

FREQUENTLY ASKED QUESTIONS ABOUT THE PUBLIC SAFETY ASSESSMENT

What is the Public Safety Assessment?

The Public Safety Assessment, or PSA, provides reliable, evidence-based information to assist judges as they consider whether a defendant should be released while awaiting trial. Under the New Mexico Constitution, people charged with a crime have a right to bail, except in limited circumstances. The law provides for the pretrial release of a defendant under the least restrictive conditions necessary to protect community safety and assure the defendant will return to court. The PSA tool, using information related to a defendant's age, criminal history, and current charge evaluates the likelihood that a defendant will commit a new crime, commit a new violent crime, or fail to appear for their court hearing if released before trial. With information from the PSA, judges have a base of evidence for their decision-making.

Who uses the PSA and when?

Judges in the Second Judicial District Court, the Bernalillo County Metropolitan Court and in the district and magistrate courts in San Juan County in the Eleventh Judicial District can use the PSA's objective data as part of the information they consider in pretrial release decisions made soon after a defendant is arrested and charged with a crime. Court staff prepares an assessment for each criminal defendant, which is provided to judges as well as the prosecutor and defense counsel before that defendant's initial appearance in court. Judges have the final say, however. The PSA does not replace a judge's discretion and does not supersede other information, including any special circumstances, pertinent to a case.

What is the PSA needed?

Our criminal justice system focuses on protecting the public while safeguarding citizens' rights. Objective, research-based information about the public safety risks posed by a defendant can help to ensure fairness in pretrial release decisions while making our justice system more effective and efficient. Local governments may potentially save taxpayer money if judges can better identify defendants who do not need to be jailed before trial because they pose a low threat to public safety. Jurisdictions that have implemented the PSA have experienced a reduction in crime by defendants released before trial and an increased percentage of defendants returning to court.

How does the PSA work?

The PSA is designed to promote public safety and to ensure that the criminal justice system operates in a fair and efficient manner. It uses nine factors that research has shown are the strongest predictors of whether a defendant will commit a new crime, commit a violent crime, or fail to return to court if released before trial. The factors are:

- 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
- The person's age at the time of arrest
- 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.

Using this information, the PSA produces two risk scores: one predicting the likelihood that an individual will commit a new crime if released pending trial, and another predicting the likelihood that he will fail to return for a future court hearing. The tool will also flag defendants that it calculates present an elevated risk of committing a violent crime. The PSA risk scores fall on a scale of one to six, with higher scores indicating a greater level of risk. This neutral, reliable data can help judges gauge the risk that a defendant poses. However, the tool does not replace the judge or impede his or her discretion or authority in any way. The decision about whether to release or detain a defendant and under what conditions always rests with the judge.

It is important to note that the PSA does not use information that is considered potentially discriminatory, such as a person's ethnic background, income, level of education, employment status, neighborhood, or any demographic or personal information other than age.

[Where has the PSA been implemented?](#)

The risk assessment tool is used in about 40 jurisdictions, including statewide in Arizona, Kentucky, and New Jersey, and counties encompassing large cities such as Charlotte, Milwaukee, Pittsburgh, and Houston.