



The State Bar of California

Attorney Supervision and Assistance Redesign Overview and Update

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Board of Trustees, September 22, 2022

The Problem (2019)

Consistently high recidivism rates among respondent attorneys

- Small % of attorneys in the system compared to attorney population as a whole
- Same attorneys continue to reoffend
- Disparities in recidivism rates by race

Probation Recidivism Rates within Three Years,
Probation Cases from 2010 to 2018

Race/Ethnicity	No. of Cases	Any New Complaint Received	New Complaint Investigated	New Complaint Moving to Post-filing
Total	2,695	69%	56%	35%
White	1,446	66%	52%	30%
Hispanic/Latino	195	81%	62%	38%
Asian	170	61%	52%	32%
Black	176	80%	62%	38%
Other	177	62%	47%	20%
No Data	531	76%	68%	51%



Attorney Supervision and Assistance Redesign (ASAR)



Framework for systems change



Improve performance and rehabilitation outcomes



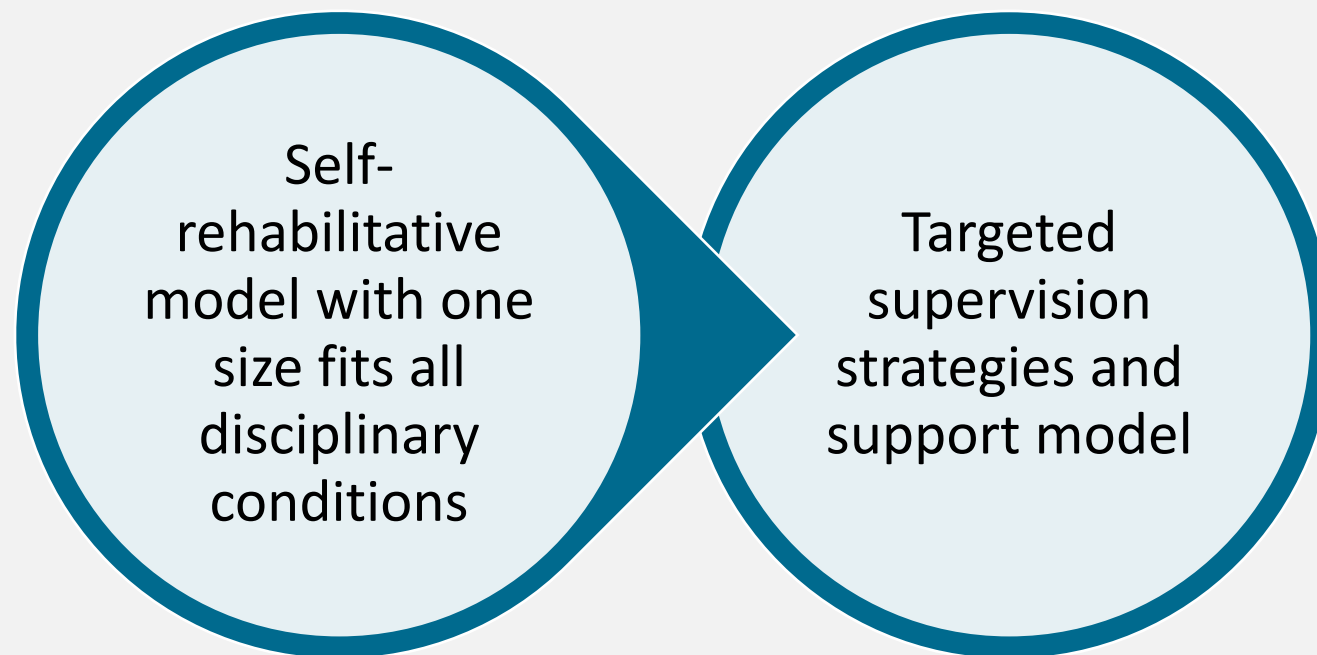
Reduce recidivism and increase public protection



Assist State Bar Court in enforcing probation orders



Attorney Supervision and Assistance Redesign (ASAR)



VISION

A system designed to manage supervision and support matters, using evidenced-based and evidence-informed practices:

1

Provide the appropriate level of supervision and support to all disciplined attorneys

2

Provide tools to successfully comply with disciplinary conditions

3

Reduce recidivism and racial disparities in recidivism

4

Enhance public protection



Key Components



Identify predictive indicators of recidivism

Develop supervision strategies assessment tool

Identify and address needs and stabilization factors

Develop targeted supervision strategies in case planning

Review and revise terms and conditions in partnership with State Bar Court

Collect and maintain data to assess impact



Supervision Strategies Assessment Tool

An algorithmic tool designed to identify the supervision support level needed in order to prevent future misconduct.



Informs decisions about appropriate interventions and programming



Brings consistency, accuracy, and transparency to decisions



Reduces recidivism





Data Analyzed

- 2,548 attorneys reprovved or on probation 2010–2020
- Demographic information
- Charges filed
- Admissions information
- New complaints/investigations/filings
- Disciplinary conditions imposed





Special Considerations: Protecting Against Racial and Ethnic Bias

- ✓ Researchers carefully reviewed the *Farkas* and *Robertson* studies
- ✓ Intentionally removed certain factors from the tool:
 - Reportable actions
 - Representation by counsel
 - Law school type
- ✓ Confirmed that the tool works equally well across racial/ethnic groups and gender



Supervision Strategies Assessment Tool

Results

Creating an Assessment Score to Predict New OCTC Activity Among Respondents on Probation

New Complaint within 24mo

Items to be Scored

- <20 Years in Practice
- MPRE Exam Condition
- Prior Fees-Related Complaints 3+
- Prior Funds-Related Complaints 1+
- Prior Performance-Related Complaints
 - 1–2 (1)
 - 3–5 (2)
 - 6+ (3)
- Prior Duties to Client Complaints
 - 1–2 (1)
 - 3+ (2)
- First Time Probationer
- Prior MCLE Noncompliance
- Prior Suspension

New Investigation within 24mo

Items to be Scored

- <20 Years in Practice
- Suspension as Condition of Probation
- Restitution Condition
- 920 Rule Condition
- Prior Funds-Related Complaints 1+
- Prior Performance-Related Complaints
 - 1–2 (1)
 - 3–5 (2)
 - 6+ (3)
- Prior Duties to Client Complaints 1+
- Prior Criminal Convictions 2+
- First Time Probationer
- Prior MCLE Noncompliance
- Prior Reproval
- Prior Suspension

New Filing within 24mo

Items to be Scored

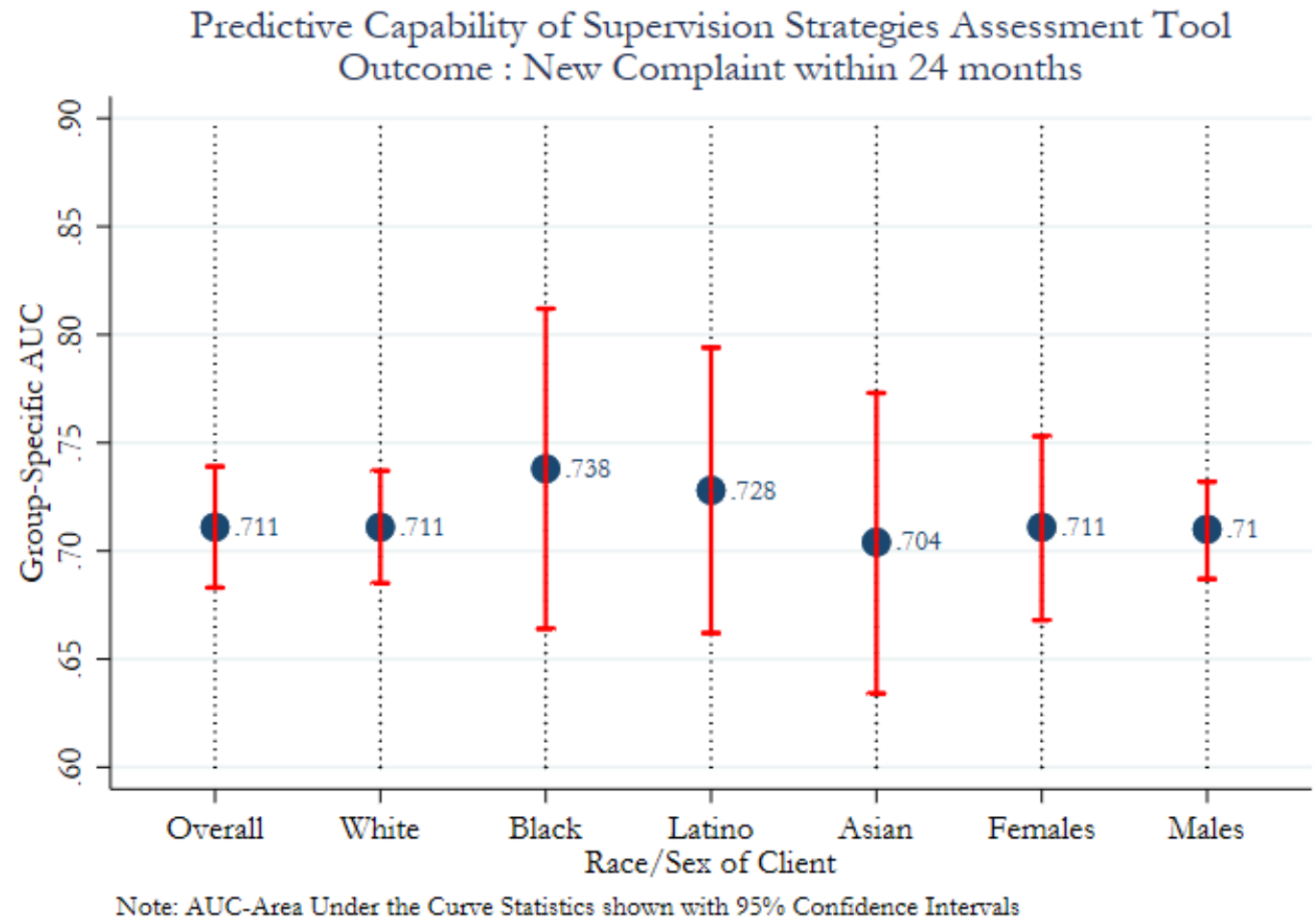
- <20 Years in Practice
- Suspension as Condition of Probation
- Restitution Condition
- 920 Rule Condition
- Prior Performance-Related Complaints
 - 1–2 (1)
 - 3–5 (2)
 - 6+ (3)
- Prior Duties to Client Complaints 1+
- Prior Criminal Convictions 2+
- First Time Probationer
- Prior MCLE Noncompliance
- Prior Suspension

**All items are assigned a value of 1 unless otherwise indicated.

The total assessment score is equal to the sum of all items listed for each outcome.



Example





What Does This Mean?



CURRENT MODEL



NEW MODEL

Majority of respondents ordered to:

- Review the Rules of Professional Conduct and comply with the Rules and State Bar Act
- Maintain a valid State Bar records address and other contact information
- Meet and cooperate with the Office of Probation
- Submit quarterly and final reports
- Provide proof of attendance at Ethics School and passage of the exam

Respondents' terms and conditions of probations vary depending on:

- Assignment support level
- Needs assessment
- Nature of offense
- Future: protective factors



Example:

HIGH SUPPORT

- Probation Case Specialist checks in weekly for the first 90 days providing support and identifying possible impediments to meeting deadlines
- Respondent must satisfactorily complete course on effective client communication within the first six months
- Respondent receives access to counseling and group support sessions via Lawyer Assistance Program
- Probation Case Specialist reassesses frequency and levels of support

LOW SUPPORT

- Probation case specialist checks in quarterly providing support and ensuring deadlines will be met
- Respondent must satisfactorily complete a course on effective client communication by the end of two-year probation term



Next Steps



- Develop a needs-based assessment to be administered at the onset of probation
- Continue training probation case specialists on interviewing techniques to conduct needs assessment
- Design proposed conditions of probation based on supervision strategies assessment and needs assessment to optimize respondents' supervision
- Collaborate with State Bar Court to update conditions of probation
- Design and implement robust data collection process to track dynamic factors and refine assessment tool as we learn more information
- Closely monitor tool performance and ensure tool performs as anticipated