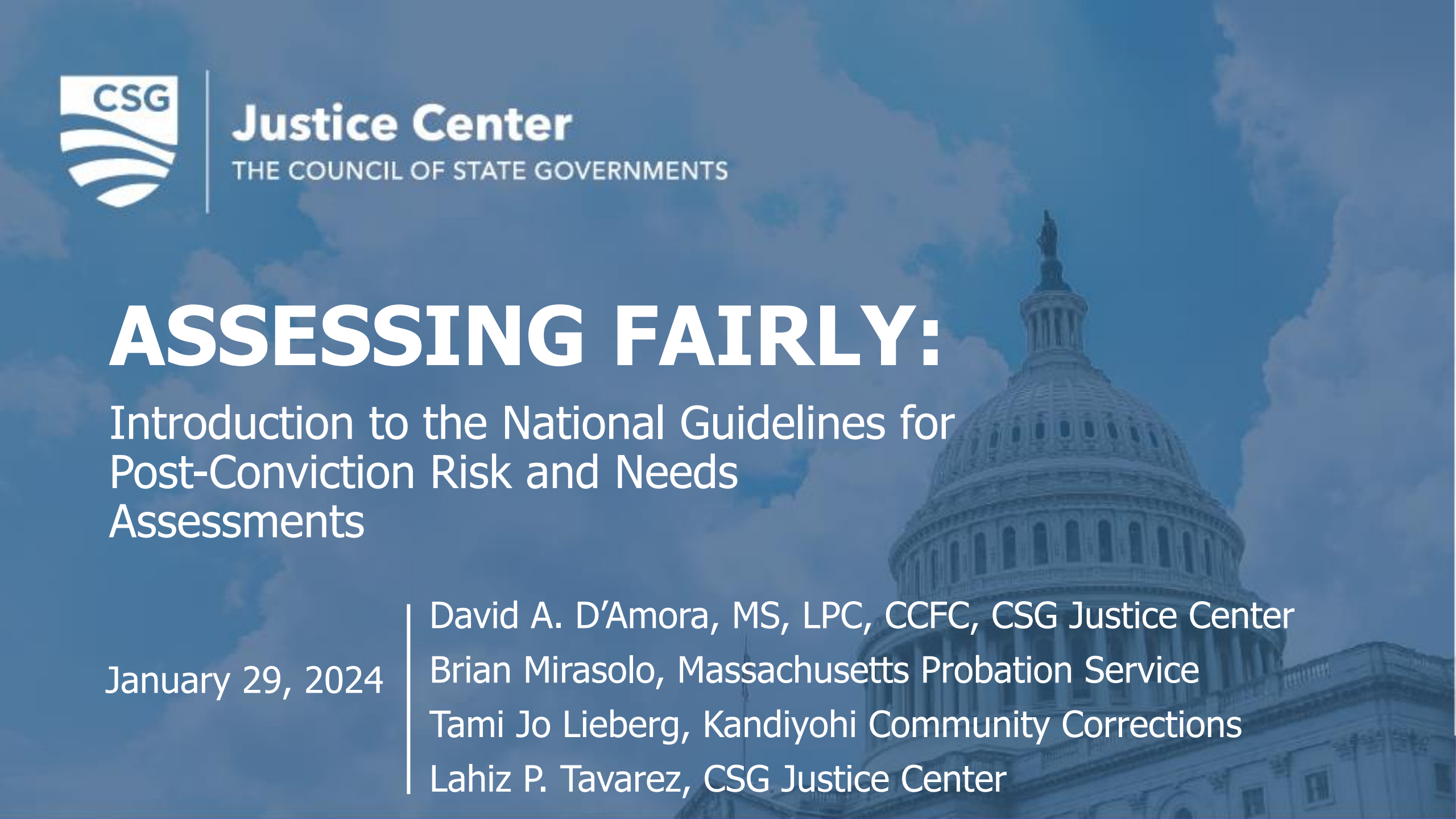

Justice Center
THE COUNCIL OF STATE GOVERNMENTS

ASSESSING FAIRLY:

Introduction to the National Guidelines for Post-Conviction Risk and Needs Assessments

January 29, 2024

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The National Guidelines for Post-Conviction Risk and Needs Assessment project is funded by the Bureau of Justice Assistance (BJA).

Presentation Outline

I. The Need for Guidelines

II. An Overview of the Guidelines

III. Practical Application of the Guidelines

IV. Resources and Next Steps

There is a need for a standardized approach to risk and needs assessment tools across the nation.

- Instruments are developed and **used differently** across the country.
- States want to ensure the use of assessment instruments does not **increase disparities** within the system.
- **Perceptions of unfairness** and concerns over a lack of transparency exist.

Justice Reinvestment Initiative

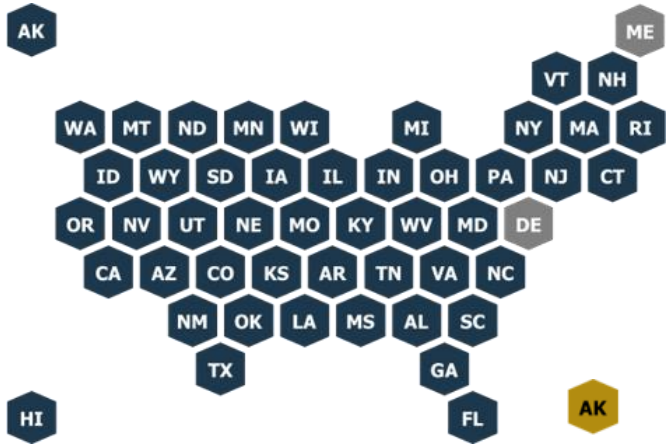
In 2017…

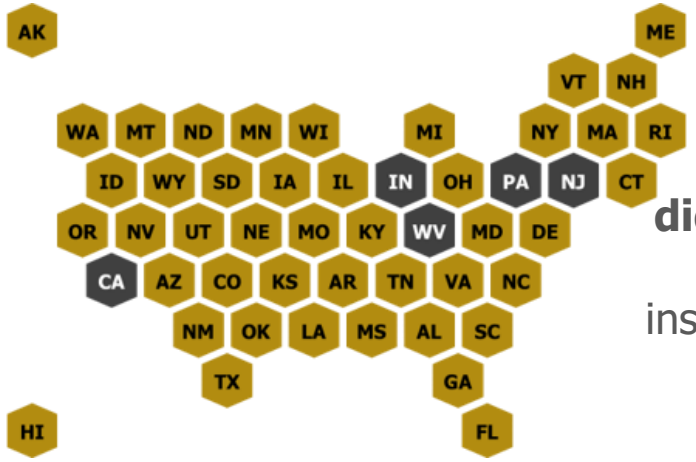
48 states

reported using risk assessment instruments for people on parole

2 states

did not have post-custody supervision populations and therefore did not use risk assessments





45 states

reported using risk assessment instruments for people on probation

5 states

did not respond, reported **not using** risk assessment instruments, or **did not know** if they use risk assessment instruments

Source: The Council of State Governments Justice Center 50-State structured interviews, August 2017.

National coverage on risk assessment tools fueled concerns about disparate outcomes for people of color.

This coverage raised important questions about bias.

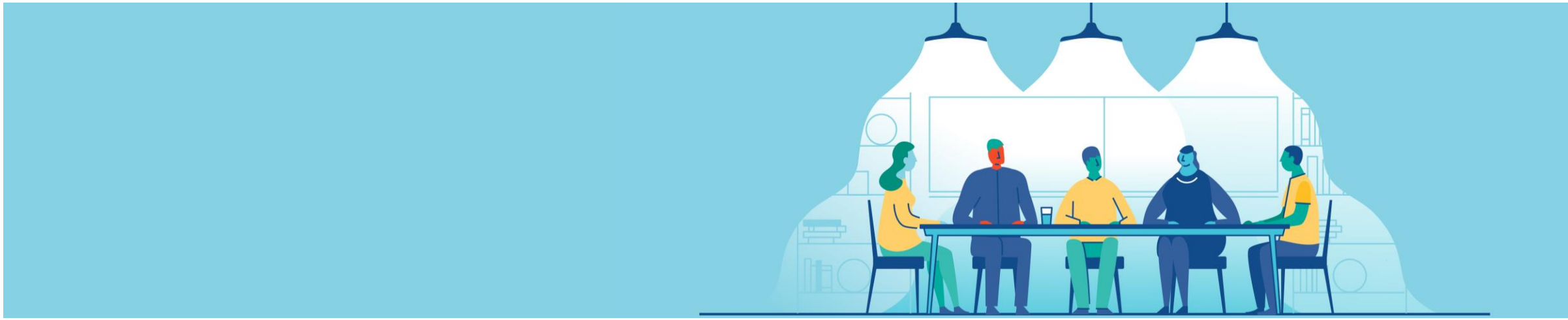
"Algorithmic decision-making tools are only as smart as the inputs to the system… **Biases in data sets will not only be replicated in the results, they may actually be exacerbated.**"

"Research shows that risk assessments often do not accurately predict risk and **can produce results that are biased against people of color—particularly African Americans**."

Then Senators Cory Booker, Richard Durbin, and Kamala Harris; Representatives Sheila Jackson Lee and John Lewis

It is true that many instrument validations do not include a statistical test for accuracy across race, ethnicity, and gender, though the field is shifting in this area.

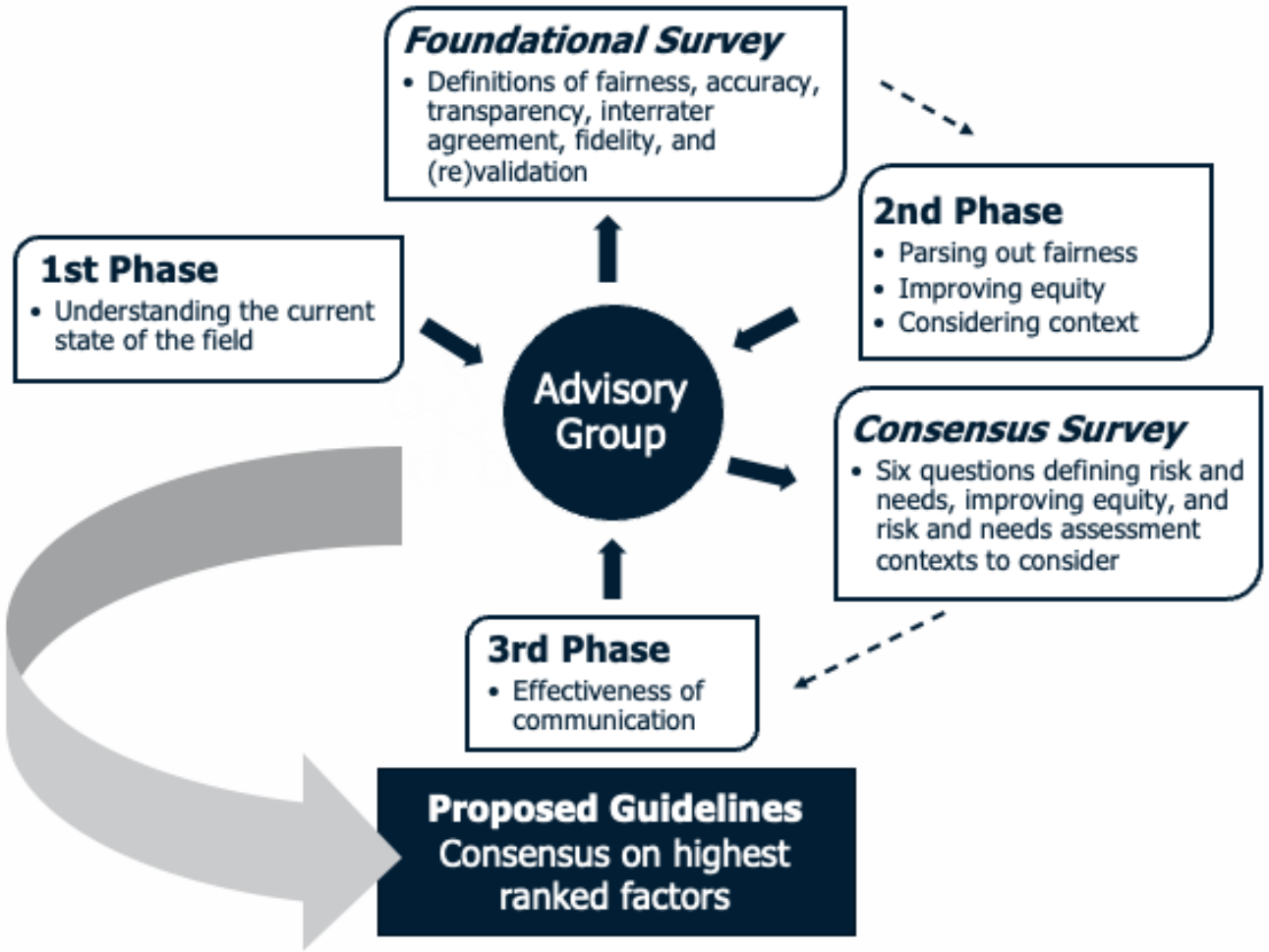
There is also often a lack of transparency in explaining the instrument's use, fairness, and accuracy to people who undergo the assessments, criminal justice stakeholders, and the broader public.



The guidelines pose three questions to help policymakers and practitioners.

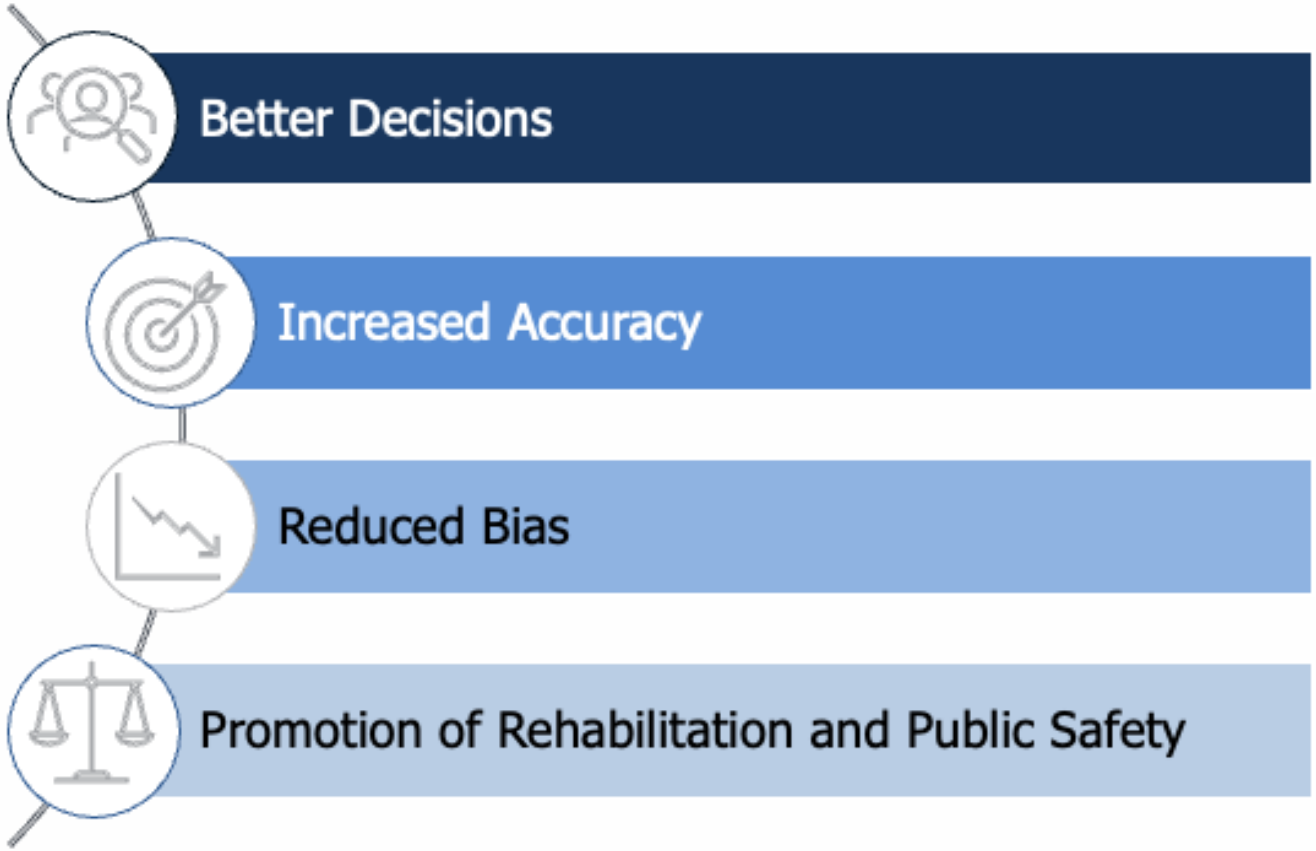
1. What degree of accuracy should the post-conviction risk and needs assessment instrument meet?
2. How can users best determine the fairness of these instruments across race, ethnicity, and gender—especially given the history of bias and disparities in the criminal justice system?
3. In what ways should information about the use of these instruments and their underlying algorithms be transparent and communicated publicly?

Methodology



26-Member Advisory Group

The guidelines address gaps in how tools are administered and provide additional benefits.



Post-Conviction

These guidelines pertain to the use of post-conviction risk and needs assessment instruments to inform decisions and case planning that occur after court disposition—specifically, after conviction and sentencing.

Decision-Making

They may also be used in the application of assessment results to inform decision-making and case planning in the context of alternative forms of criminal justice processing, such as after a decision has been made to offer a diversion program.

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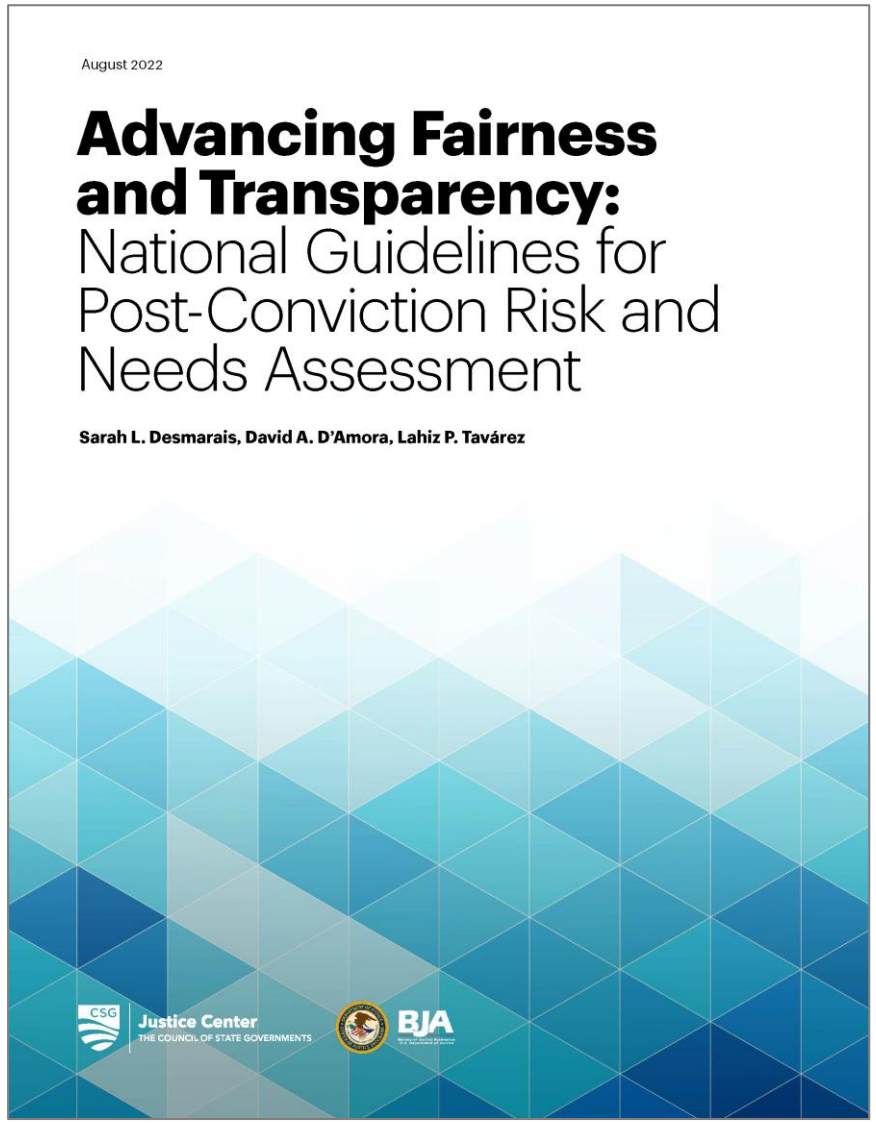
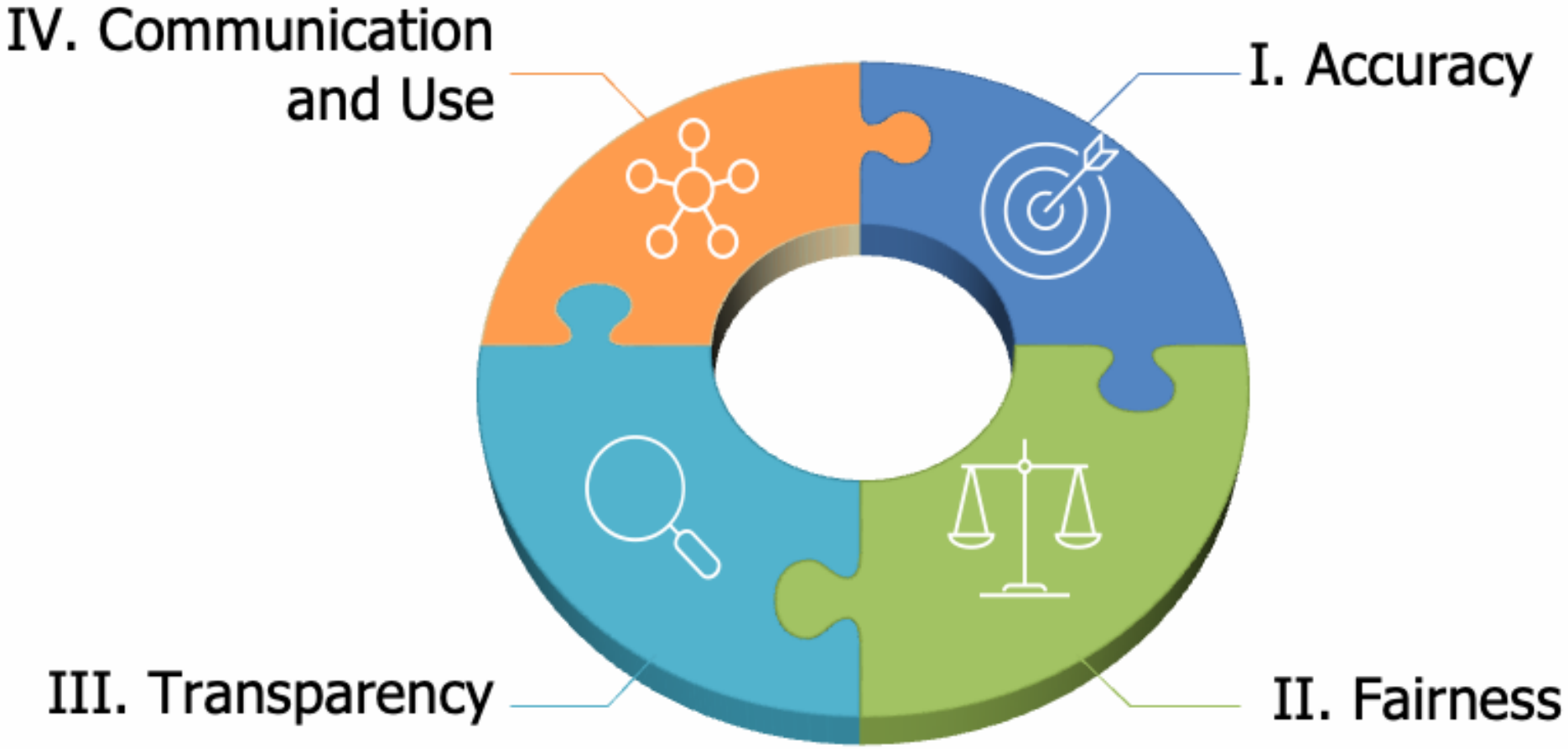
The guidelines launched August 30, 2022, on BJA's Public Safety Risk Assessment Clearinghouse website and the CSG Justice Center website.

www.bja.gov
www.csgjusticecenter.org



The guidelines include four sections.



Accuracy

Accuracy refers to the degree to which assessment results predict the recidivism outcomes they were designed to predict.

Accuracy Guidelines

1. Conduct a local evaluation of the post-conviction risk and needs assessment instrument to ensure that the instrument is suitable for the agency's population;
2. Meet minimum performance thresholds of post-conviction risk and needs assessments completed in the field according to statistical standards;
3. Use a continuous quality improvement (CQI) process to ensure successful implementation of the post-conviction risk and needs assessment instrument; and
4. Use a multi-step approach to assess risk and needs over time.

Fairness

Fairness is the degree to which assessment results have the same meanings and applications across groups defined by race, ethnicity, gender, or other characteristics such as mental illness.

Fairness Guidelines

5. Examine the results of the post-conviction risk and needs assessment instrument for predictive bias and disparate impact across groups;
6. Apply the post-conviction risk and needs assessment instrument results to individual cases in keeping with the Risk-Need-Responsivity (RNR) principles; and
7. Adopt agencywide strategies to minimize the potential that local implementation of the post-conviction risk and needs assessment instrument promotes disparities.

Transparency

Transparency refers to how information about the content, structure, and application of these instruments is disseminated to stakeholders.

Transparency Guidelines

8. Provide system stakeholders with relevant information on the development, intended use, and validation of the post-conviction risk and needs assessment instrument;
9. Develop a written policy that guides the local use of the post-conviction risk and needs assessment instrument; and
10. Communicate the strengths and the limitations of post-conviction risk and needs assessment instruments to the general public.

Communication and Use

Communication and use refers to the fact that the manner in which individual assessment results are communicated and used can greatly affect their impact on decision-making and, consequently, their effectiveness.

Communication and Use Guidelines

11. Anchor communication of assessment results in the RNR principles;
12. Contextualize the results of the post-conviction risk and needs assessment instruments; and
13. Develop a template for communicating individual results of post-conviction risk and needs assessment instruments to all relevant stakeholders, including the person being assessed.

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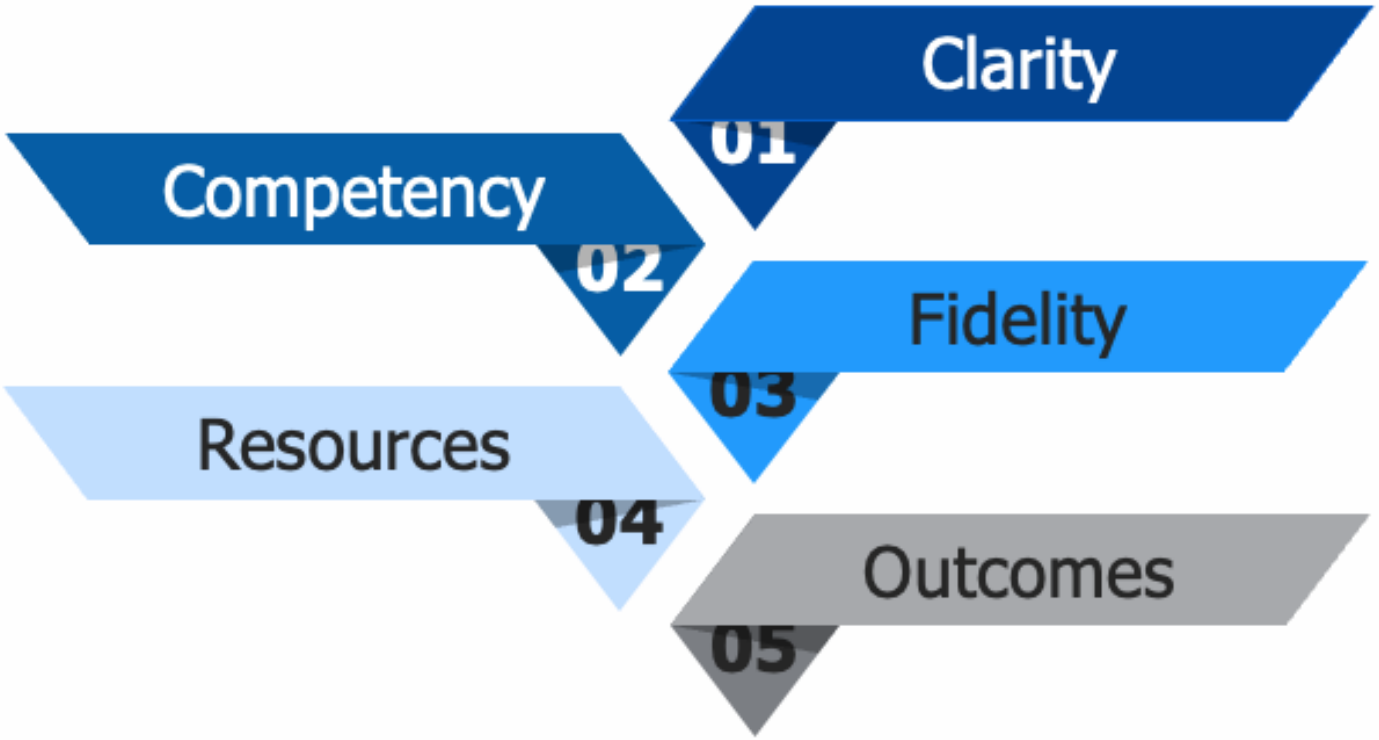
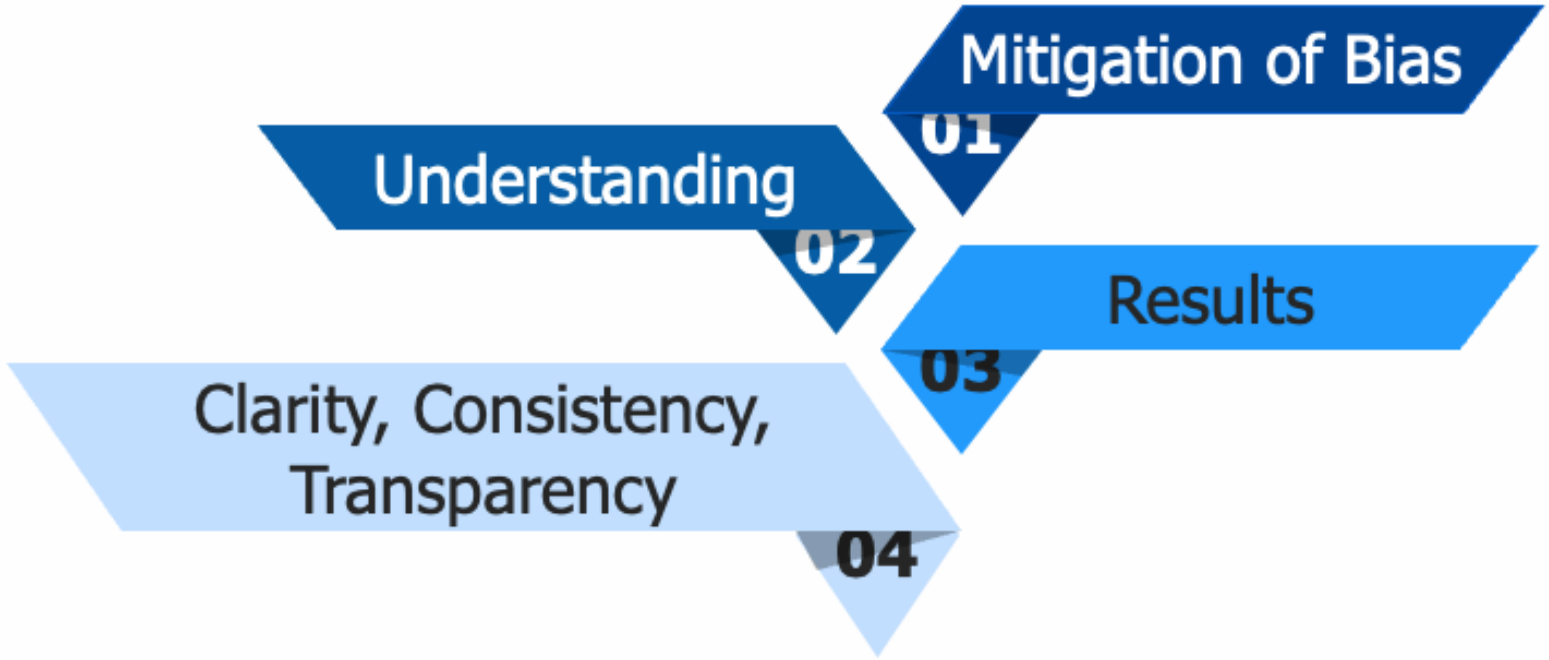
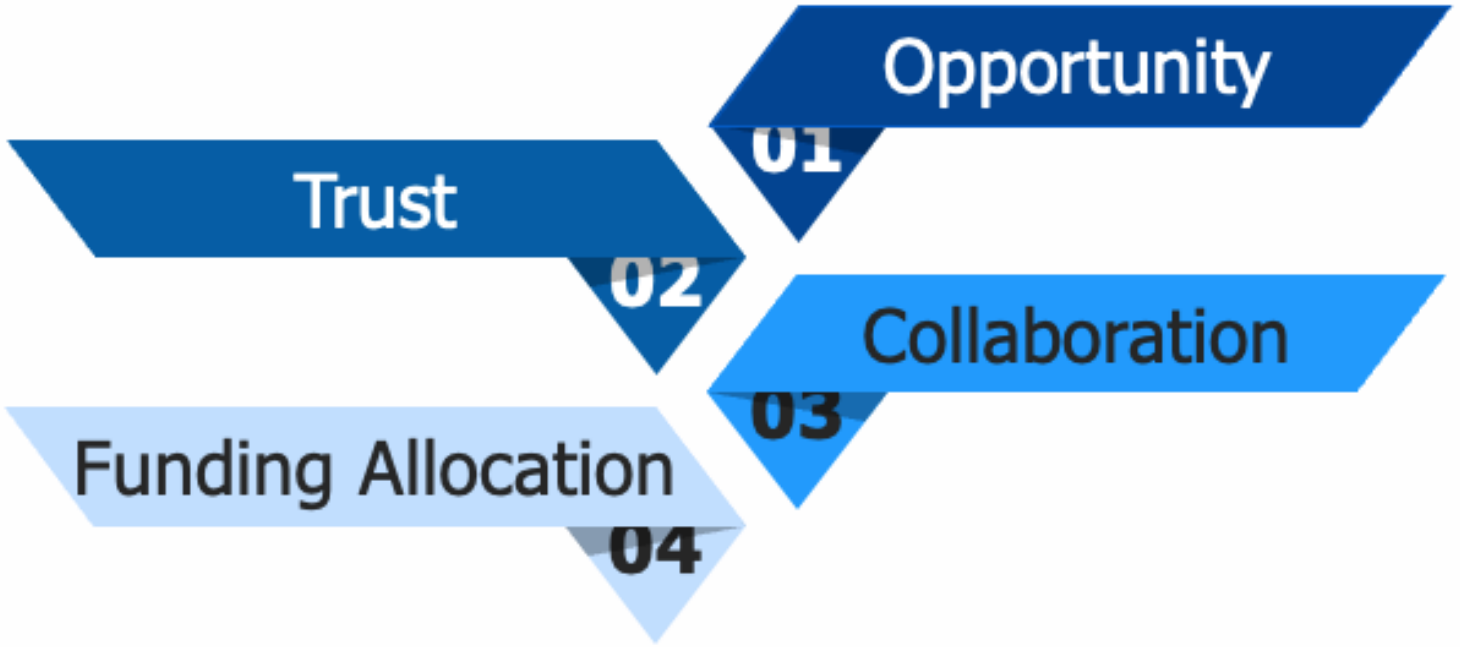
Organizational Benefits



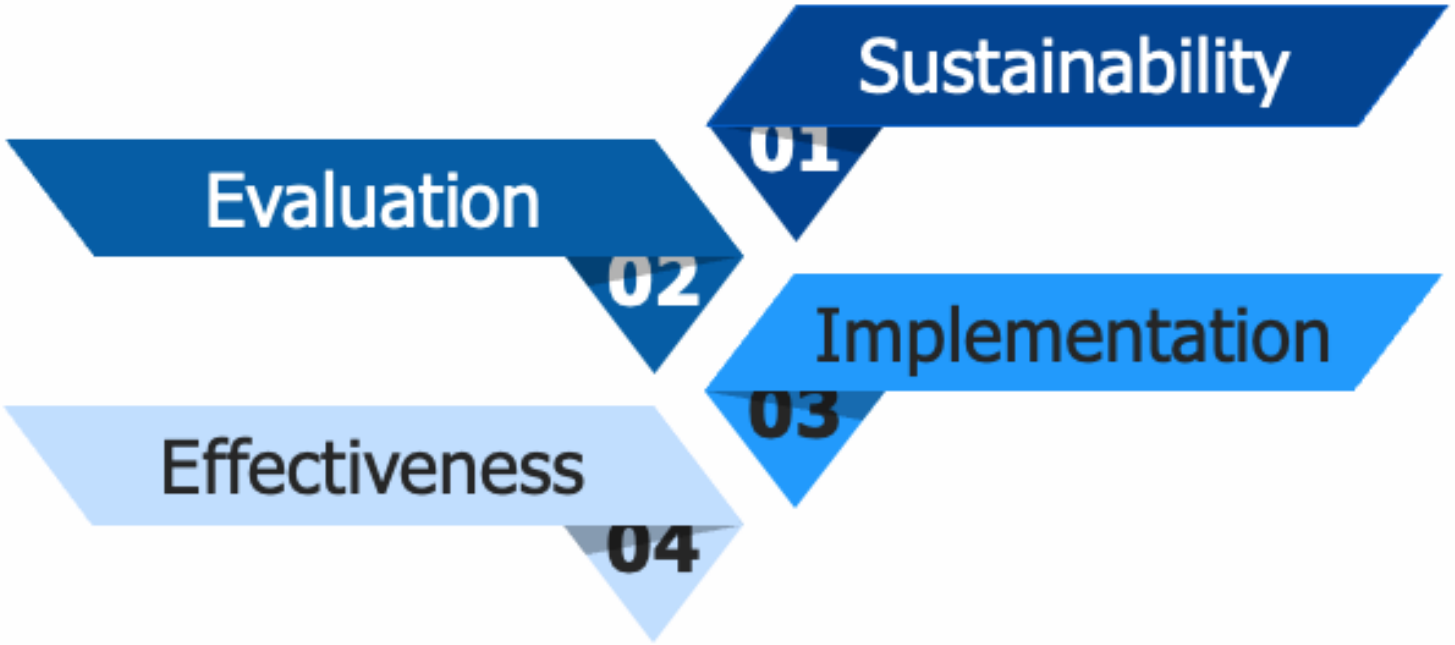
Benefits for People in the Criminal Justice System



Stakeholder and Community Benefits



Research and Practitioner Benefits



Massachusetts Probation Services (MPS)

Deputy Commissioner Brian Mirasolo on the importance of National Guidelines for Post-Conviction Risk and Needs Assessment

Minnesota Department of Corrections (MN DOC), Minnesota Association of Community Corrections Act Counties (MACCAC), Minnesota Association of County Probation Officers (MACPO)

Director Tami Jo Lieberg on the importance of National Guidelines for Post-Conviction Risk and Needs Assessment

Q
A

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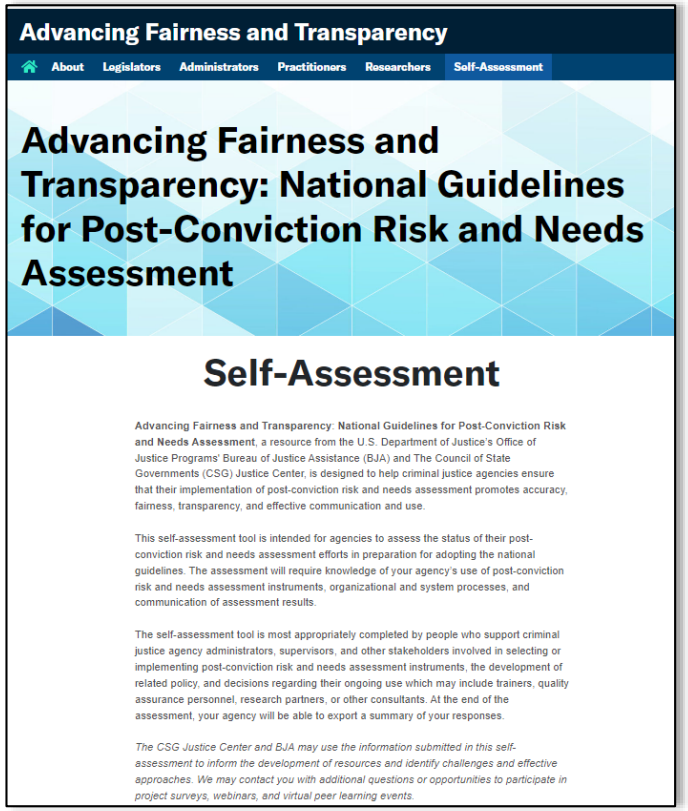
There are five resources.

1. FAQ for legislators
2. FAQ for agency administrators
3. Executive summary for practitioners
4. 50-page "deep-dive" publication for researchers and others charged with implementing the guidelines
5. Self-assessment tool
6. Technical assistance

*Recorded introductory webinar available

Complete the self-assessment tool.

- **Why:** Assesses the status of your efforts in preparation for adopting the guidelines.
- **Who:** People responsible for selecting or implementing post-conviction risk and needs assessment instruments, developing related policy, and making decisions regarding their use.
- **Where**: https://riskselfassessment.org



Request technical assistance (TA).

How to request TA:

Visit our Take Action page!

TA is available to elevate your practices, enhance fairness, and lead in implementing cutting-edge strategies that benefit criminal justice agencies, individuals in the system, and your broader communities.

- ✓ Complete the **TA request form**.

How can my state or local jurisdiction get involved if not requesting TA?

1. Review the suite of resources available for a variety of audiences, including legislators, administrators, practitioners, and researchers.
2. Take the self-assessment to evaluate the status of your agency's risk and needs assessment efforts in preparation for adopting the national guidelines.
3. Sign up for our newsletter to stay up to date on new opportunities, resources, and webinars for this project.
4. If you have any questions, submit a request for assistance.

Thank You!

Join our distribution list to receive updates and announcements:

https://csgjusticecenter.org/resources/newsletters/

For more information, please contact:

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