PUBLIC SAFETY ASSESSMENT: RISK FACTORS AND FORMULA

The pretrial phase of the criminal justice process should aim to protect public safety and assure defendants' appearance in court, while honoring individuals' constitutional rights, including the presumption of innocence and the right to bail that is not excessive. Yet research shows that low-risk, nonviolent defendants who can't afford to pay often spend extended time behind bars, while high-risk individuals are frequently released from jail. This system causes significant harm to too many individuals and is a threat to our communities.

A growing number of jurisdictions are now reforming their pretrial systems to change the way they make pretrial release and detention decisions. These communities are shifting away from decision making based primarily on a defendant's charge to decision making that prioritizes the individual's level of risk—both the risk that he will commit a new crime and the risk that he will fail to return to court if released before trial. This risk-based approach can help to ensure that the relatively small number of defendants who need to be in jail remain locked up—and the significant majority of individuals who can be safely released are returned to the community to await trial.

PUBLIC SAFETY ASSESSMENT: AN EVIDENCE-BASED TOOL TO EVALUATE RISK

In partnership with leading criminal justice researchers, the Laura and John Arnold Foundation (LJAF) developed the Public Safety Assessment™ (PSA) to help judges gauge the risk that a defendant poses. This pretrial risk assessment tool uses evidence-based, neutral information to predict the likelihood that an individual will commit a new crime if released before trial, and to predict the likelihood that he will fail to return for a future court hearing. In addition, it flags those defendants who present an elevated risk of committing a violent crime.

1

DEVELOPMENT

LJAF created the PSA using the largest, most diverse set of pretrial records ever assembled—1.5 million cases from approximately 300 jurisdictions across the United States. Researchers analyzed the data and identified the nine factors that best predict whether a defendant will commit new criminal activity (NCA), commit new violent criminal activity (NVCA), or fail to appear (FTA) in court if released before trial.

RISK FACTORS

The table below outlines the nine factors and illustrates which factors are related to each of the pretrial outcomes—that is, which factors are used to predict NCA, NVCA, and FTA.

RELATIONSHIP BETWEEN RISK FACTORS AND PRETRIAL OUTCOMES

Risk Factor	FTA	NCA	NVCA
1. Age at current arrest		X	
2. Current violent offense			X
Current violent offense & 20 years old or younger			X
3. Pending charge at the time of the offense	X	X	X
4. Prior misdemeanor conviction		X	
5. Prior felony conviction		X	
Prior conviction (misdemeanor or felony)	X		X
6. Prior violent conviction		X	X
7. Prior failure to appear in the past two years	X	X	
8. Prior failure to appear older than two years	X		
9. Prior sentence to incarceration		X	

Note: Boxes where an "X" occurs indicate that the presence of a risk factor increases the likelihood of that outcome for a given defendant.

The PSA relies solely on the above nine variables. It does not rely on factors such as race, ethnicity, or geography.

FACTOR WEIGHTING

Each of these factors is weighted—or, assigned points—according to the strength of the relationship between the factor and the specific pretrial outcome. The PSA calculates a raw score for each of the outcomes. Scores for NCA and FTA are converted to separate scales of one to six, with higher scores indicating a greater level of risk. The raw score for NVCA is used to determine whether the defendant should be flagged as posing an elevated risk of violence.

HOW RISK SCORES ARE CONVERTED TO THE SIX-POINT SCALES AND NVCA FLAG

Risk Factor	Weights
Failure to Appear (maximum total weight = 7 points)	
Pending charge at the time of the offense	No = 0; Yes = 1
Prior conviction	No = 0; Yes = 1
Prior failure to appear pretrial in past 2 years	0 = 0; 1 = 2; 2 or more = 4
Prior failure to appear pretrial older than 2 years	No = 0; Yes = 1
New Criminal Activity (maximum total weight = 13 points)	
Age at current arrest	23 or older = 0; 22 or younger = 2
Pending charge at the time of the offense	No = 0; Yes = 3
Prior misdemeanor conviction	No = 0; Yes = 1
Prior felony conviction	No = 0; Yes = 1
Prior violent conviction	0 = 0; 1 or 2 = 1; 3 or more = 2
Prior failure to appear pretrial in past 2 years	0 = 0; 1 = 1; 2 or more = 2
Prior sentence to incarceration	No = 0; Yes = 2
New Violent Criminal Activity (maximum total weight = 7 points)	
Current violent offense	No = 0; Yes = 2
Current violent offense & 20 years old or younger	No = 0; Yes = 1
Pending charge at the time of the offense	No = 0; Yes = 1
Prior conviction	No = 0; Yes = 1
Prior violent conviction	0 = 0; 1 or 2 = 1; 3 or more = 2

FTA Raw Score	FTA 6 Point Scale	NCA Raw Score	NCA 6 Point Scale	NVCA Raw Score	NVCA Flag
0	1	0	1	0	No
1	2	1	2	1	No
2	3	2	2	2	No
3	4	3	3	3	No
4	4	4	3	4	Yes
5	5	5	4	5	Yes
6	5	6	4	6	Yes
7	6	7	5	7	Yes
		8	5		
		9-13	6		

JUDICIAL DISCRETION

The PSA is a decision-making tool for judges. It is not intended to, nor does it functionally, replace judicial discretion. Judges continue to be the stewards of our judicial system and the ultimate arbiters of the conditions that should apply to each defendant.

NONPROFIT IMPLEMENTATION AND OWNERSHIP

LJAF provides the PSA at no cost to jurisdictions that adopt it and funds technical support to help localities integrate the tool into their operations. The PSA cannot be implemented by a jurisdiction, incorporated into software, or otherwise used or reproduced without LJAF's express, prior written consent.