# Examining Adherence to the Public Safety Assessment and Release Conditions Matrix on Individual, Case, and System Outcomes

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**NEARLY 70 PERCENT** of individuals held in city and county jails in the U.S. are being detained pretrial, meaning they have not vet been convicted of a crime (Zeng, 2023). Individuals who have been charged with crimes but not yet convicted pose a unique challenge to courts and law enforcement agencies. Although individuals are legally presumed innocent of criminal charges until they plead guilty or are convicted at trial, if they are not detained pretrial there is a chance that they could commit a crime while awaiting adjudication or not show up for court. However, those who are detained pretrial can face negative consequences, including being separated from their families and communities, losing jobs or housing, and facing greater likelihood of conviction and active sentences than those who are released (Baughman, 2017; Bishop, Hopkins, Obiofuma, & Owusu, 2020; Dobbie, Goldin, & Yang, 2018; Donnelly & MacDonald, 2018; Wakefield & Andersen, 2020). Specifically, studies have found that detained individuals were more likely to plead guilty and pled guilty faster than those who were released; they also had a higher likelihood of conviction and lower likelihood of having their cases diverted out of the criminal legal system entirely (Petersen, 2020; Lee, 2019; Goldkamp, 1980; Heaton, 2017). Individuals detained pretrial were also more

likely to receive longer prison sentences than those who were released (Goldkamp, 1980; Sacks & Ackerman, 2014; Heaton, Mayson, & Stevenson, 2017). Pretrial detention has also been found to increase individuals' likelihood of missing court and being arrested for new crimes (DeMichele, Silver, & Labrecque, 2024).

Past research has also demonstrated that racial and economic disparities exist in pretrial detention (Arnold, Dobbie, & Yang, 2018; Dobbie, Hull, & Arnold, 2022; Katz & Spohn, 1995), suggesting that the practice is used inequitably. Black individuals are not only detained pretrial more often than White individuals, but pretrial detention has been found to be more strongly related to adverse sentencing outcomes for Black individuals. In one large study examining pretrial detention and sentencing across 75 urban counties, Black individuals detained pretrial were 26 percent more likely to go to prison than detained White individuals (Sutton, 2013). Jurisdictions across the country are working to reduce rates of pretrial detention as well as increase fairness in its use.

Pretrial assessments have been presented as tools to help systems make data-informed decisions regarding pretrial release to improve outcomes and minimize unwanted effects and disparities. The use of actuarial risk assessment instruments during pretrial and at other points in the criminal legal system has been controversial due to concerns that they may perpetuate racial biases and fail to accurately predict pretrial outcomes; however, numerous systems have viewed the use of valid pretrial instruments as preferable to relying on the discretion of legal actors, which may lead to biased decisions and the overuse of detention (Pretrial Justice Institute, 2019).

The Public Safety Assessment (PSA) is a pretrial assessment instrument that provides objective information about an individual's likelihood of remaining arrest-free and showing up in court during the pretrial period (Arnold Ventures, 2023; VanNostrand & Lowenkamp, 2013). When jurisdictions implement the PSA to inform pretrial release decision-making, they must also develop a Release Conditions Matrix (RCM), which is a six-by-six matrix that matches FTA and NCA scores. The RCM recommends supervision levels and corresponding release conditions based on the PSA score. Conditions and supervision levels are determined by the jurisdiction. Those administering the assessment will score the PSA and then review the RCM matrix and make release recommendations to the judicial officer based on these locally derived RCM policies and practices. Importantly, judicial officers have this objective information to guide their release decision but are not bound to it, as there are other factors outside the PSA that courts must consider when making a release decision, such as statutory requirements.

Pretrial assessment instruments are typically adopted to increase objectivity and fairness in pretrial release decisions and to improve pretrial outcomes (attending court, remaining arrest-free) by basing release conditions on statistical formulas estimating individual risk (Desmarais, Monahan, & Austin, 2022; Ludwig & Mullainathan, 2021). An analysis of data on all jail bookings before and after the PSA was adopted in Lucas County, Ohio, found that adoption was associated with improvements in pretrial outcomes, including decreases in rates of failure to appear in court (FTAs), new criminal arrests (NCAs), and new violent criminal arrests (NVCAs) during the pretrial period (Lowenkamp, DeMichele, & Warren, 2020).

However, even in court systems where the PSA is used, judges and magistrates still have discretion to determine supervision levels and release conditions at arraignment and may choose different ones than are indicated by the PSA and RCM. Because legal actors retain discretion to override these recommendations, a jurisdiction's adoption of pretrial assessment instruments could have limited impact on release decisions. Little is known about how pretrial release decisions are influenced by the use of the PSA in a district. Understanding such influences is critical for jurisdictions considering whether to adopt the PSAknowing whether judges will actually use the instrument and predicting changes in the number of individuals assigned different pretrial release conditions can suggest whether a pretrial instrument would increase objectivity in decision-making as well as inform resource allocation within court systems.

The limited research on judges' adherence to the PSA suggests that judges do not always follow RCM recommendations based on PSA scores. A qualitative study conducted with judges using the PSA in a diverse set of courts found that they did not have a complete understanding of the PSA instrument and felt they needed more information about individuals' extra-legal and personal factors to inform their release decisions (DeMichele, Comfort, Barrick, & Baumgartner, 2021). Web surveys were conducted in another study with 171 judges, prosecutors, defense attorneys, and pretrial staff in 30 jurisdictions that implemented the PSA, and found that 80 percent of judges reported that the PSA "always" or "often" informs their release decision and more than half of judges indicated it had been useful when making a release decision; however, 33 percent of judges viewed the loss of their discretion as a weakness of the PSA (DeMichele et al., 2019).

Research is limited on how pretrial assessments impact release conditions, and the existing research is mixed. In a study of the Indiana Risk Assessment System - Pretrial Assessment Tool (IRAS-PAT), Lowder and colleagues compared individuals who received a risk assessment with those who did not within the same year and found that those with assessments were more likely to receive nonfinancial release. Additionally, they found that "when risk assessment-guided decisions adhered to structured guidelines, defendants with risk assessments had higher rates of pretrial release and spent less time in pretrial detention" (Lowder, Diaz, Grommon, & Ray, 2021). Shaefer et al. found that "possessing a moderate or high qualitative risk score (failing to appear and committing a new offense) and possessing a high risk of committing a new violent offense increases the likelihood of receiving a financial bond requirement for release" (Schaefer & Hughes, 2019).

A study examining the implementation of the Virginia Pretrial Risk Assessment Instrument (VPRAI) in a large southeastern judicial district found that the instrument did not produce decreases in the length of pretrial detention or increases in the nonfinancial release. Judicial decisions did not typically adhere to the pretrial recommendations based on the VPRAI. Specifically, concurrence between the VPRAI recommendation and the judicial decision was observed in less than half of the cases. As a result, release decisions frequently included more restrictive and financial conditions, which appeared to impact Black and Latino individuals (Copp, Casey, Blomberg, & Pesta, 2022). The authors concluded that "the extent and nature of judicial overrides disregards the spirit of [pretrial risk assessment] tools, as judges not only favored more restrictive release decisions, but made decisions in ways that largely overlooked the risk-based estimates provided by the tool. This suggests that buy-in from these key decision makers was limited, which immediately diminishes the prospect of meaningfully altering pretrial practices" (Copp et al., 2022).

When legal system actors "override" or depart from recommendations based on risk assessment instruments in favor of their own discretion, typically they assign more restrictive conditions than those recommended through the assessments (Cohen, Lowenkamp, Bechtel, & Flores, 2020; Copp et al., 2022). If overrides significantly change the population that is placed under supervision, they have the potential to deteriorate the risk assessments' predictive capacities (Cohen et al., 2020). Therefore, it is critical to understand users' adherence to risk assessment tools and use of overrides. Arguably, the same issue may exist with "underrides," when judicial officers make a less restrictive release decision than the one that is recommended.

The current study analyzes administrative pretrial data from a large district in the southeastern United States that recently adopted the PSA to understand the extent to which the PSA and RCM informed pretrial supervision decisions, and the factors associated with judges deciding to override or underride the recommendations of the RCM in favor of their own discretion. By leveraging these data, this study describes the role of the PSA and RCM in informing release recommendations and release decisions, and examines their impact on case and pretrial outcomes, and will answer the following questions:

RQ1. What is the concurrence rate after implementing the PSA-RCM?

RQ2. Is adherence to the PSA-RCM associated with case disposition?

RQ3. What factors, if any, are related to RCM overrides and underrides?

RQ4. Is adherence to the PSA-RCM associated with pretrial outcomes?

#### Methods

#### Data Sources and Sample

The study leverages jail admissions and pretrial services data from a large southeastern county in the United States. The sampling time frame was January 1, 2017, through December 31, 2018. The jurisdiction provided data as part of a six-year multi-site research and training and technical assistance project, Advancing Pretrial Policy and Research (APPR). APPR jurisdictions partnered with researchers and TTA providers to understand the local pretrial policies and practices and their impact, conduct historical Public Safety Assessment (PSA) validations prior to implementation and prospective validations post-implementation,<sup>1</sup> describe the pretrial

<sup>1</sup> All historical validation studies have included predictive bias testing. Post-implementation validations are limited to sites that implemented the PSA early in the study period to ensure sufficient sample

population in the local jail along with booking and release rates,<sup>2</sup> and examine release recommendations, conditions, and decisions.

#### Measures

Outcomes of Interest. There were seven dependent variables examined in the current study. These outcomes included: release recommendation, release decision, concurrence, case disposition, failure to appear, new criminal arrest, and new violent criminal arrest. Release recommendation was defined as the pretrial services officer's recommendation to the court to release or not release the individual.3 Release decision was measured as the judicial officer's decision to release or detain the individual. Concurrence was measured as adherence to the release recommendation from pretrial services. Case disposition was defined as whether a case resulted in a conviction or no conviction. Failure to appear (FTA) was defined as a bench warrant issued for missing a scheduled predisposition court date. New criminal arrest (NCA) was measured as an arrest for a criminal or traffic offense that is eligible for a sentence to incarceration while on pretrial release. New violent criminal arrest (NVCA) was measured as an arrest for a violent criminal offense that is eligible for a sentence to incarceration while on pretrial release. All dichotomous outcome measures

size and follow-up to examine pretrial outcomes.

<sup>2</sup> Jail data dashboards were created for APPR jurisdictions to allow for ongoing review of the overall jail population, pretrial population, booking and release rates, lengths of stay, charge information, and demographics. Not all jurisdictions made their jail dashboard public.

<sup>3</sup> The Release Conditions Matrix (RCM) does not include a recommendation to detain. However, pretrial services is able to make this recommendation and record it in the data system. were coded similarly, 0 = outcome did not occur and 1 = outcome occurred.

PSA Risk Factors. The PSA comprises three scales: Failure to Appear (FTA), New Criminal Activity (NCA), and New Violent Criminal Activity (NVCA), each of which produces separate scores that are intended to predict the probability of these distinct outcomes occurring. There are nine risk factors scored across the PSA (with some factors being included on more than one scale): (1) age at current arrest, (2) current violent offense, (3) pending charge at the time of the current offense, (4) prior misdemeanor conviction, (5) prior felony conviction, (6) prior violent conviction, (7) prior failure to appear in the past two years, (8) prior failure to appear older than two years, and (9) prior sentence to incarceration of 14 days or more. Based on the scale, several PSA risk factors are combined into a specific factor, including: (1) any prior conviction (which is scored when a prior misdemeanor and/or felony conviction is present), (2) current violent offense and 20 years old or younger (which is scored from the current age and current violent offense risk factors). Raw scores from the three PSA scales (FTA: 0 - 7 points, NCA: 0 - 13 points, NVCA: 0 - 7 points) are collapsed into scores from 1 to 6 points, with lower scores representing a greater likelihood of pretrial success (e.g., attending scheduled court dates, avoiding arrests). The NVCA scale is unique, in that scores of 4 and above suggest an elevated likelihood of violence during the pretrial period.<sup>4</sup>

**Demographics.** Demographic measures included biological sex (male, female), age at jail admission, and race, which was collapsed

<sup>4</sup> More information about the PSA factors, scales, and weights can be found here: https://advancingpretrial.org/psa/factors/

# TABLE 1.Research Questions and Analytical Strategy

Research Question	Measures	Analytical Strategy
What is the concurrence rate after implementing the PSA-RCM?	Release recommendation, Release decision, Concurrence	Frequencies, crosstabulations
Is adherence to the PSA-RCM associated with case disposition?	Concurrence, Release decision, Case disposition	Frequencies, crosstabulations, Bivariate logistic regression1 Odds ratios
What factors, if any, are related to RCM overrides and underrides?	Concurrence, PSA score, Charge severity, Violent Charge	Bivariate logistic regression Odds ratios
Is adherence to the PSA-RCM associated with pretrial outcomes?	Concurrence, Release decision, FTA, NCA, NVCA	Frequencies, crosstabulations, Bivariate logistic regression Odds ratios

<sup>1</sup> For all regression models, when examining statistical significance, p values were set at .001.

into two categories (White; and Black, Indigenous, People of Color - BIPOC).

#### Analytical Strategy

Descriptive statistics were calculated to examine the demographic characteristics, charge type, PSA risk factors and scores, release recommendation and decision, and pretrial outcomes. Further, bivariate logistic regression models were conducted for each dichotomous outcome measure, while controlling for the PSA and demographic measures, to identify significant predictors of these outcomes, as well as to describe the likelihood (using odds ratios) of the outcome occurring. Table 1 presents each research question, and the analytical strategy followed.

#### Sample Description

The sample comprises 8,486 individuals who received a PSA assessment and had both a release recommendation and judicial decision. Table 2 provides a breakdown of the sample demographics, average PSA scores, charge type, and severity. The sample comprises 85 percent Black, Indigenous, and People of Color (BIPOC); 77 percent are males, with an average age of 35 years at the time of jail admission on the current booking. The average PSA scale scores are 2.55 for FTA, 3.18 for NCA, and 2.63 for NVCA. When looking at charge severity, nearly 65 percent of the sample was booked on a felony, compared to 33 percent on a misdemeanor, and almost 2 percent on a serious felony. For charge type, over 51 percent of the bookings had a violent charge, 26 percent had a property charge, almost 13 percent had a public order charge, and 10 percent had a drug charge.

Table 3 presents the breakdown of the PSA scores for the FTA, NCA, and NVCA scales. For FTA, nearly 76 percent of the sample fell into the lower range of scores (1-3 points), while the remaining 24 percent scored in the higher range of scores (4-6 points). For NCA, approximately 55 percent of the cases scored between 1 to 3 points, and 45 percent scored between 4-6 points. NVCA followed a similar pattern to NVCA, about 75 percent of the cases scored 1 to 3 points, while 25 percent had scores 4 and above. Collectively, the sample primarily comprises lower risk cases across the three scales.

# Results

RQ1. What is the concurrence rate after implementing the PSA-RCM? We examined concurrence for the total

sample and disaggregated by demographics, PSA scores, and the presence of the violence flag,<sup>5</sup> as well as by charge type and severity. Concurrence was measured as the proportion of cases in which we observed judicial adherence to the release recommendation from pretrial services. Based on the data available, we also examin outcome. In Table 4, more inrecommended for detention percent) than release (n=1,867 but ultimately judicial officers individuals (n=5,150, 61 perce detained (n=3,336, 39 percent cases, nearly 53 percent of the decisions adhered to the remendation from pretrial serv percent did not.

Table 5 provides the brea release recommendation, con release rates by biological s Starting with the pretrial service ommendation, a larger percer (81 percent) were recommend tion than females (68 percent)

<sup>5</sup> The violence flag is present whe NVCA scale are 4 and above.

TABLE 2.

		Score
N %	Average	PSA
5)		TABLE 3. PSA Scale Sco
en scores on the	rates by PSA scores. when comparing withi	As seen in T n scores, the 1
), and a larger	ommendation, concurr	ence rates, and
led for deten-	Tables 6 through 8 d	escribe the rele
ntage of males	percent, respectively).	· 1
ces release rec-	of White or unknown r	ace (28 percen
sex and race.	were detained at higher	rates than ind
currence, and	percent, respectively), a	nd BIPOC ind
kdown of the	at higher rates than fem	ales (44 percer
,	detained in all categorie	s. Males were o
ices, while 47	percentage of individua	als were releas
elease recom-	cent). When examining	release rates. a
iudicial release	were for individuals of	unknown race
). Of the 8,486	that adhered to the rel	ease recomme
ent) than they	sample size, the largest	proportion of d
released more	cent, respectively). Desp	oite the relative
7, 22 percent),	BIPOC individuals (54	4 percent vs.
(n=6,619, 78	judges' decisions were a	dherent for W
dividuals were	percent), while a rough	ly equal perce
ed the release	tions for males (55 per	cent) than fem
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percentage of BIPOC individuals (80 percent) were recommended for detention than White individuals (66 percent) or those of unknown race (57 percent). The highest concurrence rates were found among males and individuals of unknown race. A greater percentage of judges' decisions adhered to recommendanales (47 entage of hite and 53 perely small lecisions endation (71 pera greater sed than detained nt vs. 25 lividuals lividuals it and 29

ease recd release Table 6. majority of individuals at all risk scores except one were recommended for detention rather than release; 45 percent of those with an NVCA score of 1 were recommended for detention and 55 percent were recommended for release. In general, the percentage of individuals recommended for detention increased as each of the three PSA scale scores increased, although those with NCA and NVCA scores of 6 had slightly lower detention recommendation rates than those scoring 5, which for NVCA may be due to few such people with NVCA scores of 6.

Table 7 takes a closer look at how judicial officers responded to the predominant recommendation to detain observed in Table 6. When examining adherence patterns across PSA scores, in general, rates of judicial adherence to release recommendations were lowest for individuals with PSA scores of 2 or 3. For example, adherence rates were around 7 percentage points higher for individuals with an FTA score of 1 than for those with a score of 2, and were over 20 percentage points higher for those with an NVCA score of 1 than for those with a score of 2. Adherence rates were highest overall for those with higher scores

PSA Scale Scores (N=8,486)								
PSA	FT	Ā	NC	NCA		NVCA		
Score	N	%	N	%	N	%		
1	2124	25.0	1623	19.1	1932	22.8		
2	2197	25.9	1425	16.8	2336	27.5		
3	2149	25.3	1643	19.4	2055	24.2		
4	1498	17.7	1760	20.7	1316	15.5		
5	397	4.7	1674	19.7	830	9.8		
6	121	14	361	43	17	0.2		

Samp	le D	escripti	ion (N	N=8,48	36

	N	%	Average
Biological sex			
Male	6564	77.4	
Female	1922	22.7	
Race			
BIPOC	7167	84.5	
White	1305	15.4	
Unknown	14	0.2	
Age at admission	Minimum = 18 years	Maximum = 83 years	35.26 years
PSA scale scores			
FTA	-	-	2.55
NCA	-	-	3.18
NVCA	-	-	2.63
Charge severity			
Misdemeanor	2824	33.3	
Felony	5505	64.9	
Serious Felony	157	1.9	
Charge type			
Violent	4368	51.5	
Property	2165	25.6	
Drug	851	10.0	
Public order	1079	12.7	
Other	23	0.3	

TABLE 4.

### **Release Recommendations and Concurrence** by Release Type (N=8.486)

Release Recommendation	Ν	%
Detain	6619	78.0
Release	1867	22.0
Adhered		
Detained	2984	35.2
Released	1515	17.9
Not Adhered		
Detained	352	4.2
Released	3635	42.8

on each scale; the highest rates of adherence occurred with individuals scoring 6 on FTA (70 percent) and NVCA (71 percent) scales. For individuals with a violence flag (NVCA 4-6), judicial officers adhered to recommendations in a majority of those decisions.

Table 8 presents the release rates by PSA score. The percentage of individuals detained increased as each of the three PSA scale scores increased. The majority of individuals scoring 3-6 on FTA and 4-6 on NVCA or NCA were detained. Those with FTA and NCA scores of 1 experienced the lowest rates of detention (14-15 percent), and those with FTA and NCA scores of 6 experienced the highest rates of detention (71 percent). When examining the NVCA scale, we see a similar pattern, with release rates highest for lower scores, with nearly 78 percent of those with a score of 1 being released compared to 22 percent being detained. Of the 2,163 individuals with a violence flag (NVCA scores 4-6), the majority

were detained.

Table 9 examines the release recommendations, concurrence, and release rates by charge type (most serious charge) and severity (misdemeanor, felony, serious felony). Those charged with violent crimes as the most serious charge were most frequently recommended for detention (84 percent), followed by those with drug (77 percent) and property crimes (74 percent); and those charged with public order (62 percent) and other crimes (48 percent) were the least likely to be recommended for detention. In terms of charge severity, 74 percent of those charged with misdemeanors were recommended for detention, followed by 79 percent of serious felonies, and 85 pecent of felonies. When examining concurrence within charge types, we found adherence to the release recommendation in 50 percent or more of the cases involving drug, public order, property, and other charges; however, judicial officers agreed with

the release recommendation in slightly fewer of the cases involving violent charges (48 percent). For charge severity and concurrence, adherence rates were 63 percent and nearly 82 percent respectively for felony and serious felony charges, but were found to be much lower for misdemeanors, at 47 percent. Turning to release rates, release rates were all above 55 percent for each charge type, with almost 62 percent of the cases involving violent charges being released. For charge severity, 71 percent of misdemeanors were released, followed by 42 percent of felonies and 37 percent of serious felonies.

The next set of results focuses on the relationship between concurrence and case disposition.

# RQ2. Is adherence to the PSA-RCM associated with case disposition?

Table 10 presents the case disposition type for the full sample. About half of the court cases

#### TABLE 5.

Release Recommendation, Concurrence, and Release Rates by Biological Sex and Race (N=8.486)

	Recommen	nd – Detain	Recommen	d - Release
	N	%	N	%
<b>Biological Sex</b>				
Male	5314	81.0	1250	19.0
Female	1305	67.9	617	32.1
Race				
BIPOC	5751	80.2	1416	19.8
White	860	65.9	445	34.1
Unknown	8	57.1	6	42.9
	Adhe	ered	Not Ac	lhered
	Ν	%	Ν	%
Biological sex				
Male	3604	54.9	2960	45.1
Female	895	46.6	1027	53.4
Race				
BIPOC	3783	52.8	3384	47.2
White	706	54.1	599	45.9
Unknown	10	71.4	4	28.6
	Deta	ined	Released	
	Ν	%	Ν	%
<b>Biological Sex</b>				
Male	2858	43.5	3706	56.5
Female	478	24.9	1444	75.1
Race				
BIPOC	2971	41.5	4196	58.5
White	361	27.7	944	72.3
Unknown	4	28.6	10	71.4

TABLE 6.
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Release Recommendations by PSA Scores (N=8,486)

PSA Scale	Recomme	Recommend – Detain		nd – Release
FTA	Ν	%	Ν	%
1	1112	52.4	1012	47.6
2	1684	76.6	513	23.4
3	1954	90.9	195	9.1
4	1388	92.7	110	7.3
5	367	92.4	30	7.6
6	114	94.2	7	5.8
NCA				
1	856	52.7	767	47.3
2	869	61.0	556	39.0
3	1367	83.2	276	16.8
4	1612	91.6	148	8.4
5	1583	94.6	91	5.4
6	332	92.0	29	8.0
NVCA				
1	875	45.3	1057	54.7
2	1895	81.1	441	18.9
3	4588	88.5	237	11.5
4	1228	93.3	88	6.7
5	787	94.8	43	5.2
6	16	94.1	1	5.9

in the study sample were still open (n=4,320, 51 percent). Of those that had been disposed, a greater proportion were not convicted than were convicted. Note, for some of the analyses we will examine in forthcoming tables, we will focus on cases that reached a final disposition, so the sample size will be n=4,166.

Table 11 examines the case disposition type (convicted or not convicted) by concurrence and release types. For cases in which the judicial officers adhered to the recommendation to detain, there were nearly 45 percent not convicted and 55 percent that were convicted. For those cases in which there was adherence to release, 84 percent of the cases were not convicted and 16 percent resulted in convictions. When examining the cases where there was not adherence to the release recommendation, for those where the individuals were detained, nearly 73 percent were not convicted, while 27 percent were. For the released cases where the judicial officers did not adhere to the release recommendation, 76 percent were not convicted and 24 percent resulted in a conviction. Looking at all detained cases (n=2,591), nearly 53 percent resulted in a conviction and 47 percent were not convicted. When looking at all released cases (n=1,575), almost 22 percent ended with a conviction,

#### TABLE 7.

PS/ **FT**A

NV

6

12

70.6

5

29.4

while 78 percent of the cases did not receive a conviction.

Table 12 presents the results from the logistic regression model predicting the odds of a case ending with a conviction. This model is looking at the sample of cases that reached a final disposition (N=4,166). The dependent variable, conviction, was coded as 0 = not convicted and 1 =convicted. The results demonstrate that there are several statistically significant associations (p<.001) with being convicted, including biological sex (male = 0, 1 = female), NCA score, NVCA (violence) flag (0 = no flag, 1 = flag), release status (0= detained, 1 = released), concurrence (0 =adhered,  $1 = \text{not adhered}^6$ ), and days in jail. When examining the direction of these relationships and the corresponding odds ratios, these relationships suggest that being female, being released, judicial officers not adhering to the release recommendation, and fewer days in jail are predicted to have a smaller

<sup>6</sup> "Not adhered" is operationalized as the judicial decision departed from the release recommendation. As such, if the recommendation was to detain, but the decision was to release, this would be considered non-adherence. Likewise, if the recommendation was to release, but the decision was to detain, this would also be considered non-adherence.

TABLE 8.

likelihood of a conviction occurring. For the NCA score and the NVCA flag, we find that increases in NCA scores and the presence of the NVCA flag are predicted to have a greater likelihood for a conviction. These results mean that for every one-point increase on the NCA scale, the odds of a conviction increase 18 percent. Further, those that have the NVCA flag present are 2.13 times more likely to have a conviction.7

#### RO3. What factors, if any, are related to RCM overrides and underrides?

We conducted several logistic regression analyses to describe the predictors of adherence, as well as RCM overrides and underrides. Before we identify factors that may be associated with overrides or underrides, we wanted to take a closer look at what measures may be related to the judicial decision to concur with the release recommendation.

<sup>7</sup> To assess the impact of criminal history potentially confounding the results from the model of conviction as a disposition outcome, the authors also ran models omitting the NCA and FTA scores as well as the NVCA flags and instead using the individual PSA factors. The coefficients for the measures that were included in both models were largely the same in direction, magnitude, and significance.

Concurrence Rates by PSA Scores (N=8,486)				Release Rates by PSA Scores (N=8,486)					
PSA Scale	Adh	ered	Not A	dhered	PSA Scale	Deta	ined	Rele	ased
FTA	Ν	%	Ν	%	FTA	Ν	%	Ν	%
1	1121	52.8	1003	47.2	1	307	14.5	1817	85.5
2	999	45.5	1198	54.5	2	666	30.3	1531	69.7
3	1126	52.4	1023	47.6	3	1093	50.9	1056	49.1
4	913	60.9	585	39.1	4	923	61.6	575	38.4
5	255	64.2	142	35.8	5	261	65.7	136	34.3
6	85	70.2	36	29.8	6	86	71.1	35	28.9
NCA					NCA				
1	834	51.4	789	48.6	1	231	14.2	1392	85.8
2	726	50.9	699	49.1	2	286	20.1	1139	79.9
3	719	43.8	924	56.2	3	571	34.8	1072	65.2
4	924	52.5	836	47.5	4	908	51.6	852	48.4
5	1054	63.0	620	37.0	5	1083	64.7	591	35.3
6	242	67.0	119	33.0	6	257	71.2	104	28.8
NVCA					NVCA				
1	1249	64.6	683	35.4	1	428	22.2	1504	77.8
2	1010	43.2	1326	56.8	2	769	32.9	1567	67.1
3	995	48.4	1060	51.6	3	894	43.5	1161	56.5
4	686	52.1	630	47.9	4	668	50.8	648	49.2
5	547	65.9	283	34.1	5	564	68.0	266	32.0

6

13

76.5

4

23.5

Table 13 presents the results of the logistic regression model predicting the outcome adherence. Adherence was coded as 0 =judicial officer did not adhere to the release recommendation and 1 = judicial officer adhered to the release recommendation. Note, this outcome does not distinguish as to whether the judicial officer agreed to detain or release; it is examining the decision to follow the release recommendation from pretrial services. Several covariates had a statistically significant relationship (p<.001) with adherence, including the NVCA flag, charge severity (misdemeanor, serious felony), and charge type (property, public order). Misdemeanor charges are predicted to have a smaller likelihood of judicial adherence with the release recommendation. In comparison, we observed that the presence of the NVCA flag, serious felony charges, property offenses, and public order offenses were predicted to have an increased likelihood of judicial adherence with the release recommendation. People who have the NVCA flag present are 2.32 times more likely for the judicial officer to adhere to the release recommendation. Individuals facing serious felony charges are 2.66 times more likely for the judicial officer to adhere to the release recommendation. Similarly, the odds of a judicial officer adhering to the release

recommendation increases 2.06 times for property offenses and 2.38 times for public order offenses.

Tables 14 and 15 focus on identifying the significant predictors of overrides and underrides. Both of these outcome measures were coded as 0 = no override or 1 = override for Table 14 and similarly for Table 15, the dependent variable was coded as 0 = no underride and 1 = underride.

Starting with Table 14, we see that there are multiple covariates significantly (p<.001) associated with overrides. The sample size of 1,866 cases was drawn from all cases in which the recommendation from pretrial services

# TABLE 10.Case Disposition Type (N=8,486)

Case Disposition Type	Ν	%
Court Case Open	4320	50.9%
Not Convicted *	2452	28.9%
Convicted	1714	20.2%

\* Not convicted status includes dispositions where the case did not go to trial (e.g., dismissed or nolle prosequi)

## TABLE 11. Final Case Disposition by Concurrence and Release Types (N=4,166)

	Case Disposition			
	Not Co	Not Convicted*		victed
	N % N			%
Adhered - Detained	1058	44.7	1309	55.3
Adhered – Released	344	84.3	64	15.7
Not Adhered - Detained	163	72.8	61	27.2
Not Adhered - Released	887	76.0	280	24.0

\* Not convicted status includes dispositions where the case did not go to trial (e.g., dismissed or nolle prosequi)

## TABLE 12.

## Logistic Regression Model Predicting Conviction (N=4,166)

	Odds Ratio	p-value
Female	0.686	0.000
White (ref: BIPOC)	1.259	0.029
Unknown race (ref: BIPOC)	0.362	0.385
Age at admission	1.007	0.017
FTA score	1.131	0.009
NCA score	1.177	0.000
NVCA flag	2.130	0.000
Released	0.418	0.000
Not adhered	0.682	0.000
Days in jail	0.998	0.000

# TABLE 9.Release Recommendations, Concurrence & ReleaseRates by Charge Type and Severity (N=8,486)

	Recommend	l – Detain	Recommend -	- Release
Туре				
Drug	655	77.0	196	23.0
Public Order	667	61.8	412	38.2
Property	1602	74.0	563	26.0
Violent	3684	84.3	684	15.7
Other	11	47.8	12	52.2
Severity				
Misdemeanor	4094	74.4	1411	25.6
Felony	2401	85.0	423	15.0
Serious Felony	124	79.0	33	21.0
	Adhei	red	Not Adhe	ered
Туре				
Drug	422	49.6	429	50.4
Public Order	683	63.3	396	36.7
Property	1283	59.3	882	40.7
Violent	2094	47.9	2274	52.1
Other	17	73.9	6	26.1
Severity				
Misdemeanor	2591	47.1	2914	52.9
Felony	1780	63.0	1044	37.0
Serious Felony	128	81.5	3987	47.0
	Not Rele	eased	Release	ed
Туре				
Drug	280	32.9	571	67.1
Public Order	405	37.5	674	62.5
Property	968	44.7	1197	55.3
Violent	1676	38.4	2692	61.6
Other	7	30.4	16	69.6
Severity				
Misdemeanor	1596	29.0	3909	71.0
Felony	1641	58.1	1183	41.9
Serious Felony	99	63.1	5150	36.9

was to release. As such, an override occurred when pretrial services recommended release, but the judicial officer did not adhere to the recommendation and decided to detain the person. The significant predictors of overrides included NCA score, misdemeanor charges, and charge type. Misdemeanor charges were predicted to have a smaller likelihood of judicial override with the release recommendation. In comparison, we observed that the NCA score, property offenses, public order offenses, and violent offenses were predicted to have an increased likelihood of a judicial override. These results mean that for every one-point increase on the NCA scale, the odds of an override increases 64 percent. The odds of a judicial officer overriding the release recommendation increases 4.05 times for property offenses, 3.67 times for public order offenses, and 3.95 times for violent offenses.

Table 15 comprises multiple covariates significantly (p<.001) associated with underrides. The sample size of 6,619 cases was drawn from all cases in which the recommendation from pretrial services was to detain. Underrides occurred when pretrial services recommended detention, but the judicial officer did not adhere to the recommendation and decided to release the person. The significant predictors of underrides are FTA score, NCA score, NVCA flag, misdemeanor charges, serious felony charges, and charge type (property, public order, violent). Except for females—who were 16 percent more likely

White (ref: BIPOC)

Age at admission

FTA score

NCA score NVCA flag

Unknown race (ref: BIPOC)

Misdemeanor (ref felony)

Serious felony (ref felony)

(ref drug offenses)

offenses)

offenses)

drug offenses)

Charge type: Other offenses

Property offenses (ref drug

Public order offenses (ref

Violent offenses (ref drug

to have an underride—the other significant covariates were predicted to have a smaller likelihood of a judicial underride.

# RQ4. Is adherence to the PSA-RCM associated with pretrial outcomes?

To respond to this final research question, we start by describing FTA, NCA, and NVCA rates by judicial officer concurrence for individuals who were released during the pretrial period and had their cases disposed, which results in a sample size of 1,575 cases. Table 16 presents these results. Considerably lower proportions of individuals experienced FTA, NCA, and NVCA than remained free of those outcomes. Specifically, the FTA and NVCA base rates were 5.1 percent, and the NCA base rate was 14.5 percent. Across all outcome categories, higher proportions of cases where the judge did not adhere to release recommendations experienced poor pretrial outcomes than cases where the judge adhered; these differences were statistically significant (p<0.05) for those who had a new criminal arrest (NCA) during the pretrial period.

Table 17 presents three logistic regression models predicting the odds of individuals experiencing negative pretrial outcomes (FTA, NCA, and NVCA). Judicial adherence to the release recommendation was not significantly associated with any of the pretrial outcomes. Odds of NCA and NVCA were significantly (p<.001) lower for younger individuals and higher for those with higher FTA scores. Those with higher NCA scores trended towards having higher odds of NCA (p<0.1), but otherwise PSA scores did not significantly predict their respective pretrial outcomes.

## Discussion

This study produced a complex, but interesting, set of results in terms of reflecting on what we have observed from prior research and practice. Despite the evidence being scant on concurrence to the PSA-RCM, adherence to the release recommendations that stem from a locally developed RCM indicate that judicial officers do not consistently adhere to the release recommendations (DeMichele et al., 2024). This has been attributed to the courts having limited knowledge about the PSA, and an interest in having more information about an individual, such as extra-legal factors. While this study was unable to elucidate all the potential reasons why judicial officers use their discretion rather than align with the release recommendation, we did find that 53 percent of the release decisions matched the release recommendation from pretrial services. Over three-quarters of the cases were recommended for detention, but judicial officers were less inclined to detain, with just 39 percent of individuals being held. Across demographic categories, males and BIPOC experienced higher rates of recommendations to detain-each over 80 percent, but the detention rates were almost 44 percent for males and 42 percent for BIPOC.

TABLE 13.			
Logistic Regressi	on Model Predicting	z Adherence (N=8.46	8)

Logistic Regression Model Predicting Adherence (N=8,468)					
	Odds Ratio	p-value			
Female	0.839	0.002			

1.138

2.722

1.002

1.034 0.973

2.320

0.506

2.660

4.525

2.056

2.380

1.093

TABLE 14.

Logistic Reg	gression M	odel Pre	dicting RO	CM Over	rides* (N	=1.867)
	<b>-</b>					.,,

p-value		Odds Patio	n valuo
0.002			p-value
0.045	Female	1.158	0.326
0.007	White (ref: BIPOC)	0.850	0.379
0.097	Unknown race (ref: BIPOC)	0.000	0.968
0.438	Age at admission	0.997	0.618
0.313	FTA score	1 292	0.013
0.344		1.202	0.015
0.000	INCA score	1.639	0.000
0.000	NVCA flag	1.703	0.059
0.000	Misdemeanor (ref felony)	0.242	0.000
0.000	Serious felony (ref felony)	0.092	0.002
0.002	Charge type: Other offenses (ref drug offenses)	1.281	0.835
0.000	Property offenses (ref drug offenses)	4.055	0.000
0.000	Public order offenses (ref drug offenses)	3.668	0.000
0.295	Violent offenses (ref drug offenses)	3.947	0.000

\*Sample includes only individuals who were recommended for release (N=1,867)

Considering that the release recommendation, which serves as a starting point for the judicial release decision, may be more conservative than expected in the current study, these results suggest that judicial officers were tempering these restrictive recommendations and releasing individuals. While this study was unable to explore concurrence to release conditions, for judicial officers in this jurisdiction, we observed a less restrictive approach than prior research has noted (Cohen, Lowenkamp, Bechtel, & Flores, 2020; Copp et al., 2022).

Across PSA scale scores, as expected, recommendations for detention and actual detention rates increased as PSA scores increased. Judicial adherence to release

recommendations was highest for those scoring 1 and 4-6. Adherence rates were around 70 percent for scores of 6 on the FTA and NVCA scales. Individuals with a violence flag were over 20 percentage points more likely to be recommended for detention and detained than those without the flag, and we observed high rates of adherence when the flag was present versus not present (59 percent vs. 51 percent, respectively). However, based on what was observed from the regression analyses, these results did not consistently hold up. While the NVCA flag was a strong and statistically significant predictor of the odds of adherence (2.32 times more likely), FTA and NCA scores were not significantly

associated with adherence. When examining overrides and underrides, the NCA score had an increased likelihood of a judicial override-where the odds of an override increased 64 percent with every one-point increase on the NCA scale. For underrides, the FTA and NCA scores as well as the NVCA flag were significant predictors, all with a smaller likelihood of an underride.

Charge type and severity seemed to play a role in adherence to the release recommendation. Specifically, misdemeanors were predicted to have a smaller likelihood of adherence. This may be attributed to 74 percent of the misdemeanor cases being recommended for detention, but the actual

# TABLE 15. Logistic Regression Model Predicting RCM Underrides (N=6,619)

	Odds Ratio	p-value
Female	1.421	0.000
White (ref: BIPOC)	1.080	0.371
Unknown race (ref: BIPOC)	0.431	0.290
Age at admission	0.996	0.143
FTA score	0.813	0.000
NCA score	0.747	0.000
NVCA flag	0.471	0.000
Misdemeanor (ref felony)	3.494	0.000
Serious felony (ref felony)	0.339	0.000
Charge type: Other offenses (ref drug offenses)	0.175	0.008
Property offenses (ref drug offenses)	0.338	0.000
Public order offenses (ref drug offenses)	0.377	0.000
Violent offenses (ref drug offenses)	0.436	0.000

#### **TABLE 16.** Pretrial Outcomes by Concurrence (N=1,575)

	Pretrial Outcomes				
	No FTA		F	ΤA <sup>1</sup>	
	N	%	Ν	%	
Adhered	394	96.6	14	3.4	
Not Adhered	1100	94.3	67	5.7	
	No NCA		N	CA <sup>2</sup>	
Adhered	379	92.9	29	7.1	
Not Adhered	967	82.9	200	17.1	
	No NVCA NVCA <sup>3</sup>			/CA <sup>3</sup>	
Adhered	397	97.3	11	2.7	
Not Adhered	1096	93.9	71	6.1	

 $^1$  FTA:  $\chi 2$  =2.8498, df = 1, p = .0914  $^2$  NCA:  $\chi 2$  =23.6756, df = 1, p = .0000  $^3$  NVCA:  $\chi 2$  =6.3610, df = 1, p = .0117

\*Sample includes only individuals who were recommended for detention (N=6,619)

#### **TABLE 17.**

#### Logistic Regression Model Predicting Pretrial Outcomes (N=1,575)

	FTA		NCA		NVCA	
	Odds Ratio	p-value	Odds Ratio	p-value	Odds Ratio	p-value
Female	0.939	0.833	0.497	0.002	0.695	0.291
Race: White (ref: BIPOC)	1.064	0.851	0.823	0.415	0.707	0.400
Race: Unknown (ref: BIPOC)	0.000	0.985	0.000	0.976	0.000	0.986
Age at admission	1.012	0.246	0.974	0.000	0.959	0.001
FTA score	1.220	0.242	1.481	0.000	1.682	0.001
NCA score	1.129	0.408	1.174	0.083	1.059	0.691
NVCA flag	1.351	0.436	1.133	0.625	1.713	0.114
Not adhered	1.105	0.763	1.335	0.209	1.093	0.807

\*Sample includes only individuals who were released and had their cases disposed.

release rate for misdemeanors was 71 percent. Serious felonies, property offenses, and public order offenses were also predicted to have an increased likelihood of adherence, which supports what we observed from the cross-tabulations. Adherence to the release recommendations was 82 percent for serious felonies and approximately 60 percent for property and public order offenses. Interestingly, violent offenses were not significantly associated with adherence, but violent offenses were found to be a significant predictor of overrides and underrides. The odds of a judicial officer overriding the release recommendation increases 3.95 times for violent offenses, but the odds of an underride were significantly less likely.

Prior research has found that people who are detained pretrial were more likely to plead guilty and pled faster than those who were released; they also had a higher likelihood of conviction and lower likelihood of having their cases diverted (Petersen, 2020; Lee, 2019; Goldkamp, 1980; Heaton, 2017). The current research appears to align with these results. In our study, nearly 47 percent of detained cases were not convicted, compared to 78 percent of released cases. This was further supported in the regression analyses, where being released and fewer days in jail were predicted to have a smaller likelihood of a conviction occurring.

Overall, when we examined pretrial outcomes for the released sample who had cases that reached final disposition, we observed that most of the individuals were successful during the pretrial period and avoided FTA, NCA and NVCA outcomes. The FTA and NVCA base rates were both 5 percent, and the NCA base rate was almost 15 percent. However, when we conducted the regression analyses, we found that the PSA scales scores were not significantly associated with their respective outcomes, FTA, NCA, and NVCA.

There are several limitations worth noting. First, the results are not generalizable beyond this sample. This was a jurisdiction that had recently implemented the PSA and developed an RCM. As is often the case with introducing new policies and practices, early implementation efforts are not without challenges, and require collaboration, time, and refinement to systematize a process and ensure its efficacy. Second, the release conditions data were poor, so we were unable to evaluate various release condition recommendations and the judicial decision. As such, we could not describe if, for example, detention was recommended, but the judicial officer decided to release the person on a higher intensity pretrial supervision. Third, there were no data available related to scoring the PSA and following the guidance of the local RCM with fidelity. Given that a majority of cases had detention recommended, we were unable to explore whether there were issues with fidelity with completing the PSA-RCM and if this also had an impact on the final regression model that did not find the scale scores to be significantly related to FTA, NCA, and NVCA. This was further complicated because the RCM typically does not include recommendations to detain; however, this recommendation was available for this jurisdiction's pretrial services. Finally, this is a descriptive study, so we are unable to make statements about causation and, relatedly, there may be unobserved data that we did not have access to that could explain some of these results.

# Research and Policy Recommendations

Based on these findings, several recommendations should be raised for researchers and practitioners.

- Jurisdictions that adopt pretrial risk assessments should establish performance measures and consistently collect data on these metrics. These measures should include the release recommendation from pretrial services and the corresponding judicial decision. Since examining concurrence rates requires having data on both the recommendation and the decision, the data from pretrial services and the courts need to be matched to the correct person and case, so ensuring that jurisdictions can do this accurately is an important step to take before implementing an assessment.
- Release recommendation and judicial decision performance measures should include information on supervision levels and conditions, including those that are for monitoring as well as for treatment.
- Jurisdictions should develop and systematize a quality assurance process for scoring pretrial assessments and following release recommendation policies.
- Jurisdictions should regularly review performance measurement data to understand concurrence, release and detention rates, pretrial supervision caseload sizes and supervision levels, the outcomes of supervision and the pretrial period.
- As needed, additional training that targets any performance measurement concerns should be rolled out.

When issues with concurrence rates and other performance measures are observed, pretrial services and the courts should collaborate to identify the source of these challenges and if they are related to the pretrial risk assessment or release recommendations and decisions or if more information is needed to guide system actors.

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