



THE UNIVERSITY OF
NEW MEXICO

**The Public Safety
Assessment, Preventive
Detention, and
Rebuttable
Presumptions in
Bernalillo County**

December 2021

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New Mexico
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Introduction

In June 2017, Bernalillo County implemented the Public Safety Assessment (PSA) for felony cases, which is used by judges to assist in release decision-making. In January 2017, the County began using preventive detention (hereafter PTD) after voters approved a constitutional amendment in November 2016. In addition, while the current procedure for PTD requires the filing of a motion by the District Attorney's office, an alternative proposal was presented in 2021, House Bill 80 (HB80)¹, that is described in the section that follows, would instead mandate the use of rebuttable presumptions (RPs). These are a series of charges that would result in the denial of bail and detention of the defendant. The use of these types of charges presents a variety of concerns. HB80 includes a wide variety of defendants, and its terms are not explicitly defined or constrained by a time limit, which could allow for a broad interpretation of which defendants qualify as detainable. A basic interpretation results in the detention of a large number of defendants, the majority of whom are at a low risk of offending. While these individuals are in custody, they face the possibility of lost employment, loss of housing, and other negative social outcomes. In addition to PTD, the defendant may be required to participate in substance abuse treatment, for which there may be consequences should the person fail to complete the program. And finally, the impetus is placed on the defendant to prove that he or she does not qualify for detention. Another proposal includes firearms-related charges as a means to select defendants for detention. It is not entirely clear what a firearm charges bill might entail, as it could include specific charges, such as the use of a firearm during a criminal offense, any firearm-related offense, or if the proposal could be extended to include the presence of a firearm, regardless of its use. The use of a firearm can be difficult to distinguish, and, in some circumstances, the presence of a firearm is not related to any charge whatsoever.

To assess the impact of HB80 and a firearms charges bill on pretrial detention, release, and pretrial outcomes, in this report we review the Failure to Appear (FTA), New Criminal Activity (NCA), and New Violent Criminal Activity (NVCA) rates of cases with a PSA, and how these rates differ for cases with or without a PTD motion or a proposed rebuttable presumption. In the past, Bernalillo County and the New Mexico Association of Counties have provided funding to study the implementation of the PSA and to validate the PSA for Bernalillo County. In addition, the New Mexico Statistical Analysis Center received funding from the Bureau of Justice Statistics to assess bail reform efforts in New Mexico. This included a review of preventive detention, conditions of release, and pretrial detention outcomes (Denman, Siegriest, Robinson, Maus, and Dole, 2021). The New Mexico Legislature has provided funds appropriated to the New Mexico Sentencing Commission to review the potential outcomes for cases under rebuttable presumption options.

The primary goal of this report is to review Bernalillo County Metropolitan Court (BCMC) cases and determine those that would be eligible for potential detention under the recently proposed House Bill (HB80) and cases that could potentially qualify under a firearms bill. In addition, there will be a comparison made with those cases with a PTD motion during this time period, as well as the outcomes of these motions. For these cases, the outcome measures will be analyzed to determine the differences, if any, between the two methods of detention.

Background on the PSA

The pretrial phase of a criminal case extends from the beginning of the court case, after arrest, through the final disposition of the case, which may include a finding of guilt, innocence, or dismissal, among other possible dispositions. During the pretrial phase, the individual is presumed innocent and is entitled to due process of law (U.S. Constitution, amend. V) and reasonable conditions of release. These conditions specifically should include either "bailable by sufficient sureties" or via relief through the courts for those

¹ N.M. HB80, 55th Legislature, First Session, 2021. (NM 2021).

unable to post a bond (N.M. Constitution, art. II, §13). Prior to mid-year 2017, upon arrival at the Bernalillo County Metropolitan Detention Center (MDC), a jailhouse bond was initially assigned to a new criminal charge based on the charge category, and this bond remained in place until new conditions of release were set by a judge. The jailhouse bonds were discontinued in 2017, shortly after the implementation of preventive detention and the PSA was brought into use in midyear 2017.

Arnold Ventures developed the PSA in partnership with leading criminal justice researchers using approximately 750,000 cases from 300 jurisdictions across the United States (Arnold Ventures, 2019; AdvancingPretrial.org, 2020). The PSA is designed to provide additional information for judges in pretrial release decision-making.

While judges are often required to make pretrial release decisions in a short period of time with incomplete information (Steffensmeier, Ulmer and Kramer, 1998), the PSA provides an additional resource that informs rather than replaces judicial discretion. Limited information coupled with limited time for decision-making, can result in disparate treatment of minorities and the poor during their pretrial period, release decision-making, and pretrial incarceration (Schlesinger, 2005).

The PSA was designed to use evidence-based, neutral information, to predict the likelihood that an individual will be charged with a new crime if released before trial (New Criminal Activity [NCA]), and to predict the likelihood that he/she will fail to return for a future court hearing (Failure to Appear [FTA]). In addition, it flags those individuals who present an elevated risk of being charged with a violent crime (New Violent Criminal Activity [NVCA]). The FTA, NCA, and NVCA are referred to as outcome measures. By extension, these outcome measures are related to measures of pretrial success. The inverse of the FTA Rate is the Appearance Rate and the inverse of the NCA Rate is the Public Safety Rate. As the focus of the PSA turns more towards pretrial success rather than pretrial failure, there will be continued shifts in how information is presented and structured.

In this report, we include the FTA, NCA, and NVCA because this is how these measures are calculated and reported in most research currently, although the safety and appearance rate will be included in many locations. Additional measures include the Release Rate and Adherence Rate. These terms are defined as follows:

- Appearance Rate – the rate at which individuals attend all scheduled court appearances²
- Public Safety Rate – the rate at which individuals do not have a new offense during the pretrial stage of a case
- Release Rate – the rate at which individuals are released during the pretrial stage of a case and have exposure to fail or succeed
- Adherence Rate – the rate at which the conditions assigned by judges correspond with the recommendation of the PSA

In addition to differences that occur during the implementation process in each jurisdiction – the selection of violent charges and development and modification of the Decision-Making Framework³ (DMF) or Release Conditions Matrix (RCM) – there are differences in Bernalillo County that make it unique. (See Appendix A for additional information on the PSA and the RCM). While other jurisdictions that have implemented the PSA use it for individuals facing misdemeanor and felony charges, in Bernalillo County, only those with felony charges are assessed with the PSA. Felony charges are more serious than

² In general, a warrant is typically issued if a defendant does not attend a hearing, but in some instances, this may not occur. For this study, the issuance of a warrant is used as the primary measure of attendance of the hearing.

³ These terms have been renamed over time. Currently, this is the Release Conditions Matrix (RCM) and was formerly known as the Decision-Making Framework.

misdemeanor charges and individuals may have higher FTA and NCA scores, longer periods of pretrial release, and higher failure rates in Bernalillo County. For this reason, the findings in Bernalillo County are not comparable to other jurisdictions that have implemented the PSA.

PSA Studies in Bernalillo County

While there were a variety of studies completed previously on the PSA, there are two of primary importance to this report. The first was a study of PTD motions and the FTA and NCA rates for individuals in Bernalillo County charged with felony crimes, and for which the PSA was administered and used in the pretrial release decision-making process from the MDC (Ferguson, De La Cerda, & Guerin, 2020).

In the PTD study, the FTA rate for cases with a PTD motion was 17.8%, and for those without a PTD motion, the rate was 18.1%, a difference that was not statistically significant (Ferguson et al., 2020, p. 14). While the PSA recommendation and crime type improved the ability to predict the likelihood of failure, the PTD motion – or lack thereof – is not a good indicator of future failure. The NCA rate for cases with a motion was 18.0% and for those with no motion, the NCA rate was 16.7% and likewise, the difference was not statistically significant (p. 14). The PTD motion is not a good indicator of future failure for either the FTA or the NCA, and the PSA recommendation and crime type provided the most accurate means to predict future failure.

For the NCAs that were recorded, the new criminal activity was of a different type more than half the time for violent, drug, and property offenses (Ferguson et al., 2020, p. 12). While cases with violent charges had fewer NCAs than cases with either drug or property charges, the NCA that did occur corresponded with violent charges at a higher rate than in other categories (45.8%) (p. 12). Additionally, the majority of new criminal activity was for 4th degree felonies (539 or 51.7%), followed by misdemeanors (243 or 23.3%) (p. 14). For the NCA, 42.2% of the cases had a lower charge than the assessed case and an additional 45.3% are of the same level (p. 13). Overall, NCAs occurred for fewer than one in five cases and were primarily charges of a lower or equivalent level as the assessed case.

The second report of note is a validation study of the PSA in Bernalillo County released in June 2021 (Ferguson, De La Cerda, Guerin, & Moore, 2021). The study found the PSA was predictive of pretrial success in regard to FTA, NCA, or NVCA.

Differences in the overall scores for the FTA, NCA, and NVCA rates by race were not statistically significant nor were they statistically significant for FTA rates by gender (Ferguson et al., 2021). There were differences that were statistically significant for the NCA and NVCA rates by gender with effect sizes that were large and medium/large, respectively. There was weak evidence that NCA rates were different for Native American individuals, when the NCA rate was conditioned on the NCA score, the overall findings indicate that differences were not statistically significant. Significant differences occur by gender and for NVCA for individuals without the NVCA flag. These factors indicate that the PSA is predictive of pretrial failure, and the differences by gender are of greater concern.

This study focuses on PSA cases that would qualify for detention under the proposed New Mexico House Bill 80 (HB80) and cases with identifiable firearms offenses. As part of HB80, a series of circumstances are proposed that would result in the denial of bail and detention of the defendant. The definition for these rebuttable presumptions includes the following:

1. If the charge is a 1st degree felony OR a serious violent offense (SVO) (see Appendix B)
AND
2. A previous felony conviction OR a previous violation of conditions of pretrial release⁴

In conjunction with the PTD motions and the PSA, cases qualifying for detention under HB80 and cases with firearms offenses, are reviewed to determine how the option would compare to the current motions filed and the current outcome measures.

Sample

Court cases that were filed between July 1, 2017, and June 31, 2021, were selected from BCMC electronic data, with additional data collected from Second Judicial District Court (SJDC) electronic data and the MDC Offender Management System data as needed. During this time period, 26,310 felony cases were opened in BCMC. Cases were selected for review if a PSA was completed, if the inmate was in custody for the Felony First Appearance (FFA), and if the defendant was assigned conditions of release. A small portion of cases (3.9%) were ineligible for assessment as they were fugitive cases, or cases where the individual was facing charges from another state or jurisdiction. A similar quantity had no assessment (3.8%) for the case or had an issue related to the FFA, such as no FFA or no conditions of release set at the FFA (3.5%). A very small number were not in custody for the assessment (0.1%) and these cases were excluded as well.

The remaining 23,345 cases met the criteria of having a PSA and the individual was in custody for the release decision.

PSA Assessments

In the study period of 48 months, there were 23,345 BCMC cases with a PSA that took place while the individual was in custody at their FFA. Of the twenty-five possible combinations based on the FTA and NCA scores, there are six categories of release recommendations: ROR, ROR with pretrial monitoring level (PML) 1, 2, 3, or 4, and detain (if constitutional requirements are met) or release with maximum conditions (see Table 1). The PML indicates the level of pretrial supervision the defendant will be placed under, with PML 1 being the least restrictive and consisting primarily of court reminders, up to PML 4, which includes a higher frequency of office visits, phone visits, and other potential requirements, such as drug and/or alcohol testing if mandated. Of these six categories, ROR, ROR – PML 3, and detain / ROR – PML 4 conditions account for nearly 3 of 4 recommendations (22.0%, 23.2%, and 23.8%, respectively). ROR – PML 2 accounted for 14.6% of cases and ROR – PML 1 accounted for an additional 11.2% of cases. ROR – PML 4 accounted for the smallest portion of cases (5.2%).

⁴ While the precise method is unclear that may be used to identify if an inmate has violated conditions or if there are any time limits on this, there are a variety of options to estimate if a prior violation has occurred. This requires the review of several sources of data. In the BCMC felony data, a combination of 3 items provided the most information on whether a defendant had violated conditions: if there was a violation of conditions of release hearing; if a warrant was issued for failure to comply with conditions of release (this had to be matched with warrant issued dates in a separate file, specifically the latest date issued for the failure to comply and recode the latest warrant issued into the failure to comply warrant issued); and if there is an order issued on a conditions of release violation.

Table 1. BCMC Felony Cases by PSA Category

Category	Count	Percent
ROR	5,127	22.0%
ROR - PML 1	2,608	11.2%
ROR - PML 2	3,419	14.6%
ROR - PML 3	5,421	23.2%
ROR - PML 4	1,220	5.2%
Detain (Const Req) / ROR - PML 4	5,550	23.8%
<i>Total</i>	23,345	100.0%

Crime Type

The cases in the sample were reviewed to determine the type of criminal charges filed in each case. Charges were identified as violent or non-violent and non-violent charges were further divided into drug, property, DWI, and public order/other offenses (see Table 2 and Appendix C).

Table 2. Crime Types

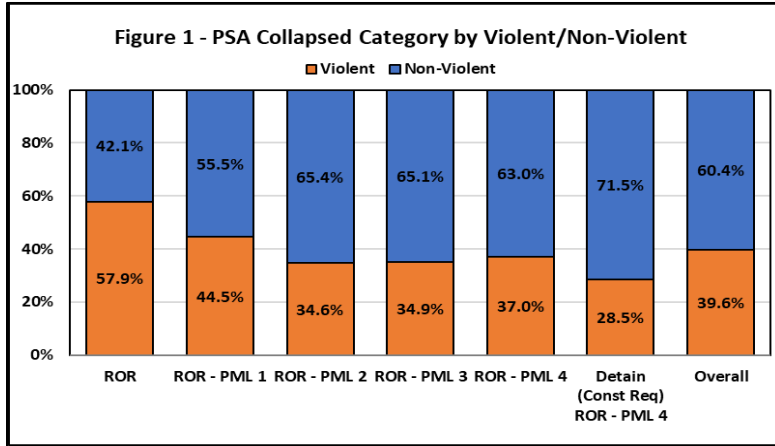
Violent	Violent
Non-Violent	Drug
Non-Violent	Property
Non-Violent	DWI
Non-Violent	Public Order / Other

Of the 23,345 filed since July 1, 2017, 39.6% of cases included a violent charge (see Table 3). The remaining 60.4% (14,107 cases) had non-violent charges only. The number of cases in the non-violent categories varied greatly. The largest percent of non-violent charges were for drug offenses (31.6%) and property offenses (24.6%). Public order/other offenses and DWI offenses comprised the remainder of cases at 3.1% and 1.1%, respectively.

Table 3. BCMC Felony Cases by Crime Type

Crime Type	Count	Percent
Violent	9,238	39.6%
Drug	7,378	31.6%
Property	5,753	24.6%
DWI	254	1.1%
Public Order / Other	722	3.1%
<i>Total</i>	23,345	100.0%

Figure 1 reports PSA recommendations by whether the type of crime was violent or non-violent. Violent charges comprised between 28.5% and 57.9% of all charges by PSA recommendation category. Violent charges accounted for more than half of those with a ROR recommendation (57.9%) and a large portion of those with a ROR – PML 1 (44.5%). The violent nature of the charged offense did not increase either the FTA or NCA score, which are the scores that drive the recommendation category. Factors other than the charged offense contributed to the PSA recommendation category, including age, conviction history, pending cases, and a history of FTA (see Appendix D).



Among non-violent charges, there was variation in the more specific recommendation categories (see Figure 2). Drug offenses accounted for between 21.6% of ROR recommendations and up to 37.6% of detain / ROR – PML 4 categories. Property offenses followed a similar pattern, accounting for a smaller portion of the ROR recommendations (17.1%) and then increased as more restrictive conditions were recommended. DWI offenses accounted for the smallest portion of PSA categories (between .4% and 1.9%) and public order accounted for between 2.5% and 4.3% of recommendation categories.

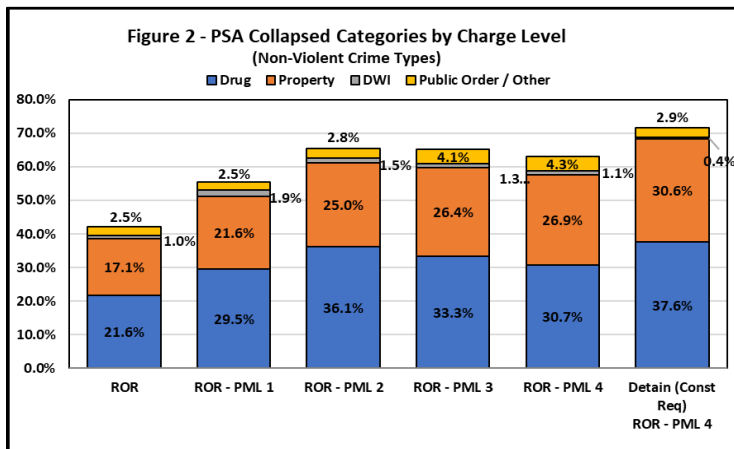
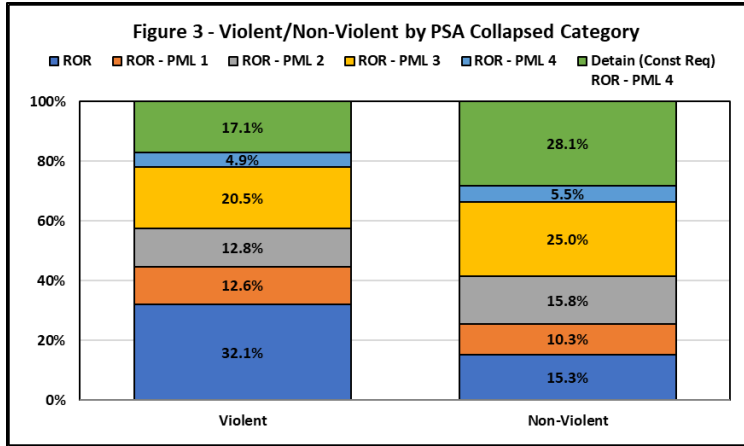
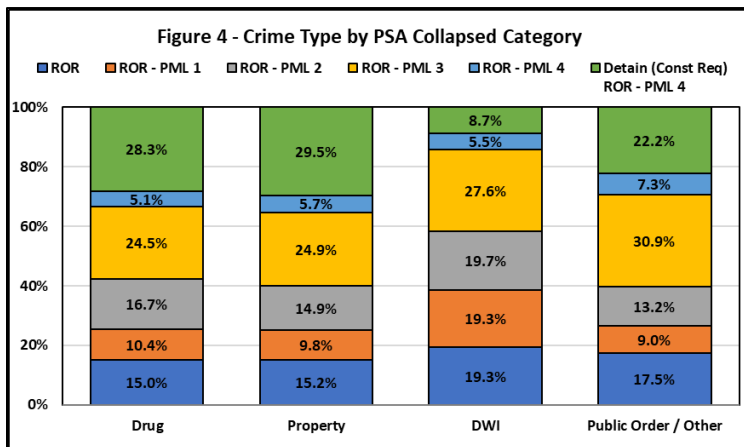


Figure 3 compares the PSA recommendation categories for violent and non-violent crime types. The percent of violent cases with a ROR was 32.1%, more than double the 15.3% for non-violent cases. The percent of cases with detain / ROR – PML 4 for non-violent cases was more than 11% higher than violent cases (28.1% compared to 17.1%). The variation in the other PSA categories was smaller, 0.5% for ROR – PML 4, 2.3% for ROR – PML 1, 3.0% ROR – PML 2, and 4.5% for ROR – PML 3. While it may seem counterintuitive for cases with violent charges to have more than double the percent of ROR recommendations, it demonstrates that items other than case charges improve the ability to predict failure (see Appendix A).



The differences between crime types were even more apparent when comparing them to the collapsed PSA category (see Figure 4). While the variation for the detain / ROR – PML 4 recommendation category seems large, this was due in large part to a very small percentage of DWI cases with this recommendation (8.7%) in comparison to other categories that ranged from 22.2% to 29.5%. Conversely, there was a larger portion of DWI cases with a ROR – PML 1 (19.3%) compared to other categories (9.0% up to 10.4%). Variation in rates for the other PSA recommendation categories across the crime types were still present but less pronounced. Because the PSA includes a variety of factors other than the crime type to derive the recommendation level, including age at current arrest, prior felony convictions, prior violent convictions, and prior failures to appear, this finding was not unexpected.



The Public Safety Assessment, Pretrial Detention Motions, and Rebuttable Presumptions

This section discusses the PSA, PTD motions, and rebuttable presumptions. Approximately 19.4% of the 23,345 felony court cases with a PSA, had a motion filed for PTD⁵. The filing of a PTD motion is initiated by the District Attorney’s office and results in a jail hold for the defendant until a detention hearing is held in the SJDC. PTD motion outcomes include granted, denied, withdrawn at or before the hearing, or the motion can be pending or have a case resolution in lieu of an order on the PTD motion.

⁵ The 4,517 cases with a PTD motion do not include motions filed during the SJDC portion of the case or defendants without a PSA.

Table 4 reports PTD motions by PSA recommendation category. Interestingly, 21.9% of the cases with a PTD motion filed by the DA had a ROR as the recommendation. ROR – PML 1 and ROR – PML 2 comprised 10.0% and 12.1% of the cases with motions filed. ROR – PML 3 comprised 24.4% of the cases with a PTD motion. ROR – PML 4 accounted for 6.6% of cases and detain / ROR – PML 4 cases accounted for 25.0% of the cases with a PTD motion filed.

Table 4. PSA Category for PTD Motions

Category	Count	Percent
ROR	989	21.9%
ROR - PML 1	453	10.0%
ROR - PML 2	549	12.1%
ROR - PML 3	1,104	24.4%
ROR - PML 4	298	6.6%
Detain (Cons. Req) / ROR PML 4	1,133	25.0%
<i>Total</i>	4,526	100.0%

Table 5 reports the PTD motions by crime type. The majority of cases (71.4%) with a PTD motion were cases with a violent charge. Drug and property offenses with a PTD motion comprised 11.5% and 11.8%, respectively, of the cases with a motion filed. The remaining cases were public order/other cases (4.2%) and DWI (1.1%).

Table 5. Crime Type Categories for PTD Motions

Crime Type Categories for PTD Motions	Count	Percent
Violent	3,233	71.4%
Drug	520	11.5%
Property	532	11.8%
DWI	51	1.1%
Public Order / Other	190	4.2%
<i>Total</i>	4,526	100.0%

The 3,233 cases with a violent charge as the highest offense and a PTD motion represented 35.0% of the total cases with a violent offense (see Table 6). For public order/other offenses, 26.3% of the cases had a PTD motion filed. Of the DWI offenses, 20.1% of cases had a PTD motion filed. Cases with property offenses had PTD motions filed on 9.2% of cases and drug offenses had a motion filed on 7.0% of cases.

Table 6. Crime Type and PTD Motions Filed

	No PTD Motion		PTD Motion		Total
	Count	%	Count	%	
Violent	6,005	65.0%	3,233	35.0%	9,232
Drug	6,858	93.0%	520	7.0%	7,377
Property	5,221	90.8%	532	9.2%	5,750
DWI	203	79.9%	51	20.1%	254
Public Order / Other	532	73.7%	190	26.3%	722
<i>Total</i>	18,819	80.6%	4,526	19.4%	23,345

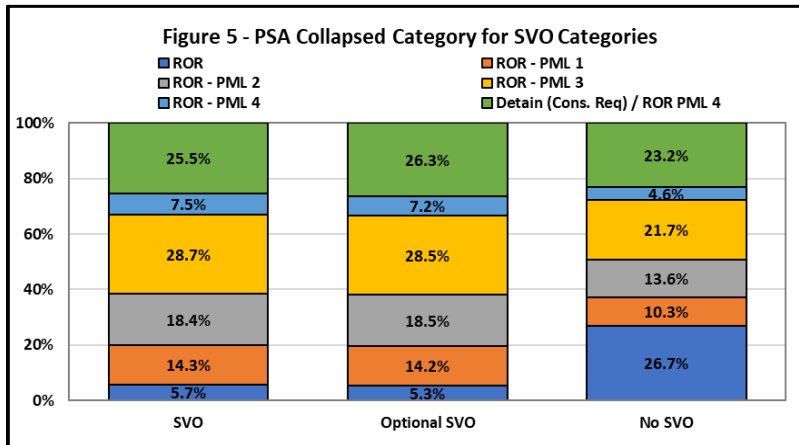
Introduction to House Bill 80 and Rebuttable Presumptions

As described above, this report includes cases for individuals who were assessed and were in custody for their FFA. Based on the definition of HB80, a portion of these cases would be affected by this bill. Of the 23,345 individuals, 10.2% had charges that were identified as Serious Violent Offenses (hereafter SVOs) (see Table 7). The SVOs are identified by New Mexico Statute 33-2-34 (see Appendix B for a complete list). Another 12.2% of charges were identified as Optional SVOs. The remaining 77.6% of cases had charges that were identified as having no SVOs.

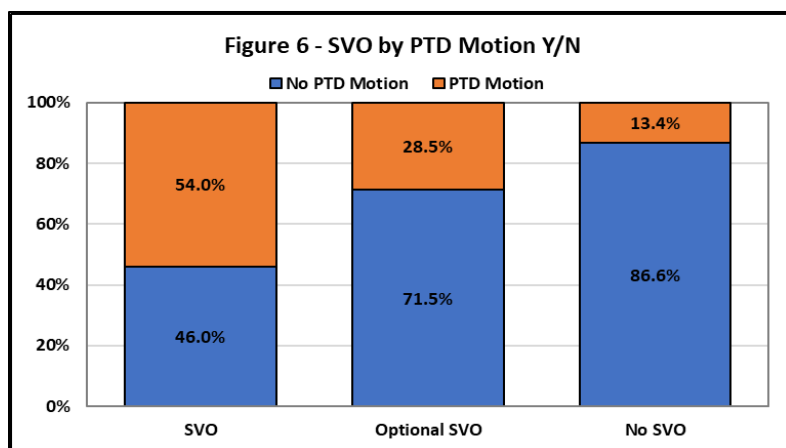
Table 7. Serious Violent Offenses

SVO Type	Count	Percent
SVO	2,385	10.2%
Optional SVO	2,850	12.2%
No SVO	18,110	77.6%
<i>Total</i>	<i>23,345</i>	<i>100.0%</i>

Figure 5 shows the distribution of the 23,345 cases by their collapsed PSA recommendation categories and if the charges were identified as an SVO. There were a much higher portion of cases with a ROR recommendation among those with no SVO (26.7%) compared to those cases with an Optional SVO (5.3%) or an SVO (5.7%). Additionally, there was a very small difference between the percentage of cases in the detain / ROR – PML 4 category across all three categories, with cases with no SVO having the fewest (23.2%), and those with an Optional SVO having the highest percent (26.3%).



The number of cases that had a PTD motion filed and the SVO category were compared, displayed in Figure 6 below. Of those that had an SVO, 54.0% of cases (1,287) had a PTD motion filed. Of the cases with an Optional SVO, 28.5% of cases (813) had a PTD motion filed and for those cases with no SVO this decreased to 13.4%. Overall, there were 5,235 cases that had an SVO or Optional SVO, and 40.1% or 2,100 cases had a PTD motion filed.



PTD Outcomes by SVO

While PTD motions were granted and denied at a similar rate (46.0% and 44.8%, respectively), these rates varied across cases by SVO category. For cases with an SVO, 60.7% were granted, which was higher than the rate for cases with an Optional SVO (49.9%) and cases with No SVO (36.8%) (see Table 8). Conversely, cases with an SVO had the lowest rate of denied motions at 31.8% with higher rates among Optional SVO cases (40.8%) and No SVO cases (53.0%).

Table 8. PTD Motion Outcome by SVO Category

	SVO		Optional SVO		No SVO		Total	
	Count	%	Count	%	Count	%	Count	%
PTD Motion Granted	781	60.7%	406	49.9%	893	36.8%	2,080	46.0%
PTD Motion Denied or Dismissed	409	31.8%	332	40.8%	1,286	53.0%	2,027	44.8%
PTD Motion - Withdrawn	52	4.0%	41	5.0%	154	6.3%	247	5.5%
PTD Motion - UL Case Resolved	38	3.0%	27	3.3%	80	3.3%	145	3.2%
PTD Motion Pending	7	0.5%	7	0.9%	13	0.5%	27	0.6%
<i>Total</i>	1,287	100.0%	813	100.0%	2,426	100.0%	4,526	100.0%

Overall, the cases with an SVO had the highest rate of PTD motions filed and the highest rate of granted motions by category, followed by those cases with an Optional SVO.

Detain / ROR – PML 4 and NVCA Flag

While SVOs and Optional SVOs accounted for a large portion of cases, the PSA currently includes a combination of categories that can be used when assigning conditions of release to an inmate. In addition to the recommendation conditions, the PSA also calculates an NVCA flag, which identifies defendants at an increased risk of NVCA (see Appendix A). The combination of defendants in the Detain / ROR – PML 4 category who also have an NVCA flag are a specific sub-category of defendants that may be more appropriate for detention than inmates with SVOs or Optional SVOs.

In the 23,345 cases, there were 5,550 cases with detain / ROR – PML 4 as the recommendation category and of those, 1,954 had an NVCA flag. These 1,954 cases account for 8.4% of the total sample and 35.2% of the cases in this recommendation category.

For the 1,954 cases, a PTD motion was filed on 38.4% of cases, a rate 15.6% lower than the SVO cases. By comparison, the rate at which PTD motions were granted was higher for cases in the detain / ROR – PML 4 and NVCA flag category (76.6%) than for the SVOs (60.7%). Conversely, the rate at which the motions were denied was much lower for these cases (16.5%) than for those with an SVO (31.8%).

Firearms Charges

The use of firearms charges as rebuttable presumptions presents different challenges compared to HB80. While the SVOs are outlined by statute, a firearm rebuttable presumption may include a variety of options, such as charges solely related to the use and improper carrying of firearms, a more expansive definition that includes any charge involving a firearm, such as larceny of a firearm, or even a definition that includes the mere presence of a firearm at the scene regardless of its involvement in the crime. In addition, the quantity of these cases is difficult to estimate from electronic data, as many charges could logically include a weapon that may or may not be a firearm.

In the sample, there were 1,348 cases with a known firearm charge of any type⁶. While it does not include additional options for firearms – such as charges that include the use of a deadly weapon – it is the only set of charges that can be estimated without a manual review of the criminal complaints. The top three collapsed PSA recommendation categories for cases with a firearm charge were ROR – PML 3 (28.9% or 390 cases), detain / ROR – PML 4 (21.7% or 293 cases), and ROR (18.0% or 242 cases).

Of the cases with a firearm charge, a PTD motion was filed on 899 (66.7%) of these. The results of the PTD motions for the firearms cases were fairly evenly distributed between granted (46.1% or 414 cases) and denied (44.9% or 404 cases) motions.

Case Status and Exposure

The analysis began with a review of the BCMC case status. A case was considered pending if there was no closing event or final disposition, such as a sentence, dismissal, plea bargain, or finding of no probable cause, on or before June 30, 2021, and these cases were removed from analysis. The closing event was selected based on whether the case was indicted during the pretrial period of the BCMC case⁷. If a case was indicted prior to the earliest closing event on the BCMC case, the case was considered a BCMC-SJDC case and the SJDC closing date was used to determine if the combined case was pending or closed. Only cases that were both opened and closed between July 1, 2017, and June 30, 2021, are included in the study.

Of the 23,345 cases with an individual in custody for release decision making and an assessment, 1,600 (6.1% of eligible cases) were pending. The remaining 21,745 closed cases were reviewed for exposure.

Exposure

Exposure was used to indicate when an individual spends time in the community during the pretrial period of the assessed case. Jail booking and release data from the MDC were merged to the individual's court case and the corresponding booking for the assessment and hearing at which the release decision was made was selected. If an individual was not released during the pretrial portion of the case or was released to the New Mexico Corrections Department (NMCD) they were identified as having no

⁶ In addition, there were also cases with armed robbery and deadly weapons charges, but it is unclear if these charges included a firearm or not.

⁷ Each BCMC case had a proxy close date calculated which was 60 days from the FFA hearing date. If no other closing event occurred prior to this date, this was considered the earliest closing event on the case.

exposure. Inmates with exposure had the opportunity to have an FTA or be charged with a new crime. Of the 21,745 closed cases, 6,611 did not have exposure during the pretrial period. The remaining 15,134 had exposure during the pretrial period (57.5% of all cases).

The Release Rate was 69.6%⁸, 0.5% higher than the rate in the validation report for cases through March 2020 (Ferguson et al., 2021). There were 1,142 cases with an SVO and exposure, with a release rate of 53.9%. The Release Rate was 68.5% for cases with an Optional SVO (1,784 cases released) and highest for cases with no SVO (12,208) with a rate of 71.7%.

The 15,134 assessed, closed cases from BCMC with exposure comprised the sample of cases for reviewing outcome measures.

PSA Outcome Measures

The three PSA outcome measures – FTA, NCA, and NVCA – were calculated for the 15,134 cases.

The overall FTA rate was 20.3% with a corresponding appearance rate of 79.7%. The NCA rate for all cases was 18.1% with a Public Safety Rate of 81.9% and an NVCA rate of 5.0%. The FTA rate is displayed by FTA score in Figure 7 below. As the FTA score increased, so did FTA rates. In cases that the FTA score was 1 the FTA rate was 9.1%. This increased by 4.8% to 13.9% for cases with an FTA score of 2. The increase continued through the highest FTA score of 6 which had the highest FTA rate of 37.2%.

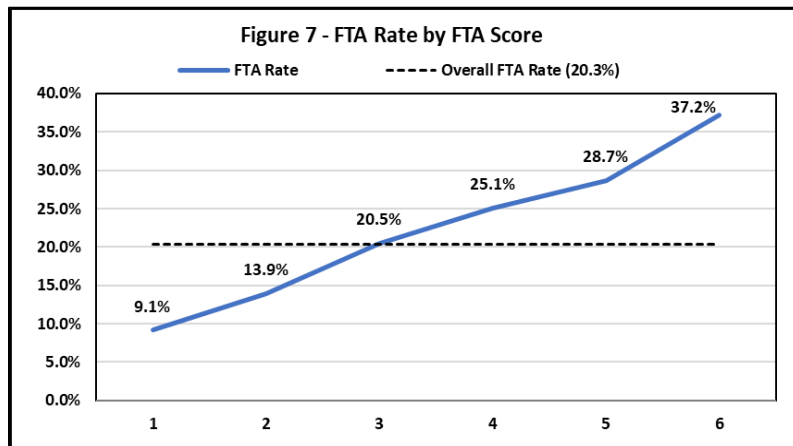
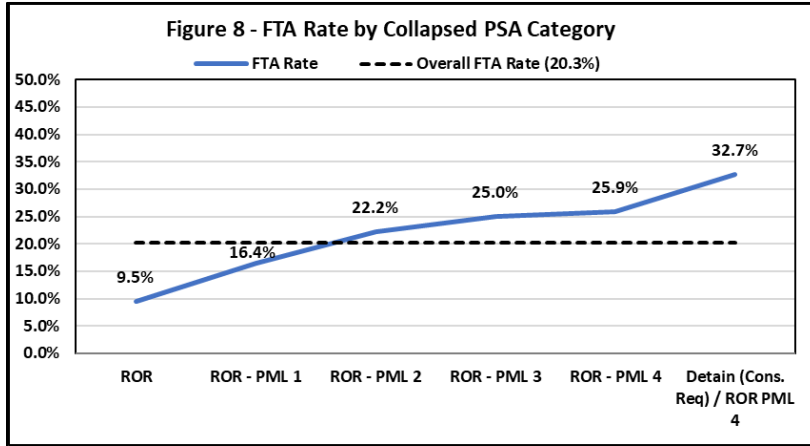
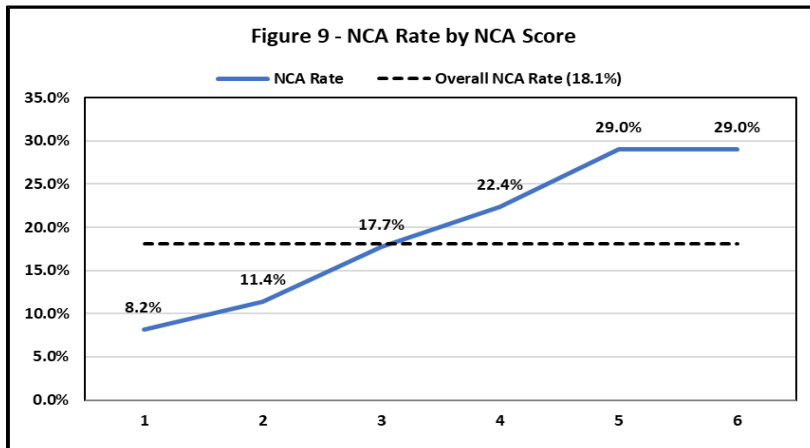


Figure 8 shows the FTA rate by PSA category. As observed with FTA scores, the FTA rate increased as the PSA category became more restrictive. The FTA rate was lowest in the lowest PSA category ROR, at 9.5%. The FTA rate increased to 6.8% for cases in the ROR – PML 1 category. The rate was highest in the most restrictive category at 32.7%.

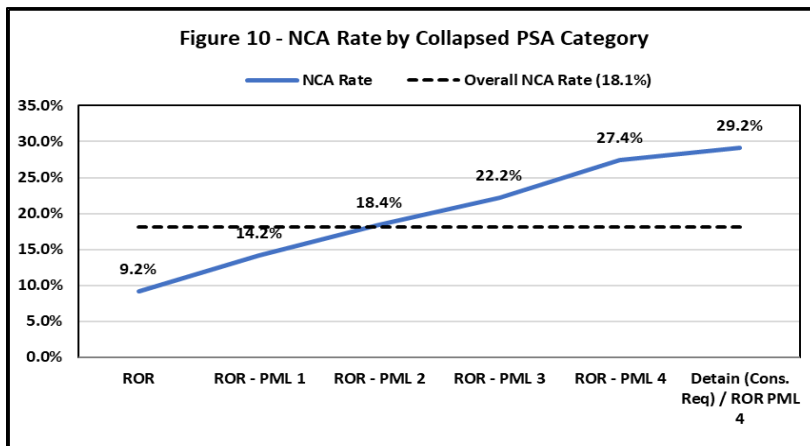
⁸ The Release Rate varied greatly by collapsed PSA recommendation categories. Cases with a ROR recommendation had a Release Rate of 90.3%, ROR – PML 1 84.1%, ROR – PML 2 75.6%, ROR – PML 3 65.2%, ROR – PML 4 60.7%, and Detain / ROR - PML 4 46.2%.



The overall NCA rate was 18.1%. The NCA rates are displayed by NCA scores in Figure 9. The NCA rate was lowest (8.2%) in cases with an NCA score of 1. The NCA rate was highest for NCA scores of 5 and 6, or 29.0%. As the NCA scores increased, the NCA rates increased.



The NCA rates by PSA categories followed the same pattern as observed in the charts above – as the PSA category got more restrictive, the NCA rates increased. The NCA rate was lowest for the ROR category (9.2%), and highest in the max category (29.2%).



The overall NVCA rate was 5.0%. There were 12,662 cases without an NVCA flag, of which 529 had an NVCA during the pretrial period, resulting in an NVCA rate of 4.2%. There were 2,472 cases with an NVCA flag and 221 had an NVCA during the pretrial period, with a final NVCA rate of 8.9%. The NVCA rates are displayed in Figure 11 by no NVCA flag or NVCA flag.

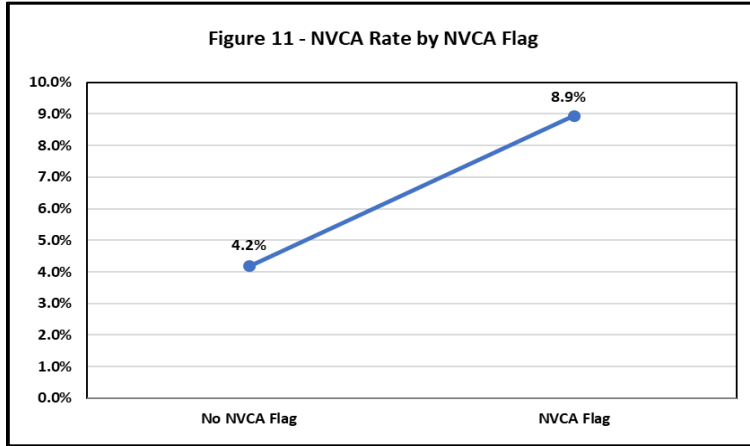
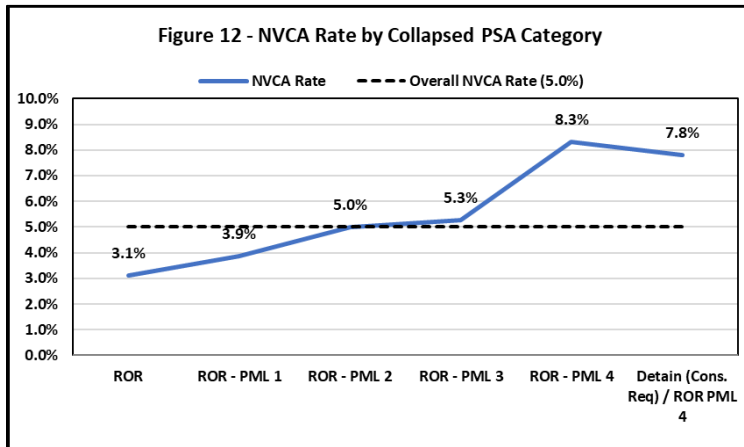


Figure 12 displays the NVCA rate by collapsed PSA category. The NVCA rate increased as the PSA category became more restrictive. The lowest NCA rate was again in the ROR category and of interest, the NCA rate was highest (8.3%) for those in ROR – PML 4. For those in the detain / ROR – PML 4 category, the NVCA rate was 7.8%.



New Criminal Activity Charges

The NCA charges were compared to the highest charge in the source case. The case for which the individual was assessed on is referred to as “source case” in Table 9 below. Table 9 compares the 2,746 cases that had an NCA, by the highest charge on the source case. Almost half of the cases with an NCA (49.3%) had a charge level lower than the cases for which they were assessed and over a third (38.3%) had a charge level equivalent to the assessed case. This indicates that for the 18.1% of cases that had an NCA during the pretrial period, for 87.6% of cases the new case had either a lower or equivalent charge level than the source case.

Table 9. Source Charge Level and NCA Charge Level Comparisons

Source Charge Level	NCA Charges Lower than Source Case		NCA Charges Same as Source Case		NCA Charges Higher than Source Case		Total
	Count	Percent	Count	Percent	Count	Percent	
F1	15	100.0%	0	0.0%	N/A	N/A	15
F2	175	90.2%	17	8.8%	2	1.0%	194
F3	403	81.3%	59	12.0%	33	6.7%	495
F4	761	37.3%	975	47.7%	306	15.0%	2,042
<i>Total</i>	1,354	49.3%	1,051	38.3%	341	12.4%	2,746

There were 2,746 cases with NCA during the pretrial period. The three highest charges, charge level (1st degree felony, 2nd degree felony, 3rd degree felony, 4th degree felony, misdemeanor, or petty misdemeanor), and charge category (violent, property, drug, DWI, or public order/other) were collected for each case. The highest charge of the three was recorded by their charge level, charge category, and specific sub-category. Table 10 shows the number of cases with no new charge and the number of NCA cases by the highest charge level. There were 15 (less than 1%) cases that had an NCA with a first-degree felony as the highest charge. Most cases with an NCA had an F4 as the highest charge or 1,275 (8.4%), followed by 738 with a misdemeanor as the highest charge or 4.9% of all cases.

Table 10. Highest Charge Level of NCA Case

Level	Count	Percent
F1	15	0.1%
F2	141	0.9%
F3	276	1.8%
F4	1,275	8.4%
MD	738	4.9%
PM	301	2.0%
No NCA	12,388	81.9%
<i>Total</i>	15,134	100.0%

Table 11 reports the number of NCAs by charge category. The largest percent of new criminal activity was property crimes (37.7%), followed by violent crimes (27.1%) and then drug offenses (24.2%). Public order/other charges accounted for 9.3% of the cases and DWIs accounted for 1.6%.

Table 11. Highest Charge Category of NCA Case

Category	Count	Percent
Violent	745	27.1%
Drug	664	24.2%
Property	1,036	37.7%
DWI	45	1.6%
Public Order / Other	256	9.3%
<i>Total</i>	2,746	100.0%

Of the cases with an NCA, most (46.4%) had an F4 as the highest charge (Table 12). The next highest percentage of cases had a misdemeanor as the highest charge, 26.9%. There were 1,036 cases which had a property charge as the highest charge. Finally, 27.1% of NCAs had a violent highest charge.

Table 12. NCA Highest Charge Level and Category

	Violent	Drug	Property	DWI	Public Order / Other	Total	Percent of all NCAs
F1 or CF	11	4	0	0	0	15	0.5%
F2	70	59	8	0	4	141	5.1%
F3	154	28	92	1	1	276	10.1%
F4	221	476	530	4	44	1,275	46.4%
MD	214	83	290	22	129	738	26.9%
PM	75	14	116	18	78	301	11.0%
<i>Total</i>	745	664	1,036	45	256	2,746	100.0%
<i>Percent of All NCAs</i>	27.1%	24.2%	37.7%	1.6%	9.3%	100.0%	

Outcome Measures by Preventive Detention Motions and Serious Violent Offenses

By SVO category, the FTA was lowest among the 1,142 cases with an SVO at 16.7% (see Table 13). The rate for those with an Optional SVO was 19.7% for 1,784 cases. The FTA rate was highest for the 12,208 cases with no SVO, at 20.7%, and a percent less at 19.7% for the 1,784 cases with an Optional SVO.

The NCA rate had less variation by category. The rates were lowest for cases that had No SVO (18.0%), followed by cases with an SVO at 18.2%. The rate for cases with an Optional SVO was 19.3%. The lowest NVCA rates were for cases with no SVO at 4.1%. The highest rate was for those with an Optional SVO (8.8%), followed by those with an SVO (8.4%).

Table 13. PSA Outcomes by SVO Categories

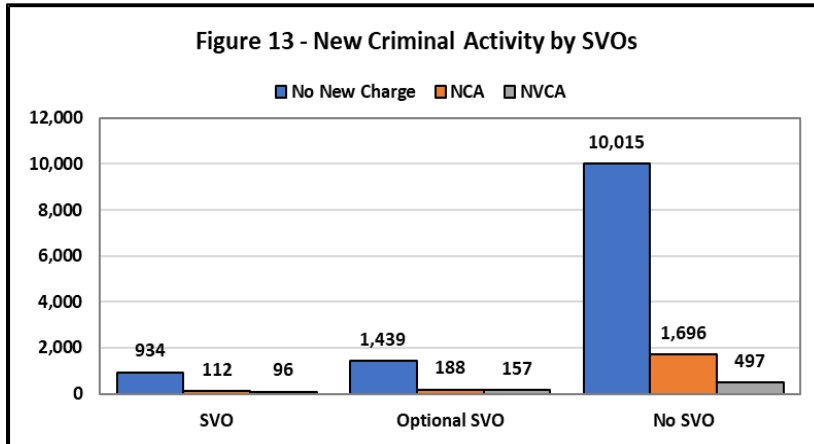
	SVO	Optional SVO	No SVO	Overall
FTA	16.6%	19.7%	20.7%	20.3%
NCA	18.2%	19.3%	18.0%	18.1%
NVCA	8.4%	8.8%	4.1%	5.0%

The outcome measures are displayed in Table 14 by whether a PTD motion was filed or not. For cases in which there was no PTD motion filed, 20.6% had an FTA. For cases that did have a PTD motion filed the FTA rate was 17.6%, a 3.0% difference. The NCA rate for cases that did not have a PTD motion filed was 17.8% and 20.7% for cases with a PTD motion filed, a difference of 2.9%. The NVCA rates differed at a smaller rate (2.3%), at 4.7% for cases that did not have a PTD motion filed and 7.0% for cases that did.

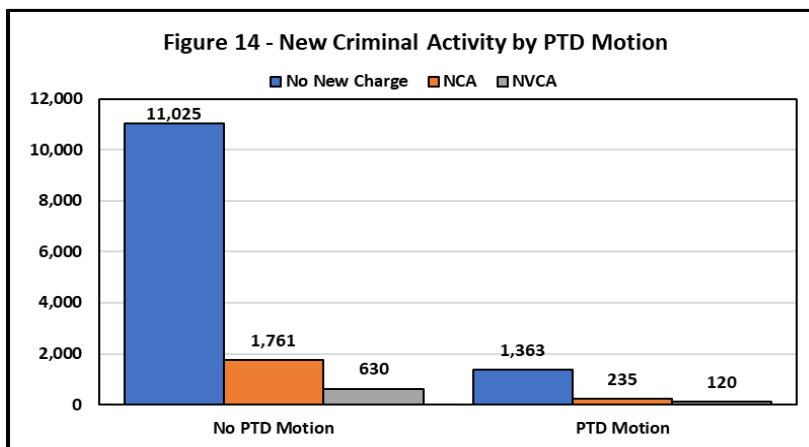
Table 14. PSA Outcomes by PTD Motion Filed

	No PTD Motion	PTD Motion	Overall
FTA	20.6%	17.6%	20.3%
NCA	17.8%	20.7%	18.1%
NVCA	4.7%	7.0%	5.0%

The proposed serious violent offenses were compared to the NCA and NVCA outcome measures for the 15,134 cases in the sample. Figure 13 displays the number of cases with an SVO, an Optional SVO, or no SVO by whether there was an NCA committed. The majority of cases had no SVO (12,208) of which 82.0% did not have a new charge. Of cases with an Optional SVO (1,784), 80.7% did not have a new charge. Finally, of cases with an SVO (1,142), 81.8% did not pick up a new charge.



Next, the NCA and NVCA outcome measures were compared to a PTD motion being filed in Figure 14. There were 13,416 cases with no PTD motion filed and 1,718 with a PTD motion in the sample. Of the cases with no PTD motion, 82.2% did not have a new charge. Of the cases with a PTD motion, 79.3% did not have a new charge.



The outcome measure rates were compared for all cases in the outcome sample (15,134) cases that would be considered under HB80 as having an SVO (1,142), Optional SVOs (1,784), cases that were in the detain / ROR – PML 4 category with the NVCA flag (710), and cases with firearms charges (559).

Of the initial 1,954 cases with a recommendation in the detain / ROR – PML 4 category with the NVCA flag, 710 had exposure during the pretrial period (40.1%). Across the board, the outcome measures were highest for these cases compared to any group. The FTA rate for this group was 31.1%, the NCA rate was 27.6%, and the NVCA rate was 11.8%. For cases with an SVO, the NVCA rate was 8.4%, higher than the NVCA rate for the outcome sample. However, this is 3.4% less than the 11.8% from the detain /ROR – PML 4 with the NVCA flag, which would suggest that the PSA identifies defendants who are most likely

to reoffend and commit a violent crime during the pretrial period, at a higher rate than the proposed SVOs. Additionally, the PSA identifies defendants who are most likely to fail to appear at a higher rate.

Of the 1,348 cases with a firearms charge, 559 (48.3%) had exposure during the pretrial period. The outcomes for this group were similar to those for other categories, with an FTA rate slightly lower than the overall PSA outcomes at 17.7% and an NCA that was 2.5% higher than the overall PSA rate (see Table 15). The NVCA rate for the cases with a firearms charge was .2% lower than the overall rate.

Table 15. Outcome Measure Rates by HB80, Firearms Charges, or PSA

	PSA Overall		SVO		Optional		PSA Detain W/VF		Firearms Charges	
FTA	3,070	20.3%	190	16.6%	351	19.7%	221	31.1%	99	17.7%
NCA	2,746	18.1%	208	18.2%	345	19.3%	196	27.6%	115	20.6%
NVCA	750	5.0%	96	8.4%	157	8.8%	84	11.8%	27	4.8%
<i>All Cases</i>	15,134		1,142		1,784		710		559	

Adherence

Between July 2017 and June 2021, there were 26,310 cases from the BCMC electronic data. After 11,176 cases were excluded, as described above, there were 15,134 remaining cases for the outcome measures sample. For adherence review, the conditions of release that were set at the defendant’s FFA⁹ were compared to the PSA recommendation. Only cases for which there were conditions set and for which there was a PSA recommendation were included for adherence review. Cases where a PTD motion was filed are not included as the BCMC judge is not able to set conditions. For this reason, there were 1,873 cases excluded from this sample (see Table 16). There were 13,261 cases remaining in the adherence sample. The adherence or deviation rate from the PSA category was calculated, as well as the outcome measures by adherence or deviation rate.

Table 16. Cases in Adherence Sample

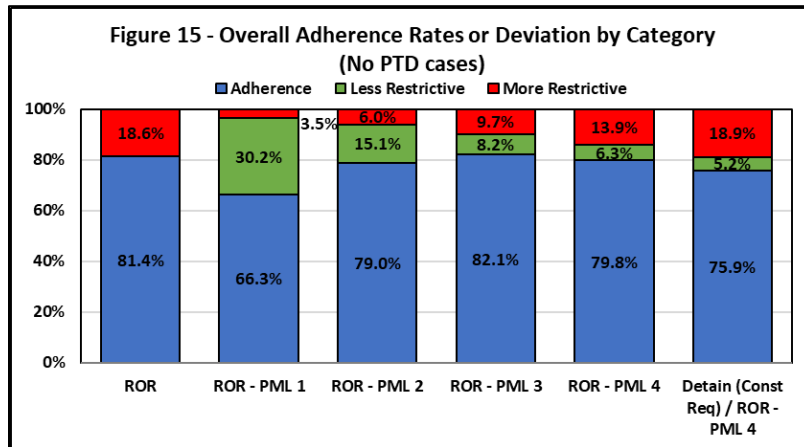
All Electronic Data Cases	26,310
Less Excluded Cases	11,176
Less PTD Cases	1,873
<i>Remaining Adherence Sample</i>	<i>13,261</i>

Adherence Rate

Overall, the adherence rate was 78.1%, and the remaining cases comprised of 12.4% more restrictive conditions set and 9.5% with less restrictive conditions set. Figure 15 displays the adherence or deviation rates by collapsed PSA category. The adherence in most categories was between 79.0% for ROR – PML 2 and 82.1% (ROR – PML 3). The two exceptions to this were in the ROR – PML one and detain / ROR – PML 4. For ROR – PML 1 cases, 30.2% of cases had less restrictive conditions set than were recommended by the PSA, although in the case of PML 1, this was a relatively minor change as PML 1 consists essentially of court hearing date reminders. On the other hand, for both ROR and detain / ROR – PML 4 category, there were more restrictive conditions set for over 18.0% of cases. For ROR cases, this

⁹ Conditions of release are provided by background investigation staff at BCMC and verified and completed as necessary.

included any addition to the ROR though this was more complicated for the detain or ROR – PML 4 category.¹⁰



Adherence and Deviation by Outcome Measures

For the 13,261 cases in the adherence sample, FTA, NCA and NVCA rates were calculated by adherence rate. The rates from the outcome measures sample (15,134) were: 20.3% FTA rate, 18.1% NCA rate, and 5.0% NVCA rate. Table 17 displays the FTA rates by adherence or deviation. The overall FTA rate in the adherence sample was 20.7%. The FTA rate was lowest when the conditions of release were less restrictive or 17.8%, and highest when conditions were more restrictive, or 23.7%. When the conditions of release adhered to the PSA recommendation, the FTA rate was 20.6%.

Table 17. FTA Rate by Adherence or Deviation

	Less Restrictive	Adherence	More Restrictive	Total
No FTA	1,032	8,224	1,254	10,510
FTA	224	2,137	390	2,751
<i>FTA Rate</i>	17.8%	20.6%	23.7%	20.7%

Table 18 shows the NCA rate by adherence or deviation. The overall NCA rate for the adherence sample was 17.7%. As observed with the FTA rates, the NCA rate was highest when conditions were more restrictive than the PSA recommended at 21.4%. When the conditions adhered to the recommendation, the NCA rate was 17.5% and lowest when conditions were less restrictive (14.8%).

Table 18. NCA Rate by Adherence or Deviation

	Less Restrictive	Adherence	More Restrictive	Total
No New Charge	1,070	8,546	1,292	10,908
NCA	186	1,815	352	2,353
<i>NCA Rate</i>	14.8%	17.5%	21.4%	17.7%

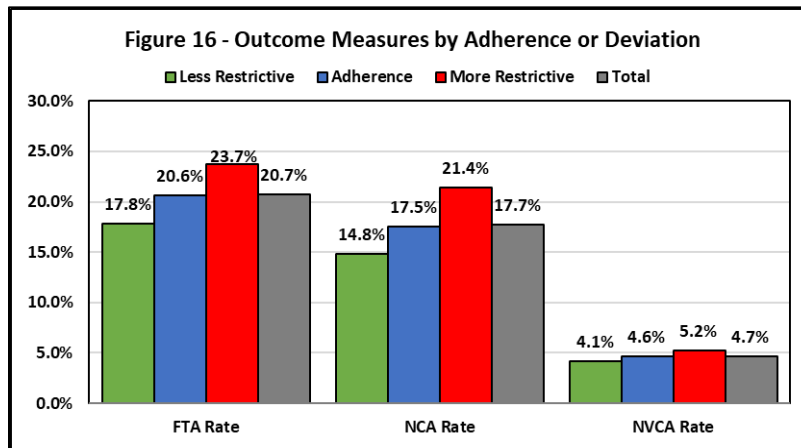
¹⁰ See Table C1 in Appendix C for how adherence and deviations were considered.

The NVCA rate in the adherence sample was 4.7% (see Table 19). The rate was 0.1% less (4.6%) when the conditions adhered to the recommendation than for the overall sample. When conditions were more restrictive, the NVCA rate was 5.2%, and 1.1% more than when conditions were less restrictive (4.1%).

Table 19. NVCA Rate by Adherence or Deviation

	Less Restrictive	Adherence	More Restrictive	Total
No New Charge	1,204	9,881	1,558	12,643
NVCA	52	480	86	618
NVCA Rate	4.1%	4.6%	5.2%	4.7%

Figure 16 displays the FTA, NCA, and NVCA rates across adherence or deviation categories. Outcome measure rates were lowest when conditions were less restrictive and were highest when conditions were more restrictive. Adhering to the PSA recommendation produced the best results.



Discussion and Conclusion

This study examined Bernalillo County Metropolitan Court felony cases that were filed between July 2017 and June 2021 with a PSA. Of 26,310 cases from the BCMC electronic data, 23,345 cases had a defendant in custody for their FFA with a PSA. There were 15,134 cases in the outcome sample and 13,261 in the adherence sample. The outcome measures (FTA, NCA, NVCA) were compared by the PSA recommendation categories. This study also examined recent alternative proposals to detain defendants during pretrial such as Rebuttable Presumptions or Serious Violent Offenses. In addition, these measures were compared to whether a PTD motion had been filed on that case.

A release rate was calculated by comparing the number of closed cases with no exposure in the community to the total number of closed cases. The release rate for this study was 69.6%. For cases in the outcome sample, the FTA rate was 20.3%, the NCA rate was 18.1%, and the NVCA rate was 5.0%. Previous reports by ISR have included the outcome measures and release rate. These rates over time are compared in Table 20. The FTA, NCA, and NVCA rates increased for cases between July 2017 to March 2020. In the current study, all rates decreased, and the release rate increased a small percentage (0.5%).

Table 20. Outcome Measures by Sample

Report	Sample Period	FTA	NCA	NVCA	Release Rate
Bernalillo County Public Safety Assessment Review – July 2017 to March 2019	July 2017 to March 2019	18.5%	17.2%	4.1%	71.7%
Bernalillo County Public Safety Assessment Validation	July 2017 to March 2020	22.8%	19.0%	4.7%	69.1%
The Public Safety Assessment, Preventive Detention, and Rebuttable Presumptions in Bernalillo County	July 2017 to June 2021	20.3%	18.1%	5.0%	69.6%

FTA and NCA Rates increased as the PSA recommendation category became more restrictive, or the rates are highest in the highest risk categories. This finding is important as it demonstrates that the PSA identifies and scores high-risk individuals. Inversely, the majority of cases in the lower PSA categories (ROR and ROR PML 1) do not have a new charge. In cases where the NVCA flag existed, the NVCA rate is more than double the NVCA rate in cases without the flag, 8.9% and 4.2%, respectively.

There were 2,746 cases with NCA during the pretrial period. The charges for the NCA case were collected and the highest charge was selected. Most NCAs had a fourth-degree felony or misdemeanor as the highest charge, 8.4% and 4.9%, respectively. There were 1,036 or 37.7% of NCAs were property crimes, followed by violent crimes (745 or 27.1%). There were 664 cases of 24.2% that were drug crimes. Public order and DWI charges accounted for the remaining 11% of NCAs. When the highest charge on the NCA case was compared to the highest charge on the source case, 49.3% committed charges that were lower than the source case. This finding suggests that when a new charge is committed during the pretrial period, the majority do not commit a higher crime.

Adherence or deviation rates were calculated for 13,261 cases. Cases that did not have any conditions of release set were excluded. The overall adherence rate was 78.1%. FTA, NCA and NVCA rates were highest when conditions of release were more restrictive than what the PSA recommended. The lowest outcome measure rates were observed when conditions of release were less restrictive than what was recommended.

The findings from comparing outcome measure rates across the outcome sample, cases with an SVO, and cases in the detain / ROR – PML 4 category (Table 15 above), suggest that the PSA and the NVCA flag identifies defendants who are high-risk, at higher rates than the proposed HB80. The FTA and NCA rates were highest for cases in the detain category with the NVCA flag. The NVCA rate was highest for cases in the detain / ROR – PML 4 category. These rates were higher than the small number of cases that were identified as having an SVO, Optional SVO, or no SVO. The proposed HB80 would unnecessarily hold defendants who would not commit a new crime or fail to appear. The detain and violent flag predicts violent crime better than the alternative.

Overall, the implementation of the recently proposed options for rebuttable presumptions is not clearly reflected in the current use of preventive detention nor does the data suggest that HB80 is useful in addition to the current method of assessment and release/detainment. The data suggests that to date, the best predictor of the likelihood of commitment of new criminal activity and new violent criminal activity is a combination of the recommendation of the PSA and the violence flag. While options may be available to improve the Release Conditions Matrix, broad sweeping mandates for pretrial detention would result in an increased burden on the courts. Implementing these changes should be studied, both to confirm the outcomes on a smaller scale as well as to gauge the impact on both the courts and the MDC. An evidence-based decision has the greatest chance for success.

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Appendix A: Release Conditions Matrix

The PSA recommendation category is assigned based on the risk scores for new criminal activity (NCA) and failure to appear (FTA). These scores are generated based on a series of risk factors including age, current offense information, prior convictions, prior failures to appear, and prior sentencing (see Table A1) (Laura and John Arnold Foundation, 2016).

Table A1. PSA Risk Factors and Pretrial Outcomes

Risk Factor	Pretrial Outcome		
	FTA	NCA	NVCA
1. Age at current arrest		X	
2. Current violent offense			X
2A. Current violent offense and 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	
5A. 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	

As the NCA and FTA scores increase, the release recommendation category becomes more restrictive (see Table A2). These recommendations are part of the Release Conditions Matrix (RCM, formerly DMF) used to assign recommended conditions of release. These conditions include: ROR with no supervision, ROR with supervision at several levels, or detain if constitutional requirements are met or release with maximum conditions. The supervision level is ordered by the judge or determined by Pretrial Supervision program staff.

Table A2. Decision-Making Framework in Bernalillo County

		New Criminal Activity Scale					
		NCA 1	NCA 2	NCA 3	NCA 4	NCA 5	NCA 6
Failure to Appear Scale	FTA 1	(A) ROR	(B) ROR				
	FTA 2	(C) ROR	(D) ROR	(E) ROR PML 1	(F) ROR PML 3	(G) ROR PML 4	
	FTA 3		(H) ROR PML 1	(I) ROR PML 2	(J) ROR PML 3	(K) ROR PML 4	(L) Detain (Const Req) or ROR – PML 4
	FTA 4		(M) ROR PML 1	(N) ROR PML 2	(O) ROR PML 3	(P) ROR PML 4	(Q) Detain (Const Req) or ROR – PML 4
	FTA 5		(R) ROR PML 2	(S) ROR PML 2	(T) ROR PML 3	(U) Detain (Const Req) or ROR – PML 4	(V) Detain (Const Req) or ROR – PML 4
	FTA 6				(W) Detain (Const Req) or ROR – PML 4	(X) Detain (Const Req) or ROR – PML 4	(Y) Detain (Const Req) or ROR – PML 4

Appendix B: Serious Violence Offense Charges

The first-degree felonies and serious violence offense (SVO) charges were identified based on the charge level and the definition provided in HB80. Based on this information, the following charges will be SVO offenses.

Table B1. *SVO Charges*

Charge Description	Statute
Murder, Kidnapping, CSP, Child Abuse, Drug Trafficking	Various
Second Degree Murder	30-2-1
Shooting at Dwelling or Occupied Building	30-3-8
Shooting at or from a Motor Vehicle	30-3-8
Aggravated Battery Upon a Peace Officer	30-22-25
Assault with Intent to Commit a Violent Felony Upon a Peace Officer	30-22-23
Aggravated Assault Upon a Peace Officer	30-22-22
Voluntary Manslaughter	30-2-3
Third Degree Aggravated Battery	30-3-5
Third Degree Aggravated Battery Against a Household Member	30-3-16
First Degree Kidnapping	30-4-1
First and Second Degree Criminal Sexual Penetration	30-9-11
Second and Third Degree Criminal Sexual Contact	30-9-13
First and Second Robbery	30-16-2
Second Degree Aggravated Arson	30-17-6

There are also a series of charges that are Optional SVO charges. For these charges, the court may judge that these are also an SVO based on the nature of the offense and resulting harm.

Table B2. *Optional SVO Charges*

Charge Description	Statute
Involuntary Manslaughter	30-2-3
Fourth Degree Aggravated Assault	30-3-2
Third Degree Assault with Intent to Commit a Violent Felony	30-3-3
Fourth Degree Aggravated Assault Against a Household Member	30-3-13
Third Degree Assault with Intent to Commit a Violent Felony Against a Household Member	30-3-14
Aggravated Stalking	30-3A-3.1
Second Degree Kidnapping	30-4-1
Second Degree Abandonment of a Child	30-6-1
First, Second, and Third-Degree Abuse of a Child	30-6-1
Third Degree Dangerous Use of Explosives	30-7-5
Third and Fourth Degree Criminal Sexual Penetration	30-9-11
Fourth Degree Criminal Sexual Contact of a Minor	30-9-13
Third Degree Robbery	30-16-2
Third Degree Homicide by Vehicle or Great Bodily Harm by Vehicle	66-8-101
Battery Upon a Peace Officer	30-22-24

Appendix C: Crime Type Categories

The crime type was assigned to the criminal charges for both the case the defendant originally assessed on as well as instances of NCA and NVCA.

Table C1. *Crime Types by Levels*

Level 1	Level 2	Level 3
Violent	Violent	Homicide
Violent	Violent	Other Homicide
Violent	Violent	Kidnapping
Violent	Violent	Armed Robbery
Violent	Violent	Robbery
Violent	Violent	Sexual Offenses
Violent	Violent	Assault
Violent	Violent	Battery
Violent	Violent	Other Sexual Offenses
Violent	Violent	Other Violent Offenses
Non-Violent	Drug	Drug Offenses
Non-Violent	Property	Burglary
Non-Violent	Property	Larceny Theft
Non-Violent	Property	Motor Vehicle Theft
Non-Violent	Property	Arson / Fraud / Stolen Property / Other Property Offenses
Non-Violent	DWI	DWI
Non-Violent	Public Order / Other	Weapons
Non-Violent	Public Order / Other	Judicial Interference / Other Public Order / Other

Appendix D: Adherence

Table D1 shows the matrix of the PSA recommendation and the conditions of release. Conditions not commonly used that are normally categorized as “other” are assessed as either adhering or deviating from the recommendation on a case-by-case basis.

Table D1. *PSA Recommendation by COR Match or Deviation for Reference*

PSA Recommendation	Conditions of Release					
	ROR	ROR, PTS	TPC	NBH	Bond	Bond and/or TPC
ROR	=	↑	↑	↑	↑	↑
ROR PML 1	↓	=	↑	↑	↑	↑
ROR PML 2	↓	=	↑	↑	↑	↑
ROR PML 3	↓	=	↑	↑	↑	↑
ROR PML 4	↓	=	↑	↑	↑	↑
Detain/Max	↓	=	=	=	↑	↑