The Judicial Designee Assessment and Misdemeanor Pretrial Release: A Validation Study in Bernalillo County

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Introduction

The pretrial phase of a criminal case encompasses the period after being charged with a crime and the opening of the court case through the final disposition[1] of the case. During the pretrial phase of a case, the accused is presumed innocent and is entitled to due process of law (U.S. Constitution, amend. V) as well as the least restrictive conditions necessary to ensure public safety and attendance at future hearings (Supreme Court Rule 5-401[2]). Historically, in New Mexico initial conditions of release were based on a jailhouse bond assigned based on the charges of the case, and then reviewed at the initial hearing before a judge. Jailhouse bonds were discontinued in 2017 after New Mexico voters approved a constitution amendment in 2016 to abolish the cash bail system.

In Bernalillo County, individuals charged with misdemeanor and petty misdemeanor crimes are released or detained prior to a first appearance before a judge based on a combination of procedures set down in Supreme Court Rule 7-408 (Rule 7-408[3]) and by Bernalillo County Metropolitan Court (BCMC) Background Investigation (BI). Per Rule 7-408, barring a probation or parole violation, or pending case, all but 16 misdemeanor and petty misdemeanor criminal offenses qualify for release from custody. These releases occur from either the Prisoner Transport Center (PTC) or the Metropolitan Detention Center (MDC)[4]. The remaining 16 offenses require an individualized assessment by BI to be considered for release from the MDC before the first appearance. To address this need, the Judicial Designee Assessment (JDA) was developed by Background Investigations (BI) staff and is used to assess individuals booked into the MDC on those select offenses[5] beginning in February 2020. The Public Safety Assessment (PSA)[6] is a pretrial risk assessment used in other New Mexico judicial districts for both felony and misdemeanor charges that result in a booking into the local jail. In Bernalillo County the PSA is only used for booked felony charges while the JDA is used for misdemeanor and petty misdemeanor charges.

In addition to administering the JDA, BI has a variety of responsibilities, including but not limited to placing no-bond-holds on defendants for violating conditions of release or probation by committing a new offense, notifying the New Mexico Corrections Department (NMCD) when state parolees or probationers are arrested for a new crime, and transporting paperwork from the MDC to the courthouse. Background Investigations operates 24 hours a day, seven days a week and provides

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[1] The court case disposition may include findings of guilt or not guilty, dismissal, or nolle prosequi.

[2] https://www.nmlegis.gov/handouts/CJRS%20102717%20Item%204%20Rule%205-401.pdf

[3] https://casetext.com/rule/new-mexico-court-rules/new-mexico-rules-of-criminal-procedure-for-the-metropolitan-courts/article-4-release-provisions/rule-7-408-pretrial-release-by-designee

[4] Defendants qualifying for release based solely on charge may still require transportation to the MDC to meet fingerprinting requirements. ("Background Investigations Division", 2022).

[5] The JDA is not used on felony cases or on cases that do *not* contain one or more of the charges listed in Subparagraph (B)(2) of Rule 7-408.

[6] The PSA is a non-interview assessment that includes 9 factors that provide a separate risk score for NCA and FTA as well as a violent crime flag. It was implemented in Bernalillo County mid-2017 and was validated in June 2021 (Ferguson, De La Cerda, Guerin, & Moore, 2021). That study found the PSA was predictive to a similar degree as seen in other jurisdictions in the U.S. and that the PSA was predictive of failure /success across demographic groups.

assessments for defendants via video with the defendant while he or she is in the receiving unit at the Metropolitan Detention Center (MDC).

Most defendants charged with a petty misdemeanor or misdemeanor do not require assessment under the Supreme Court Rule. These defendants are typically released without being booked into the MDC unless there are additional issues (such as a probation violation or warrant) or if by New Mexico statute the defendant is required be fingerprinted[7]. There is no assessment conducted for defendants that are cited or summoned and do not come into the custody. In addition, BI has a variety of policies in place that limit the use of the JDA, described in detail below. The JDA is used solely by BI for release decision making and is not provided to the courts to inform a judge's release decision making at the first appearance, although it is available in the court records. The use of the JDA solely for assessing a specific category of cases creates some restrictions on analysis. The JDA only applies to defendants who are booked and qualify under both the Supreme Court Rule and BI policies.

The JDA uses three risk factors – history of failure to appear (FTAs), number of prior arrests and summonses, and whether previous charges were similar in nature – to assign a score which is used to decide if a defendant should be released, released with supervisor approval, or held until the initial hearing.

The primary goal of this report was to validate the JDA in Bernalillo County and report how accurately the JDA identifies individuals with greater probabilities of committing new crimes and/or failing to appear in court. By design and necessity, the JDA is used to assess releases for a specific group of booked defendants rather than all petty misdemeanors and misdemeanors. Where possible, analyses included race/ethnicity and gender.

In addition to the validation portion of the study, a preliminary review was made of defendants with cases that would not have qualified for an assessment due to the charge type not falling under the Supreme Court Rule guidelines. There were insufficient cases to validate the tool for only these defendants as the time and resources for the courts to reconstruct assessments for this group was not available. However, a preliminary review of the scoring and outcome measures will provide some insight into its use for additional case types in the future.

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[7] Per Section 29-3-8, NMSA 1978, if a charge is punishable by imprisonment for more than six months, fingerprinting is required. This includes battery (30-3-15) and aggravated battery on a household member (30-3-16), interference with communication (30-12-1), harassment (30-3A-2), telephone harassment (30-20-12), violation of a restraining order (40-15-6E), patronizing a prostitute (30-9-3), criminal trespass (30-14-1), prostitution (30-9-2), resisting, evading, or obstructing an officer (30-22-1), all DWIs (66-1-102), and specific larceny, fraud, and shoplifting charges. BI is in the process of obtaining a fingerprinting machine so this can be conducted at the Prisoner Transport Center rather than requiring a transport to the MDC.

Background on the JDA

Supreme Court Rule 7-408 identifies the circumstances under which a judicial designee (in this case BI staff) may detain a charged individual as well as the circumstances where this should not occur. This period of detention covers from the arrival to the MDC until the first appearance in front of a judge, who sets conditions of release. Rule 7-408 applies to cases filed on or after July 1, 2017. According to the Supreme Court Rule, most petty misdemeanor and misdemeanor charges shall result in the release of the individual unless the defendant is on probation or parole, has a pending trial or sentencing, or is under appeal for any offense. Supreme Court Rule 7-408 identifies 16 charges that are considered more serious for which additional review – in this case, the JDA – is necessary before BI staff can decide if the defendant is eligible for release prior to an initial hearing before a judge. These charges include:

1. battery (30-3-4)
2. aggravated battery (30-3-5)
3. assault against a household member (30-3-12)
4. battery against a household member (30-3-15)
5. aggravated battery against a household member (30-3-16)
6. criminal damage to property of a household member (30-3-18)
7. harassment (30-3A-2), if the victim is known to be a household member
8. stalking (30-3A-3)
9. abandonment of a child (30-6-1(B))
10. negligent use of a deadly weapon (30-7-4)
11. enticement of a child (30-9-1)
12. criminal sexual contact (30-9-12(D))
13. criminal trespass (30-14-1(E)), if the victim is known to be a household member
14. telephone harassment (30-20-12), if the victim is known to be a household member
15. violating an order of protection (40-13-6)
16. driving under the influence of intoxicating liquor or drugs (66-8-102).

There are internal policies followed by BI in addition to the Supreme Court Rule that restrict which defendants are assessed. There were some changes to the policy in late 2022, but in general an assessment is not administered for a defendant that has any of the following:

1. warrants;
2. a history of similar cases for DV or DWI cases;
3. allegations involving a vehicle crash or vehicle crash with alleged physical injury, hospitalization, or significant property damage;
4. seriousness of allegations;
5. an extensive criminal history;
6. or the defendant has not lived in New Mexico for at least two months.

The new BI policy changes that began in October 2022 include a decrease in time elapsed to qualify previous DWI convictions from three years to one year, removed restrictions regarding a crash on roadway/intersection, surface street, or leaving the scene of an accident, added a time limit on prior qualifying DWI convictions and convictions, modified the restriction on prior violent charges for

domestic violence charges, modified the restriction on prior 3rd and 4th degree non-violent felony cases, and allowed for a possible ROR if the defendant can demonstrate strong community ties.

The JDA developed by BI staff consists of three questions related to a history of failure to appear (FTA), overall arrests and summons, and whether previous charges were similar to the current charges. These questions and the scoring are:

1. FTA within the last 5 years on any criminal case type?
    a. No=0
    b. Yes=1
2. Number of overall arrests/summons cases regardless of disposition.
    a. None=0
    b. 1-4 overall cases=1
    c. 5-9 overall cases=2
    d. 10 or more overall cases=3
3. Previous charges of a similar nature regardless of disposition?
    a. No=0
    b. Yes=1

Depending on the responses to the three questions, defendants can receive a score between zero and five. The scores correspond with a condition of release, with a zero, one, or two resulting in the defendant receiving a release on own recognizance (ROR) and a score of three or four results in an ROR with supervisor approval. A score of 5 results in the defendant being held until a court hearing, although there are typically policy restrictions that would be prevent an assessment from being administered that correspond with a score of 5. This means that a defendant who qualifies for assessment under both the Supreme Court Rule and BI policies would nearly always score between a zero and four.

The JDA is administered by BI staff for remaining defendants and depending on the score – and barring any mitigating or exigent circumstances that staff find compelling but are not already included in policy restrictions – the defendant is released from custody with information on upcoming hearings. Beginning in August 2022 BI began administering the JDA to some defendants in custody who would not have qualified previously for the JDA due to BI policy. These assessments as well as additional historical reconstructions allowed us to analyze and report on all three release categories. In addition, BI also reconstructed assessments for a sample of defendants with non-qualifying charges.

Objectives

The purpose of this study was to assess the validity of the JDA, specifically whether the JDA was predictive of new criminal activity (NCA), new violent criminal activity (NVCA), or failure to appear at future court hearings (FTA), during the pretrial period. Overall validity, predictive validity, uniform validity, and equitable validity are assessed using a series of statistical tests: Area Under the Curve (AUC) of the Receiver Operating Characteristic (ROC), Chi-Square Test of Independence, Pearson's Correlation, and logistic regression. In addition to the validation portion of this study, NCA, NVCA, and FTA were reported for the sample without the qualifying charges from the Supreme Court Rule.

This study is presented in two parts, the first part discusses the JDA validation portion, which includes defendants whose cases include qualifying charges under the Supreme Court Rule that were assessed using the JDA, either at the PTC or historically after the fact. The second portion of the study focuses on defendants without qualifying charges for which a JDA was reconstructed. This analysis provides a preliminary look at the potential utility of the JDA for cases that are not currently assessed.

Sample

The sample was comprised of assessments provided by BCMC Background Investigations (BI). The information includes charge offense information, responses to the JDA questions, and the total JDA score. The assessments occurred between February 2020 and December 2022. During the majority of the study time period, BI only assessed defendants with qualifying charges, no restrictions, and those scoring under a five. To provide cases for validation as well as allow comparisons with other types of cases, BI staff recreated assessments for cases originally opening between February and October 2020 and January to August 2022. These recreated assessments included the same information as the originally administered assessments.

BCMC data was added to the assessment data and included case opening and closing dates, a court identification number, additional charge information, and warrant information. In addition, Metropolitan Detention Center data was combined with the court case assessment data, including additional demographic data, jail identification numbers, and booking and release dates.

The validation sample consists of two categories of cases: 1. The administered JDAs and 2. the sample of reconstructed assessments and cases. A separate preliminary review was completed that analyzed the use of the reconstructed JDA for cases with a booking that did not have one of the qualifying Supreme Court Rule charges. The administered JDAs were limited to defendants with only lower scores and only in the ROR and ROR with supervisor approval categories, primarily in the former. For the validation, reconstructed assessments provided a wider sample of cases and the defendants had qualifying charges under the Supreme Court Rule.

The validation sample included 5,532 cases, 4,755 in the validation sample and 777 in the sample of non-qualifying cases. A small number of defendants' cases were excluded because they could not be located in the court Secure Online Public Access (SOPA) system (6) or if the information for the booking from the MDC could not be located (21). Cases for the validation sample were opened between February 2020 and December 2022. The assessments that were reconstructed for the other charges sample were compiled from cases primarily opened during the first three quarters of 2020 and the first three quarters of 2022.

The remaining 5,505 cases met the criteria of having a JDA and the individual was in custody for a release decision by Background Investigations. The next section reviews the 4,735 cases in the validation sample and the 770 for the non-qualifying cases will be reviewed after the validation analysis.

Case Status

Case events were reviewed for a disposition event on or before December 31, 2022. A disposition was defined as a sentence, dismissal, plea bargain, or finding of no probable cause. A case was considered "pending" if there was no disposition by December 31, 2022. Only cases that were both opened and closed between February 2020 and December 2022 were included.

Of the 4,735 cases in the sample, 727 cases were pending and accounted for 15.4% of the validation sample. For the other charges sample, 106 (16.0%) were pending at the end of 2022 (see Table 1). at the end of 2022. The pending cases accounted for 15.4% of the validation sample and were reviewed for exposure.

Table 1. *Sample and Case Status*

Sample Category	Pending	Closed	Total
Validation Sample	727	4008	4,735
Other Charges Sample	106	664	770
Total	833	4,672	5,505

Exposure

Exposure was defined as whether a defendant spent time in the community during the pretrial period of the case. Court and jail booking data were combined to determine if defendants were released into the community during the pretrial phase of the case and confirm if the person was transferred to the New Mexico Corrections Department to serve a prison sentence. Only defendants who spent time in the community, were included.

Of the 4,008 closed cases, 246 did not have exposure during the pretrial period (6.1%). The 3,762 assessed and closed cases with exposure comprised the validation sample.

Sample Description

MDC booking data was used to populate basic demographic information for the sample including gender and race/ethnicity. The majority of defendants were male (68.2%) (see Table 2). The validation sample consisted primarily of Hispanic[8] (42.8%) and White defendants (32.%). An additional 12.9% of defendants were Native American and 5.2% were Black. The remaining defendants (6.4%) included those with no information, marked as multiracial, or other categories.

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[8] In data from the MDC, Hispanic is included as both a race and as an ethnicity. Racial categories were constructed based on both categories. For example, an individual listed as White and Hispanic was categorized as Hispanic. Individuals listed as Mexican were collapsed into the Hispanic category.

Table 2. *Gender and Race/Ethnicity in Outcome Sample*

Category	Count	Percent (N=3,762)
Gender		
Male	2,564	68.2%
Female	1,198	31.8%
Race		
Hispanic	1,612	42.8%
White	1,226	32.6%
Native American	485	12.9%
Black	197	5.2%
Other	242	6.4%

JDA Responses

This section reports on the responses to the three questions that comprise the JDA. These three questions are designed to help BI staff decide if a defendant should be released prior to the first appearance.

The first question asked whether the defendant had any prior instances of failure to appear (FTA) in the last five years on any type of criminal case. The possible responses were either no or yes and this contributed either zero or one points to the total JDA score. Just under one in five defendants had a prior FTA in the validation sample (19.0%).

The second question is related to prior criminal behavior and includes arrests and summons – regardless of disposition – for any cases other than traffic cases. The responses to this question added between zero and three points to the overall JDA score, with no prior cases adding zero points and between one and four cases adding one point. If the defendant had between five and nine cases previously, two points were added and 10 or more cases increased the total score by three points.

Just over one in three defendants in the validation sample had either none or between one and four prior arrests and summonses (36.2% and 37.2%). A similar portion had between five and nine prior arrests (13.9%) or 10 or more prior arrests (12.8%).

The third question is related to prior criminal behavior that is of similar nature, regardless of the disposition. For example, if a defendant is charged with a second DWI offense, regardless of whether they were found guilty, innocent, or if the case is still pending, then one point is added to the total score. The criminal history for this question includes juvenile offenses, regardless of case disposition. There were 40.5% of cases in the validation sample that had previous charges of a similar nature.

JDA Scoring and Categories

In the study period of 23 months, there were 4,203 defendants with a case and a JDA assessment. There were six possible scores from zero to five with three possible classifications categories: ROR, ROR with supervisor approval, and to be held for arraignment .

The largest portion of the validation sample had a score of zero (34.8%) (see Table 3). This means just over a third of the cases were for a defendant with no FTA history, no prior cases. Almost 18% had a score of one and 20.4% had a score of two. A decreasing portion had a score of three (11.3%), four (9.2%), or five (6.8%). Based on the scores, the validation sample was largely comprised of defendants in the ROR category (72.8%), with approximately one in five scoring ROR with supervisor approval (20.5%), and 6.8% to be arraigned by judge.

Table 3. *JDA Score*

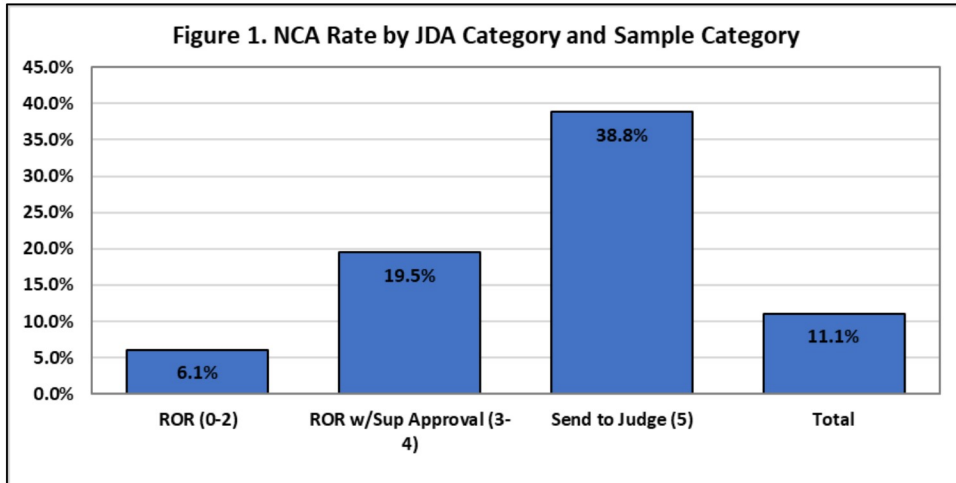| JDA Score	Count	Percent (N=3,762)
0	1,309	34.8%
1	662	17.6%
2	767	20.4%
3	425	11.3%
4	345	9.2%
5	255	6.8%

Outcome Measures

The three outcomes measures used to assess the JDA were failure to appear (FTA), new criminal activity (NCA), and new violent criminal activity (NVCA). This section includes the outcome measures for the samples, as well as charge levels for the new criminal activity.

New Criminal Activity

Court data was reviewed to determine if there was new criminal activity (NCA) during the pretrial period of the case[9]. Traffic offenses were not generally considered new criminal activity with the exception of a few misdemeanor offenses. The NCA rate included property, public order, and violent offenses, whereas the NCVA rate only included violent offenses.

The overall NCA rate, including violent and non-violent offenses was 11.1% for the sample. The NCA rates varied within each sample by category, with lower scoring groups having the lowest rates and an increasing rate as the category score increased (see Figure 1). The NCA rate for defendants in the ROR category in the validation sample was 6.1%. This rate was over three times higher for those in the ROR with supervisor approval category (19.5%) and nearly six times higher for those that scored into the category to be seen by a judge (38.8%).

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[9] This included both new criminal activity both in and out of county.

Figure 1. NCA Rate by JDA Category and Sample Category

New Violent Criminal Activity

New criminal activity was identified as violent based on the criminal statute. These offenses include murder, kidnapping, robbery, assault, sex offenses such as rape and sexual assault, and conspiracy to commit these offenses. The NVCA rate was 4.4% (see Figure 2).

Similar to the NCA, the NVCA rates varied within each sample by category. For the validation sample lower scoring groups had the lowest rates and an increasing rate as the category score increased (see Figure 2). The NVCA rate for defendants in the ROR category was 2.0%. The rate for those in the ROR with supervisor approval category was 10.0% for those that scored into the category to be seen by a judge the NVCA rate was 12.9%.

Figure 2. NVCA Rate by JDA Category and Sample Category

New Criminal Activity and Charge Details. NCA was categorized by the highest charge for each case based on the seriousness of offense, first degree felony (F1), second degree felony (F2), third degree felony (F3), fourth degree felony (F4), misdemeanor, petty misdemeanor. In addition, the type of crime was categorized as violent, drug, property, DWI, or public order/other.

The majority of new offenses were either misdemeanors (56.3%) or petty misdemeanors (14.7%) (see Table 4). Felonies accounted for 29.1% of all NCAs. Less than one percent of cases had an F1 as the highest charge (0.7%). An F2 was the highest charge for 2.4% of cases. Third and fourth-degree felonies accounted for larger portions of the new charges than other felonies, accounting for 8.2% and 17.8%, respectively.

Violent crimes accounted for 39.7% of new criminal activity. Public order/other charges accounted for 23.8% of new cases while property and DWI case comprised 15.6% and 14.7% of new criminal activity. Finally, drug charges were the highest charge in 6.3% of cases.

Table 4. *NCA Highest Charge Level and Category*

	Violent	Drug	Property	DWI	Public Order/Other	Total	Percent of all NCAs
F1	3	0	0	0	0	3	0.7%
F2	10	0	0	0	0	10	2.4%
F3	28	1	3	1	1	34	8.2%
F4	31	19	17	2	5	74	17.8%
MD	68	4	31	46	85	234	56.3%
PM	25	2	14	12	8	61	14.7%
Total	165	26	65	61	99	416	100%
Percent of All NCAs	39.7%	6.3%	15.6%	14.7%	23.8%	100%	

*Note: Due to rounding, these percentages may not add to 100%

The highest charge level was compared to the JDA category (see Table 5). Defendants in the ROR category had 81.4% misdemeanors and petty misdemeanors and 18.6% felony cases. Those with an ROR with supervisor approval had 62.7% of cases with the highest charge of misdemeanor or petty misdemeanor and 37.3% felony cases. Those that were held for a first appearance for before a judge had 65.7% of cases with a misdemeanor or petty misdemeanor and 34.3% with a felony.

Table 5. *NCA Charge Level by JDA category*

	F1		F2		F3		F4		MD		PM		Total
ROR (0-2)	1	0.6%	5	3.0%	5	3.0%	20	12.0%	109	65.3%	27	16.2%	167
ROR w/Sup Approval (3-4)	2	1.3%	5	3.3%	16	10.7%	33	22.0%	67	44.7%	27	18.0%	150
Send to Judge (5)	0	0.0%	0	0.0%	13	13.1%	21	21.2%	58	58.6%	7	7.1%	99
Total	3	0.7%	10	2.4%	34	8.2%	74	17.8%	234	56.3%	61	14.7%	416

*Note: Due to rounding, these percentages may not add to 100%

Table 6 compares the source case, or the original offense, with the NCA. Due to the JDA being used exclusively for misdemeanor and petty misdemeanor offenses, all felony NCAs were an increase in the charge level. There were 216 cases where misdemeanor and petty misdemeanor cases had the same charge level in new criminal activity. This accounted for 51.9% of all NCA. Of the NCA, 13.0% (54 cases) had a petty misdemeanor with a source charge of a misdemeanor, a decrease from the original charge level. The remaining 146 cases had a charge level higher than the original charge. This accounted for 35.1% of all cases. In total, 64.9% of all new criminal activity was at the same or a lower charge level than the original charge.

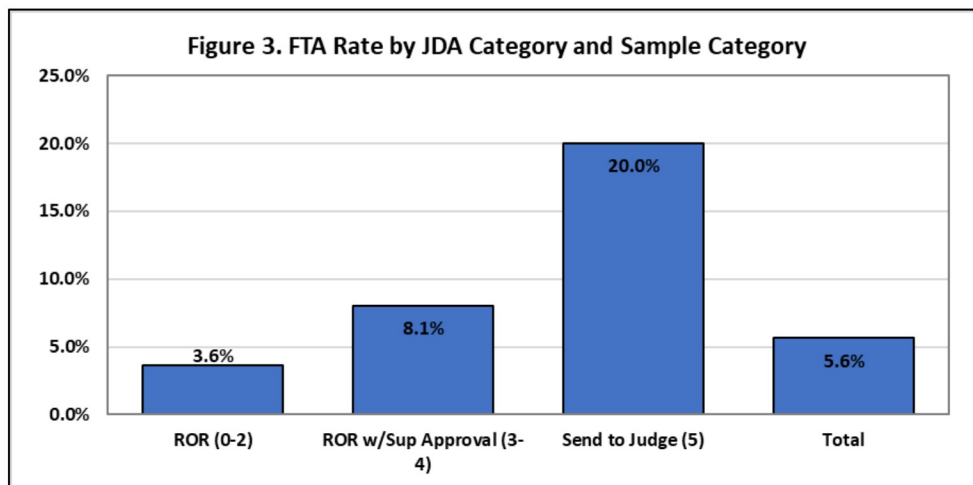**Table 6.** *Source Charge Levels and NCA Charge Level Comparisons*

Source Charge	F1		F2		F3		F4		MD		PM		Total
Misdemeanor	3	0.8%	8	2.2%	31	8.4%	65	17.6%	209	56.5%	54	14.6%	370
Petty Misdemeanor	0	0.0%	2	4.3%	3	6.5%	9	19.6%	25	54.3%	7	15.2%	46
Total	3	0.7%	10	2.4%	34	8.2%	74	17.8%	234	56.2%	61	14.6%	416

*Note: Due to rounding, these percentages may not add to 100%

Failure to Appear

A case was considered to have had a failure to appear (FTA) if a warrant was issued for failure to appear at a mandated court hearing. The warrant had to be issued during the pretrial period of the case.

The overall FTA rate was 5.6% (see Figure 3). The FTA rates varied within each sample by category, with lower scoring groups having the lowest rates and an increasing rate as the category score increased. The FTA rate for defendants in the ROR category was 3.6%. For defendants in the ROR with supervisor approval category the FTA rate was 8.1% and for those who were held until their first appearance, the FTA rate was 20.0%.

Predictive Validity of the JDA

The JDA was validated using a combination of assessments that were administered at the time of the booking and assessments that were reconstructed by Background Investigations staff. We attempted to validate the JDA for cases administered at the time of booking and there was insufficient variability in the scores and to do so. These defendants only scored between a 0 and 4, so there were none with a score of five and a small number of those scoring 3 or 4. There is overlap between question 3 and BI policies, so those scoring a 5 in the sample had restrictions of some kind that prevented an initial assessment at the time. In order to assess the degree to which the JDA more accurately predicts pretrial success than random chance alone, the predictive validity was assessed. This was accomplished using Area Under the Curve (AUC) of the Receiver Operator Characteristics (ROC) estimates, which provides general measurements of a tool's accuracy. The AUC is a general measure of a tool's accuracy often used in risk assessment, medical diagnosis, image recognition, and other fields.

The AUC score ranges from 0.0 to 1.0 and measures the extent to which it correctly identifies positive or negative subjects (sensitivity and specificity of a test) varies with the threshold we use to label a subject positive or negative. A score of 0.5 is the equivalent of random chance. A higher AUC score means a higher likelihood that defendants will be identified correctly. An AUC of 0.70, for instance, means that the tool would put these two individuals in the correct order 70.0% of the time.

While the level of acceptability varies depending on the field of study, human behavior is difficult to predict and the standards in risk assessment are lower than in fields such as medical diagnoses. In the medical field, a test would be considered acceptable if its AUC is between 0.70 and 0.80, and excellent if it is at least 0.80. In a review on assessments used for recidivism, Desmarais and Singh (2013) used the following AUC score categories to rank the predictive validity: less than 0.55 was considered poor, 0.55 to 0.63 was fair, 0.64 to 0.71 was good, and 0.71 to 1.00 was considered excellent (2013, p. 12).

Overall Predictive Validity

The AUC ROC estimates were calculated for the NCA, NVCA, and the FTA. For the NCA, the AUC score was 0.70 (see Table 7). The AUC score was slightly higher for NVCA (0.71) and lower for the FTA (0.65). Based on the categories proposed by Desmarais and Singh (2013), the predictive utility of the JDA for NCA and FTA was considered good and the predictive validity of the JDA for NVCA was excellent. These scores indicate that for all three outcomes, the JDA provides more accurate estimates for pretrial success than random chance alone. This applies to cases with a qualifying charge under the Supreme Court Rule, whether or not there were restrictions under BI policy.
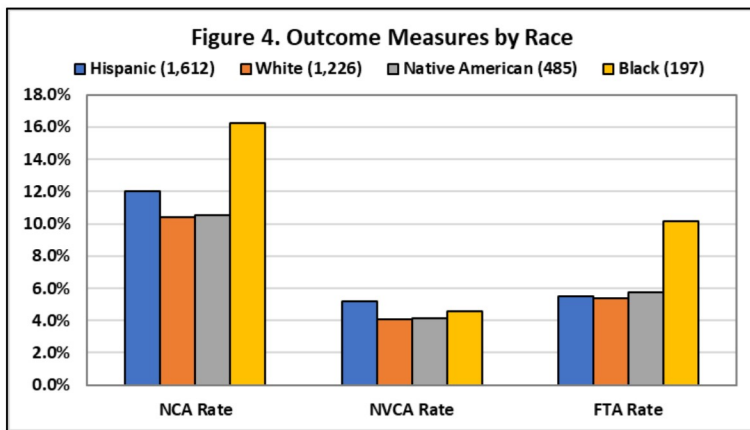
Table 7. *Area Under the Curve Receiver Operator Characteristics*

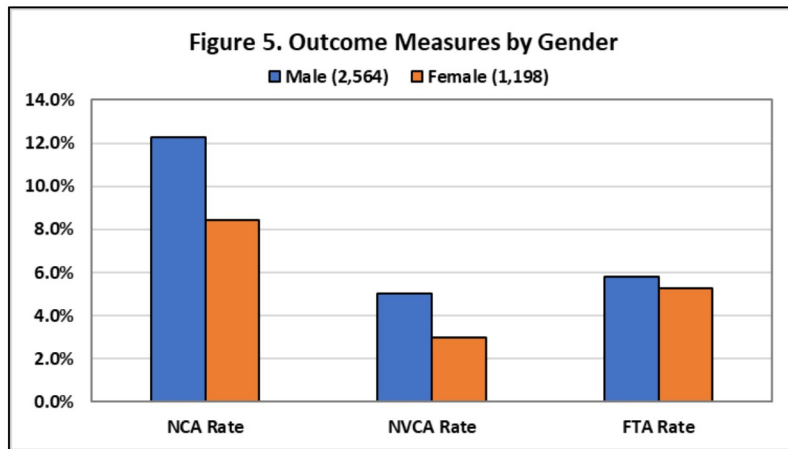| Outcome Measure	AUC Score +/- CI (N=3,520)
NCA	0.70 +/- .03*
NCVA	0.71 +/- .04*
FTA	0.65 +/- .04*

* = p < 0.10; ** = p < 0.05; *** = p< 0.001

Outcome Measures by Race and Gender

Race and gender differences were calculated by race for NCA, NVCA, and FTA. The NCA rate was lowest for White defendants at 10.4% and Native American defendants at 10.5% (see Figure 4). Hispanic defendants had a 12.0% NCA rate and Black defendants had an NCA rate of 16.2%. White and Native American defendants both had an NVCA rate of 4.1%, Black defendants were slightly higher at 4.6%, and Hispanic defendants had a rate of 5.2%. The FTA rate for White defendants were 5.4% and 5.5% for Hispanic. Native American defendants had a slightly higher rate at 5.8%, and the highest rate was among Black defendants at 10.2%. A chi-square test of independence was used to compare the rates between each group to determine if the differences were statistically significant. Based on these results, there was no significant association between race and NCA [X^2 (3, N=3,520) =6.620, p=.085], NVCA [X^2 (3, N=3,520) =2.360, p=.501], or FTA [X^2 (3, N=3,520) =7.483, p=.058].

Figure 4. Outcome Measures by Race

There were some differences in outcome measures between male and female defendants. The NCA rate for male defendants was 12.3% and 8.4% for female defendants (see Figure 5). For NVCA, the rate for male defendants was 5.0% and 3.0% for female defendants. Finally, the FTA rate was 5.8% for male defendants and 5.3% for female defendants. As with race, a chi-square test was used to assess if these differences were statistically significant. For NCA, the difference was statistically significant [X^2 (1, N=3,762) =12.336, p<.001]. However, when reviewing the effect size, the strength of association was weak (Cramer's V=.057), meaning NCA and gender were statistically weakly associated. Findings were similar for NVCA, with a statistically significant [X^2 (1, N=3,762)=7.993, p<.01] but weak association (Cramer's V=.046) between gender and new violent criminal activity. The difference in FTA by gender was not statistically significant [X^2 (1, N=3,762)=.469, p=.494].

Figure 5. Outcome Measures by Gender

Overall, the differences in outcomes were evident by gender for NCA and NVCA. Although these differences were significant, the association was weak. This indicates that gender was significantly related to knowledge of whether the defendant would have NCA or NVCA, but based on the association it only improved this knowledge to a small degree.

Predictive Validity by Race and Gender

The AUC scores by race were calculated for each JDA category and outcome, and were compared to the overall population (see Table 8). As stated previously, AUC scores for criminal justice assessments are considered poor if they are below 0.55, fair between 0.55 to 63, 0.64 to 0.71 is considered good, and above 0.71 is considered excellent (Desmarais & Singh, 2013). As shown in Table 8, the predictive validity of the JDA was considered good for Hispanic defendants for the NCA (0.70), the NVCA (0.68), and the FTA (0.70). For White defendants, the AUC scores were higher for NCA (0.71, good, bordering on excellent), and NVCA (0.80, excellent), and lower for the FTA (0.67, good). For Native American defendants, the scores were lower. The AUC for new criminal activity was 0.60, so fair in predictive validity. The NVCA score was 0.62 and for the FTA score 0.49, neither of which was statistically significant. Finally, for Black defendants, the AUC score for NCA was 0.74 (excellent and significant), 0.62 for NVCA (fair and not significant), and 0.64 for FTA (good and significant). When comparing the group AUC scores to the overall score, there were some statistically significant differences. For Black defendants, the NCA AUC was significantly different, as was the NCVA score for Hispanic, Native American, and Black defendants. There were no significant differences between FTA scores.

Table 8. *Area Under the Curve Receiver Operator Characteristics Scores by Race*

	Hispanic (N=1,612)	White (N=1,226)	Native American (N=485)	Black (N=197)	Overall (N=3,520)
NCA	0.70 +/- 0.04*	0.71 +/- 0.05*	0.60 +/- 0.09***	0.74 +/- 0.1-*	0.70 +/- .03*
NVCA	0.68 +/- 0.06*	0.80 +/- 0.07*	0.62 +/- 0.14	0.62 +/- 0.16	0.71 +/- .04*
FTA	0.70 +/- 0.06*	0.67 +/- 0.08*	0.49 +/- 0.12	0.64 +/- 0.13***	0.65 +/- .02*

* = $p < 0.10$; ** = $p < 0.05$; *** = $p < 0.001$

The AUC scores were also calculated by gender for all outcomes and were statistically significant (see Table 9). The NCA AUC score was good for both men and women. For the NVCA AUC score, the scores were nearly identical with an AUC of 0.70for men and 0.71 for women (both good bordering on excellent). The FTA AUC score was good at 0.69 for men and 0.70 for women. The NCA score and NVCA both varied from the overall AUCs for male defendants.

Table 9. *Area Under the Curve Receiver Operator Characteristics Score by Gender*

	Male (N=2,564)	Female (N=1,198)
NCA	0.69 +/- 0.06*	0.70 +/- 0.03*
NVCA	0.70 +/- 0.10*	0.71 +/- 0.05*
FTA	0.62 +/- 0.08*	0.67 +/- 0.05*

$* = p < 0.10;\ ** = p < 0.05;\ *** = p < 0.001$

The AUC scores demonstrated that the JDA has value across race and gender as a valid method of predicting future behavior for new criminal activity. The JDA does not improve prediction of NVCA across all race groups, but does for gender. For FTAs, the prediction of failure was improved by using the JDA for all groups except Native American defendants. Phrased another way, the JDA performs better than not using the JDA.

Predictive Fairness by Race and Gender: Odds Ratio

In order to best compare groups and predict fairness, a logistic regression model was utilized. These models, which provide a statistic known as an "odds ratio," estimates the increase or decrease in the probability of failure compared to the overall group. Logistic regression has been used in prior validation studies including validating models in Kentucky (DeMichele, et al., 2018) and Kane County, Illinois (Greiner, et al., 2021).

Table 10 displays the outcome of the logistic regression as an odds ratio for FTA, NCA, and NVCA by racial/ethnic group. Each group was compared to the overall rate minus that group. Phrased another way, Hispanic NCA odds ratios compares Hispanic defendants to all non-Hispanic defendants (White, Native-American, and Black). To best interpret these odds ratios, consider 1.00 to be the baseline, anything above that is an additional percentage increase, so a rating of 1.15 would be 15% above the comparison group. An odds ratio of 0.51 would indicate a 49% decrease from the comparison group. Odds ratios are commonly used in risk assessment tools in criminal justice (Vincent & Viljoen, 2019; Demuth & Steffensmeier, 2004).

In Table10, the odds ratio results were only significant for Black defendants for NCA and FTA. The odds ratio value for Black defendants for an NCA was 1.53, indicating a 53.4% higher ratio than the remaining defendants. The FTA ratio was 1.94, indicating a higher rate of approximately 94.0% compared to the remaining defendants. As the sample size increases and the number of defendants in this group increases, these figures may adjust over time.

Table 10. *Odds Ratios and Confidence Intervals by Race*

	NCA Odds Ratio	95% Conf. Interval	NVCA Odds Ratio	95% Conf. Interval	FTA Odds Ratio	95% Conf. Interval
Hispanic	1.10	0.89 – 1.35	1.27	0.92–1.74	0.92	0.69-1.22
White	0.85	0.68 - 1.06	0.82	0.58–1.15	0.90	0.66-1.21
Native American	0.89	0.65- 1.21	0.87	0.53–1.40	1.00	0.66-1.51
Black	1.53**	1.03 – 2.27	0.99	0.49–1.96	1.94**	1.19-3.15

* = p < 0.10; ** = p < 0.05; *** = p< 0.001

Table 11 displays statistically significant differences between males and females in all outcomes except FTA. Males were 42.1% more likely than women to commit NCA, conversely, women were 30% less likely than males. Males were more likely to commit NVCA by 63.7%, whereas females were 39% less likely. Finally, FTA was not statistically significant, however, men were 8% more likely to FTA, and women were 9% less likely.

Table 11. *Odds Ratios and Confidence Intervals by Gender*

	NCA Odds Ratio	95% Conf. Interval	NCVA Odds Ratio	95% Conf. Interval	FTA Odds Ratio	95% Conf. Interval
Male	1.42**	1.12 – 1.80	1.64**	1.12-2.23	1.08	0.79-1.48
Female	0.70**	0.55 – 0.89	0.61**	0.41-0.89	0.91	0.67-1.25

* = p < 0.10; ** = p < 0.05; *** = p< 0.001

Additional Analysis: Non-Qualifying Charges

The JDA was originally intended to be used with the sixteen qualifying offenses, however, the assessment may have uses beyond these offenses. In addition to the validation portion of the study, a preliminary analysis was completed of cases that did not have the qualifying charges under the Supreme Court Rule and had an assessment reconstructed. While there was an insufficient number of cases to conduct a validation for this group, there was sufficient information to review JDA scoring and pretrial outcomes for these cases. The JDA was not originally administered for the non-qualifying cases and these were reconstructed by BI staff. To examine possible future applications of this tool, the cases with non-qualifying charges were reviewed and information including the JDA scoring, NCA, NVCA, and FTA were collected.

To examine the \ outcomes for cases with non-qualifying charges, a sample of these cases were analyzed. These offenses were all either petty misdemeanor or misdemeanor offenses and were booked into the MDC.

Case Status and Exposure for Non-Qualifying Charges

A case was considered "pending" if there was no disposition by December 31, 2022. Only cases that were both opened and closed between February 2020 and December 2022 were included. Of the 770 cases with the non-qualifying charges, 106 (13.8%) were pending, and 664 (86.2%) were closed. Exposure was defined as whether a defendant was released into the community during the pretrial period of their case. Of the 664 cases that were closed, 223 had no exposure (33.6%), leaving a sample of 441 cases.

Sample Description for Non-Qualifying Charges

The majority of defendants in the sample were male (78.5%) and consisted primarily of Hispanic (54.4%) and White defendants (23.4%) (see Table 12). An additional 14.3% of defendants were Native American and 5.4% were Black. The remaining defendants (2.5%) included those with no information, marked as multiracial, or other categories.

Table 12. *Gender and Race/Ethnicity for Non-Qualifying Charges Sample*

Category	Count	Percent (N=441)
Gender		
Male	346	78.5%
Female	95	21.5%
Race		
Hispanic	240	54.4%
White	103	23.4%
Native American	63	14.3%
Black	24	5.4%
Other	11	2.5%

JDA Responses for Non-Qualifying Charges

This section reports on the responses to the three questions that comprise the JDA. These three questions were designed to help BI staff decide if a defendant should be released prior to the first appearance.

The first question asked whether the defendant had any prior instances of failure to appear (FTA) in the last five years on any type of criminal case. If the defendant answers affirmatively, then one point was added to their total score. The possible responses were either no or yes and this contributed either zero or one points to the total JDA score. There were a much larger portion of defendants that answered in the affirmative for the non-qualifying cases (69.4%) than the validation sample (19.0%).

The second question looked at the number of previous arrests and summonses cases. The other charges sample had very few cases with no prior arrests (2.5%). This was not unexpected, because, although they were lower level charges they had been booked into custody, meaning the defendant likely had

additional cases or circumstances that resulted in the booking. The remaining cases in the other charges sample included 20.4% with one to four arrests, 26.8% with five to nine arrests, and 50.3% with 10 or more prior arrests.

The third question is related to prior criminal behavior that is of similar nature, regardless of the disposition. The other charges sample had 69.2% with this type of history.

JDA Scoring and Categories for Non-Qualifying Charges

The other charges sample comprised a small portion of low scores, with 2.0% having a score of zero, 9.1% having a score of one, and 10.0% having a score of two. The portion of defendants with a score of a three was 18.6%, four was 22.9%, and 37.4% of people had a five. While this varied from the validation sample, this was expected as the originally assessed cases were low scoring and additional assessments had to be constructed to create a sample varied enough to be validated. This translates to 21.1% in the ROR category, 41.5% in the ROR with supervision category, and those with a score of 5 (37.4%) would be detained until the first appearance.

The other charges sample included defendants with charges that would normally qualify for release, but were booked into the MDC. These defendants in general would have additional cases or items that would qualify as a restriction under the Supreme Court Rule or BI policy.

New Criminal Activity for Non-Qualifying Charges

New criminal activity for the sample of other charges was constructed in the same manner as the validation sample. The other charges sample had a higher NCA rate (31.7%) than the validation sample (11.1%). The NVCA rate in the validation sample was 4.4% and for the other charges sample the rate was 7.3%. The difference between the groups was expected, as the validation sample was comprised of lower scoring defendants while the other charges sample was comprised largely of higher scoring defendants.

The NCA rate for defendants in the ROR category in the other charges sample was 21.5% and 29.0% for those in the ROR with supervisor approval category. Those in the highest score category had an NCA rate of 40.6%. This was similar to the pattern seen in the validation sample, with defendants in higher JDA categories having higher NCA rates.

The NVCA rate for defendants in the ROR category in the other charges sample was 8.6% and 3.8% for those in the ROR with supervisor approval category. Those in the highest score category had an NVCA rate of 10.3%.

New Criminal Activity and Charge Details for Non-Qualifying Charges

In the other charges sample, there were 140 incidents of NCA (see Table 13). First degree felonies (F1) offenses were the least common (one or 0.7%). There were an additional six second-degree felonies, five third-degree, and 58 fourth-degree felonies. There were 54 misdemeanors among the NCA and 16 petty misdemeanors.

Table 13. *NCA Highest Charge Level and Category for Non-Qualifying Charges*

	Violent	Drug	Property	DWI	Public Order/Other	Total	Percent of all NCAs
F1	1	0	0	0	0	1	0.7%
F2	3	2	0	1	0	6	4.3%
F3	4	0	1	0	0	5	3.6%
F4	11	30	15	1	1	58	41.4%
MD	11	1	10	1	31	54	38.6%
PM	2	0	9	0	5	16	11.4%
Total	32	33	35	3	37	140	100%
Percent of All NCAs	22.9%	23.6%	25.0%	2.14%	26.4	100%	

*Note: Due to rounding, these percentages may not add to 100%

The highest charge level was compared to the JDA category (see Table 14). There were a small number of defendants in the ROR category and the new criminal activity for this group was primarily misdemeanors and fourth-degree felonies. Those under ROR with supervisor approval were primarily comprised of fourth-degree felonies and petty misdemeanors. Those being held until their first appearance had a similar number of fourth-degree felonies (28) and misdemeanors (23).

Table 14. *NCA Charge Level by Collapsed Recommendation Category for Non-Qualifying Charges*

	F1		F2		F3		F4		MD		PM		Total
ROR (0-2)	0	0%	0	0%	3	15.0%	7	35.0%	9	45.0%	1	5.0%	20
ROR w/Sup Approval (3-4)	0	0%	2	3.8%	0	0%	23	43.4%	2	3.8%	6	11.3%	53
Send to Judge (5)	1	1.5%	4	6.0%	2	3.0%	28	41.8%	23	34.3%	9	13.4%	67
Total	1	0.7%	6	4.3%	5	3.6%	58	41.4%	54	38.6%	16	11.4%	140

*Note: Due to rounding, these percentages may not add to 100%

Table 15 compares the NCA and the original charge for which the JDA was used. Because the JDA is used only on misdemeanors and petty misdemeanors, any felony was considered a higher charge. There were 51 defendants with an NCA at the same level of the original case. A total of eight had a lower charge and the remaining 81 had a new charge that was higher level than the original charge.

Table 15. *Source Charge Levels and NCA Charge Level Comparisons for Non-Qualifying Charges*

	F1		F2		F3		F4		MD		PM		Total
Misdemeanor	1	0.9%	5	4.7%	4	3.8%	46	43.0%	43	40.2%	8	7.5%	107
Petty Misdemeanor	0	0.0%	1	3.0%	1	3.0%	12	36.4%	11	33.3%	8	24.2%	33
Total	1	0.7%	6	4.3%	5	3.6%	58	41.4%	54	38.6%	16	11.4%	140

*Note: Due to rounding, these percentages may not add to 100%

Failure to Appear Rates for Non-Qualifying Charges

The other charges sample an FTA rate of 29.3% compared to 5.6% in the validation sample.

The FTA rate for defendants in the ROR category in the other charges sample was 18.3% and 28.4% for those in the ROR with supervisor approval category. Those in the highest score category had an FTA rate of 36.4%.

Discussion and Conclusion

The current study was the first validation of the Judicial Designee Assessment in Bernalillo County Metropolitan Court. This JDA is designed to address a specific need, which is to provide an assessment for individuals with specific qualifying charges under Supreme Court Rule 7-408 to determine if the defendant should be released from custody prior to their first appearance before a judge. In addition to reporting the NCA, NVCA, and FTA, testing the predictive validity of the JDA was necessary to determine to what degree the JDA provides accurate predictions of success or failure and if this accuracy varies by race or gender.

This report included the failure to appear (FTA) rate, the new criminal activity (NCA) rate, and the new violent criminal activity (NVCA) rate for cases filed, assessed with the JDA, closed, and those that had exposure in the community between February 2020 and December 2022. We also presented details on new criminal activity, outcomes by race and gender, and the predictive validity of the JDA, both in general and by race and gender. In addition, a preliminary review was completed on cases that did not have the qualifying charges under the Supreme Court Rule. While this study does not include failure rates for other cases – that is, cases that qualified for release without assessment and were not booked into the MDC – it provides useful information on the validity of the JDA and the use of the JDA for other types of cases. While administered JDAs were limited to only low-scoring defendants that would be categorized as ROR or ROR with supervisor approval, its use for additional defendants was evident. The JDA was most useful when used for all score levels, not just for those that score low on the assessment.

For NCA, NVCA, and FTA, as the score increased so did the rate of failures. The overall NCA score for the validation sample was 11.1%. This ranged from 6.1% for those in the lowest JDA category up to 38.8% in the highest category. Those individuals scoring in this category typically had a combination of a score of 5 and one or more factors that, per BI policy, would exclude them from a pre-hearing release. A similar pattern was evident for NVCA, with an overall rate of 4.4% ranging from 2.0% up to 12.9%. New criminal

activity was composed primarily of misdemeanor and petty misdemeanor charges (71.0%), with higher portions of felony charges for cases with higher JDA scores. Finally, the FTA rate across all cases was 5.6%. The rate ranged from 3.6% for the lowest JDA category up to 20.0% for the highest category.

While there was variation for the NCA, NVCA, and FTA rates by race, these differences were not statistically significant. By gender, there was no statistically significant difference in the FTA rate, although there was a significant difference for the NCA and NVCA rates. The association was, however, weak, so while the effect was significant, it was not a strong association. This demonstrates that there is no substantive difference in failure rates for NCA and NVCA by race and statistically significant differences for FTA by race and by gender. There was a small, statistically significant difference.

The predictive validity of the JDA was assessed using Area Under the Curve (AUC) of the Receiver Operator Characteristics (ROC) estimates. The AUC is used to assess the ability of a tool to correctly identify people into specific categories. The AUC scores indicated that for the NCA, NVCA, and FTA, the JDA provided more accurate estimates for pretrial success than random chance alone. The scores ranged between good for the NCA and FTA and excellent for the NVCA. The predictive validity by race showed that overall the JDA provided more accurate estimates regardless of race for nearly all outcomes and race/ethnicities when used for cases with qualifying charges under the Supreme Court Rule. This was comparable to the AUC scores from the PSA validation in 2021 for Bernalillo County and to the rates in other jurisdictions (Ferguson et al., 2021). For both Hispanic and White defendants, the AUC score for NCA, NVCA, and FTA indicated that the JDA provided more accurate estimates than random chance alone. For Native American defendants, the AUC was fair for NCA and NVCA and less than .5 for FTA. For Black defendants, the AUC scores were excellent for NCA, good for FTA, and fair for NVCA. In addition, by gender the predictive validity was good and fair for all three categories, the NCA, NVCA, and FTA. The JDA provided fair to excellent categorization of individuals overall, by race, and by gender with a few exceptions, in particular for FTAs for Native American defendants. This was the first validation of the JDA and there were comparable estimates to the PSA when used for cases with qualifying charges. Overall, when used for all cases qualifying for assessment under Supreme Court Rule 7-408, the JDA improves the ability to predict pretrial success.

Logistic regression, which was interpreted via odds ratios, supported the overall findings. The odds ratios supported the previous statistical tests that showed considerable overlap between the NCA, NCVA, and FTA rates in general, though there were exceptions in particular for Black defendants for NCA and FTA. By gender, women had statistically and substantive significant differences for NCA and NCVA, but not FTA.

Overall, the key findings of this report indicated that while differences in outcomes and predictive validity were present by race and gender differences were generally either not statistically significant or, in the case of gender and NCA/NVCA, the association, while significant, was weak. The JDA has fair to excellent predictive validity, meaning that it provided improved prediction of NCA, NVCA, and FTA for a defendant across nearly all race/ethnicity and gender categories.

The preliminary review of cases with non-qualifying charges indicated these defendants generally scored higher than those in the validation sample. Not unexpectedly, the rates of NCA, NVCA, and the FTA were all higher for this group of defendants. While there were not sufficient cases to validate the JDA for use on the non-qualifying charges, the pattern in scoring and failure rates indicated that higher scores were connected to higher rates of failure though it is unclear to what degree without additional analysis.

We offer several recommendations:

1. The JDA should be validated periodically. The National Association of Pretrial Services Agencies has suggested that every two or three years a jurisdiction "should review its risk assessment routinely to verify its validity to the local pretrial individual population" (NAPSA, 2020). This will be of greater importance as BI policy changes take effect and the JDA is used on additional classes of defendants. BI staff are anticipate revalidating the JDA within 3 years.
2. Consider comparing the PSA to the JDA. In other New Mexico court jurisdictions, the PSA is used for both felony and misdemeanor cases and would qualify as an assessment under the Supreme Court Rule. The PSA provides three sets of scores, including an NCA score, an FTA score, and a flag for NVCA.

The combination of questions on the JDA results in nearly all defendants eligible for release scoring between a zero and four, limiting the ability of the JDA to provide nuanced scores for defendants. Should the PSA prove more effective, test implementing it for misdemeanor and petty misdemeanor cases,

3. Administer the JDA to all defendants booked into the MDC on any misdemeanor or petty misdemeanor charges, including those that would be disqualified for release under BI policies and those that do not have qualifying charges under the Supreme Court Rule.
4. Conduct regular reviews to determine if changes should be made to BI disqualification policies. BI staff are anticipating conducting this type of review annually.
5. We recommend BI continue to review policies under which defendants are disqualified from being released by BI. This would allow for assessment of specific policies and potential policy changes.

References

Background Investigations Division. (2022). Intake Officer Policies and Procedures. Albuquerque, NM.

Demuth, S. (2003). Racial and Ethnic Differences in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees. *41(3) Criminology 873*.

Desmarais, S. L., & Singh, J P. (2013). Risk assessment instruments validated and implemented in correctional settings in the United States. Lexington, Kentucky: Council of State Governments. Retrieved from: https://csgjusticecenter.org/wp-content/uploads/2020/02/Risk-Assessment-Instruments-Validated-and-Implemented-in-Correctional-Settings-in-the-United-States.pdf.

Fazel, S., Burghart, M., Fanshawe, T., Gil, S. D., Monahan, J., & Yu, R. (2022). The predictive performance of criminal risk assessment tools used at sentencing: Systematic review of validation studies. Journal of Criminal Justice, 81, 101902. https://doi.org/10.1016/j.jcrimjus.2022.101902

Fazel, S., Singh, J. P., Doll, H., & Grann, M. (2012). Use of risk assessment instruments to predict violence and antisocial behavior in 73 samples involving 24,827 people: Systematic review and meta-analysis. BMJ, 345, e4692. https://doi.org/10.1136/bmj.e4692

Ferguson, E., De La Cerda, H., Guerin, P., & Moore, C. (2021). Bernalillo County Public Safety Assessment Validation. Institute for Social Research. Retrieved from: http://isr.unm.edu/reports/2021/bernalillo-county-public-safety-assessment-validation-study.pdf.

Lowenkamp, C.T., Holsinger, A., & VanNostrand, M. (2013). The Hidden Costs of Pretrial Detention. Retrieved from: https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF_Report_hidden-costs_FNL.pdf.

N.M. Constitution, art. II, §13.

Steffensmeier, D. J., Ulmer, J. & Kramer, J. H. (1998). The Interaction of Race, Gender, and Age in Criminal Sentencing: The Punishment of Being Young, Black, and Male. *Criminology, 36(4), 763-798*. doi: 10.1111/j.1745-9125.1998.tb01265.x.

U.S. Constitution. amend. V.

Vincent, G. M., & Viljoen, J. L. (2020). Racist algorithms or systemic problems? Risk assessments and racial disparities. Criminal justice and behavior, 47(12), 1576-1584. doi.org/10.1177/009385482095450.