

The Need to Integrate Objective and Transparent Criteria within Dangerousness Assessments in Probation Service Pretrial Reports in Israel

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ABSTRACT

This paper examines the problematic practice of some probation officers in Israel who assess defendants as highly dangerous during pretrial evaluations, solely based on the defendants' denial of the allegations against them. This approach undermines the fundamental principle of the presumption of innocence. Currently, probation officers rely heavily on subjective interviews, focusing primarily on their personal impressions of the defendant and the proposed supervisors. While actuarial tools and numerical scoring for factors such as criminal history are sometimes utilized, these tools are often neither presented in court nor adequately reflected in detention reports.

Given that the court unequivocally requires a positive probation report to overcome the statutory presumption of dangerousness for certain offenses, defendants who deny their guilt face a significantly diminished likelihood of avoiding pretrial detention.

The paper argues that the presumption of innocence must be a guiding principle for probation officers when reviewing a defendant's eligibility for bail. This principle should inform both their assessments and recommendations. Accordingly, the paper advocates for the integration of objective and transparent criteria alongside subjective evaluations from personal interviews. This balanced approach would ensure a fairer evaluation process, respecting defendants' rights to maintain their innocence and protect their physical liberty.

Keywords: Actuarial Risk Assessment; Bail Decisions; Presumption of Innocence; Pretrial Detention; Probation Officers