

11 Guide to the PSA Risk Factors

After reading this guide, PSA project leaders will be prepared to help members of their implementation team understand the definitions of each of the nine risk factors used by the PSA. Project leaders will be able to facilitate their team's discussion of the risk factors; understand how to tailor the definitions for their jurisdiction; answer common questions about the risk factors; and modify the PSA Scoring Manual for their jurisdiction.

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Introduction

This guide will help implementation teams understand each of the nine risk factors the PSA uses to generate a score and predict the likelihood of three kinds of pre-trial success and failure. Gaining a shared understanding of the risk factors and tailoring the PSA Scoring Manual (available at psapretrial.org) for your jurisdiction is a required step in the PSA implementation process.



The PSA uses nine factors to assess the pretrial risk of failing to appear in court, being arrested for new criminal activity, and being arrested for new violent criminal activity. Not all of the risk factors are used to predict each pretrial outcome (FTA, NCA, and NVCA), as the PSA Risk Factor Table below illustrates.

PSA Risk Factor Table

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

FTA = Failure to Appear; **NCA** = New Criminal Activity; **NVCA** = New Violent Criminal Activity

Members of the implementation team should carefully review the definitions of the risk factors to make sure they understand each one in the context of their jurisdiction’s operations; clarify how uncommon circumstances are treated; and identify the sources of the data that will be used locally for scoring each risk factor. The definitions come from LJAF’s research and follow-up validations of the PSA. To ensure fidelity to the PSA and consistency with its underlying research, it is critical that jurisdictions using the PSA use these same definitions. Based on this review, the team can then tailor the PSA Scoring Manual to reflect any relevant local circumstances.

The implementation team should meet to discuss the PSA risk factors and use this guide and the PSA Scoring Manual to steer the conversation. At the meeting, every team member should have a copy of both documents. You will want to discuss each risk factor to make sure the team clearly understands the definitions and how to treat any jurisdiction-specific circumstances, such as your state’s statutory requirements and cases that result in some form of diversion.

At the meeting, you will also want to talk about the data used to score each risk factor (such as criminal history) and identify the data sources (for example, the records systems including criminal history) that PSA assessors will use. Ultimately, the PSA Scoring Manual will become an important resource for your jurisdiction and will serve as a critical reference for staff who are scoring the assessment and for judges and others who need to understand the PSA scores.

The **Public Safety Assessment** is a pretrial risk assessment developed by the Laura and John Arnold Foundation (LJAF) to assist jurisdictions in making pretrial decisions. The PSA predicts pretrial risk of failure to appear (FTA), new criminal activity (NCA), and new violent criminal activity (NVCA). Other materials at psapretrial.org provide general information about the PSA and improving the pretrial system—for instance, the benefits of adopting a pretrial risk assessment, how the PSA was developed, and how it works.

It is likely that even after your team tailors the PSA Scoring Manual, circumstances will arise that are not covered in the document. It is recommended that you add relevant frequently asked questions to the manual after your jurisdiction starts using the PSA. This will serve to provide consistent direction for rare circumstances that PSA assessors may encounter.

The remainder of this guide reviews the definitions of the risk factors and includes information that will assist the team in modifying the PSA Scoring Manual. You should tailor the manual as you deem necessary, but you cannot alter the core definition of any risk factor.

Who Gets Assessed?

The PSA was developed to assess adults who have been arrested in the community and whose case disposition is pending. It was not designed to assess people who are charged with offenses while already in jail or prison.

What Data Are Used to Score the PSA?

The data used to score the PSA are based on the data available to the researchers who developed it and the exhaustive analysis they conducted to identify the strongest predictive factors. Not every piece of data known about a defendant is used to score the PSA. For instance, the assessment does not take juvenile criminal history into account; this is because the information was not available to researchers in every jurisdiction, many of which did not compile or report those data due to strict confidentiality requirements.

Based on the data available and research conducted, only a person's criminal history and court appearance history as an adult are used to score the PSA. The scores are based only on traffic and criminal charges that carry a potential penalty of incarceration (such as jail or prison). Keep in mind these three things:

- A person's juvenile criminal history should *not* be considered when completing the PSA.
- Civil traffic and local ordinance violations are *not* used. In other words, any pending charges, prior convictions, or failures to appear related to civil traffic offenses and ordinances are *not* used to score the PSA.
- The PSA should *not* be scored based on a person's self-reported information.

Your implementation team may decide that juvenile criminal history, civil traffic and ordinance violations, and self-reported information are relevant to pretrial decisions. And though your jurisdiction may elect to include this information in the pretrial report a judicial officer reviews, this information is not relevant to scoring the PSA.

The Risk Factors

The implementation team should review and discuss the definition of each risk factor. The team should also identify all sources of data your jurisdiction will use to score each risk factor. In most jurisdictions, the assessors review all of the databases in which the risk factor data are found and then enter the information for each of the nine PSA risk factors in the PSA program. The automated system then calculates the PSA scores. Some jurisdictions have developed auto-populating PSA systems, eliminating the need for a staff member to input some of the risk factor information.

As you review each risk factor with your team, consider any modifications that should be made to the PSA Scoring Manual and make sure to include all data sources for each risk factor.

1. Age at Current Arrest

This risk factor involves the person's age in years at the time of the current arrest. A jurisdiction's IT system typically auto-populates this factor by comparing the arrest date to the person's date of birth and calculating a person's age. Age is calculated based on the date of arrest and not the date the alleged offense was committed. This is because the arrest date was used to develop the PSA. If the arrest date is unknown, use the person's age at the time the PSA is completed.

It must be determined whether the person is age 23 or older, 21 or 22, or 20 or younger. The age at current arrest is relevant to measuring risk of new criminal activity (NCA) and is also used to score new violent criminal activity (NVCA).

2. Current Violent Offense

This risk factor pertains to whether the person's current offense is a violent offense. Unless a statewide PSA Violent Offense List already exists, each jurisdiction must develop its own list, as described in the Guide to the PSA Violent Offense List. Your PSA Scoring Manual should include your jurisdiction's PSA Violent Offense List.

Determining whether a person's current offense is a violent offense is a matter of reviewing the charge listed at the time of booking. This risk factor is present if either of the following is true:

- Any of the criminal codes for the current charges are listed in your jurisdiction's PSA Violent Offense List, or
- Any of the current charges are a charge of attempt (such as attempted murder or attempted robbery), being an accessory before the fact, party to a crime, solicitation, or conspiracy to commit any offenses included in your jurisdiction's PSA Violent Offense List.

A current violent offense is relevant to measuring risk of new violent criminal activity (NVCA).

2a. Current Violent Offense and 20 Years Old or Younger

This subfactor falls under “current violent offense” but adds the specificity of age. It is one of two subfactors included in PSA scores. This pertains to whether the current offense is a violent offense *and* the person is age 20 or younger at the time of arrest. This subfactor is usually auto-scored based on the responses for other risk factors.

This subfactor is relevant to measuring risk of new violent criminal activity (NVCA).

3. Pending Charge at the Time of the Offense

This risk factor reflects whether the defendant has a pending charge at the time of the current arrest. The pending charge must be a misdemeanor or felony traffic or criminal charge that carries a potential penalty of incarceration (such as jail or prison).

A charge is considered a pending charge and this risk factor is present if:

- The person has a pre-disposition court appearance scheduled for the charge; or
- The charge has not been disposed of due to the person’s failure to appear pending trial or sentencing; or
- The case is in some form of deferred status.

A pre-disposition court appearance is any hearing after arrest and prior to and including sentencing. If the current arrest is for a failure to appear for a pre-disposition court appearance, the underlying charge for the failure to appear is counted as a pending charge for purposes of scoring the PSA.

A pending charge at the time of the offense is relevant to measuring risk of failure to appear (FTA), new criminal activity (NCA), and new violent criminal activity (NVCA).

PSA sites report that this risk factor is one of the most difficult to score. One question that often arises is how to treat a charge that is in some form of deferred status. **Charges with a deferred status are considered pending charges.** Your jurisdiction may refer to such charges as deferred prosecution, diversion, having a withheld finding, or a sentence held in abeyance—or you may use other similar terminology. An important step for the implementation team will be to articulate the terminology your jurisdiction uses for deferred status cases and identify which ones fall under the rubric of “pending charge at the time of the offense.” The team may want to tailor the PSA Scoring Manual by specifically designating circumstances that are deferred status cases.

Note: To help determine whether a pending charge is present in a case, ask these questions:

- Was the person previously arrested for an offense?
- Was the person released and is now on release pending trial?
- Did the person allegedly commit a new offense while released pending trial?

If the answer to all of these questions is yes, the person has a pending charge.

These criteria also apply when a person was charged with an offense but received a citation for a misdemeanor or felony traffic or criminal charge that carries a potential penalty of incarceration, rather than being arrested and taken into custody. If someone was previously cited for an offense and the case is still pending—and the individual allegedly committed a new offense while the case was pending—the person has a pending charge.

The PSA Scoring Manual contains frequently asked questions about pending charges at the time of an alleged offense; refer to those FAQs as needed during your team meeting.

4. Prior Misdemeanor Conviction

This risk factor pertains to whether a person has been previously convicted of one or more traffic or criminal offenses that carry a potential penalty of incarceration (such as jail or prison) and are defined by statute as misdemeanors. A conviction includes any guilty plea or finding of guilt.

The following are not considered prior convictions:

- A charge that is in some form of deferred status or pending sentencing. (See risk factor 3: Pending Charge at the Time of the Offense.)
- Any case for which the defendant was found not guilty by reason of insanity.
- Any case that was expunged.

This risk factor is present if the person has one or more prior misdemeanor convictions; it is relevant to measuring risk of new criminal activity (NCA) and is also used to score new violent criminal activity (NVCA).

The data used to score this risk factor are typically obtained through a comprehensive criminal history inquiry involving local, state, and national criminal history databases. Staff who complete the PSA must be familiar with local- and state-level nuances when researching criminal convictions; they must also learn how to analyze data from other states through the National Crime Information Center. LJAF recommends that before using the PSA, staff should be trained on how to query and interpret criminal history data, including NCIC data.

The PSA Scoring Manual contains frequently asked questions about prior misdemeanor convictions; refer to those FAQs as needed during your team meeting.

5. Prior Felony Conviction

This risk factor addresses whether the person has been previously convicted of one or more traffic or criminal offenses that carry a potential penalty of incarceration (such as jail or prison) and are defined by statute as felonies. A conviction includes any guilty plea or finding of guilt.

The following are not considered prior convictions:

- A charge that is in some form of deferred status or pending sentencing. (See risk factor 3: Pending Charge at the Time of the Offense.)
- Any case for which the defendant was found not guilty by reason of insanity.
- Any case that was expunged.

This risk factor is present if the person has one or more prior felony convictions; it is relevant to measuring risk of new criminal activity (NCA) and is also used to score new violent criminal activity (NVCA).

The data used to score this risk factor are typically obtained through a comprehensive criminal history inquiry involving local, state, and national criminal history databases. Staff who complete the PSA must be familiar with local- and state-level nuances when researching criminal convictions; they must also learn how to analyze data from other states through the National Crime Information Center. LJAF recommends that before using the PSA, staff should be trained on how to query and interpret criminal history data, including NCIC data.

The PSA Scoring Manual contains frequently asked questions about prior felony convictions; refer to those FAQs as needed during your team meeting.

5a. Prior Conviction

This subfactor focuses on whether the person has a prior misdemeanor conviction or a prior felony conviction. It is one of two subfactors included in PSA scores. This subfactor is usually auto-scored based on the responses to risk factors 4 (prior misdemeanor conviction) and 5 (prior felony conviction).

A prior conviction is relevant to measuring risk of failure to appear (FTA) and new violent criminal activity (NVCA).

6. Prior Violent Conviction

This risk factor addresses whether any of a person's prior convictions are for a violent offense. Unless a statewide PSA Violent Offense List already exists, each jurisdiction must develop its own list for use with the PSA, as described in the Guide to the PSA Violent Offense List. Your PSA Scoring Manual should include your jurisdiction's PSA Violent Offense List.

As with the prior misdemeanor conviction and prior felony conviction risk factors, the data used to score this risk factor are typically obtained through a comprehensive criminal history inquiry involving local, state, and national criminal history databases. If the defendant has only in-state prior convictions, the PSA assessor can determine whether any are violent by reviewing the criminal codes on the jurisdiction's PSA Violent Offense List. If the defendant has out-of-state prior convictions, the assessor must ascertain whether, for purposes of the PSA, the out-of-state offense is violent. This is a common challenge for people working in PSA sites. The PSA Scoring Manual provides relevant guidance to address these questions.

Each prior violent conviction is counted separately for purposes of scoring the PSA, even if multiple convictions were related to the same incident and/or were disposed of on the same day. The assessor must determine whether the defendant has none, one or two, or three or more prior violent convictions.

A prior violent conviction is relevant to measuring risk of new criminal activity (NCA) and new violent criminal activity (NVCA).

The PSA Scoring Manual contains frequently asked questions about prior violent convictions; refer to those FAQs as needed during your team meeting.

7. Prior Failure to Appear Pretrial in Past Two Years

This risk factor addresses whether—within two years of the current arrest date—a person has previously failed to appear for a pre-disposition court event and the court took an action, such as issuing a bench warrant or *capias*. (Any FTAs more than two years old are scored separately; see risk factor 8.) The risk factor pertains only to failures to appear at pre-disposition court appearances—that is, any appearances after arrest and prior to and including sentencing. It does not include failures to appear at post-disposition hearings, such as a hearing for a violation of supervision. The assessor should compare the FTA date with the conviction date of the underlying charge to make sure that it is a pre-disposition failure to appear.

A failure to appear pretrial is not counted if there is confirmation that the defendant was in custody (jail or prison) when the FTA occurred. In addition, a failure to appear pretrial is not counted if the warrant or *capias* was issued and withdrawn on the same day.

A failure to appear for a single court appearance is counted once, regardless of the number of charges or warrants issued related to that appearance.

The assessor must determine whether the defendant has none, one, or two or more failures to appear in the past two years. This risk factor is relevant to measuring risk of failure to appear (FTA) and new criminal activity (NCA).

The PSA Scoring Manual contains frequently asked questions about failures to appear; refer to those FAQs as needed during your team meeting.

8. Prior Failure to Appear Pretrial Older Than Two Years

This risk factor is present if a person failed to appear for a pre-disposition court event more than two years before the current arrest date. The definition of failure to appear is clarified earlier. (See risk factor 7: Prior Failure to Appear Pretrial in Past Two Years.)

This risk factor is relevant to measuring risk of failure to appear (FTA).

The PSA Scoring Manual contains frequently asked questions about failures to appear; refer to those FAQs as needed during your team meeting.

9. Prior Sentence to Incarceration

This risk factor pertains to whether the person has previously been sentenced to a period of incarceration—either jail or prison—for a period of 14 or more days. A sentence to incarceration includes both an original sentence to incarceration or incarceration as a result of a resentencing—such as a jail sentence imposed as a result of a violation of probation, a probation revocation, and/or the imposition of a suspended or stayed sentence. A sentence that is “credit for time served” qualifies provided that the sentence was for 14 or more days. If the defendant does not serve the sentence consecutively (for instance, if the defendant was allowed to serve the sentence over a set number of weekends), it still counts so long as the total sentence was for 14 or more days.

To qualify as a prior sentence to incarceration, the sentence must have been imposed by a judicial officer. It does *not* include any stays in jail by order of a probation or community supervision officer. Incarceration in lieu of payment of fines or costs does not count as a prior sentence; neither does a suspended sentence.

A prior sentence to incarceration is relevant to measuring risk of new criminal activity (NCA).

The PSA Scoring Manual contains frequently asked questions about prior sentences to incarceration; refer to those FAQs as needed during your team meeting.

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