

# The Risk Assessment Program and the Court of Penal Execution in the Province of Buenos Aires, Argentina

Jorge O. Folino  
Claudio M. Marengo  
Susana E. Marchiano  
Mariel Ascazibar

**Abstract:** *This study describes the working of a new system that supervises the execution of the punishment phase in the Province of Buenos Aires, Argentina; namely, the Court of Penal Execution, as well as the risk assessment program. It also reports the results of the violent recidivism baseline risk assessment carried out in candidates for conditional release. The cohort studied was recruited during 18 months in the Judicial Department of La Plata, taking into consideration psychopathological and criminological variables. The Psychopathy Checklist-Revised (PCL-R), the Historical, Clinical, and Risk Management-20 (HCR-20), and the Violence Risk Appraisal Guide (VRAG), among others, were used as measures. During the study period, 65 candidates for conditional release were part of the baseline assessment, and they constitute the population of this study. The measures' mean scores were PCL-R, 20.57; HCR-20, 18.58; VRAG, 12.17.*

**Keywords:** *risk assessment; risk management; risk measures; conditional release; violent recidivism*

In the Province of Buenos Aires, important modifications have been made to the judicial system since 1998, the year in which the code of criminal procedure was modified. The new system establishes that convicted offenders and offenders acquitted for reasons of insanity shall remain under the jurisdiction of a judge in charge of executing the punishment. In the previous system, the administration of the case was placed under the penitentiary service by the trial judge.

In September 2001 the first Court of Penal Execution—a special jurisdiction court—was formed in the Judicial Department of La Plata. This department also houses the head of the judicial power. At the same time, the risk assessment pilot program was implemented with the aim of (a) establishing a systematic manner of assessment and (b) contributing to the design of risk factor management programs. The aim of this article is to describe the way in which these institutions work and to report the results of the baseline assessments effectuated during the first 18 months of operation—from September 2001 to February 2002, inclusive.

**TABLE 1**  
PEOPLE IN CONFINEMENT IN THE PROVINCE OF BUENOS AIRES

<i>Legal Status</i>	<i>Number</i>
Male prisoners awaiting sentence	15,050
Male convicted prisoners	2,549
Female convicted prisoners	86
Male and female prisoners acquitted by reason of insanity	451
Total	18,623

#### THE PENITENTIARY SERVICE AND THE PROVINCE OF BUENOS AIRES

By the end of 2002 there were 18,623 people in confinement, lodged in the Penitentiary Service of the Province of Buenos Aires. These included convicted persons, persons awaiting sentence, and persons acquitted by reason of insanity (see distribution in Table 1).

The province of Buenos Aires at that time had 13,818,677 inhabitants.

#### THE PENAL EXECUTION SYSTEM

In the current system, the judge of penal execution settles issues and incidents arising during the execution of the punishment phase and is also responsible for guaranteeing the constitutional rights of the person in confinement (Código Procesal Penal de la Provincia de Buenos Aires y Leyes Complementarias, 1998; Ley No. 11922, 1997; Ley No. 12256, 1999).

Forms of early release may be entered prior to the completion of the sentence term. These provide a less restrictive option that facilitates the progressive reintegration of the person into the community. These are the different release modalities:

- conditional release,
- anticipated conditional release, and
- limited discharge (for persons acquitted by reason of insanity who are hospitalized in psychiatric units).

Likewise, there also exist the following forms of special partial release:

- temporary release,
- discontinued imprisonment, and
- semidetention—diurnal or nocturnal (an authorization to leave the institution on a daily basis and for a certain amount of hours in order to work, study, etc.).

To be granted one of these forms of release, certain conditions stipulated by the law must be fulfilled, in addition to others that the judge of penal execution may impose. The law stipulates that the subject must

- establish a permanent residence,
- look for a job,
- remain under the supervision of the ex-convicts board, and
- agree to certain standards of behavior and establish relationships that contribute to his social reintegration.

The additional requirements imposed by the judge of penal execution are the following:

- to undergo outpatient treatment, if deemed necessary, and
- to participate in specific programs such as the drug abuse biochemical control program, designed to contribute to the management of one of the criminal recidivism risk factors—drug abuse. The program consists of the biochemical testing of the drug metabolite in hair and urine (Folino, Arado, Ferrari, & Marengo, 2002).

#### THE RISK ASSESSMENT PILOT PROGRAM

Among the activities developed by this program, three principal activities occupy the focus:

- (a) the risk assessment conducted on request by the court;
- (b) the research on criminal recidivism baseline rates in the Province of Buenos Aires, conducted with a cohort of the persons released in 1991 (Folino & Marchiano, 2002); and
- (c) the research aimed at adapting and validating locally certain instruments used in other countries. Currently, apart from carrying out the baseline assessments, the follow-up period in institutions (phase in) and in the community (phase out) depend upon the judicial decision taken after the assessment.

#### MATERIALS AND METHOD

During the study period, September 2001 to February 2003, 1,370 cases were admitted to the court of penal execution. One hundred five of those were serving a sentence—either in prison or hospitalized in a forensic psychiatric unit. Of those 105 cases, 65 were candidates for some form of conditional release and were part of the baseline assessment. The 65 cases constitute the population described in this study.

Case assessment included careful study of criminal records and court files, diagnostic interviews with respondents, interviews with family members, and,

when necessary, interviews with a clinical practitioner. The sources of information were varied, as is currently recommended by the scientific community (Monahan et al., 2000).

The Psychopathy Checklist–Revised<sup>1</sup> (PCL-R) (Hare, 1990), the Historical, Clinical, and Risk Management–20<sup>2</sup> (HCR-20) (Webster, Douglas, Eaves, & Hart, 1997), and the Violence Risk Appraisal Guide<sup>3</sup> (VRAG) (Quinsey, Harris, Rice, & Cormier, 1999) were used as measures. Other study variables also were incorporated, including items from the Iterative Classification Tree<sup>4</sup> (ICT) (Monahan et al., 2000) and the Childhood and Adolescent Taxon Scale<sup>5</sup> (CATS) (Quinsey et al., 1999).

## RESULTS

### DEMOGRAPHIC AND CRIMINOLOGICAL DESCRIPTION

The study participants were all male, and the mean age was 27.7 years with a standard deviation of 7.8. Eighty-five percent (55 cases) were convicted offenders and 15% (10 cases) were offenders acquitted by reason of insanity.

A vast majority of the respondents (84.4%) had committed some type of robbery (see Table 2). Eighty-six percent had committed a crime against an unknown victim.

At the time of the evaluation, the study population had served 2.6 years of the term on average. The convicted offenders were admitted as candidates for conditional release and were assessed 1.6 years before completing the term, on average.

The mean years of formal school education were low, 6.9 years (standard deviation 2.15). Clinically, a generalized reading deficiency was registered. Other than that deficiency, there was a generalized work training deficiency.

### RISK MEASURES

Table 3 depicts the descriptive statistics for risk measures.

Table 4 depicts the case distribution by risk categories according to the VRAG.

After grouping the categories in low risk (Categories 1 to 3), medium risk (Categories 4 to 6), and high risk (Categories 7 to 9), the distribution was as follows: 2 low-risk cases, 33 medium-risk cases, and 30 high-risk cases.

Some risk factors were highly represented in the population, for which they deserve special mention: 28% of the participants had been arrested before the age of 16; 20% had been in a penal institution for youth offenders; 66% had failed in previous probation, conditional release, or limited discharge from a mental institution; 29% had a close relative in prison; and 75% had serious or moderate employment problems before incarceration.

Regarding the pathological aspect of the population, a high prevalence of drug abuse disorders was registered. A history of severe drug abuse problems was reg-

**TABLE 2**  
DISTRIBUTION OF MAJOR CRIMES

<i>Crime</i>	<i>Frequency</i>	<i>%</i>
Aggravated sexual abuse	1	1.5
Threats	1	1.5
Homicide	4	6.2
Attempted homicide	2	3
Physical injuries	1	1.5
Theft	1	1.5
Aggravated larceny	1	1.5
Auto theft	1	1.5
Robbery	9	13.8
Aggravated armed robbery	11	16.9
Aggravated robbery	25	38.4
Attempted aggravated robbery	7	10.8
Attempted robbery	1	1.5
Total	65	100.0

**TABLE 3**  
RISK MEASURES

	<i>PCL-R Adjusted Total Score</i>	<i>HCR-20</i>	<i>VRAG</i>	<i>Motor Impulsiveness Score</i>
<i>n</i>	65	65	65	60
Minimum	1	2	-13	0
Maximum	37	34	37	36
Mean	20.57	18.58	12.17	12.20
Standard deviation	9.05	7.63	10.87	8.03
Skewness	-0.473	-0.219	-0.101	0.584
Kurtosis	-0.537	-0.872	-0.505	-0.078

NOTE: PCL-R = Psychopathy Checklist-Revised; HCR-20 = Historical, Clinical and Risk Management-20; VRAG = Violence Risk Appraisal Guide.

istered by 61.5% of the population, and 15% had a history of moderate drug abuse problems, according to the H5 item of the HCR-20 (Webster et al., 1997). The percentage of cases with a major mental disorder diagnosis was 6%. The distribution of Axis I diagnostic categories from *Diagnostic and Statistical Manual of Mental Disorders*, fourth edition (*DMS-IV*) (American Psychiatric Association, 1994) is presented in Table 5.

Ecological risk factors were assessed with five HCR-20 factors: 33% had a moderate to severe deficit in feasibility of reinsertion plans, 78% were at risk of

**TABLE 4**  
CATEGORIES ACCORDING TO THE VIOLENCE RISK APPRAISAL GUIDE

<i>Category</i>	<i>Frequency</i>	<i>%</i>	<i>Accumulated %</i>
3	2	3.1	3.1
4	8	12.3	15.4
5	9	13.8	29.2
6	16	24.6	53.8
7	12	18.5	72.3
8	14	21.5	93.8
9	4	6.2	100
Total	65	100	

**TABLE 5**  
AXIS I *DMS-IV* DIAGNOSTIC CATEGORIES

<i>Category</i>	<i>Frequency</i>	<i>%</i>
Schizophrenia, paranoid type	1	1.5
Mood disorder NOS	1	1.5
Pedophilia	1	1.5
Cannabis dependence	1	1.5
Obsessive-compulsive disorder	1	1.5
Cannabis abuse	1	1.5
Alcohol abuse	2	3.1
Cocaine dependence	2	3.1
Schizophrenia, residual type	3	4.6
Alcohol dependence	3	4.6
Polysubstance dependence	32	49.2
No diagnosis	17	26.2
Total	65	100

NOTE: *DSM-IV* = *Diagnostic and Statistical Manual of Mental Disorders*, 4th edition (American Psychiatric Association, 1994); NOS = not otherwise specified.

moderate to severe exposure to destabilizers, 65% had moderate to severe deficit of personal support, 63% showed moderate to severe probability of noncompliance with therapeutic or rehabilitation regimes, 60% were at risk of moderate socioeconomic stress, and 12% of high socioeconomic stress.

#### JUDICIAL RESOLUTIONS

Forty-eight percent of the assessed participants were granted conditional release or limited discharge by judicial resolution.

Nineteen percent of the released participants were incorporated in the temporary release program and 61% were incorporated in the substance abuse biochemical control program (Folino et al., 2002). The remaining participants were released with no specific program.

The judicial resolution of release did not correlate either with the VRAG categories, the grouping of the VRAG categories in low, moderate, and high levels, or with the risk degrees according to the HCR-20.

## DISCUSSION AND CONCLUSIONS

In the previous system, the way in which risk assessment and the management of conditionally released prisoners was conducted was precarious. The lack of a specific judge for the punishment phase, the insufficiency of programs satisfying the needs of the released prisoners, and the lack of knowledge regarding general outcomes were the major deficiencies of the system. Recently, however, despite a difficult financial situation, efforts have been made to compensate for these deficiencies.

The findings of this study allow for a profile design of the candidate for conditional release:

Approximately 28 years of age; serving a sentence for some sort of robbery, the victim being a stranger; poor educational level from both a quantitative and a qualitative point of view; having criminal records and having failed previously either while under release, discharge, or probation; displaying a history of serious to moderate working problems and having severe drug abuse problems; having applied for conditional release, on average, 1 ½ years before the sentence is completed; at medium or high risk for future violence.

Establishing the degrees of risk has certain limitations. Even though the local criminal recidivism base rate is taken into account, there are no results available yet that allow the local predictive efficiency of risk factors to be accurately evaluated.

There are various differences between the population of this study and that of the studies that served as the foundations for the VRAG, in the Oak Ridge Division of the Mental Health Care Centre in Penetanguishene (Quinsey et al., 1999). The population of this study has a lower proportion of respondents acquitted by reason of insanity and a lower proportion of crimes against the person. Likewise, the average age was also lower—28 as opposed to 37.6.

As regards the PCL-R measures, although it must be acknowledged that the instrument is currently being validated locally, the mean total score was 20.57, which is analogous to the normative data reported by Hare (1990) in the original manual (20.56) and by Hildebrand, de Ruiter, de Vogel, and van der Wolf (2002) in Holland (19.16). On the other hand, the measure obtained was much higher than the one informed by research on a remand population in Denmark (10)

(Andersen, Sestoft, Lillebaek, Mortensen, & Kramp, 1999), which is reasonable taking into account that that sample is not very selective (prior to verdict), whereas the population of this study is more selective (close to prison release). The difference may be accounted for in terms of cultural differences—an aspect that should be studied in future research.

Furthermore, some ecocultural findings may serve as criteria for taking decisions when designing prevention plans. In the historic perspective, the fact that 20% of the respondents were exposed to influences in institutions for juvenile offenders indicates an area in which prevention plans should be reinforced. In the future perspective, the high prevalence of risk for exposure to destabilizers, socioeconomical stress, and deficit of personal support shows that preventive action also should be reinforced in this respect. Even though prisoners become candidates for conditional release after completing two thirds of the sentence term, it is worth noting that satisfying this temporal criterion is not enough to obtain this anticipated release in the Province of Buenos Aires. Although all respondents assessed fulfilled this criterion, only 48% were granted conditional release or limited discharge by judicial resolution. This finding highlights how important adequate risk assessment and program availability (such as those mentioned above) are for the system, because they may influence judicial decisions. The way in which this influence works has not been precisely established as yet. Current results show no significant correlation between risk measures and judicial resolutions. Either the size of the sample or the fact that the decisions are the result of a combination of very particular factors that still must be studied could account for this situation.

Finally, the authors admit that the present preliminary report does not draw definite conclusions. However, they expect to be able to report how actions have been taken to make the transition from prison to community more dignified in Argentina.

## NOTES

1. The Hare Psychopathy Checklist–Revised (PCL-R) is a rating scale for the assessment of psychopathy, mainly in male forensic populations. It yields dimensional scores, but it also can be used to classify or diagnose individuals as psychopaths, using a cutoff score. It comprises 20 items, which can be rated with a 3-point ordinal scale.

2. The Historical, Clinical and Risk Management–20 (HCR-20) is a guide intended to structure professional judgments of risk of violence by means of 20 key risk factors divided into three subscales (Historical, Clinical, and Risk Management).

3. The Violence Risk Appraisal Guide (VRAG) is an actuarial instrument for the prediction of violent recidivism. It was developed by researchers at the Penetanguishene Mental Health Centre by studying the recidivism of more than 800 serious offenders. It comprises 12 personal characteristic variables.

4. The Iterative Classification Tree (ICT) is a risk assessment tool based on a classification tree approach that reflects an interactive and contingent model of violence, allowing many different combinations of risk factors to classify a person as high or low risk.

5. The Childhood and Adolescent Taxon Scale (CATS) is an ex post facto eight-item scale developed to reflect antisocial and aggressive childhood conduct.

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**Jorge O. Folino**

Professor  
National University of La Plata  
and  
Director of the Risk Assessment Program  
General Attorney's Office  
Supreme Court of Justice  
Manuel B. Gonnet  
La Plata  
Argentina

**Claudio M. Marengo**

Judge of Penal Execution  
Province of Buenos Aires  
Plaza Rocha #12  
La Plata (1900)  
Argentina

**Susana E. Marchiano**

Professor of Law  
National University of La Plata  
La Plata  
Argentina

**Mariel Ascazibar**

Social Worker  
La Plata (1900)  
Argentina