



**Mecklenburg County
Department of Internal Audit**

Criminal Justice Services
Pretrial Services
Report 2061

July 15, 2021

**Internal Audit's
Mission**

To support key stakeholders in cultivating an environment of accountability, transparency, and good governance.

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MECKLENBURG COUNTY
Department of Internal Audit

To: Sonya Harper, Director
Criminal Justice Services

From: Joanne Prakapas, Director
Department of Internal Audit

Date: July 15, 2021

Subject: Criminal Justice Services Pretrial Services Audit Report 2061

The Department of Internal Audit has completed its audit of the Criminal Justice Services' Pretrial Services to determine whether internal controls effectively manage key business risks inherent to this activity. Internal Audit interviewed key personnel; reviewed and evaluated policies, procedures, and other documents; observed operations; and tested various activities from July 1, 2017 through June 30, 2020.

This audit was conducted in conformance with The Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

OVERALL EVALUATION

Overall, key risks inherent to the Pretrial Services Program were managed to an acceptable level; however, opportunities exist to improve the design and operation of some control activities.

RISK OBSERVATION SUMMARY

The table below summarizes the risk observations identified during the audit, grouped by the associated risk factor, and defined in Appendix A. The criticality or significance of each risk factor, as well as Internal Audit’s assessment of the design and operation of key controls to effectively mitigate the risks, are indicated by the color codes described in Appendix B.

| RISK OBSERVATION SUMMARY | | | |
|---|-------------|--------|-----------|
| Risk Factors and Observations | Criticality | Design | Operation |
| 1. Policies and Procedures Risk | ● | ● | ● |
| 1.1 Formal Documentation 1.2 Annual Review | | | |
| 2. Compliance Risk | ● | ● | ● |
| 2.1 Eligibility Policy 2.2 Watchlist Alerts 2.3 Supervision Level Overrides 2.4 System Entries 2.5 Client Communications 2.6 Monthly Reports | | | |
| 3. Segregation of Duties Risk | ● | ● | ● |
| 3.1 Supervision Level Overrides | | | |
| 4. System Access Risk | ● | ● | ● |
| 4.1 System Access Reviews | | | |
| 5. Documentation Risk | ● | ● | ● |
| 5.1 Documentation Retention 5.2 Court Release Documentation | | | |
| 6. Human Resource Risk | ● | ● | ● |
| No risk observations noted | | | |
| 7. Safety Assessment Risk | ● | ● | ● |
| No risk observations noted | | | |
| 8. Integrity Risk | ● | ● | ● |
| No risk observations noted | | | |

The risk observations and management's risk mitigation strategies defined in Appendix C are discussed in detail in the attached document. Internal Audit will conduct a follow-up review to verify management's action plans have been implemented and are working as expected.

We appreciate the cooperation you and your staff provided during this audit. Please feel free to contact me at 980-314-2889 if you have any questions or concerns.

- c: County Manager
- Deputy County Managers
- County Attorney
- Deputy County Attorney
- Board of County Commissioners
- Audit Review Committee

BACKGROUND

The mission of the Mecklenburg County Criminal Justice Services Department, formed in 2010, is to promote improvements in the criminal justice system “through interagency cooperation, coordination, and planning”. One key program supporting their mission is the Pretrial Services Program (the Program), which is governed by North Carolina State Statute §15A-535(b), the Mecklenburg County Bail Policy, and the Board of County Commissioners. Three activities support the Program to help the courts make release-and-detention decisions that protect defendants' civil rights while preserving public safety.

- Smart Detention—The risk assessment team conducts a standardized, validated Public Safety Assessment (PSA) on defendants to determine the risk that they will not appear for future court-ordered dates or could potentially pose a public safety risk.
- Safe Release Program—The court release team presents the PSA recommendations to the judicial official and, if recommended for the Program, determines the defendant’s program eligibility.
- Effective Supervision—The supervision team engages with the Program clients to help ensure their appearance in court and to provide resources for future success.

Risk Assessment Process

The risk assessment team conducts an initial PSA for a prospective program client to determine the likelihood that a defendant will appear for future court-ordered dates and not pose any possible public safety risk. Staff uses information from various databases to determine whether a defendant’s associate risks may disqualify him or her from participating in the Program. The defendant’s PSA, completed prior to the first court appearance, determines the release recommendation the risk assessment team will make to the judicial official¹.

The table below summarizes the release conditions the PSA may recommend. The judicial official makes the final decision. Only if the judicial official chooses the Secured Bond with Alternate Release to Custody of a Designated Person or Organization (CDPO) will the defendant be eligible for the Pretrial Services Program.

¹ Judicial official refers to either a judge or a magistrate.

| RELEASE CONDITION | |
|---|--|
| Type | Description |
| Written Promise to Appear (WPA) | Defendant signs an agreement stating he or she will appear on the court-ordered date |
| Unsecured Bond | Defendant signs an agreement to pay a bond set by the judicial official only if he or she fails to appear on the court-ordered date |
| Secured Bond | Defendant pays up front a bond amount set by the judicial official to serve as a guarantee to appear on the court-ordered date |
| Secured Bond with Alternate Release to CDPO | Defendant either pays a bond amount set by the judicial official as a guarantee to appear on the court-ordered date or can request release to a third party, such as a parent, or to the supervision of the Pretrial Services Program. |

The following table shows the potential supervision levels based on the likelihood that the defendant will not appear for future court dates or pose a future public safety risk, e.g., new criminal activity.

| SUPERVISION LEVELS | | | | | | |
|---|------------------|-----------------------------------|----------------------------------|----------------------|-----------------------------------|----------------------------------|
| Risk of Failure to Appear  | | | | Standard Level | Standard or Intensive Level | Intensive Level |
| | | | | WPA or Unsecured | Unsecured or Administrative Level | Administrative or Standard Level |
| | WPA or Unsecured | Unsecured or Administrative Level | Administrative or Standard Level | Standard Level | Intensive Level | |
| | WPA or Unsecured | WPA or Unsecured | Administrative Level | Standard Level | Standard or Intensive Level | |
| | WPA or Unsecured | WPA or Unsecured | WPA or Unsecured | Administrative Level | Standard Level | |
| | WPA or Unsecured | WPA or Unsecured | | | | |
| Risk of New Criminal Activity  | | | | | | |

Source: Compiled from 2019 Mecklenburg County Release Condition Matrix Information

Court Release Process

The court release team submits the PSA recommendation to the judicial official and is present during the court proceeding to answer any questions related to the PSA. The judicial official has the discretion to choose the PSA recommendation or an alternate release condition. If the judicial official chooses to release the defendant to the Program, the court release team then determines the defendant’s program eligibility based on the 2015 Mecklenburg County Pretrial Services Eligibility criteria. The team compares the PSA information against relevant North Carolina databases to ensure accuracy and to identify any additional activity, such as new arrest warrants. Once confirmed eligible, the defendant must sign a supervision contract that defines the Program rules and expectations. If the court release team finds the defendant is not eligible, he or she will remain jailed until released on bond or the judicial official changes the release condition.

Supervision Process

Once in the Program, the supervision team engages with the client to help him or her be successful, e.g., providing court reminders and employment and vocational opportunities. In May 2018, the Program provided the client a text notification option for his or her upcoming court dates. If the client opted out of text message notifications, the case manager was still responsible for making a telephone call to the client no later than the Friday before the upcoming court date. In October 2019, the Program transitioned to the North Carolina notification system, which notifies the client of any court date he or she has in the State. The supervision team provides the client information about the State text notification system, but the client is responsible to sign up for the service. As of December 1, 2020, the supervision team is required to make telephone calls to all clients reminding them of their upcoming court date(s).

If the judicial official refers the defendant to the Pretrial Services Program, the PSA recommendation will indicate the appropriate supervision level: administrative, standard, or intensive. Regardless of supervision level, all defendants must complete an initial visit with his or her supervision team case manager, as well as any court-ordered drug tests. The following table summarizes the requirements for each supervision level.

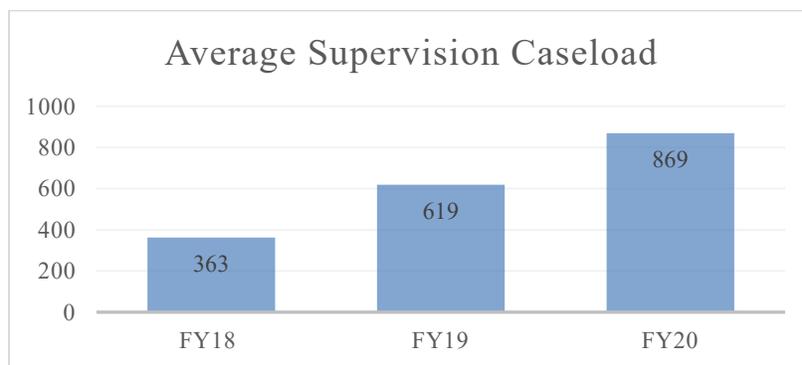
| Pretrial Services Supervision Requirements by Supervision Level | | | |
|---|----------------|----------|-----------|
| Supervision Requirements | Administrative | Standard | Intensive |
| Client monthly telephones case manager | X | - | - |
| Client monthly reports physically to case manager | - | X | - |
| Client reports bi-weekly physically to case manager | - | - | X |
| Client adheres to judicially imposed supervision restrictions | X | X | X |
| Case manager creates client watchlist alert of new criminal or court activity | X | X | X |
| Case manager provides client court date reminders | X | X | X |
| Case manager conducts monthly criminal background check on client | X | X | X |

Case managers conduct client compliance reviews in the first 60 and 90 days of supervision and every 90 days thereafter. If a standard- or intensive-level client remains compliant with program rules and expectations for 90 days, the case manager can offer a one-time reduction in supervision level, which must be approved by the supervisor.

If non-compliant, the case manager will contact the client to identify any compliance barriers, such as transportation or homelessness. Further, the case manager may increase supervision levels based on the reason for non-compliance, e.g., a new criminal offense, as well as the client’s current supervision level. If the client continues to be out of compliance with his or her supervision contract, the case manager will submit a Notice of Non-Compliance request to end the client’s program participation. The request must be approved by both the supervisor and a judicial official.

In addition, case managers conduct clients’ monthly criminal background checks to identify any North Carolina state criminal activity that could impact their supervision level or program eligibility.

The following chart shows the average supervision team’s caseload by fiscal year. The workload increases are a result of changes in the Mecklenburg County bail policy, effective March 1, 2019, that emphasized non-monetary and least restrictive release conditions rather than incarceration.



Source: Pretrial Services data by fiscal year, unaudited

Staff Training

New program staff receives one-on-one training, including a review of their roles and management’s expectations. The trainer and trainee must sign a New Employee Orientation and Onboarding Acknowledgement form to indicate training was completed.

In addition, staff must complete 24 hours of annual continuing professional education, which is monitored by the quality and training specialist. Each team supervisor is required to provide the program manager with a monthly report indicating any staff performance issues and possible training needs.

System Access

Due to the confidential nature of program information, access to the customer relationship management system, which contains defendant information, is limited to only authorized personnel. For staff requiring system access, management submits a request and the quality and training specialist reviews the access for accuracy and appropriateness.

The Pretrial Services unit manager and supervisors will conduct an annual update of the directives to ensure they align with best practices, industry standards, and local bail policy requirements. The update will occur in advance of the annual State of Pretrial meeting that is held each January.

1.2 **Risk Mitigation Strategy:** Reduce **Implementation Date:** January 2022

Action Plan: Program directives will be reviewed with staff in January of each year at the State of Pretrial meeting. Staff will be provided a copy of the directives and will need to acknowledge receipt and their participation in the review meeting.

| Risk Factor | Criticality | Design | Operation |
|--------------------|-------------|--------|-----------|
| 2. Compliance Risk | ● | ● | ● |

Risk Observations

2.1 Eligibility Policy—The Program did not have access to federal databases and instead relied on information received from the Sheriff’s Office to verify that defendants were legal residents as required by the 2015 Mecklenburg County Pretrial Services Eligibility Policy. After December 2018, this information was no longer provided by the Sheriff’s Office². As a result, the Program no longer had a process to verify that defendants were legal United States citizens or permanent residents.

In addition, the Program’s new release conditions matrix removed the “high-risk” client classification and instead uses “intensive supervision”. However, according to the 2015 Mecklenburg County Pretrial Services Eligibility Policy, high-risk clients would not be eligible to participate in the Program.

2.2 Watchlist Alerts—Management did not have a process to ensure case managers created system watchlist alerts within one business day of receiving a new client as required by program policy. Yet, the watchlist alert informs the case manager of any court updates or new criminal activities.

2.3 Supervision Level Overrides—Management did not ensure supervision level overrides to change defendants’ supervision levels were appropriate and timely approved. Nine of 64 or 14% of supervision level overrides sampled were submitted prior to the 90-day period and/or before the revised bail policy effective March 1, 2019. In addition, 16 of 64 or 25% of supervision-level overrides were not approved by the supervision supervisor. As a result, some clients may not be at the appropriate supervision level.

2.4 System Entries—Management did not confirm that case managers consistently marked court reminder activities as completed in the system. As a result, when the case was officially closed, all activity completion dates were overwritten and entered as the case closing date, and management could not confirm court reminders were timely completed.

² Due to new administration and policy changes regarding the 287G program concerning legal residency, this information was no longer provided to the Program.

- 2.5 Client Communications—Management did not ensure case managers consistently and timely telephoned clients who opted out of text notifications to confirm upcoming court dates or mandatory orientations. As a result, 28 of 72 or 39% of clients sampled did not receive a telephone call to remind them of one or more upcoming court appointments.

In addition, six of 72 or 8% of clients sampled were not contacted or not timely contacted for their mandatory orientation sessions. Yet, failure to contact clients as required may result in failure to comply with program requirements.

- 2.6 Monthly Reports—Some supervisors did not complete their team’s monthly performance reports or submit them to the program manager as required. These reports provide performance metrics from supervisors’ monthly sampling of staff activities to ensure compliance with program requirements. Specifically, five of 45 or 11% of monthly reports sampled were not completed and 22 of 45 or 49% were completed but not timely submitted.

Further, the program manager did not evidence the review of the monthly performance reports to ensure staff was compliant with program requirements, such as the execution of client background checks.

Recommendations

- 2.1 Internal Audit recommends management work with the County Manager to determine if the legal residency and “high risk” exclusions should remain part of the Program’s eligibility criteria. Any proposed changes should be presented to the Board of County Commissioners for review and approval. Management should develop and implement a process to comply with the Board’s decision.
- 2.2 Internal Audit recommends management implement a process to ensure that watchlist alerts are created within one business day of the case manager receiving the case.
- 2.3 Internal Audit recommends management ensure supervision-level overrides are reviewed for appropriateness and timely approval. In addition, management should reemphasize to staff the importance of applying supervision-level overrides in accordance with program timeframe policies.
- 2.4 Internal Audit recommends management reemphasize to staff the importance of consistently marking court reminder activities as complete in the system. In addition, management should periodically review and confirm that case managers have recorded these activities.
- 2.5 Internal Audit recommends management reemphasize to staff the importance of contacting clients in accordance with program requirements.
- 2.6 Internal Audit recommends management reemphasize to supervisors the importance of completing and timely submitting the monthly reports to the program manager. In addition, the program manager should evidence review of the reports.

Management's Responses

- 2.1 **Risk Mitigation Strategy:** Reduce **Implementation Date:** December 2021

Action Plan: The Department will work with the County Manager and/or her designee to determine if legal residency and high-risk exclusions should remain part of the eligibility criteria. The Department will advance any recommendations deemed appropriate by the County Manager to the Board of County Commissioners for further consideration.

- 2.2 **Risk Mitigation Strategy:** Reduce **Implementation Date:** November 2021

Action Plan: Case Managers will submit a list of their new releases for the previous week to their assigned Supervisors by Monday of the following week. The supervisor will then check the CJLeads³ system to ensure case managers have placed the clients on his/her watchlist.

- 2.3 **Risk Mitigation Strategy:** Reduce **Implementation Date:** November 2021

Action Plan: Pretrial Services management will implement 60- and 90-day case reviews. The review will include confirmation that supervision-level overrides are appropriate and occur in a timely manner. In addition, supervisors will review the supervision override process with case management staff.

- 2.4 **Risk Mitigation Strategy:** Reduce **Implementation Date:** November 2021

Action Plan: Pretrial Services management will remind staff of the importance of recording and marking tasks as complete in the Criminal Justice Services' Customer Relationship Management (CRM) system. In addition, management will add a systems entry review as part of its overall case review process.

- 2.5 **Risk Mitigation Strategy:** Reduce **Implementation Date:** April 2021

Action Plan: This recommendation has been completed. Pretrial Services resumed court reminder calls for all clients in December 2020 and staff were advised of such at that time. In addition, staff were reminded during an April 2021 team meeting of overall supervision expectations, including client contact requirements.

- 2.6 **Risk Mitigation Strategy:** Reduce **Implementation Date:** September 2021

Action Plan: Supervisors will complete and submit their monthly reports to the program manager during their monthly one-on-one sessions. The program manager has a form that is used for note taking during one-on-ones with direct reports. Submission and review of the monthly reports will be noted on the form.

³ A secure, centralized database of comprehensive, up-to-date information about offenders for use by state and local government criminal justice professionals.

| Risk Factor | Criticality | Design | Operation |
|-------------------------------|-------------|--------|-----------|
| 3. Segregation of Duties Risk | ● | ● | ● |

Risk Observation

3.1 Supervision Level Overrides—Due to staff availability and the number of clients, the supervision supervisor temporarily worked as case manager for some clients, giving that staff member the ability to both create and approve supervision level overrides. This supervisor both created and approved 18 of 64 or 28% of supervision overrides sampled. Allowing the same individual to carry out incompatible duties without management oversight increases the risk of error or unauthorized activities.

Recommendation

3.1 Internal Audit recommends management separate incompatible duties or implement appropriate compensating controls, such as management oversight.

Management’s Response

3.1 **Risk Mitigation Strategy:** Reduce **Implementation Date:** November 2021

Action Plan: Management will review the CRM system to ensure case managers do not have supervision override rights as those rights are limited to supervisors. Supervisors should decide whether to grant an override within 72 hours of receiving the request from the case manager. Also, any overrides a supervisor creates for themselves will need to be approved by the manager. In addition, the Department is working with Information Technology Services (ITS) to develop a CRM dashboard that will allow the Quality and Training Specialist to review user accesses and rights on a continuous basis.

| Risk Factor | Criticality | Design | Operation |
|-----------------------|-------------|--------|-----------|
| 4. System Access Risk | ● | ● | ● |

Risk Observation

4.1 System Access Reviews—While the Program had a process to review the customer relationship management system access rights during a user’s initial setup by Information Technology Services, the review was not documented to evidence it was performed.

In addition, the Program did not have a process to periodically validate users’ system access rights to ensure they are appropriate for their current job roles. As a result, two case managers had inappropriate supervisory level access within the customer relationship management system, which allowed them to both create and approve their own client supervision level override transactions.

Recommendation

4.1 Internal Audit recommends management document and maintain evidence of their initial user system setup reviews. Further, management should at least annually review system user access rights, documenting and maintaining evidence of their reviews.

Management’s Response

4.1 **Risk Mitigation Strategy:** Reduce **Implementation Date:** November 2021

Action Plan: The Department is working with ITS to develop a CRM dashboard that will allow the Quality and Training Specialist to review user accesses and rights on a continuous basis.

| Risk Factor | Criticality | Design | Operation |
|-----------------------|---|---|---|
| 5. Documentation Risk |  |  |  |

Risk Observations

5.1 Documentation Retention—Required program documentation was not retained or completed.

| Requirements | Sample Size | Number of Exceptions | Percentage of Exceptions |
|--|-------------|----------------------|--------------------------|
| Notice of Non-Compliance | 69 | 7 | 10% |
| Judicial Signature on Notice of Non-Compliance | 69 | 14 | 20% |
| Fair Treatment and Grievance Resolution | 72 | 12 | 17% |
| Consent to Receive Text Message-Notification Program | 72 | 36 | 50% |
| Acknowledgment Form | 72 | 34 | 47% |
| Final Release Checklist | 72 | 6 | 8% |
| Pretrial Services Supervision Agreement | 64 | 44 | 69% |

5.2 Court Release Documentation—The case managers did not consistently ensure court release orders agreed to the judicial official’s decisions regarding new client supervision levels. Four of 64 or 6% of court release orders sampled did not agree to the judicial official’s verbal supervision restrictions. Failure to reconcile court release orders against the judicial official’s decision may result in a client supervision level that does not effectively ensure compliance with program requirements.

Recommendations

- 5.1 Internal Audit recommends management reemphasize to staff the importance of completing all required program documentation and ensuring its retention.
- 5.2 Internal Audit recommends management ensure all court release orders are reconciled to the judicial official's supervision level restrictions prior to the client's release and/or any supervision level adjustments.

Management's Responses

- 5.1 **Risk Mitigation Strategy:** Reduce **Implementation Date:** November 2021

Action Plan: All staff will be reminded of documentation completion and retention requirements. In addition, the case management supervisor will conduct monthly audits of case files. The audit will consist of ensuring all paperwork has been uploaded into the CRM and is completed in its entirety.

- 5.2 **Risk Mitigation Strategy:** Reduce **Implementation Date:** November 2021

Action Plan: The case management supervisor will review all new releases from the prior week to ensure that the release orders/supervision levels match what is input into the CRM. The supervisor will review the PSA and the release orders for each client. The supervisor will then ensure the supervision level in the CRM matches what has been ordered.

APPENDIX A—Risk Factor Definitions

| Risk Factor | Definition |
|------------------------------|---|
| Compliance Risk | Failure to comply with established policies, procedures, and/or statutory requirements may result in unacceptable performance that impacts financial, operational, or customer objectives. |
| Documentation Risk | Failure to adequately collect, file, and retain key documentation may result in lack of accountability and/or evidence of information and support. |
| Human Resource Risk | Failure to attract, train, develop, deploy, and/or empower competent personnel may inhibit the organization's ability to execute, manage, and monitor key business activities. |
| Integrity Risk | Failure of employees, vendors, or other parties to carry out their activities in compliance with the law and ethical standards of the organization may result in fraud. |
| Policies and Procedures Risk | Failure to have formal, documented, clearly stated, and updated policies and procedures may result in poorly executed processes and/or increased operating costs. |
| Safety Assessment Risk | The failure to provide accurate and complete safety assessment information may result in misleading input used to inform judicial official when making their release decisions. |
| Segregation of Duties Risk | Failure to adequately segregate duties may allow an employee or group of employees to perpetrate and conceal errors or irregularities without timely detection. |
| System Access Risk | Failure to appropriately restrict access to data or programs may result in unauthorized changes, inappropriate access to restricted or confidential information, or inefficiencies where access is too restrictive. |

APPENDIX B—Color Code Definitions

The criticality of a risk factor represents the level of potential exposure to the organization and/or to the achievement of process-level objectives before consideration of any controls in place (inherent risk).

| Criticality | Significance and Priority of Action |
|---|--|
|  | The inherent risk poses or could pose a significant level of exposure to the organization and/or to the achievement of process level objectives. Therefore, management should take immediate action to address risk observations related to this risk factor. |
|  | The inherent risk poses or could pose a moderate level of exposure to the organization and/or to the achievement of process level objectives. Therefore, management should take prompt action to address risk observations related to this risk factor. |
|  | The inherent risk poses or could pose a minimal level of exposure to the organization and/or to the achievement of process level objectives. Risk observations related to this risk factor, however, may provide opportunities to further reduce the risk to a more desirable level. |

The assessment of the design and operation of key controls indicates Internal Audit’s judgment of the process and system design to mitigate risks to an acceptable level.

| Assessment | Design of Key Controls | Operation of Key Controls |
|---|---|---|
|  | The process and system designs do not appear to be adequate to manage the risk to an acceptable level. | The operation of the process’ risk management capabilities is not consistently effective to manage the risk to an acceptable level. |
|  | The process and system designs appear to be adequate to manage the risk to an acceptable level. Failure to consistently perform key risk management activities may, however, result in some exposure even if other tasks are completed as designed. | The operation of the process’ risk management capabilities is only partially sufficient to manage the risk to an acceptable level. |
|  | The process and system designs appear to be adequate to manage the risk to an acceptable level. | The operation of the process’ risk management capabilities appears to be sufficient to manage the risk to an acceptable level. |

APPENDIX C—Risk Mitigation Strategy Definitions

| Risk Mitigation Strategy | Definition |
|--------------------------|---|
| Reduce | Risk response where actions are taken to reduce a risk or its consequences. |
| Accept | Risk response where no action is taken to affect the risk. |
| Transfer | Risk response where a portion of the risk is transferred to other parties. |
| Avoid | Risk response to eliminate the risk by avoiding or withdrawing from the activity giving rise to the risk. |