

Predicting Recidivism for Native American Offenders on a Montana Reservation: Reporting on Risk and Resilience Factors



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Introduction

- AI/AN over representation in Montana Prisons (MDOC, 2015)
 - 35% AI/AN female inmates and 19.6% AI/AN Male inmates
 - AI/AN population in Montana is 6.6% (US Census Bureau, 2015).
- AI/AN Recidivism (Conley & Shantz, 2006)
 - 2.1 times as likely to recidivate
 - 85% due to technical violation only
- Recidivism risk assessment in AI/AN offender populations
 - Level of Service Inventory – Revised (LSI-R)**
 - Low to moderate predictive ability in Aboriginal/Indigenous offender populations (Wilson & Gutierrez, 2013)
 - Does not take into account culturally unique, culturally specific factors (Wilson & Gutierrez, 2013; Wormith, Hogg, & Guzzo, 2015)
 - Inaccurate risk assessment may be contributing to high rates of recidivism in AI/AN populations.

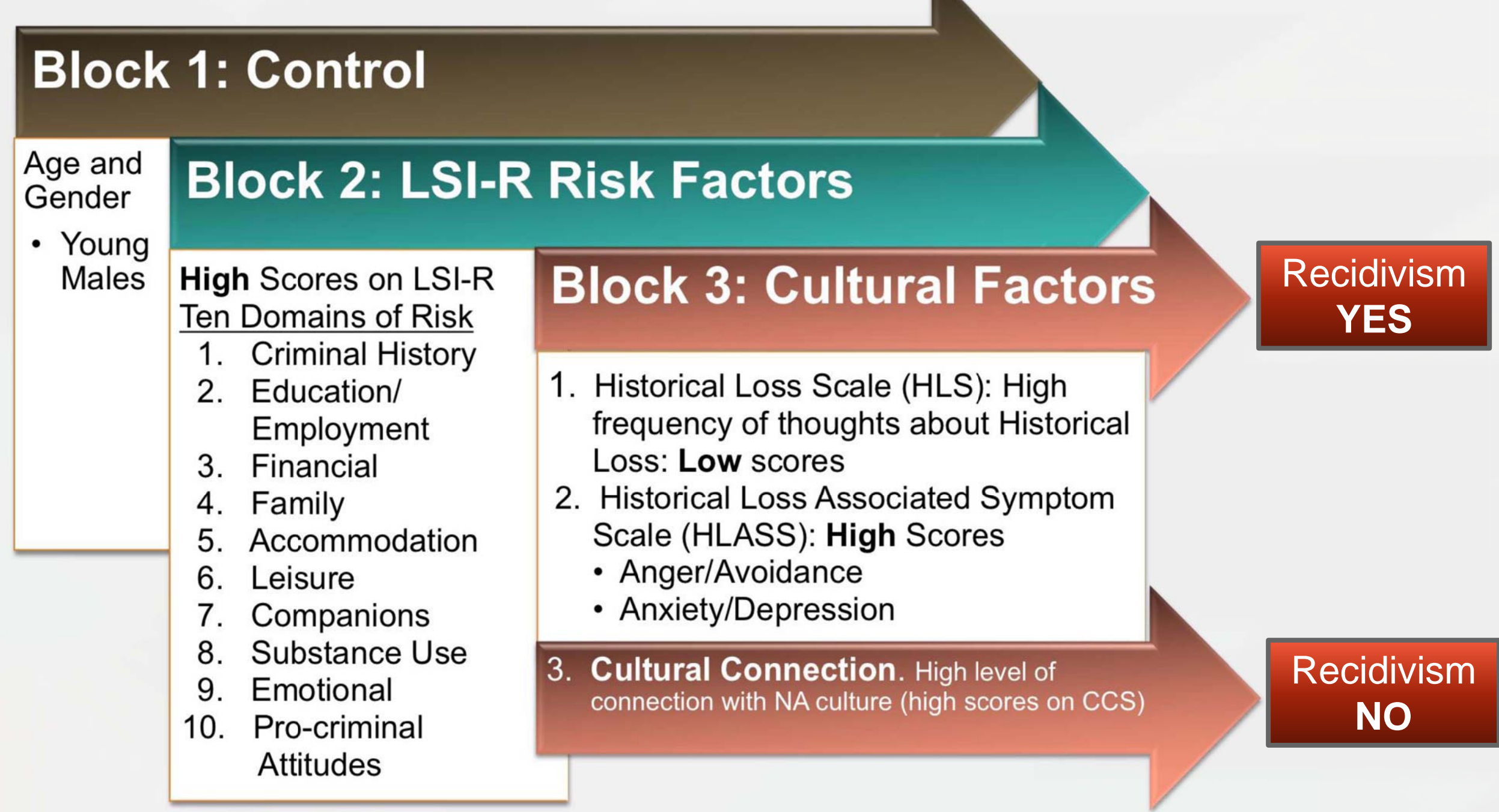
Project Goals/Rationale

- Support Tribal Holistic Defense
 - Seeks to address underlying issues keeping AI/AN clients in the criminal justice system (Bronx Defender's Project, 2010).
- Build relationships and honor reciprocity in research (Wilson, 2009).
- Give voice: Highlight cultural resilience in the community through community based participatory research (Israel, Schulz, Parker, & Becker, 1998).

Method

- Intake Data
 - Demographic Information
 - Historical Loss Scale (HLS) (Whitbeck, et al., 2004)
 - Historical Loss Associated Symptom Scale (HLASS) (Whitbeck, et al. 2004)
 - Perceived Level of Cultural Connectedness (CCS)
- Outcome Data
 - Recidivism was measured by any new conviction(s)
- Questions
 - How does a mainstream risk assessment measure (e.g., the LSI-R) perform in our client population?
 - What factors best predict recidivism for Native American offenders on the Flathead Reservation?
 - How do culturally specific factors (e.g., historical loss and cultural connection) play a role?

Design: Hierarchical Logistic Regression



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Abstract

The specific aims of this project included collaborating with the Flathead Reservation's Reentry Program (FRRP), located within the Confederated Salish and Kootenai Tribal Defender's Office, to answer questions about the specific criminogenic needs of their clients. **Methodology.** De-identified intake and outcome data was analyzed in an effort to identify risk and resiliency factors that predict recidivism for Native American offenders. **Results.** Cultural factors (cultural connectedness, historical loss, and its associated symptoms) play a role in predicting recidivism. Results also supported previous research that found a commonly used recidivism risk assessment tool, the *Level of Service Inventory – Revised*, underperforms in Native American offender populations (AUC = .66 = poor utility; Cronbach's alpha = .48). **Discussion.** The initial results have been shared with the Flathead Reentry Program managers and a date has been scheduled for a community presentation to share the results and facilitate a discussion with community members and stake holders within Tribal and State government programs.

Results

- Participants (N = 166)**
 - Males** (n = 101, 61%), **Females** (n = 65, 39%)
 - Tribal Members** (78% Flathead, 9% Other MT Tribes, and 13% Other Tribes)
 - 18 - 58 years** (M = 33.56 years)
 - Lived on or planned to return to the **Flathead Reservation** upon release from a correctional Institution
- At Intake:** February 2016 through February 2018
 - 9% **employed** full time
 - 34% had stable, permanent **housing**
 - 32% had a high school **diploma**
 - 46% were **single**
 - 79% had at least one **child** (with 46% reporting shared or sole custody)

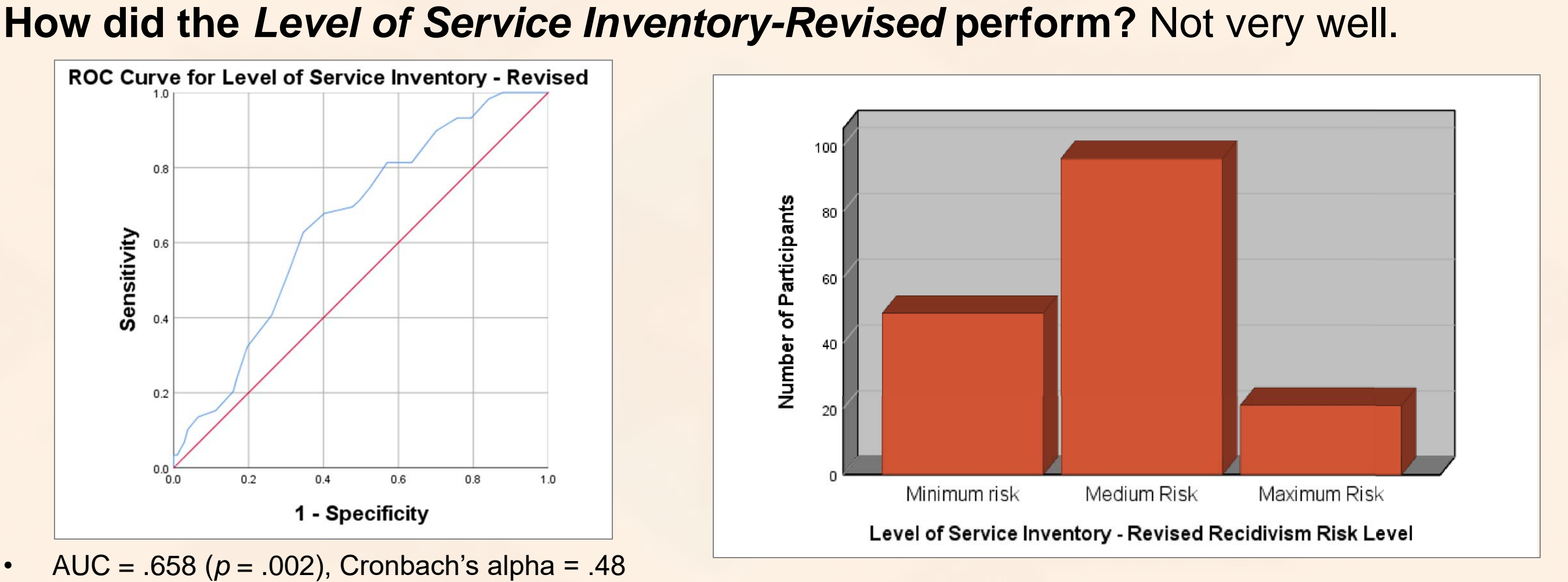
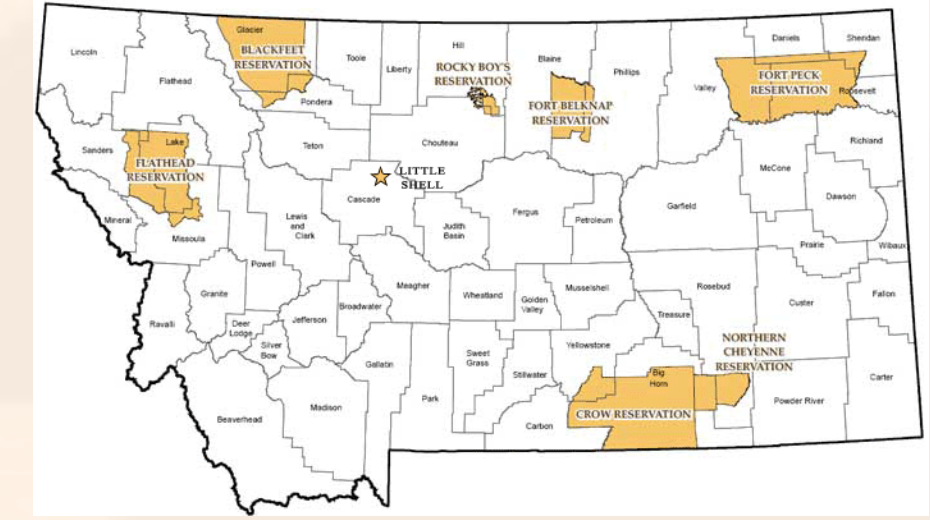


Table 1. Hierarchical Logistic Regression Analysis Summary for Factors Predicting Recidivism

	B	S.E.	Sig.	Exp(B)	95% C.I. for Exp(B)	
					Lower	Upper
Step 1 ^a						
Age	-.023	.019	.232	.977	.941	1.015
Gender	.839	.390	.031*	2.315	1.078	4.973
Step 2 ^b						
LSI-R total	.104	.031	.001**	1.110	1.045	1.179
Step 3 ^c						
HLS Total	-.015	.018	.414	.985	.950	1.021
HLASS Total	-.016	.023	.490	.984	.940	1.030
CCS Total	-.119	.055	.031*	.888	.797	.989
Constant	-.480	1.957	.806	.619		

Notes. *p < .05, **p < .01, ***p < .001.
a. -2 log likelihood = 212.367, model χ²(2, N=166) = 3.678, p = .159, Nagelkerke R = .030, PAC = 64.5%
b. -2 log likelihood = 197.818, model χ²(3, N=166) = 18.227, p = .000***, Nagelkerke R = .143, PAC = 68.1%
c. -2 log likelihood = 192.590, model χ²(6, N=166) = 23.456, p = .001**, Nagelkerke R = .181, PAC = 69.3%

Acknowledgments. Research reported in this publication was supported by the National Institute of General Medical Sciences of the National Institutes of Health under Award Number U54GM115371, Sub-Award #1U54GM11537101 (10/16/17 – 07/31/18). The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health.

Discussion and Conclusions

These results support previous findings that suggest mainstream risk measures perform poorly in AI/AN communities and fail to capture/assess culturally unique risk and resiliency factors that subsequently inform conditions of release and treatment plan.

- LSI-R was statistically significant in the model for prediction of recidivism outcomes, but still performed at an overall poor level (65.8% accuracy rate) and showed poor internal reliability (Cronbach's alpha = .48).

Culturally specific factors are important, yet largely overlooked in determining risk for recidivism.

- Overall, high levels of self-reported cultural connectedness were associated with a decrease in likelihood for recidivism.
- Interestingly, frequent thoughts about historical losses were associated with reduced likelihood of recidivism, while increased anger and avoidance in response to those thoughts appeared to be a risk factor for recidivism.
 - However, as the level of anger and avoidance symptoms increased, the "protective effect" of frequent thoughts about historical losses on recidivism decreased.

Including these factors in risk assessment could result in more relevant and meaningful treatment recommendations which could impact recidivism outcomes.

- Interventions (either preventative or through reentry programs) could focus on addressing historical loss and its associated symptoms (specifically anger and avoidance) as well as increasing access and participation in cultural activities.

Native American offenders have unique criminogenic factors that require the development of a risk assessment tool specific to Native American offender's criminogenic needs.

- Next step includes building an assessment tool that will facilitate holistic assessment of risk and resiliency factors to guide FRRP's reentry efforts in addressing recidivism for Native American offenders.

Table 2. Post-Hoc Hierarchical Logistic Regression Analysis Summary for Factors Predicting Recidivism

	B	S.E.	Sig.	Exp(B)	95% C.I. for Exp(B)	
					Lower	Upper
Step 1 ^a						
Age	-.027	.023	.248	.973	.930	1.019
Gender	1.126	.484	.020*	3.082	1.194	7.958
Step 2 ^b						
LSI-R: Criminal History	-.126	.102	.214	.881	.722	1.075
LSI-R: Education/Employment	.360	.126	.004**	1.433	1.119	1.835
LSI-R: Financial	-.177	.355	.619	.838	.418	1.682
LSI-R: Family	.496	.205	.016*	1.642	1.099	2.455
LSI-R: Accommodation	.270	.245	.269	1.310	.811	2.116
LSI-R: Leisure	-.309	.290	.287	.734	.415	1.297
LSI-R: Companions	.243	.161	.132	1.275	.929	1.749
LSI-R: Substance Use	.020	.096	.837	1.020	.845	1.232
LSI-R: Emotional	.015	.193	.938	1.015	.695	1.483
LSI-R: Attitudes	.320	.179	.074	1.377	.969	1.958
Step 3 ^c						
HLS Total	.102	.051	.043*	1.108	1.003	1.223
HLASS: Anxiety/Depression	-.032	.062	.605	.969	.858	1.488
HLASS: Anger/Avoidance	.207	.097	.033*	1.230	1.017	1.093
HLASS: Anger/Avoidance by HLS Total	-.006	.002	.013*	.995	.990	.999
CCS: Cultural Connection	.186	.209	.374	1.204	.799	1.815
CCS: Cultural Access	-.303	.214	.156	.738	.486	1.123
CCS: Cultural Participation	-.448	.197	.023*	.639	.434	.940
CCS: Cultural Desire	.299	.324	.356	1.349	.714	2.548
CCS: Cultural Knowledge	.133	.299	.657	1.142	.635	2.053
Constant	-7.589	3.483	.029	.001		

Notes. *p < .05, **p < .01, ***p < .001.
a. -2 log likelihood = 212.367, model χ²(2, N=166) = 3.678, p = .159, Nagelkerke R = .030, PAC = 64.5%
b. -2 log likelihood = 180.834, model χ²(12, N=166) = 35.212, p = .000***, Nagelkerke R = .263, PAC = 71.7%
c. -2 log likelihood = 166.097, model χ²(21, N=166) = 49.948, p = .000***, Nagelkerke R = .357, PAC = 73.5%

Considering all other variables in the model:

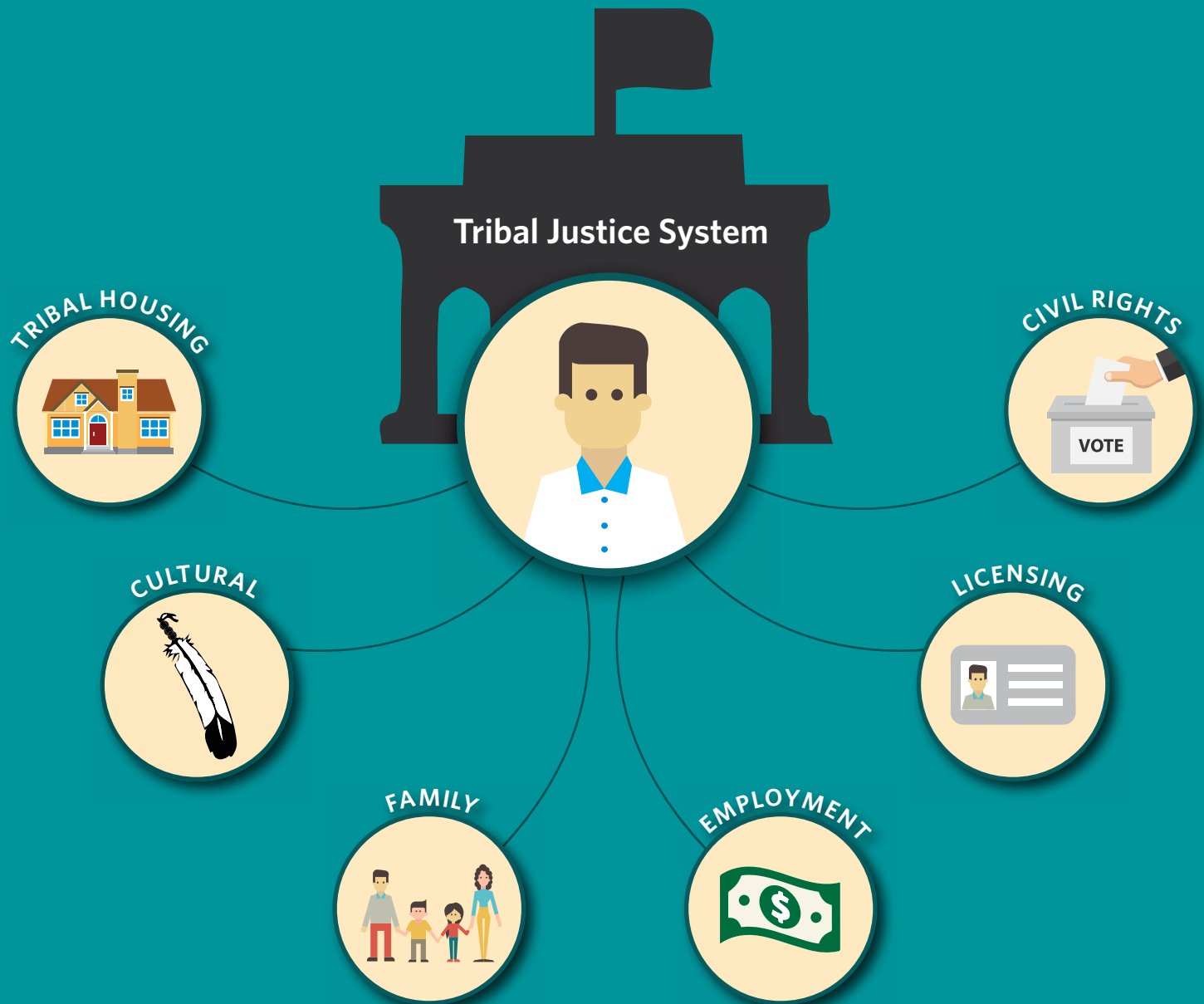
- A one unit increase in the **education/employment** risk factor is associated with a **43% increase** in the likelihood for recidivism
- A one unit increase in the **family/marital** risk factor is associated with a **64% increase** in the likelihood for recidivism.
- A one unit increase in **HLS total scores*** is associated with an **11% increase** in likelihood for recidivism (i.e., "infrequent thoughts about historical loss")
- A one unit increase in the **HLASS-Anger/Avoidance** subscale is associated with a **23% increase** in likelihood for recidivism.
- As scores on the **HLASS-anger/avoidance** subscale **increase**, the effect of **HLS scores** on the likelihood for recidivism **decreases**.



Collateral Consequences

Through the use of two infographics, these publications are intended to provide general information about collateral consequences that result from convictions and/or incarceration. These publications should be used as the first general step on the path to identifying specific solutions to collateral consequences in tribal communities.

ONE OFFENSE CAN TRIGGER MULTIPLE COLLATERAL CONSEQUENCES.



This project was supported by Grant No. 2011-AL-BX-K002 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this publication are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Collateral Consequences

In most tribal jurisdictions, one offense can trigger multiple collateral consequences. Collateral consequences are the continuing and lasting impacts of being charged or convicted of a crime in the tribal justice system (hereinafter “tribal court”). Collateral consequences arise in the aftermath of the direct consequence and are not always immediately obvious to those affected.



Tribal Housing

Being charged or convicted of a crime can affect eligibility to benefit from tribal housing programs and services. Tribal housing authorities have broad discretion to evict individuals who are viewed as a threat to the health or safety of the community. What seems like a minor infraction of the law (e.g. drug possession or non-violent misdemeanor) may lead to major consequences, including eviction.



Cultural

Many tribes have the authority under tribal law to banish individuals for committing crimes. If the individual is a member of the banishing tribe, this results in the separation of the individual from ceremonies, festivities, and tribal gatherings.



Family

Tribal court convictions may result in jail time. No matter the amount of time behind bars, a family member serving time affects the entire family unit and sometimes extended family (e.g., a grandparent). Both children and spouses suffer, as the absence of the family member impacts familial relationships and everyday life.

Tribal court convictions, especially those stemming from drug and alcohol offenses, can also impact child custody. A parent convicted of a drug offense may have their parenting skills come into question and can lose custody of their children as a result. Moreover, tribal court convictions have prevented individuals from qualifying as foster parents.



Employment

One obvious consequence of incarceration is being let go from current employment while serving time. Some tribal court convictions, however, make it difficult to find and secure a job even if no jail time was served. Many employers are not willing to hire individuals convicted of certain crimes, even after substantial time has passed since the crime took place. This makes it continuously difficult for those convicted of certain crimes to find employment.



Licensing

Certain tribal court convictions may lead to the loss of your driver’s license. Many convictions may also threaten eligibility for occupational licensing for therapists, building contractors, or those in the medical field, among others.



Civil Rights

Being convicted of a crime may carry the consequence of losing particular civil rights. For example, many convictions lead to losing the right to vote, losing the right to own and possess firearms, or losing the right to be selected for a jury. Some convictions may also preclude individuals from running for tribal council or other elected offices.

For more information on collateral consequences, visit: naicja.org.



Seeking Assistance to Address Collateral Consequences

When tribal members are charged with crimes, they often risk eviction from tribal housing, loss of employment, suspension of driver's license, the involvement of child protective services, or other collateral consequences. Collateral consequences are the continuing and lasting impacts of being charged or convicted of a crime in the tribal justice system (hereinafter tribal court). There are multiple resources dedicated to helping individuals deal with collateral consequences after cycling through the tribal justice system.



- Address underlying issues that bring the individual into the tribal court and justice system.



- Reentry is the process of reintegrating individuals back into the community.



- Some legal aid offices offer services to expunge criminal records to help make it easier to find a job, obtain housing, and access education resources.



- While most services are dependent upon an honorable discharge, others are not. Veterans receive federal services and benefits and employment preference. Those veterans who become justice systems-involved may access resources such as healthcare and treatment services (i.e., substance abuse or mental health treatment) including housing opportunities or participate in a Veterans' Treatment Court, where available.



- Wellness courts or Tribal Healing to Wellness Courts, or Drug Courts, prioritize healing over punishment.



- Attorneys from legal aid organizations or tribal-funded legal aid offices can help prepare individuals for the collateral consequences or help to mitigate the effects of them.



Holistic Defense

Holistic defense is a model of criminal defense. This model identifies collateral consequences and underlying issues by expanding representation beyond the penalties involved in the criminal case. Collateral consequences are assessed during the intake process in order to help clients access housing, social and financial services, education, employment, transportation, mental health services, and assistance to complete court-ordered requirements. Tribal Holistic defense models may also offer cultural mentoring programs to reconnect individuals to the tribal community and provide cultural mediation between clients and the persons wronged. Offenders who are given the opportunity to take part in holistic defense programs, such as mental health assessment/treatment, cultural mentoring, or driver's license restoration, have a better chance of not reoffending once released.

- Examples: [The Confederated Salish and Kootenai Tribes \(CSKT\) Tribal Defenders](#); [The Bronx Defenders](#).



Reentry and Reintegration

One individual's incarceration impacts the entire community, as every person's role is important in the community's livelihood. Reentry and reintegration is a process assisted by programs to help formerly incarcerated individuals prepare to be active, contributing members of the community. These programs address the needs of tribal offenders by offering career readiness programs, vocational training, and designated housing upon release. Mentors or facilitators may be provided to assist a formerly incarcerated individual.

- Example: [Muscogee \(Creek\) Nation's Reintegration Program \(RiP\)](#).



Counseled Convictions

Many times, those being charged in tribal courts are not aware of the collateral consequences that lie ahead. Understanding and recognizing the collateral consequences that go along with a guilty plea puts those individuals one step ahead of collateral consequences, possibly avoiding them all together. For example, an uncounseled defendant could plead guilty to a minor offense that would affect his driver's license, which in turn would affect his ability to drive to work and keep or obtain employment. Legal representation and counsel can help advise the individual of potential consequences or provide a defense to avoid a conviction. Legal service organizations and the attorneys and advocates who work there provide guidance and understanding for those being faced with possible tribal court convictions.

- Examples: National Association of Indian Legal Services (NAILS); [Native American Rights Fund \(NARF\)](#).



Tribal Healing to Wellness Courts

Wellness courts and Tribal Healing to Wellness Courts seek to address underlying issues, such as mental illness or addiction, before sentencing nonviolent offenders. This means deferring sentencing in favor of treatment for chemical dependency or mental health issues. Wellness courts provide an alternative to the American, adversarial model, and prioritize healing over punishment. Programs adopting this model provide mental health screenings, treatment planning, case management, and court monitoring, while reconnecting offenders with their families, cultures, and values.

- Example: [Yurok Tribe Joint Jurisdictional Wellness Court](#).



Veterans Treatment Courts

Native Americans serve at a high rate and have a higher concentration of female service members than all other Service members. When these veterans come home, they are entitled to services and benefits through the U.S. Department of Veterans Affairs (VA). Resources are available to assist native veterans with housing, employment, financing, healthcare and behavioral health treatment, etc.

Native American veterans entering the justice system and formerly incarcerated veterans require special support and assistance. Veterans treatment courts provide resources for these native veterans who are not equipped to handle the psychological and physiological wounds of war, both seen and unseen. Veterans treatment courts connect veterans to appropriate treatment and other VA resources designed to divert veterans from incarceration. The veterans treatment courts, based on drug treatment and/or mental health treatment courts, are where substance abuse and/or mental health treatment is offered as an alternative to incarceration. These courts provide both restorative and rehabilitative resources for veterans as well as their families in Indian country who are caught up in the criminal justice system. See the Veterans' Justice Outreach or legal aid for assistance.

- Examples: [Veterans Justice Outreach Program](#); [Justice for Vets](#); [Sisseton Wahpeton Oyate Tribal Court](#).



Records Expungement

Individuals or formerly incarcerated individuals going through the tribal courts often face difficulties finding housing and employment post-incarceration. Some programs offer services so that convictions may be expunged from criminal records, making it easier to find a job and get back on track.

- Example: [Clean Slate Program](#); [Yurok Tribe Clean Slate Program](#).

For more information on collateral consequences, visit: naicja.org.