

# South Dakota RAI Training Manual 1.3

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## Risk Assessment Instrument (RAI) Definition

A tool used to assess a variety of risk factors relative to the likelihood that a youth will appear in court or re-offend on a delinquent act prior to his/her court appearances. The Intake Officers are Detention Center Staff or Reception Center Staff who have been appointed by the Presiding Judge in their Judicial Circuit as per [Supreme Court Rule 15-14](#).

## RAI Process

A youth is referred for the completion of a RAI when a Law Enforcement Officer determines that they are not appropriate to be straight released to a parent/guardian in the field. A RAI is completed in order to assist in the decision process to identify whether a youth should be released, released with conditions, referred to an alternative to detention, or referred to secure detention pending their court appearance. The purpose of the RAI is to determine the youth's risk to re-offend on a delinquent act and their risk to not show up at their court hearing.

### *The exceptions to the completion of a RAI are:*

1. Youth who are referred by a non-JDAI jurisdiction
  - a. Federal Authority, Tribal Authority, Out of State Referrals (i.e. out of state runaways)
2. Department of Correction's youth who receive **only** an aftercare violation
3. Youth who are sentenced/ordered to be in detention by a Judge without a new charge
4. Youth with **only** a Magistrate Court charge or warrant
5. Youth with **only** a citations
6. Youth referred for only a mental hold
7. If a youth is referred to detention on a bond violation

### **As of January 1, 2016, the following offenses will now be considered to be citations only:**

- 1) Petty theft in the second degree (four hundred dollars or less), pursuant to 22-30A-17.3;
  - 2) Intentional damage to property in the third degree (four hundred dollars or less), pursuant to 22-34-1;
  - 3) Purchase, possession, or consumption of alcoholic beverage by person under twenty-one years pursuant to 35-9-2 in accordance with subdivision 268B-2(5); and
  - 4) Truancy pursuant to subdivision 26-8B-2(1)
- Citable offenses will not be subject to the completion of a RAI and cannot be processed or held within a secure detention facility.
  - If a youth has a citable offense **AND** a delinquent and/or CHINS offense, the youth will be scored on the RAI for the delinquent and/or CHINS offense and the Intake Officer will make a decision based upon the score of the RAI.
  - When scoring the RAI, citable offenses **will be** counted in section five (5) for multiple offenses

The appointed Intake Officers will review the information provided by the Law Enforcement Officer, the UJS system information, the Law Enforcement data system (if access is available), and any additional information available at the time of intake in order to complete an accurate RAI.

The staff will gather additional collateral information from Department of Corrections, Court Services, and the Department of Social Services, if applicable. If additional information is available from a professional individual involved in the case, this information can be utilized to gather a full picture of the situation at the time of intake as well.

If the arrest is made by a different Law Enforcement Officer than who is transporting the youth, the Intake Officers are encouraged to make contact with the arresting Law Enforcement Officer for a brief overview of the circumstances surrounding the incident.

If a Court Services Officer (CSO) or Juvenile Corrections Agent (JCA) is requesting a probation or aftercare violation based on the youth's contact with Law Enforcement, the Law Enforcement Officer must advise the Intake Officer of all alleged offenses in order for the RAI to accurately reflect the youth's contact with Law Enforcement to include the probation or aftercare violation.

For the purpose of the RAI, if a "probation hold" or a "probation detainer" is requested, this should be considered a "probation violation" and is added as one of the alleged charges for the RAI. A Court Services Officer (CSO) can no longer place a youth in detention on a probation detainer. A RAI would be completed regarding the current alleged charges and the RAI would drive the decision. The CSO would provide additional information to assist the Intake Officer in the decision to utilize an override or not.

If a RAI is completed, a Temporary Custody Directive (TCD) is always completed.

## How to Score the RAI

### Demographic Information

**Referral ID:** a number identifying each RAI document and the Intake Center Location to assist with data collection. This will differ between each location.

- Beadle County = BD
- Brown County = BR
- Codrington County = CD
- Hughes County = HU
- Minnehaha County = SF
- Pennington County = RC

**Placed By:** notes which Law Enforcement entity (example: Police Department, Sheriff Department, Highway Patrol, etc.) referred the youth for RAI completion.

- Please include the name of the City/County name along with Law Enforcement Type (PD, SO, HP, etc.)

### Section 1 – Most Serious Current Alleged Offense

- This information is provided by the Law Enforcement Officer
- If a youth is referred for a RAI for more than one offense, then you would score **only** the most serious offense
- Utilization of the Codified Law Quick Find website - [http://legis.sd.gov/statutes/Codified\\_Laws/QuickFind.aspx](http://legis.sd.gov/statutes/Codified_Laws/QuickFind.aspx) - helps determine the level of the alleged offense(s)
- Eligible offenses included in this section are:
  - All juvenile offenses
  - Felony traffic offenses that will be handled in circuit court (listed under "other felonies on the offense cheat sheet)
  - Class 1 Misdemeanor traffic offenses that will be handled in Magistrate Court
  - Arrest Warrants
    - If a youth is referred for a RAI on an arrest warrant, the offense that initiated the arrest warrant would be scored in this section (i.e. if a youth is referred for a RAI because of an arrest warrant on a 2nd degree escape, the 2nd degree escape would be scored in section 1).
  - Failure to Appear Warrants
    - If a youth is referred for a RAI on **only** a failure to appear warrant, then the failure to appear bench warrant would be scored as a zero as listed on the RAI.

- If a youth scores a 15 in this section for an alleged Felony Class A, B, C, 1 or 2 offense or the youth allegedly used a firearm in the commission of the offense; the youth's score can only be overrode down to an out of home alternative option such as Shelter Care or Non-Secure Detention.
- On the RAI, list only the most serious offense. On the Temporary Custody Directive (TCD), list **all** offenses considered for the RAI which you receive from Law Enforcement
- If a youth uses a firearm in the commission of an offense – even if they are not charged with such offense – would score a 15 due to the use of a firearm.
  - o According to South Dakota Codified Law:
    - **22-1-2(16)** “Firearm,” any weapon from which a projectile or projectiles may be discharged by gunpowder. As used in this subdivision, the term, gunpowder, includes any propellant that upon oxidization emits heat and light and is commonly used in firearms cartridges;
    - **22-1-2(32)** “Pistol,” any firearm with a barrel less than sixteen inches in length, designed to expel a projectile or projectiles by the action of an explosive;
    - A BB gun **is not** a firearm
  - o If a youth is in possession of a firearm, but it is not used during the commission of the offense, the youth would not be eligible for the score of 15 in this section
- To distinguish between a disorderly conduct charge categorized as an “assaultive misdemeanor,” the Intake Officer must be able to answer “**yes**” to **all of** the following:
  - o Engaging in fighting or in violent or threatening behavior
    - Is the youth being physically assaultive?
    - Is there a credible threat to another person?
    - Is there a concern for physical harm?

## **Section 2 –Disposition and Class 1 Traffic Conviction History**

- This information is found in the Unified Judicial System Odyssey program
- By looking up the youth's case in Odyssey, you will find their disposition/conviction history
  - o Eligible dispositions/convictions:
    - All of the youth's juvenile history (JUV-CHN, JUV-DEL and JUV-COM)
    - Felony traffic offenses that will be handled in circuit court
    - Class 1 misdemeanor traffic offenses that will be handled in Magistrate Court
  - o If a youth has a Class 1 Misdemeanor Traffic Offense and a juvenile Misdemeanor Offense, this would be noted under “two or more prior adjudications for misdemeanor offenses.”
- Eligible dispositions/convictions include those who have a **file date** within the last 24 months prior to the current RAI
- If a youth has a suspended adjudication, then this offense would be scored in section 2 until their record is sealed. Once the case is sealed, then this case shouldn't be considered in any section on the RAI.

## **Section 3 – Failure to Appear/Runaway/Escape History**

- The youth's runaway/escape history is found by asking the Law Enforcement Officer completing the intake request or by accessing the Law Enforcement information system (if available).
- The youth's failure to appear history is found in the UJS Odyssey system.
  - o All failure to appear warrants in juvenile and magistrate court are counted
  - o Other warrants such as failure to comply or failure to pay fine **are not eligible** for this section
  - o If a youth has been charged with a failure to appear offense, but a warrant was not requested, the charge is not considered in this section
- If a parent advises that the youth has runaway multiple times in the past weeks or months, and it does not appear in the law enforcement data system or via information from Law Enforcement, this cannot be scored. The runaway must be reported to Law Enforcement in order to count in this section.
- Non-Secure Placement includes:
  - o DSS/DOC placement, group home, residential facility, treatment facility, shelter care, non-secure detention or electronic monitoring (cutting off the monitor and absconding).

- If a youth is being referred for a RAI on a runaway charge (no matter if it is the only charge or one of multiple charges), you would not count this runaway in Section 3 – Failure to Appear/Runaway/Escape History. This is because, even though they may be two incidents (the incident of reporting the running away and the incident of Law Enforcement finding the youth), it is for the same act of running away.
- If a youth is being referred for a RAI on an alleged escape or for a failure to appear bench warrant, this incident would not be scored in Section 3 – Failure to Appear/Runaway/Escape History. The only incidents that would be eligible to score in Section 3 would be those that occurred prior to the alleged offenses on the current RAI referral.
- If a youth has two or more failure to appear warrants and two or more runaways, then the Intake Staff would score the most applicable since both score one point on the RAI.

### **Section 4 – Pending Cases**

- This information is found in the Unified Judicial System Odyssey program
- By looking up the youth’s case in Odyssey, you will see if they have any pending cases
  - o Eligible cases:
    - All of the youth’s juvenile history (JUV-CHN, JUV-DEL and JUV-COM)
    - Felony traffic offenses that will be handled in circuit court
    - Class 1 misdemeanor traffic offenses that will be handled in Magistrate Court
- This section includes all cases pending Disposition and/or Conviction
- There is no timeframe for eligible pending cases

### **Section 5 – Aggravating Factors**

- The youth’s status in regards to if they are on probation/aftercare for a Felony Class A, B, C, 1, or 2 offense, felony assault, or felony sex crime information would come from a collateral contact with the youth’s Court Services Officer (CSO) or their Juvenile Corrections Agent (JCA).
  - o If you are unable to reach a youth’s assigned CSO/JCA, then you could review a youth’s history in Odyssey regarding this information
- If a youth is referred for a RAI with more than one offense, they would receive a point for having multiple alleged offenses.
  - o Multiple offenses would include ***all*** listed offenses from the Law Enforcement Officer including probation violation/aftercare violation, warrant, law violations, magistrate offenses, and citations.
- If a youth is under the influence as determined by the reporting party (Law Enforcement Officer, Court Services Officer, or Juvenile Corrections Agent), then they would receive a point for an aggravating factor

### **Section 6 – Mitigating Factors**

- A parent/guardian/custodian that can assume responsibility of a minor is defined as: someone who is available within 12 hours to pick up the youth, is sober, and has their parental/guardian rights intact on the youth being scored. If a parent has previously had their rights terminated on other children, but not this particular child, they would still be able to “assume responsibility of the minor.”
- If a youth is in the legal custody of a State or Tribal entity, the youth may not necessarily be in the physical custody of these agencies. This mitigating factor would pertain to whoever has physical custody of the youth – whether that is the parent, Tribal entity, DSS, DOC, guardian or custodian.
  - o A youth’s arrest history is found in your local Law Enforcement data system or is provided verbally by the Law Enforcement Officer if access is not available to the local County’s database
    - Score only the last 12 months for arrest history
  - o A youth’s failure to appear history is found in the UJS Odyssey system under the “warrants” tab
    - Score only the last 24 months for failure to appear
    - Only failure to appear warrants are eligible for this section
- If you do not know if a youth has an arrest history or a failure to appear history, then you would not assume that they have been arrested or failed to appear. Therefore, when these questions are unknown, you would give the youth a -1 score.

## ***Section 7 – Total Risk Score***

This is the cumulative score of the first six sections on the RAI. There is only one score per section for sections one through four and all that apply for sections five and six. The score determines whether the youth should be released, conditionally released, referred to an alternative, or referred to secure detention.

### **Indicated Decision**

The Indicated Decision identifies what category the youth's total RAI score falls under.

#### ***Release***

A youth who scores in the release category (6 points or below on the RAI) will be released to a parent, guardian, or custodian if one is available and appropriate.

If a parent, guardian, or custodian is deemed inappropriate or cannot be reached, the youth should be held in no higher level than Shelter Care or Non-Secure Detention with an approved override and the least restrictive alternative is utilized.

If a youth is released with no conditions, their case is referred to the State's Attorney's Office for a legal sufficiency review in order to determine the appropriate next steps for the case.

- If release is not an option and the alternative (Shelter Care, Non-Secure Detention) is unavailable, then this information should be included in the override justification.

#### ***Alternative***

A youth who scores in the alternative category (7 to 11 points on the RAI) could be released if the Intake Officer completes an override down to a straight release. If a straight release is not appropriate, then the Intake Officer will identify if the youth could be conditionally released (if available) to a parent, guardian, or custodian if they are available or if placement in Shelter Care or Non-Secure Detention would be appropriate. The Intake Officer will also determine if there is a demonstrated need to override the youth's score to Secure Detention if a justification is completed.

If a youth is conditionally released, then a written agreement is completed with the Intake Officer, the parent/guardian/custodian, and the youth indicating the conditions of the release and the need to attend a Temporary Custody Hearing (or Detention Hearing) the next business day. At this time, conditional release is not an option in all Intake Center locations.

- If release is not an option and the alternative (Shelter Care, Non-Secure Detention) is unavailable, then this information should be included in the override justification.

#### ***Detention***

A youth who scores in the secure detention category (12 and above on the RAI) may have their score overridden down if there is a parent, guardian, or custodian available and appropriate and the youth agrees to abide by the conditional release agreement, or if a youth is appropriate to be straight released without conditions.

If a parent, guardian, or custodian is deemed inappropriate, cannot be reached, or the youth's offense does not allow for the youth to be released, the youth's RAI could be overridden down to an alternative placement such as Non-Secure Detention or Shelter Care. This determination would be made by the Intake Officer based on the circumstances surrounding the intake.

## Overrides

An override to the RAI score is utilized when there are extenuating circumstances that do not allow for the actual RAI score to be followed. It is up to the Intake Officer to determine whether an override is necessary and they must have a discussion with a supervisor (or another Intake Officer if a supervisor is unavailable) regarding the recommendation to override the score to obtain final approval. This is to ensure that the override request is appropriate and ensures that the least restrictive alternative is utilized. Below is a list of possible override options.

### 1. Override Down

- a. This would be utilized when a youth's score indicates a more restrictive option, but the youth would be appropriate to be referred to a less restrictive option based on the information available to the Intake Officer at the point of intake.
- b. If a youth's score indicates a hold in secure detention, their actual decision could be overridden down to an alternative or straight release if a justification is noted.
- c. If a youth's RAI score for section one is a 15 (Felony Class A, B, C, 1 or 2 offense or the youth allegedly used a firearm in the commission of the offense), then their score can only be overridden down to an out of home alternative option such as Shelter Care or Non-Secure Detention.

### 2. Parent, Guardian, or Custodian is not available or is not suitable to receive the child

- a. This can only be an override into an alternative. If an alternative option is not available, this should be articulated in the justification and this information should be considered when overriding the youth's score.
- b. If a youth is appropriate to be released and a parent refuses to pick up their youth or if a parent is unable to be found after the allowed 12 hours, the Intake Officer will follow their policy in regards to next steps.

### 3. Run Risk

- a. This can only be an override into an alternative. If an alternative option is not available, this should be articulated in the justification and this information should be considered when overriding the youth's score.
- b. This override option will only be utilized if there is a **demonstrated risk** if the youth is released
  - i. If this override is utilized, the Intake Officer is required to note the demonstrated risk in the override justification section of the RAI

### 4. Minor has failed a detention alternative program

- a. This override is only to be utilized if a youth has allegedly committed a new delinquent offense and an arrest report is generated while currently on an alternative program.
  - i. A "detention alternative program" is defined as any pre-dispositional alternative to detention option for which a Judge orders the youth to participate
- b. This override is to be utilized only as the least restrictive alternative available. The alternative staff shall work with the youth to maintain them in the alternative setting, if at all possible.
- c. The youth's placement will be determined by the RAI and their current behaviors

### 5. Minor held pending referral to mental health/chemical dependency agency

- a. The youth is awaiting an assessment or treatment and is not suitable to remain in the community
- b. There is a demonstrated risk if the youth were to remain in the community and a Temporary Custody Hearing/Detention Hearing is necessary

### 6. Minor held in custody for another jurisdiction

- a. This override is utilized only when Interstate Compact guidelines are applicable for all out of state runaways/absconders/escapees who have been picked up and must be held in secure detention per Interstate Compact Rules **AND** have new pending charges in SD. The "held for another jurisdiction" override would therefore not be used for any in-state youth.

- i. The RAI is completed and the “held for another jurisdiction” override is utilized **only if** the Interstate Compact out-of-state runaway/absconder/escapee youth incurs charges while in South Dakota and a Temporary Custody Hearing/Detention Hearing is necessary to discuss the status of the **new charges**.
    1. A FORM III Interstate Compact Hearing is **always** required for all out-of-state runaways/absconders/escapees to be in compliance with National Interstate Compact Rules, regardless of whether there are new pending charges in SD and to begin to set the process in motion to get the youth returned to their home state.
  - ii. If the out-of-state runaway/absconder/escapee **does not** have any pending new charges in SD, then completion of the RAI **is not necessary** and the youth is automatically held in secure detention until the youth is returned to the home state according to the National Interstate Compact Rules. The Interstate Compact FORM III Hearing must be held to set this process in motion.
7. Victim in the home and there is an immediate safety concern
    - a. This is to be utilized for those youth who are assaultive in the home and/or placement environment and are not able to safely return without further incident
  8. Close proximity of victim and there is an immediate safety concern
    - a. This is to be utilized for those youth who are assaultive to an individual that doesn’t live in their home, but they would have contact with this individual on a regular basis and are not able to safely return without further incident.
  9. Failure to Appear Magistrate Warrant
    - a. This is used when there is a no-bond warrant present
  10. Failure to Appear Juvenile Warrant
    - a. If a no-bond warrant is requested, then the youth would be held due to the warrant request
    - b. The Intake Officer would identify the most appropriate placement for the youth.
  11. Arrest Warrant
    - a. The Intake Officer would identify the most appropriate placement for the youth based on the RAI score and the information provided during the intake
  12. Unable to pay warrant
    - a. Utilized if a youth is unable to bond out if a bond option is available
  13. Other
    - a. If this override category is utilized, then the Intake Officer **are required** to provide an explanation for why the youth’s score required an override
  14. Approved by:
    - a. All overrides require an approval by the supervisor on duty or another Intake Officer familiar with the RAI process if a supervisor is unavailable. The name of the individual providing the approval is also a requirement.
  15. Override Justification
    - a. If an override is completed, then the justification for the override needs to be listed on the RAI. This will be referenced in order to ensure that the override is an appropriate response

## Actual Decision

The Actual Decision indicates where the youth is actually referred.

- An example would be a youth who scores for detention but is held in an alternative, their actual decision would be an alternative and the “override down” override option should be marked.

- If the Indicated Decision and the Actual Decision are the same, then no override is needed.

### **Release**

Youth who will be straight released back to a parent, guardian or custodian and would not be referred for a Temporary Custody Hearing the next business day. If a youth is straight released without the need for a hearing, the youth's report would still be forwarded to the State's Attorney's Office for the completion of a legal sufficiency review.

### **Conditional Release**

Would be utilized if a youth is appropriate to be released to a parent, guardian or custodian but either their score or a justified override indicates that they pose some risk to re-offend before their hearing and/or will fail to appear at the hearing. A Conditional Release Agreement is completed by the Intake Officer and signed by the youth and their parent, guardian, or custodian notifying them that they are required to attend a Temporary Custody Hearing (or Detention Hearing) the next business day.

*\*\*The conditional release option is not available in all Intake Center locations.*

### **Alternative**

Would be utilized if a youth is not appropriate to be straight released, conditionally released or referred to secure detention but are in need of a referral to an alternative placement because either their score or a justified override indicates that the youth poses a risk to re-offend before their hearing and/or will fail to appear at their hearing. The options within this category are (listed in order of least restrictive to most restrictive): Shelter Care and Non-Secure Detention.

### **Detention**

Would be utilized if a youth is unable to be straight released, conditionally released or referred to an alternative placement and either their score or a justified override indicates that the youth poses a high risk to re-offend before their hearing and/or will fail to appear at their hearing.

### **DOC Hold Only**

When a DOC youth's RAI is scored and the Intake Officer's decision is to release the youth on the local County charges but hold on a "DOC Hold," then the actual decision would be "DOC Hold Only." This will ensure that the data is accurate by not inflating the "release" numbers for the DOC youth who weren't actually released

- If a youth is held only for DOC, then a Temporary Custody Hearing/Detention Hearing is ***not*** needed.