

# VIRGINIA PRETRIAL RISK ASSESSMENT INSTRUMENT (VPRAI)



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VPRAI Instruction Manual Version 1.2



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## ELIGIBILITY

A Virginia Pretrial Risk Assessment Instrument (VPRAI) examines a defendant's status at the time of the arrest as it relates to the current charges, pending charges, criminal history, residence, employment, primary caregiver, and history of drug abuse. For this reason, the instrument is primarily intended to be completed after arrest and presented to the Court at first appearance. Completing the instrument soon after arrest increases the likelihood of capturing the most accurate information as it relates to the defendant's status at the time of his/her arrest and should be done so within 7 days.

A pretrial investigation must be conducted prior to completing the VPRAI.<sup>1</sup> Defendants who do not meet all of the criteria listed below are not eligible for instrument completion as part of the pretrial investigation. Additionally, a VPRAI is required for all eligible defendants and should be completed by following the instructions provided herein.

1. The defendant must be an adult – 18 years or older or a juvenile previously certified as an adult by the court.
2. The defendant must not be incarcerated at the time of the arrest or when the warrants were served. Defendants who were incarcerated for unrelated charges at the time the new warrants were served are not eligible.
3. The defendant must have been arrested for one or more jailable offense(s) – Class 1 and 2 misdemeanors (M1 and M2), unclassified misdemeanors (M9) that carry a penalty of jail time, or any felony. Class 3 misdemeanors, Class 4 misdemeanors, and any Class 9 misdemeanors, which carry a maximum penalty of a fine, are not eligible for instrument completion.
4. The defendant must have been arrested for a criminal offense (includes criminal traffic charges but NOT traffic infractions). Defendants charged solely with the following are not eligible:
  - a. civil offense
  - b. FTA or capias due to an underlying charge from a civil court
  - c. fugitive warrant/warrant of extradition

The VPRAI is automated and contained in the Pretrial and Community Corrections Case Management System (PTCC). The appendix contains an example of a completed instrument created from sample data. The VPRAI can be created after completing four tabs contained in the Screening sub-module of the Screening module of PTCC. The four tabs include the following: Screening, VPRAI (Step 1), VPRAI (Step 2), and VPRAI (Step 3).

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<sup>1</sup> See the Virginia Pretrial Investigation Guide and Virginia Pretrial Training and Resource Manual - <http://www.dcjs.virginia.gov/corrections/resources.cfm?menuLevel=5&mlID=13>

## SCREENING

The following information required for the VPRAI is entered into the Screening tab: First Name, Last Name, Race, Social Security Number (SSN), Sex, Date of Birth (DOB), Primary Charge Classification (PCC), Arrest Date, Jail, Screened In, and Investigated Yes (see figure 1).

**Figure 1. Screening Tab in Screening Module**

The screenshot displays the 'Screening' tab in the 'Pretrial and Community Corrections Case Management System (PTCC) - [Screening - Screening]'. The interface includes a menu bar (File, Edit, Modules, Reports, Administration, Window, Help) and a toolbar with icons for Screening, Setup, PT Plcmnt, PT Supv, CC Plcmnt, CC Supv, Reports, and navigation buttons (Exit, Previous, Save, Undo, New, Delete, Next). The main form area is titled 'Screening' and contains the following fields and data:

Name: Defendant, Pretrial; SSN: 999999999; DOB: 12/25/1954

Scr. Date	Jail Name	PCC	Scr. In	Reason Screened Out	Investigated
03/25/2009	Albermarle/Charlottesville Regional Jail	F9	Yes		Yes

Existing Defendant  New Defendant

First Name: Pretrial  
 Middle Name:  Suffix:   
 Last Name: Defendant  
 Race: White SSN: 999-99-9999  
 Sex: Male Age: 54 DOB: 12/25/1954  
 Height (in):  Eye Color:   
 Weight (lbs):  Hair Color:   
 PCC: F9 Arrest Date: 03/25/2009  
 Jail: Albermarle/Charlottesville Regional Jail

**Screened**  
 In  
 Out - Reason:   
 Other Desc.:   
 By:  Date: 03/25/2009

**Investigated**  
 Yes  
 No - Reason:   
 Other Desc.:   
 By:  Date: 03/25/2009  
 Criminal Record Check:

Staff:   
 Date Edited:

## VPRAI (STEP 1)

The following information required for the VPRAI is entered into the VPRAI (Step 1) tab: Instrument Completion Date, Arrest Information, Research Factors, and Risk Factors. The Risk Level is a calculated field which resides on this tab (see figure 2).

Figure 2. VPRAI (Step 1) Tab in Screening Module

## Research Factors

Four research factors are collected for future VPRAI validation and research initiatives. Guidance for selecting accurate responses to the factors is provided below.

1. **Charge Category** – There are 8 options for charge category including Violent, Firearm, Drug, Theft/Fraud, Failure to Appear, DUI, Traffic/Non-DUI, and Other. To identify the charge category follow the steps below.
  - a. **Violent** – Determine if any of the charges are a violent offense - violent offenses include the following: Murder, Manslaughter, Mob-related felonies, Kidnapping, Abduction, Malicious Wounding, Robbery, Carjacking, Arson, Assault (simple assault or assault & battery/misdemeanor or felony), and Sex Offenses (Rape, Sexual Assault/Battery, Carnal Knowledge of a Child, Forcible Sodomy).

Charges of burglary and possession or brandishing a firearm are **not** counted as violent. A charge of attempt or being an accessory before the fact to commit any of the offenses **is** counted. A charge of conspiring or being an accessory after the fact to commit any of the offenses is **not** counted.

If any of the charges are violent select Violent for this factor and continue to the next research factor; otherwise, continue to step b.

- b. **Firearm** – Determine if any of the charges are a firearm offense - firearm offenses include any charge relating to possession, use, or manufacturing a firearm. Examples include shooting at a vehicle, discharging a weapon in a public place, brandishing, illegally carrying a concealed weapon, or removing or altering the serial number or other identification number on a firearm. If any of the charges are a firearm offense select Firearm for this factor and continue to the next research factor; otherwise, continue to step c.
  - c. **Drug** – Determine if any of the charges are a drug related offense – drug related offenses include schedules I, II, III, IV, V and VI drugs, imitation controlled substances, counterfeit controlled substances, and drug paraphernalia. Note: Drug related offense does not include an alcohol related offense. If any of the charges are drug related select Drug for this factor and continue to the next research factor; otherwise, continue to step d.
  - d. **Theft/Fraud** – Determine if any of the charges are a theft/fraud offense – theft/fraud offenses include the following: any charge related to larceny, burglary, fraud, concealment, embezzlement, forgery, uttering, and bad check. If any of the charges are theft/fraud related select Theft/Fraud for this factor and continue to the next research factor; otherwise, continue to step e.
  - e. **Failure to Appear** – If any of the charges are a failure to appear select Failure to Appear for this factor and continue to the next research factor; otherwise, continue to step f.
  - f. **Driving Under the Influence (DUI)** – If any of the charges are a Driving Under the Influence select DUI for this factor and continue to the next research factor; otherwise, continue to step g.
  - g. **Traffic/Non-DUI** – If any of the charges are a traffic offense other than a DUI select Traffic/Non-DUI for this factor and continue to the next research factor; otherwise, continue to step h.
  - h. **Other** – If none of the charges meet the criteria above select Other for this factor and continue to the next research factor.
2. *Active Community Supervision*
- ◆ **Select Yes** if the defendant was under any active community criminal justice supervision including state or local probation, parole, pretrial services, alcohol safety action program (ASAP), drug court, day reporting, or any other form of active criminal justice supervision at the time of the arrest. Active supervision does NOT include unsupervised probation, a term of good behavior, or release on bail without pretrial supervision.
  - ◆ **Select No** if the defendant was not on active community criminal justice supervision at the time of the arrest.
3. *Number of FTA Convictions* – Enter the number of convictions as an adult for Failure to Appear or Contempt of Court that was a result of failure to appear.
4. *Number of Violent Arrests* – Enter the number of arrests (count each charge) for a violent offense as an adult; regardless of the case disposition (guilty, not guilty, nolle prosequi,

dismissed). Violent offenses include the following: Murder, Manslaughter, Mob-related felonies, Kidnapping, Abduction, Malicious Wounding, Robbery, Carjacking, Arson, Assault (simple assault or assault & battery/misdemeanor or felony), and Sex Offenses (Rape, Sexual Assault/Battery, Carnal Knowledge of a Child, Forcible Sodomy).

Arrests for burglary and possession or brandishing a firearm are **not** counted as violent arrests. An arrest for attempt or being an accessory before the fact to commit any of the offenses **is** counted. An arrest for conspiring or being an accessory after the fact to commit any of the offenses is **not** counted.

## Risk Factors

The VPRAI calculates a defendant's level of risk based on the eight (8) risk factors listed below. Responses to these risk factors are entered in the appropriate sections on this tab (see Figure 2: VPRAI (Step 1) Tab in Screening Module, p. 3). Guidance for selecting accurate responses to the factors is provided below.

1. *Charge Type* – **Select Misdemeanor or Felony** to indicate whether the most serious charge classification for the arrest event is a misdemeanor or a felony.
  - ◆ If there is only one charge - select the classification for that charge (**Misdemeanor or Felony**).
  - ◆ For a *capias* or FTA warrant count the charge type of the most serious underlying charge.
  - ◆ **Select Misdemeanor** when there are multiple charges and all of the charges have a charge classification of misdemeanor.
  - ◆ **Select Felony** when there are multiple charges and one or more of the charges is a felony.
2. *Pending Charge(s)* – Pending charge(s) require: 1) that the defendant was previously arrested for one or more charges for jailable offenses that have not been “disposed of”; 2) was arrested for a new crime that was allegedly committed while released on bail pending trial; and 3) that a future court date has been set or that a warrant has been issued for failure to appear. A charge with a disposition of “deferred” is NOT counted as a pending charge.
  - ◆ **Select Yes** if the defendant had one or more charges for jailable offenses pending in a criminal or traffic (not civil) court at the time of arrest.
  - ◆ **Select No** if the defendant had no pending charge(s) at the time of arrest.
  - ◆ **Exception:** If the current arrest is solely for a failure to appear, the underlying charge related to the failure to appear does not constitute a pending charge.
  - ◆ The following scenarios **DO NOT** constitute a pending charge:
    - ▶ A defendant is arrested, remains incarcerated pending trial, and is served with new warrants; or
    - ▶ A defendant is arrested, released pending trial, and is arrested for a charge with an alleged offense date that is prior to the first arrest.
3. *Criminal History* – A conviction for a jailable offense is counted as a prior criminal history. Note: A charge with a disposition of “deferred” is NOT counted as a conviction.

- ◆ **Select Yes** if the defendant has at least one adult misdemeanor or felony conviction in the past.
  - ◆ **Select No** if the defendant has no misdemeanor or felony conviction in the past.
4. *Two or More Failures to Appear* – An arrest for failure to appear, bail jumping, or contempt of court that was a result of failing to appear is counted. A failure to appear for a single court appearance is counted once regardless of the number of FTA charges related to the one court appearance. An arrest for failure to appear is not counted if there is confirmation that the defendant was in custody (jail or prison) when the failure to appear occurred.
- ◆ **Select Yes** if the defendant has failed to appear in court two or more times as an adult.
  - ◆ **Select No** if the defendant has not failed to appear two or more times as an adult.
5. *Two or More Violent Convictions* – Violent convictions are defined for the purposes of risk assessment to include the following: Murder, Manslaughter, Kidnapping, Abduction, Malicious Wounding, Robbery, Carjacking, Arson, Assault (simple assault or assault & battery/misdemeanor or felony), and Sex Offenses (Rape, Sexual Assault/Battery, Carnal Knowledge of a Child, Forcible Sodomy).
- Convictions for burglary and possession or brandishing a firearm are **not** counted as violent convictions. A conviction for attempt or being an accessory before the fact to commit any of the offenses **is** counted. A conviction for conspiring or being an accessory after the fact to commit any of the offenses is **not** counted.
- ◆ **Select Yes** if the defendant has two or more prior violent convictions as an adult.
  - ◆ **Select No** if the defendant does not have two or more prior violent convictions.
6. (A) *Length at Current Residence Less than One Year* – A residence is where the defendant currently lives and does not include non-residences such as a jail, prison, halfway house, hospital, or shelter.
- ◆ **Select Yes** to indicate if the defendant has lived at his residence for less than one year, is homeless, or does not have a stable residence.
  - ◆ **Select No** if the defendant has lived at his current residence for one year or more.
- (B) *Residence Verified* – Select **Yes or No** to indicate whether the residence information was verified by a reference or other secondary source.
7. (A) *Not Employed 2 Years/Primary Caregiver* – Employment includes part or full time as long as the defendant worked regularly and consistently for a minimum of 20 hours per week. A defendant is considered a primary caregiver if he or she is responsible for, and consistently cares for, at least one dependent child (under the age of 18) or disabled or elderly family member, living with the defendant at the time of the arrest.
- ◆ **Select Yes** if the defendant was unemployed at the time of the arrest, had a significant gap in employment over the two years prior to the arrest, is retired, disabled or a student and was not a primary caregiver at the time of arrest.
  - ◆ **Select No** if the defendant has been employed relatively consistently at one or more jobs during the two years prior to the arrest.
  - ◆ **Select No** if the defendant was a primary caregiver at the time of the arrest.

(B) *Employed/Caregiver Verified* – Select **Yes** or **No** to indicate whether the employed/primary caregiver information was verified by a reference or other secondary source.

8. *History of Drug Abuse* – For the purposes of risk assessment drug abuse includes any illegal or prescription drugs and **does not include alcohol**. Consideration should be given to the information provided by the defendant, criminal history, information contained in supervision records, and any information provided by references regarding drug use (**excluding alcohol**).

**Examples:** Indications of a history of drug abuse: 1) previously used illegal substance(s) repeatedly (this is to be distinguished from short-term experimental use); 2) defendant admits to previously abusing illegal or prescription drugs; 3) the criminal history contains drug related convictions; and 4) the defendant received drug treatment in the past.

Any one or a combination of the factors above can be used to determine whether or not the defendant has a history of drug abuse.

- ◆ **Select Yes** to indicate the defendant has a history of drug abuse.
- ◆ **Select No** if the defendant does not have a history of drug abuse.

## Risk Level

After selecting responses to the eight risk factors the risk level is automatically calculated in PTCC by selecting the *Calculate Risk* button. The defendant's level of risk is identified as one of the following: Low, Below Average, Average, Above Average, or High (see figure 3).

**Figure 3. VPRAI (Step 1) Tab in Screening Module: Calculate Risk**

The screenshot displays the 'VPRAI (Step 1)' tab in the 'Screening' module of the PTCC system. The interface includes a menu bar (File, Edit, Modules, Reports, Administration, Window, Help) and a toolbar with icons for Setup, PT Plcmnt, PT Supv, CC Plcmnt, CC Supv, Reports, Exit, Previous, Save, Undo, New, Delete, and Next. The main area is divided into several sections:

- Arrest Information:** Instrument Completion Date: 03/25/2009; Court Date: 03/25/2009; Charge(s): Grand Larceny, \$5,000, General District Court; Bond Type and Amount; Court.
- Research Factors:** Charge Category: Theft/Fraud; Active Community Supervision: Yes; Number of FTA Convictions: 1; Number of Violent Arrests: 0.
- Risk Factors:** Charge Type: Felony; Pending Charge(s): No; Criminal History: Yes; Two or More FTAs: No; Two or More Violent Convictions: No; Length at Current Residence Less Than One Year: No; Residence Verified: Yes; Not Employed 2 Years/Primary Caregiver: Yes; Employed/Caregiver Verified: Yes; History of Drug Abuse: Yes.

The 'Calculate Risk' button is highlighted with a red box, and the resulting 'Risk Level' is 'Above Average'.

## VPRAI (STEP 2)

The VPRAI (Step 2) tab shows the results of the risk factors by displaying a statement related to each risk factor in the *Risk Assessment* section. The risk level is also displayed in the *Risk Level* section. The section regarding Meets Presumption of No Bail §19.2-120 contained in the *From Magistrate's Bail Determination Checklist* section has been disabled and is no longer used. Additional considerations related to risk are entered in the *Additional Considerations* section (see figure 4).

**Figure 4. VPRAI (Step 2) Tab in Screening Module**

The screenshot displays the VPRAI (Step 2) tab in the Screening Module. The window title is "Pretrial and Community Corrections Case Management System (PTCC) - [Screening - Screening]". The interface includes a menu bar (File, Edit, Modules, Reports, Administration, Window, Help) and a navigation bar with tabs: Screening, Charges, Court Assignment, Court Reports, Recommendation, Charge Update, and Court Update. The defendant information is: Name: Defendant, Pretrial; SSN: 999999999; DOB: 12/25/1954. The main content area is divided into several sections:

- Risk Assessment:** A text box containing the following text: "The most serious charge is a felony. No pending charge existed at time of arrest. One or more adult criminal convictions. No pattern of failures to appear exists (zero or one). No pattern of violent convictions exists (zero or one). Length at current residence is more than one year. Not employed continuously for the past two years and was not a primary caregiver at the time of arrest. History of drug abuse."
- Risk Level:** Above Average
- From Magistrate's Bail Determination Checklist:** A section with a disabled checkbox for "Meets Presumption Of No Bail §19.2-120" and a grid of checkboxes for various factors:
 

<input type="checkbox"/> B.1 Violence	<input type="checkbox"/> B.6 Pending
<input type="checkbox"/> B.2 Life/Death	<input type="checkbox"/> B.7 Sexual Assault
<input type="checkbox"/> B.3 Narcotics	<input type="checkbox"/> B.8 Gang/Terrorism
<input type="checkbox"/> B.4 Firearm	<input type="checkbox"/> B.9 DUI + 3
<input type="checkbox"/> B.5 Felony+2	<input type="checkbox"/> C. Illegal Alien
- Additional Considerations:** An empty text box for entering additional information.

The interface also features a sidebar with icons for Screening, Setup, PT Plcmnt, PT Supv, CC Plcmnt, CC Supv, and Reports. The bottom toolbar includes buttons for Exit, Previous, Save, Undo, New, Delete, and Next, along with fields for Staff and Date Edited.

Additional considerations include information deemed important for the judicial officer to consider when making the bail decision. Additional considerations should include areas of risk that have been identified during the pretrial investigation that are not accounted for in the eight (8) primary risk factors detailed previously as well as mitigating factors (factors that may mitigate the seriousness of any of the eight (8) primary risk factors that were identified for the defendant) and positive factors that are relevant to the bail decision.

## VPRAI (STEP 3)

The following information for the VPRAI is entered into the VPRAI (Step 3) tab: Recommendation, Recommended Conditions of Release, and Additional Comments/Recommendations. The VPRAI report is also created from this tab (see figure 5).

**Figure 5. VPRAI (Step 3) Tab in Screening Module**

The screenshot displays the 'VPRAI (Step 3)' tab in the 'Screening - Screening' window of the 'Pretrial and Community Corrections Case Management System (PTCC)'. The window title bar includes 'File Edit Modules Reports Administration Window Help'. The main menu bar contains 'Screening Charges Court Assignment Court Reports Recommendation Charge Update Court Update'. The case information field shows 'Name: Defendant, Pretrial; SSN: 999999999; DOB: 12/25/1954'. The 'VPRAI (Step 3)' tab is active, showing a 'Recommendation' dropdown menu with 'Supervised Release With PR Bond' selected. Below this is the 'Recommended Conditions Of Release' section with several checkboxes: 'Refrain from excessive use of alcohol or use of drugs' (checked), 'Submit to testing for drugs and alcohol' (checked), 'Refrain from possessing a firearm, destructive device, or other dangerous weapon' (unchecked), 'No contact with victim or potential witness' (unchecked), 'Maintain or seek employment' (checked), 'Maintain or commence educational program' (unchecked), and 'Comply with a curfew' (unchecked). There is also a text area for 'Additional Recommended Conditions Of Release'. At the bottom, there is a text area for 'Additional Comments/Recommendations' and a 'Create VPRAI' button. The bottom toolbar includes 'Exit', '<< Previous', 'Save', 'Undo', 'New', 'Delete', and 'Next >>'. The 'Staff:' and 'Date Edited:' fields are also visible.

## Recommendation

The *Recommendation* section contains eight (8) options for a bail recommendation and includes the following:

1. Personal Recognizance;
2. Reduced Bond;
3. Same Bond;
4. Supervised Release with PR Bond;
5. Supervised Release with Secure Bond;
6. Increased Bond;
7. No Bond; and
8. No Recommendation.

One of the eight options must be selected.

## Recommended Conditions of Release

Conditions of release can be recommended if the bail recommendation entered in the *Recommendation* section is either Supervised Release with PR Bond or Supervised Release with Secure Bond. There are seven (7) common conditions that can be recommended by selecting the box next to recommended condition (see Figure 5: VPRAI (Step 3) Tab in Screening Module, p. 9). The common conditions include:

1. Refrain from excessive use of alcohol or use of drugs;
2. Submit to testing for drugs and alcohol;
3. Refrain from possessing a firearm, destructive device, or other dangerous weapon;
4. No contact with victim or potential witness;
5. Maintain or seek employment;
6. Maintain or commence educational program; and
7. Comply with a curfew.

Other conditions of release permitted by the Code of Virginia can be entered in the *Additional Recommended Conditions of Release* section.

## Additional Comments/Recommendations

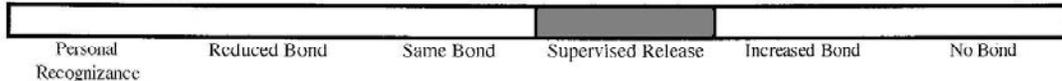
Information related to the bail recommendation that is not included in the *Recommendation* and *Recommended Conditions of Release* sections can be entered here.

## Create VPRAI

The VPRAI report is created by the PTCC software and uses information entered into the four tabs contained in the screening module of PTCC including the Screening, VPRAI (Step 1), VPRAI (Step 2), and VPRAI (Step 3) tabs. Select the *Create VPRAI* button to view and print the VPRAI report.

## APPENDIX – EXAMPLE VPRAI REPORT USING SAMPLE DATA

## Virginia Pretrial Risk Assessment Instrument

**Instrument Completion Date:** 05/02/2009**Court Date:** 05/02/2009**First Name:** VPRAI**Last Name:** Test**Race:** Other**SSN:** 999-99-9999**Sex:** Male**DOB:** 05/02/1971**Charge(s):** Grand Larceny \$5,000, General District Court**Recommendation****Conditions of Release**

- Refrain from excessive use of alcohol or use of drugs
- Submit to testing for drugs and alcohol
- Maintain or seek employment
- Complete substance screening and assessment by the CSB

**Additional Comments/Recommendations**

The combination of the recommended conditions of release with pretrial supervision will address the risk concerns identified by our assessment. Financial conditions are not needed in this case to address the potential for failure to appear in court.

**Risk Assessment****Factors Considered**

- No pending charge existed at time of arrest
- No pattern of failures to appear exists (zero or one)
- No pattern of violent convictions exists (zero or one)
- Length at current residence is more than one year
- The most serious charge is a felony
- One or more adult criminal convictions
- Not employed continuously for the past two years and was not a primary caregiver at the time of arrest
- History of drug abuse
- The pretrial risk assessment identifies the defendant's risk level as above average

**Additional Considerations**

Although the defendant has not been employed continuously for the past two years, he recently obtained employment at American Auto Repair. This information was verified through the defendant's employer, John Sullivan.

Confidential - Further disclosure prohibited by law pursuant to §2.2-3706 and §19.2-152.4:2 of the Code of Virginia.