trends and otherwise uncover information to help explain my quantitative findings.

3.6 - ETHICAL CONCERNS

My research obtained ethics approval from the University of Ottawa's Research Ethics Board for research based on secondary use of data (see Appendix C for Ethics Certificate). My research methods pose a very low risk of causing harm or inconvenience to participants, given that secondary analysis does not require study subjects' active participation. Further, through the coding process I anonymized all data and did not code any information that could be directly or indirectly identifying (such as names, addresses or places of employment). As a further safeguard, I recorded data in large response categories to ensure that no particular individual could be identified from this information[38]. Finally, the organization that operates the BVSP granted me institutional approval to use their data for my study. Following guidelines for engaged research set out by Mander (2010), I invested great effort in seeking approval and feedback from the organization at every step of the research process to ensure its continued support for my research and findings.

[38] For example, I recorded age ranges rather than dates of birth. Rather than code an exaustive list of specific charges, I recorded only the most serious charge according to the hierarchy of seriousness developed for the Adult Criminal Court Survey by Statistics Canada.

4 – RESEARCH FINDINGS

4.1 – DESCRIPTIVE STATISTICS

4.1.1 - Sample Demographics

Supervision clients of the Bail Verification and Supervision Program under study are a unique sub-group of judicial interim releases with demographic characteristics which vary from the greater bail population. Table 1.1.1 presents a number of socio-demographic factors which describe the adult bail supervision clients examined in this research. Although the age of these clients ranged from 18 to over 70 years old, clients did tend to be younger. A third of clients were between the ages of 18-24 years and the median age group of clients was 30-34 years old. The vast majority of supervision clients were male (84%), with no statistically significant differences in client gender based on age. Most supervision clients were Caucasian (62%), followed by (non-Aboriginal) visible minorities (28%) and a small proportion of Aboriginal peoples (10%). The vast majority of clients identified themselves as Canadian citizens (90%), with only one tenth of clients indicating that they were immigrants or new Canadians.

Nearly one quarter of bail clients (22%) were identified as having some type of disability[39]. Additionally, only a small number of clients (8%) were identified as Francophone[40], despite the BVSP being located in a relatively bilingual city in Ontario. Finally, roughly one in five clients (17%) had previously been supervision clients of this same BVSP.

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[39] A disability may be physical or related to mental health. A client was considered to have a disability if: a) the Bail Supervisor indicated a disability on the Caseworks database; or b) if case notes indicated that the client was receiving benefits from or had recently applied to the Ontario Disability Support Program. The b) criterion was used to code 12 of the 22 recorded clients with a disability.

[40] Here, Francophone means that French is a client's first language. A client was coded as Francophone if: a) the Bail Supervisor indicated that the client was Francophone on the Caseworks database; or b) if case notes suggested that French was the client's first language (e.g., the client's bail hearing was held in French, the client asked for the BVSP to be explained in French). It may be that some Francophone clients failed to be identified as such if they spoke English fluently and/or did not disclose this information to their Bail Supervisor.

Table 1.1.1 – Sample Demographics				
		Frequency	Valid Percent	Cumulative Percent
Client Age[41]	18-24	33	33.0	33.0
	25-29	11	11.0	44.0
	30-34	18	18.0	62.0
	35-44	13	13.0	75.0
	45-54	19	19.0	94.0
	55+	6	6.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Client Gender	Male	84	84.0	84.0
	Female	16	16.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Client Race[42]	Caucasian	62	62.0	62.0
	Visible Minority (other than Aboriginal)	28	28.0	90.0
	Aboriginal	10	10.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Client Citizenship	Canadian Citizen	90	90.0	90.0
	Immigrant or New Canadian	10	10.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Clients with a Disability	No Disability	78	78.0	78.0
	Person with a Disability	22	22.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Francophone Clients	Non-Francophone	92	92.0	92.0
	Francophone	8	8.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Previous Bail Supervision Clients	No Previous Bail Supervision	83	83.0	83.0
	Previous Bail Supervision	17	17.0	100.0
	Total	100	100.0	

4.1.2 – Charge Data

Table 1.2.1 presents data on the number of current and total charges against bail supervision clients at the time of BVSP release. Generally, clients released to the BVSP had a fairly small number of current charges (i.e. not including concurrent or outstanding charges)

[41] Client Age categories have been grouped for ease of presentation. See Appendix D for detailed data.
[42] Client Race categories have been grouped for ease of presentation. See Appendix E for detailed data.

which had led to their release. On average, BVSP clients had 3.090 of such charges[43]. It was most common for clients to have two or three current charges (30% and 29% respectively). Only 22% of cases had four or more current charges leading to their BVSP release. These figures, however, do become somewhat higher when considering the overall number of active Ontario charges laid against each client, as outlined on each client's BVSP recognizance. There was an average of 4.830 total charges[44] per client. Clients with a total of four of more charges represented 60% of clients, while only five percent had only one charge against them.

Table 1.2.1 - Number of Charges[45]

		Frequency	Valid Percent	Cumulative Percent
Number of Current Charges	1	19	19.0	19.0
	2	30	30.0	49.0
	3	29	29.0	78.0
	4+	22	22.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Number of Total Charges on Recognizance at the time of BVSP Release	1	5	5.0	5.0
	2	13	13.0	18.0
	3	22	22.0	40.0
	4	19	19.0	59.0
	5 +	41	41.0	100
	Total	100	100.0	

Table 1.2.2 describes bail clients' most serious overall charge. There were slightly more clients charged with a violent offence (40%) than with a property offence (36%), and another 19% of clients who had an administrative offence as their most serious charge[46]. When examining each supervision client's most serious overall charge (based on the 2003 Adult Criminal Court Survey (ACCS) severity rankings), the most common offences were assault

[43] Removing the outlier of 26 charges (an individual who accrued a number of domestic violence-related and breach charges over the course of a decade, but who was charged with these offences all at once, many years later), the average number of current charges changes to 2.859, with a standard deviation of 1.835 rather than 2.947. The median number of charges remains at 3 and the data continue to be positively skewed.

[44] Again, removing the outlier of 26 total charges, the average number of total charges changes to 4.616, with a standard deviation of 2.542 rather than 3.312. The median number of total charges remains at 4 and the data continue to be positively skewed.

[45] Number of Charges has been grouped for ease of presentation. See Appendix F for detailed data.

[46] Based on definitions found in Juristat 26(1) by Dauvergne (2006), administrative charges include Failure to Comply, Failure to Attend Court and Obstructing a Peace Officer.

(18%) and theft under (18%), followed closely by failure to comply (e.g., with bail release or probation order) (15%) and uttering threats (9%).

Table 1.2.2 - Most Serious Overall Charge(s)

		Frequency	Valid Percent
Charge Type for Most Serious Overall Offence	Violent	40	40.0
	Administrative	19	19.0
	Property	34	34.0
	Federal/Other[47]	7	7.0
	Total	100	100.0
		Frequency	Valid Percent
Most Serious Overall Charge (ACCS)	Kidnap/Forcible Confinement	1	1.0
	Aggravated Assault	1	1.0
	Assault with Weapon/Cause Bodily Harm	5	5.0
	Utter Threats	9	9.0
	Assault Peace Officer	2	2.0
	Criminal Harassment	4	4.0
	Assault	18	18.0
	Break & Enter w/ Intent Indictable	4	4.0
	Property Obtained by Crime	2	2.0
	Trafficking Drugs	5	5.0
	Child Porn Print/Publish/Possess	1	1.0
	Forgery/Fraud	4	4.0
	Possession of Stolen Property	4	4.0
	Theft Under $5000	18	18.0
	Fail to Attend Court	3	3.0
	Fail to Comply	15	15.0
	Obstruct Peace Officer	1	1.0
	Indecent Acts/Nudity	1	1.0
	Mischief/Property Under $5000	2	2.0
	Total	100	100.0

Table 1.2.3 looks specifically at charges against the administration of justice. Although administrative charges represented the most serious charge against BVSP clients in only a fifth of cases, the prevalence of administrative charges more generally is actually much greater. On average, clients had 1.450 administrative charges that directly led to their BVSP release[48]. In fact, two thirds of clients had at least one current charge against the administration of justice

[47] The largest offence type within this offence category is Controlled Drugs and Substances Act offences, in particular, drug trafficking.

[48] Removing the outlier of 18 charges (the same individual from footnotes 43 and 44), the average number of current administrative charges changes to 1.283, with a standard deviation of 1.254 rather than 2.086. The median number of current charges against the administration of justice remains at 3 and the data continue to be positively skewed.

(67%), with 15% having three or more. The number of charges against the administration of justice is higher still when examining all active charges on a client's recognizance – 2.060 charges per client on average[49]. Specifically, nearly three quarters of clients had at least one active administrative charge (73%) and roughly one third of clients actually had three or more administrative charges (34%).

Table 1.2.3 - Number of Charges against the Administration of Justice[50]

		Frequency	Valid Percent	Cumulative Percent
Number of Current Charges against the Administration of Justice	0	33	33.0	33.0
	1	26	26.0	59.0
	2	26	26.0	85.0
	3 +	15	15.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Total Charges Against the Administration of Justice on Recognizance at time of BVSP Release	0	27	27.0	27.0
	1	19	19.0	46.0
	2	20	20.0	66.0
	3+	34	34.0	100.0
	Total	100	100.0	

4.1.3 - BVSP Supervision

In the first month of supervision, Bail Supervisors scheduled an average of 3.4 meetings with each client[51]. In the final month of supervision, Bail Supervisors met with each client 2.21 times[52] on average (Table 1.3.1), indicating a general decrease in level of supervision over time.

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[49] Removing the outlier of 18 charges (the same individual from footnotes 43, 44 and 48), the average number of current administrative charges changes to 1.899, with a standard deviation of 1.810 rather than 2.416. The median number of current charges against the administration of justice remains at 2 and the data continue to be positively skewed.

[50] Number of Charges against the Administration of Justice has been grouped for ease of presentation. See Appendix G for detailed data.

[51] Clients with only one or two scheduled appointments may reflect the 11% of clients who were in the BVSP for less than a full month and who could not be reasonably scheduled for more appointments in this short timeframe.

[52] For those clients whose supervision lasted two months or less, level of supervision in the first and last month will overlap somewhat.

Table 1.3.1 - Level of Supervision

		Frequency	Valid Percent	Cumulative Percent
Level of Supervision During First 30 Days (Number of Scheduled In-Office Appointments)	1.0	4	4.0	4.0
	2.0	14	14.0	18.0
	3.0	32	32.0	50.0
	4.0	38	38.0	88.0
	5.0	12	12.0	100.0
	Total	100	100.0	

		Frequency	Valid Percent	Cumulative Percent
Level of Supervision During Final 30 Days (Number of Scheduled In-Office Appointments)	0	3	3.0	3.0
	1	25	25.0	28.0
	2	38	38.0	66.0
	3	20	20.0	86.0
	4	10	10.0	96.0
	5	4	4.0	100.0
	Total	100	100.0	

In terms of bail meeting attendance, clients missed on average 2.29 appointments without notice[53], although more than one quarter of clients (27%) did attend all scheduled appointments[54]. Meanwhile, clients were at least ten minutes late to a bail appointment only 0.92 times, on average, during their supervision period[55] (Table 1.3.2).

[53] Removing the outlier of 15 missed bail appointments (an individual who was elderly and extremely ill during supervision, often too weak to attend appointments, or even to call to reschedule), the average number of missed appointments changes to 2.162, with a standard deviation of 2.113 rather than 2.463.

[54] In this BVSP, bail supervisors virtually never reported a client in breach for missing only one scheduled appointment. Generally, when a client failed to report to the BVSP, the supervisor would either call the client and/or send a reporting letter directing the client to report at a subsequent specific date and time. It was only when a client failed to report to this second appointment in a row that a supervisor tended to report the breach to the police.

[55] Removing the outlier of 10 late appearances, the average changes only slightly, becoming 0.828 late appointments.

Table 1.3.2 – Client Reporting[56]

		Frequency	Valid Percent	Cumulative Percent
Number of Missed Bail Appointments	0	27	27.0	27.0
	1	13	13.0	40.0
	2	27	27.0	67.0
	3+	33	33.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Number of Bail Appointments to which Client Reported Late	0	58	58.0	58.0
	1	16	16.0	74.0
	2	14	14.0	88.0
	3+	12	12.0	100.0
	Total	100	100.0	

While on bail supervision, the vast majority of clients (96%) accessed other pro-social programs and services offered by community agencies, organizations, or government[57]. Furthermore, nearly half (44%) of all BVSP clients accessed other programs or services offered by the organization that operates the BVSP, including programs related to employment, housing, and crisis intervention (Table 1.3.3).

Table 1.3.3 – Program Involvement

		Frequency	Valid Percent
Involvement with Community Agencies or Organizations	No	4	4.0
	Yes	96	96.0
	Total	100	100.0
		Frequency	Valid Percent
Involvement in Other Programs Offered by the BVSP Organization	No	56	56.0
	Yes	44	44.0
	Total	100	100.0

4.1.4 - Criminal Justice Process

Roughly three quarters (76%) of bail supervision clients were released to the BVSP with the consent of the Crown. In contrast, 22% were released only as a result of a show cause hearing, and 2% as a result of a bail review hearing (Table 1.4.1).

[56] Number of Missed Bail Appointments has been grouped for ease of presentation. See Appendix H for detailed data.

[57] Examples of such programs and/or services include Legal Aid, Alcoholics Anonymous, the Canadian Mental Health Association and Community Health Centres.

Table 1.4.1 - Type of Bail Release

	Frequency	Valid Percent
Consent Release	76	76.0
Show Cause Hearing	22	22.0
Bail Review	2	2.0
Total	100	100.0

Bail supervision clients must abide by four mandatory bail conditions that are included on all BVSP bail orders in order to facilitate effective supervision[58]. However, virtually all clients (99%) received one or more additional conditions to abide by during their pretrial release[59]. Overall, clients had an average of 8.296 bail conditions on their recognizance, and as many as 16 conditions in one case. Nearly three quarters of clients (73.5%) were subjected to 7 or more conditions, while 42.9% were subjected to nine conditions or more (Table 1.4.2).

Table 1.4.2 - Number of Bail Conditions

		Frequency	Valid Percent	Cumulative Percent
	4 – 6	26	26.5	26.5
	7 – 8	30	30.6	57.1
	9 +	42	42.9	100.0
	Total	98	100.0	
Missing	N/A (Information Unavailable)	2		
Total		100		

Beyond the mandatory bail supervision conditions, the most common conditions given to supervision clients were boundary restrictions (51% of cases), no-contact orders (50.5%), the requirement to "keep the peace and be of good behaviour" (46.9%) and weapons prohibitions (38.8%). Clients were also required to attend all court dates personally in 36.7% of cases, to abstain from alcohol and from drugs in 30.6% and 29.6% of cases respectively, to abide by a curfew in 23.5% of cases and attend treatment in 21.4% of cases (see Appendix I).

[58] While the language varies, the four mandatory bail conditions for this BVSP's releases are: 1) Report to the Bail Supervision Program at [address] on [date] and as directed thereafter by your Bail Supervisor; 2) Attend and actively participate in all rehabilitative programs as directed by your Bail Supervisor; 3) Provide written verification of residence as requested by your Bail Supervisor; 4) Reside at [address] and not move from that address without obtaining approval in writing for a new address from your Bail Supervisor.

[59] Note two "Missing" cases for clients whose case files did not include a copy of their recognizance, and thus their bail conditions; in some cases, the presence of a particular condition was coded based on case notes, even though the recognizance was unavailable.

For BVSP clients, bail supervision lasted an average of 171.31 days, or just short of six months, though length varied greatly from 5 to 615 days. Influenced by the 11% of clients whose supervision lasted less than a month – mostly due to early failure and subsequent termination of supervision – the median length of supervision was 137.50 days. Yet, 36% of clients were on supervision for more than six months (180 days), and 11% for more than a full year (365 days) (Table 1.4.3).

Table 1.4.3. - Length of Bail Supervision[60]

	Frequency	Valid Percent	Cumulative Percent
3 Months or Less	29	29.0	29.0
3 – 6 Months	35	35.0	64.0
6 Months – 1 Year	25	25.0	89.0
More than 1 Year	11	11.0	100.0
Total	100	100.0	

During supervision, clients had an average of 6.640 court appearances which they or their legal counsel had to attend. The number of court dates during bail supervision ranged from none to 18, with 29% of clients having at least nine court dates and 10% having 13 court dates or more (Table 1.4.4).

Table 1.4.4 - Number of Court Dates While on Bail Supervision[61]

	Frequency	Valid Percent	Cumulative Percent
0 – 4	27	27	27.0
5 – 8	44	44.0	71.0
9 – 12	19	19.0	90.0
13 +	10	10.0	100.0
Total	100	100.0	

Most supervision clients (72%) were never reported in breach of their bail conditions to the police by their bail supervisors (Table 1.4.5).

Table 1.4.5 - Number of Breach Reports Made by Bail Supervisor to Police

	Frequency	Valid Percent	Cumulative Percent
0	72	72.0	72.0
1	27	27.0	99.0
2	1	1.0	100.0
Total	100	100.0	

[60] Length of Bail Supervision has been grouped for ease of presentation. See Appendix J for detailed data.
[61] Number of Court Dates While on Bail Supervision has been grouped for ease of presentation. See Appendix K for detailed data.

Overall, 44% of clients were charged with failing to comply with their bail conditions while on the BVSP, with many of these charges being initiated directly by the police. Clients were breached any time from the same day of their release to 246 days into supervision. Typically, however, clients who were charged with failing to comply were breached fairly soon after their release. Indeed, within the first month of supervision, 21% of all clients (N = 100) had already breached – constituting nearly half (47.7%) of those clients who were breached while on this BVSP. Furthermore, within the first three months, 30% of all clients (N = 100) had breached – constituting just over two thirds (68.2%) of all breached clients. Consequently, data were positively skewed: clients who were breached were charged on average 69.23 days into supervision, while the median time of first breach was only 39.5 days into supervision (Table 1.4.6).

Table 1.4.6 – Time of First Breach Charges[62]

		Frequency	Valid Percent	Cumulative Percent
Time of First Breach Charges - Days into Supervision	≤ 7	5	11.4	11.4
	8 – 30	16	36.4	47.7
	31 – 90	9	20.5	68.2
	91 -180	10	22.7	90.9
	181 +	4	9.1	100.0
	Total	44	100.0	

Table 1.4.7 presents data on Failure to Attend court (FTA) charges. FTA charges were much more rare than failing to comply charges. Only 20% of bail supervision clients ever failed to attend a scheduled court date. Overall, clients who failed to attend court did so, on average, 95.55 days into supervision[63]. As with FTC charges, FTA occurrences also tended to take place earlier on in supervision. Although clients failed to attend court anywhere from 10 to 456 days into supervision, eight clients – or 40% of all FTAs – failed to attend court within the first month of supervision. Measured by court appearance number, this trend of early failure continues.

[62] Time of First Breach has been grouped for ease of presentation. See Appendix L for detailed data.
[63] Removing the outliers of 415 and 456 days, clients who failed to attend court did so, on average, 57.78 days into supervision, with a standard deviation of 50.074 rather than 127.961.

Clients who failed to attend court did so, on average, on court date number 3.75. While clients failed to attend anywhere from their first to their twelfth court appearance, more than half of FTA clients (55%) missed court by their second scheduled appearance. In fact, roughly a third of these clients (35%) actually missed their very first court date upon release. It is important to note, however, that not all clients who failed to attend court were necessarily prosecuted for this offence. Although all 20 clients who failed to attend court were initially charged with FTA, 6 of these clients (30%) later had their charge rescinded or dropped[64].

Table 1.4.7 - Failure to Attend (FTA) Charges[65]

		Frequency	Valid Percent	Cumulative Percent
Time of 1st FTA Charge (Days into Supervision)	≤ 30	8	40.0	40.0
	31 – 90	7	35.0	75.0
	91 +	5	25.0	100.0
	Total	20	100.0	
Missing	No FTA	80		
Total		100		
		Frequency	Valid Percent	Cumulative Percent
Time of 1st FTA Charge (Court Appearance Number)	1	7	35.0	35.0
	2	4	20.0	55.0
	3 +	9	45.0	100.0
	Total	20	100.0	
Missing	No FTA	80		
Total		100		
		Frequency	Valid Percent	Cumulative Percent
Outcome of Failure(s) to Attend Court	Charge(s) Laid, Later Rescinded or Dropped	6	30.0	30.0
	Charge(s) Laid, 1+ Never Dropped	14	70.0	100.0
	Total	20	100.0	
Missing	No FTA	80		
Total		100		

Of clients whose legal representation was known (N = 77), at least half of these clients (50.6%) relied on Legal Aid to financially cover their counsel. In actuality, this figure is likely even higher given that many clients (27.3%) were represented by a lawyer, but case notes were

[64]For example, qualitative data from the case notes indicated that charges were generally rescinded when clients presented themselves at the courthouse later on the same day of their scheduled appearance (Case 83). Another client had his FTA charge rescinded after he was able to prove that he was hospitalized at the time (Case 4). Generally, charges might be dropped if a client reported to the courthouse within 48 hours of his/her missed appearance (Case 45), or following a string of successful court appearances (Case 26).

[65] Time of First FTA Charge, for both Days into Supervision and Court Appearance Number, has been grouped for ease of presentation. See Appendix M for detailed data.

unable to identify the nature of such relationships. Only 7.8% of clients with a known type of legal representation clearly hired and paid for a lawyer with their own money (Table 1.4.8).

Table 1.4.8 - Type of Legal Representation

		Frequency	Valid Percent
	Lawyer paid for by Client	6	7.8
	Lawyer covered by Legal Aid	39	50.6
	Duty Counsel	5	6.5
	Self-Represented	3	3.9
	Lawyer working Pro Bono	3	3.9
	Lawyer, Unknown Relationship	21	27.3
	Total	77	100.0
Missing	Unknown	23	
Total		100	

Finally, of clients with a known charge outcome[66] (N = 73), four fifths (79.5%) were convicted of at least one of the charges for which they were released on bail and 11% were convicted of all of these charges (Table 1.4.9).

Table 1.4.9 - Charge Outcomes

		Frequency	Valid Percent
	No Convictions	15	20.5
	Guilty of 1+	50	68.5
	Guilty of All	8	11.0
	Total	73	100.0
Missing	Unknown Charge Outcome	27	
Total		100	

4.1.5 - Supervision Outcomes

Table 1.5.1 describes supervision outcomes of clients of the BVSP under study. Overall, 45% of BVSP clients were considered “successful” in that they completed their bail supervision without incurring any additional charges. Broken down further, a third of all clients (34%) completed their supervision without any major issues while 11% of all clients did present some

[66] Clients with an unknown charge outcome likely represent individuals who were breached, failed to attend court, or committed other substantive offences during their supervision, and who were subsequently not re-released into the BVSP (i.e. they were detained, they plead guilty to all of their charges, or in some cases, they were released on their own recognizance or a surety came forward for their release). In other words, these are individuals who likely had not dealt with their charges by the end of their bail supervision.

issues during their supervision[67]. About a quarter of all clients (23%) were unsuccessful due to breach charges only, 7% were unsuccessful due exclusively to new substantive (non-administrative) charges and 3% were unsuccessful due to failing to attend court only. By extension, 22% of clients were unsuccessful due to a combination of FTC, FTA and substantive charges. Overall, breach charges were most prevalent; clients were unsuccessful due to at least one breach charge nearly as often (N = 44) as clients were successful on bail supervision (N = 45). Of all unsuccessful supervision clients, four fifths (44/55) were charged with failing to comply (Table 1.5.1).

Table 1.5.1 – Bail Supervision Outcomes

		Frequency	Valid Percent
Simplified Bail Supervision Outcome	Success	45	45.0
	Failure	55	55.0
	Total	100	100.0
		Frequency	Valid Percent
Exhaustive Bail Supervision Outcome	Successful – No Issues	34	34.0
	Successful – Issues Present	11	11.0
	FTA Court Only	3	3.0
	Breach Only	23	23.0
	New Substantive Charges Only	7	7.0
	Breach + New Substantive Charges	8	8.0
	Breach + FTA Court	12	12.0
	FTA Court + New Substantive Charges	1	1.0
	FTA Court + Breach + New Substantive Charges	1	1.0
	Total	100	100.0
		Frequency	Valid Percent
Bail Supervision Outcome including Breach	Success	45	45.0
	Failure including Breach	44	44.0
	Other Failure	11	11.0
	Total	100	100.0

4.1.6 - Risk Assessment and Classification

Although Bail Supervisors are encouraged to complete a Service Planning Inventory (SPIn) assessment for all clients, only 61% of clients had a Pre-Screen (Table 4.6.1) and 19% had a Full Assessment completed during their supervision (Appendix N). The completion of a

[67] Such issues might include someone regularly reporting late to, or missing, bail appointments, or a client who failed to attend court but later had his/her charges dropped.

Pre-Screen assessment was related to length of supervision (p = 0.001). Those on BVSP supervision for only a short period of time were much more likely to be missing a Pre-Screen. Specifically, 79.3% of clients on bail for three months or less did not have a current Pre-Screen assessment, while only 8.3% of clients on supervision for six months or more were lacking this assessment (Table 1.6.1).

Table 1.6.1 - Presence of Current Pre-Screen

	Frequency	Valid Percent	Cumulative Percent
No Current Assessment	39	39.0	39.0
Current Assessment Present	61	61.0	100.0
Total	100	100.0	

			Presence of Current Pre-Screen Assessment		
			No Assessment	Assessment Present	Total
Length of Bail Supervision in Days (Grouped)	3 Months or Less		23	6	29
		Row %	79.3%	20.7%	100.0%
	3-6 Months		13	22	35
		Row %	37.1%	62.9%	100.0%
	6 Months or More		3	33	36
		Row %	8.3%	91.7%	100.0%
Total			39	61	100
		Row %	39.0%	61.0%	100.0%

Chi-square = 34.090; df = 2; p = 0.001

Table 1.6.2 presents data on SPIn risk classifications for BVSP clients. Of bail clients with a current SPIn pre-screen assessment, or an assessment completed during a recent period of supervision[68], the vast majority (95.5%) were deemed to be an overall low or medium risk by the SPIn assessment tool (N = 66). Specifically, clients were assessed to be low risk in just over half of the cases (53%), moderate risk in 42.4% of the cases and high risk in a mere 4.5% of the cases. In terms of static risk (N = 65), classifications were further skewed toward the low end of the spectrum. More than two thirds of clients were considered to be low risk (69.2%), while not a single client was deemed high risk. Dynamic risk scores (N = 65) followed this same trend, with

[68] See footnote 33 in section 3.4.2. Five BVSP clients had a risk assessment completed during a previous, but recent, period of bail supervision. Data from these assessments were used when possible, but not when case notes suggested that information was no longer accurate (e.g., client previously considered a low static risk, but case notes indicate several new convictions since previous assessment).

roughly two thirds of clients (67.7%) being classified as having a low dynamic risk, though 4.6% were deemed to be high risk on this scale. Finally, despite the tendency for clients to be considered low risk, most clients (70.8%) also scored low on the SPIn protective scale (N = 65) which focuses on client strengths across all domains.

Table 1.6.2 - Risk Levels as Determined by SPIn Pre-Screen

		Frequency	Valid Percent	Cumulative Percent
Overall Risk Level	Low Risk	35	53.0	53.0
	Moderate Risk	28	42.4	95.5
	High Risk	3	4.5	100.0
	Total	66	100.0	
Missing	No Assessment in File	34		
Total		100		
		Frequency	Valid Percent	Cumulative Percent
Static Risk Level	None	1	1.5	1.5
	Low Risk	45	69.2	70.8
	Moderate Risk	19	29.2	100.0
	Total	65	100.0	
Missing	No Assessment in File	35		
Total		100		
		Frequency	Valid Percent	Cumulative Percent
Dynamic Risk Level	Low Risk	44	67.7	67.7
	Moderate Risk	18	27.7	95.4
	High Risk	3	4.6	100.0
	Total	65	100.0	
Missing	No Assessment in File	35		
Total		100		
		Frequency	Valid Percent	Cumulative Percent
Protective Level	None	10	15.4	15.4
	Low	46	70.8	86.2
	Moderate	7	10.8	96.9
	High	2	3.1	100.0
	Total	65	100.0	
Missing	No Assessment in File	35		
Total		100		

4.1.7 - Risk Assessment Domains

Table 1.7.1 describes SPIn static risk domains. Using data available from SPIn assessments and case notes[69], client concerns relating to each domain were noted by bail

[69] See Section 3.4.2. When SPIn assessments were unavailable, case notes were referred to when possible to code risk variables in a way that was consistent with the rest of the SPIn data.

supervisors at varying frequencies[70]. Under the Criminal History domain (N = 88), three quarters of clients had a criminal record, while the remaining quarter did not have any criminal convictions. Regarding Responses to Supervision (N = 80) just under half (46.3%) of bail supervision clients had a history of non-compliant behaviour (such as FTC or FTA convictions). In the Aggression and Violence domain (N = 77), a history of violence was indicated for 62.3% of bail clients.

Table 1.7.1 – Static Risk Domains

		Frequency	Valid Percent
Criminal History	No Criminal Convictions	22	25.0
	Criminal Convictions Present	66	75.0
	Total	88	100.0
Missing	Information Unavailable	12	
Total		100	
		Frequency	Valid Percent
Response to Supervision	No Past Non-Compliance	43	53.8
	Past Non-Compliance	37	46.3
	Total	80	100.0
Missing	Information Unavailable	20	
Total		100	
		Frequency	Valid Percent
Aggression and Violence	No History of Violence	29	37.7
	History of Violence	48	62.3
	Total	77	100.0
Missing	Information Unavailable	23	
Total		100	

Table 1.7.2 presents data on SPIn dynamic risks. In the Substance Use domain (N = 85), three fifths of clients indicated recent substance use that was in some way problematic. Approximately another fifth of clients (18.8%) reported substance use but indicated that it was not problematic, while the remaining 21.2% of bail clients indicated no recent substance use[71]. In the Social Influences domain (N = 68), which explores clients' peer relationships, concerns

[70] While one might be tempted to conclude – in the cases without a pre-screen in which nothing is noted – that there were no issues, the relatively high number of clients without any information noted for the various domains would still suggest caution. The exact number of clients with available information is noted in the text for the reader as (N = #) for each domain.

[71] When examining dynamic risk factors, the SPIn assessment generally focuses only on behaviour and circumstances from the three months prior to assessment. In this particular case, recent substance use refers to this three-month time frame.

regarding a client's peers were common – noted in 60.3% of cases. Similarly, in the Family domain (N = 80), which explores clients' intimate relationships and/or relationships with their children, concerns were noted in 56.3% of cases. Just over half of all BVSP clients (54.9%) had at least one employment concern indicated on their SPIn assessment (e.g., unemployed at the time of the alleged offence, difficulty finding employment). While the Employment domain (N = 91) was considered not applicable to 22% of clients due to disability or retirement, the remaining 23.1% indicated no employment concerns. In the Attitudes domain (N = 73), which examines a client's commitment to law-abiding behaviour and his/her acceptance of responsibility for the (alleged) offence(s), concerns were noted in 39.7% of cases. Concerns were also noted at a similar frequency (42.9%) for the Socio-Cognitive Skills domain (N = 70), which explores clients' impulsivity and their 'hostile attributions', or ability to perceive and deal with conflict. Concerns in the Stability domain (N = 98) were overwhelmingly common – noted in 86.7% of cases. Finally, regarding Mental Health (N = 80), concerns were also prevalent among bail supervision clients. Roughly two thirds of clients (65%) indicated at least one mental health concern (e.g., suspected or diagnosed mental illness, suicidal thoughts, history of abuse, etc.).

Table 1.7.2 – Dynamic Risk Domains & Mental Health Area

		Frequency	Valid Percent
Problematic Substance Use	Drug Use Not Problematic	16	18.8
	Drug Use Problematic	51	60.0
	No Drug Use	18	21.2
	Total	85	100.0
Missing	Information Unavailable	15	
Total		100	
		Frequency	Valid Percent
Social Influences	No Social Concerns	27	39.7
	Social Concerns Present	41	60.3
	Total	68	100.0
Missing	Information Unavailable	32	
Total		100	
		Frequency	Valid Percent
Family	No Family Concerns	35	43.8
	Family Concerns Present	45	56.3
	Total	80	100.0
Missing	Information Unavailable	20	
Total		100	
		Frequency	Valid Percent
Employment	No Employment Concerns	21	23.1
	Employment Concerns Present	50	54.9
	N/A (Disability/Retirement)	20	22.0
	Total	91	100.0
Missing	Information Unavailable	9	
Total		100	
		Frequency	Valid Percent
Attitudes	No Attitude Concerns	44	60.3
	Attitude Concerns	29	39.7
	Total	73	100.0
Missing	Information Unavailable	27	
Total		100	
		Frequency	Valid Percent
Socio-Cognitive Skills	No Socio-Cognitive Concerns	40	57.1
	Socio-Cognitive Concerns	30	42.9
	Total	70	100.0
Missing	Information Unavailable	30	
Total		100	
		Frequency	Valid Percent
Stability	No Stability Concerns	13	13.3
	Stability Concerns	85	86.7
	Total	98	100.0
Missing	Information Unavailable	2	
Total		100	
		Frequency	Valid Percent
Mental Health	No Mental Health Concerns	28	35.0
	Mental Health Concerns	52	65.0
	Total	80	100.0
Missing	Information Unavailable	20	
Total		100	

4.2 – INFERENTIAL STATISTICS: BIVARIATE ANALYSES

4.2.1 – SPIn Pre-Screen Classification Scales and Supervision Outcome

The primary risk output of the Service Planning Instrument's Pre-Screen – supervision clients' overall risk – was not significantly related to their supervision outcome (Table 2.1.1). In other words, knowing a client's overall risk level, as determined by SPIn, does not help to predict his/her success or failure in this Bail Verification and Supervision Program. The direction of this relationship, while not statistically significant, was actually the opposite of what one would expect: Overall low risk clients were more likely to fail (60%) than moderate or high risk clients (45.2%).

Table 2.1.1 – Supervision Outcome by Overall Risk

			Supervision Outcome		
			Success	Failure	Total
Overall Risk	Low		14	21	35
		Row %	40.0%	60.0%	100.0%
	Moderate or High[72]		17	14	31
		Row %	54.8%	45.2%	100.0%
Total			31	35	66
		Row %	47.0%	53.0%	100.0%

Fisher's Exact (2tail) = 0.323[73]

Furthermore, none of the three SPIn sub-scales was predictive of client outcomes either. Specifically, neither static risk (Table 2.1.2), nor dynamic risk (Table 2.1.3), nor protective scores (Table 2.1.4) were significantly related to supervision outcomes. This remained true whether or not clients without a risk assessment were considered. Overall, out of the four SPIn risk assessment scales, not a single one was predictive of supervision outcomes for BVSP clients.

[72] These two categories have been combined to eliminate low expected frequencies. This practice will be continued with other variables throughout the analysis.

[73] Fisher's Exact Test is used only with 2 x 2 cross tabulations. It is the most appropriate test of statistical significance in these cases, as traditional chi square tests become unstable with 2 X 2 tables. The Fisher's Exact Test also has the advantage that it is an exact calculation of significance and not an approximation.

Table 2.1.2 - Supervision Outcome by Static Risk

			Supervision Outcome		
			Success	Failure	Total
Static Risk	None or Low		24	22	46
		Row %	52.2%	47.8%	100.0%
	Moderate		7	12	19
		Row %	36.8%	63.2%	100.0%
Total			31	34	65
		Row %	47.7%	52.3%	100.0%

Fisher's Exact (2tail) = 0.289

Table 2.1.3 – Supervision Outcome by Dynamic Risk

			Supervision Outcome		
			Success	Failure	Total
Dynamic Risk	Low		22	22	44
		Row %	50.0%	50.0%	100.0%
	Moderate or High		9	12	21
		Row %	42.9%	57.1%	100.0%
Total			31	34	65
		Row %	47.7%	52.3%	100.0%

Fisher's Exact (2tail) = 0.608

Table 2.1.4 – Supervision Outcome by Protective Score

			Supervision Outcome		
			Success	Failure	Total
Protective Score	None		3	7	10
		Row %	30.0%	70.0%	100.0%
	Low		24	22	46
		Row %	52.2%	47.8%	100.0%
	Moderate or High		4	5	9
		Row %	44.4%	55.6%	100.0%
Total			31	34	65[74]
		Row %	47.7%	52.3%	100.0%

Chi-Square = 1.663; p = 0.50; 3 cells (50%) with low Ef (4.05 lowest value)[75]

4.2.2 – SPIn Domains and Supervision Outcomes

In an effort to redeem SPIn in light of the lack of significant relationships between BVSP supervision outcomes and the overall SPIn assessment scale as well as its sub-scales, this

[74] Although some might argue that this lack of significance is a result of the small sample size (N = 65, in this case), many statistical guides define a small sample as 30 cases or fewer. Furthermore, p = 0.50 does not even approximate statistical significance.

[75] Note that with these low expected frequencies, the chi-square statistic becomes unstable, reducing our confidence in the findings. However, the lowest expected frequency (4.05) is approaching the acceptable 5.00 level. Further, there is no way to regroup the response categories of the independent variable in a way that would eliminate these low expected frequencies, given that they occur at the two extremes of protective scores. Nevertheless, caution should still be exercised when interpreting this inferential test.

assessment tool was broken down further in search of predictive validity. However, upon closer examination of each of its 10 risk domains as well as the mental health indicator, only two of these 11 areas were predictive (Family and Mental Health), and one marginally predictive (Problematic Substance Use), of supervision outcome. Again, this was the case both when clients whose information was unavailable were included and excluded from analysis.

Specifically, not a single domain believed to evaluate static risk factors (Criminal History, Response to Supervision, Aggression and Violence) was significantly related to supervision outcome (Appendix O).

In terms of dynamic risk domains, although problematic substance use was not significantly related to supervision outcomes, marginal differences were noted when "no substance use" and "substance use not problematic" categories were combined (p = 0.120) (Table 2.2.1). Those with problematic substance use were more likely to fail (62.7%) than those without (44.1%).

Table 2.2.1 - Supervision Outcome by Problematic Substance Use

			Supervision Outcome		
			Success	Failure	Total
Problematic Drug Use	No Problematic Drug Use		19	15	34
		Row %	55.9%	44.1%	100.0%
	Problematic Drug Use		19	32	51
		Row %	37.3%	62.7%	100.0%
Total			38	47	85
		Row %	44.7%	55.3%	100.0%

Fisher's Exact (2tail) = 0.120

However, like the static risk domains, Social Influences also proved to be unrelated to supervision outcomes, as well as the Employment, Attitudes, Socio-Cognitive Skills and Stability domains (Appendix O). In contrast, the Family domain was significantly related to supervision outcomes when one excludes clients with no available information (p = 0.042) (Table 2.2.2) but only marginally related when one includes these clients (p = 0.10). In the former case, it was found that clients with family concerns failed supervision in 64.46% of cases, whereas clients without family concerns failed in only 40% of supervision cases.

Table 2.2.2 - Supervision Outcome by Family

			Supervision Outcome		Total
			Success	Failure	
Family	No Family Concerns		21	14	35
		Row %	60.0%	40.0%	100.0%
	Family Concerns Present		16	29	45
		Row %	35.6%	64.4%	100.0%
Total			37	43	80
		Row %	46.3%	53.8%	100.0%

Fisher's Exact (2tail) = 0.042

Finally, the Mental Health category of the SPIn assessment was also significantly related to supervision outcome (p = 0.01) (Table 2.2.3). Perplexingly, the direction of this relationship was unexpected, as clients with mental health concerns actually failed bail supervision less frequently (44.2%) than those without mental health concerns (75%). It is important to note, however, that Mental Health is "scored as a service attention area rather than risk of recidivism" (Orbis Partners Inc., n.d., p.4). Consequently, despite the predictive validity of this SPIn category, it appears that Mental Health information is not considered in the calculation of the four major risk scales. With this in mind then, only one of the ten SPIn risk domains is significantly related (Family), and one marginally related (Problematic Substance Use), to supervision outcomes.

Table 2.2.3 - Supervision Outcome by Mental Health

			Supervision Outcome		Total
			Success	Failure	
Mental Health	No Mental Health Concerns		7	21	28
		Row %	25.0%	75.0%	100.0%
	Mental Health Concerns		29	23	52
		Row %	55.8%	44.2%	100.0%
Total			36	44	80
		Row %	45.0%	55.0%	100.0%

Fisher's Exact (2tail) = 0.010

4.2.3 – SPIn Pre-Screen Sub-Items and Supervision Outcomes

In another effort to redeem the SPIn assessment instrument in the BVSP setting, a number of domains were subsequently examined more closely. Specifically, further analyses were conducted with respect to the three areas which showed statistical significance or marginal significance. In these three cases, it might be argued that if a number of individual items from these 3 categories were predictive of bail supervision outcomes, the tool may still hold some value for the BVSP.

In light of the marginally significant relationship between problematic substance use and supervision outcomes, this domain was broken down into its two primary sub-areas (Disrupted Functioning and Contributes to Criminality). Substance use that disrupts functioning was significantly related to supervision outcomes, both when clients with no available information were included (p = 0.01) and excluded (p = 0.003) (Table 2.3.1). Specifically, clients with substance-related dysfunction were much more likely to fail during bail supervision (77.4%) than clients without substance-related dysfunction (42.3%). However, substance use that contributes to (alleged) criminality was only marginally related to outcomes (p = 0.124), regardless of the inclusion or exclusion of clients with no available information in this area (Table 2.3.2).

Table 2.3.1 - Supervision Outcome by Substance use that Disrupts Functioning

			Supervision Outcome		
			Success	Failure	Total
Substance use Disrupts Functioning	No Substance-related Dysfunction		30	22	52
		Row %	57.7%	42.3%	100.0%
	Substance-related Dysfunction		7	24	31
		Row %	22.6%	77.4%	100.0%
Total			37	46	83
		Row %	44.6%	55.4%	100.0%

Fisher's Exact (2tail) = 0.003

Table 2.3.2 – Supervision Outcome by Substance use that Contributes to Criminality

			Supervision Outcome		
			Success	Failure	Total
Substance use Contributes to Criminality	No Criminal Contribution		22	18	40
		Row %	55.0%	45.0%	100.0%
	Contributes to Criminality		16	28	44
		Row %	36.4%	63.6%	100.0%
Total			38	46	84
		Row %	45.2%	54.8%	100.0%

Fisher's Exact (2tail) = 0.124

Given its statistical significance, the Family domain was also broken down to determine whether all or only some of the individual items in this domain were individually predictive of supervision outcomes. Interestingly, none of the sub-items were significantly related to outcomes. Specifically, neither marital status (Table 2.3.3), nor marital satisfaction (Table 2.3.4), nor attachment to children (Table 2.3.5), nor presence of marital risk factors (e.g., perpetrated domestic violence, ongoing conflict with ex-partner) (Table 2.3.6) were individually related to BVSP outcomes[76]. In this case, it is likely that because attachment to children and presence of marital risk factors were related to the dependent variable in the same direction (though not at a statistically significant level), these items combined to make an overall significant relationship between the broader Family domain and outcomes.

Table 2.3.3 – Supervision Outcome by Marital Status

			Supervision Outcome		
			Success	Failure	Total
Marital Status	Single		27	30	57
		Row %	47.4%	52.6%	100.0%
	Intimate Relationship		12	9	21
		Row %	57.1%	42.9%	100.0%
Total			39	39	78
		Row %	50.0%	50.0%	100.0%

Fisher's Exact (2tail) = 0.610

[76] Again, no statistically significant relationship existed, regardless of the inclusion or exclusion of clients with no information available on these issues.

Table 2.3.4 – Supervision Outcome by Marital Satisfaction

			Supervision Outcome		Total
			Success	Failure	
Marital Satisfaction	Dissatisfaction/Instability in Relationship		7	7	14
		Row %	50.0%	50.0%	100.0%
	Satisfaction/Stability in Relationship (or Single)		31	31	62
		Row %	50.0%	50.0%	100.0%
Total			38	38	76
		Row %	50.0%	50.0%	100.0%

Fisher's Exact (2tail) = 1.00

Table 2.3.5 - Supervision Outcome by Attachment to Children

			Supervision Outcome		Total
			Success	Failure	
Attachment to Children	Difficult Relationship		5	11	16
		Row %	31.3%	68.8%	100.0%
	Rewarding Relationship (or No Children)		31	28	59
		Row %	52.5%	47.5%	100.0%
Total			36	39	75
		Row %	48.0%	52.0%	100.0%

Fisher's Exact (2tail) = 0.164

Table 2.3.6 - Supervision Outcome by Marital Risk Factors

			Supervision Outcome		Total
			Success	Failure	
Marital Risk Factors	No Marital Risk Factors		28	25	53
		Row %	52.8%	47.2%	100.0%
	1+ Marital Risk Factors		9	15	24
		Row %	37.5%	62.5%	100.0%
Total			37	40	77
		Row %	48.1%	51.9%	100.0%

Fisher Exact (2tail) = 0.230

As an additional note – and although not statistically significant as an overall domain – the two items which make up the Stability domain (Financial Stability and Accommodation Stability) were also subsequently analysed. This Stability domain was the only SPIn area which was not found to be significant, but whose qualitative data nevertheless suggested closer examination. In this respect, case notes documented that clients experiencing housing instability, particularly clients living in homeless shelters, often faced challenges to following bail conditions, such as the mandatory condition to seek bail supervision approval prior to any change of address[77]. Accommodation stability was, in fact, found to be related to supervision outcomes – statistically significant at the 0.001 alpha level. Clients with temporary or unstable accommodation arrangements (e.g., living in homeless shelters, 'couch surfing', etc.) were much more likely to fail during bail supervision (73.9%) than clients who did not experience these issues (37.7%) (Table 2.3.7). The other component of the Stability domain, financial stability (e.g., relying on social assistance, low income for household needs), was not predictive of supervision outcomes (Table 2.3.8)[78]. In fact, it is very likely that this second sub-item simply neutralized the influence of accommodation stability, causing the broader measure of Stability to not be predictive of supervision outcomes.

Table 2.3.7 – Supervision Outcome by Accommodation Stability

			Supervision Outcome		Total
			Success	Failure	
Accommodation Stability	No Accommodation Concerns		33	20	53
		Row %	62.3%	37.7%	100.0%
	Accommodation Concerns		12	34	46
		Row %	26.1%	73.9%	100.0%
Total			45	54	99
		Row %	45.5%	54.5%	100.0%

Fisher's Exact (2tail) = 0.001

Table 2.3.8 – Supervision Outcome by Financial Stability

			Supervision Outcome		Total
			Success	Failure	
Financial Stability	No Financial Concerns		9	11	20
		Row %	45.0%	55.0%	100.0%
	1 Financial Concern		28	31	59
		Row %	47.5%	52.5%	100.0%
	2 Financial Concerns		7	7	14
		Row %	50.0%	50.0%	100.0%
Total			44	49	93
		Row %	47.3%	52.7%	100.0%

Chi-Square = 0.084; df = 2; p = 0.99

Finally – and although not formally part of the SPIn risk classification – the Mental Health area of SPIn was also broken down, given its established ability to predict outcomes, to

[77] See Section 5.2.3 for further discussion of how accommodation stability may be related to bail supervision outcomes.

[78] Regardless of the inclusion or exclusion of clients for whom this information was unavailable.

determine if all or only some of the individual items were predictive. The presence of mental health indicators (e.g., suicidal ideation, sexual aggression, history of abuse) was individually predictive of supervision outcomes (p = 0.016) (Table 2.3.9), with those clients with indicators being much more likely to fail on supervision (90.0% vs. 47.5% failure rate).

Table 2.3.9 – Supervision Outcome by Mental Health Indicators

			Supervision Outcome		
			Success	Failure	Total
Mental Health Indicators	No Mental Health Indicators		31	28	59
		Row %	52.5%	47.5%	100.0%
	Mental Health Indicator(s)		1	9	10
		Row %	10.0%	90.0%	100.0%
Total			32	37	69
		Row %	46.4%	53.6%	100.0%

Fisher's Exact (2tail) = 0.016

Furthermore, a significant relationship existed between mental health diagnoses and supervision outcomes. When including "Observed Signs/Symptoms without Diagnosis" as a separate category, this item was predictive at the 0.01 alpha level (Table 2.3.10), but predictive at the 0.000 alpha level when this category was merged with "No Diagnoses" to become "No Official Diagnoses" (Table 2.3.11). Clients with an official mental diagnosis were actually much more likely to succeed (70%) than those without an official diagnosis (28.6%).

Table 2.3.10 – Supervision Outcome by Mental Health Diagnosis

			Supervision Outcome		
			Success	Failure	Total
Mental Health Diagnosis	No Diagnoses		9	22	31
		Row %	29.0%	71.0%	100.0%
	Observed Signs/Symptoms without Diagnosis		5	13	18
		Row %	27.8%	72.2%	100.0%
	1+ Mental Health Diagnosis		21	9	30
		Row %	70.0%	30.0%	100.0%
Total			35	44	79
		Row %	44.3%	55.7%	100.0%

Chi-Square = 12.950; df = 2, p = 0.01

Table 2.3.11 – Supervision Outcome by Mental Health Diagnosis (Collapsed)

			Supervision Outcome		Total
			Success	Failure	
Mental Health Diagnosis (Simplified)	No Official Diagnosis		14	35	49
		Row %	28.6%	71.4%	100.0%
	Official Mental Health Diagnosis		21	9	30
		Row %	70.0%	30.0%	100.0%
Total			35	44	79
		Row %	44.3%	55.7%	100.0%

Fisher's Exact (2tail) = 0.000

Interestingly, mental health indicators and mental health diagnosis were related to supervision outcomes in opposing directions. That is, while clients with mental health indicators were more likely to be unsuccessful on bail supervision, those with an official mental health diagnosis were actually more likely to succeed.

In sum, the Service Planning Instrument Pre-Screen has very limited power to predict supervision outcomes among BVSP clients. The Overall Risk scale, as well as its three sub-scales, had no significant relationship with supervision outcomes. Even when breaking down SPIn into its various domains, low predictive power remains. Of the 10 SPIn risk domains, only Family was predictive of supervision outcomes (although none of its four sub-items were significantly related to outcomes and only two were approaching marginal significance) and Problematic Drug Use was marginally predictive (although only one of its two sub-items was significantly related to outcomes, with the other being only marginally related). Though Stability as a broad domain was not found to be significantly related to outcomes, one of its sub-items, Accommodation Stability, was significantly related. While the Mental Health service area was related to BVSP success and failure, this category is not considered a risk scale and so it is not considered in the calculation of the greater risk classifications. On the item-level within domains of interest, only substance use that disrupts functioning, accommodation stability, mental health indicators and mental health diagnosis were significantly related to BVSP outcomes. Overall, very few components of SPIn were predictive of success or failure on bail supervision. In view of the above, the SPIn assessment tool would appear to have little value to the BVSP in this study, at least as a tool to help predict bail supervision success.

4.2.4 – Criminal Justice Process Variables and Supervision Outcome

Given the Service Planning Instrument's lack of predictive validity, the search for other measures to predict bail supervision outcomes becomes even more relevant. As such, a number of criminal justice variables were examined to determine their predictive power relative to a client's success or failure in the Bail Verification and Supervision Program. However, as quickly became obvious, this avenue of explanation yielded few leads.

The total number of criminal charges on a client's recognizance was not significantly related to supervision outcomes (Table 2.4.1). Notably, though, as the total number of charges increased, the failure rate also increased.

Table 2.4.1 - Supervision Outcome by Total Charges on Recognizance at time of BVSP Release

			Supervision Outcome		
			Success	Failure	Total
Total Charges on Recognizance at time of BSP Release	1 – 2		10	8	18
		Row %	55.6%	44.4%	100.0%
	3		12	10	22
		Row %	54.5%	45.5%	100.0%
	4		8	11	19
		Row %	42.1%	57.9%	100.0%
	5+		15	26	41
		Row %	36.6%	63.4%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Chi-Square = 2.858; df = 3, p = 0.50

Furthermore, individuals currently charged with violent offences as their most serious charge were in no way more likely to fail on supervision (56.3%) than clients currently charged with non-violence offences[79] (54.4%) (p = 1.00) (Table 2.4.2).

[79] Property offences and Federal/other offences have been grouped together in the 'Non-Violent' charge category in order to avoid low expected frequencies.

Table 2.4.2 – Supervision Outcome by Current Charge Type

			Supervision Outcome		
			Success	Failure	Total
Current Charge Type	Violent Offence		14	18	32
		Row %	43.8%	56.3%	100.0%
	Non-Violent Offence		31	37	68
		Row %	45.6%	54.4%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Fisher's Exact (2tail) = 1.000

Similarly, charge type for the most serious of all active charges was also unrelated to supervision outcome (p = 0.838) (Table 2.4.3). Even when adding a category of charges against the administration of justice, this variable was still not predictive of supervision outcomes (p = 0.50) (Table 2.4.4)[80].

Table 2.4.3 – Supervision Outcome by Total Charge Type

			Supervision Outcome		
			Success	Failure	Total
Charge Type for Most Serious of All Active Charges	Violent		17	23	40
		Row %	42.5%	57.5%	100.0%
	Non-Violent		28	32	60
		Row %	46.7%	53.3%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Fisher's Exact (2tail) = 0.838

Table 2.4.4 – Supervision Outcome by Total Charge Type (Re-Grouped)

			Supervision Outcome		
			Success	Failure	Total
Charge Type for Most Serious of All Active Charges (Re-Grouped)	Violent		17	23	40
		Row %	42.5%	57.5%	100.0%
	Administrative		7	12	19
		Row %	36.8%	63.2%	100.0%
	Non-Violent		21	20	41
		Row %	51.2%	48.8%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Chi-Square = 1.253; df = 2; p = 0.50

[80]Notably, though, when we consider the mere presence of administrative charges, regardless of whether they represent the most serious charges, this picture begins to change. The number of administrative charges among a client's current charges is, in fact, significantly predictive of supervision outcome (p = 0.05). Clients with no current charges against the administration of justice are only slightly more likely to fail (54.5%) than to succeed (45.5%) on bail supervision, while clients with only one administrative charge are actually more likely to succeed (69.2% succeed vs. 30.8% who fail). Most notably, however, two thirds of clients (65.4%) with two current administrative charges are unsuccessful on bail supervision and 80% of clients with three or more current charges against the administration fail (Appendix P). A similar relationship (p = 0.05) between the number of total administrative charges on a client's recognizance and their supervision outcomes was found.

Type of bail release was also not predictive of bail supervision outcomes. Although clients released after a show cause hearing appeared to be somewhat more likely to fail than those released on the consent of the Crown (66.7% vs. 51.3%), these differences were not statistically significant (Table 2.4.5)[81].

Table 2.4.5 – Supervision Outcome by Type of Bail Release

			Supervision Outcome		
			Success	Failure	Total
Type of Bail Release	Consent		37	39	76
		Row %	48.7%	51.3%	100.0%
	Show Cause, including Bail Review		8	16	24
		Row %	33.3%	66.7%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Fisher's Exact (2tail) = 0.241

There was, however, a significant relationship between the number of court dates and supervision outcomes (p = 0.01). Clients with fewer court dates were actually more likely to fail on bail supervision (81.5% with 0-4 court dates vs. 43.2% or 48.3% with 5-8 and 9+ court dates respectively) (Table 2.4.6). This finding is likely a result of the large number of FTCs and FTAs that occur early in supervision and that effectively end a client's BVSP release[82]. In other words, these clients fail so early on that they do not have the opportunity to accumulate numerous court dates.

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[81] Type of release was, however, significantly related to the number of bail conditions (p = 0.05). The number of bail conditions imposed on consent release clients was spread evenly across the 4-6, 7-8 and 9+ categories, with about a third of consent release clients in each category. In contrast, nearly two thirds of show cause releases received 9+ bail conditions while only 8.7% of these clients received 4-6 conditions (See Appendix Q).

[82] See Tables 1.4.6 and 1.4.7 for the distribution of FTC and FTA charges.

Table 2.4.6 – Supervision Outcome by Number of Court Dates

			Supervision Outcome		Total
			Success	Failure	
Number of Court Dates	0-4 Court Dates		5	22	27
		Row %	18.5%	81.5%	100.0%
	5-8 Court Dates		25	19	44
		Row %	56.8%	43.2%	100.0%
	9+ Court Dates		15	14	29
		Row %	51.7%	48.3%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Chi-Square = 10.663; df = 2; p = 0.01

Length of bail supervision was similarly related to supervision outcomes (p = 0.05). The shorter the period of supervision, the more likely a client was to fail (Table 2.4.7). Again though, this finding is likely explained by the large number of clients who breach or FTA very soon after release, thereby ending their brief period on BVSP supervision.

Table 2.4.7 – Supervision Outcome by Length of Bail Supervision

			Supervision Outcome		Total
			Success	Failure	
Length of Bail Supervision	3 Months or Less		7	22	29
		Row %	24.1%	75.9%	100.0%
	3-6 Months		16	19	35
		Row %	45.7%	54.3%	100.0%
	6 Months or More		22	14	36
		Row %	61.1%	38.9%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Chi-Square = 8.882; df = 2; p = 0.05

Although the number of bail conditions on a client's release was unrelated to supervision outcomes[83], there did appear to be an interesting trend. Clients with 9+ bail conditions failed more often (61.9%) than those with 7-8 conditions (56.7%) and both groups failed more often than those with only 4-6 conditions (38.5%) (Table 2.4.8). Despite this trend, none of the specific

[83] No relationship was found with the bail condition categories of either 4-6/7-8/ 9+ (p = 0.25) or 4-8/ 9+ conditions (p = 0.221).

bail conditions discussed earlier in this chapter (see Appendix I) was significantly related to supervision outcome[84] [85].

Table 2.4.8 – Supervision Outcome by Number of Bail Conditions

			Supervision Outcome		
			Success	Failure	Total
Number of Bail Conditions	4-6 Conditions		16	10	26
		Row %	61.5%	38.5%	100.0%
	7-8 Conditions		13	17	30
		Row %	43.3%	56.7%	100.0%
	9+ Conditions		16	26	42
		Row %	38.1%	61.9%	100.0%
Total			45	53	98
		Row %	45.9%	54.1%	100.0%

Chi-Square = 3.670; df = 2; p = 0.25

Given the tendency for bail clients to fail early in supervision, length of supervision was explored further with the purpose of determining reasons for this trend. A number of the noteworthy variables discussed above were explored in conjunction with supervision outcomes and length of supervision. First, the SPIn variable of Substance Use that Disrupts Functioning was significantly related to supervision outcomes over time (p = 0.05, even when including clients without this information available). Clients experiencing substance-related dysfunction tended to fail earlier in supervision (37.5% of failures in the first three months vs. 25% at the 6-month or more point), while their peers who were not experiencing substance-related dysfunction tended to fail later (36.4% failed at the 6-month or more point vs. 27.3% in the first

[84] Number of bail conditions was also significantly related with Total Charge Type. While clients accused of non-violent offences were fairly evenly split across the number of bail conditions (roughly one third each), those accused of violent crimes were much more likely to have nine or more conditions imposed on their release (57.9%) and very unlikely to receive only four to six conditions (13.2%) (See Appendix R).

[85] Specific bail conditions were also significantly related to charge type, with these being more common among clients with violent charges. Offenders accused of violent offences were more likely to receive a bail condition to abstain from alcohol (p = 0.032); only roughly a quarter of non-violent accused had this condition (23.5%) whereas roughly half of violent accused did (46.7%). Clients accused of violent crimes were also more likely to receive a condition to attend treatment (p = 0.006); while only 13.2% of those with non-violent charges had this condition, 40% of those with violent charges did. No contact conditions were much more common among those with violent charges (p = 0.000); 36.8% of non-violent accused had this condition while 80.6% of violent accused did. Finally, a weapons prohibition condition was again far more common among those with violent charges (p = 0.000); only 20.6% of non-violent accused had this condition while 80.0% of violent accused did (See Appendix S).

three months) (Table 2.4.9). In other words, substance use that disrupts functioning would appear to be one of the factors that contribute to the high rate of early BVSP failure.

Table 2.4.9 – Substance use that Disrupts Functioning by Supervision Outcome by Length of Bail Supervision

Substance use Disrupts Functioning				Length of Bail Supervision: 3 Months or Less	3-6 Months	6 Months or More	Total
No Dysfunction	Supervision Outcome	Success		4	7	19	30
			Row %	13.3%	23.3%	63.3%	100.0%
		Failure		6	8	8	22
			Row %	27.3%	36.4%	36.4%	100.0%
	Total			10	15	27	52
			Row %	19.2%	28.8%	51.9%	100.0%
Dysfunction	Supervision Outcome	Success		0	5	2	7
			Row %	0.0%	71.4%	28.6%	100.0%
		Failure		9	9	6	24
			Row %	37.5%	37.5%	25.0%	100.0%
	Total			9	14	8	31
			Row %	29.0%	45.2%	25.8%	100.0%
Total	Supervision Outcome	Success		4	12	21	37
			Row %	10.8%	32.4%	56.8%	100.0%
		Failure		15	17	14	46
			Row %	32.6%	37.0%	30.4%	100.0%
	Total			19	29	35	83
			Row %	22.9%	34.9%	42.2%	100.0%

Total Chi-Square = 7.746; df = 2; p = 0.05

Accommodation Stability was also significantly related to supervision outcome over time (p = 0.05). Clients with accommodation concerns who failed tended to do so early in their supervision (44.1% of failures in the first 3 months, only 23.5% after six months), while failure rates for those without accommodation concerns were more stable over time (Table 2.4.10). Thus, the presence of accommodation concerns can also partially explain the trend of early BVSP failure.

Table 2.4.10 – Accommodation Stability by Supervision Outcome by Length of Supervision

Accommodation Stability				Length of Bail Supervision: 3 Months or Less	3-6 Months	6 Months or More	Total
No Accommodation Concerns	Supervision Outcome	Success		5	10	18	33
			Row %	15.2%	30.3%	54.5%	100.0%
		Failure		6	8	6	20
			Row %	30.0%	40.0%	30.0%	100.0%
	Total			11	18	24	53
			Row %	20.8%	34.0%	45.3%	100.0%
Accommodation Concerns	Supervision Outcome	Success		2	6	4	12
			Row %	16.7%	50.0%	33.3%	100.0%
		Failure		15	11	8	34
			Row %	44.1%	32.4%	23.5%	100.0%
	Total			17	17	12	46
			Row %	37.0%	37.0%	26.1%	100.0%
Total	Supervision Outcome	Success		7	16	22	45
			Row %	15.6%	35.6%	48.9%	100.0%
		Failure		21	19	14	54
			Row %	38.9%	35.2%	25.9%	100.0%
	Total			28	35	36	99
			Row %	28.3%	35.4%	36.4%	100.0%

Total Chi-Square = 8.285; df = 2; p = 0.05

Another variable that was significantly related to supervision outcomes over time was the Mental Health SPIn domain (p = 0.01; including clients for whom this information was not available, p = 0.05). Clients with mental health concerns who failed did so early (56.5% within the first three months; only 17.4% of failures occurred after six months of supervision). By contrast, individuals without mental health concerns who failed tended to do so much later into supervision (only 14.3% of failures occurred in the first three months whereas 47.6% occurred after six months of supervision) (Table 2.4.11)[86]. Overall, the influence of mental health concerns on early failure rates appears to be quite strong.

[86] The Mental Health Diagnosis sub-item was also significantly related to bail supervision over time (p = 0.01; including clients for whom this information was not available, p = 0.05), although these trends do not appear to be as strong (Appendix T).

Table 2.4.11 – Mental Health by Supervision Outcome by Length of Bail Supervision

Mental Health				Length of Bail Supervision: 3 Months or Less	3-6 Months	6 Months or More	Total
No Mental Health Concerns	Supervision Outcome	Success		1	2	4	7
			Row %	14.3%	28.6%	57.1%	100.0%
		Failure		3	8	10	21
			Row %	14.3%	38.1%	47.6%	100.0%
	Total			4	10	14	28
			Row %	14.3%	35.7%	50.0%	100.0%
Mental Health Concerns	Supervision Outcome	Success		2	10	17	29
			Row %	6.9%	34.5%	58.6%	100.0%
		Failure		13	6	4	23
			Row %	56.5%	26.1%	17.4%	100.0%
	Total			15	16	21	52
			Row %	28.8%	30.8%	40.4%	100.0%
Total	Supervision Outcome	Success		3	12	21	36
			Row %	8.3%	33.3%	58.3%	100.0%
		Failure		16	14	14	44
			Row %	36.4%	31.8%	31.8%	100.0%
	Total			19	26	35	80
			Row %	23.8%	32.5%	43.8%	100.0%

Total Chi-Square = 9.756; df = 2; p = 0.01

Finally, there was also a statistically significant relationship between number of bail conditions and outcomes over time (p = 0.05). BVSP clients with 7-8 and 9+ bail conditions who failed tended to do so earlier (41.2% and 42.3% respectively, in the first three months) than those with only 4-6 bail conditions (only 30% of failures in the first three months) (Table 2.4.12). Given that bail conditions are imposed by the courts, it appears that Justices may actually be setting clients up for early failure when they impose more than six conditions on them.

Table 2.4.12 – Number of Bail Conditions by Supervision Outcome by Length of Bail Supervision

Number of Bail Conditions				Length of Bail Supervision: 3 Months or Less	3-6 Months	6 Months or More	Total
4-6 Conditions	Supervision Outcome	Success		5	5	6	16
			Row %	31.3%	31.3%	37.5%	100.0%
		Failure		3	5	2	10
			Row %	30.0%	50.0%	20.0%	100.0%
	Total			8	10	8	26
			Row %	30.8%	38.5%	30.8%	100.0%
7-8 Conditions	Supervision Outcome	Success		1	7	5	13
			Row %	7.7%	53.8%	38.5%	100.0%
		Failure		7	6	4	17
			Row %	41.2%	35.3%	23.5%	100.0%
	Total			8	13	9	30
			Row %	26.7%	43.3%	30.0%	100.0%
9+ Conditions	Supervision Outcome	Success		1	4	11	16
			Row %	6.3%	25.0%	68.8%	100.0%
		Failure		11	7	8	26
			Row %	42.3%	26.9%	30.8%	100.0%
	Total			12	11	19	42
			Row %	28.6%	26.2%	45.2%	100.0%
Total	Supervision Outcome	Success		7	16	22	45
			Row %	15.6%	35.6%	48.9%	100.0%
		Failure		21	18	14	53
			Row %	39.6%	34.0%	26.4%	100.0%
	Total			28	34	36	98
			Row %	28.6%	34.7%	36.7%	100.0%

Total Chi-Square = 8.298; df = 2; p = 0.05

4.2.5 - Demographic Variables and Supervision Outcome

As a second avenue in the pursuit of the factors which do, in fact, appear to predict bail supervision outcomes, demographic factors were explored. Again though, this avenue yields few leads. Generally, demographic variables were not predictive of supervision outcome. This was the case with client age[87], client gender, client disability and previous bail supervision, none of which were significantly related to bail supervision outcomes (See Appendix U)**.** The only demographic variable that was predictive of supervision outcomes was race (p = 0.05) (Table 2.5.1). Non-white clients were more likely to be unsuccessful on bail supervision; two thirds of

[87] Of the four predictive risk assessment variables, Client Age was significantly related only to Substance Use that Disrupts Functioning (p = 0.01).

non-white clients (68.4%) were unsuccessful on bail supervision while just under half of white clients (46.8%) were unsuccessful on bail supervision.

Table 2.5.1 – Supervision Outcome by Race

			Supervision Outcome		Total
			Success	Failure	
Client Race	White		33	29	62
		Row %	53.2%	46.8%	100.0%
	Non-White		12	26	38
		Row %	31.6%	68.4%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Fisher's Exact (2tail) = 0.040

4.3 – INFERENTIAL STATISTICS: MULTIVARIATE ANALYSES

The bivariate analyses identified a number of factors as contributing to bail supervision success. Specifically, Substance Use that Disrupts Function, Family, Accommodation Stability, Mental Health Indicators, Mental Health Diagnosis and Client Race were found – individually – to be significantly related to bail supervision outcomes. To further extend these analyses, a logistic regression of these six variables was conducted to determine to what extent each variable independently predicted outcomes. Table 3.1.1 presents the results. Of the six variables included in the statistical model, only one – Family – was unable to independently predict supervision outcomes, controlling for the effects of the other factors in the multivariate equation (B = 0.817). Further, Mental Health Indicators (B = 3.952) and Mental Health Diagnosis (B = -3.309) had the strongest predictive power, followed relatively closely by Accommodation Stability (B = 2.610), followed by, and to a lesser extent, Drug Use that Disrupts Functioning (B = 1.937) and Race (B = 1.699). In other words, each of these five factors would appear to independently predict bail supervision success. Notably, though, only two of them are components of the risk classifications produced by the SPIn assessment tool. Further, these two variables only constitute single items of two domains which make up the risk classification scales.

Table 3.1.1 – Logistic Regression of Previously Significant Variables

		B	S.E.	Wald	df	Sig.	Exp(B)
Step 1[a]	Mental Health Diagnosis	-3.309	1.022	10.488	1	.001	.037
	Mental Health Indicators	3.952	1.565	6.373	1	.012	52.030
	Substance Use Disrupts Functioning	1.937	.859	5.088	1	.024	6.935
	Family	.974	.754	1.667	1	.197	2.647
	Accommodation Stability	2.610	.917	8.106	1	.004	13.604
	Race	1.699	.805	4.450	1	.035	5.466
	Constant	-3.392	1.405	5.832	1	.016	.034

a. Variable(s) entered on step 1: Mental Health Diagnosis, Mental Health Indicators, Substance Use Disrupts Functioning, Family, Accommodation Stability and Race[88].

[88] Where Supervision Outcome is coded: 1 = Success, 2 = Failure; where Mental Health Diagnosis is coded: 0 = No Official Diagnosis, 1 = Official Mental Health Diagnosis; where Mental Health Indicators is coded: 0 = No Mental Health Indicators, 1 = Mental Health Indicator(s); where Substance Use Disrupts Functioning is coded: 0 = No Substance-related Dysfunction, 1 = Substance-related Dysfunction; where Family is coded: 0 = No Family Concerns, 1 = Family Concerns Present; where Accommodation Stability is coded: 0 = No Accommodation Concerns, 1 = Accommodation Concerns; and where Race is coded: 1 = White, 2 = Non-white.

5 – DISCUSSION

This study's findings produce what appears to be a troubling image of the Canadian bail system and the effort to utilize bail supervision programs to alleviate the bail crisis. First, this research sheds light on the limitations of using unvalidated risk assessment tools in the pretrial setting. Specifically, the SPIn Pre-Screen risk assessment tool lacked predictive validity, as neither its overall risk scale, nor its three sub-scales were related to supervision outcomes. Further dissection of the SPIn tool revealed only a small number of risk items that were predictive of bail success: Mental Health Indicators, Mental Health Diagnosis, Accommodation Stability, and Substance Use that Disrupts Functioning, as well as client race. Unfortunately, three of these five prediction factors are not included in the actual risk assessment classification. Second, counter to their official purpose, BVSPs may actually be widening the net of social control over accused individuals. Clients in this study were largely considered to be low risk, generally had few charges (mostly of a non-violent nature), and by and large, did not incur new substantive or FTA charges. Third, the findings of this study reflect many of the greater trends that are contributing to the current crisis in the Canadian bail system, such as court inefficiency and increased pretrial detention. In fact, 55% of BVSP clients incurred additional charges while on bail supervision, mostly for failure to comply with a court order, followed by failure to attend court, other substantive criminal charges, or a combination thereof. Not surprisingly, nearly three quarters of clients had pending charges against the administration of justice.

5.1 – BAIL VERIFICATION AND SUPERVISION PROGRAM POPULATION

5.1.1 – Widening the Net of the Criminal Justice System

Bail Verification and Supervision Programs have been promoted as one strategy of reducing high remand rates, and, by extension, the level of control to which many individuals are subjected. The purpose of these programs is to release accused individuals on bail supervision who would have otherwise been denied bail and detained in custody on primary or secondary grounds. Given the notion of restraint that underlies section 515(1) of the *CCC*, and the onerous reporting and supervision conditions of BVSP release, these programs should generally only be offered to clients who are considered at least a moderate risk to the public. As such, the CCLET (2014) and John Howard Society of Ontario (2013c) have recommended that bail programs be used only when an individual is facing probable detention and cannot be released on his/her own recognizance. Furthermore, the John Howard Society of Ontario (2013a, 2013b, 2013c) advocates that bail programs should only be used for moderate and moderate-high risk clients. In light of these recommendations, many of the clients of the BVSP examined in this research would likely not have been considered suitable candidates for bail supervision.

Indeed, according to Service Planning Instrument Pre-Screen classifications, less than half of the BVSP clients studied (47%) were considered to be an overall moderate risk or higher. Similarly, less than a third of these clients (29.2%) were deemed to be a moderate static risk (none were deemed to be a high static risk) and only a third (33.3%) were classified as a moderate dynamic risk or higher. The low risk posed by clients is further highlighted by the fact that nearly one fifth of clients (18%) had only two or fewer active charges on their recognizance and most clients (60%) had a non-violent offence for their most serious charge. These findings suggest that the majority of BVSP clients are actually low risk individuals, particularly as it relates to the secondary grounds of public safety, and thus these clients are arguably not suitable candidates for the bail program. In theory, it could be proposed that these low risk clients would have largely been detained on the primary ground of ensuring their appearance in court. However, even this explanation does not appear to be especially compelling. At least on the surface, most of these clients did not seem to display any reasons to suspect that they would be flight risks. Further, only 3% of the clients in this study were unsuccessful due exclusively to FTA charges[89].

Like the authors of the John Howard Society of Ontario (2013b) report, I also encountered clients while coding who appeared to be inappropriate supervision clients. For example, BVSP clients included: a young man with no criminal record who had been working at a grocery store for more than a year and was living with his grandmother at the time of bail release (Case 38); a client with only one previous conviction, who had a pro-social family and social network, stable housing and full-time employment (Case 77); as well as a client with "severe health issues that made it virtually impossible [for him] to report to [his supervisor] in person" (Case 31).

Before the popularization of bail supervision programs, these low risk individuals would likely have simply been released on their own recognizance or even on an undertaking. Thus, bail supervision programs may represent a form of net widening in which a greater number of individuals are now being subjected to more intrusive criminal justice responses, in the form of invasive pretrial supervision[90], than they would have been in the past. This seems to echo Garland's (1996) assertion that responsibilizing the community – in this case through community

[89] Simply note that this value of 3% does not include those clients who had FTA charges in addition to FTC or new substantive charges.
[90] Notably, BVSPs are intrusive in that they require: 1) regular in-person reporting, initially on at least a weekly basis; 2) that clients seek approval for any change of address prior to moving; and 3), that clients attend and actively participate in any rehabilitative program as directed by their Bail Supervisor.

bail supervision – allows the government, and the criminal justice system in particular, to extend its power and control beyond its original reaches. This trend is also likely conducive to an increase in surveillance, detection and ultimately charges of failure to comply with bail conditions, as well as subsequent detention and criminal conviction, thus even further widening the net of the criminal justice system. This likely net widening through FTC charges was common in the BVSP under study (44% of all BVSP cases, 80% of all BVSP failures), and is also evidenced by the pervasiveness of administrative charges among clients (present in 73% of all cases). Note that this trend does not appear to be exclusive to this BVSP site. Webster (2007) found in her study of one Ontario bail court that 76.6% of all bail cases before the court had at least one administrative charge[91]. Along these same lines, the John Howard Society of Ontario (2013b) found in its pilot study of three Ontario BVSPs (Ottawa, Sudbury and Thunder Bay) that 92.3% of clients who failed on bail supervision had at least one FTC charge, while only 11.8% of failures had an FTA charge and no significant correlation was found with substantive offences.

This potential net widening phenomenon appears to be further evidenced by the fact that several of the clients who incurred new charges were subsequently re-released on their own recognizance. BVSP case notes documented six clients who were subsequently released on their own recognizance after incurring new criminal charges. This would appear to exemplify the net widening phenomenon, since the initial BVSP release was arguably unnecessarily intensive and could have been reasonably avoided by releasing the individual on his/her own recognizance at the time of the first release. Given that a bail client on this second occasion would have incurred an even greater number of charges than at the time of first release, the client would likely have been deemed to pose a greater risk to public safety based on secondary grounds. Thus, such a

[91] Across Ontario, administrative charges remain common among bail cases, although they are somewhat less prominent overall. In 2007, 40% of all cases in Ontario contained at least one administrative charge (Webster et al., 2009).

client's release would instead seem to suggest variability across Crown prosecutors, whose varying levels of experience and consequent job security may lead to inconsistent bail decisions as a result of differing levels of risk aversion (CCLET, 2014). Indeed, one Toronto duty counsel indicated in an interview with the CCLET (2014) that, "young Crowns … they're not going to be supported … by MAG if something goes wrong, and their contracts won't be renewed and they're under a lot of pressure" (p. 37). Yet this explanation cannot fully justify why some former BVSP clients were released on their own recognizance only after the BVSP refused to re-accept them. For instance, case notes documented that: "[Bail Supervisor] informed [the client's lawyer] that we would not take her back onto the BSP. … I spoke with Outside Crown [name] who is consenting to [client]'s release on her own recog[nizance]" (Case 3). Such examples raise the question of whether the bail program is being used as intended; that is, as a last resort to keep individuals out of remand, once all other less invasive measures have been exhausted. Indeed, it appears that BVSPs may be contributing to the expansion of control of the justice system over those who would arguably otherwise have been granted a less onerous form of release.

The possibility of net widening and the prevalence of low risk offenders in intensive BVSPs are particularly problematic in light of the risk principle. This principle suggests that interventions should match a person's risk classification. Research has shown that subjecting low-risk individuals to intensive interventions, such as bail supervision, can actually increase recidivism rates (Erwin, 1986; Latessa & Lovins, 2010; Lowenkamp & Latessa, 2004). Within this context, the current BVSP may actually be detrimental to public safety and/or increase the number of charges for technical violations (Giblin, 2002), further entrenching individuals deeper in the criminal justice system. Moreover, Barnes et al. (2010) found in their random control study of the Philadelphia Low-Intensity Community Supervision Experiment that low-risk probationers subjected to low-intensity supervision were no more likely to reoffend than those subjected to standard supervision. This finding suggests that subjecting low-risk individuals to low intensity supervision does not appear to result in increased harm to the public. Finally, unnecessarily placing low-risk individuals in intensive programs, such as BVSPs, strains the limited resources of community-based service providers and diverts attention away from moderate or high-risk clients in need.

5.1.2 – Risk Aversion and Offloading Responsibility to the Community

Net widening through bail supervision programs may also reflect the culture of risk aversion that pervades all levels of the bail decision-making process (Myers, 2009; Webster et al., 2009). Specifically, criminal justice professionals are now arguably offloading responsibility for these accused persons onto the community in an effort to minimize blame when bail releases go poorly. Crown prosecutors and Justices can now limit their reputational risk by releasing accused persons to bail programs which are tasked with closely monitoring and 'policing' their clients' behaviour. Even for individuals who pose very little threat to public safety, BVSP release appears to be consistent with the 'better safe than sorry' framework illustrated in the aforementioned Crown Policy Manual. Thus, the BVSP is seemingly acting as yet another example of a 'safety net' for Crown counsel who, given the opportunity, would prefer to offload institutional or reputational risk onto the community and its BVSP providers.

Even when defence or duty counsel believes that a client should be released on his/her own recognizance, they may defer to the risk averse mindset of those who have the power to make bail decisions. Particularly, when defence counsel are unable to convince a Crown to consent to a less onerous form of release, they may feel compelled to recommend a BVSP as a means of securing at least some form of release for their client. In these cases, defence counsel and their clients may believe that even an intensive form of release is preferable to the overcrowding and often appalling conditions in many provincial/territorial facilities, as well as the damaging legal repercussions of detention, such as higher rates of conviction (Friedland, 1965; Kellough & Wortley, 2002) and higher prevalence and length of custodial sentences (Koza & Doob, 1975). In this light, the CCLET (2014) has proposed that bail program workers be given the right to suggest to Crown or defense counsel that some individuals are not suitable for bail supervision because they can be released on their own recognizance. However, on their own, BVSP employees have a limited capacity to foster change in the system. Indeed, the phenomenon of net widening through bail supervision is seemingly deeply rooted in the current bail culture and the risk averse mindset.

5.2 – SPIN (IN)EFFECTIVENESS

5.2.1 –Unpredictive Risk Classifications and Subsequent Arbitrary Supervision

This study found that bail client risk level, as determined by the Service Planning Instrument (SPIn) Pre-Screen, was not predictive of bail supervision outcomes. This was true of the overall risk scale, as well as the three SPIn sub-scales. This was also the case with most of the individual domains that compose the risk assessment tool. Such a finding would appear to be particularly problematic given that risk classifications, in theory, should guide all subsequent decisions regarding an individual's supervision. Given that SPIn risk classifications do not predict bail supervision outcomes, any interventions made on these bases may not be justified and could appear arbitrary. Furthermore, such decisions may also be ineffective or counterproductive to ensuring public safety. Equally disconcerting, interventions may be disproportionate to a client's true risk level, and consequently service providers may be unable to respect the notion of proportionality set out by the risk principle. Any BVSP interventions based on the SPIn outcomes may not be evidence-based, and generally may be no better than if the same treatment were provided to all offenders.

5.2.1 – Possible Explanations for the Lack of Predictive Validity of SPIn

There are several possible explanations as to why the risk assessment tool was unpredictive of bail supervision outcomes on so many levels. Most obviously, the Service Planning Instrument is not marketed as appropriate for use in the pretrial context. Whereas traditional risk assessment instruments are primarily interested in predicting recidivism and the commission of future criminal offences, these outcome measures are arguably not appropriate for the pretrial stage. In fact, for many clients, recidivism is not even a possibility, given that they have not yet been convicted of any criminal charge(s). Further, in the bail context, future criminal behaviour is only one of three primary outcome measures at the pretrial stage, and consequently the traditional focus on criminogenic needs may not be appropriate in this setting. Instead, pretrial risk assessment tools might be better adapted to attempt to predict bail misconduct in the form of failure to appear in court and, particularly, breaches of bail conditions. These additional outcome measures would seem particularly important to consider given the prevalence of FTC charges and, to a lesser extent, FTA charges among BVSP clients. Indeed, the overwhelming majority of BVSP failures (N = 55) had at least one breach charge (80%), with 41.8% of these clients failing due *only* to breach charges. Furthermore, clients failed supervision due to FTA charges at the same frequency as they failed due to new substantive charges (both present in 30.9% of cases). This BVSP, however, is not alone in its use of a seemingly inappropriate risk assessment tool. Despite the clear need for pretrial-specific risk assessment tools, Mamalian (2011) of the Pretrial Justice Institute notes that many jurisdictions across the

United States (and likely Canada), are still using post-sentencing risk instruments in the pretrial setting.

Second, the lack of predictive validity of this risk assessment tool may be (at least partially) rooted in the specific population of the bail program under study. Specifically, this instrument may not have been validated to the unique characteristics of the clients of the BVSP. Indeed, jurisdictions across the country vary in terms of demographic make-up and, as such, the predictive validity of a risk tool may vary from population to population. For instance, research has documented a tendency for women and people belonging to racial or cultural minority groups to be over-classified by risk tools (Hannah-Moffat et al., 2009; Koetzle Shaffer et al., 2011; Shaw & Hannah-Moffat, 2000; Webster & Doob, 2004). This appears to be a result of the different backgrounds and the unique challenges that individuals in these groups face compared to the white male offender population upon which many risk assessment tools are developed. This argument gains credibility when one recalls that for this particular BVSP, 38% of BVSP clients were non-white (specifically, 10% were Aboriginal) and 16% of clients identified as female. Other factors such as physical or mental disability (present in 22% of BVSP cases), official mental health diagnosis (present in 38% of BVSP cases), mental health indicators (present in 14.5% of BVSP cases), rural residency and even the variety and availability of resources in the community may also influence an individual's chances of success on bail supervision. In order to ensure accurate risk classifications and predictive validity, it is thus crucial that risk assessment tools be validated for their specific population. Again, this is a widespread concern as many BVSPs do not have the resources to develop or validate appropriate assessment tools. Perhaps unsurprisingly, Mamalian (2011) explains that 24% of pretrial programs in the United States had never validated their risk assessment tools while 41% had not been validated in the last five years.

Lastly, the SPIn assessment tool used by the BVSP may not predict supervision outcomes simply because bail program staff has been insufficiently trained in how to use the tool as intended by its developer[92]. Latessa and Lovins (2010) assert that when an organization begins using a risk assessment tool, all members must be adequately trained and new employees should not be expected to learn simply by watching coworkers. Furthermore, refresher training should be provided periodically to ensure continued inter-rater reliability among staff (Latessa & Lovins, 2010). Vague definitions and explanations of risk assessment items or unclear instructions for practitioner use may cause practitioners to indicate, or omit to indicate, important client risks or needs that might subsequently alter the overall risk classifications. If bail supervisors are not completing the risk assessments as originally envisioned, the risk classifications that are produced may deviate from the intended classification and may thus become invalid.

5.2.3 – Factors which Predict Bail Supervision Outcomes

Within the context of this study, the overall risk scale and sub-scales of the SPIn risk assessment, as well as most of its domains and many sub-items within these domains, did not predict bail supervision outcomes. While disconcerting, this study's findings may still shed valuable light on risk assessment in the bail supervision setting. First, examining the small number of SPIn items that did independently predict bail success can help to facilitate the development of a new and more predictive risk instrument. Second, exploring possible

[92] Alternatively, given the ever increasing caseloads of Bail Supervisors, they may simply not have sufficient time to carefully consider and evaluate clients on each of the 35 items within the SPIn Pre-Screen assessment.

explanations for these relationships may assist bail supervisors to target these circumstances in other clients in a way that reduces overall bail misconduct.

One factor that did predict bail supervision outcomes was the SPIn item Substance Use Disrupts Functioning. Bail clients whose substance use disrupted daily functioning were more likely to fail bail supervision than those who did not experience such dysfunction. It is possible that this domain item captures more serious and ongoing substance use than its unpredictive counterpart: Drug Use Contributes to Criminality. It may be that drug use which contributes to criminality includes offences for which a client was under the influence of drugs or alcohol, but in which such substance use is uncommon or is generally not considered to be problematic (e.g., a client drinks alcohol only occasionally, but is charged with an assault that occurred while intoxicated). In contrast, if substance use is so severe as to disrupt daily functioning, it follows that clients' decision-making skills may be impaired as a result. In the face of addiction issues, individuals may be unable to focus on bail conditions or remember and prioritize court appearances (CCLET, 2014). Indeed, several case closure reports suggested that supervision failure was a result of substance abuse problems: "New charges stem from alcohol consumption. Actual charges are failing to comply x 3 and breach of probation X2" (Case 58); "She was breached and bench warranted. Substance use is an issue" (Case 17).

Many of the clients with substance-related dysfunction are addicted to drugs that are prohibited by the *Controlled Drugs and Substances Act*. Consequently, their addiction puts them at a heightened risk for new substantive charges for possession of a controlled substance, or breach charges if they had an abstention condition. One bail supervisor notes that "[the client] failed to comply fully with his conditions such as abstain from consumption of alcohol" (Case 74), while another bail supervisor documents, "[the client's] most recent informations of breach stem from … her, [her boyfriend], and another friend getting high on [illegal substance]" (Case 57).

Another factor that was related to bail supervision outcomes was the SPIn item Accommodation Stability. BVSP clients who were experiencing temporary or unstable housing arrangements were significantly more likely to fail on bail supervision. The fact that many of these individuals were staying in homeless shelters forms the basis of many explanations. The major men's shelters in the city where the BVSP was located are all in the downtown core, where the crime rates tend to be higher. Similarly, most vacancies listed through the operating organization's housing program are also downtown. Consequently, clients are often living in somewhat deteriorated areas near the city centre with a high concentration of criminal activity, similar to what Shaw, McKay, Zorbaugh and Cottrell (1929) labelled 'delinquency areas' (see also Shaw & McKay, 1942). Due to these elevated crime rates, there is an increased police presence whereby clients living in these locations are likely to experience increased visibility and surveillance, particularly around homeless shelters. Thus, they are more likely to be caught for misbehaviour, like one shelter client who was stopped by police for public intoxication (Case 33), than clients who live in quieter residential neighbourhoods.

Homeless clients are also subjected to high levels of unofficial supervision by shelter staff. While shelter staff do not typically report clients in breach of bail conditions, they do witness clients' behaviour and can implicate clients when answering police and bail program inquiries. For instance, shelter staff can confirm whether a client has failed to check into the shelter, or has checked in past curfew. Illustratively, case notes document that "[shelter A worker] indicates that [the client] has not booked in to [*sic*] [Shelter A] since his release from Bail Court on, [date] and according to the [Homeless Individuals and Families Information

System], he has not gone to the [Shelter B], or [Shelter C] either" (Case 24). Shelter staff can also take on a policing role when they are asked to report when a client appears to be under the influence of drugs or alcohol: "[Crown] is looking to have [the client] sign Consent that staff at the [shelter] contact [the bail supervisor] if he does not attend the [programming] from Mon; to Fri; on a regular basis, and to report to [the bail supervisor] if he is under the influence of alcohol" (Case 33).

Another potential explanation for the relationship between Accommodation Stability and supervision outcomes rests on the fact that homeless shelters are often filled with anti-social individuals who can share criminal knowledge or otherwise generate problems for bail clients[93]. Indeed, shelters, and 'delinquency areas' more generally, facilitate the sharing of anti-social values and the learning of criminal behaviour in a process referred to as 'differential association' (Sutherland, 1992). Furthermore, those in homeless shelters may have to interact regularly with violent or aggressive peers. This heightens the chance of interpersonal conflict which may, in turn, result in new assault charges, breach charges for failing to 'keep the peace and be of good behaviour', or being temporarily banned from a shelter. For example, one client "was banned from staying [at Shelter A] for 30 days due to an argument he had with someone there" (Case 33). Another client who got into an argument with a shelter manager had an investigating police officer who indicated that she "might also breach on [failure to] keep the peace due to the [Shelter A] aggression incident" (Case 2).

A final explanation for the high failure rate among clients experiencing accommodation instability may relate to the mandatory BVSP condition to reside at a given address and not move

[93] For example, individuals living in the shelter system often suffer from addiction issues. This is problematic for clients who are attempting to overcome their own addictions, or who have a condition to abstain from drugs or alcohol. These clients may find it difficult to resist the temptation to use when they are in the constant presence of these substances or those who use them.

from that address without having first obtained written approval from their bail supervisor. While this condition may seem reasonable for bail supervision, it nevertheless disadvantages clients who are experiencing accommodation instability. In fact, the CCLET (2014) has recommended that bail courts not impose residency conditions on homeless or otherwise transient individuals. By definition, accommodation instability suggests that clients do not have consistent housing arrangements on which they can rely. Thus, these clients may be moving from residence to residence on a regular basis, requiring bail approval prior to each move. Depending on when a client learns that he/she must move, he/she may not have the opportunity to obtain written permission for a new address. For example, one client who had an altercation with her partner over the weekend moved out promptly, and was warned by her supervisor the next week that "[seeking approval for a change of address] needs to happen before she moves not after the fact" (Case 57). This condition is particularly challenging for clients who have boundary restrictions or a no-contact condition with others living in the shelter system, as it can severely limit suitable housing arrangements. For example, one client with several co-accused was advised, "should he ever need to leave [Shelter A] that he can only go to [Shelter B] at [address], seeing that co-accused are at [Shelter C] and [Shelter D]" (Case 2). While bail supervisors tend to use their discretion in these cases, if Police learn of an unapproved move, they may proceed in laying breach charges. Overall, bail clients who experience unstable housing appear to be at an increased risk of being charged with both new substantive charges and breach charges for a number of reasons, thus explaining their tendency to be unsuccessful on bail supervision.

Though not considered in the calculation of risk classifications, both the SPIn Mental Health Indicators item and Mental Health Diagnosis item were also predictive of bail supervision outcomes. Clients with at least one mental health indicator were more likely than those without any indicators to be unsuccessful on the BVSP. In contrast, clients with an official mental health diagnosis were actually more likely than those without a diagnosis to succeed on the BVSP. At first glance, this latter finding seemed counterintuitive; however, the qualitative data revealed that many of the clients with an official mental health diagnosis were likely to be involved with, and receive supplementary support services from, mental health organizations and/or community health centres or cultural associations. To illustrate, twelve clients with an official mental health diagnosis were receiving support from a Canadian Mental Health Association (CMHA) worker. Conversely, those with only mental health indicators (i.e. history of abuse, suicidal ideation) are less likely to have received a mental health intervention and thus support from mental health professionals. Within this context, it is precisely this additional support which likely contributes to bail supervision success[94].

First and foremost, support workers helped to ensure that clients were receiving the mental health treatment necessary to keep their illnesses under control, thus allowing clients to focus on important matters such as court appearances and abiding by bail conditions. One client noted that his CMHA worker "helped him connect with a family doctor", was going to "see if [the client] can be referred to a psychiatrist" and helped the client to enroll in group therapy offered by the CMHA (Case 49). Further, support workers also helped clients work through other issues in their lives, many of which are considered by the risk literature to constitute criminogenic needs. For instance, one bail supervisor advised a client that "she needs housing, and supports around whether she wants to go to school, work, etc., and may want counselling services. [The Bail supervisor] stated to her that CMHA could assist her with these, or refer her to places that could" (Case 86). Finally, case notes document that some support workers actually

[94] See Section 5.2.3 for further discussion of how mental health diagnosis may be related to bail supervision outcomes.

attended bail meetings with their clients and provided transportation to and from medical appointments. One bail supervisor noted that "[the CMHA worker] will also bring [the client] on [his next bail appointment]" (Case 43), while another supervisor indicated that a client "did eventually meet [the CMHA worker] at the [meeting place] and that [the CMHA worker] was able to take [the client] to the [Mental Health Hospital] … to see the Psychiatrist" (Case 78). Overall, the many layers of additional pro-social assistance provided to bail clients with an official mental health diagnosis by support workers likely help to keep these clients in compliance with the conditions of the bail program and thus render them more likely to succeed on the BVSP.

Finally, although client race was not a SPIn risk factor, it was independently predictive of bail supervision outcomes. Specifically, non-white clients were more likely to be unsuccessful on the BVSP than their white counterparts. This relationship is likely the result of broader social inequalities. In Canada, Aboriginals and other visible minorities may experience racialization and consequently be more likely to experience a vast array of negative life circumstances which disadvantage them, increasing their risk of BVSP failure (CCLET, 2014; Commission on Systemic Racism in the Ontario Criminal Justice System, 1995; Webster & Doob, 2010). It is also possible that the higher rate of bail supervision failure is the result of institutional racism (CCLET, 2014; Commission on Systemic Racism in the Ontario Criminal Justice System, 1995; Webster & Doob, 2010; Wortley, 1996, 2004; Wortley & Tanner, 2004). For example, at the police level, officers may be more likely to stop and interrogate a non-white client, as well as charge him or her for breaching a release condition. Overall, this relationship is problematic and justifies further investigation in order to determine exactly why and how non-white bail clients are failing bail supervision at higher rates than white clients.

More broadly, given that very few factors were found to be predictive of bail supervision outcomes, future research is also clearly warranted to explore whether risk tools developed specifically for the pretrial population will have a stronger predictive validity than the SPIn tool.

5.3 – THE BAIL CRISIS IN CANADA

5.3.1 – Court Inefficiency

This study's findings are also consistent with widespread court inefficiencies that presently characterize the Canadian bail system and the crisis within it. Despite the efforts of the Ontario Ministry of the Attorney General's Justice on Target initiative over the last decade, accused persons must still make numerous court appearances, often over an extended period of time, before their case is resolved. Indeed, more than a third of BVSP clients (36%) were on supervision for more than six months, while 11% were actually on bail supervision for more than a year. This is a significant period of time for individuals to have to abide by the (often numerous and intrusive) conditions of the bail release. Clients of the BVSP also had a seemingly excessive number of scheduled court dates during their release. The majority of clients (73%) had five or more scheduled court appearances, while 29% of clients had an astonishing nine or more scheduled appearances. Clearly, court inefficiencies, such as unnecessary adjournments, prolong the considerable deprivation of liberty for many of the legally innocent clients of the bail program (Webster, 2009; Webster et al., 2009). Numerous court dates, in particular, are even more troubling given the 36.7% of program clients who had a bail condition stipulating that they must appear personally for all court dates[95]. These clients may need to book time off from work, make travel arrangements or arrange for childcare in order to attend all court dates. Particularly

[95] In contrast, many clients were able to file a designation of counsel which allowed their legal representation to appear in court for them. In doing so, these clients were generally able to reduce the number of court appearances which they were required to attend personally and, by extension, their opportunities to Fail to Appear.

for those living disadvantaged and disorganized lives, focusing on day-to-day survival, these obligations can be even more onerous. On the whole, court inefficiency seems to create additional opportunities for bail supervision failure, given the extensive periods during which a client must comply with bail conditions and the numerous occasions on which a client must attend court[96].

5.3.2 – Onerous Bail Conditions

A second significant aspect of the bail crisis that was supported by the research findings was the tendency to impose numerous and restrictive bail conditions on accused individuals. Despite the guiding notion of restraint in regards to bail conditions, 99% of all bail supervision clients were subject to bail conditions that went above and beyond the basic four conditions required by the BVSP. On average, BVSP clients in this study were required to comply with 8.296 bail conditions during their release. This prevalence contravenes the numerous recommendations, cited above, by the John Howard Society of Ontario, the Canadian Civil Liberties Association and Education Trust and the JoT Bail Experts Table, which stated that courts should limit the number of bail conditions that they impose.

Although on its own, the number of bail conditions was not significantly related to BVSP outcomes, the relationship became significant when analyzed over time. Clients with seven or more bail conditions who were unsuccessful on bail supervision tended to fail earlier than those with only four to six bail conditions. Thus, when justices impose more than six bail conditions on clients, they may actually be setting these individuals up for early failure.

[96] This trend is similar to findings relating to intensive supervision probation (ISP). While ISP is intended to be used as an alternative to incarceration, research suggests that it and similar programs lead to increased technical violations (Erwin, 1986; Giblin, 2002).

While no specific individual bail conditions were significantly related to bail supervision outcomes, some common bail conditions are nevertheless concerning. For example, the condition to 'keep the peace and be of good behaviour', present in 46.9% of BVSP releases, is arguably ambiguous and can criminalize otherwise legal behaviour. Indeed, the CCLET argue that this condition is "constitutionally questionable, open to abuse, of limited legal utility and frequently immune from challenge at the prosecution stage. [It] should not be imposed" (p.56).

Alcohol and drug abstentions, imposed in 30.6% and 29.6% of bail cases respectively, may also be problematic. These conditions are most often given to clients who report having serious substance abuse issues. In other words, these conditions are imposed on precisely those individuals who are least likely to be able to comply with them. The John Howard Society of Ontario (2013c) found a positive correlation between "abstaining from alcohol", "abstaining from drugs" and bail supervision clients being charged with breaches. In light of the above, the CCLET found that, "[f]or individuals with substance addictions, abstinence conditions often do little more than set the person up for a subsequent breach charge, more pretrial detention and a longer criminal record" (p.57).

5.3.3 – Bail Conditions as a Pathway to Criminalization and Detention

When bail courts release clients on numerous bail conditions, they may also be creating a situation which leads individuals to acquire additional criminal charges and to become further entrenched in the criminal justice system. This is particularly true for BVSP clients, since frequent reporting represents frequent opportunities for clients to be caught violating a bail condition, particularly the condition to report to the BVSP. Among BVSP clients, the gravity of this problem is highlighted by the prevalence of charges for failing to comply with bail conditions – breach charges were laid against almost half (44%) of all bail clients. The pervasiveness of breach charges is further evidenced when examining the total number of active administrative charges. Nearly three quarters of bail clients had at least one active administrative charge (73%) while roughly one third of clients actually had three or more administrative charges (34%), most of which were for failing to comply with bail conditions.

This trend in administrative charges is especially troubling given that the vast majority of bail conditions function to criminalize ordinary behaviours that are not otherwise considered to be criminal. For example, it is only when an accused person is on bail that regular behaviour such as visiting certain areas of the city (i.e. boundary restrictions, present in 51% of BVSP cases), consuming alcohol in the privacy of one's own home (i.e. alcohol abstention, present in 30.6% of BVSP cases) or staying out late (i.e. curfew, present in 23.5% of BVSP cases) can potentially constitute a criminal offence. Breach charges are particularly problematic in cases in which an accused is never found guilty of the initial substantive charges (20.5% of all BVSP clients with known charge outcomes), but is nevertheless convicted on subsequent breach charges[97]. In these cases, an individual receives a criminal record and is sentenced[98] for behaviour that would have been legal if not for the court's bail order.

The trend of charging accused persons for breaching their (often numerous) bail conditions also serves to further increase the remand population, thereby further exacerbating the ongoing bail crisis. Individuals who, while on bail, are charged with failing to comply with a condition of a court order may be subject to a reverse onus provision, under section 515(6)(c) of the *CCC*. Upon arrest, these individuals will be taken before a Justice where they must show

[97] For example, one Manitoba defence counsel interviewed by the CCLET (2014) recalled the case of an individual who "had no substantive convictions on his record. His record was six to seven pages long, he had probably 25–30 convictions – not one was substantive" (p. 65).

[98] These sentences may also lead to further administrative charges. For example, if someone is sentenced to probation, they will be required to follow conditions similar to those of bail. If an individual breaches these conditions of probation, they may receive additional administrative charges and convictions, leading to a vicious cycle of breach charges from which it may be difficult to break free.

cause for why their release is justified under section 515(10) of the *CCC*. Placing this burden of proof on individuals charged with breaching their bail conditions means that there is a heightened chance that they will be denied bail[99]. In these cases, the accused person will have bail revoked and will then be detained in pretrial custody, further burdening provincial/territorial institutions. These individuals are often subject to severe overcrowding and abysmal conditions until both their initial charge(s) and their breach charge(s) can be dealt with by the courts.

The impact of bail conditions and subsequent pretrial detention continues to be felt further along the criminal justice process, at the sentencing stage. As noted earlier, the most common sentence for adult single-charge administration of justice cases is a short period of incarceration (Taillon, 2006). Thus, convictions for administrative charges also serve to increase the overcrowding of provincial/territorial institutions. Correctional institutions are now even further burdened as a result of the so-called *Truth in Sentencing Act* (2009). Under the new *CCC* section 719(3.1), individuals who have been denied bail under section 515(9.1), 524(4) or 524(8) of the *CCC* are automatically barred from receiving more than 1:1 credit for their time served in pretrial detention. As such, these remand prisoners, if eventually sentenced to incarceration, will remain in custody longer than most of their counterparts[100]. Clearly, the practice of charging clients for failing to comply with a bail condition has a detrimental impact not only on correctional facilities – particularly the already overcrowded provincial/territorial institutions in which remand prisoners are held – but also on remand prisoners and their human rights.

[99] In light of the recent Supreme Court of Canada case *R. v. St-Cloud* (2015), which ruled – contrary to many lower courts – that the tertiary ground for detention does not need to be applied sparingly, it seems likely that access to bail may only be further restricted as the ruling begins to take effect in courts throughout Canada.

[100] As a result of 719(3.1), offenders who have been denied bail and who have been sentenced to incarceration will serve more time than: 1) Offenders whose circumstances are not outlined under 719(3.1) and who are thus eligible for a credit of up to 1.5 days for every day served in pretrial custody; and 2) Offenders who were not detained in pretrial custody and whose entire sentence will be considered when determining eligibility for parole and statutory release. For a relevant illustration of this inequity, see, for example, Doob and Webster (2013).

In sum, this study's findings based on one Bail Verification and Supervision Program in Ontario appear to reflect many wider trends in the Canadian bail system and society at large. On the one hand, the large number of BVSP clients who have been deemed low or moderate risk by the Service Planning Instrument Pre-Screen is likely a reflection of the widespread culture of risk aversion (see Rose, 1996; Myers, 2009; Webster et al., 2009). Further, as Garland (1996) contended, criminal justice professionals appear to be offloading the responsibility for accused persons' actions to community-based organizations, such as the organization operating the BVSP that is the focus of this research. Moreover, given the risk society in which we live (Beck, 1992), community organizations, like those that operate bail supervision programs, are often turning to the risk assessment tools that dominate Feeley and Simon's (1992) New Penology. Unfortunately, most risk tools have been developed for the post-sentenced offender population and thus may not be ideal for use in a pretrial setting (Mamalian, 2009). This appears to be the case with the BVSP's use of the SPIn risk assessment tool, which lacked predictive validity for supervision outcomes on many levels, and which did not appear to have been validated for the specific BVSP population. On the other hand, research findings also reflected many aspects of the current bail crisis, including court inefficiency as reflected in long case processing times. Similarly, this study highlighted ongoing concerns over the use of bail conditions and how these conditions may set individuals up for future criminalization, as well as how they may lead to an increased remand population and exacerbate the overcrowding and poor conditions of many provincial/territorial detention centres. Ultimately, the current research has acted as a case study of numerous issues which seem to be currently plaguing the Canadian bail system more generally.

6 – CONCLUSION

6.1 – CONTRIBUTIONS TO CRIMINOLOGY

This thesis offers a number of contributions to criminological literature and methodology. Although there is already an abundance of literature on risk assessment in the criminal justice system, it has traditionally focused on the correctional setting and the management of sentenced offenders. This study offers an extension of this literature by examining these practices in the bail context, as well as the relatively recent and comparatively unexplored area of bail supervision programs. Furthermore, this study's exploration of bail supervision, net widening and administration of justice charges as a pathway to criminalization may be helpful in understanding not only the growing remand population in Canada, but may also contribute to the large body of literature on incarceration and, in particular, the trend of prison expansion.

Methodologically, this thesis is somewhat distinctive in that it combines both quantitative and qualitative analyses to provide a more complete understanding of bail supervision programs and their clients. Finally, the care and attention given to establishing a mutually beneficial relationship with the BVSP organization is rather unique, particularly to quantitative research, and may act as a model for future research.

6.2 – LIMITATIONS AND FUTURE RESEARCH

Like most research, this study is not without its limitations. Most notably, this study examined only one bail supervision program. Throughout Canada, similar programs are operated by a number of community-based organizations in a variety of population centres. Each bail program offers a unique variety of services designed to meet the needs of the specific community, with some programs offering skills training, while others offer women-centric services, and others still offer a residency program (John Howard Society of Ontario, 2013c). As such, it is possible that the current case study and its findings are not representative of wider trends in community bail supervision. However, it is worthwhile to note that in Ontario, all BVSPs are regulated by the Ministry of the Attorney General and that these programs must follow a number of guidelines set out in the Ministry's Standards and Procedures Manual. Therefore, the current study setting is unlikely to be dramatically different from other Ontario BVSPs. The validity and generalizability of the present research findings are further strengthened in that many of the findings are consistent with broader trends in the Canadian bail system and are supported by the bail literature[101].

Nevertheless, future research should examine other bail supervision programs in Ontario as well as across Canada in order to determine the extent to which the current research findings may be reflective of provincial and national realities. Specifically, studying other bail programs can shed light on the process of bail program admission and the net widening phenomenon, the use of risk assessment tools in the pretrial setting and the prevalence of failure to comply charges for breaching conditions of release. Further research should also be conducted in the areas that were found to predict bail supervision outcomes: dysfunctional substance use, unstable housing arrangements, mental health diagnoses and race. The goal of such research should be to strengthen our understanding of why these factors are related to bail success, as well as how service providers can intervene in these areas in a way that reduces a client's risk of failure. Specific attention should always be given to understanding how each bail supervision program's unique demographic characteristics (e.g., race, gender, age, disability and rural residence) are influenced and affected by risk assessment tools and subsequent community interventions.

[101] For example, see CCLET (2014) and John Howard Society of Ontario (2013a, 2013b, 2013c) for similar findings and recommendations.

In addition, this study only assessed the predictive validity of the SPIn 35-item Pre-Screen, rather than the 90-item Full Assessment. However, this option reflected the small number of BVSP clients for whom a Full Assessment was completed. In fact, only 19% of the study sample had a current Full Assessment done during their period of bail supervision (Appendix N). From a statistical perspective, the choice of only assessing the predictive validity of the Full Assessment would be unfeasible, given the reduced power of any inferential test. From a more pragmatic perspective, given the infrequent use of the Full Assessment by Bail Supervisors, a focus on this more extensive assessment could arguably be misleading. Indeed, any findings based on the predictive validity of the Full Assessment would not reflect the actual practices of this BVSP.

While one might be tempted to argue that, had the Full Assessment been evaluated within the context of this study, it may have displayed greater predictive validity, this hypothesis would appear to lack strong methodological support. As the developers of the SPIn risk assessment tool, Orbis Partners (n.d.), note that the Full Assessment is recommended primarily as "a method for developing a detailed profile of the dynamic risk factors" (p.5) of the client. There is no suggestion that the Full Assessment would produce a significantly different risk classification. In fact, the developers explain that the Full Assessment will simply refine the degree of risk (e.g., low moderate or moderate high) within each broader risk classification (e.g., moderate). Nonetheless, as a precautionary measure, further research should still compare the risk classifications derived from both levels of assessment to ensure that there are no significant differences.

6.3 – POLICY RECOMMENDATIONS

Despite these limitations, this research can nevertheless raise a number of significant concerns relevant to criminal justice policy. In light of this study's findings, important recommendations – albeit, obviously tentative in nature – can be highlighted which address some of these issues, with the goal of improving criminal justice practices.

6.3.1 – Bail Supervision Program Admissions

Recommendation 1: Admission to bail supervision programs should be limited to accused persons who pose at least a moderate risk on primary or secondary grounds and who are facing probable detention.

This is important in light of this study's finding that a large proportion of BVSP clients appeared to be low-risk. The ladder approach outlined in section 515(1) of the *CCC* implies low risk individuals should actually be released on an undertaking or on their own recognizance, rather than a more onerous form of release, such as a bail supervision program. This recommendation will help to avoid widening the net of criminological control, which may be occurring in this population. By extension, this recommendation will help bail supervision programs to better attain their goal of diverting individuals from pretrial detention to community-based supervision, and thus reducing inflated remand populations.

Recommendation 2: Specific Crown Prosecutors should be designated to work in bail courts. These Crowns should be experienced and should have their work reviewed on a regular basis to ensure that they are respecting the ladder approach to release.

Designating specialized Crowns to bail court will likely result in more consistent and timelier release decisions. Given that less experienced Crown counsel may be more risk averse (CCLET, 2014), placing established Crowns in bail court may limit the extent to which institutional risk aversion influences decisions. Having already established their professional reputation, experienced Crowns may use more restraint when consenting to individuals' release. Finally, reviewing and addressing trends in bail decision-making may be more feasible with a small pool of Crowns. Those who are not sufficiently following the ladder approach to release and who are facilitating net widening can then receive additional training, or be transferred to a more appropriate setting.

6.3.2 – Risk Assessment Instruments

Recommendation 3: Bail supervision programs that choose to use a risk assessment instrument should use only risk tools that have been validated for the pretrial setting and the specific program's demographics. Validation studies should be conducted regularly to ensure continued predictive validity.

In light of the Service Planning Instrument's limited predictive validity for this study's BVSP, it is important that pretrial supervision programs choose a risk assessment tool carefully. Risk instruments that were developed for use with sentenced offenders focus on output measures that are arguably different than those relevant for the pretrial context. Using these tools may lead to inaccurate risk classifications and interventions which are mismatched to clients' true needs. These errors can arguably jeopardize public safety and lead to increased breach charges. Instead, bail programs which use risk assessment tools should only adopt instruments that have been developed, as well as validated, specifically for the unique concerns of the pretrial setting and the program's specific clientele. Given that program populations, community services and bail program staff can change over time, risk tools should be validated regularly to ensure ongoing validity.

Recommendation 4: Bail supervision programs should maintain and distribute a contact list of available community agencies and services to all bail supervision clients. Lists should be organized to include supports for substance abuse, housing and mental health.

This study found that Dysfunctional Substance Use, Housing Instability, Mental Health Indicators and Mental Health Diagnoses were all related to bail supervision outcomes. Notably, two of the five predictors relate directly to a client's mental health, reiterating the pressing need for greater attention to mental health issues within the criminal justice system (Sinha, 2009). In particular, connections to mental health supports would seem to be related to clients' increased likelihood of bail success. As such, it seems likely that targeted intervention and support for dysfunctional substance abuse and housing instability may also increase clients' chances of bail success. While information on community supports should be widely disseminated and participation encouraged, accessing these services should always be voluntary and never mandated. Requiring bail clients to access services through bail conditions not only denies individual agency (Morris, 1974; Rotman, 1990), but may also place them in a position in which they are more likely to fail and, by extension, be subject to repercussions.

6.3.3 – The Bail Crisis and Charges against the Administration of Justice

Recommendation 5: Defence counsel should encourage clients to file a designation of counsel which permits the attorney to appear in court for the accused. Furthermore, Crown and defence counsel should avoid unnecessary adjournments and ensure that each scheduled court appearance is meaningful.

Given the prevalence of charges for failing to attend court among BVSP clients, it is important to reduce opportunities for these charges by limiting required court appearances. Case notes revealed that many clients signed a designation of counsel which allows the lawyer to appear on behalf of their client. As a result, these clients were not required to personally attend most of their preliminary court dates, which likely had the effect of reducing the number of opportunities for them to fail to attend court. Reducing adjournments and ensuring meaningful court appearances should also reduce the number of court dates to which a client must attend and may result in shorter case processing times. This, by extension, should result in shorter periods of conditional release.

Recommendation 6: **Criminal Justice Professionals should use restraint when recommending and/or imposing bail conditions. Conditions should be logically connected to the alleged offence(s) and should be deemed necessary on primary or secondary grounds.**

This study's findings, as well as other recent literature on bail, suggest that the imposition of onerous bail conditions creates a situation in which accused persons are considerably more likely to fail and to be further criminalized. Crown prosecutors and Justices should be reminded of the presumption of unconditional release and should be required to justify the imposition of any conditions. While bail supervisors may have limited power to contest release type and conditions, Justices should be encouraged to reject any joint submissions that contain unnecessary conditions of release.

Recommendation 7: Bail supervisors should (continue to) use discretion when deciding whether to report a client in breach of bail conditions.

As a result of regular reporting, bail supervisors have a greater chance of witnessing misbehaviour on bail. However, even the Ontario MAG (2009) acknowledges that supervisors should be granted some discretion when deciding whether to report a client for failure to comply. Bail supervisors should consider the gravity of the alleged breach, any mitigating circumstances, and whether reporting an FTC charge would serve the public interest. In particular, bail programs should follow the example of the BVSP in this study by only reporting a client for failing to report to the BVSP if the client has missed at least two consecutive appointments.

Recommendation 8: The reverse onus provision under section 515(6)(c) of the *Criminal Code of Canada* should be repealed.

Persons charged with failing to comply with a court order while on bail should not be required to show cause why their detention is unjustified. When the Supreme Court ruled in 1992 that reverse onus provisions were constitutional[102], these judgments were partially based on the fact that reverse onus provisions applied in only a very narrow set of circumstances. This is no longer the case. The reverse onus now applies to a large proportion of bail cases with the effect that bail is becoming increasingly more difficult for many individuals to attain. This is particularly problematic in light of the often inhumane conditions in remand centres and section 719(3.1) of the *CCC* which limits credit for time served to 1:1. Thus, repealing 515(6)(c) of the *CCC* would help to safeguard Canadians' right to reasonable bail, as well as reduce levels of remand detention.

Recommendation 9: Failure to Comply charges relating to bail should be automatically withdrawn when the underlying substantive charge(s) is withdrawn or dismissed.

Administrative charges, and FTC charges in particular, are common in this study and throughout Canada. Yet this study found that 20.5% of BVSP clients with a known charge outcome were never found guilty of their initial offence. While some may argue that failure to comply charges are necessary to ensure bail compliance, if a person is never found guilty of the initial charge(s), criminalizing their otherwise legal behaviours seems difficult to justify. This

[102] See *R. v. Morales* (1992) and *R. v. Pearson (1992).*

recommendation would help to limit the extent to which the justice system can criminalize individuals who have otherwise not been convicted of any substantive offences.

6.4 – THEORETICAL IMPLICATIONS

The remand problem in Canada has acted as a point of departure for the current research. This thesis proposed to explore how, and to what extent, bail supervision programs were realizing their primary goal of reducing the remand population. While this study specifically examined those factors which were related to bail supervision outcomes, the research had much broader underpinnings. The remand problem, and the subsequent development of bail supervision programs, must be understood within the wider socio-political context. The neoliberal political climate and the ensuing New Penology (Feeley & Simon, 1992) have arguably created an environment in which criminal justice professionals appear to be preoccupied with risk assessment and risk aversion (Maurutto & Hannah-Moffat, 2006). As Myers (2009) and Webster et al. (2099) have suggested, risk aversion seems to have become the new directive, and this mentality is arguably reflected in both the bail culture and in codified laws, which seem to act together to restrict access to reasonable bail. The operation of bail supervision programs seems to be consistent with neoliberalism and the risk aversion mentality. Reflecting Garland's (1996) theory of responsibilization, these programs appear to extend government control by facilitating the offloading of responsibility for public safety from criminal justice officials back to the community, which is left to utilize traditional risk assessment techniques to help manage these individuals. While bail supervision programs may appear to be a more recent and innovative response to the remand problem, it is important to consider that these programs may, in fact, be merely an extension of the current socio-political climate. Despite this, bail supervision programs do still possess a capacity to mitigate the remand problem, and future efforts should be made to fine-tune these programs so as to reduce net widening and ensure the fair and effective supervision of individuals released on bail.

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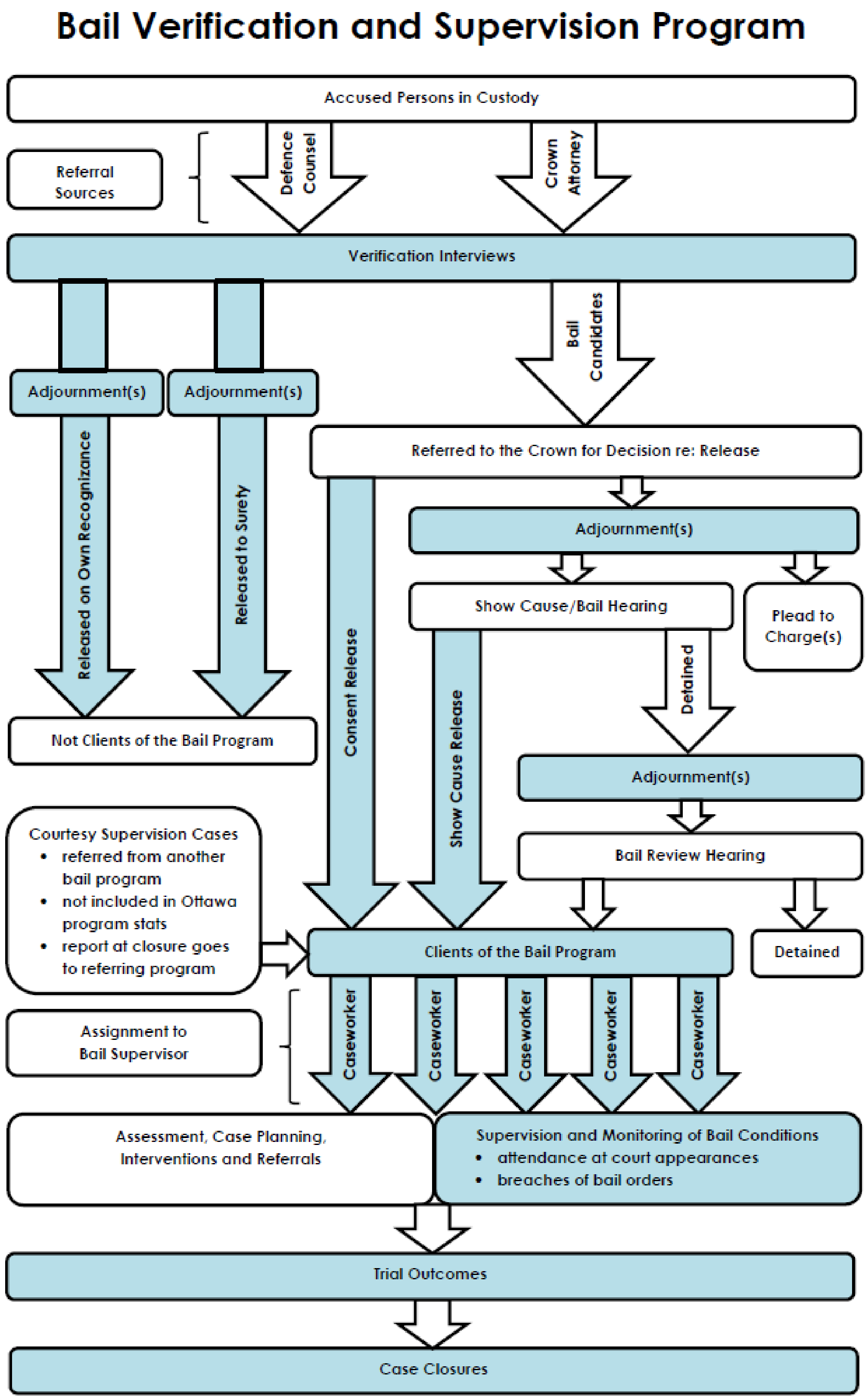
Appendix A – Release Process for BVSP



Appendix B – Coding Guide for Data Collection

DEMOGRAPHIC VARIABLES	
Case #	As assigned by researcher at time of sampling (ie. 1, 2, 3)
Overall Risk	1 = Low risk, 2 = Moderate risk, 3 = High risk, 999 = N/A (No Assessment); as determined by SPIn
ACCS Current Charge	Record the 2003 ACCS Seriousness Ranking for the most serious current charge which led to the current BVSP supervision; 999 = Unknown; as indicated on client recognizance, or when unavailable, in case notes
Current ChargeType	1 = Violent Offence, 2 = Property Offence, 3 = Administration of Justice Offence, 4 = Federal Offence, 5 = Other Offence, 999= Unknown; code for most serious current charge
# Current Charges	Code exact number (i.e. 1, 2, 3) of charges for which the individual is under BVSP supervision (not including ongoing charges laid prior to BVSP release), 999 = Unknown; as indicated on client recognizance, or when unavailable, in case notes
# Current Administration of Justice Charges	Code exact number (i.e. 1, 2, 3) of current charges against the administration of justice, 999 = Unknown; See Juristat 26(1) for definition of category. Includes any type of FTC charge (court order, probation, etc.), FTA, Obstruct Officer/Justice); as indicated on client recognizance, or when unavailable, in case notes
# Ongoing Charges	Code exact number (i.e. 1, 2, 3)of active charges laid prior to BVSP release which have not yet been dealt with by the courts, 999 = Unknown; as indicated on client recognizance, or when unavailable, in case notes
ACCS Ongoing Charges	Record the 2003 ACCS Seriousness Ranking for the most serious ongoing charge laid prior to BVSP release, 999 = Unknown; as indicated on client recognizance, or when unavailable, in case notes
# Ongoing Administration of Justice Charges	Code exact number (i.e. 1, 2, 3) of ongoing charges against the administration of justice, 999 = Unknown; See Juristat 26(1) for definition of category. Includes any type of FTC charge (court order, probation, etc.), FTA, Obstruct Officer/Justice, etc.); as indicated on client recognizance, or when unavailable, in case notes
# Total Charges	Code exact number (i.e. 1, 2, 3) of total charges before Ontario courts at the time of BVSP release (combine number of current charges and ongoing charges), 999 = Unknown
Total # Administration of Justce Charges	Code exact number (i.e. 1, 2, 3) of total number of administration of justice charges before the Ontario courts at the time of BVSP release (combine number of current administration of justice charges and ongoing administration of justice charges), 999 = Unknown
# Subsequent Charges	Code exact number (i.e. 1, 2, 3) of charges laid subsequent to the initial BVSP release. Client must have been re-released to the BVSP following these subsequent charges (do not include subsequent charges which led to termination from the BVSP), 999 = Unknown; as indicated on client recognizance(s), or when unavailable, in case notes
ACCS Subsequent Charges	Record the 2003 ACCS Seriousness Ranking for the most serious subsequent charge following initial bail release, while still on supervision, 999 = Unknown; as indicated on client recognizance, or when unavailable, in case notes
# Subsequent Administration of Justice Charges	Code exact numerical value (ie. 1, 2, 3) for number of subsequent charges against the administration of justice, 999 = Unknown; See Juristat 26(1) for definition of category. Includes any type of FTC charge (court order, probation, etc.), FTA, Obstruct Officer/Justice, etc.); as indicated on client recognizance, or when unavailable, in case notes

Previous Supervision on same BVSP	0 = No, 1 = Yes (must have been released into BVSP supervision to be considered yes; code no if client has used only verification services)
Age	1 = 18-24, 2 = 25-29, 3 = 30-34, 4 = 35-39, 5 = 40-44, 6 = 45-49, 7 = 50-54, 8 = 55-59, 9 = 60-64, 10 = 65-69, 11 = 70+; at time of release into BVSP supervision
Gender	1 = Male, 2 = Female; as recorded in CaseWorks
Race	1 = Caucasian, 2 = Visible minority (other than Aborignal), 3 = First Nations, 4 = Métis, 5 = Inuit; as recorded in CaseWorks
Citizenship	0 = Non-Immigrant/New Canadian, 1 = Immigrant/New Canadian; as recorded in CaseWorks
Disability	0 = Non-Person with Disability, 1 = Person with Disability; as recorded in CaseWorks, or case notes
Francophone	0 = Non-francophone, 1 = Francophone, 9 = Unknown; as recorded in CaseWorks or case notes
Rural Resident	0 = Non-rural resident, 1 = Rural resident, 9 = Unknown; as recorded in CaseWorks
PROCESS VARIABLES	
Type of Release	1 = Consent Release, 2 = Show Cause Hearing, 3 = Bail Review Hearing; as indicated in case notes
# Bail Conditions	Code exact number (i.e. 1, 2, 3) of bail conditions on BVSP release; 999 = Unknown; as indicated on client recognizance
Type Bail Conditions	Code <u>all</u> conditions that appear on the client's recognizance; 9 = Unknown
Comments RE: Conditions	Qualitative notes written on client files related to their bail conditions (Do NOT include basic "reviewed conditions" which occurs at most appointments), 9 = Not applicable (no related comments)
Appear Personally	0 = Condition not present, 1 = Condition present, 9 = Unknown
Police Reporting	0 = Condition not present, 1 = Condition present, 9 = Unknown
Drug Abstention	0 = Condition not present, 1 = Condition present, 9 = Unknown
Alcohol Abstention	0 = Condition not present, 1 = Condition present, 9 = Unknown
Treatment Requirement	0 = Condition not present, 1 = Condition present, 9 = Unknown
No Contact	0 = Condition not present, 1 = Condition present, 9 = Unknown
Weapons Abstention	0 = Condition not present, 1 = Condition present, 9 = Unknown
Curfew	0 = Condition not present, 1 = Condition present, 9 = Unknown
Boundary Restriction	0 = Condition not present, 1 = Condition present, 9 = Unknown
Employment Requirement	0 = Condition not present, 1 = Condition present, 9 = Unknown
# Different Subsequent Bail Conditions	Applies only if client has been re-released on a new recognizance during bail supervision (e.g., release after new charges; bail variation); Code exact number (i.e. 1, 2, 3), 9 = Unknown, 999 = Not applicable (no different subsequent recognizance)
Type Subsequent Bail Conditions	Applies only if client has been re-released on a new recognizance during bail supervision; Code <u>all</u> conditions that appear on the client's subsequent recognizance, 9 = Unknown, 999 = Not applicable (no different subsequent recognizance)
Length of Supervision	Code exact number (i.e. 1, 2, 3) of days; As indicated in CaseWorks, or original database when required, and calculated using www.timeanddate.com/date/duration (including end date); Calculated from release on bail until termination (or charges being dealt with, if this occurs before the formal file closure)

Level of Supervision Start	Code exact number (i.e. 1, 2, 3) of scheduled in-office meetings in 30 days following release into BVSP supervision (does NOT include day of release); As calculated using CaseWorks, or original database when required
Level of Supervision End	Code exact number (i.e. 1, 2, 3) of scheduled in-office meetings in last 30 days of BVSP supervision; As indicated in CaseWorks, or original database when required
Early # Missed Appointments	Using same 30 day timeframe as above, code exact number (i.e. 0, 1, 2, 3) of scheduled in-office meetings for which the client did not report and did not provide BVSP with advanced notice; As indicated in case notes
Total # Missed Appointments	Code exact number (i.e. 0, 1, 2, 3) of BVSP appointments missed without providing BVSP with advanced notice during entire term of supervision; As indicated in case notes
# Reporting Letters	Code exact number (i.e. 0, 1, 2, 3) of reporting letters sent to client; As indicated in case notes
# Late Appointments	Code exact number (i.e. 0, 1, 2, 3) of appointments for which the client was 10 or more minutes late (but reported on the proper day), regardless of whether notice was given; As indicated in case notes
Comments RE: Reporting	Qualitative notes written on client files related to level or supervision, any missed appointments, 9 = Not applicable (no related comments)
# Reports to OPS	Code exact number (ie. 0, 1, 2, 3) of reports BVSP staff made to police to report client in breach of a condition(s) of their bail order; As indicated in case notes
Time until 1st Breach Report to Police	Code exact number of days until first breach report (i.e. 1, 2, 3), 999 = Not applicable (no BVSP breach reports while on supervision); As indicated in case notes
Time until 1st Breach Charge(s) Laid	Code exact number of days (i.e. 1, 2, 3) until first FTC charges laid, 999 = Not applicable (no breach charges laid while under supervision); Charges can be instigated by BVSP, Police, Probation or other; as indicated in case works; if unsure of exact date, code the date after the BVSP breach report, or the day before the client appeared in bail court on the breach charges; As indicated in case notes
# Court Appearances	Code exact number (i.e. 0, 1, 2, 3) of court appearances while on active BVSP supervision (does not include appearances prior to release on bail or any appearances made while no longer on supervision); As indicated in CaseWorks
Time until 1st FTA	Code exact number of days (i.e. 1, 2, 3) until first FTA, 999 = Not applicable (no Failure to Appear in court while under supervision); regardless of whether charges are laid); As indicated in CaseWorks
FTA Court Appearance #	Code the court appearance number, since bail release, at the point in which the client Failed to Appear, 999 = Not applicable (No FTA); as indicated in CaseWorks
Subsequent FTA	0 = No subsequent FTA, 1 = 1+ Subsequent FTA while on BSP, 2 = No opportunity for subsequent FTA as client's supervision ended upon first FTA, 999 = Not Applicable (no FTAs whatsoever); As indicated in CaseWorks
FTA Charges Laid	1 = No charges laid, 2 = FTA charge(s) laid, all later dropped or rescinded, 3 = FTA charges laid, at least one is never dropped, 9 = Not applicable (No FTA); As indicated in case notes
Comments RE: Court Appearances	Qualitative notes written on client files related to any court appearances (Do NOT include comments simply stating the client's next court date), 9 = Not applicable (no related comments)
# Other Organization Programs	Code number (i.e. 1, 2, 3) of additional programs offered by the operating organization in which the client has been involved or referred to during supervision (e.g., Employment Services, Crisis Services); As indicated in case notes

Type Other Organization Programs	Code the names of any additional Organization programs in which the client has participated or been referred to during supervision, 9 = Not applicable (No other Organization programs); As indicated in case notes
Other Agencies	Code the names, or where potentially identifying, the type of community agencies with which the client has been involved while on bail (e.g., CMHA, homeless shelters, Drug treatment centres), 9 = Not applicable (No other agency involvement); As indicated in case notes
Comments RE: Program/Agency Involvement	Qualitative notes written on client files related to any involvement or referral with other programs or community agencies, 9 = Not applicable (no related comments)
Legal Representation	1 = lawyer paid for by client, 2 = lawyer through Legal Aid, 3 = Duty Counsel, 4 = Self-Represented, 5 = Lawyer working pro bono, 6 = Lawyer, nature of relationship unknown, 9 = Unknown; determined at time of plea/trial or the end of supervision if this occurs first; As indicated in case notes
RISK ASSESSMENT VARIABLES	
Time of Assessment	Code exact number of days into supervision at which point SPIn pre-screen was conducted; 999 = Not applicable (no assessments completed during supervision)
Criminal History	0 = No adult or youth criminal convictions, 1 = Adult or youth criminal conviction(s) present, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen A2 - A5, case notes or client file
Age at First Arrest	1 = Under 18, 2 = 18-24, 3 = 25-29, 4 = 30-34, 5 = 35-39, 6 = 40-44, 7 = 45-49, 8 = 50-54, 9 = 55-59, 10 = 60-64, 11 = 65-69, 12 = 70+, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen A1, case notes or client file
Adult Criminal History	0 = No previous adult convictions, 1 = 1 conviction, 2 = 2 convictions, 3 = 3+ convictions, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen A2, case notes or client file
Adult Incarceration	0 = No incarceration, 1 = 1 incarceration, 2 = 2 incarcerations, 3 = 3+ incarcerations, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen A3 or case notes
Youth Criminal History	0 = No youth convictions, 1 = 1 conviction, 2 = 2 convictions, 3 = 3+ convictions, , 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen A4, case notes or client file
Youth Incarceration	0 = No incarceration, 1 = 1 incarceration, 2 = 2 incarcerations, 3 = 3+ incarcerations, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen A5 or case notes
Variety of Offences	Code all offences types indicated on SPIn A6 (e.g., Assault/Violence, Fraud), 9 = Not applicable (no criminal convictions), 999 = N/A (NO ASSESSMENT); As indicated in SPIn Pre-Screen A6, case notes or client file
Comments RE: Criminal History	Qualitative notes written on client files related to his/her criminal history, 9 = Not applicable (no related comments)
Response to Supervision	0 = No past non-compliant behaviour, 1 = Past non-compliant behaviour, 9 = Not applicable (no criminal history), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen B1-B6, case notes or client file
Failure to Appear in Court	0 = No, 1 = Yes, 9 = Not applicable (no criminal record), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen B1, case notes or client file
Technical Violations/Breaches	0 = No, 1 = Yes, 9 = Not applicable (no criminal record), 999 = N/A (NO ASSESSMENT); breach must have occurred while on probation or parole, not bail supervision; all previous convictions and current charges; As indicated on SPIn Pre-Screen B2, case notes or client file
New Offences on Supervision	0 = No, 1 = Yes, 9 = Not applicable (no criminal record), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen B3, case notes or client file

Transfer to Custody	0 = No, 1 = Yes, 9 = Not applicable (no criminal record), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen B4 or case notes
Warrant for FTA Probation/Parole	0 = No, 1 = Yes, 9 = Not applicable (no criminal record), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen B5 or case notes
Escape Attempts	0 = No escape or attempted escape from custody, 1 = Escape or attempted escape from custody, 9 = Not applicable (has never been incarcerated), 999 = N/A (NO ASSESSMENT); As indicated on SPIn B6, case notes or client file
Comments RE: Response to Supervision	Qualitative notes written on client files related to his/her response to previous supervision, 9 = Not applicable (no related comments)
Aggression/Violence	0 = No history of violence, 1 = History of violence; As indicated on SPIn Pre-Screen C1-C5, 999 = N/A (NO ASSESSMENT)
Recent Violence	0 = No violent behaviour in last 6 months, 1 = Violent behaviour in last 6 months, 9 = Not applicable (no history of violence), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen C1 or case notes
# Violent Convictions	0 = No violent convictions, 1 = 1 conviction, 2 = 2 convictions, 3 = 3+ convictions, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen C2, case notes or client file; either convictions or "well documented" incidents
Unknown Victims	0 = No, 1 = Yes, 9 = Not applicable (no history of violence), 999 = N/A (NO ASSESSMENT); As indicated in SPIn Pre-Screen C3 or case notes
Perpetrator of Domestic Violence	0 = No, 1 = Yes, 9 = Not applicable (no history of violence), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen C4 or case notes
No Contact Violation	0 = No violations, 1 = Violation(s) present, 9 = Not applicable (no history of violence), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen C5 or case notes
Comments RE: Aggression/Violence	Qualitative notes written on client files related to his/her aggression/violence, 9 = Not applicable (no related comments)
Substance Use	0 = No substance use, 1 = Substance use is not problematic (as indicated below), 2 = substance abuse is problematic (as indicated below), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen D1 or case notes; Substance use in past 3 months
Disrupted Functioning	0 = No disrupted functioning due to substance use, 1 = Disrupted functioning due to substance use, 9 = Not applicable (no substance use), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen D1 or case notes
Substance Use Contributes to Criminality	0 = Substance use does not contribute to criminal behaviour, 1 = Drug use does contribute to criminal behaviour, 9 = Not applicable (no substance use), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen D1 or case notes
Comments RE: Substance Use	Qualitative notes written on client files related to his/her substance use, 9 = Not applicable (no related comments)
Social Influence	0 = No negative influences, 1 = Negative influence(s) present, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen E1-E2 or case notes
# Gang Associations	0 = No gang associations, 1 = 1 type of gang association, 2 = 2 types of gang associations, 3 = 3 types of gang associations, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen E1 or case notes
Type Gang Associations	Code all types of gang association, 9 = Not applicable (No gang associations), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen E1 or case notes
# Peer Relationship Concerns	0 = No concerns regarding peers, 1 = 1 concern regarding peers, 2 = 2 concerns regarding peers, 3 = 3 concerns regarding peers, 4 = 4 concerns regarding peers, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen E2 or case notes

Type Peer Relationship Concerns	Code all concerns regarding peer relationships as "ticked off" in Pre-Screen list, 9 = Not applicable (neutral or positive peer relationships), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen E2 or case notes
Comments RE: Social Influence	Qualitative notes written on client files related to his/her social influence, 9 = Not applicable (no related comments)
Family	0 = No family concerns, 1 = Family concern(s) present, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen F1-F3 or case notes
Marital Status	1 = Single, 2 = Intimate relationship, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen F or case notes
Marital Satisfaction	1 = High degree of instability and conflict, offender expresses high dissatisfaction, 2 = Some conflict and dissatisfaction evident in the relationship, 3 = Minimal satisfaction in relationship (or no current marital relationship), 4 = Stability of relationship evident, offender expresses satisfaction, 5 = High degree of stability, satisfaction and commitment to the relationship, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen F1 or case notes
# Marital Risk Factors	0 = No marital risk factors, 1 = 1 marital risk factors, 2 = 2 marital risk factors, 3 = 3 marital risk factors, 4 = 4 marital risk factors, 5 = 5 marital risk factors, 9 = Not applicable (no intimate relationship), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen F2 or case notes
Type Marital Risk Factors	Code all marital risk factors, 9 = Not applicable (No marital risk factors), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen F2 or case notes
Attachment to Children	1 = High degree of conflict or absence of any positive contact with children, 2 = some contact but lacks interest or difficult establishing relationships, 3 = minimally rewarding relationship with children (or no children), 4 = rewarding relationships with children, 5 = highly rewarding relationships with major expression of commitment to parenting role, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen F3 or case notes
Comments RE: Family	Qualitative notes written on client files related to his/her family, 9 = Not applicable (no related comments) or case notes
Employment	0 = No employment concerns, 1 = Employment concern(s) present, 9 = Not Applicable due to Disability or Retirement, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen G1-G2 or case notes
# Employment History Concerns	0 = No employment concerns, 1 = 1 employment concern, 2 = 2 employment concerns, 3 = 3 employment concerns, 4 = 4 employment concerns, 5 = 5 employment concerns, 6 = 6 employment concerns, 7 = 7 employment concerns, 9 = Not Applicable due to Disability or Retirement, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen G1 or case notes
Type Employment Concerns	Code all specific concerns (e.g., unemployment at time of current offence), 9 = Not applicable (no employment concerns), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen G1 or case notes
Employment Motivation	1 = Expresses no interest in finding employment or remaining employed, 2 = Low motivation for finding employment or remaining employed, 3 = recognizes the need for permanent employment, 4 = Expresses sincere desire to find and maintain employment, 5 = Intrinsically motivated to find and maintain employment, enjoys work, 9 = Not Applicable due to Disability or Retirement, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen G2 or case notes
Comments RE: Employment/Education	Qualitative notes written on client files related to his/her employment and education, 9 = Not applicable (no related comments)
Attitudes	0 = No attitude concerns, 1 = Attitude concern(s) present, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen H1-H2 or case notes

Law-abiding	1 = Openly admits unwillingness to demonstrate law-abiding behaviour, 2 = Feels law-abiding behaviour does not apply to him or her, 3 = Expresses neutral attitude toward law-abiding behaviour, 4 = Expresses desire to live in a law-abiding manner, 5 = Clearly positive commitment toward law-abiding behaviour, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen H1 or case notes
Accepts Responsibility	1 = Openly accepts or is proud of behaviour, 2 = Minimizes, denies, justifies, excuses or blames others, 3 = Indicates some awareness of the need to accept responsibility, 4 = Recognizes that he or she must accept responsibility, 5 = Voluntarily accepts full responsibility for criminal behaviour, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen H2 or case notes
Comments RE: Attitudes	Qualitative notes written on client files related to his/her attitudes, 9 = Not applicable (no related comments)
Social/Cognitive Skills	0 = No social/cognitive skills concerns, 1 = Social/cognitive skills concern(s) present, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen I1-I2 or case notes
Impulsivity	1 = Cannot identify triggers that cause problem behaviours, 2 = Usually fails to identify triggers, 3 = Can identify triggers, 4 = Knows some self-control techniques to respond to triggers, 5 = Uses self-control techniques to avoid trouble, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen I1 or case notes
Hostile Attributions	1 = Attributes almost all neutral actions of people as hostile and antagonistic, 2 = Frequently attributes hostile intentions t non-confrontational behaviour, 3 = Recognizes that most people do not have mal intentions, 4 = Shows restraint in dealing with conflict from others, 5 = Can easily tolerate criticism or hostility directed by others, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen I2 or case notes
Comments RE: Social/Cognitive Skills	Qualitative notes written on client files related to his/her social/cognitive skills, 9 = Not applicable (no related comments)
Stability	0 = No stability concerns, 1 = Stability concern(s) present, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen J1-J2 or case notes
# Financial Stability Concerns	0 = No financial concerns, 1 = 1 financial concern, 2 = 2 financial concerns, 3 = 3 financial concerns, 4 = 4 financial concerns, 5 = 5 financial concerns, 9 = Not applicable (no stability concerns at all), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen J1 or case notes
Type Financial Stability Concerns	Code all specific concerns (e.g., must rely on social assistance), 9 = Not applicable (no financial stability concerns), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen J1 or case notes
# Accommodation Concerns	0 = No accommodation concerns, 1 = 1 accommodation concern, 2 = 2 accommodation concerns, 9 = Not applicable (no stability concerns at all), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen J2 or case notes
Type Accommodation Concerns	Code all specific concerns (e.g., lacks realistic plan for accommodation), 9 = Not applicable (no accommodation concerns), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen J2 or case notes
Comments RE: Stability	Qualitative notes written on client files related to his/her stability, 9 = Not applicable (no related comments)
Mental Health	0 = No mental health concerns; 1 = Mental health concern(s) present, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen K1-K4 or case notes
Mental Health Condition	0 = No current mental health problems, 1 = Observed signs/symptoms without diagnosis, 2 = A current condition - Stable, 3 = A current condition - Serious, 4 = A current condition - Serious - With lack of compliance with treatment, 5 = A current condition - Serious - No treatment, 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen K1 or case notes

Type of Condition	Code all specific condition(s) "ticked off" on list in Pre-Screen (e.g., Psychoses), 9 = Not applicable (No diagnosed or suspected condition), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen K1 or case notes
Homicidal Ideation	0 = No indications, 1 = Indications, 9 = Not applicable (No mental health concerns), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen K2 or case notes
Suicidal Ideation	0 = No indications, 1 = Suicidal thoughts, 2 = Suicide attempt(s), 9 = Not applicable (No mental health concerns), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen K3
Sexual Aggression	0 = No, 1 = Yes, 9 = Not applicable (No mental health concerns), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen K4 or case notes
# Other Indicators	0 = No other indicators, 1 = 1 other indicator, 2 = 2 other indicators, 3 = 3 other indicators, 4 = 4 other indicators, 5 = 5 other indicators, 6 = 6 other indicators, 7 = 7 other indicators, 9 = Not applicable (No mental health concerns), 999 = N/A (NO ASSESSMENT); As indicated in SPIn Pre-Screen K5 or case notes
Type Other Indicators	Code all specific indicator(s) (e.g., Trauma or victimization as a child, Self-injurious behaviour), 9 = Not applicable (No concerns), 999 = N/A (NO ASSESSMENT); As indicated on SPIn Pre-Screen K5 or case notes
Comments RE: Mental Health	Qualitative notes written on client files related to his/her mental health, 9 = Not applicable (no related comments)
Static Risk	0 = None, 1 = Low risk, 2 = Moderate risk, 3 = High risk, 999 = N/A (NO ASSESSMENT); As determined by SPIn
Dynamic Risk	0 = None, 1 = Low risk, 2 = Moderate risk, 3 = High risk, 999 = N/A (NO ASSESSMENT); As determined by SPIn
Protective Score	0 = None, 1 = Low, 2 = Moderate, 3 = High, 999 = N/A (NO ASSESSMENT); As determined by SPIn
Pre-Screen	0 = No Pre-Screen present, 1 = Pre-screen present from current supervision, 2 = Pre-Screen present, but from previous supervision (ie. out of date), 3 = Pre-Screen completed during subsequent supervision ONLY, 4 = Pre-Screen only partially completed
Full-Screen Present?	0 = No, 1 = Yes, 2 = Partial, 3 = Yes, from previous supervision only, 4 = Partial, from previous supervision only
Supervision Outcome	1 = Successful completion without major issues; 2 = Successful completion with major issues, 3 = Failure to Attend court (FTA), 4 = Failure to Comply with a court order (FTC/breach), 5 = New substantive charge(s), 6 = FTC + substantive charges, 7 = FTA + FTC, 8 = FTA + substantive charges, 9 = Unknown outcome, 10 = FTA + FTC + substantive
Comments RE: Supervision Outcomes	Qualitative notes written on client files related to his/her supervision outcome, 9 = Not applicable (no related comments)
Charge Outcome	0 = all charges withdrawn/found not guilty, 1 = 1+ findings of guilt on charge(s), 2 = guilty of all charges, 9 = Unknown; As indicated in CaseWorks
Comments RE: Charge Outcomes	Qualitative notes written on client files related to his/her charge outcome, 9 = Not applicable (no related comments)
Other notes of interest	Qualitative notes written on client files that may be of interest to the current research study, 9 = Not applicable (no other comments of interest)

Appendix C – Ethics Certificate from the University of Ottawa's Research Ethics Board

File Number: 03-14-15

Date (mm/dd/yyyy): 05/12/2014

Université d'Ottawa
Bureau d'éthique et d'intégrité de la recherche

University of Ottawa
Office of Research Ethics and Integrity

Ethics Approval Notice

Social Sciences and Humanities REB

Principal Investigator / Supervisor / Co-investigator(s) / Student(s)

First Name	Last Name	Affiliation	Role
Bastien	Quirion	Social Sciences / Criminology	Supervisor
Megan	Mitchell	Social Sciences / Criminology	Student Researcher

File Number: 03-14-15

Type of Project: Master's Thesis – Secondary Use of Data

Title: Risk Assessment and Community-Based Supervision Outcomes

Approval Date (mm/dd/yyyy)	Expiry Date (mm/dd/yyyy)	Approval Type
05/12/2014	05/11/2015	Ia

(Ia: Approval, Ib: Approval for initial stage only)

Special Conditions / Comments:
N/A

1

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File Number: 03-14-15 **Date (mm/dd/yyyy):** 05/12/2014

Université d'Ottawa University of Ottawa

Bureau d'éthique et d'intégrité de la recherche Office of Research Ethics and Integrity

This is to confirm that the University of Ottawa Research Ethics Board identified above, which operates in accordance with the Tri-Council Policy Statement (2010) and other applicable laws and regulations in Ontario, has examined and approved the ethics application for the above named research project. Ethics approval is valid for the period indicated above and subject to the conditions listed in the section entitled "Special Conditions / Comments".

During the course of the project, the protocol may not be modified without prior written approval from the REB except when necessary to remove participants from immediate endangerment or when the modification(s) pertain to only administrative or logistical components of the project (e.g., change of telephone number). Investigators must also promptly alert the REB of any changes which increase the risk to participant(s), any changes which considerably affect the conduct of the project, all unanticipated and harmful events that occur, and new information that may negatively affect the conduct of the project and safety of the participant(s). Modifications to the project, including consent and recruitment documentation, should be submitted to the Ethics Office for approval using the "Modification to research project" form available at: http://www.research.uottawa.ca/ethics/forms.html.

Please submit an annual report to the Ethics Office four weeks before the above-referenced expiry date to request a renewal of this ethics approval. To close the file, a final report must be submitted. These documents can be found at: http://www.research.uottawa.ca/ethics/forms.html.

If you have any questions, please do not hesitate to contact the Ethics Office at extension 5387 or by e-mail at: ethics@uOttawa.ca.

Signature:

Germain Zongo
Protocol Officer for Ethics in Research
For Barbara Graves, Chair of the Social Sciences and Humanities REB

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Appendix D – Client Age (Detailed Breakdown)

		Frequency	Valid Percent	Cumulative Percent
Valid	18-24	33	33.0	33.0
	25-29	11	11.0	44.0
	30-34	18	18.0	62.0
	35-39	7	7.0	69.0
	40-44	6	6.0	75.0
	45-49	8	8.0	83.0
	50-54	11	11.0	94.0
	55-59	1	1.0	95.0
	60-64	4	4.0	99.0
	70+	1	1.0	100.0
	Total	100	100.0	

Appendix E – Client Race (Detailed Breakdown)

	Frequency	Valid Percent	Cumulative Percent
Caucasian	62	62.0	62.0
Visible Minority (other than Aboriginal)	28	28.0	90.0
First Nations	5	5.0	95.0
Métis	1	1.0	96.0
Inuit	4	4.0	100.0
Total	100	100.0	

Appendix F – Number of Charges (Detailed Breakdown)

		Frequency	Valid Percent	Cumulative Percent
Number of Current Charges	1	19	19.0	19.0
	2	30	30.0	49.0
	3	29	29.0	78.0
	4	8	8.0	86.0
	5	7	7.0	93.0
	7	3	3.0	96.0
	8	1	1.0	97.0
	9	1	1.0	98.0
	12	1	1.0	99.0
	26	1	1.0	100.0
	Total	100	100.0	

		Frequency	Valid Percent	Cumulative Percent
Number of Total Charges on Recognizance at time of BVSP Release	1	5	5.0	5.0
	2	13	13.0	18.0
	3	22	22.0	40.0
	4	19	19.0	59.0
	5	11	11.0	70.0
	6	6	6.0	76.0
	7	12	12.0	88.0
	8	3	3.0	91.0
	9	2	2.0	93.0
	10	1	1.0	94.0
	11	3	3.0	97.0
	12	2	2.0	99.0
	26	1	1.0	100.0
	Total	100	100.0	

Appendix G – Charges against the Administration of Justice (Detailed Breakdown)

		Frequency	Valid Percent	Cumulative Percent
Current Charges Against the Administration of Justice	0	33	33.0	33.0
	1	26	26.0	59.0
	2	26	26.0	85.0
	3	10	10.0	95.0
	4	3	3.0	98.0
	7	1	1.0	99.0
	18	1	1.0	100.0
	Total	100	100.0	
		Frequency	Valid Percent	Cumulative Percent
Total Charges Against the Administration of Justice on Recognizance at time of BVSP Release	0	27	27.0	27.0
	1	19	19.0	46.0
	2	20	20.0	66.0
	3	19	19.0	85.0
	4	9	9.0	94.0
	6	1	1.0	95.0
	7	3	3.0	98.0
	9	1	1.0	99.0
	18	1	1.0	100.0
	Total	100	100.0	

Appendix H – Client Reporting (Detailed Breakdown)

		Frequency	Valid Percent	Cumulative Percent
Total Number of Missed Bail Appointments	0	27	27.0	27.0
	1	13	13.0	40.0
	2	27	27.0	67.0
	3	12	12.0	79.0
	4	7	7.0	86.0
	5	5	5.0	91.0
	6	4	4.0	95.0
	8	2	2.0	97.0
	9	2	2.0	99.0
	15	1	1.0	100.0
	Total	100	100.0	

		Frequency	Valid Percent	Cumulative Percent
Number of Bail Appointments to which Client Reported Late	0	58	58.0	58.0
	1	16	16.0	74.0
	2	14	14.0	88.0
	3	7	7.0	95.0
	4	3	3.0	98.0
	5	1	1.0	99.0
	10	1	1.0	100.0
	Total	100	100.0	

Appendix I - Specific Bail Conditions on BVSP Clients' Recognizances

Boundary Restriction Condition

		Frequency	Valid Percent
Boundary Restriction Condition	Yes	50	51.0
	No	48	49.0
	Total	98	100.0
		Frequency	Valid Percent
No Contact Condition	Yes	50	50.5
	No	49	49.5
	Total	99	100.0
		Frequency	Valid Percent
Condition to "Keep the Peace and be of Good Behaviour"	Yes	46	46.9
	No	52	53.1
	Total	98	100.0
		Frequency	Valid Percent
Condition to Abstain from Possessing Weapons	Yes	38	38.8
	No	60	61.2
	Total	98	100.0
		Frequency	Valid Percent
Condition to Appear Personally for Future Court Appearances	Yes	36	36.7
	No	62	63.3
	Total	98	100.0
		Frequency	Valid Percent
Condition to Abstain from Alcohol	Yes	30	30.6
	No	68	69.4
	Total	98	100.0
		Frequency	Valid Percent
Condition to Abstain from Drugs	Yes	29	29.6
	No	69	70.4
	Total	98	100.0
		Frequency	Valid Percent
Curfew Condition	Yes	23	23.5
	No	75	76.5
	Total	98	100.0
		Frequency	Valid Percent
Condition to Attend Treatment	Yes	21	21.4
	No	77	78.6
	Total	98	100.0
		Frequency	Valid Percent
Condition to Sign in at the City Police Service on a Weekly Basis	Yes	8	8.2
	No	90	91.8
	Total	98	100.0
		Frequency	Valid Percent
Employment Condition	Yes	6	6.1
	No	92	93.9
	Total	98	100.0

Appendix J – Length of Bail Supervision – Days (Detailed Breakdown)

	Frequency	Valid Percent	Cumulative Percent
5	1	1.0	1.0
11	1	1.0	2.0
12	3	3.0	5.0
13	1	1.0	6.0
17	1	1.0	7.0
18	1	1.0	8.0
22	1	1.0	9.0
27	1	1.0	10.0
29	1	1.0	11.0
35	1	1.0	12.0
38	1	1.0	13.0
39	1	1.0	14.0
41	1	1.0	15.0
49	1	1.0	16.0
56	1	1.0	17.0
59	1	1.0	18.0
61	2	2.0	20.0
64	1	1.0	21.0
70	1	1.0	22.0
77	2	2.0	24.0
80	1	1.0	25.0
81	2	2.0	27.0
82	1	1.0	28.0
90	1	1.0	29.0
91	1	1.0	30.0
92	1	1.0	31.0
95	1	1.0	32.0
98	2	2.0	34.0
101	1	1.0	35.0
102	3	3.0	38.0
106	1	1.0	39.0
107	1	1.0	40.0
115	1	1.0	41.0
119	1	1.0	42.0
122	1	1.0	43.0
123	1	1.0	44.0
127	1	1.0	45.0
128	1	1.0	46.0
131	2	2.0	48.0
133	1	1.0	49.0
135	1	1.0	50.0
140	2	2.0	52.0
143	1	1.0	53.0
148	1	1.0	54.0
149	1	1.0	55.0
157	1	1.0	56.0
159	1	1.0	57.0
160	2	2.0	59.0
164	1	1.0	60.0

	170	2	2.0	62.0
	174	1	1.0	63.0
	175	1	1.0	64.0
	184	2	2.0	66.0
	192	1	1.0	67.0
	197	1	1.0	68.0
	198	1	1.0	69.0
	200	1	1.0	70.0
	214	1	1.0	71.0
	217	1	1.0	72.0
	229	1	1.0	73.0
	237	1	1.0	74.0
	241	1	1.0	75.0
	245	4	4.0	79.0
	246	1	1.0	80.0
	251	2	2.0	82.0
	271	1	1.0	83.0
	279	1	1.0	84.0
	303	1	1.0	85.0
	312	1	1.0	86.0
	333	1	1.0	87.0
	355	1	1.0	88.0
	365	1	1.0	89.0
	372	1	1.0	90.0
	376	1	1.0	91.0
	395	1	1.0	92.0
	403	1	1.0	93.0
	422	1	1.0	94.0
	428	1	1.0	95.0
	446	1	1.0	96.0
	479	1	1.0	97.0
	529	1	1.0	98.0
	541	1	1.0	99.0
	615	1	1.0	100.0
	Total	100	100.0	

Appendix K – Number of Court Dates While on Bail Supervision (Detailed Breakdown)

	Frequency	Valid Percent	Cumulative Percent
0	4	4.0	4.0
1	10	10.0	14.0
2	3	3.0	17.0
3	4	4.0	21.0
4	6	6.0	27.0
5	17	17.0	44.0
6	10	10.0	54.0
7	8	8.0	62.0
8	9	9.0	71.0
9	11	11.0	82.0
10	1	1.0	83.0
11	4	4.0	87.0
12	3	3.0	90.0
13	3	3.0	93.0
14	2	2.0	95.0
15	2	2.0	97.0
17	1	1.0	98.0
18	2	2.0	100.0
Total	100	100.0	

Appendix L – Time of First Breach Charges, Days into Supervision (Detailed Breakdown)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.0	1	1.0	2.3	2.3
	2.0	1	1.0	2.3	4.5
	5.0	1	1.0	2.3	6.8
	6.0	1	1.0	2.3	9.1
	7.0	1	1.0	2.3	11.4
	10.0	1	1.0	2.3	13.6
	11.0	1	1.0	2.3	15.9
	14.0	1	1.0	2.3	18.2
	17.0	2	2.0	4.5	22.7
	19.0	1	1.0	2.3	25.0
	20.0	1	1.0	2.3	27.3
	21.0	1	1.0	2.3	29.5
	22.0	1	1.0	2.3	31.8
	24.0	2	2.0	4.5	36.4
	25.0	1	1.0	2.3	38.6
	26.0	2	2.0	4.5	43.2
	29.0	2	2.0	4.5	47.7
	38.0	1	1.0	2.3	50.0
	41.0	1	1.0	2.3	52.3
	45.0	1	1.0	2.3	54.5
	49.0	1	1.0	2.3	56.8
	52.0	1	1.0	2.3	59.1
	73.0	1	1.0	2.3	61.4
	76.0	1	1.0	2.3	63.6
	89.0	1	1.0	2.3	65.9
	90.0	1	1.0	2.3	68.2
	96.0	2	2.0	4.5	72.7
	99.0	2	2.0	4.5	77.3
	106.0	1	1.0	2.3	79.5
	111.0	1	1.0	2.3	81.8
	118.0	1	1.0	2.3	84.1
	139.0	1	1.0	2.3	86.4
	166.0	1	1.0	2.3	88.6
	170.0	1	1.0	2.3	90.9
	213.0	1	1.0	2.3	93.2
	237.0	1	1.0	2.3	95.5
	243.0	1	1.0	2.3	97.7
	246.0	1	1.0	2.3	100.0
	Total	44	44.0	100.0	
Missing	No Breach Charges	56	56.0		
Total		100	100.0		

Appendix M – Failure to Attend Court (FTA) Charges (Detailed Breakdown)

		Frequency	Valid Percent	Cumulative Percent
Time of 1st FTA Charge (Days into Supervision)	10	1	5.0	5.0
	12	2	10.0	15.0
	14	1	5.0	20.0
	15	1	5.0	25.0
	17	1	5.0	30.0
	19	1	5.0	35.0
	28	1	5.0	40.0
	31	1	5.0	45.0
	35	1	5.0	50.0
	49	1	5.0	55.0
	62	1	5.0	60.0
	75	1	5.0	65.0
	86	2	10.0	75.0
	135	1	5.0	80.0
	149	1	5.0	85.0
	205	1	5.0	90.0
	415	1	5.0	95.0
	456	1	5.0	100.0
	Total	20	100.0	
Missing	No FTA	80		
Total		100		

		Frequency	Valid Percent	Cumulative Percent
Time of 1st FTA Charge (Court Appearance Number)	1	7	35.0	35.0
	2	4	20.0	55.0
	3	1	5.0	60.0
	4	2	10.0	70.0
	5	1	5.0	75.0
	6	1	5.0	80.0
	7	1	5.0	85.0
	8	1	5.0	90.0
	11	1	5.0	95.0
	12	1	5.0	100.0
	Total	20	100.0	
Missing	No FTA	80		
Total		100		

Appendix N – Presence of Current SPIn Full Assessment

		Frequency	Valid Percent	Cumulative Percent
Valid	No Current Full-Screen	39	39.0	39.0
	Current Full-Screen	19	19.0	58.0
	Partial Current Full-Screen	42	42.0	100.0
	Total	100	100.0	

Appendix O – Non-Predictive SPIn Risk Domains

Supervision Outcome by Criminal History

			Supervision Outcome		
			Success	Failure	Total
Criminal History	No Criminal Convictions		11	11	22
		Row %	50.0%	50.0%	100.0%
	Criminal Convictions Present		27	39	66
		Row %	40.9%	59.1%	100.0%
Total			38	50	88
		Row %	43.2%	56.8%	100.0%

Fisher's Exact (2tail) = 0.469

Supervision Outcome by Response to Supervision

			Supervision Outcome		
			Success	Failure	Total
Response to Past Supervision	No Past Non-Compliant Behaviour		9	11	20
		Row %	45.0%	55.0%	100.0%
	Past Non-Compliant Behaviour		15	22	37
		Row %	40.5%	59.5%	100.0%
	N/A (No Criminal Record)		13	10	23
		Row %	56.5%	43.5%	100.0%
Total			37	43	80
		Row %	46.3%	53.8%	100.0%

Chi-Square = 1.474; df = 2; p = 0.50

Supervision Outcome by Response to Past Supervision (Simplified)

			Supervision Outcome		
			Success	Failure	Total
Response to Past Supervision	No Past Non-Compliant Behaviour		22	21	43
		Row %	51.2%	48.8%	100.0%
	Past Non-Compliant Behaviour		15	22	37
		Row %	40.5%	59.5%	100.0%
Total			37	43	80
		Row %	46.3%	53.8%	100.0%

Fisher's Exact (2tail) = 0.376

Supervision Outcome by Aggression and Violence

			Supervision Outcome		
			Success	Failure	Total
Aggression and Violence	No History of Violence		15	14	29
		Row %	51.7%	48.3%	100.0%
	History of Violence		21	27	48
		Row %	43.8%	56.3%	100.0%
Total			36	41	77
		Row %	46.8%	53.2%	100.0%

Fisher's Exact (2tail) = 0.638

Supervision Outcomes by Social Influences

			Supervision Outcome		
			Success	Failure	Total
Social Influences	No Social Influence Concerns		12	15	27
		Row %	44.4%	55.6%	100.0%
	Social Influence Concerns Present		20	21	41
		Row %	48.8%	51.2%	100.0%
Total			32	36	68
		Row %	47.1%	52.9%	100.0%

Fisher's Exact (2tail) = 0.806

Supervision Outcome by Employment

			Supervision Outcome		
			Success	Failure	Total
Employment	No Employment History Concerns (or N/A)		8	13	21
		Row %	38.1%	61.9%	100.0%
	Employment History Concerns Present		24	26	50
		Row %	48.0%	52.0%	100.0%
Total			32	39	71
		Row %	45.1%	54.9%	100.0%

Fisher's Exact (2tail) = 0.602

Supervision Outcome by Attitudes

			Supervision Outcome		
			Success	Failure	Total
Attitudes	No Attitude Concerns		24	20	44
		Row %	54.5%	45.5%	100.0%
	Attitude Concerns		12	17	29
		Row %	41.4%	58.6%	100.0%
Total			36	37	73
		Row %	49.3%	50.7%	100.0%

Fisher's Exact (2tail) = 0.341

Supervision Outcome by Socio-Cognitive Skills

			Supervision Outcome		
			Success	Failure	Total
Socio-Cognitive Skills	No Socio-Cognitive Concerns		19	21	40
		Row %	47.5%	52.5%	100.0%
	Socio-Cognitive Concerns		14	16	30
		Row %	46.7%	53.3%	100.0%
Total			33	37	70
		Row %	47.1%	52.9%	100.0%

Fisher's Exact (2tail) = 1.00

Supervision Outcome by Stability

			Supervision Outcome		
			Success	Failure	Total
Stability	No Stability Concerns		7	6	13
		Row %	53.8%	46.2%	100.0%
	Stability Concerns		37	48	85
		Row %	43.5%	56.5%	100.0%
Total			44	54	98
		Row %	44.9%	55.1%	100.0%

Fisher's Exact (2tail) = 0.557

Appendix P – Supervision Outcome by Current Charges against the Administration of Justice

			Supervision Outcome		
			Success	Failure	Total
Current Charges Against the Administration of Justice	0		15	18	33
		Row %	45.5%	54.5%	100.0%
	1		18	8	26
		Row %	69.2%	30.8%	100.0%
	2		9	17	26
		Row %	34.6%	65.4%	100.0%
	3+		3	12	15
		Row %	20.0%	80.0%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Chi-square = 11.091; df = 3; p = 0.05

Appendix Q – Number of Bail Conditions by Type of Bail Release

			Number of Bail Conditions			
			4-6 Conditions	7-8 Conditions	9+ Conditions	Total
Type of Bail Release	Consent		24	24	27	75
		Row %	32.0%	32.0%	36.0%	100.0%
	Show Cause, including Bail Review		2	6	15	23
		Row %	8.7%	26.1%	65.2%	100.0%
Total			26	30	42	98
		Row %	26.5%	30.6%	42.9%	100.0%

Chi-square = 7.310; df = 2; p = 0.05

Appendix R – Number of Bail Conditions by Total Charge Type

Number of Bail Conditions by Total Charge Type

			Number of Bail Conditions Grouped			
			4-6 Conditions	7-8 Conditions	9+ Conditions	Total
Charge Type for Most Serious Active Charge	Violent		5	11	22	38
		Row %	13.2%	28.9%	57.9%	100.0%
	Non-Violent		21	19	20	60
		Row %	35.0%	31.7%	33.3%	100.0%
Total			26	30	42	98
		Row %	26.5%	30.6%	42.9%	100.0%

Chi-square = 7.515; df =2; p = 0.05

Appendix S – Significant Relationships between Specific Bail Conditions and Charge Type

No Alcohol Condition by Charge Type

			Condition to Abstain from Alcohol: No	Condition to Abstain from Alcohol: Yes	Total
Current Charge Type	Violent Offence		16	14	30
		Row %	53.3%	46.7%	100.0%
	Non-Violent Offence		52	16	68
		Row %	76.5%	23.5%	100.0%
Total			68	30	98
		Row %	69.4%	30.6%	100.0%

Fisher's Exact (2tail) = 0.032

Attend Treatment Condition by Charge Type

			Condition to Attend Treatment: No	Condition to Attend Treatment: Yes	Total
Current Charge Type	Violent Offence		18	12	30
		Row %	60.0%	40.0%	100.0%
	Non-Violent Offence		59	9	68
		Row %	86.8%	13.2%	100.0%
Total			77	21	98
		Row %	78.6%	21.4%	100.0%

Fisher's Exact (2tail) = 0.006

No Contact Condition by Charge Type

			No Contact Condition: No	No Contact Condition: Yes	Total
Current Charge Type	Violent Offence		6	25	31
		Row %	19.4%	80.6%	100.0%
	Non-Violent Offence		43	25	68
		Row %	63.2%	36.8%	100.0%
Total			49	50	99
		Row %	49.5%	50.5%	100.0%

Fisher's Exact (2tail) = 0.000

Weapons Restriction by Charge Type

			Condition to Abstain from Possessing Weapons: No	Condition to Abstain from Possessing Weapons: Yes	Total
Current Charge Type	Violent Offence		6	24	30
		Row %	20.0%	80.0%	100.0%
	Non-Violent Offence		54	14	68
		Row %	79.4%	20.6%	100.0%
Total			60	38	98
		Row %	61.2%	38.8%	100.0%

Fisher's Exact (2tail) = 0.000

Appendix T – Mental Health Diagnoses by Supervision Outcome by Length of Bail Supervision

Mental Health Diagnosis				Length of Bail Supervision: 3 Months or Less	3-6 Months	6 Months or More	Total
No Official Diagnosis	Supervision Outcome	Success		1	5	8	14
			Row %	7.1%	35.7%	57.1%	100.0%
		Failure		14	10	11	35
			Row %	40.0%	28.6%	31.4%	100.0%
	Total			15	15	19	49
			Row %	30.6%	30.6%	38.8%	100.0%
Official Mental Health Diagnosis	Supervision Outcome	Success		2	6	13	21
			Row %	9.5%	28.6%	61.9%	100.0%
		Failure		2	4	3	9
			Row %	22.2%	44.4%	33.3%	100.0%
	Total			4	10	16	30
			Row %	13.3%	33.3%	53.3%	100.0%
Total	Supervision Outcome	Success		3	11	21	35
			Row %	8.6%	31.4%	60.0%	100.0%
		Failure		16	14	14	44
			Row %	36.4%	31.8%	31.8%	100.0%
	Total			19	25	35	79
			Row %	24.1%	31.6%	44.3%	100.0%

Total Chi-Square = 9.756; df = 2; p = 0.01

Appendix U – Non-Predictive Demographic Variables

Supervision Outcome by Client Age

			Supervision Outcome		Total
			Success	Failure	
Client Age	18-24		13	20	33
		Row %	39.4%	60.6%	100.0%
	25-34		12	17	29
		Row %	41.4%	58.6%	100.0%
	35+		20	18	38
		Row %	52.6%	47.4%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Chi-Square = 1.467; df =2; p = 0.50

Supervision Outcome by Gender

			Supervision Outcome		Total
			Success	Failure	
Clients' Gender	Male		38	46	84
		Row %	45.2%	54.8%	100.0%
	Female		7	9	16
		Row %	43.8%	56.3%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Fisher's Exact (2tail) = 1.000

Supervision Outcome by Disability

			Supervision Outcome		Total
			Success	Failure	
Clients with a Disability	No Disability		33	45	78
		Row %	42.3%	57.7%	100.0%
	Person with a Disability		12	10	22
		Row %	54.5%	45.5%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Fisher's Exact (2tail) = 0.340

Supervision Outcome by Previous Ottawa BSP Client

			Supervision Outcome		Total
			Success	Failure	
Previous BSP Clients	No Previous Bail Supervision		39	44	83
		Row %	47.0%	53.0%	100.0%
	Previous Bail Supervision		6	11	17
		Row %	35.3%	64.7%	100.0%
Total			45	55	100
		Row %	45.0%	55.0%	100.0%

Fisher's Exact (2tail) = 0.432