



## Public Safety Assessment FAQs (“PSA 101”)

### What is the PSA?

- The Public Safety Assessment, or PSA, is an algorithmic pretrial risk assessment that judges can use when deciding whether a defendant should be released before trial.
- The PSA uses administrative data to produce two risk scores about a defendant: one predicting the likelihood that the individual will commit a new crime if released pending trial, and another predicting the likelihood that they will fail to return for a future court hearing. Scores fall on a scale of one to six, with higher scores indicating a greater level of risk. The PSA also flags defendants that it calculates present an elevated risk of committing a violent crime.
- This objective information can help judges gauge the risk that a defendant poses. However, the PSA does not replace the judge or impede a judge’s discretion or authority in any way.
- The decision about whether to release or detain a defendant always rests with the judge.

### Why did Arnold Ventures (AV) develop the PSA?

- AV is working to improve pretrial decision making in the criminal justice system. We seek a system that uses jail only when absolutely necessary; enhances public safety; protects individuals’ constitutional rights; ensures racial equity; and limits the costs of incarceration on families and communities.
- Our research has shown that the current pretrial decision making process often results in high-risk defendants being released from jail to await trial, while low-risk defendants are frequently detained. This means that rich people who are a danger to society can pay their way out of jail, while poor people who pose no threat to the community cannot.
- This has negative consequences for individuals, families, and communities, and it disproportionately impacts communities of color and low-income individuals.
- In analyzing the system, we found that judges do not often have access to basic information, such as a defendant’s criminal history, and decisions are frequently made in an entirely subjective manner or with the use of fixed bail schedules.
- Recognizing that this system plays a significant role in the troubling issues that we are seeing across the country, AV set out to determine whether there is a better way to make pretrial release and detention decisions.
- AV believes that moving away from a system in which a defendant’s liberty is determined solely on instinct or bail schedules to one in which judges have access to research-based risk

assessments can help to improve judicial decision-making, increase public safety, promote the fair treatment of all individuals, and ensure the responsible use of taxpayer funds.

### **How was the PSA developed?**

- The PSA was created using the largest, most diverse set of pretrial records ever assembled—750,000 cases from approximately 300 jurisdictions across the United States.
- Researchers analyzed the data to determine which factors are most predictive of new criminal activity, new violent criminal activity, and failure to appear.
- The research team identified and tested hundreds of factors, which fell into broad categories, including prior arrests and convictions, prior incarceration, pending charges, prior failures to appear in court, drug and alcohol use, mental health, employment, and residence.
- Historical and prospective validations were conducted to determine how well the PSA performed by race and gender and to ensure that the PSA calculation did not promote bias.
- Ultimately, the team isolated nine factors that most effectively predicted new criminal activity, new violent criminal activity, and failure to appear.
- The PSA’s nine factors are answered using administrative data from a defendant’s criminal history. The factors do not include questions about race, gender, ethnic background, income, substance abuse, mental health, employment status, marital status, or any demographic or personal information other than age.
- More detailed information on the PSA’s development is available [here](#).

### **What factors does the PSA take into account?**

AV has publicly released all nine factors, the weighting of those factors, and the PSA algorithm. The factors do not include race, gender or any demographic information other than age. They include:

- The person’s age at the time of arrest
- Whether the current offense is violent
- Whether the person had a pending charge at the time of the current offense
- Whether the person has a prior misdemeanor conviction
- Whether the person has a prior felony conviction
- Whether the person has prior convictions for violent crimes
- How many times the person failed to appear at a pretrial hearing in the last two years
- Whether the person failed to appear at a pretrial hearing more than two years ago
- Whether the person has previously been sentenced to incarceration.

For more information, please see the [PSA Risk Factors and Formula](#).

### **Why hasn't AV disclosed more information about the data used to develop and validate the PSA?**

- AV is committed to the principle of transparency in the design and implementation of the PSA so that scholars, policymakers, and advocates can understand how the PSA was constructed.
- We have not disclosed the data used to develop and validate the PSA because we are bound by confidentiality agreements with the jurisdictions that shared their information during the development phase and IRB protocols. However, we are committed to releasing as much data as possible that could help researchers evaluate the PSA, and we expect to release a development report in 2019.
- Should the PSA be modified to reflect new research, those findings and modifications will also be released.
- You can find more information about measuring the performance and impact of the PSA [here](#).

### **Does the PSA help judges assign bail?**

- The PSA is helping jurisdictions shift away from a decision-making process based on a defendant's financial resources to one that prioritizes a defendant's risk of pretrial failure.
- The PSA assigns a risk score for two key areas: the likelihood that a defendant will commit a crime—including a violent crime—if released before trial, and the likelihood that a defendant will fail to appear in court.
- These scores provide objective information that judges can consider when deciding whether to release a defendant prior to trial.
- Low risk scores support judicial decisions to place few or no conditions on a defendant's release, including unsecured financial conditions or no financial conditions at all.
- Jurisdictions using the PSA make their own determination as to whether or not bail is made available to defendants.

### **How is the PSA different than other risk assessments?**

- When AV created the PSA, nearly all pretrial risk assessments required an interview with the defendant.
- Interviewers asked questions like, "Do you have a landline phone? Are you married? What neighborhood do you live in?" These factors not only can introduce bias, but research shows they are not strong predictors of risk.
- In addition, with a face-to-face interview, the personal biases of the individual conducting the assessment can easily and unintentionally enter into the process.

- Interviews are also costly and time-consuming to administer because of the staffing needed to conduct them. The PSA does not require an interview with the defendant.
- Furthermore, unlike some other risk assessments, the PSA is used only in the pretrial phase of the criminal justice process. It is not used in the sentencing phase.
- AV [provides the PSA for free to jurisdictions](#) that implement it and also funds technical assistance. The [PSA factors and the algorithm](#) are publicly available, and it is being rigorously evaluated by independent research organizations to ensure that it works as expected without promoting bias.

**There are concerns that some risk assessments are discriminatory. Does the PSA discriminate against people based on their race or gender?**

- No. There is no evidence that the PSA is racially-biased or gender-biased.
- Unlike some risk assessments, the PSA does not rely on the factors that many are concerned might be discriminatory, such as ethnic background, income, level of education, employment status, neighborhood, or any demographic or personal information other than age.
- It is also important to note that in many jurisdictions that don't use risk assessment, the status quo is that many poor defendants—often people of color—spend long periods in jail, even though they are low risk. The PSA is one resource that can help change that.
- You may find more information about the PSA and evaluation of predictive bias [here](#).

**Does the PSA perpetuate bias in the criminal justice system?**

- AV has studied and is continuing to study this issue very closely.
  - The PSA only uses factors related to a defendant's criminal history—such as prior convictions, prior sentences to incarceration, and record of court appearance—as well as age and current charge.
  - The PSA does not look at a person's race, ethnic background, gender, neighborhood, measures of financial status, or any other commonly considered factors that could be discriminatory.
  - Research has shown that those factors are not the most predictive—and we share the concern that they could in fact promote the very type of bias that needs to be eliminated.
  - Understandably, people have asked how a risk assessment can be race and gender neutral if it operates within a system that is fraught with bias. It would be unrealistic to expect that the PSA could remedy all racial bias in the pretrial phase of the criminal justice system. But we believe that the PSA can promote consistent decision-making by judges and can help reduce disparities that may otherwise arise in process of making decisions on pretrial release or detention.

### Is it expensive to implement the PSA?

- The PSA freely [available](#) to any jurisdictions that chooses to implement it.
- It is easy to use, and unlike other risk assessments, does not involve a defendant interview, which can be costly and time consuming to conduct.
- Further, the PSA can reduce the costs of incarceration by helping to ensure that individuals who can be safely released are not jailed unnecessarily.

### Where is the PSA being used?

- The PSA is currently being used statewide in Kentucky, Arizona, New Jersey, and Utah.
- It is also being used in a number of major cities and surrounding areas, including Cook County (Chicago), Illinois; Harris County (Houston), Texas; Maricopa County (Phoenix), Arizona; San Francisco County, California; Mecklenburg County (Charlotte), North Carolina; Allegheny County (Pittsburgh), Pennsylvania; Lucas County (Toledo), Ohio; Minnehaha County (Sioux Falls), South Dakota; Milwaukee County, Wisconsin; Santa Cruz County, California, and New Orleans, LA.
- In 2019, AV launched a five-year partnership with jurisdictions to reduce unnecessary pretrial detention, promote racial justice, test the value of the PSA, and increase safety, fairness, and accountability in local pretrial systems. Ten jurisdictions will be Research-Action Sites, implementing and studying the PSA in collaboration with a national training and technical assistance provider and a national research partner. Throughout the five-year project, two hundred jurisdictions will participate in remote technical assistance and peer learning to guide implementation. [Psapretrial.org](#) will continue to provide knowledge, implementation resources, and research findings to a national audience.

### How do jurisdictions use the PSA and the related decision framework and release conditions matrix?

- On its own, the PSA does not direct a judicial officer to release or detain a person or recommend a presumptive level of pretrial release (or its associated conditions). The PSA results may help inform these decisions, but these decisions are made at the discretion of a judicial officer.
- Before implementing the PSA, local policymakers—such as representatives from the local courts, law enforcement, district attorney’s office, and public defender’s office—may choose to work together on a [Decision Framework \(DF\)](#) and Release Conditions Matrix for their jurisdiction. The DF and Release Conditions Matrix are separate from the PSA calculation.
- The DF clarifies the sequence of major pretrial decisions that justice system professionals make about criminally-accused adults and the local policies and laws that govern those decisions. The DF is critical to establishing when and how the PSA is used in pretrial decision-making.

- Once a release decision is made, a judge must decide the terms and conditions of a person’s release. Local policymakers develop the Release Conditions Matrix to match local pretrial release options with a person’s PSA results. Release conditions are based on assessed pretrial risk, are consistent with the risk principle, align with statutes and local policies, and take into account available resources.
- Consistent with the risk principle, people assessed as having a lower risk of pretrial failure—and therefore a high chance of pretrial success—should be released with minimal or no conditions. People assessed as having higher risk of pretrial failure should be released with conditions targeted to mitigate that risk.
- The goal is to impose the least restrictive conditions that will reasonably assure a person’s appearance in court and protect the community.
- Judges are *not required* to follow the PSA or the recommendations of the Release Conditions Matrix. They maintain their full discretion and authority in all circumstances. The decision about whether to release or detain a defendant always rests with the judge.

### **Is the PSA “soft on crime”?**

- No. The PSA is smart on crime. It provides objective information that judges can use when deciding whether it is safe to release a defendant before trial.
- Under the current system, in far too many cases, high-risk defendants are released pretrial, while low-risk, nonviolent individuals remain in jail. This puts the safety of our communities at risk.
- Different from other pretrial risk assessments, the PSA provides a “flag” indicating a heightened risk of new violent criminal activity, giving judges specific information to consider for community safety.
- Jurisdictions that have implemented the PSA alongside other pretrial reforms have experienced increased pretrial release rates, reductions in failure to appear rates and no significant changes in pretrial re-arrest rates.
- By giving judges access to important information, the PSA can help protect public safety, safeguard citizens’ rights, and ensure that tax dollars are spent wisely.